The Experiences of Sexual and Gender Minorities in Employment: Evidence from a Large-scale Survey of Lesbian, Gay, Bisexual, Transgender and Intersex People in China

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Abstract

While China's Constitution says everyone is treated equally before the law, employment discrimination continues to exist. This paper breaks new ground by analysing a quantitative survey of more than 10,000 lesbian, gay, bisexual, transgender and intersex (LGBTI) people, the largest dataset of its kind to date in China. Only 5.1 per cent of respondents were completely open about their gender and sexuality at work. More than one-fifth reported experiencing negative treatment in the workplace. Transgender and intersex people reported higher rates of negative treatment, as did respondents with lower educational levels and lower incomes and those residing in towns. Employer policies against discrimination were rare, but when in place, they were significantly associated with less negative treatment. These findings highlight an almost completely neglected segment of the workforce and document discriminatory experiences that could be addressed by changes in discrimination law and by employer policies and practices related to diversity and inclusion.

Keywords: sexual orientation; gender identity; diversity and inclusion; workplace; employment; discrimination; China

Since the post-Mao economic reforms were launched in 1978, China has experienced rapid marketization and globalization. Instead of being assigned jobs and to work units (*danwei* 單位) by the government, everyone now needs to compete

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for survival in the market. However, participation in a more open labour market comes with the potential for discrimination against people with minoritized statuses. Previous studies on workplace discrimination in China have mainly focused on ethnic minorities and women, illustrating variations in job market attainment among Han and other ethnic minorities and differential treatment for female and male workers.[1] However, there has not yet been a systematic investigation of the workplace discrimination faced by an estimated 70 million sexual and gender minorities in China, leaving an important gap to fill in the understanding of contemporary Chinese society.[2]

Research in other parts of the world has suggested that diverse sexual orientations and gender identities still carry much stigma in most modern societies and that the societies studied still symbolically, socially and legally define lesbian, gay, bisexual, transgender and intersex (LGBTI) people as different and inferior to those who are heterosexual and cisgender.[3] Such social stigma and legal inequalities deny sexual and gender minorities access to basic rights in society. A systematic large-scale study in China is needed to understand LGBTI people's lived experiences in the continuously changing Chinese society.

This article begins with an overview of the legal protection against employment discrimination in China. Chinese law does not clearly outlaw discrimination based on sexual orientation or gender identity, leaving LGBTI people vulnerable to unfair treatment in the workplace. Drawing on recent research on the development of sexual and gender identities in China and on an international body of research on discrimination against LGBTI people, we then turn to ask three research questions. First, to what extent are Chinese LGBTI people open about their gender identity and sexuality in the workplace? Second, what degree of negative treatment do Chinese LGBTI people face in the workplace and who among them is more vulnerable to such negative treatment? Third, in the absence of law, do employer policies and training protect Chinese LGBTI people from negative treatment in the workplace? Our empirical analysis assesses these questions drawing on a large-scale community survey of more than 10,000 LGBTI people in China.

Legal Protection against Employment Discrimination in China

China's Constitution lays out a principle of equality that seemingly applies to all, including LGBTI people. Article 33 of Chapter 2 clearly states, "All citizens of the People's Republic of China are equal before the law." In addition, the principle of equality is protected in Articles 4, 36, 48 and 89, which state that discrimination is prohibited based on ethnic minority status, gender and religion. Although China has no single law that prohibits employment discrimination, Article 48 states that

1 Ngai 1999; 2005; Sheldon et al. 2011; Zhang 2013; Gustafsson and Sai 2014; Zang 2010.
2 Fullerton 2017.
3 Inglehart and Baker 2000; Anderson and Fetner 2008; Carroll and Mendos 2017; Flores and Park 2018.

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women's rights are protected in the employment sector and that the principle of equal pay for equal work for men and women should be applied.

In spite of that constitutional provision, Jiefang Lu argues that Chinese people face conceptual and institutional barriers to reporting discrimination.[4] At the conceptual level, there are barriers to the naming, blaming and attributing discrimination experienced by Chinese people. At the institutional level, barriers include inconsistency in legislation, lack of meaningful legal remedies, the inefficient operation of legal authorities, and the possible corruption of legal officials. The China Labour Bulletin further argues, "laws and regulations aimed at eliminating employment discrimination are hampered by technical shortcomings, ineffective enforcement and conflicting legislation and government policies that appear to promote, rather than discourage, the continuation of discriminatory practices."[5] These institutional and conceptual barriers generate roadblocks for people who seek a legal remedy through mediation, arbitration or litigation. In this context, it is perhaps not surprising that only 92 discrimination cases were reported from 2000 to 2011.[6] However, a low number of cases does not mean that discrimination in the Chinese workplace is not common.[7]

While no law specifically prohibits discrimination against sexual and gender minorities, several high-profile legal cases in the last few years have involved disputes over discrimination against LGBT people in the Chinese workplace. In December 2014, the Nanshan 南山 District Court heard a case which is believed to be China's first ever sexual orientation discrimination lawsuit.[8] Mr He sued a Shenzhen 深圳 interior design company after he was allegedly discharged for being gay. However, the court ruled against Mr He, and the ruling was upheld on appeal by the Shenzhen Intermediate Court. In March 2016, a transgender man, Mr C, filed a complaint with his local labour dispute arbitration committee after he was fired from his job at the Ciming Health Check-up Centre in Guiyang for wearing men's clothing in the office.[9] The arbitration committee rejected Mr C's complaint, saying the company had not broken the law. In September 2018, a gay kindergarten teacher in Qingdao 青岛 sued his former school after he was fired in the previous month following social media posts about LGBT events that he attended. In the ruling, the committee refrained from acknowledging the teacher's claim that he was sacked for being gay but ordered the kindergarten to pay six months' salary to the teacher for failing to sign an employment contract with him.[10]

4 Lu 2014.
5 China Labour Bulletin 2019.
6 Lu 2014.
7 Ibid.
8 "Chinese court hears first lawsuit on gay workplace discrimination." *The Guardian*, 26 January 2015, https://www.theguardian.com/world/2015/jan/26/chinese-court-first-lawsuit-gay-workplace-discrimination. Accessed 14 March 2020.
9 Jackson 2018.
10 Zhou 2018.

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These legal cases attracted a lot of media attention locally as well as internationally and hint at the potential for a high degree of discrimination. There is now also a growing group of lawyers, the Rainbow Lawyers China, working with activists to promote LGBTI rights through legal channels. But, based on the outcomes of these cases, the existing laws described above have clearly not been useful for LGBTI people's assertion of rights or redress for discrimination.

Cultural and Economic Framework for Understanding Discrimination against LGBTI People in China

This study aims to examine the discrimination that LGBTI people face in the workplace in China. Previous research shows that despite harsh cultural, social and legal environments, Chinese gay men and lesbians are forming communities and political movements in urban China. Such works consider the lives of Chinese LGBTI people in the context of the larger societal changes in contemporary China in the aspects of love, sex and intimacy.[11] However, most such work has examined Chinese LGBTI people's lives in terms of their understandings of self and identity development; comparatively little is known about the lives of LGBTI people in the workplace. In this section, we root three primary research questions in a conceptual framework that we derive from cultural research in China and from economic and sociological theories of sexual orientation and gender identity discrimination.

First, to what extent are Chinese LGBTI people open about their gender identity and sexuality in the workplace? This foundational question is linked to the visibility of LGBTI people in workplaces. On the one hand, scholars have highlighted that traditional Chinese culture, which emphasizes family values, conformity to traditional gender and family roles and the production of offspring to continue the family name, is still influential in the lives of LGBTI people. Separate works by Aihwa Ong and Travis Kong suggest that family bio-politics shape modern heterosexuality in China, where the family serves as a site of social regulation and power where heteronormativity is installed and enforced.[12] These micro-power regulations, performed by closely connected family members, can force Chinese non-heterosexual people to stay in the closet as well as silence any discussions of homosexuality at the workplace and in society in general.

On the other hand, scholars have highlighted that there has been an increase in the adoption of a gay identity among those with non-heterosexual identities, which can be understood against the backdrop of China's opening up to the West. Lisa Rofel's ethnographic research reports that "in the past five years in China, for example, cosmopolitan cities have witnessed a veritable explosion of

11 Rofel 2007; Kong 2012; Mann 2011; Kam 2013; Engebretsen 2015; Jeffreys and Yu 2015.
12 Ong 1993; Kong 2012; Kong, Lau and Li 2015.

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people who call themselves gay."[13] Rofel argues that individual adoption of a gay identity was most associated with contact with foreigners. Separately, Wan Yanhai and Chris Berry also report that the proliferation of Western concepts of gay identity in urban China has been extraordinary.[14] In many such accounts, the adoption of a gay identity is reported to be related to a yearning for cosmopolitanism. Loretta Ho highlights that this can be understood in relation to the economic modernization of China in the past few decades.[15] In modern Chinese, *kaifang* 开放 (opening up) is usually used to mean the lifting of a ban, opening up or being open-minded. At present, *kaifang* is also used diversely to indicate a sense of being "modern," receptive to change, "Westernized," materialistic and morally "loose." This cultural backdrop is important for understanding some of Ho's participants' adoption of the term "gay," which is seen as having cultural connotations with *kaifang*. Within this evolving cultural adaptation and adoption of Western LGBTI identities, Chinese LGBTI people might value being open in the workplace about their sexual or gender identity, but they may then also face a decision laden with risk, as we discuss below. Within that context, we ask whether Chinese LGBTI people in the workplace are open about their sexual orientation or gender identity.

A second question concerns whether Chinese LGBTI people routinely face negative treatment in the workplace. As part of an extensive review of studies in several countries by the Organization for Economic Cooperation and Development, Marie-Anne Valfort found evidence that lesbian, gay, bisexual and transgender (LGBT) people in many parts of the world have experienced discrimination in the workplace.[16] However, research on sexual orientation and gender identity discrimination in most parts of the world is still being developed and research on non-US and non-European cultures and locales remains very limited. Research by Mustafa Bilgehan Ozturk on sexual orientation discrimination in Turkey, Nick Drydakis on sexual orientation discrimination in the Cypriot labour market, and separate works by Holning Lau and Yiu-tung Suen on sexual orientation discrimination in the workplace in Hong Kong are rare exceptions.[17]

The emerging social science literature outside of China draws on Gary Becker's model of discrimination and hypothesizes that a distaste for homosexuality (or prejudice against LGBTI people) may drive employers, co-workers and customers to discriminate against LGBTI people in employment settings.[18] András Tilcsik points to a second reason for discrimination, one offered by economists and sociologists which links discrimination to gendered stereotypes about LGBTI people.[19] Employers might discriminate against LGBTI people thinking

13 Rofel 1999, 451.
14 Wan 2001; Berry 1996.
15 Ho 2008.
16 Valfort 2018.
17 Bilgehan Ozturk 2011; Drydakis 2014; Lau 2008; Lau and Stotzer 2011; Suen et al. 2016.
18 Becker 1971.
19 Tilcsik 2011.

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that they do not have the gendered traits that employers believe are necessary for a particular job, such as aggressiveness or decisiveness. Chinese employers may have similar reasons for discriminating against LGBTI people.

In the context of the role of potential bias in the workplace, we neither assume nor assert that Chinese culture is inherently more conservative in rejecting or stereotyping homosexuality. Historians contend that in China, early emperors and scholars had engaged in homosexual relationships alongside heterosexual ones.[20] It has been argued that in ancient Chinese civilization, there was no concept of homosexuality and heterosexuality. Opposition to homosexuality in China is said to have originated in the medieval Tang Dynasty and has been attributed to the rising influence of Christianity and Islam; however, it did not become fully entrenched until the late Qing Dynasty and the Republic of China.[21] In fact, unlike in the US and Europe, in contemporary China, sodomy has never been explicitly criminalized. At the same time, a post-socialist China under rapid urbanization and globalization witnesses rapid transformations in terms of attitudes to and practices of intimacy and sexuality. Since the early 1990s, the Chinese government has become increasingly tolerant of homosexuality. In 1997, a law on "hooliganism" was withdrawn, an act that is broadly considered to be the decriminalization of homosexuality. In 2001, homosexuality was officially removed from the nation's list of mental illnesses.

Regardless of the relative degree of bias in Chinese culture as compared to other cultures, the legal cases cited earlier in this paper highlight that at least some LGBTI people have experienced negative treatment in the workplace. Our research therefore asks, do Chinese LGBTI people face negative attitudes and negative treatment in the workplace?

Our third area of analysis focuses on the role of employers' internal policies in shaping the experience of LGBTI people. While there is no current law to protect Chinese LGBTI people from discrimination, an employer may voluntarily adopt such a policy for its own workforce. Many large multinational companies, some of which operate in China, have adopted such policies. Among the large Fortune 500 companies, for example, 93 per cent include sexual orientation and 85 per cent include gender identity in non-discrimination policies.[22] Many of those employers assert "the business case" for their adoption of these and other practices of inclusion of LGBTI workers, arguing that their LGBTI (and perhaps other) employees will be more loyal, more engaged and more productive. Studies also find that LGBT people feel greater job satisfaction and are less likely to plan to leave their organization in the near future if they perceive their workplace to be LGBTI friendly.[23] In short,

20 Ruan and Tsai 1987; Mann 2000.
21 Hinsch 1990.
22 "LGBTQ equality at the Fortune 500." *Human Rights Campaign*, http://www.hrc.org/resources/lgbt-equality-at-the-fortune-500. Accessed 31 May 2019.
23 Badgett et al. 2013.

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businesses expect to be more profitable with LGBTI-inclusive policies, and recent research findings are consistent with that expectation.[24]

Accordingly, in the Chinese context, we would expect employers in the private sector and foreign firms to be more likely to have such policies (whether explicit or not) given the nature of product market competition for such firms. Further, companies that are known by their employees to have a non-discrimination policy or to adopt diversity training that promotes equal treatment of LGBTI people might have less discrimination and more open LGBTI employees. Thus, in the absence of law to protect LGBTI people from discrimination in China, we ask whether companies' internal policies and training protect LGBTI people from negative treatment and lead to a greater degree of openness among LGBTI employees.

To sum up, combining cultural research on China with economic and sociological perspectives on workplace discrimination results in three research questions: do Chinese LGBTI people come out in the workplace? To what extent do Chinese LGBTI people experience negative attitudes and treatment in the workplace? And, in the absence of law, do employer policies and training protect Chinese LGBTI people from negative treatment in the workplace?

Data, Variables and Method

This study examines the experiences of LGBTI people in the workplace. It draws on the National Survey on Social Attitudes towards Sexual Orientation, Gender Identity and Expression in China, which was conducted in 2015–2016 by the United Nations Development Programme (UNDP), Peking University and the Beijing LGBT Center. The survey covered participants from all major provinces in mainland China, using targeted and snowball sampling for participant recruitment. The online survey was distributed through 24 community organizations that work with sexual and gender minorities, as well as through a number of educational institutions, Weibo and WeChat, LGBTI social networks and the UNDP's social media accounts. Participants were invited to forward the survey to their contacts on social network platforms. People who expressed an initial interest in the study were instructed to read the background and purposes of the study. They were asked to provide informed consent prior to the commencement of the study. Participants could complete and submit the survey in person on paper, online or through a mobile phone. The data were anonymized to protect the confidentiality of the participants. The survey was approved by the research ethics committee of the UNDP research team members' institutions in mainland China before data collection.

A total of 18,088 lesbian, gay, bisexual, transgender and intersex people in China participated in the survey. For the analysis in this paper, participants

24 Waddock and Graves 1997; Thompson 2007; Johnston and Malina 2008; Wang and Schwarz 2010; Badgett et al. 2013; Li and Nagar 2013; Bapna et al. 2013; Gao and Zhang 2016; Shan, Fu and Lu 2017; Pichler et al. 2018.

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from overseas, Hong Kong, Taiwan, the non-working population and participants below the age of 18 were excluded. A total of 10,066 individuals are included in the analysis.

Measures

The following measures were used: (i) "demographic characteristics." Participants were asked to indicate their gender, age, LGBTI status, ethnicity, education level, monthly income and living area; (ii) "employment conditions." Participants provided information about their employment status as well as the sector and nature of their employment setting. They were asked whether the organization where they worked had sexual and gender diversity training as well as policies to ensure equal treatment of LGBTI employees; (iii) "disclosure in the workplace." Participants were asked about their openness regarding their LGBTI status in the workplace. They indicated their disclosure with response options that included (1) not at all, (2) only disclose to co-workers, (3) only disclose to supervisors, (4) disclose to some co-workers and supervisors, and (5) disclose to everyone. Responses of (1) were recoded as "did not disclose," responses of (2)–(4) were recoded as "partially disclosed" and responses of (5) were recoded as "fully disclosed"; (iv) "workplace LGBTI friendliness." Participants were asked to assess their supervisors' and co-workers' attitudes towards LGBTI people on a five-point Likert scale, ranging from completely accepting (1) to completely unaccepting (5); (v) "negative treatment in the workplace." Participants were asked to indicate whether they had encountered any negative treatment based on their sexual orientation, gender identity and expression and sex characteristics (SOGIESC) in their current workplace from a list of 12 possible forms of discrimination. They were also asked whether they had ever been denied a job offer or dismissed from a job because of their SOGIESC.

Characteristics of LGBTI People in the Survey

Table 1 presents the characteristics of the total sample of 10,066 LGBTI people with work experience. More than two-thirds (72.4 per cent) were assigned the male sex at birth, 21.1 per cent were assigned female at birth, and 6.6 per cent identified themselves as having a non-binary gender identity. The majority (73.0 per cent) identified as homosexual, 15.2 per cent identified as bisexual or pansexual, 2.9 per cent identified as asexual or questioning, 6.9 per cent identified as transgender and 2.1 per cent identified as intersex.

The sample is relatively young. Nearly half (48.9 per cent) of respondents were between 18 and 24 years old and 47.8 per cent were between 25 and 39 years old. A majority of the participants (71.8 per cent) received tertiary education or above and 77.6 per cent of them were living in a city in mainland China. The vast majority (93.2 per cent) were from Han ethnic groups.

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Table 1: **Demographics and Negative Treatment of the LGBTI Working Population (N = 10,066)**

	Demographics		Negative treatment		
	No.	%	No.	%	χ^2
Gender					
Male	7,285	72.4	1,436	19.7	
Female	2,121	21.1	495	23.3	56.19***
Non-binary	660	6.6	207	31.4	
Age group					
18–24	4,918	48.9	1,033	21.0	
25–39	4,812	47.8	1,040	21.6	1.28
40 or above	336	3.3	65	19.3	
LGBTI status					
Homosexual	7,345	73.0	1,511	20.6	
Bisexual / pansexual	1,525	15.2	285	18.7	
Asexual / questioning	296	2.9	63	21.3	59.43***
Transgender	691	6.9	217	31.4	
Intersex	209	2.1	62	29.7	
Ethnicity					
Han	9,379	93.2	1,991	21.2	0.01
Ethnic minorities	687	6.8	147	21.4	
Education					
Junior secondary or below	715	7.1	187	26.2	
Senior secondary	2,121	21.1	468	22.1	13.48**
Tertiary	7,230	71.8	1,483	20.5	
Personal annual income					
Less than 10,000 yuan	2,102	20.9	460	21.9	
10,000–50,000 yuan	4,334	43.1	973	22.5	18.96***
50,000–100,000 yuan	2,448	24.3	507	20.7	
100,000 yuan and above	1,182	11.7	198	16.8	
Living area					
City	7,812	77.6	1,573	20.1	
Town	1,740	17.3	446	25.6	26.88***
Rural area	514	5.1	119	23.2	
Disclosure					
Not disclosed	7,617	75.7	1,626	21.3	
Partially disclosed	1,936	19.2	443	22.9	21.78***
Fully disclosed	513	5.1	69	13.5	
Supervisors' attitudes					
Accepting/completely accepting	1,710	17.0	282	16.5	
Not sure	6,343	63.0	1,138	17.9	314.82***
Unaccepting/completely unaccepting	2,013	20.0	718	35.7	
Co-workers' attitudes					
Accepting/completely accepting	2,668	26.5	467	17.5	
Not sure	5,116	50.8	928	18.1	226.45***
Unaccepting/completely unaccepting	2,282	22.7	743	32.6	
Sector					
Public	2,793	27.7	669	24.0	17.01***
Private	7,273	72.3	1,469	20.2	
Nature					
Domestic	9,182	91.2	1,966	21.4	1.84

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Table 1: **Continued**

	Demographics		Negative treatment		
	No.	%	No.	%	χ^2
Foreign	884	8.8	172	19.5	
Training					
Yes	421	4.2	95	22.6	
No	8,508	84.5	1,826	21.5	3.85
Not sure	1,137	11.3	217	19.1	
Policy					
Yes	833	8.3	145	17.4	
No	7,051	70.0	1,614	22.9	38.34***
Not sure	2,182	21.7	379	17.4	

Notes:
$p < .05$*, $p < .01$**, $p < .001$***.

Regarding their employment status, around a quarter of the participants (27.7 per cent) worked for the government or state-owned enterprises, nearly half (48.2 per cent) worked for private companies, and 8.8 per cent worked in foreign enterprises. In terms of personal annual income, 43.1 per cent of respondents received 10,000 to 50,000 yuan, 24.3 per cent earned 50,000 to 100,000 yuan, and 20.9 per cent an annual salary of less than 10,000 yuan.

Method

To answer our three research questions, we proceed in three steps. First, in the "demographics" column of Table 1, we present the tabulations of descriptive statistics and of the core workplace questions on disclosure, discrimination and other LGBTI-related workplace characteristics. The "negative treatment" column gives the percentage of each group that reported negative treatment, allowing for intersectional comparisons across demographic groups. In Table 2, we present more detailed cross-tabulations that reveal variations in disclosure and workplace attitudes according to type of workplace and the presence of inclusive policies and practices. Finally, in Table 3 we present logistic regression models that predict the likelihood of negative treatment after controlling for individual and interpersonal characteristics in order to highlight the role of organizational characteristics on the treatment of LGBTI employees.

Findings

Chinese LGBTI people's disclosure at the workplace

A majority of the LGBTI respondents remained in the closet in the workplace. As noted in Table 1, only 5.1 per cent were completely out of the closet at work. Another 19.2 per cent had partially disclosed their sexual orientation or

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Table 2: **Supervisors' and Colleagues' Attitudes in the Workplace by Organizational Characteristics**

	Disclosure				Supervisors' attitudes				Co-workers' attitudes			
	Not disclosed	Partially disclosed	Fully disclosed	Difference (χ^2)	Accepting/ completely accepting	Not sure	Unaccepting/ completely unaccepting	Difference (χ^2)	Accepting/ completely accepting	Not sure	Unaccepting/ completely unaccepting	Difference (χ^2)
Sector												
Public	82.7%	16.1%	1.2%	161.12***	8.4%	63.2%	28.4%	302.36***	17.6%	50.9%	31.4%	246.27***
Private	73.0%	20.4%	6.6%		20.3%	62.9%	16.8%		29.9%	50.8%	19.3%	
Nature												
Domestic	76.4%	18.6%	4.9%	31.08***	16.1%	63.2%	20.7%	74.97***	25.6%	51.2%	23.2%	45.72***
Foreign	68.0%	25.3%	6.7%		26.1%	61.3%	12.6%		35.7%	46.7%	17.5%	
Training												
Yes	49.2%	28.5%	22.3%		51.8%	36.3%	11.9%		57.2%	30.6%	12.1%	
No	77.0%	18.9%	4.1%	325.18***	15.2%	63.4%	21.4%	426.00***	25.4%	50.6%	24.1%	262.89***
Not sure	75.5%	18.3%	6.2%		17.4%	70.0%	12.6%		23.7%	60.3%	15.9%	
Policy												
Yes	53.5%	25.7%	20.8%		49.3%	41.3%	9.4%		56.1%	32.7%	11.3%	
No	77.9%	18.6%	3.5%	518.57***	13.9%	62.6%	23.6%	807.88***	24.0%	49.9%	26.2%	538.98***
Not sure	76.9%	18.8%	4.3%		14.7%	72.8%	12.6%		23.4%	60.8%	15.8%	

Notes:

$p < .05$*, $p < .01$**, $p < .001$***.

Table 3: **Hierarchical Logistic Regression of Individual, Interpersonal and Organizational Factors of Negative Treatment in the Workplace**

	Model 1		Model 2		Model 3	
	AOR	(95% CI)	AOR	(95% CI)	AOR	(95% CI)
Individual Factors						
Gender						
Male (reference)	–	–	–	–	–	–
Female	1.36***	1.20–1.54	1.33***	1.17–1.51	1.32***	1.16–1.51
Non-binary	1.11	0.75–1.65	1.04	0.69–1.56	1.03	0.68–1.55
Age group						
18–24 (reference)	–	–	–	–	–	–
25–39	1.14*	1.03–1.26	1.07	0.96–1.19	1.04	0.94–1.16
40 or above	1.05	0.79–1.39	1.00	0.75–1.34	0.97	0.72–1.30
LGBTI status						
Homosexual (reference)	–	–	–	–	–	–
Bisexual / pansexual	0.82**	0.71–0.95	0.80**	0.69–0.93	0.80**	0.68–0.93
Asexual / questioning	0.91	0.68–1.22	0.95	0.71–1.29	0.96	0.71–1.30
Transgender	1.64*	1.12–2.42	1.83**	1.23–2.74	1.87**	1.25–2.80
Intersex	1.57**	1.13–2.16	1.65**	1.18–2.29	1.72**	1.23–2.39
Ethnicity						
Han	1.01	0.83–1.22	1.05	0.86–1.27	1.06	0.87–1.29
Ethnic minorities (reference)	–	–	–	–	–	–
Education						
Junior secondary or below (reference)	–	–	–	–	–	–
Senior secondary	0.82	0.68–1.01	0.82	0.67–1.00	0.81*	0.66–0.99
Tertiary	0.80*	0.67–0.97	0.76**	0.63–0.92	0.72**	0.59–0.87
Personal annual income						
Less than 10,000 yuan (reference)	–	–	–	–	–	–
10,000–50,000 yuan	1.03	0.91–1.17	1.00	0.88–1.14	0.98	0.86–1.12
50,000–100,000 yuan	0.95	0.82–1.10	0.92	0.79–1.07	0.89	0.76–1.04
100,000 yuan and above	0.75**	0.62–0.91	0.75**	0.61–0.91	0.72**	0.59–0.88
Living area						
City (reference)	–	–	–	–	–	–
Town	1.34***	1.18–1.52	1.26***	1.11–1.43	1.26***	1.11–1.43
Rural area	1.13	0.91–1.41	1.08	0.86–1.35	1.09	0.87–1.37
Interpersonal Factors						
Disclosure						
Not disclosed (reference)	–	–	–	–	–	–
Partially disclosed	–	–	1.22**	1.07–1.40	1.22**	1.06–1.39
Fully disclosed	–	–	0.66**	0.50–0.88	0.66**	0.50–0.89
Supervisors' attitudes						
Accepting/completely accepting (reference)	–	–	–	–	–	–
Not sure	–	–	1.03	0.87–1.22	1.03	0.87–1.22
Unaccepting/completely unaccepting	–	–	2.09***	1.72–2.53	2.03***	1.67–2.48
Co-workers' attitudes						

Continued

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Table 3: **Continued**

	Model 1		Model 2		Model 3	
	AOR	(95% CI)	AOR	(95% CI)	AOR	(95% CI)
Accepting/completely accepting (reference)	–	–	–	–	–	–
Not sure	–	–	1.04	0.90–1.21	1.04	0.90–1.21
Unaccepting/completely unaccepting	–	–	1.62***	1.37–1.92	1.59***	1.34–1.88
Organizational Factors						
Sector						
Public	–	–	–	–	1.14*	1.02–1.28
Private (reference)	–	–	–	–	–	–
Nature						
Domestic	–	–	–	–	0.91	0.75–1.09
Foreign (reference)	–	–	–	–	–	–
Training						
Yes	–	–	–	–	1.51**	1.16–1.98
No (reference)	–	–	–	–	–	–
Not sure	–	–	–	–	1.07	0.89–1.28
Policy						
Yes	–	–	–	–	0.77*	0.62–0.96
No (reference)	–	–	–	–	–	–

gender identity to their supervisors and/or co-workers, but 75.7 per cent of them had not disclosed their sexual orientation or gender identity at all. More detailed analyses (not shown here) reveal that some groups were more likely than average to disclose their LGBTI status in the workplace ($p < .001$): those who were 18–24 (6.5 per cent), those who identified as transgender (13.3 per cent) or intersex (8.1 per cent), and those who lived in a city (5.6 per cent).

Chinese LGBTI people's self-reported negative treatment at work

Around one-fifth of the LGBTI respondents perceived their colleagues' (22.7 per cent) and supervisors' (20.0 per cent) attitudes towards sexual and gender minorities to be either completely or moderately unaccepting. More than half of the respondents chose "not sure," indicating many respondents' uncertainty about the LGBTI-friendliness of their workplace, as shown in Table 1.

Given the presence of unaccepting attitudes, it is not surprising that LGBTI people in the study reported experiencing widespread discrimination in the workplace. More than one-fifth (21.2 per cent) reported having experienced negative treatment in the workplace. The three most prevalent forms of negative treatment reported were: 1) being reminded by supervisors, co-workers, clients or customers to watch their appearance or the ways in which they spoke or acted (8.7 per cent);

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2) being verbally attacked by supervisors/co-workers/clients/customers, including ridicule, mockery, name-calling, derision, abuse, insults, etc. (6.5 per cent); and 3) being asked by supervisors, co-workers, clients or customers to change the ways in which they dressed, spoke or acted (3.6 per cent). More extreme experiences were also reported: 2.1 per cent of those surveyed (n = 209) reported that they had faced sexual harassment, including unpleasant sexually suggestive speech or acts by their supervisors and colleagues, and 0.4 per cent (n = 40) reported that they had suffered from physical violence by their supervisors, colleagues or customers in their workplace.

In addition, 14.3 per cent (n = 1441) of the respondents reported that they had been denied employment because of their SOGIESC. Also, 8 per cent (n = 802) reported having been dismissed by an employer because of their SOGIESC.

An intersectional analysis found that some subgroups of LGBTI people were more prone to negative treatment in the workplace. Table 1 reports the prevalence of experiencing at least one form of negative treatment by socio-demographic variable. Our findings show that in general, transgender people (31.4 per cent) were significantly more likely to report having experienced negative treatment than cisgender (that is, non-transgender) people. Also, intersex people (29.7 per cent) were more likely to report encountering discrimination in the workplace.

Certain groups of LGBTI people had higher than average rates of discrimination. People who were living in towns (that is, outside of large cities) (χ^2 = 26.88, $p < .001$), those who had lower educational levels ($\chi^2 = 13.48$, $p = .001$), and those who were on a lower income ($\chi^2 = 18.96$, $p < .001$) were significantly more likely to report having experienced negative treatment in the workplace. Also, people who fully disclosed their LGBTI status were less likely to report negative treatment in the workplace ($\chi^2 = 21.78$, $p < .001$).

Workplace characteristics: public/private; domestic/foreign; internal policies

Respondents' workplace characteristics varied considerably. Overall, 72.3 per cent of the LGBTI employees worked in private companies while 27.7 per cent worked for the government or a state-owned enterprise. As shown in Table 2, a greater proportion of LGBTI employees who worked in the public sector perceived unaccepting attitudes from their supervisors ($\chi^2 = 302.36$, $p < .001$) and co-workers ($\chi^2 = 246.27$, $p < .001$) as compared to those working in the private sector. LGBTI employees who worked in the public sector were less likely to disclose their identity ($\chi^2 = 161.12$, $p < .001$) and more likely to report negative treatment in the workplace ($\chi^2 = 17.01$, $p < .001$) than their counterparts in the private sector, differences that are statistically significant.

Also, 91.2 per cent of LGBTI respondents worked in domestic companies, while 8.8 per cent worked in foreign companies. Chi-square tests showed that significantly more LGBTI employees of domestic companies perceived unaccepting attitudes from their supervisors ($\chi^2 = 74.97$, $p < .001$) and co-workers ($\chi^2 = 45.72$,

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$p < .001$), and they were less likely to disclose their sexual orientation and/or gender identity in the workplace ($\chi^2 = 31.08$, $p < .001$) than those working in foreign companies. However, there were no significant differences in negative treatment reported by LGBTI employees who worked in domestic and foreign companies ($\chi^2 = 1.84$, $p > .05$) (see Table 1).

Internal policies that promote equality were very rare in the respondents' workplaces. Only 4.2 per cent of LGBTI people reported that their current workplace provided training on awareness of sexual and gender minority issues, and only 8.3 per cent reported that their current workplace clearly stated that sexual and gender minority employees should be treated equally (Table 1). Those whose organizations had training and policies relating to sexual and gender minorities were more likely to perceive accepting attitudes from their supervisors and co-workers and were more likely to disclose their LGBTI status in the workplace ($p < .001$), as shown in Table 2.

The evidence of the impact of policies on negative treatment was mixed. Having training on awareness of sexual and gender minority issues in place was not significantly associated with negative treatment reported by LGBTI people ($\chi^2 = 3.85$, $p > .05$). However, people who worked in a place with a workplace policy were less likely to report negative treatment ($\chi^2 = 38.34$, $p < .001$) (see Table 1).

Multivariate analysis of determinants of negative treatment in the workplace

We conducted logistic regression analysis to identity particular factors that explain the negative treatment in the workplace after holding other characteristics constant (Table 3). Model 1 examined the individual level factors. The results show that people who were transgender (AOR = 1.64, 95 per cent CI 1.12–2.42), intersex (AOR = 1.57, 95 per cent CI 1.13–2.16), who were 25–39 (AOR = 1.14, 95 per cent CI 1.03–1.26) or who lived in towns (AOR = 1.34, 95 per cent CI 1.18–1.52) were more likely to report having experienced negative treatment at work. Alternatively, those with tertiary education (AOR = 0.80, 95 per cent CI 0.67–0.97) and an annual income of 100,000 yuan and above (AOR = 0.75, 95 per cent CI 0.62–0.91) were less likely to encounter negative treatment in the workplace.

Model 2 added the interpersonal-level factors. People who partially disclosed their LGBTI status in the workplace were more likely to experience negative treatment (AOR = 1.22, 95 per cent CI 1.07–1.40), while those who fully disclosed their identity in the workplace were less likely to report negative treatment (AOR = 0.66, 95 per cent CI 0.50–0.88), compared with those who did not disclose their identity. Perceived lack of acceptance towards sexual and gender minorities by supervisors (AOR = 2.09, 95 per cent CI 1.72–2.53) and co-workers (AOR = 1.62, 95 per cent CI 1.37–1.92) predicted a higher likelihood of LGBTI employees reporting experiences of negative treatment.

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Model 3 investigated the role of organizational-level factors. The results showed that employees who worked for the government or state-owned enterprises were more likely to report experiences of negative treatment than those who worked in private companies (AOR = 1.14, 95 per cent CI 1.02–1.28). Having a policy in the workplace which clearly stated that sexual and gender minority employees should be treated equally was negatively related to the likelihood of experiencing negative treatment (AOR = 0.74, 95 per cent CI 0.64–0.85). However, having training on the awareness of sexual and gender minority issues in the workplace was positively associated with negative treatment reported by LGBTI people (AOR = 1.51, 95 per cent CI 1.16–1.98). That relationship was surprising, since such training is designed to reduce discrimination. However, negative treatment of LGBTI people might motivate training, or training might make LGBTI people more visible, increasing harassment. It is also possible that LGBTI people who received training developed greater awareness and sensitivity towards SOGIESC-based negative treatment from their supervisors and co-workers.

Discussion

Labour relations in China have received increased scholarly and public attention as the country transitions to a capitalist economy within a socialist political system. Although there has been growing inequality within the workplace, very little has been written about workplace discrimination faced by sexual and gender minorities in China. By putting the research literature on sexual orientation and gender identity discrimination in the workplace in a Chinese context, this study provides three original contributions to the literature.

First, it contributes to the research literature on labour relations in China by providing empirical evidence on LGBTI people's disclosure experiences in the workplace. The finding that only 5.1 per cent of respondents fully disclosed their identity at work is especially noteworthy. Despite the youthful nature of the sample, respondents were not as *kaifang* as might be expected from the literature.[25] The disclosure rate is much lower than the respective figure in other parts of the world. For example, around one half of US workers are open about their gender identity and sexual orientation to all or to most of their co-workers.[26] About 23 per cent of LGBT people surveyed in the European Union reported that they were always open about being LGBT in their workplaces.[27] Restraining their true sexual and gender identities can form barriers to building authentic relationships for LGBTI people and contribute to their social isolation, as well as resulting in lost energy and effort from actively concealing their SOGIESC.

The data also show that many LGBTI respondents in China still feel enormous pressure in the workplace. LGBTI people in China often experience a hostile

25 Ho, Loretta 2008; Wan 2001.
26 Pew Research Centre 2013.
27 European Union Agency for Fundamental Rights 2014.

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workplace environment, riven with harassment, bullying and discrimination. More than one-fifth of the LGBTI participants reported experiencing negative treatment in the workplace owing to their SOGIESC. LGBTI people who worked in the public sector, lived in small towns, and had lower educational levels and incomes were significantly more likely to report having experienced negative treatment in the workplace. The discrimination that LGBTI employees in China reported also took many different forms, ranging from monitoring of appearance and mannerisms to sexual harassment and physical violence. The findings clearly underscore that while China's Constitution says everyone is treated equally before the law, employment discrimination continues to exist. These findings add to the understanding of the literature on workplace discrimination in China, which has to date mainly focused on ethnic minorities and women.[28]

Second, these findings have important implications for discrimination law and for policy and practice on diversity and inclusion issues in China, demonstrating the need for more explicit policies banning discrimination. We found that having training in place was associated with more negative treatment reported by LGBTI people, but having an equality policy in place was associated with less negative treatment reported by LGBTI people. Given the protective effect of a workplace policy, organizations need to develop and implement formal policies and dispute resolution mechanisms for non-discrimination and equal treatment of LGBTI employees. Training and the raising of awareness are needed to ensure that such policies and mechanisms are properly implemented.

However, such policies and training are still rare in China. Only 4.2 per cent of LGBTI respondents reported that their current workplace provided training on sexual and gender minority issues, and only 8.3 per cent of reported that their current workplace clearly stated that employees of sexual and gender minorities should be treated equally.

The private sector should step up to take measures to prevent and eliminate discrimination on the grounds of sexual orientation, gender identity and intersex status in the workplace. It is important for the private sector to recognize the benefits of LGBTI inclusion, which include an increase in the productive potential of LGBTI persons that can increase business profits and growth and ultimately contribute to China's economic development.

Given the prevalence of negative treatment experienced by LGBTI people in the workplace, the government should take the lead to provide legal protection for all workers against discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics in national laws and policies. Some possible steps include amending the labour law to explicitly outlaw discrimination on the grounds of sexual orientation, gender identity and intersex status, or the government could introduce comprehensive legislation against

28 Gustafsson and Sai 2014; Sheldon et al. 2011; Zhang 2013; Zang 2010; Ngai 2005.

discrimination on the grounds of sexual orientation, gender identity and intersex status in different domains of life including education and employment.

In addition to legal changes, the government must educate and raise public awareness about LGBTI people's rights to equality and non-discrimination. The government should engage in a dialogue with LGBTI communities, the private sector, employers' and workers' organizations, media and other relevant stakeholders, in order to promote sustained cooperation to emphasize and ensure the labour rights of LGBTI people.

Third, the paper contributes to the research literature on the climate for social minority groups in China by using sexual orientation and gender identity discrimination in the workplace as an indicator. The level of discrimination experienced by LGBTI people in the workplace indicates how China sees LGBTI people in particular, but it can also serve as a proxy for how other social minorities fare in the context of rapid economic reforms and social developments. Too often the stories of minority groups are neglected in Chinese studies under the grand narratives of economic miracle. As Crystal Roberts suggests, employment discrimination shows that China is "far from a harmonious society."[29] This paper also broadens the scope of sexualities studies in China. Kong argues that sexualities studies in China has gone through different stages, focusing on bio-medical science and the medicalization of same-sex relations, the "causes" of homosexuality, and the emergence of queer/*tongzhi* 同志 identity.[30] Currently, a major debate centres on the process of coming out within the family and marriage institutions.[31] Other common topics of study include space and desire,[32] sexual citizenship,[33]and sexual politics and activism.[34] Petula Ho and her colleagues also contend that topics associated with HIV risk behaviour, which are in line with addressing the Chinese state's public health agenda, continue to receive far more academic attention than others.[35] This paper therefore broadens the topics for Chinese sexualities studies by focusing on employment, a domain which is an integral part of almost every sexual subject's life, and by providing one of the first inquiries into the everyday lived experiences of transgender and intersex people in China. In sum, this paper also contributes to the greater Asian queer studies project that has established itself as a major academic endeavour.[36]

Limitations

Despite the significance of the findings, some limitations warrant consideration. First, the present study analysed data collected from a non-probability

29 Roberts 2012.
30 Kong 2016.
31 Ibid.
32 Wei 2009; 2012; Fu 2012.
33 Kong 2012.
34 Rofel 2007; Engebretsen and Schroeder 2015.
35 Ho, Petula, et al. 2018.
36 McLelland 2018.

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sampling method made necessary by the unavailability of a sampling frame for sexual and gender minorities in China. The lack of representativeness in the sample was clear from the demographics of this heavily male, young and highly educated sample. Therefore, the findings here are not generalizable to all LGBTI people in China. Although this limitation is also present in previous studies on LGBTI people across different parts of the world, the findings should be reassessed when population-based samples are available, as is happening in more and more countries over time but are very difficult if not impossible to come by in China on this topic. In addition, the study was correlational in nature and as such we cannot draw causal inferences about the associations observed. Future research should utilize a longitudinal design to understand the effects of disclosure and workplace climate on negative treatment. A cohort study design could also be adopted to determine whether the introduction of workplace policies and training can protect LGBTI people against negative treatment in workplace.

Conclusion

In summary, this paper breaks new ground by analysing the experiences of China's sexual and gender minorities in employment, drawing on a quantitative survey of more than 10,000 LGBTI people in China, the largest dataset of its kind on the topic to date in China. It was found that only 5.1 per cent of LGBTI people were completely out of the closet at work. The analysis also shows that a significant proportion of the LGBTI people surveyed found their current workplace in China to be an LGBTI-unfriendly environment. More than one-fifth of respondents had experienced negative treatment in the workplace. An intersectional analysis found that transgender and intersex people were even more vulnerable to negative treatment in the workplace, as were people outside large cities, people with lower educational levels and people on lower incomes. Employer policies against discrimination were rare, but when in place, policies were significantly associated with fewer experiences of negative treatment.

This paper also raises many future research topics. For example, do LGBTI people in China want to come out in the workplace? What are the reasons for such a low prevalence of LGBTI people who are out in the workplace in China? What are the consequences of not coming out on the productivity of LGBTI people in the workplace and on their level of belonging to the workplace? When LGBTI people come out in the workplace, how do they do so? What strategies do Chinese LGBTI people employ to deal with the discrimination they face in the workplace and beyond? In terms of measuring negative treatment, further research might explore wage inequality that results from the workplace discrimination.[37] An experimental and audit approach can also be useful to further study

37 Badgett 1995.

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Chinese employers' actions and the stereotypes that they hold regarding LGBTI people.[38]

More robust data on LGBTI people in China will better inform policy and law making in China in an era of increasing advocacy for the protection of sexual and gender minority rights. Also, as discussed above, an increasing number of LGBTI discrimination claims are reaching Chinese courts. Further research will be necessary to determine which policies and training on LGBTI issues will work best in the Chinese workplace as attitudes, public policies and court rulings related to LGBTI workers evolve.

Biographical notes

Yiu-tung SUEN is assistant professor of the Gender Studies Programme and founding director of the Sexualities Research Programme at the Chinese University of Hong Kong. His studies inform and are informed by critical current debates on sexual orientation and gender identity laws and policies, particularly with a view to providing empirical evidence, which has been largely absent in Asia. His research is multi-disciplinary in nature.

Randolph C.H. CHAN is an assistant professor in the department of special education and counselling at the Education University of Hong Kong. His research areas focus on the health and well-being of youth and marginalized populations, with a particular emphasis on sexual and gender minorities.

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Conflicts of interest

None.

摘要: 尽管中国宪法规定公民在法律面前一律平等，但是就业歧视仍然存在。本文章通过分析对超过10,000个女同性恋、男同性恋、双性恋、跨性别和间性 (LGBTI) 人士的量化数据，开辟了新的研究领域，这是迄今为止中国同类数据之中最大型的研究调查。在受访者中，只有5.1%的人在工作场所完全透露自己的性倾向、性别认同或间性人身份。超过五分之一的LGBTI人士表示自己曾在工作场所遭受负面对待。跨性别和间性人士表示自己曾遭受负面对待的比率较高，而教育程度较低、收入较低和居住在城镇的人也是如此。在工作场所的反歧视政策十分少见，然而一旦实行，就会与较少的负面对待有显著关联。这些研究结果展示了在中国几乎完全被忽视的劳动力群体，并且记录了歧视经验可以通过推行反歧视法规以及雇主多元共融的政策和实践来改善。

关键词: 性倾向; 性别认同; 多元共融; 工作场所; 就业; 歧视; 中国

38 Tilcsik 2011.

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