

# “MY LIFE IS TOO DARK TO SEE THE LIGHT”

A Survey of the Living Conditions of Transgender Female Sex Workers in Beijing and Shanghai

*Based on research in Beijing and Shanghai,* China this report focuses on the daily life, working conditions, access to services, and legal frameworks for transgender female sex workers in China. Transgender female sex workers face a broad array of discrimination in social and policy frameworks, preventing this highly marginalized group's access to a wide spectrum of services and legal protections. They experience amplified stigma due to both their gender identity and their profession. Isolated and often humiliated when seeking public services, particularly in health care settings, has also led many to self-medicate and engage in dangerous transitioning practices, including on self-administered hormone use.

In China, transgender people do not necessarily face outright legal penalties, but the absence of non-discrimination laws and lack of enforcement of overarching policies on non-discriminatory access to healthcare and HIV related services, means they are left without effective protection. As sex work is illegal in China, transgender sex workers are further oppressed by the police and, due to social and other factors, engage in high risk activities that put them at increased risk of HIV and STD infection.

The research for this report illuminates that the community of female presenting sex workers is very complex and includes men who have sex with men, transgender individuals, and transsexuals. Their vulnerabilities to HIV and their varied health needs need to be carefully assessed, strategically targeted, and addressed. As China is in the process of drafting a new HIV/AIDS action plan for 2016-2020, now is a good opportunity to develop a specific strategy on HIV prevention and care for the transgender community.

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A Survey of the Living Conditions of Transgender  
Female Sex Workers in Beijing and Shanghai

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## A Survey of the Living Conditions of Transgender Female Sex Workers in Beijing and Shanghai

<b>Glossary</b>	<b>4</b>
<b>Executive Summary</b>	<b>5</b>
Summary Recommendations to the Chinese Government	<b>6</b>
<b>Methodology</b>	<b>7</b>
<b>I. Background</b>	<b>11</b>
What does ‘transgender’ mean?	<b>11</b>
Transgender Persons, Sex Work, and HIV/AIDS	<b>12</b>
Perceptions of Transgender People in China	<b>15</b>
<b>II. Findings</b>	<b>16</b>
Gender Identity	<b>23</b>
Family relationships	<b>25</b>
Discrimination	<b>28</b>
Engagement in Sex Work	<b>32</b>
Health	<b>44</b>
Programming Response	<b>53</b>
<b>III. Legal Framework</b>	<b>56</b>
Legal Recognition in China	<b>56</b>
International Framework	<b>61</b>
<b>IV. Conclusions and Recommendations</b>	<b>65</b>
Recommendations to the Chinese Government	<b>69</b>
Recommendations to International Donors	<b>71</b>
<b>Acknowledgements</b>	<b>72</b>
<b>About the Researchers</b>	<b>73</b>
<b>Annex 1: Demographic Breakdown of Interviewees</b>	<b>74</b>
<b>Annex 2: Management Standards for Gender Reassignment Surgery</b>	<b>75</b>

## ***Glossary***

***Gender identity:*** Refers to a person's internal, deeply felt sense of being male, female, or something other or in-between.

***Gender expression:*** Refers to the external characteristics and behaviors which societies define as “masculine” or “feminine”—including such attributes as dress, appearance, mannerisms, speech patterns and social behavior.

***LGBT:*** Lesbian, gay, bisexual, and transgender.

***Men who have sex with men (MSM):*** Men who engage in sexual behavior with other men, but do not necessarily identify as “gay”, “homosexual”, or “bisexual”.

***Sex work:*** The commercial exchange of sexual services between consenting adults.

***Sexual orientation:*** A person's sexual and emotional attraction to members of the same gender, the opposite gender, or both genders.

***Transgender:*** Transgender is an umbrella term used to describe people whose gender identity, one's inner sense of being male or female, differs from their assigned or presumed sex at birth.

***Transgender women:*** People who are born male but identify themselves as female.

***Transgender men:*** People who are born female but identify themselves as male.

***Transsexual:*** A person who seeks to undergo or has undergone bodily modification such as sex reassignment surgery, so that their physical sex corresponds to their felt gender identity.

***Sex Reassignment Surgery (SRS)/ Gender affirming surgery:*** Surgical interventions to change one's body so as to resemble a body of the opposite sex as closely as possible.

# Executive Summary

**“My life is too dark to see the light, I don’t know when we’ll reach the end of these dark days.”**

*– Xiao Dongbei, a transgender female sex worker, Beijing, January 2014*

Based on research in Beijing and Shanghai, China this report focuses on the daily life, working conditions, access to services and legal frameworks for transgender female sex workers in China. Globally, discrimination, stigma and low levels of education combine to deprive transgender persons of work opportunities, resulting in economic marginalization and, in the Asia-Pacific Region, a considerable percentage of transgender women are engaged in sex work. An increasing amount of evidence shows that transgender women and, in particular, transgender female sex workers are among the populations most heavily affected by, and at risk of, HIV. Transgender women are 49 times more likely to acquire HIV than all adults of reproductive age, and the rate of HIV infection among transgender female sex workers is 27.3%, which is nine times higher than that for female sex workers, and three times higher than for male sex workers. By 2020, transgender women and MSM (men who have sex with men) will most likely constitute the majority of all new HIV infections in the Asia-Pacific region.

Despite this arc, transgender specific data collection, HIV programming and outreach is almost non-existent, with most services for transgender populations only included as part of men who have sex with men (MSM) programming. This is not only fundamentally at odds with the gender identity of transgender women, but has also served to limit attention and resources to the unique HIV-related needs of transgender people. It has also prevented the development of effective public health interventions for this population.

Between January and September 2014, Asia Catalyst and two community based organizations in China, Beijing Zuoyou Information Center and Shanghai CSW (commercial sex worker) & MSM Center, interviewed 70 sex workers [transgender female and crossdressing male] in two of China’s largest cities. Supplemented by interviews with other community based organizations providing services to transgender communities across the country, as well as extensive legal and policy research, the

findings indicate transgender female sex workers are among the most marginalized and vulnerable populations in China today.

Transgender female sex workers face a broad array of discrimination in social and policy frameworks, preventing this highly marginalized group access to a wide spectrum of services and legal protections.

They often experience amplified stigma due to both their gender identity and their profession. Isolated and often humiliated when seeking public services, particularly in health care settings, has also led many to self-medicate and engage in dangerous transitioning practices, including on self-administered hormone use.

Living in fear of exposure has also led this diverse group of people to live increasingly hidden lives, away from family, neighbors, potential employment, and within communities that may subject them to verbal abuse or punitive action such as tenant eviction, dismissal, or police abuse. Undertaking the most basic tasks becomes fraught, especially if personal ID is required. Banking, airline or train travel, staying in hotels, or renting an apartment, can quickly deteriorate into an exercise in public humiliation if the gender presentation on the card does not match the gender marker of the person requesting the service. Discrimination in the workplace is also a factor driving transgender women from poor rural backgrounds into sex work.

Since sex work is illegal in China, law enforcement agencies are also one of the greatest challenges that transgender sex workers face. 64% of the sex workers interviewed for this report had been arrested and detained by the police, many had been arrested more than once. Entrapment or “fishing” is a commonly used method by police, while verbal and physical violence and/or extortion is not uncommon. While this is also true for non-transgender female and male sex workers, the transgender female sex workers interviewed spoke of abuse directed at their gender identity, compounded by detention in prison cells designated for male prisoners.

The use of methamphetamine and other synthetic drugs is also on the increase and is widely used during sex work, leading to increased risk of STD and HIV infection and other health problems.

**“Although there are no outright legal penalties for being a transgender person in China, the absence of non-discrimination laws, lack of professional medical services for transitioning, and a lack of targeted HIV programming and services, mean there is no effective protection.”**

Although there are no outright legal penalties for being a transgender person in China, the absence of non-discrimination laws, lack of professional medical services for transitioning, and a lack of targeted HIV programming and services, mean there is no effective protection. In China, transgender people are classified as suffering from a mental illness, and the pre-requisite of extremely expensive sex reassignment surgery (SRS), not covered by national health insurance plans, prevents many from being able to change the gender marker on their ID cards, household registration, or academic records.

The alteration, examination and approval of gender on documents also come under the jurisdiction of local public security organs. For those who do request SRS, petitioners have to provide a series of certificates, including a permit from a public security bureau showing no criminal record, a certificate from a psychiatrist, a notarized report requesting SRS, and a certificate showing that next of kin have been notified of the SRS. The patient must be unmarried, must have wanted to change genders for at least five years, and must have undergone psychiatric treatment for at least one year without being dissuaded. These requirements are not only extremely bureaucratic but violate international human rights standards, including the rights to individual autonomy and privacy. Equally, for those who do not wish to undergo SRS, the lack of legal identification matching their gender identity will last a lifetime. This violates the right to recognition before the law.

## Summary Recommendations To the Chinese Government:

1. Prohibit discrimination on the grounds of gender expression, gender identity, and sexual orientation. Anti-discrimination legislation must include gender identity and sexual orientation as protected categories.
2. Develop transparent and efficient procedures, based on international human rights standards, to allow citizens the right to change their gender marker on legal documents on the basis of their gender identity, including ID cards, passports, household registration, educational certificates and other documents;
3. Amend the law in such a way that transgender people can apply to have the gender marker on their documents changed without having to satisfy any medical conditions. In particular, abolish the current pre-condition of sex reassignment surgery.
4. Support HIV and health services targeting the needs of transgender people. Include targeted programming for the transgender community, including those who are sex workers, in the new HIV/AIDS action plan for 2016-2020.
5. Support HIV and health services targeting the needs of transgender people. Include targeted programming for the transgender community, including those who are sex workers, in the new HIV/AIDS action plan for 2016-2020, including the development of a supportive legal environment.
6. Provide training for health care workers on gender identity, non-discrimination, and the specific needs and rights of transgender persons; ensure the availability, accessibility, acceptability, and quality of medical and psychological services required by transgender people, including for transitioning.
7. Stop police abuse and extortion against sex workers, and provide law enforcement officers with training and sensitization on human rights, gender identity, and non-discrimination towards transgender people;
8. Investigate and punish abusive and otherwise improper treatment of all sex workers; due diligence includes actions to prevent, investigate, and punish violations by responding to all incidents.

*A full list of recommendation can be found at the end of the report.*

## Methodology

This report is based on research conducted from December 2013 to September 2014, by Asia Catalyst and two community partners in China, Beijing Zuoyou Information Center and Shanghai CSW&MSM Center. Both organizations are working in the field of HIV prevention for their target communities.

Beijing Zuoyou Information Center works predominantly with MSM and transgender female sex workers in Beijing, providing HIV /STD rapid testing, counseling and referrals. Their outreach service covers roughly 200 transgender female sex workers working from home, hotels and bars. Shanghai CSW&MSM Center works with male sex workers working in sex work establishments or in their own homes; and street-based female and transgender female sex workers in Shanghai. They provide services to roughly 180 transgender female sex workers in the city.

Together with Asia Catalyst, the two organizations interviewed 70 sex workers, 35 in Beijing and 35 in Shanghai. We selected people who were born male but presented as women while doing sex work. Interviewees were identified through the daily outreach services of these two organizations.

Not all of the sex workers interviewed for this report identified as women. All were born biologically male, but 30 identified themselves to us as women, 24 as male, and 16 as a third gender. All, however, presented as female for sex work.

The research methodology used a combination of in-depth interviews and questionnaires for all participants; verbal consent was given by all interviewees for their responses to be used for this report. However, to preserve confidentiality, aliases have been used for all participants of this study. Most of the interviews were carried out in the interviewee's home or work place (for example, in a park or on the street), and some of the interviews were carried out in the offices of Beijing Zuoyou Information Center and Shanghai CSW&MSM Center. Although the research was conducted in Beijing and Shanghai, as is normal in China's biggest cities, most of the interviewees originated from across the country.

In addition to the interviews with the 70 sex workers, Asia Catalyst, Beijing Zuoyou Information Center, and Shanghai CSW&MSM Center conducted interviews with nine Chinese civil society organizations that work with transgender communities in Beijing,

Shanghai, Dalian, Kunming, Chengdu, Shenyang and Tianjin, all provincial capitals or large cities in China. Four of these interviews were conducted face to face, the rest were carried out over the telephone. Most of the organizations focus on MSM and are principally engaged in HIV-related health interventions. As is the global trend, although transgender individuals including transgender sex workers, are part of their beneficiary targets, none of the groups have funding specifically for standalone transgender projects, and only one has transgender specific programming.

# I. Background

## What does ‘transgender’ mean?

‘Transgender’ is an umbrella term used to describe people whose gender identity, one’s inner sense of being male or female, differs from their assigned or presumed sex at birth.<sup>1</sup> The rise of the term ‘transgender’ has symbolized humanity’s challenge to the binary designation of gender, and humanity’s deeper and more honest acknowledgement and exploration of the self.<sup>2</sup> Subsequently, the term ‘transgender’ has become a necessarily collective term that encompasses various kinds of individuals and behaviors that differ from the gender distinctions of mainstream society. Transgender individuals may express their gender identity through various means, such as apparel, manner of speech or bearing; they may also use hormones and/or surgery to change their physical characteristics to affirm their gender identity, or they may do none of the above.<sup>3</sup>

The medical establishment’s definition of the term has influenced the understanding and attitude of wider society toward transgender individuals. For a long time, being transgender has been considered a form of mental illness and was considered a condition requiring correction.<sup>4</sup> The World Health Organization’s 10<sup>th</sup> revision of International Statistical Classification of Diseases and Related Health Problems defines “transsexualism” as a personality and behavioral disorder.<sup>5</sup> The Diagnostic and Statistical Manual of Mental Disorders (DSM), which serves as the most common reference manual for diagnosing mental illnesses in the United States and other countries, for a long time applied the term “Gender Identity Disorder” to intense and sustained transgender identity and to long-term nonconformity with assigned gender identity.

More recently, greater understanding and recognition of the health and human rights of transgender people has stimulated considerable debate over whether the health

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1 Lambda Legal, Transgender prisoners in crises. [http://www.lambdalegal.org/sites/default/files/publications/downloads/transgender\\_prisoners\\_in\\_crisis.pdf](http://www.lambdalegal.org/sites/default/files/publications/downloads/transgender_prisoners_in_crisis.pdf) (accessed September 1, 2014).

2 Fang Gang, “Transgender: the rights that should not be ignored,” [跨性别：不该被忽视的权益] *The Diversity of Gender* [多元的性别]. (China: Shandong People’s Publishing House, 2012): 180-184.

3 amfAR, *Trans Populations and HIV: Time to End the Neglect*. April 2014. [http://www.amfar.org/uploadedFiles/\\_amfarorg/Articles/On\\_The\\_Hill/2014/IB%20Trans%20Population%20040114%20final.pdf](http://www.amfar.org/uploadedFiles/_amfarorg/Articles/On_The_Hill/2014/IB%20Trans%20Population%20040114%20final.pdf) (accessed September 1, 2014).

4 Katy Steinmetz, “The Transgender Tipping Point.” *Time*, June 9, 2014, <http://time.com/135480/transgender-tipping-point/> (accessed September 2, 2014).

5 World Health Organization, International Statistical Classification of Diseases and Related Health Problems. 10<sup>th</sup> Revision (2010 Version).

needs of transgender people should be classified as a mental disorder. In May 2010, the World Professional Association for Transgender Health issued a statement urging the worldwide de-psychopathologisation of gender variance. The statement pointed out, “the expression of gender characteristics, including identities, that are not stereotypically associated with one’s assigned sex at birth is a common and culturally-diverse human phenomenon which should not be judged as inherently pathological or negative.”<sup>6</sup>

In 2013, the American Psychiatric Association published the fifth edition of the DSM, in which “Gender Identity Disorder” was replaced by “Gender Dysphoria.” The American Psychiatric Association felt that removing the term “disorder” would help reduce the stigma of being transgender and help transgender persons be better accepted by the wider community.<sup>7</sup> Many transgender advocates welcomed this change, because the term gender identity disorder implies that one’s gender identity was wrong or problematic or that it needed medical intervention.<sup>8</sup>

The World Health Organization is also in the process of revising its classification of diseases for the 11th edition of the International Statistical Classification of Diseases and Related Health Problems, to be published in 2017. The WHO’s Working Group on the Classification of Sexual Disorders and Sexual Health has recommended that in the new edition of the Classification of Diseases, being transgender should not be referred to in terms of outmoded mental pathology.<sup>9</sup> Led also by transgender activism, there is growing consensus on two core issues, depathologization and access to healthcare for transgender individuals.<sup>10</sup>

## Transgender Persons, Sex Work, and HIV/AIDS

Economic marginalization as a result of institutionalized discrimination, stigma, and low levels of education contribute to a severe lack of opportunities for many transgender people.<sup>11</sup> In the Asia-Pacific Region, a considerable percentage of transgender women are engaged in sex work.<sup>12</sup> Available statistics indicate the following percentages of

6 A.B. Kaplan, “WPATH Releases De-Psychopathologisation Statement on Gender Variance.” *Transgender Mental Health*, May 26, 2010 <http://tgmentalhealth.com/2010/05/26/wpath-releases-de-psychopathologisation-statement-on-gender-variance/> (accessed September 20, 2014).

7 Chen Fazhan, Chen Zheng, “The Diagnosis and Treatment of Gender Identity Disorder,” [中国行为医学科学杂志] *Journal of Chinese Behavioral Medicine and Brain Science*, Vol., No. 6 (June 2012): 569-70

8 Katy Steinmetz, “The Transgender Tipping Point.” *Time*.

9 Jack Drescher, Peggy Cohen-Kettenis, and Sam Winter, “Minding the body: situating gender identity diagnoses in the ICD-11,” *International Review of Psychiatry* 24, 6(2012): 575, 569, 574;

10 Global Action for Trans Equality. “It’s Time for Reform: Trans\* Health Issues in the International Classifications of Diseases. November 2011.

11 Kimberly Keller. “Transgender Health and HIV.” BETA, Summer/Fall 2009. [http://www.sfaf.org/hiv-info/hot-topics/beta/beta\\_2009\\_sumfall\\_transgender2.pdf](http://www.sfaf.org/hiv-info/hot-topics/beta/beta_2009_sumfall_transgender2.pdf) (accessed July 23, 2014)

12 APTN, UNDP. “Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region,” Bangkok (May 2012). [http://www.undp.org/content/dam/undp/library/hiv/aids/UNDP\\_HIV\\_Transgender\\_report\\_Lost\\_in\\_Transition\\_May\\_2012.pdf](http://www.undp.org/content/dam/undp/library/hiv/aids/UNDP_HIV_Transgender_report_Lost_in_Transition_May_2012.pdf) (accessed July 23, 2014); sex work refers to the commercial exchange of sexual services between consenting adults.

transgender persons involved in the sex industry in the following countries: Indonesia, 81% (2011); Malaysia, 84% (2009); Cambodia, 36% (2009); India, 90% (2009-2010).<sup>13</sup> There is no comparable data available for China.

An increasing amount of evidence shows that transgender women<sup>14</sup> and transgender female sex workers are among the populations most heavily affected by HIV.<sup>15</sup> Transgender women are 49 times more likely to acquire HIV than all adults of reproductive age.<sup>16</sup> In global terms, the rate of HIV infection among transgender women engaged in sex work is 27.3%, and the rate of infection among transgender persons overall is 14.7%.<sup>17</sup>

The rate of HIV infection among transgender sex workers is nine times higher than that for female sex workers, and three times higher than for male sex workers.<sup>18</sup> Epidemiological research has also found a higher incidence of other sexually-transmitted diseases (STDs), such as syphilis and, gonorrhea among transgender women in the Asia-Pacific Region.<sup>19</sup> Similar research on transgender men<sup>20</sup> is lacking at present, so there is limited data on the incidence of HIV and STDs among them.<sup>21</sup> However, transgender men who have sex with other men are likely to be at a higher risk of HIV infection.

The Joint United Nations Programme on HIV/AIDS (UNAIDS) considers transgender women who engage in sex work to be at increased risk of HIV infection.<sup>22</sup> The Commission on AIDS in Asia has predicted that, by 2020, transgender women and MSM will together constitute the majority of all new HIV infections in the Asia-Pacific region.<sup>23</sup>

**Economic marginalization as a result of institutional discrimination, stigma, and low levels of education contributes to a severe lack of opportunities for many transgender people... Available statistics indicate the the following percentages of transgender persons are involved in the sex industry by country:<sup>14</sup>**

<b>Indonesia</b>	<b>81%</b>
<b>Malaysia</b>	<b>84%</b>
<b>Cambodia</b>	<b>36%</b>
<b>India</b>	<b>90%</b>

**China has no comparable data.**

13 UNAIDS. "The Gap Report," July 2014, updated September 2014. <http://www.unaids.org/en/resources/documents/2014/name.97466.en.asp>, p. 76 (accessed September 29, 2014).

14 People who are born male but identify themselves as female.

15 Tonia Poteat et al., HIV risk and preventive interventions in transgender women sex workers. *The Lancet*. July 22, 2014.

16 UNAIDS. "The Gap Report." p. 219.

17 Stefan D Daralati. "Worldwide burden of HIV in transgender women: A systematic review and meta-analysis." *The Lancet* (March 2013): 214-22.

18 UNAIDS. "The Gap Report." p. 220.

19 APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region".

20 People who are born female but identify themselves as male.

21 APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region".

22 UNAIDS. "The Gap Report," p. 220.

23 APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region".

There are many reasons for this. Anal sex, particularly condom-less receptive anal intercourse, is a highly efficient mechanism for HIV infection.<sup>24</sup> Many transgender female sex workers are attractive to men and, consistent with their female gender identity, they tend to adopt a receptive sexual role for penetrative sex.<sup>25</sup> This puts transgender female sex workers at a substantially greater risk of HIV infection than their partners, as the risk of transmission is around 18 times higher than through vaginal intercourse.<sup>26</sup>

The sexual relationship patterns of men who have sex with transgender women also show many concurrent partners in diverse sexual networks, which presents opportunities for HIV transmission across populations. In addition, emerging data suggests that male partners of transgender women might be more likely to engage in high-risk drug using behavior than drug users who do not partner with transgender women.<sup>27</sup> Finally, hormones used for transitioning can result in erectile dysfunction and interfere with correct condom use, thereby also increasing HIV risk during anal insertive sex.<sup>28</sup>

In spite of these factors, transgender individuals are routinely overlooked in HIV/AIDS programs in the Asia-Pacific Region.<sup>29</sup> Transgender persons are usually not included in epidemiological research, monitoring or intervention programs relating to HIV/AIDS.<sup>30</sup> Transgender women are also often only included as a sub-population of MSM. This is not only fundamentally at odds with the gender identity of transgender women, but has also served to limit attention and resources to the unique HIV-related needs of this population. It has also prevented the development of effective public health interventions for this group of people.<sup>31</sup>

Globally, current HIV monitoring and prevention interventions for transgender people are inadequate. Many transgender people cannot access existing interventions for the general population, while there remain few programs targeted specifically for transgender people. Inadequate country data has compounded these problems.<sup>32</sup> UNAIDS has issued guidelines to help countries collect data and report national response as effectively as possible but, unlike other key affected populations, for a very long time, there was no guidance on collecting and reporting data about transgender

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<sup>24</sup> Tonia Poteat et al., "HIV risk and preventive interventions in transgender women sex workers." *The Lancet*. (July 2014).

<sup>25</sup> APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region".

<sup>26</sup> *Ibid*.

<sup>27</sup> Tonia Poteat et al., "HIV risk and preventive interventions in transgender women sex workers."

<sup>28</sup> *Ibid*.

<sup>29</sup> UNAIDS. "The Gap Report," p. 227.

<sup>30</sup> Tonia Poteat et al., "HIV risk and preventive interventions in transgender women sex workers"; Stefan D. Baral, Tonia Poteat, et al. "Worldwide burden of HIV in transgender women: A systematic review and meta-analysis." *The Lancet: Infectious Diseases*. Vol. 13, No. 3 (March 2013): pp. 214-222.

<sup>31</sup> Tonia Poteat et al., "HIV risk and preventive interventions in transgender women sex workers"; amfAR, "Trans Populations and HIV: Time to End the Neglect".

<sup>32</sup> UNDP, "Discussion Paper Transgender Health and Human Rights," December 2013. <http://www.undp.org/content/dam/undp/library/HIV-AIDS/Governance%20of%20HIV%20Responses/Trans%20Health%20&%20Human%20Rights.pdf> (accessed July 9, 2014).

people.<sup>33</sup> Only in the 2014 UNAIDS guidelines do the indicators for sex workers have transgender as a possible disaggregation, in addition to female/male.<sup>34</sup>

## Perceptions of Transgender People in China

Some studies estimate that transgender people comprise 0.1% to 1.1% of the world's adult population.<sup>35</sup> In the Asia-Pacific region, an estimated 0.3% of the population is transgender. Based on these percentages, there are an estimated 9.5 million transgender people in the Asia-Pacific Region.<sup>36</sup> Mainland China, Taiwan and Hong Kong lack official statistics on their transgender populations. Although not the only indication of the transgender population, we do know that in mainland China, an estimated 1,000 to 2,000 people have undergone sex reassignment surgeries (SRS)<sup>37</sup>, with a further 100,000 to 400,000 considering the option.<sup>38</sup> In Taiwan, doctors estimate that more than 1,000 people have undergone SRS.<sup>39</sup> In Hong Kong, some 200 to 300 people have undergone gender affirming surgeries, with about 100 having SRS in local government hospitals.<sup>40</sup>

### Estimated Size of the Transgender Population by Location

	Mainland China	Hong Kong	Taiwan
General population size	1,360,720,000 <sup>a</sup>	7,234,800 (000) <sup>b</sup>	23,410,280 <sup>c</sup>
Estimated transgender population size (.03%)	4,082,160	21,705	70, 231
<p>a. As of the end of 2013. National Bureau of Statistics of China. "Statistical Communique of the People's Republic of China on the 2013 National Economic and Social Development." [中华人民共和国2013年国民经济和社会发展统计公报]. February 24, 2014.</p> <p>b. Statistics as of mid-2014. The Government of the Hong Kong Special Administrative Region, Census and Statistics Department. <a href="http://www.censtatd.gov.hk/hkstat/sub/so20.jsp">http://www.censtatd.gov.hk/hkstat/sub/so20.jsp</a> (accessed December 19, 2014).</p> <p>c. As of September 2014. National Statistics, Republic of China (Taiwan). <a href="http://eng.stat.gov.tw/mp.asp?mp=5">http://eng.stat.gov.tw/mp.asp?mp=5</a> (accessed December 19, 2014).</p>			

<sup>33</sup> *Ibid.*

<sup>34</sup> UNAIDS, "Global AIDS Response Progress Reporting 2014: Construction of Core Indicators for monitoring the 2011 United Nations Political Declaration on HIV and AIDS," January 2014. [http://www.unaids.org/sites/default/files/media\\_asset/GARPR\\_2014\\_guidelines\\_en\\_0.pdf](http://www.unaids.org/sites/default/files/media_asset/GARPR_2014_guidelines_en_0.pdf) (accessed July 19, 2014).

<sup>35</sup> UNAIDS, "The Gap Report".

<sup>36</sup> APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region".

<sup>37</sup> Surgical interventions to change one's body so as to resemble a body of the opposite sex as closely as possible. SRS is usually preceded by a minimum period of hormone therapy to induce secondary sex.

<sup>38</sup> "Sex Change? Here are the rules". *China Daily*, June 17, 2009. <http://english.peopledaily.com.cn/90001/90776/90882/6679958.html> (accessed July 19, 2014); Liu Guosheng. "The developmental history and present conditions of transsexuals".

<sup>39</sup> Liu Guosheng, *ibid.*

<sup>40</sup> Transgender Resource Center. *Gossip Boys and Girls--Domestic Transgender Reading Manual*. 2012. [http://tgr.org.hk/tgr.org.hk/images/stories/docs/booket\\_201202s.pdf](http://tgr.org.hk/tgr.org.hk/images/stories/docs/booket_201202s.pdf) (accessed July 19, 2014).

## ***Transgender Persons in Traditional Chinese Culture***

China is heavily influenced by Confucian thought, with its principles of decorum and moral concepts. The patriarchal society established on the basis of Confucian culture puts an emphasis on the Three Cardinal Guides and Five Constant Virtues, requiring that individuals not transgress established custom or break with convention. At the same time, China has a strong tendency towards regarding men and boys as superior to women and girls.

Filial piety is the core of Chinese culture. Precepts such as “Your very hair and skin belong to your parents, and preserving them from injury is the first act of filial piety” (Classic of Filial Piety) and “Injury to yourself brings grief to your parents” (Standards for Pupils) emphasize that everything relating to an individual’s body is a gift from his or her parents and as such must be cherished and protected against all injury. Changing one’s gender and appearance therefore goes against the moral precepts of the Cardinal Guides and Virtues and is considered a gravely disrespectful and unfilial act.

Although traditional Chinese culture is conservative and restrictive, the concept of binary sexuality is not unbreachable.<sup>41</sup> China has a very long history and a diverse culture in which the existence and discussion of gender identity is far from rare. China’s classical historical records, journals of literati and literary works also contain accounts of transsexuals, especially during the Han dynasty (206 BC - 220 AD), Wei-Jin period (220-420 AD) and Ming-Qing dynasties (1368-1912).<sup>42</sup>In these documents, people changed genders because of unexpected incidents, serious illness or in order to covertly perform an act of filial piety.<sup>43</sup>

The Chinese have traditionally regarded females as inferior to males partly because of a reliance on agriculture which made males the principal source of labor. Thus, in literature at least, for a man to change into a woman was considered shameful, while a woman changing into a man was perceived as a blessing for the family.<sup>44</sup>



41 Nu Tong Xue She. “Shared color, shared gender: Educational materials on sexual orientation and gender identity: Chinese Traditional Culture.” [通色.通性——性倾向及性别身份认同通识教材] <http://leslovestudy.com/liberal-studies/concept04.shtml> (accessed September 20, 2014)..

42 Liang Mingyu, Xu Zhulin. “An exploration of the transsexual in Ming-Qing literature and the relations to culture.” *Literary Times* (February 2012): 183-84.

43 Liang Mingyu, “On the phenomenon and culture of the transsexual in classical literature.” *Journal of Neijiang Normal University*. Vol. 27, No. 3 (2012):37-40.

44 *Ibid*

In China, being transgender is still classified as a mental illness. The Chinese Classification of Mental Disorders, 3rd Edition (CCMD-3), includes the following entry under “sexual disorders”: “Sustained and intense discomfort with being female and desire to be male” and “Sustained and intense discomfort with being male and desire to be female.” There is also “sexual orientation disorders,” referring to uncertainty toward one’s gender identity or sexual orientation.<sup>45</sup>

**“Research specifically on the situation of transgender men and women in China is comparatively scarce. Most available information comes from small studies and reports by CBOs...”**

A 2014 submission to the Committee on the Elimination of Discrimination Against Women by the China LBT (lesbian, bisexual, and transgender women) Rights Initiative raised concerns about treatment of lesbian, bisexual and transgender women in the country. Key issues include domestic violence; discrimination in the workplace; discrimination in health care settings, difficulties in amending gender information on academic records for transgender individuals who have undergone SRS; and China’s position to not recognize same-sex marriages.<sup>46</sup>

Research specifically on the situation of transgender men and women in China is comparatively scarce. Most available information comes from small studies and reports by CBOs, but they do provide us with a glimpse of the living conditions of this marginalized population.

In 2008, The Beijing Aizhixing Institute carried out a quantitative and qualitative survey of 50 transgender women in Beijing. The survey targeted transgender women who were mainly engaged in sex work on the streets and who worked in cross-dressing performance. Their work places were mainly public parks, hotels and the homes of their clients. They mostly engaged in oral or anal sex with clients, with average earnings of less than 2,000 yuan (USD 325) per month. More than half of the interviewees had come into contact with the police during the course of their work, with most interviewed reporting physical and verbal abuse from police officers during arrest, as well as forced confessions. The survey found that 80 percent of the interviewees

<sup>45</sup> Chinese Medical Association Psychiatric Chapter (ed.). *Chinese Classification of Mental Disorders*, 3rd Edition. Shandong kexue jishu chubanshe (Shandong Scientific and Technical Publishing). 2001.

<sup>46</sup> China LBT Rights Initiative. “Information Submitted by the China LBT Rights Initiative to the Committee on the Elimination of Discrimination Against Women. List of Issues related to the Combined Seventh and Eighth Periodic Report of the Republic of China. Pre-Sessional Working Group Meeting of the Committee’s 59<sup>th</sup> Session.” February 20, 2014. [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CHN/INT\\_CEDAW\\_NGO\\_CHN\\_16577\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CHN/INT_CEDAW_NGO_CHN_16577_E.pdf) (accessed December 19, 2014).

## *Sexuality Under Wraps*

**A 2013 survey by Aibai Culture and Education Center of 2,161 LGBT individuals in China found that 48% of interviewees kept their sexual orientation or gender identity (SOGI) completely secret at work.**

**38.5% experienced bias and discrimination in their workplace because of their SOGI.<sup>49</sup>**

identified as women. They described multiple worrying health conditions, including 10 percent who had tested positive for HIV, and 16 percent who had tested positive for syphilis.<sup>47</sup>

The Shenyang Consultation Center of AIDS Aid and Health Service carried out similar research in 2010 with 34 transgender women sex workers in Shenyang City, Liaoning Province. The interviewees were found to be highly transient, working at a particular location for an average of only three months, which increased the difficulty of HIV intervention efforts. Four of the interviewees stated they had been diagnosed as

HIV-positive. All of the interviewees had experienced abuse or arrest by police, and 18 of them had paid bribes to police officers in order to ensure their personal safety.<sup>48</sup>

In 2013 the Tianjin Junyan Working Group carried out a quantitative survey of 50 transgender women in Tianjin City. The survey found that 80 percent of the interviewees identified as women, among whom 40 percent were engaged in the sex industry or cross-dressing performance; and 56 percent of the interviewees had difficulty making a living. Nine of the survey targets were married to women, with seven stating they had agreed to marry for the sake of their parents and families. All nine expressed the desire to end their marriages.<sup>49</sup>

Although not transgender specific, there has been more research on the broader LGBT (lesbian, gay, bisexual and transgender) community in China. Most recently, in 2013, Aibai Culture and Education Center conducted an on-line survey of 2,161 LGBT individuals in China and found that 48 percent of the interviewees kept their sexual orientation or gender identity completely secret at their workplaces, and 38.5 percent said they had experienced bias and discrimination in their workplace because of their sexual orientation or gender identity.<sup>50</sup> An online survey of 421 students also conducted

47 Beijing Aizhixing Institute. "Survey report on the conditions of transgender service providers in Beijing." [北京市跨性别服务者现状调查报告]2008. [http://blog.sina.com.cn/s/blog\\_873304f20100udyh.html](http://blog.sina.com.cn/s/blog_873304f20100udyh.html) (accessed September 19, 2014).

48 Ma Tiecheng. "A Research on the Situation of Transgender Sex Workers in North East China" [中国东北地区跨性别性工作者现状调查]. Center for the Study of Sexualities, Taiwan National Central University, The Second Sex/Gender New Political Situation Workshop. September 11-12, 2010.

49 Tianjin Junyan Work Group. "Survey on the health needs of the transgender community in Tianjin." [天津市跨性别人群健康需求调查] August 2013.

50 Aibai Culture and Education Center. "Online Survey Report on the Work environment for China's LGBT Community." May 2013. [http://www.aibai.com/ebook/library/ebook\\_aibai/download/2013/8/16/online\\_survey\\_report\\_on\\_the\\_work\\_environment\\_for\\_chinas\\_lgbt\\_community\\_en.pdf](http://www.aibai.com/ebook/library/ebook_aibai/download/2013/8/16/online_survey_report_on_the_work_environment_for_chinas_lgbt_community_en.pdf) (accessed September 19, 2014).

by Aibai in 2012 found that 1.4 percent described themselves as transgender. 77 percent of the 421 interviewees had been bullied in school because of their sexual orientation<sup>51</sup> or gender identity, among whom 59 percent felt that bullying had a negative effect on their studies.<sup>52</sup>

Sex education in China is still weak and is often not part of the mainstream Chinese educational curriculum. Where it exists, sex education places an emphasis on abstinence and premarital chastity and rarely on sexual diversity or even sexual health. <sup>53</sup> This results in a very limited understanding of different kinds of sexual or gender orientation and does nothing to reduce stigma and bias toward these groups.

A 2011 survey of attitudes and influence factors toward the LGBT community among 1,762 university students in five universities in the Chongqing and Chengdu regions found that 16.8% of those surveyed felt that being transgender was acceptable, and 12.6% felt they could accept a date with a transgender person. Among those surveyed, 4.2% felt that their own gender identity was at variance with their biological gender. The survey concluded that a LGBT community existed among university students, but that university students generally had negative and conservative attitudes towards LGBT people.<sup>54</sup>

In recent years, as Chinese society has gradually become more open and the internet and television have flourished, transgender people have increasingly entered the public's field of vision. China's most famous transgender woman is the modern dancer Jin Xing who very publicly underwent gender reaffirming surgeries in 1995. Since 2010, Jin Xing has served on the evaluation panels of some television talent shows, and her incisive and candid style has attracted widespread attention. However, in 2011, Jin Xing was missing from the finals contest of one program, reportedly because the State Administration of Press, Publication, Radio, Film and Television (SARFT) had forced her out because she was

***Public Attitudes***

**Among 1,762 university students in five Chinese universities in 2011, only 16.8% felt that being transgender was acceptable.<sup>53</sup>**

**Among 500 randomly selected students at China's Southwest University, students only tolerated "ladyboys" if the phenomenon didn't affect themselves or people close to them; once it crossed this boundary, it became unacceptable.<sup>63</sup>**

<sup>51</sup> A person's sexual and emotional attraction to members of the same gender, the opposite gender, or both genders.  
<sup>52</sup> Aibai Culture and Educational Center. "Report of the Online survey on Homophobia and Trans-phobia Bully at Educational Institutions campus bullying." May 2012. [http://www.aibai.com/ebook/library/ebook\\_aibai/download/2012/11/8/Report%20of%20the%20Online%20Survey%20on%20Homophobia%20and%20Trans-phobia%20Bully\(1\).pdf](http://www.aibai.com/ebook/library/ebook_aibai/download/2012/11/8/Report%20of%20the%20Online%20Survey%20on%20Homophobia%20and%20Trans-phobia%20Bully(1).pdf) (accessed September 19, 2014).  
<sup>53</sup> UNDP, USAID, "Being LGBT in Asia: China Country Report," Bangkok, 2014. <http://www.usaid.gov/sites/default/files/documents/1861/Being%20LGBT%20in%20Asia%20China%20Country%20Report-Eng.pdf> (accessed September 20, 2014).  
<sup>54</sup> Zhang Peichao, Chi Xinli et al. "Cognitive survey of homosexuals, bisexuals and transsexuals in universities." [ ] *China Public Health*, Vol. 28, No. 7(2012): 921-923.

a transsexual.<sup>55</sup> There was some public support for Jin Xing, but no overturn of the decision.<sup>56</sup>

Some talent shows have also promoted discussion of gender diversity. In 2005, gender ambiguous Super Girl<sup>57</sup> winner Li Yuchun gained widespread popularity, and some scholars regarded this as a victory for transgender people.<sup>58</sup> In 2010, contestants in the Super Boy<sup>59</sup> talent contest included a man who cross-dressed as a female named Liu Zhu. In spite of lighting up the stage with his well-received performance, he didn't make it to the finals. Reportedly, the SARFT had handed down an order to the producers of the program that a gender ambiguous contestant could not be chosen as the winner.<sup>60</sup> Information reported in the news revealed that SARFT had prescribed three conditions in order for Liu Zhu to enter the finals: learn to dress and look like a man; avoid showing any "feminine" gestures or behavior or sexual orientation, and win the support of at least 70 percent of the audience.<sup>61</sup>

In contrast to the official ban, Liu Zhu was not greatly censured by the public or media. Rather, the contest adjudicator Annie Rose (Anni Meigui) was universally criticized for repeatedly interrupting Liu Zhu's performance.<sup>62</sup> The Liu Zhu incident and media attention greatly facilitated the mainstreaming of the concept of gender identity in China and enabled increased profiles for transgender individuals in Chinese popular entertainment.<sup>63</sup>

However, in 2011 the Southwest University Student News Service survey and research section randomly distributed 500 questionnaires to the university's students, and the majority answered "no" to the questions, "Would you accept a ladyboy as your partner?" and, "If offered the opportunity, would you be willing to become a ladyboy?" The students only tolerated "ladyboys" if the phenomenon didn't affect themselves

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55 Zhao Dandan, "Jin Xing 'expelled' for being transsexual: This is blatant narrow-mindedness." [金星称因变性遭“下课”：这是赤裸裸的驱赶] *CRI International Online*. September 22, 2011. <http://gb.cri.cn/27564/2011/09/22/108s3380864.htm> (accessed September 20, 2014).

56 Zhou Xiao, "SARFT bans transsexual performer Jin Xing from program, *weibo* accusations of 'sexual discrimination.'" [广电总局禁变性艺人金星上节目 微博怒称“性别歧视”] *Sohu Entertainment*. September 22, 2011. [http://news.shm.com.cn/2011-09/22/content\\_3587056.htm](http://news.shm.com.cn/2011-09/22/content_3587056.htm) (accessed September 21, 2014).

57 A Chinese televised singing contest for female contestants, organized by Hunan Satellite Television. It was generally described as the unofficial mainland Chinese version of the global television franchise Pop Idol, and became one of the most popular entertainment shows in the country.

58 Cheng Yao. "Analyzing transgenderism among China's youth: The perspective of gender illustration" [试析我国青少年跨性别现象：性别图示的视角]. *Zhejiang Education Science*. No. 6 (2010):18-20.

59 A Chinese televised singing contest for male contestants, organized by Hunan Satellite Television in 2007, as a spin-off of its popular "Super Girl" series.

60 Huang Rong. "Folk memory of the 'ladyboy' in the media sphere -- gender performativity and mind-body conflict [媒介视域下“伪娘”的民间记忆——性别操演与身心矛盾]. *Journal of Changji University*. No. 6, (2011): 7-10.

61 Shen Xuan. "Happy Tenor contestant Liu Zhu eliminated from competition, inner circle rumors of SARFT directive." *Sohu Newstnet*. May 23, 2010. <http://news.sohu.com/20100523/n272291096.shtml> (accessed September 20, 2014).

62 Douban Dushu. "'Cross-dressing ladyboys': From Leslie Cheung to Liu Zhu" [“性别易装”的伪娘：从张国荣到刘著]. *Douban*, May, 2010. <http://book.douban.com/review/3275191/> (accessed September 20, 2014).

63 Huang Rong. "Folk memory of the 'ladyboy' in the media sphere -- gender performativity and mind-body conflict".

or people close to them; once it crossed this boundary, it became unacceptable.<sup>64</sup> Furthermore, in a survey by a third party on several websites regarding the “ladyboy” phenomenon, 58 percent of respondents felt that the phenomenon reflected a pathologically distorted value system, while 52 percent felt it could mislead youth values, and 44 percent expressed intense antipathy and disdain.<sup>65</sup>

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<sup>64</sup> Gao Qing. “Small group under group observation: The individual expression and social cohesion of ‘ladyboys’”. [被集体围观的小众：“伪娘”的个性表达与社会纠结]. *Chinese Youth Research* (September 2012): 79-84.

<sup>65</sup> Huang Rong. “Folk memory of the ‘ladyboy’ in the media sphere -- gender performativity and mind-body conflict”.

## Local Terminology

The language around being transgender is developing, and the transgender rights movement in the West is driving the formation of terminology in this sphere. In the Chinese-language world, the general population and the transgender community all use local terms or borrow terminology from the West to refer to a diverse group of transgender people.

跨性别 **Kuaxingbie (transgender)**: directly translates as ‘across gender’ and is mainly used amongst civil society and rights advocates when referring to transgender individuals. Not commonly known among the general population.

变性人 **Bianxingren (transsexual)**: Refers to a person identifying as male or female who has undergone surgery to change his or her gender. The term is relatively neutral and carries no derogatory meaning.

人妖 **Renyao (crossdresser)**: In modern times, the term 人妖 (renyao) has diverse connotations. Often referring to transgender “drag queens” in Thailand, it is now increasingly used to refer to women who dress as men but whose gender identity is basically female. Under some circumstances renyao is used specifically to refer to a person who is biologically male but who, through the use of hormones or surgery, has acquired feminine breasts and outward characteristics while retaining male genitals. 妖 (**yao**) in Chinese carries the meaning of “demon” or “goblin” (in myths and legends, referring to a horrible spirit with magic powers harmful to humans), as well as the meaning of enchanting.<sup>1</sup> The term reveals deep-seated phobia of this group.<sup>2</sup>

伪娘 **Weiniang (ladyboy)**: Originating from Japanese ACG (anime, comics and games), it refers to a male character who masquerades as a female.<sup>3</sup> In 2010, a Chinese televised singing contest called Super Boy included a male contestant who dressed as a woman, and the term 伪娘 (weiniang) was imported to mainland China and immediately spread across the internet. 伪 (**wei**) means fake or sham, while 娘 (**niang**) refers to females. 伪娘 (**Weiniang**) therefore refers to a person who is female in outward appearance, attire and mannerism, but who is biologically male, and whose gender identity is not necessarily female. It is used in a derogatory manner.

**TS**: Abbreviation for the English term transsexual. People in the transgender community apply this term to themselves. It refers to people whose gender identity is different from the biological gender they were born with, and who have undergone at least some physical alteration, such as breast enlargement. The use of this term within the transgender community originated from the community’s need for a neutral term with no pejorative connotations. The use of an English abbreviation also has an element of concealment, in that people familiar with this group of people will understand its meaning, while others will not, thereby providing such people with a measure of cover and protection.

**CD**: An abbreviation for the English term cross-dresser, it refers to people who dress in the attire of the opposite sex. Like the abbreviation TS, it is a neutral term used within the transgender community.

<sup>1</sup> Chinese Academy of Social Sciences Institute of Linguistics Lexicon Editorial Department, *Dictionary of Modern Chinese*. [北京] Beijing, Commercial Press, 1966, p. 1460.  
<sup>2</sup> Zhan Shasha. “The term ‘renyao’ and ‘renyao students’ in the Chinese-language classroom.” [“人妖”一词以及汉语课堂上的“人妖学生们”] *Philology*, (April 2012): 31-32.  
<sup>3</sup> Wane Weisi. “Internet buzzwords – weiniana.” [网络雷词伪娘者] *Journal of the Jilin University of Broadcastina and Television*. No. 9 [105] (2010): 45-46.

## II. Findings

During the course of 2014 Asia Catalyst, Beijing Zuoyou Information Center and Shanghai CSW&MSM Center designed, researched and documented the working conditions, access to services and experiences of discrimination and police abuse by female presenting sex workers in Beijing and Shanghai. Beijing Zuoyou Information Center and Shanghai CSW&MSM Center undertook the bulk of the field interviews with both organizations interviewing 70 sex workers, 35 in Beijing and 35 in Shanghai over a period of several months.

The interviewees were relatively young, with 39 (56%) in the 25-30 age group. Most of the interviewees were originally from outside of their current cities of residence, with only two being native to either Beijing or Shanghai. Ten of the interviewees were married, and three were divorced. More than half (57%) were high school graduates. All of them had been born male. Detailed demographic information about all the interviewees can be found in Appendix 1.

### Gender identity

66% (46 individuals) of the people interviewed had gender identities that differed from the sex they were assigned at birth, with 43% (30 individuals) identifying as female, and 23% (16 individuals) as a third gender. In the course of the interviews, some interviewees strongly affirmed that they were women and felt that being a woman “was closer to their inner world.”<sup>69</sup> Their daily activities and feelings conformed to their gender identity in spite of social pressure and bias.

Xue'er comes from a village in Anhui: “From the time I was very small, I considered myself a girl. Because my home was in a village and very feudal, this was not approved of. Back home I always wore boys clothing, and I only began dressing as a woman after I left.”<sup>70</sup>

Because she was unable to obtain any information regarding being transgender, Tingting, a 24-year-old transgender sex worker, for a long time thought she was homosexual:

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<sup>69</sup> Interview with Jiaojiao, Shanghai, June 23, 2014.

<sup>70</sup> Interview with Xue'er, Shanghai, July 19, 2014.

“When I was young, I thought that way. I always wanted to wear girls clothes but I didn’t know why. I also liked boys from the time I was very young, but I thought I must be gay. It was only after I came into contact with this work that I understood what it was to be transgender, and I finally realized that I wasn’t gay.”<sup>71</sup>

Yanyan spent her adolescence feeling bewildered and inhibited, not daring to tell anyone her innermost thoughts:

“Starting in middle school, I felt I was different from other boys. I felt that I was a girl born in a boy’s body. At the time, this was terribly confusing. I wondered why I was this way, and if I was the only person like this in the whole world. I felt very inhibited and didn’t dare tell anyone how I felt – not my parents, friends, classmates or teachers... Finally, while in high school I happened to be leafing through a magazine and read an article about a Beijing doctor, Chen Huanran, who had carried out China’s first sex reassignment surgery. Then I knew that I wasn’t the only person like this in the world, that there were others, and I didn’t feel so alone anymore.”<sup>72</sup>

Gender identity is different from sexual orientation. A transgender person may be homosexual, heterosexual or bisexual. Yuner describes herself as a woman who likes women: “I feel that I like women, but even more that I am a woman. I’ve had contact with men, but I haven’t had relationships with them. With sex reassignment, I still like women but consider myself a woman even more.”<sup>73</sup>

Although 43% of the interviewees identified as female, only 25% intended to undergo gender reaffirming surgeries, underscoring the point that medical procedures are not necessary or even desired in order for an individual to identify as a woman. The expense of surgery, social bias, and pressure from families are factors also to be considered. Feifei said, “I’ve never considered sex reassignment. It’s too difficult. I only hope to be born a woman in the next life.”<sup>74</sup>

Among the interviewees who did not identify as women but dressed as women for sex work, there were also a variety of motivations. Xiao Zhou felt that it was more exciting to be with heterosexual men while dressed as a woman:

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71 Interview with Tingting, Shanghai, April 29, 2014.

72 Interview with Yanyan, Shanghai, June 16, 2014.

73 Interview with Yuner, Shanghai, April 10, 2014.

74 Interview with Feifei, Beijing April 20, 2014.

“I began cross-dressing in June last year. I’ve always been a man and gay. I’ve been at it for years, and I felt it would be more exciting to engage with normal men. They kept saying, put on some makeup – you’ll look prettier that way. So I put on some makeup, and I looked really good. When I went out after that, a lot of men seduced me, because I felt this really worked for me.”<sup>75</sup>

Chengcheng is very clear about his sexual orientation, but he married under social pressure. He engages in sex work as a cross-dresser for economic reasons: “I’m definitely gay. I’m married and having a hard time making ends meet. I go out at night dressed as a woman to make money, but during the day I can’t look like a woman.”<sup>76</sup>

For Xiaoyu, a native of the northeast, the reasons for cross-dressing are very complex:

“I think there are many reasons. If as a gay I found a man who’s very rich or whom I like a lot, I wouldn’t do this [cross-dress]. But in the gay community it’s very hard to find the type I like, because I like very straight men, and by putting on makeup I can meet a lot more of the kind of men I like. Also, putting on makeup makes you feel like a mature woman, and a lot of men will pay you attention.”<sup>77</sup>

Xiaoyu has breast implants, partly in order to explore a different gender: “I got implants, first of all to make more money, and secondly because I wanted to find out what it would feel like to be a woman. Because 80 to 90 percent of gays have a female mentality. As for changing my sex, that’s impossible, because that affects your whole body and is harmful to your health. This [breast implants] is reversible; I wanted the process of feeling.”<sup>78</sup>

## Family relationships

The dual taboo against being transgender and engaging in sex work has led most of the interviewees to choose not to reveal their identities or work to their families. Among our interviewees, 97% had chosen to leave their hometown and the people and societies with which they were familiar, and were struggling for survival as strangers in the relatively open-minded environments of major cities, where they do not have to worry about their families’ objections and can live as they choose.

<sup>75</sup> Interview with Zhou Xinyu, Shanghai, March 4, 2014.

<sup>76</sup> Interview with Chengcheng, Shanghai, April 7, 2014.

<sup>77</sup> Interview with Xiaoyu, Shanghai, April 14, 2014.

<sup>78</sup> *Ibid.*

Xia Yu comes from Anhui and is engaged in sex work in Beijing. She has breast implants and, in order to avoid exposing her identity, she contacts her family only infrequently: “I haven’t been home in years. I say I’m too busy at work and can’t get away. When they want to come and visit me, I say, I don’t have time to keep you company.”<sup>79</sup>

Female attire and makeup, long hair and breast implants all have to be concealed as much as possible during family visits. Binbin’s methods are very typical: “Going back home is really inconvenient. I can’t wear makeup. I have to pin back my hair and put it under a hat. I haven’t dared have large breast implants; I’ve kept them small so they can’t be seen under my clothes. When the time comes, I just strap them down and wear loose shirts.”<sup>80</sup>

Anna, from Hunan, was forced to remove her implants when she went home: “I had implants before. I really wanted to become a woman and be sexier, and my implants were very large. But then one year I went home – my family insisted on it. I had no choice but to remove the implants. After having the implants for several years, taking them out was really painful.”<sup>81</sup>

Even when they go home, they keep their visits short. The Spring Festival is normally the time when families get together, but in order to avoid encountering too many people, Xue’er chooses not to go home at that time: “Whenever I go home, it’s just for a day or less, like playing hide-and-seek. The neighbors hardly ever see me, because my visits are irregular and I don’t come home for the Lunar New Year. Apart from seeing my family, I seldom run into the neighbors; there’s little opportunity.”<sup>82</sup>

Some families are able to accept and understand the situation, but may still come under pressure from those around them. Xiaomeng identifies as a woman and usually dresses as a woman, and she’s come out to her family:

“My mom knows about me. When I go home, I just see Mom and Dad and

**“Among our interviewees, 97% had chosen to leave their hometown and the people and societies with which they were familiar, and were struggling for survival as strangers in the relatively open-minded environments of major cities...”**

<sup>79</sup> Interview with Xia Yu, May 27, Beijing, 2014.  
<sup>80</sup> Interview with Binbin, Beijing, April 13, 2014.  
<sup>81</sup> Interview with Anna, Shanghai, May 23, 2014.  
<sup>82</sup> Interview with Xue’er, Shanghai, July 19, 2014.

maybe some people I'm close to, and I go like this [in female attire and with long hair], but that won't work with people I'm not close to [relatives and neighbors], because if others see me, they'll start gossiping about my family, and I don't want to embarrass my family. I have to think of my parents' feelings."<sup>83</sup>

The family is the foundation of Chinese society. Marrying and having children and carrying on the blood line are expectations that Chinese society places on adult men and women. Consequently, the pressure to marry on transgender people is equally intense. Jin Fei comes from Shandong, and as soon as she goes home, she's pressured to marry:

"My family members know I'm a performer, but they don't know I'm this kind of person [transgender]. My home is in the countryside, so people are always trying to fix me up. I just act very picky and criticize the other person's shortcomings. As soon as I get home they're making me meet a prospective spouse, and all I can do is find fault with them. I don't dare tell my family, because they all live in the countryside; my brother and sister are uneducated and don't understand. They feel I need to marry and have children and carry on the family line. They don't think the way I do, and even if I told them, they wouldn't understand."<sup>84</sup>

In Chinese culture, a person is not an isolated individual, but part of a family and clan network. If a person's behavior doesn't conform to social mores, it brings shame on the entire family. Xiao Huli spends all year in Shanghai: "I have very little contact with my family. Maybe the occasional phone call in the course of the year. After being away so long, a person's thinking becomes different from the family's, and we just can't communicate. They don't know my identity, and I don't want them to know. If you let them know, your status in the family, and the weight of what you say, decreases more and more. If they knew you'd had breast implants, they would really look down on you, and they'd feel you made the whole family lose face."<sup>85</sup>

**"In Chinese culture, a person is not an isolated individual, but part of a family and clan network. If a person's behavior doesn't conform to social mores, it brings shame on the entire family."**

<sup>83</sup> Interview with Xiaomeng, Beijing, April 29, 2014.

<sup>84</sup> Interview with Jin Fei, Shanghai, July 15, 2014.

<sup>85</sup> Interview with Xiao Huli, Shanghai, May 27, 2014.

## Discrimination

Transgender individuals can face discrimination in every aspect of their life. Fear of further abuse or punitive action by friends, family, employers or other individuals they have daily interactions with, also prevents many from reporting the discrimination even when it would be considered illegal under Chinese domestic law, for example under the Employment Promotion Law which prohibits discrimination on the grounds of gender.<sup>86</sup> A recent report on violence against lesbian, bisexual women and trans people in Asia by the International Gay and Lesbian Human Rights Commission, noted that “discrimination against transgender individuals is also not always only or solely motivated by gender identity, but can also be a rejection of other identity markers, in this instance most often by the profession of sex work. Many transgender individuals also strongly need the reasons for the discrimination to be kept private, less exposure, including reporting to the police, should increase their vulnerability to further discrimination or abuse.”<sup>87</sup>

Many of the women we spoke to described a broad spectrum of verbal abuse, ostracization and outright discrimination. The impact differed depending on the individual, but overall the trend was to further isolation, limited options for employment, education and social activity and a general reluctance to engage in public life.

Xiao Dongbei in Beijing told us, “I went out singing with some friends, and while we were checking our bags, two young girls said loudly, ‘Look, a transvestite!’ Everyone turned and looked at me like I was some kind of freak. I couldn’t take it.”<sup>88</sup> Yang Zhou, from Dalian, has breast implants. She says that whenever she goes out, people notice her, so she has “never taken a bus or the subway. I’m afraid.”<sup>89</sup>

Tiantian usually wears women’s clothing at home, but chooses male attire when she goes out: “In daily life, I go out wearing men’s clothes. It’s not convenient if I’m dressed up, so I seldom go out that way. It’s too uncomfortable. How can you stand all those people giving you weird looks? It’s embarrassing. I seldom go out during the day and, if

**“Fear of further abuse or punitive action by friends, family, employers or other individuals they have daily interactions with, also prevents many from reporting the discrimination even when it would be considered illegal under Chinese domestic law.”**

<sup>86</sup> Standing Committee of the National People’s Congress, The Employment Promotion Law of the People’s Republic of China, August 30, 2007. Article 3: “Workers seeking employment shall not be subject to discrimination based on factors such as ethnicity, race, gender, religious belief etc.”

<sup>87</sup> International Gay and Lesbian Human Rights Commission, “Violence through the lens of lesbians, bisexual women and trans people in Asia,” May, 2014. [http://iglhrc.org/sites/iglhrc.org/files/LBT\\_ForUpload0614.pdf](http://iglhrc.org/sites/iglhrc.org/files/LBT_ForUpload0614.pdf) (accessed December 9, 2014).

<sup>88</sup> Interview with Xiao Dongbei, Beijing, April 28, 2014.

<sup>89</sup> Interview with Yang Zhou, Beijing, June 3, 2013.

I do go out, I wear men's clothing."<sup>90</sup>Likewise, Xiao Dongbei says, "When I go shopping, I buy enough food to last me several days so I don't have to go out so often."<sup>91</sup>

Prejudice is not the only fear. Xiao Bai told us: "I usually go out fairly late, because going out early I'm more likely to run into some neighborhood lady. I come home after midnight, when they're all sleeping. I had to move once because of the inconvenience this caused. Even going out at night in my female get-up isn't very convenient, and I do my best to avoid exchanging greetings with the neighbors."<sup>92</sup>

Haima also takes precautions, but once when neighbors found her out, she was expelled from her apartment:

"I lived in my original apartment for half a year. I never went out until nine or ten o'clock at night. Once on a Sunday I went out at 7:30, and my neighbors saw me. The neighbors said I was a female impersonator and reported me to the neighborhood committee. Then the neighborhood committee brought a police officer to inspect my temporary residence permit, and the landlord wouldn't let me stay there anymore."<sup>93</sup>

Yimeina was discovered by a neighbor while working the park: "I lived in that residential area, and I went out every day all dressed up, telling others I had a performance to go to. But a neighbor saw me doing sex work in the park and notified my landlord, and my landlord threw me out."<sup>94</sup>

Xue'er uses her own method of dealing with popular prejudice:

"There's always someone giving me weird looks and ridiculing me. I had a hard time getting used to it at first. Now I feel I'm living for myself, and I don't need to pay attention to how others look at me. My ability to psychologically adapt is much stronger than before. If anyone stares or laughs at me, I don't fight back. But if a woman attacks me verbally, I'll stand in front of her, push up my breasts, rub my thigh and wriggle my hips, and look at her with a charming smile. Most women will bow their heads in shame. Not all women have figures as good as mine, so I should have confidence. We shouldn't compare our shortcomings with their advantages. That's how I see it. Even if you're a real woman and you look

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<sup>90</sup> Interview with Tiantian, Beijing, May 23, 2014.

<sup>91</sup> Interview with Xiao Dongbei, Beijing, April 28, 2014.

<sup>92</sup> Interview with Xiao Bai, Beijing, March 25, 2014.

<sup>93</sup> Interview with Haima, Beijing, March 21, 2014.

<sup>94</sup> Interview with Yimeina, Shanghai, April 29, 2014.

down on me, you're still not as pretty or confident. That's how I deal with it. I don't need to scold them."<sup>95</sup>

Transgender people may experience discrimination at school or at work. In the education system, bias and lack of gender education means transgender students can suffer from discrimination at school, impacting their ability to concentrate on their studies, as well as having a profound psychological impact. Many transgender students end up dropping out of school and not completing their studies. Xiaomei comes from Shanghai and currently holds a secondary school diploma. She told us: "If back then I knew what was going on with me, and if I hadn't been surrounded by criticism and ridicule, I wouldn't have left school so soon, and I would be better educated. Now my pay is limited by my education."<sup>96</sup>

Weila had a similar experience in school, which also extended into the workplace. Coming to Shanghai from Hubei, she has been forced to change her job many times:

"No matter what work I do, they never accept me wearing this [women's clothing]. Back then I didn't really know how to dress, and it probably looked weird to people. It was too inhibiting. I've changed jobs six or seven times, and finally found work as a cleaner at a gay club."<sup>97</sup>

She eventually moved into the sex industry.

In a society that distinguishes clearly between male and female, the lack of a clear-cut gender puts great limitations on a person's social space. Among the 70 people we interviewed, only two had undergone sex reassignment surgery, but 30 had breast implants. Those who had not had SRS, but whose bodies had both male and female characteristics, experienced severe limitations in terms of public services and legal

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<sup>95</sup> Interview with Xue'er, July 19, 2014, Shanghai

<sup>96</sup> Interview with Xiaomei, June 4, 2014, Shanghai.

<sup>97</sup> Interview with Weila, August 15, 2014, Shanghai.

rights.

Although born male, Xiaoyu considers herself a woman and has had breast implants for many years. She says:

“The hardest thing is bathing, which I can only do at home. Here in the north we like to go to public bath houses, where people can rub your back nice and clean. But I don’t look like a man or a woman, so I never know if I can go in. Sometimes when it’s later and there are fewer customers, I go to a men’s shower room, but the boss makes me leave, saying my appearance will scare other customers away. It’s because I have long hair and breasts.”<sup>98</sup>

China does not have gender-neutral public toilets, and many of the facilities in the cities are basic with little privacy. Xiao Huli usually goes out in women’s clothes:

“Sometimes going to the toilet outside is very stressful. For example, sometimes when I need to go, the public toilet on my way doesn’t have stalls but is just pits with no doors. Wearing women’s clothing, there’s no way I can go into a men’s toilet. But I’m still not the same as a woman, and even when I use my handbag as an obstruction, if someone would happen to see me, they’d be sure to accuse me of being a hooligan and beat me.”<sup>99</sup>

Chinese law stipulates that only people who have undergone SRS can alter the gender marker on their identity cards. For transgender women who have not undergone SRS, but who identify and live as women, the gender and photograph on their identity cards is therefore male, and this causes many obstacles in their daily lives.

First among the difficulties is renting an apartment. Xiao Dongbei’s method is to hide her female get-up: “When I rented this apartment, my hair wasn’t too long, and then I pinned my hair up and wore a hat, and that was better. Also, you can’t arrange to rent an apartment in the summer – you have to do it in winter. That way you can wear a hat and thick clothing. That’s how I do it.”<sup>100</sup> But Yanyan wasn’t so lucky. On three different occasions, a landlord was ready to sign a lease with her, but then refused after seeing her gender as male on her identity card.<sup>101</sup> Other interviewees have had friends help them get an apartment, or have rented through a middleman in order to avoid trouble.<sup>102</sup>

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<sup>98</sup> Interview with Xiaoyu, Beijing, April 14, 2014.

<sup>99</sup> Interview with Xiao Huli, Shanghai, May 27, 2014.

<sup>100</sup> Interview with Xiao Dongbei, Beijing, April 28, 2014.

<sup>101</sup> Interview with Yanyan, Shanghai, June 16, 2014.

<sup>102</sup> Interview with Yanyan, Shanghai, June 16, 2014; interview with Xiao Shao, April 20, 2014; interview with Feifei, Beijing, April 20, 2014; interview with Tian Yuyao, Beijing, April 12, 2014; Interview with Mingming, Shanghai, April 25, 2014.

Xiao Zhou uses a fake ID card with a photo of a pretty young woman on it. Even though she knows it's illegal, she takes the risk for the sake of survival.<sup>103</sup> Many end up living a double life; they normally dress as woman, but when they need to use their ID cards, they dress as men.

Xiao Die, from Henan, has breast implants, but hasn't undergone SRS:

“There are difficulties, for example, staying at a hotel, applying for a bank card or dealing with other kinds of documents is very troublesome. It's the inconsistency between my ID card and my appearance. For getting a bank card, they want you to come in personally, and they don't believe I'm the same person. If I don't get the operation, I can't change my ID card, and if I can't change my ID card, what do I do?”<sup>104</sup>

Sometimes when Jiaojiao goes on business trips, she can't find a place to stay, because when hotels see that her appearance doesn't match her ID card, they refuse to give her a room.<sup>105</sup>

Taking a train or an airplane can also subject transgender people to lengthy interrogation and examination. Suxi is a performer as well as a sex worker: “One time I had to go out of town for a performance, and I had my makeup on, but when I went to check in at the airport, they insisted I wasn't the person on my ID card. They finally gave me an examination and acknowledged that it was me, but by then I'd missed my flight and didn't make it to the performance.”<sup>106</sup>

## Engagement in sex work

All of the 70 interviewees were engaged in some sort of sex work and did so in women's attire and under a female identity. All were independent sex workers, without a boss or third party; seven also performed in bars or clubs. Among the 70 interviewees, 64 were full-time sex workers and the other six were part-time. The part-time sex workers all had daytime jobs and engaged in sex work at night to supplement their incomes.

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<sup>103</sup> Interview with Xiao Zhou, Beijing, April 29, 2014.

<sup>104</sup> Interview with Xiao Die, Shanghai, May 17, 2014.

<sup>105</sup> Interview with Jiaojiao, Beijing, June 1, 2014.

<sup>106</sup> Interview with Suxi, Beijing, May 27, 2014.

The transgender sex workers interviewed in Beijing mainly found their customers through cell phones and the internet, and their work places are mainly at their own homes or hotels. The sex workers interviewed in Shanghai were mainly street-based workers.

Education levels also varied between the two sets of interviewees and may be a factor in the type of sex work both groups were doing. In terms of education, the Shanghai interviewees were relatively less educated, which limited their ability to use cell phones and the internet. The variations between these two groups is most likely reflective of the communities Beijing Zuoyou Information Center and Shanghai CSW&MSM Center work with, rather than a more fundamental difference between the transgender sex worker populations of these two major Chinese cities.

It should be noted however that there are subtle differences in the policy environment between the two cities, which could also be a contributory factor when assessing the different practices of sex work. Authorities in Beijing have been extremely intolerant of the city's vice industry in recent times and have initiated a high profile crack down on solicitation, making street-based sex work very risky. Shanghai has taken a less aggressive approach and interviewees reported the city has a relatively more tolerant police force.<sup>107</sup>

## ***Beijing***

In Beijing, the sex workers interviewed worked mainly from their own homes, mostly rented apartments, or from hotel rooms; some also worked in bars or occasionally walked the streets for clients.

China's advanced internet infrastructure and the widespread use of smart phones have had a significant impact on traditional sex work patterns. In 2012, the market for mobile instant messaging (IM) services reached 943 million users, and messaging service products like Wechat and Momo, have become wildly popular.<sup>108</sup>

Nearly all of the Beijing-based interviewees used the internet or cell phones to find clients, for example through websites, internet forums, microblogs (weibo) and IM software. They looked for prospective clients through postings and advertisements on websites, forums and microblogs. Cell phone social contact apps include functions for

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<sup>107</sup> Interview with Lili, Shanghai, July 28, 2014; interview with Tingting, Shanghai, April 29, 2014; interview with Doudou, Shanghai, March 21, 2014.  
<sup>108</sup> Internet Society of China, China Internet Network Information Center. "China Internet Development Report" [中国互联网发展报告]. July 2013. <http://www.isc.org.cn/download/2013report.pdf> (accessed September 19, 2014).

locating and contacting people in the immediate vicinity, which also helps sex workers locate potential clients more efficiently.

Xiao Zhou started sex work at 16. She told us: “My Wechat account includes my photo. The other party can look at it, and I can send them more photos if they want. Once we’ve reached an agreement, we do it.”<sup>109</sup> Xiao Dongbei often uses her cell phone to find potential clients around her: “I spend about 20 hours out of every day using my cell phone to find clients. Wherever you go, you can refresh your cell phone and see who’s around you. You see those people, and they don’t know you, but you can remember them.”<sup>110</sup>

**“Internet and cell phones also help sex workers [in Beijing] avoid some risks. Before deciding to accept a particular client, the sex worker can get to know him better through chatting. Sex workers can refuse clients they don’t like or whom they distrust.”**

This method gives sex workers more freedom in selecting their clients. Different internet platforms cater to different client bases, and sex workers can even more conveniently find clients appropriate to them. If some forums target people interested in cross-dressing, sex workers posting there don’t need to conceal their transgender identity.

Internet and cell phones also help sex workers avoid some risks. Before deciding to accept a particular client, the sex worker can get to know him better through chatting. Sex workers can refuse clients they don’t like or whom they distrust. Xiao Dongbei refused a client whom she suspected of trying to entrap her:

“There was a client who added me on Wechat. I didn’t notice, and only added him three days later. After adding him, we chatted, and later he said he’d telephone me. I looked and saw that he’d called all three of my telephones. I didn’t accept the calls – it was a trap for sure. How did he know I had three telephone numbers? None of my clients know all of my numbers.”

But the convenience of the internet and cell phones can also bring problems. Some software are known as “booty call tools,”<sup>111</sup> referred to on the Xinhua News Agency website as the “hormonal social network” and “Ground Zero for the sex trade.”<sup>112</sup> From April to November 2014, the national “Campaign Against Pornography” Working

<sup>109</sup> Interview with Xiao Zhou, Beijing, April 29, 2014.

<sup>110</sup> Interview with Xiao Dongbei, Beijing, April 28, 2014.

<sup>111</sup> Nicola Davison. “Momo, the Chinese app that exposes sex and generational divides,” *The Guardian*, June 12, 2014. <http://www.theguardian.com/technology/2014/jun/12/momo-chinese-app-exposes-sex-divide> (accessed October 1, 2014).

<sup>112</sup> Liu Lin. “Momo, the hormonal social network and Ground Zero of the sex trade.” [陌陌“荷尔蒙式社交”成色情交易重灾区] *Xinhua Online*, April 16, 2014. [http://news.xinhuanet.com/legal/2014-04/16/c\\_1110273719.htm](http://news.xinhuanet.com/legal/2014-04/16/c_1110273719.htm)

Group Office, the State Internet Information Office, Ministry of Industry and Information Technology and Ministry of Public Security launched a nation-wide campaign against obscene and pornographic content on the internet.<sup>113</sup> China's seven national mobile communications companies responded enthusiastically and set up clean-up and reorganization work.<sup>114</sup> By the end of June 2014, the Chinese government had shut down 1,222 pornographic websites across the country, and more than 20 million accounts used in sex work and other such activities had been closed down through a management campaign geared toward mobile communication tools.<sup>115</sup>

These campaigns have had a direct effect on sex workers. Xiao Wang said the cell phone app he normally used was reported to the authorities.<sup>116</sup> Minbao had also given

**“By the end of June 2014, the Chinese government had shut down 1,222 pornographic websites across the country, and more than 20 million accounts used in sex work and other such activities had been closed down through a management campaign geared toward mobile communication tools.”**

up using a cell phone, because, “The minute you say anything even slightly sensitive, they close down your account.”<sup>117</sup> Xiao Dongbei says, “It’s getting harder all the time to do business. The internet isn’t convenient, and our business has been affected by the authorities, so it’s hard to make money.”<sup>118</sup>

Beijing’s anti-vice campaign has made sex workers particularly cautious, with the result that they would rather have clients come to their homes than go to hotels. They feel it would be safer for them. Xiao Hua has been engaged in sex work for four years. She says: “When I first started, I went out most of the time. With experience I got a feel for things, and now I work mostly from home. I’ll consider a five-star hotel, but now that there’s such a heavy

crackdown on vice, I won’t go to small hotels or express hotels.”<sup>119</sup> Shangguan Yue has lived in Beijing for more than two years: “The small express hotels have ‘fishers.’ The

113 Gao Fusheng. “2014 campaign against pornography and illegal publications will be implemented simultaneously.” Sichuan News Net, April 15, 2014. [http://news.xinhuanet.com/legal/2014-04/15/c\\_126391689.htm](http://news.xinhuanet.com/legal/2014-04/15/c_126391689.htm) (accessed October 1, 2014).

114 Bai Yang. “China’s seven mobile instant messaging services launch reorganization measures in response to mobile internet management campaign.” [全国七大移动即时通信商启动整顿措施响应移动互联网治理专项行动] *Xinhua Online*, May 30, 2014. [http://news.xinhuanet.com/legal/2014-05/30/c\\_1110927841.htm](http://news.xinhuanet.com/legal/2014-05/30/c_1110927841.htm) (accessed October 1, 2014).

115 Zhang Yang. “Internet clean-up campaign handles 1,222 pornographic website.” [净网行动处理淫秽色情网站1222家] *People’s Daily*, June 23, 2014. [http://news.china.com.cn/2014-06/23/content\\_32740564.htm](http://news.china.com.cn/2014-06/23/content_32740564.htm) (accessed October 1, 2014).

116 Interview with Wang Litao, Beijing, June 4, 2014.

117 Interview with Minbao, Shanghai, June 2, 2014.

118 Interview with Xiao Dongbei, Beijing, April 28, 2014.

119 Interview with Xiao Hua, Beijing, April 15, 2014.

police contact people and pretend to be clients and get you to come, and when you get there, they arrest you. So I normally won't go to an express hotel – it's too dangerous."<sup>120</sup>

## **Shanghai**

Unlike in Beijing, most of the interviewees in Shanghai were street-based, and they only used cell phone apps to find customers as a sideline method. Some interviewees also looked for clients in bars and clubs.

In Shanghai, the work venues of the interviewees were mainly streets, parks and squares, which are also popular locations for female sex workers. Lili told us, "I'm mostly over at the park. It's all girls selling in the park. Right now real and fake women are mixed in together."<sup>121</sup> Liu Xiaoqing has been involved in sex work for more than ten years, and has been cross-dressing for four years. His relatively poor education prevents him from using the internet: "I usually go looking [for clients] in the park. I'm illiterate, so how can I go online?"<sup>122</sup>

As with female sex workers working in the park, target clients are mainly rural migrant construction workers or other workers from outside the cities, as well as some local residents. Street-based sex workers seldom bring their clients home. Xiao Kai is married and engages in sex work to support his family. He says, "I stay outside with my clients and don't bring them home."<sup>123</sup> Outdoor service venues include paths through groves of trees in the parks. Yimeina has been cross-dressing for six years, working in sales during the day and trolling for clients in the park at night: "We don't take off our clothes in the park. I get 50 yuan (USD 8) each time. It's not like taking them home, undressing and showering."<sup>124</sup>

Service hours for street-based work are relatively short, and the charges are also relatively low, typically ranging from 50 to 100 yuan (USD 8-16) per service and relying on rapid turnover. Lili, who came to Shanghai from Anhui two years ago, says: "When the weather's hot, it's usually ten to 20 clients per night. Right now it's typically seven

**Although transgender sex workers do their best to conceal themselves, if they are discovered, clients can become abusive and refuse to pay. Sex workers' fears of arrest and detention render them powerless to defend themselves and demand fair treatment by clients.**

<sup>120</sup> Interview with Shangguan Yue, Beijing, May 25, 2014.

<sup>121</sup> Interview with Lili, Shanghai, July 28, 2014.

<sup>122</sup> Interview with Liu Xiaoqing, Shanghai, March 24, 2014.

<sup>123</sup> Interview with Xiao Kai, Shanghai, June 15, 2014.

<sup>124</sup> Interview with Yimeina, Shanghai, April 29, 2014.

or eight.”<sup>125</sup>

Most street-based work is done in the evenings, typically from around 7/8pm until about midnight. Some sex workers operate later, from 11 pm to 4 am. Several sex workers usually stand together in the street. One interviewee, Tingting, told us she had a regular group of seven or eight transgender colleagues that she regularly worked with.<sup>126</sup>

Street-based services consist mainly of masturbation, oral sex, and penetrative sex. Many of the sex workers interviewed said they need to prevent the client from realizing that the sex worker is not a biological woman. Xiao Kai told us: “I usually fake it and have seldom been discovered. It’s just a matter of gripping with the hands and using a little more oil.”<sup>127</sup> Yangyang says the type of service is determined by the price: “Going all the way [penetrative sex] is very uncommon. I usually give people oral sex or masturbate them. If they want penetration, it depends on the price. If they’re willing to pay more, I’ll do it, but if they don’t have enough, I won’t.”<sup>128</sup>

Some sex workers take clients home or to a hotel, but the price for this is normally higher than for services on the street. Xiao Hong, from Jiangxi, began dressing as a woman for sex work this year: “If they want to go to a hotel, the price is high, usually 500 or 600 yuan (USD 82 or USD 98). Sometimes even higher.”<sup>129</sup>

The Shanghai transgender female sex workers interviewed offered several reasons as to why they prefer street-based work over other locations. One is that they are offering sex work using a female identity and, as the clients for street-based sex work are typically in a hurry, the service time is usually much shorter and devoid of the most intimate contact. Zhang Liang says the main reason for not finding clients through the internet is the desire to avoid actual sexual intercourse: “On the internet they want to go all the way [penetrative sex]; they know your [gender] identity and want the real thing.”<sup>130</sup>

Lili finds that transgender sex workers aren’t that novel any more, which reduces the potential clients:

“Online business is terrible these days. They’re asking 200 yuan (USD 33) and who will take it? There are too many [transgender sex workers] now, so it’s no big deal. Before, when there were fewer, people were curious and business was

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<sup>125</sup> Interview with Lili, Shanghai, July 28, 2014.

<sup>126</sup> Interview with Tingting, Shanghai, April 29, 2014.

<sup>127</sup> Interview with Xiao Kai, Shanghai, June 15, 2014.

<sup>128</sup> Interview with Yangyang, Shanghai, March 24, 2014.

<sup>129</sup> Interview with Xiao Hong, Shanghai, April 24, 2014.

<sup>130</sup> Interview with Zhang Liang, Shanghai, May 18, 2014.

good. Now business is bad. It's a little better on the street."<sup>131</sup>

Competition, however, is also tough for street based sex work. The transgender sex workers we interviewed in Shanghai noted bias and hostility from female sex workers. Yu Fei told us: "On our way to the park, we have to pass one street where there are lots of massage parlors. The girls know we're fake women, and they sit in the doorways of their massage parlors just so they can laugh at us. They say we're men and fakes and perverts."<sup>132</sup> Where Yanyan carries out her street-based work, the female sex workers feel she's stealing their business, and they report her to the police. Yanyan once spent ten days in jail because of this.<sup>133</sup>

## **Clients**

In China, transgender female sex workers have very close links with the MSM (men who have sex with men) community. Among the 70 interviewees, 53 (76%) started out working under male identities providing services to MSM. After engaging in sex work under female identities, their client base changed; the interviewees reported that the large majority of their clients are now heterosexual men, who believe they are engaging a female sex worker.

In Shanghai, the work venues and work methods of transgender sex workers are similar to those of female sex workers, and the clients they interact with are also the same, i.e. rural migrants working in the cities, and some local residents. Almost all of the clients come to parks, streets and squares looking for female sex workers. The vast majority of men who engage with transgender sex workers are unaware that the women servicing them are transgender women.

In Beijing, as described, most of the sex workers interviewed prefer to use the internet and cell phones to find customers. Most of these clients are also heterosexual men, with some, referred to as “

妖客” (yaoke, tranny johns), men who prefer transgender female sex workers. There are

**“76% of interviewees started out working under male identities and providing services to MSM. After engaging in sex work under female identities, their client base changed; the interviewees reported that the large majority of their clients are now heterosexual men, who believe they are engaging a female sex worker.”**

<sup>131</sup> Interview with Lili, Shanghai, July 28, 2014.

<sup>132</sup> Interview with Yu Fei, Shanghai, March 24, 2014.

<sup>133</sup> Interview with Yanyan, Shanghai, June 16, 2014.

several reasons for the transition from servicing the MSM community in male attire to servicing heterosexual men in female attire: One is the number of potential clients. MSM typically comprise only 2%-5% of the total population,<sup>134</sup> and there is a much greater demand for sexual services from heterosexual men. Zhengzheng, from Taiyuan, does not consider himself a woman, but says his income has increased substantially since he began engaging in sex work dressed as a woman.<sup>135</sup>

Second, many transgender sex workers identify as women, and their sexual orientation is heterosexual. Engaging in sex work as women conforms to both their gender identity and their sexual orientation. Lili has considered herself female since she was young, and her previous servicing of homosexual men was mainly for financial reasons: “I don’t like homosexuality at all. I mixed with homosexual circles before just to make a living. Since then, I’ve realized that I like being a woman, and I like straight men. Some people may think I’m abnormal, but I don’t feel that way.”<sup>136</sup>

Xiao Ming has been cross-dressing to engage in sex work for more than three years. He explained why he feels more relaxed servicing heterosexual men:

“I started out as an MB [a “money boy,” referring to male sex workers]. When I was an MB, I did both 1 and 0 [referring to the receptive and insertive position in anal sex], and it was exhausting and really hard on me physically. With cross-dressing, you don’t have to fuck the client. When the client’s done, you’re done, and it’s not so tiring.”<sup>137</sup>

Xiaomeng felt even more strongly about homosexual clients:

“Generally speaking, homosexual clients are very low-quality, and I won’t take any now. Homosexual clients are too fussy – lick here, lick there. Trannie johns and straight clients are easy – they don’t make a lot of demands. It’s mostly just masturbation and then you’re finished. It makes a huge difference. The friends I hang around with say that once you’re used to making a living this way, you won’t take any more homosexual clients.”<sup>138</sup>

Lili has a lot of confidence in her technique. She believes that ordinary men will still come to her even if they know her identity, because she’s more open-minded than

134 Li Qian. “Survey of the living conditions of China’s homosexuals.” [中国同性恋生存状况调查] *Xinhua Online*, August 3, 2005. [http://news.xinhuanet.com/globe/2005-08/03/content\\_3302692.htm](http://news.xinhuanet.com/globe/2005-08/03/content_3302692.htm) (accessed October 1, 2014).

135 Interview with Zhengzheng, Beijing, April 24, 2014.

136 Interview with Lili, Shanghai, July 28, 2014.

137 Interview with Xiao Ming, Shanghai, April 29, 2014.

138 Interview with Xiaomeng, Beijing, April 20, 2014.

the average woman: “A lot of guys know we’re transnians and they still want us, because we make them feel comfortable. We’re open to a lot of things that still embarrass the average woman.”<sup>139</sup>

However, concealing their transgender identity while working is very important for most transgender sex workers. Xiao Zhou claims to have never been discovered by a client: “I keep the lights low and approach my clients from the side. My lights at home are red and even dimmer than a cell phone’s light. And it’s in a corner where there’s basically no light at all.”<sup>140</sup> Xiao Shao has a secret weapon: “I wear special underpants that expose my buttocks in back and cover up my jj [sex organ] in front.”<sup>141</sup>

**“Although transgender sex workers do their best to conceal themselves, if they are discovered, clients can become abusive and refuse to pay...Sex workers’ fears of arrest and detention render them powerless to defend themselves and demand fair treatment by clients.”**

Although transgender sex workers do their best to conceal themselves, if they are discovered, clients can become abusive and refuse to pay. Xiao Qiang says clients will engage in verbal and physical abuse.<sup>142</sup> When that happens, the sex worker often tries to patch things up and chooses to compromise. Xiao Bai encountered such a client just a few days before being interviewed: “That client discovered I was a transnian and didn’t want to pay me. He felt it was unacceptable. I just treated it as bad luck. There was no way I could make him pay, because I was at home, and I was afraid that quarreling would cause the client to retaliate, and it would be unsafe.”<sup>143</sup>

Binbin believes that some clients intentionally use a transgender sex worker’s identity as an excuse not to pay them, but given the illegal nature of sex work, she is powerless to deal with them: “Some men finish and then say they didn’t know [her transgender identity]. I say, I told you over the telephone, and now that you’ve had your fun you say you didn’t know? I don’t dare argue, and if they really won’t pay I just make them leave. If they get offended and report you, it’s just not worth it.”<sup>144</sup>

Yimeina in Shanghai feels working in a group provides a measure of protection in the

<sup>139</sup> Interview with Lili, Shanghai, July 28, 2014.

<sup>140</sup> Interview with Xiao Zhou, Beijing, April 29, 2014.

<sup>141</sup> Interview with Xiao Shao, Beijing, April 30, 2014.

<sup>142</sup> Interview with Xiao Qiang, Beijing, March 20, 2014.

<sup>143</sup> Interview with Xiao Bai, Beijing, March 25, 2014.

<sup>144</sup> Interview with Binbin, Beijing, April 12, 2014.

park: “The worst that can happen is that they find you out and refuse to pay. Because the other girls are there, when something happens they all come over, and the client doesn’t dare go too far. We usually work in a group of four or five.”<sup>145</sup>

Some sex workers choose to make their identity known from the outset in order to avoid this kind of trouble. Tian Yuyao, 29, has been engaged in sex work for one year: “I usually tell the client to avoid problems if my game is given away. It’s not worth it.”<sup>146</sup>

Xiao Hua decides whether or not to tell the client depending on the circumstances: “I’ll look at the situation, and while we’re chatting I’ll observe whether the guy is a regular and has experience. If he’s a regular, I tell him I’m TS, but if he’s not a regular, I don’t tell him.”<sup>147</sup>

Because sex work is illegal in China, sex workers are at a great disadvantage in their encounters with clients. Interviewees reported clients refusing to pay<sup>148</sup> or even robbing them.<sup>149</sup> Mingming spoke of a client who impersonated a police officer:

“Once I went to a very small hotel when the client said he’d pay for the night. After we went there and opened the door, two people came out, and one flashed a badge at me. I thought he was a cop. They loudly asked me, Do you know why we brought you here? I said I didn’t know and got a hard slap in the face. They asked me again, Do you know why we brought you here? I thought they were cops, so I said I came to do massage and nothing else. After that they tied me up with ropes and then began going through my handbag, and they took my wallet, cell phone, MP3 player and watch. I wondered why they were taking my stuff – were they looking for evidence? Then he went through my cell phone and asked, do you know this guy, do you know that guy? He also made a telephone call and said, I’m here, bring a car over. I thought the cops were going to take me away. A little while later, they took my stuff and left, and then I understood that I’d been robbed.”<sup>150</sup>

Like many other sex workers, Mingming didn’t report the incident to the police. Xiao Huli explained the situation this way:

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145 Interview with Yimeina, Shanghai, April 29, 2014.

146 Interview with Tian Yuyao, Beijing, April 12, 2014.

147 Interview with Xiao Hua, Beijing, April 15, 2014.

148 Interview with Tingting, Beijing, April 29, 2014.

149 Interview with Xiao Jiao, Beijing, June 1, 2014.

150 Interview with Mingming, Beijing, April 25, 2014.

“Under normal circumstances, it’s not convenient to report things to the police, because we have an embarrassing identity that’s not approved. Although the law is supposed to apply equally to everyone, there are still limitations. This profession isn’t out in the open, so if you go to the police, nothing good will come of it. It makes more sense to just suffer in silence.”<sup>151</sup>

## **The Police**

Since sex work is illegal, the police are one of the greatest challenges that transgender sex workers face. Among the 70 interviewees, 45 (64%) had been arrested by the police and were typically detained for three to 15 days. Many had been arrested more than once, with one person having been arrested six times. Entrapment or “fishing” was the most common method police used to arrest transgender sex workers. The interviewees said they suffered abuse at the hands of the police, especially in verbal and physical violence leveled at their transgender identity. Transgender sex workers whose ID cards designate them as male are jailed together with men.

Interviewees said the police typically pose as clients, negotiate prices for sexual services, then arrest them. Xiao Tong, from Beijing, was working on a particular avenue:

“A man walked over and began asking me how much I charged, then he lured me into a car and began talking about what services I offered and how much I’d charge for them. Then he showed his police badge and took me straight to the police station. I noticed that he didn’t use a police car but just an ordinary car. The police really know how to trick you.”<sup>152</sup>

Interviewees said they were subjected to humiliating treatment because of their transgender identity. After Xiao Tong was taken to the police station:

“Once I went in, they pulled on my wig, really hard, and hit me. They asked me if I was a man, and I said I wasn’t. Then they carried out a body search and flipped my bra up and groped around. They asked really perverted questions,

**“Among the 70 interviewees, 45 (64%) had been arrested by the police and were typically detained for three to 15 days. Many had been arrested more than once, with one person having been arrested six times.”**

<sup>151</sup> Interview with Xiao Huli, Shanghai, May 27, 2014.

<sup>152</sup> Interview with Xiao Tong, Beijing, May 15, 2014.

like, how do you have sex. I turned around and asked, do you want to try? Then he kicked me, really, he really kicked me.”<sup>153</sup>

Xiao Qiang said a police officer sat on her back and crushed her breasts: “That time another girl and I were just coming out of a hotel, and we ran into some cops. Maybe our get-up wasn’t right that night and our skirts were too short, and that attracted their attention. The cops examined us and went through our bags, and when they found money and condoms they took us away. When we got to the police station, one cop told me to lie on the floor with my chest to the ground, and then he sat on my back. I had breast implants, and I felt like they were about to explode. That cop was really fat, and he pulled my hair.”<sup>154</sup>

Yanyan said police officers beat her when she refused to admit to sex work: “I said I wouldn’t admit to that, so they hit me really hard. They used police batons and belts and hit my face and my body. They kept brainwashing me, saying they’d stop hitting me if I confessed, but if I didn’t admit it, they’d keep hitting me. Finally they’d beaten me until I couldn’t think straight, and when they saw that, they stopped hitting me and forcibly took my fingerprints.”<sup>155</sup>

Xiao Qing in Shanghai believes the police sometimes arrest her even when she hasn’t done anything, just so they can meet a quota: “There’s a lot of people like us who haven’t even done anything, and are just standing on the street or maybe ducking out of the rain, and the police come over and arrest us without even asking any questions. By rights, they can’t arrest us under those circumstances. I wasn’t soliciting clients or selling sex. I said, this is the way I live, you have to let me go. That policeman said they were given strict assignments and their station chief had ordered them to make arrests.”<sup>156</sup>

Lack of training on gender issues and a lack of appropriate facilities, means that authorities often do not know how to deal with transgender individuals they detain or arrest. Haima says, “The first time I was arrested, at the police station they were

**“In places like Beijing where recent crackdowns on sex work have made clients scarce, dire economic circumstances mean sex workers may compromise the use of condoms in order to keep the client.”**

<sup>153</sup> *Ibid.*

<sup>154</sup> Interview with Xiao Qiang, Beijing, March 20, 2014.

<sup>155</sup> Interview with Yanyan, Shanghai, June 16, 2014.

<sup>156</sup> Interview with Xiao Qing, Shanghai, April 29, 2014.

thinking, how do we jail a man dressed as a woman? Then they bought pajamas for each of us and made us put them on, and they stripped off the women's clothes and wigs we'd been wearing. Although I have breast implants, I'm male on my ID card, so they locked me up with men, more than 20 of them at one point."<sup>157</sup>

Yanyan says that when she was detained with men, she was subjected to verbal insults: "Those men berated me, saying, are you a man? Why don't you look like a man or a woman? You're too big and tall to be a girl. They said I was a pervert. It was very insulting."<sup>158</sup> Not only that, but the detention center workers all ran over to look: "It was like looking at a monkey. The cops, guards, joint defense officers, even the cleaning lady, all came over to look and said I wasn't a man or a woman, I was a pervert and disgusting."<sup>159</sup>

Anna said that while she was in the park, three police officers blocked her way. When they found condoms and lubricant in her handbag, they threatened to tell her family that she was engaged in sex work. She was forced to have sex with each of the three police officers.<sup>160</sup>

## Health

Transgender people have unique health needs, which sometimes includes a need for gender-affirming health services, including diagnosis, hormone treatment and surgery to change parts of their body to affirm their gender identity. However, across the board, general health services commonly under-serve transgender people or fail to meet their needs.<sup>161</sup>

### ***Hormone use***

Transgender women often have a great need for hormones, because the physiological changes brought about by hormone therapy can bring them physically closer to the gender they identify with. For those diagnosed with gender dysphoria, hormone replacement therapy is also seen by many doctors as an essential treatment method.<sup>162</sup>

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<sup>157</sup> Interview with Haima, Shanghai, March 21, 2014.

<sup>158</sup> Interview with Yanyan, Shanghai, June 16, 2014.

<sup>159</sup> *Ibid.*

<sup>160</sup> Interview with Anna, Shanghai, August 3, 2014.

<sup>161</sup> APTN, UNDP. "Lost in Transition: Transgender People, Rights and HIV Vulnerability in the Asia-Pacific Region," Bangkok (May 2012).

<sup>162</sup> World Professional Association for Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People*, 7th version.

**“Ultimately, lack of training on gender issues and a lack of appropriate facilities, mean that authorities often do not know how to deal with transgender individuals they detain or arrest.”**

36 (37%) of the interviewees for this research had experience with hormone use.

However, hormone therapy can lead to some irreversible physiological changes and should only be undertaken under the guidance of a medical professional.<sup>163</sup>

However, in China, the medical treatments available to the transgender community are very limited. In all of China, there are fewer than ten medical establishments that can provide specialized instructions on hormone use.<sup>164</sup> Public hospitals lack professional knowledge regarding sex transitions, and are not only unable to provide professional advice to transgender people but,

according to our interviewees, also often respond with discriminatory attitudes.

Yanyan once went to a hospital to seek advice on hormone use, but she was unable to find the relevant department, and doctors also didn't know how to deal with her. She was sent to an endocrinologist, a urologist, an internist and then a gynecologist without obtaining any useful suggestions: “The doctors all treated me like a monster, asking me if I was a man or a woman and poking me and prodding me, and everyone in the doctor's office came out to look at me.”<sup>165</sup>

After leaving the hospital, she found various kinds of information about hormone use on the internet, including English material from overseas websites, which she read using translation software. She tried all kinds of hormones that she could find on the market to see what would be most effective for her. “I tried Premarin, Progynova, Diethylstilbestrol, Marvelon, Progesterone. I took progesterone in tablets and as injections, not to mention all kinds of contraceptives available on the market. I tried them all.”<sup>166</sup>

Since contraceptives are relatively cheap and easy to purchase at pharmacies, many interviewees had used them as hormone medication. Only a tiny minority had consulted a doctor while taking medication, with most obtaining information from friends.

Xiao Ming has not had breast implants but hoped to enlarge her breasts by taking contraceptives: “I heard other girls say taking contraceptives would make your breasts grow, so I bought some. My breasts did grow a bit after I took the medicine, but it made

<sup>163</sup> *Ibid.*

<sup>164</sup> Xu Jingxi. “Qian Jinfan: The 84-year-old transgender person's 'best part of life has just begun.'” *People's Daily*, June 20, 2012. [http://www.chinadaily.com.cn/dfpd/shehui/2012-06/20/content\\_15515350.htm](http://www.chinadaily.com.cn/dfpd/shehui/2012-06/20/content_15515350.htm) (accessed October 1, 2014).

<sup>165</sup> Interview with Yanyan, Shanghai, June 16, 2014.

<sup>166</sup> *Ibid.*

me sleepy and bloated so I stopped taking it.”<sup>167</sup>

Hormone use can also affect the mental and physical health of transgender people. Lacking the advice and oversight of medical professionals, they suffer more from side effects. Some are compelled to stop taking hormones because the side effects are too severe. Wang Litao took soy isoflavones and contraceptives. She says, “Aiya, I felt like I was going crazy! I had heart palpitations, dizzy spells, blurred vision, nausea and fatigue.”<sup>168</sup>

Tian Yuyao experienced breast growth after taking hormones, but it affected her health: “I developed a very violent temper. I couldn’t get hard any more, and it took forever to ejaculate. The semen I ejaculated was very watery and scant.”<sup>169</sup>

Erectile dysfunction is a side effect of hormone use and can increase the risk of HIV infection, as it becomes more difficult to use a condom. Tian Yuyao said, “What bothered me the most was that when I was with the man I love, I couldn’t get hard. I was always limp and couldn’t ejaculate, and this made me really sad.”<sup>170</sup>

In some cases, erectile dysfunction is never completely reversed, even after stopping medication. When Yuner was taking hormones, “I always felt nauseous, I felt sick every day and couldn’t get a normal erection.” After stopping the medication, “I wasn’t nauseous, but my erections didn’t return to normal 100 percent, only 80 to 90 percent.”<sup>171</sup>

Transgender women often take hormones incorrectly if they are not under medical supervision, for example, using the wrong kind of medicine or the wrong dosage, and without adequate general health monitoring.<sup>172</sup> This can lead to other health problems

**“In all of China, there are fewer than ten medical establishments that can provide specialized instructions on hormone use.<sup>160</sup> Public hospitals lack professional knowledge regarding sex change, and are not only unable to provide professional advice to transgender people but, according to our interviewees, also often respond with discriminatory attitudes.”**

<sup>167</sup> Interview with Xiao Ming, Shanghai, April 29, 2014.

<sup>168</sup> Interview with Wang Litao, Beijing, June 4, 2014.

<sup>169</sup> Interview with Tian Yuyao, Beijing, April 12, 2014.

<sup>170</sup> *Ibid.*

<sup>171</sup> Interview with Yuner, Shanghai, April 10, 2014.

<sup>172</sup> Wu Jisuan, Guo Yanan. *Hormone Use Recommendations for Safe Transformation of Sexual Characteristics*. [安全改变性别特征激素使用建议] [http://www.aibai.com/ebook/library/ebook\\_aibai/download//2012/7/19/Transgender\\_Hormone\\_Guide\(1\).pdf](http://www.aibai.com/ebook/library/ebook_aibai/download//2012/7/19/Transgender_Hormone_Guide(1).pdf) (accessed October 13, 2014).

such as liver damage, glucose or lipid metabolic imbalances, or heart disease as a result.<sup>173</sup>

## **Condom use**

Sex workers and their clients are at heightened risk of HIV, in large measure as a result of a larger number of sex partners.<sup>174</sup> The use of condoms is an effective way to prevent HIV and STD infection. Most of the sex workers interviewed for this report were aware of the importance of using condoms, but not all of them were using condoms during sex work under all circumstances.

Research has shown that the power asymmetry between clients and sex workers has a pronounced effect on condom use negotiation.<sup>175</sup> Globally, where sex work is illegal and sex workers have barriers to the negotiation of consistent condom use, vulnerability to HIV and other STD infection increases.<sup>176</sup> Interviewees reported the initiative for using condoms often rests with the client. Lili said she often encounters clients who refuse to use condoms: “I often run into the kind who demands that you not use condoms. Condoms are uncomfortable, and most men don’t like to wear them.”<sup>177</sup>

**“Globally, where sex work is illegal and sex workers have barriers to the negotiation of consistent condom use, vulnerability to HIV and other STD infection increases.”<sup>172</sup>**

In places like Beijing where recent crackdowns on sex work have made clients scarce, dire economic circumstances mean sex workers may compromise the use of condoms in order to keep the client. Xiao Zhou, who has been a sex worker for four years, says: “Whether to use a condom depends on the circumstances. When I’m with a client, and the client is paying less, we use a condom. If the client pays more, then we sometimes don’t use one.”<sup>178</sup>

A sex worker may also decide not to use a condom with a familiar client. Yangyang, a married transgender sex worker, says: “It depends. If he’s a regular [client], we can use it or not, but if he’s not a regular, we’ll definitely use it.”<sup>179</sup>

<sup>173</sup> *Ibid.*

<sup>174</sup> UNAIDS, “UNAIDS Guidance Note on HIV and Sex Work”. April 2012. [http://www.unaids.org/sites/default/files/media\\_asset/JC2306\\_UNAIDS-guidance-note-HIV-sex-work\\_en\\_0.pdf](http://www.unaids.org/sites/default/files/media_asset/JC2306_UNAIDS-guidance-note-HIV-sex-work_en_0.pdf) (accessed October 13, 2014).

<sup>175</sup> Susanne Y.P. Choi and Eleanor Holroyd, The influence of power, poverty and agency in the negotiation of condom use for female sex workers in mainland China. *Culture, Health & Sexuality*, September–October 2007, 9(5): 489–503.

<sup>176</sup> WHO, UNFPA, UNAIDS, NSW, “Prevention and Treatment of HIV and other Sexually Transmitted Infections for Sex Workers in Low- and Middle-income Countries,” December 2012. [http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf) (accessed October 13, 2014).

<sup>177</sup> Interview with Lili, Shanghai, July 28, 2014.

<sup>178</sup> Interview with Xiao Zhou, Beijing, April 29, 2014.

<sup>179</sup> Interview with Yangyang, Shanghai, March 24, 2014.

A sex worker will sometimes use instinct to decide whether or not a client is disease free, and on that basis decide whether or not to use a condom. Xiao Yu: “If I feel that man is handsome and young and has a job and is probably not promiscuous, I’ll feel more relaxed and sometimes not require a condom.”<sup>180</sup>

Baobao, 34, says sometimes negotiations drag on, and giving up a condom may help to quickly close the deal.<sup>181</sup>

Interviewees said they were even more likely to go without condoms when with an intimate companion.

Sex workers feel clients present a greater health risk than intimate companions, and they also place more trust in the latter. Binbin: “Who knows how many people the client has messed around with – maybe even female prostitutes. I trust my boyfriend more. I feel he’s a good person and doesn’t sleep around.”<sup>182</sup>

While most sex workers are aware of the importance of using condoms in penetrative sex, some say they don’t use condoms for oral sex. Yangyang says: “When I go all the way [penetrative sex] I usually use them, but not for oral sex.”<sup>183</sup>

Regardless of the type of sexual activity, whenever there is contact with semen, there is the risk of transmission of STDs. For transgender sex workers, who face a higher risk of HIV infection, the use of condoms is even more important.

### ***Use of stimulants and drugs***

In recent years, the use of synthetic drugs has risen sharply in China. By the end of 2012, the number of government registered synthetic drug users was 798,000, a 35.9% increase over 2011.<sup>184</sup> In China, recreational synthetic drugs, referred to as “new-style drugs”, are not only highly popular in entertainment venues but are also widely used in private venues.<sup>185</sup> Sex workers are also a niche group for drug use and surveys show that male sex workers are more likely to use drugs than the average MSM.<sup>186</sup>

**“In places like Beijing where recent crackdowns on sex work have made clients scarce, dire economic circumstances mean sex workers may compromise the use of condoms in order to keep the client.”**

<sup>180</sup> Interview with Xiaoyu, Beijing, April 14, 2014.

<sup>181</sup> Interview with Baobao, Beijing, June 1, 2014.

<sup>182</sup> Interview with Binbin, Beijing, April 12, 2014.

<sup>183</sup> Interview with Yangyang, Shanghai, March 24, 2014.

<sup>184</sup> National Narcotics Control Commission of China, Ministry of Public Security Narcotics Bureau. “China Narcotics Report 2013,” June 7, 2013. <http://www.mps.gov.cn/n16/n80209/n80481/n804535/3815337.html> (accessed October 14, 2014).

<sup>185</sup> Yingying Ding, et al. “Severity of club drug dependence and perceived need for treatment among a sample of adult club drug users in Shanghai, China.” *Social Psychiatry and Psychiatric Epidemiology*, May 29, 2013.

<sup>186</sup> Eric J. Nehl, et al. “Substance Use and Sexual Risks Among General MSM and Money Boys in Shanghai, China.” *Journal of Drug Issues*, September 19, 2012.

During the course of this research, findings highlighted that the stimulants Rush and Ice were the most commonly used drugs amongst the interviewees. Among the interviewees, 43 (61%) said they had used Rush, and 31 (44%) said they had used Ice. In China, transgender female sex workers overlap with MSM (76% interviewees started out working under male identities providing services to MSM). For that reason, stimulants widely used within the MSM community are also popular among transgender female sex workers, in particular Rush and Foxy Methoxy.

Rush is also a very popular stimulant in Chinese gay circles. Typically referred to overseas as Rush poppers, the drug consists mainly of alkyl nitrate gases inhaled through the nose. Inhaling alkyl nitrates relaxes the body's involuntary muscles, including the anal sphincter muscles.<sup>187</sup> It can serve as an anesthetic or pain reliever.<sup>188</sup> Using Rush causes blood vessels to enlarge, increases the heart rate and causes blood to flow more rapidly through the body, producing a sensation of warmth and stimulation.<sup>189</sup> For that reason, Rush is commonly used as an aphrodisiac.

For sex workers engaging in anal sex, using Rush reduces the discomfort of anal sex and can also enhance pleasure in sexual intercourse. Hong Xing, 32, says: "I regularly use Rush, because I'm afraid of pain during lovemaking."<sup>190</sup> Keyi uses Rush in order to become aroused while with a client: "I use Rush, because if you aren't interested in the client, you need something to become aroused. After using Rush, I feel very aroused, and even smelling it far off makes me feel woozy."<sup>191</sup>

Some clients also want to use Rush. Haima told us: "I had a client who came to see me several times, and he always brought that [Rush] and wanted to be bottom and me to be top. I said we could do that, and sniffing it felt really good."<sup>192</sup>

Although Rush doesn't lead to chemical addiction, it can bring about psychological dependency and presents a number of physical risks;<sup>193</sup> some experts feel that Rush should be classified as a psychotropic drug.<sup>194</sup> At present, China does not include

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187 John Lauritsen, Hank Wilson. *Death Rush: Poppers & AIDS*. Pagan Press, New York, 2006. <http://paganpressbooks.com/jpl/POPBOOK.HTM> (accessed October 14, 2014).

188 Zhang Beichuan. "To the Parents of Young Homosexuals and to Young Homosexuals." [致青年同性恋者的父母和青年同性恋者]. *Sina Blog*, July 2014. [http://blog.sina.com.cn/s/blog\\_475996b40102uyh0.html](http://blog.sina.com.cn/s/blog_475996b40102uyh0.html) (accessed October 14, 2014).

189 "60 percent of gays use Rush: The deadly drug that brings pleasure." *Danlan*, February 15, 2011. [http://www.danlan.org/disparticle\\_33459.htm](http://www.danlan.org/disparticle_33459.htm) (accessed October 14, 2014).

190 Interview with Hong Xing, Beijing, April 25, 2014.

191 Interview with Keyi, Beijing, April 4, 2014.

192 Interview with Haima, Shanghai, March 21, 2014.

193 "60 percent of gays use Rush: The deadly drug that brings pleasure." *Danlan*, February 15, 2011. [http://www.danlan.org/disparticle\\_33459.htm](http://www.danlan.org/disparticle_33459.htm) (accessed October 14, 2014).

194 Zhang Beichuan, "To the Parents of Young Homosexuals and to Young Homosexuals."

alkyl nitrates among controlled narcotics or psychotropic drugs. On this basis, some websites publicize the safety of Rush.<sup>195</sup> Most current online marketing of Rush products lacks standard product labeling, and some sellers sell Rush as an aromatic drug or perfume.

Foxy Methoxy is another stimulant mentioned by interviewees. Xiao Huli says:

“My clients use Foxy, but when they do, you can’t stand it, because it makes the client especially demanding. It makes him go on forever. All you can do is wait for him, and he just keeps wanting more. It’s incredible. There are many kinds of Foxy, some better than others. It was originally an aphrodisiac, and it can be bought online.”<sup>196</sup>

Xia Yu says: “That stuff [Foxy] is nothing to play with, because it makes you incredibly aroused. I’ve seen people take Foxy and practically go crazy; it’s like they’re ravenous.”<sup>197</sup>

The main ingredient of Foxy Methoxy is a mind-altering substance called 5-Methoxy-diisopropyltryptamine.<sup>198</sup> This substance is classified as an illegal drug in many countries. Apart from its hallucinogenic qualities, it can cause serious consequences, including renal failure and death.<sup>199</sup> There have been cases of fatal overdose in Taiwan,<sup>200</sup> where 5-MeO-DIPT is now a Class Four Controlled Substance.<sup>201</sup> However, there are no controls on 5-MeO-DIPT in China at this time,<sup>202</sup> and Foxy Methoxy can easily be purchased on the internet. Some sellers particularly promote Foxy as a safe and pleasure-enhancing drug.<sup>203</sup>

The use of crystal methamphetamine, known as ‘Ice’, was also popular among interviewees. Mingming, a 30-year-old transgender female sex worker, says Ice use is extremely common: “[Ice] everyone uses it, just like Rush. It’s not only clients – when you look at the Jack’d [gay social networking app], people are always asking if you’re high yet. Everyone uses it. I think HIV has increased because of it. When you take it,

195 “Rush Poppers Q&A,” <http://www.4191069.com/Poppers3.html> (accessed October 14, 2014).

196 Interview with Xiao Huli, Shanghai, May 27, 2014.

197 Interview with Xia Yu, Beijing, July 13, 2014.

198 Damien Lu. “Foxy Methoxy and other anal dilation sex products for internal use.” *Aibai*, [http://www.aibai.com/advice\\_pages.php?linkwords=5-MeO-DiPT](http://www.aibai.com/advice_pages.php?linkwords=5-MeO-DiPT) (accessed October 14, 2014).

199 *Ibid.*

200 Food and Drug Administration (Taiwan). “How much do you know about drug abuse?” <http://www.tcvts.tc.edu.tw/ftp/20130806120202.pdf> (accessed October 14, 2014).

201 Ministry of Health and Welfare Food and Drug Administration (Taiwan). “Advanced notification of amendment of controlled substance classification and items (adding 5-MeO-DIPT and Thiamylal as Class Four Controlled Substances).” November 18, 2010. <http://www.fda.gov.tw/TC/newsContent.aspx?id=6651&chk=b352d7c8-dae9-4072-8efc-cdfe2249cb53#VB6BkCuSwgA> (accessed October 14, 2014).

202 Exchange of letter with the narcotics laboratory of the Ministry of Public Security Narcotics Bureau, October 9, 2014.

203 Zhang Beichuan, “To the Parents of Young Homosexuals and to Young Homosexuals.”

you don't get hard, so you don't use a condom. That's very common."<sup>204</sup>

Taking crystal meth is also a stimulant. Xiao Kai says he doesn't use Ice, but he accepts clients who are on Ice and chats with them:

**“Meth users pay a lot more. The average street-based job brings 50 to 100 yuan (USD 8 to 16), but Ice users may pay more than 1,000 yuan (USD 163). This is an offer some sex workers find hard to refuse.”**

“I've never touched Ice, but I've kept them [clients] company by talking with them. I start off by telling them clearly that I won't take it with them, but I'll keep them company, even for several hours. Because Ice makes people get carried away and very excited, they have to keep talking. I talk with the client and smoke cigarettes. Once he's ready, I masturbate him and that's it.”<sup>205</sup>

Meth users pay a lot more. The average street-based job brings 50 to 100 yuan (USD 8 to 16), but Ice users may pay more than 1,000 yuan (USD 163). This is an offer some sex workers find hard to refuse. Xiao Huli says:

“Once you've agreed on a price with a skater [Ice user], he'll pay you. Depending on the client's financial circumstances, they typically pay 1,500 to 2,000 yuan (USD 244 to 326). [The client] is more generous because he has this financial capacity. He has to have a certain background to take [Ice] – he's not a simple migrant laborer.”<sup>206</sup>

Xiao Huli adds that there are many ways of “coming down” from Ice. Many clients ask a transgender female sex worker to keep them company while they take Ice, and then find a female sex worker to help them “come down.”<sup>207</sup> Zhang Liang, a street-based transgender female sex worker, says she often sees clients come out in the middle of the night after taking Ice:

“I see Ice users every night after midnight. You can recognize them right away – their facial muscles are [twitchy], and their breath stinks – it's different from tobacco breath. I don't [skate]. If they want to go out for more, that's fine, but they have to pay more, at least 100 yuan (USD 16) (the local price for a street

<sup>204</sup> Interview with Mingming, Shanghai, April 25, 2014.

<sup>205</sup> Interview with Akai, Shanghai, June 15, 2014.

<sup>206</sup> Interview with Xiao Huli, Shanghai, May 27, 2014.

<sup>207</sup> *Ibid.*

sex worker is 50 RMB (USD 8)), because I know they're skating."<sup>208</sup>

The lasting effects of meth mean much longer service times. Wang Long has had several clients on meth, and the length of time involved has left him with lingering fears: "One time it was around 1:00 am, and we started at 3:00 and kept going until 4:00 the next afternoon."<sup>209</sup>

Extended periods of sexual activity means that meth use often involves multiple sexual partners. Zhou Xinyu once serviced a client along with three other people: "When I went, there were three others, one woman and two men. We took turns with him [the client]. It makes him last forever. You have to spend at least 10 to 20 hours with him, and he still won't ejaculate."<sup>210</sup>

While having the effect of promoting sexual activeness, taking Ice may also lead to erectile dysfunction. Akai says: "He [the client] played with that and couldn't get hard. It was exhausting. Sometimes we'd be at it for a long time and not manage it."<sup>211</sup> This makes condom use a problem. Keyi says: "When a person gets to that point, he's not thinking clearly. Even if he knows he has to wear a condom, if he's not hard, how can he do it?"<sup>212</sup>

The use of stimulants and drugs can lead to unprotected sex and thus increase the risk of HIV and STD infection.<sup>213</sup> A study of 625 MSM in Shanghai found that the odds of HIV infection among popper using MSM were 4.1 times higher than the odds of nonpopper using MSM participants, and the odds of HIV infection among meth using MSM were 1.8 times higher than the odds of non-meth using MSM participants.<sup>214</sup> Another survey of 386 MSM in South Africa found that the use of meth and Rush poppers significantly increased the likelihood of unsafe sex (by multiples of 2.75 and 3.69, respectively).<sup>215</sup> The environment in which transgender sex workers operate, including the clients they encounter and the use of drugs and stimulants, means greater attention should be paid to the health risks they face.

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208 Interview with Zhang Liang, Shanghai, May 18, 2014.

209 Interview with Wang Long, Shanghai, April 29, 2014.

210 Interview with Zhou Xinyu, Shanghai, March 4, 2014.

211 Interview with Akai, Shanghai, June 15, 2014.

212 Interview with Keyi, Beijing, April 4, 2014.

213 M.W. Plankey, D.G. Ostrow, R. Stall et al., "The relationship between methamphetamine and popper use and risk of HIV seroconversion in the multicenter AIDS cohort study", *Journal of Acquired Immune Deficiency Syndromes*, vol. 45, no. 1 (2007):85-92.

214 Jun Jie Xu, et al. "Recreational Drug Use among Chinese Men who Have Sex with Men: A Risky Combination with Unprotected Sex for Acquiring HIV Infection." *BioMed Research International*, Volume 2014, Article ID 725361.

215 MSM and Recreational drug use, Results of an online survey. [http://www.anovahealth.co.za/images/uploads/MSM\\_Recreational\\_Drug\\_Use\\_in\\_SA\\_Jobson.pdf](http://www.anovahealth.co.za/images/uploads/MSM_Recreational_Drug_Use_in_SA_Jobson.pdf) (accessed October 15, 2014).

## Programming Response

For this report, we also interviewed organizations with programming for transgender communities. However, their programming was primarily as part of general HIV-related health interventions. There were limited services offered for other pressing needs of the transgender community, including mental health or psychological counseling, transitioning support (especially on hormone use) or dealing with discrimination, including in access to healthcare.

The interviews with the nine civil society organizations working with transgender communities in China highlighted some general findings. The organizations all cater to the transgender community, but mainly transgender women, the majority of whom are sex workers and some of whom perform in shows in bars. The large majority of these transgender women have not undergone SRS, but a considerable number have had breast implants. Only two organizations cater to transgender men, and the number of such people covered is very small.

Only one organization had a stand-alone project, managed by transgender volunteers, which provided psychological support and information for people on gender affirming surgeries. Six of the organizations provided services to the transgender community through their MSM work, and two provided services for transgender sex workers under their projects for sex workers in general. Two of the organizations launched

**“MSM organizations do not fully understand the needs of the transgender community, and transgender organizations need to be established to promote change for their own living conditions.”**

special transgender projects in 2010 but, after the projects ended and the funding was spent, they did not organize further stand-alone projects. One of the organizations had established a transgender group backed by its project at the time, but the group had no source of funding or organizational capacity so, at present, it is still a group of volunteers dependent on the umbrella organization for its survival.

The services these organizations offer to the transgender community consist mainly of HIV-related health interventions such as outreach, examinations, testing, counseling, referrals and treatment for people living with HIV. Since most of these organizations do

not have stand-alone transgender projects, their services are not designed to target the

specific needs of the transgender community.

The Shenyang-based organization reported that, although there is overlap between China's transgender and MSM communities, covering the transgender community under the MSM community is just a means of attaining a scaled-down objective in a situation in which the transgender community has not yet developed or organized enough to protect their own rights, and where the organization's own resources remain limited.<sup>216</sup> MSM organizations do not fully understand the needs of the transgender community, and transgender organizations need to be established to promote change for their own living conditions.

One organization director said the transgender community they have been working with is mainly from lower socio-economic backgrounds and lower levels of education. Coming from such backgrounds, they do not have the resources or capacity to bring about solutions for themselves, let alone for their communities, and the problems they face are very complex. The role of CBOs working with them is therefore essential<sup>217</sup>

None of the organizations interviewed have full-time staff who are transgender, although five of the organizations have transgender volunteers who help the organizations establish contact with the transgender community and facilitate the provision of services.

One organization leader told Asia Catalyst that, because these volunteers are themselves transgender sex workers, the reliability and duration of their participation is very limited.<sup>218</sup> Some organizations reported that they have tried recruiting transgender sex workers, but the salaries they offer are not competitive with sex work. In addition, the transgender community is very secretive and closed off, and fear of discrimination makes them unwilling to openly participate in activities. This makes community-based mobilization very difficult. One outreach worker said that the living space of transgender sex workers is very small as they are discriminated against by the MSM community and rejected by female sex workers. The frequent turnover and mobility of transgender sex workers also brings challenges to intervention and mobilization efforts.<sup>219</sup>

While transgender individuals have problems that deserve specialized attention,

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<sup>216</sup> Telephone interview with Yu Fei, September 27, 2014.

<sup>217</sup> Interview with Guo Ziyang, Beijing, September 2, 2014.

<sup>218</sup> Telephone interview with Liu Yan, September 26, 2014.

<sup>219</sup> Telephone interview with Le Yan, September 18, 2014.

in particular the lack of an appropriate legal status and widespread discrimination, civil society organizations lack the financial or political support to provide related interventions and services. Increased drug use and HIV prevalence also warrant targeted interventions, as well as responses to violence from clients, the police and the public. A community based response, that is transgender-led would be the most effective response to addressing the needs of the community through targeted peer to peer interventions.

### III. Legal Framework

The State has the primary responsibility to combat all rights violations against trans, including transgender individuals. It is therefore the duty of the State to enact good laws (eg anti-discrimination laws) and remove bad laws (eg criminalization of marginalized groups) to meet their obligations under international human rights law. As Non-State discrimination is also a significant problem for transgender individuals, it is even more imperative that the State takes firm action to adequately protect and promote transgender rights. The State's failure to do so is not only a derogation of their responsibility it can also be viewed as justification by private citizens and even State actors to continue abuse and discrimination, unless properly checked.

#### Legal Recognition in China

China acknowledges the right of individuals to undergo gender reassignment surgery,<sup>220</sup> but has never enacted formal laws to protect the rights of transgender people. Instead, there are only some departmental regulations and memos issued by certain ministries, commissions and local governments on specific cases.<sup>221</sup>

##### ***Sex reassignment surgery (SRS)***

Sex reassignment surgery (SRS) is not just one surgical procedure but a complex process normally involving several procedures. For persons diagnosed with transsexualism or profound GID [gender identity disorder], SRS has proven to be an effective treatment, but is not necessarily a solution or desired outcome for all.

SRS and other gender affirming health services, including hormone therapy, are legal in China. However, in the 20 years from when the first case of SRS was publicly reported in 1990<sup>222</sup> until the tabling of the first management standards on SRS in 2009, China did not enact any laws or regulations applying to SRS. The growing demand for gender reassignment was not matched by hospital capacity, with many lacking the necessary expertise or equipment to perform SRS. Previously, people within the medical profession described SRS as a “three-no vehicle” (no hospital standards,

220 “Sichuan: Men changing to female documents following surgery alarms the Ministry of Public Security.” [四川：手术之后男变女换证惊动公安部]. *Hebei Daily*, May 19, 2011. <http://www.aibai.com/infoview.php?id=473> (accessed October 20, 2014).

221 Lü Qunrong. “Recommendations for protective legislation for the civil rights of transsexuals.” [变性人的民事权益保护立法建议] *Henan Social Sciences*, Vol. 18, No. 3 (May 2010): 202-204.

222 Zuo Chen. “The 20-year road of legalizing gender reassignment surgery.” [变性手术20年合法路]. *Law and Life Magazine*, August 28, 2009. <http://news.sina.com.cn/c/sd/2009-08-28/153618532895.shtml> (accessed October 20, 2014).

no professional standards, no patient standards) weaving along at top speed. Without laws and ethics to control its balance, this vehicle had to rely on doctors' personal integrity and the profession's "unwritten rules" to steer it along.<sup>223</sup>

In 2009, the Ministry of Health issued "(Trial) Management Standards for Gender Reassignment Surgery," which put China's SRS on the path of standardization. The broad effect of these standards supports transgender people's right to seek and undergo SRS.<sup>224</sup> It also showed the government's understanding of the need to regulate such procedures. The "Standards" strictly designate the qualifications required for hospitals and medical personnel to carry out SRS. Only hospitals that have had established plastic surgery departments for at least ten years can offer SRS, and these hospitals must have ethics committees and experienced technical personnel.<sup>225</sup>

However, the "Standards" also place strict requirements on patients. A patient requesting SRS has to provide a series of certificates, including a permit from a public security bureau showing that the patient has no criminal record, a certificate from a psychiatrist, a notarized report from the patient requesting SRS, and a certificate showing that next of kin have been notified of the SRS. The patient must be unmarried, must have wanted to change gender for at least five years, and must have undergone psychiatric treatment for at least one year without being dissuaded.<sup>226</sup>

All of these conditions are problematic and raise issues of the right to a private and family life, as well as practical implementation issues. Scholars have already argued in China that requiring married patients to divorce before the procedure violates the rights of the parties concerned.<sup>227</sup> There have also been cases in which patients could not

### ***A World of Barriers***

A patient requesting sex reassignment surgery (SRS) in China must provide a series of certificates, including:

- 1) a permit from a public security bureau showing that the patient has no criminal record;
- 2) a certificate from a psychiatrist;
- 3) a notarized report from the patient requesting SRS;
- 4) a certificate showing that next of kin have been notified of the SRS.

The patient must also:

- 1) be unmarried;
- 2) have wanted to change gender for at least five years;
- 3) have undergone psychiatric treatment for at least one year without being dissuaded."<sup>223</sup>

<sup>223</sup>Zuo Chen, *ibid.*

<sup>224</sup>Tom Mountford, "The Legal Position and Status of Lesbian, Gay, Bisexual and Transgender People in the People's Republic of China." March 2010.

<sup>225</sup>"(Trial) Management Standards for Gender Reassignment Surgery."

<sup>226</sup>"(Trial) Management Standards for Gender Reassignment Surgery."

<sup>227</sup>Wu Guoping. "An exploratory analysis of the right for transsexuals to change sex after marriage and problems in their marital and family relations." [变性人婚后变性权及其婚姻家庭关系问题探析]*Journal of the Southwest University of Political Science and Law*, Vol. 13, No. 3 (June 2011): 59-68.

obtain the consent of family members and so were rejected for SRS; in their despair they mutilated themselves by cutting off their own male sex organs in order to achieve their goal.<sup>228</sup>

In China, SRS is also a relatively expensive procedure and is not included under medical insurance plans. Given the amount of trouble involved in undergoing SRS in China, many people choose to travel to Thailand and have it done there.

### ***Gender alteration in documents***

States have legitimate reasons for registering people's sex at birth, and for regulating the manner in which people can change their gender marker on documents later in life. Sex is one characteristic used to identify people and government bodies may need to have access to this information to carry out their duties. In some contexts the state has specific, positive obligations to protect people from risk, for example, by mandating separate facilities, such as prisons, for men and women; or it may need to use data segregated by gender to further policies on equality or inform gender-specific health policies such as those targeting maternal health and prostate cancer.<sup>229</sup>

Chinese law allows transgender people to change their gender marker on official documents only on condition that they have altered their bodies through hormones and surgeries. These requirements routinely leave transgender people with identity documents that do not match their gender identity, resulting in frequent public humiliation, vulnerability to discrimination, and great difficulty finding or holding a job. The conditions imposed by Chinese law violate transgender people's rights to personal autonomy and physical integrity and deny transgender people the ability to define their own gender identity. Making hormones and surgery a mandatory requirement for legal recognition of transgender people's gender identity ignores their individual circumstances, and leaves some with the impossible choice between having surgery so as to have access to correct identity documents, or not having surgery and living with the wrong documents for the rest of their life.

Chinese law allows transgender persons to change the gender marker on their household registration permits (hukou) and identity cards, but this can only be done after undergoing SRS. The Ministry of Public Security in 2008 issued an official reply to a question submitted by Shangdong Province Public Security Bureau to a request

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<sup>228</sup> Interview with Yanyan, Shanghai, June 24, 2014.

<sup>229</sup> Human Rights Watch, "Controlling Bodies, Denying Identities," September 2011. <http://www.hrw.org/sites/default/files/reports/netherlands0911webwcover.pdf> (accessed November 3, 2014).

for “Instructions requested on how citizens can change the gender on their Hukou registration document after undergoing SRS abroad”. As the reply was by the Ministry of Public Security it can be considered as a national regulation, and the response details a set of requirements to implement the bureaucratic process of gender marker change on household registration permits. Part of the process includes the requirement of a gender authentication certificate issued by a third class hospital, a notarization from a notarizing department, and/or a certificate from a judicial department agreeing to the gender identity change on the document.<sup>230</sup>

In Guangdong Province, for example, in addition to the PSB’s requirements, the provincial authorities also require a certificate showing that the personnel department of the person’s workplace, organization, school, enterprise or other unit has approved the alteration of the person’s gender marker.<sup>231</sup> This necessitates that the person must notify his or her place of employment or education and obtain consent and approval before being authorized to legally change the gender marker on the documents.

ID and household registration documents are issued under the jurisdiction of local public security organs, and so the alteration, examination and approval of gender on documents also falls under their domain.<sup>232</sup> All of the transgender sex workers interviewed for this report had chosen to live hidden in cities far from their hometowns, where they can live more freely as their chosen gender among strangers. However, in order to change ID and household registration documents, they would need to return to their home town, risking exposure to old acquaintances and family. This is a major deterrent for people to engage in the process to change the gender marker on their documents, notwithstanding the obstacles also posed by SRS.

### ***Alteration of student rolls and academic records***

Although at a lower level, there are policies to follow for the alteration of gender on hukou and ID cards, there are no unified regulations for altering gender on school rolls or academic records. School records acknowledge a student’s enrollment at the school<sup>233</sup> and are managed by colleges and universities. If a student changes their gender identity while enrolled at a school, the school records can be changed, and

<sup>230</sup> Ministry of Public Security of the People’s Republic of China. “Reply to Questions Regarding the Alteration of Gender on *Hukou* Certificates for Citizens Who Have Undergone Surgical Sex Change.” [中华人民共和国公安部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]. October 23, 2008.

<sup>231</sup> Guangdong Provincial Public Security Bureau. “The Alteration of Gender on *Hukou* Certificates for Citizens Who Have Undergone Surgical Sex Change,” August 22, 2011. [http://zwgk.gd.gov.cn/006940140/201108/t20110822\\_267369.html](http://zwgk.gd.gov.cn/006940140/201108/t20110822_267369.html) (accessed November 11, 2014).

<sup>232</sup> Ministry of Public Security of the People’s Republic of China. “Reply to Questions Regarding the Alteration of Gender on *Hukou* Certificates for Citizens Who Have Undergone Surgical Sex Change.”

<sup>233</sup> China Higher Education Student Information and Career Center, “Frequently asked questions regarding the online registry of educational qualifications.” [学籍电子注册相关疑问解答] <http://www.chsi.com.cn/help/xjcx.jsp> (accessed November 11, 2014).

**“The fact that there are no clear procedures on how to change school records following gender reassignment is extremely problematic and will impact an individual’s ability to gain employment or other pursuits that require educational documentation as a prerequisite.”**

many provinces have policies on alteration of the school rolls. In Hubei, for example, current students that have changed gender information on their hukou can change their gender in the students enrollment, but only after providing a series of certificates to the school administration.<sup>234</sup> Likewise, Guizhou Province requires students to provide their hukou booklet, a photocopy of their ID card and certificates from the local police station and county-level public security bureau in order to make the alteration.<sup>235</sup>

If a student wishes to change their gender marker after graduation, it is almost impossible to retro-

actively change the gender information in academic records. The academic certificate is issued by the Ministry of Education (MOE), but at present there is no policy regarding how to change information on education certificates. A blogger named Yixi Qingrao described how he had to visit several departments to ask how to change the gender marker on his education records. He was told he would have to hand the material over to the school’s dean’s office, and the dean’s office would pass the material up to the provincial education bureau. After examining and verifying the material, the provincial education bureau would send an application letter to the MOE. The MOE would change the electronic education records and then the material would be passed back down through the various levels. Yixi Qingrao submitted his material as required, but after he’d waited for more than a month, the school refused to submit his material to the next level, so there was no recourse for him to change the gender information in his school records. His recommendation online was that other transgender persons who needed school records for job applications should use forged certificates or altered photocopies.<sup>236</sup>

The fact that there are no clear procedures on how to change school records following gender reassignment is extremely problematic and will impact an individual’s ability

234“(Trial) Detailed Rules and Regulations for the Alteration of Key Information on the Hubei Province Ordinary Higher Education Electronic Student Registry,” [湖北省普通高等教育学籍电子注册关键信息变更工作细则(试行)] December 19, 2012. Article 6, para 8: Those altering their *hukou* gender while enrolled in school must provide an original alteration certificate issued by the county-level public security organ. The last page of the *hukou* booklet or collective registered residence recording the alteration should also be provided. The certificate should clearly record the reason for the alteration, the content before and after alteration, the time of alteration and the contact telephone number for the work unit issuing the certificate.

235 Guizhou Provincial Education Bureau Students Office Document No. [2009] 195, “Provincial Education Bureau Notice Regarding Further Standardization of Management Procedures for Altering the Information of Higher Education Students.” [省教育厅关于进一步规范高等学校学生信息修改办理程序的通知] July 13, 2009. <http://xsc.gzs.edu.cn/Item/11344.aspx> (accessed November 11, 2014).

236 Yixi Qingrao. “How to change student records.” [关于如何改学历] *Baidu Tieba*, November 21, 2013. <http://tieba.baidu.com/p/2716786762> (accessed November 11, 2014).

to gain employment or other pursuits that require educational documentation as a prerequisite.

### ***Marital rights***

At present, Chinese law does not contain any specific provisions regarding the ability of transgender persons to marry, nor does it place any articulated restrictions on this right.<sup>237</sup> Transgender people do, however, need to conform to legal stipulations in order to register for marriage. This includes completing SRS (possessing the physiological characteristics of the other sex) and the alteration of the gender on the person's hukou and ID card (i.e., acquiring legal gender).<sup>238</sup> China has not legalized same-sex marriage and defines marriage as a union between a man and a woman.<sup>239</sup>

In actual practice, there have been instances of transgender people who have undergone SRS marrying in China. In 2008, a Sichuan native named Zhang Lin married her boyfriend, Yang Qicheng, after undergoing SRS.<sup>240</sup> A small survey among transgender people in China showed that of 108 who underwent SRS under one expert in the field, 54 have since married.<sup>241</sup>

## **International Framework**

Transgender individuals live with heavy stigma directed against their person, their lifestyle, often their chosen profession and their chosen identity. They are routinely marginalized and suffer from severe prejudice and violence.

The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, is a foundational human rights document that spurred the promulgation of a series of international human rights laws. The Declaration emphasizes the universality and indivisibility of human rights for all and offers specific protections, particularly on non-discrimination. As a United Nations member state, China has accepted the UDHR, whose provisions are broadly accepted to be international customary law.

Although human rights treaties emphasize the state's duty to protect human rights,

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<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*

<sup>239</sup> Zhang Yingxiu. *Research on the Marriage System*. [结婚制度研究] (Shandong University Press, 2009): 54.

<sup>240</sup> Song Linfeng. "The atypical four-year marriage of China's first transsexual to register for marriage." [国内首位登记结婚变性人的4年非典型婚姻]. *Chengdu Evening News*, April 30, 2008. <http://news.sohu.com/20080430/n256599805.shtml> (accessed November 11, 2014).

<sup>241</sup> Wu Guoping. "An exploratory analysis of the right for transsexuals to change sex after marriage and problems in their marital and family relations."

the international community's legal and policy response to violations related to sexual orientation and gender identity has been piecemeal and disjointed. In order to strengthen the consensus in international human rights law on this question, in 2006 a group of international experts issued the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity. The principles, endorsed by the UN, outlined a universal guide to human rights which affirmed the binding international legal standards with which all States must comply to ensure the universal reach of human rights protections. The Principles specifically outlined human rights obligations for States of distinct relevance to individuals at risk of violations due to sexual orientation or gender identity.<sup>242</sup>

Gender identity as a basic right is also being developed at a policy and normative level through various UN mechanisms. In June 2011, The UN Human Rights Council adopted the UN's first resolution regarding sexual orientation and gender identity, expressing "grave concern" over violence and discrimination against individuals based on their sexual orientation and gender identity.<sup>243</sup> China cast an abstaining vote on this resolution.<sup>244</sup>

The resolution requested the UN High Commissioner for Human Rights to prepare a report and convene a panel to discuss the findings and recommendations. The High Commissioner's report, released in November 2011, examined discriminatory laws and practices on sexual orientation and gender identity, and included broad recommendations to States on how to apply international human rights law to end violence and human rights violations targeting sexual orientation and gender identity.<sup>245</sup> In March 2012, the panel was established, marking the first time that a UN intergovernmental body would engage in formal discussions regarding violence and discrimination aimed at sexual orientation and gender identity.<sup>246</sup> However, the progress has not been uniform and, in September 2012, the Human Rights Council passed a resolution on "promoting human rights and fundamental freedoms through a better understanding of traditional values for humankind".<sup>247</sup> The resolution can be

<sup>242</sup> The Yogyakarta Principles, [http://www.yogyakartaprinciples.org/principles\\_en.htm](http://www.yogyakartaprinciples.org/principles_en.htm) (accessed November 11, 2014).

<sup>243</sup> Human Rights Council. "Human Rights, sexual orientation and gender identity." July 14, 2011. (A/HRC/RES/17/19) [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf) (accessed November 11, 2014).

<sup>244</sup> Human Rights Watch, "Historic Decision at the United Nations. Human rights Council passes first-ever resolution on sexual orientation and gender identity". June 17, 2011. <http://www.hrw.org/news/2011/06/17/historic-decision-united-nations> (accessed November 11, 2014).

<sup>245</sup> Report of the United Nations High Commissioner for Human Rights. "Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity," Human Rights Council Nineteenth session. November 17, 2011. [http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41\\_English.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf) (accessed November 11, 2014).

<sup>246</sup> "United Nations Human Rights Council Panel on Sexual Orientation and Gender Identity," *OHCHR*, March 2012. <http://www.ohchr.org/en/Issues/Discrimination/Pages/PanelSexualOrientation.aspx> (accessed November 11, 2014).

<sup>247</sup> Human Rights Council, Twenty-first session. "Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind: best practices". A/HRC/RES/21/3, October 9, 2012. <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G12/173/96/PDF/G1217396.pdf?OpenElement> (accessed December 11, 2014).

considered to undermine LGBT rights as, underpinning the resolution, is an argument that homosexuality is an issue of morality and not of rights.<sup>248</sup>

Equality and non-discrimination are basic principles of international human rights law and recent authoritative and expert interpretations from relevant treaty monitoring bodies have explicitly included gender identity, as a prohibited ground. For example, the Committee on Economic, Social and Cultural Rights General Comment No. 20 noted: "...gender identity is recognized as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace."<sup>249</sup>

In addition, in General Recommendation No.28 on the core obligations of States parties, the Committee on the Elimination of Discrimination against Women emphasizes that the core obligation of States parties to the Convention is to legally prohibit discrimination, including that based on sexual orientation and gender identity.<sup>250</sup> The Committee on the Rights of the Child has also interpreted Article 2 of the International Convention on the Rights of the Child to include gender identity, and emphasizes that States parties must solve the problems of bias, vulnerability or marginalization experienced by groups of children, including those who are lesbian, gay, transgender or transsexual.<sup>251</sup>

Aside from General Comments, the UN's treaty bodies have, in their concluding observations, recommendations, and other documents consistently held that sexual orientation and gender identity are prohibited grounds of discrimination under international law. The reports of the human rights treaty bodies and special procedures have well documented systematic violence and discrimination directed at people in all regions because of their sexual orientation and gender identity—from discrimination in employment, health care and education, to criminalization and targeted physical attacks and killings.<sup>252</sup>

China is both a member state of the United Nations and signatory to numerous human

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248 Graeme Reid, " 'Traditional Values' code for human rights abuse?" Human Rights Watch, October 17, 2012. <http://www.hrw.org/news/2012/10/17/traditional-values-code-human-rights-abuse> (accessed November 11, 2014).

249 Committee on Economic, Social and Cultural Rights, General Comment No. 20, UN Doc. E/C.12/GC/20 (2009) "Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)," <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20.doc> (accessed November 11, 2014).

250 Committee on the Elimination of Discrimination against Women, "General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women," December 16, 2010, CEDAW/C/GC/28. [http://www.humanrights.ch/upload/pdf/110524General\\_recomm\\_no\\_28\\_English.pdf](http://www.humanrights.ch/upload/pdf/110524General_recomm_no_28_English.pdf) (accessed November 11, 2014).

251 Committee on the Rights of the Child, General comment No. 13 (2011), "The right of the child to freedom from all forms of violence," CRC/C/GC/13, April 18, 2011. [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGC%2f13&Lang=en) (accessed November 11, 2014), paras 60 and 72(g)

252 For a comprehensive overview of international human rights treaty law related to sexual orientation and gender identity, please see United Nation Human Rights Office of The High Commissioner, "Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law," HR/PUB/12/06 (2012). <http://www.ohchr.org/documents/publications/bornfreeandequalowres.pdf> (accessed November 11, 2014).

rights treaties.<sup>253</sup> As such, China has binding treaty obligations to ensure the promotion and protection of human rights for all, particularly on enforcing non-discrimination in all spheres and ensuring access to an adequate standard of health. As the Office for the High Commissioner of Human Rights argues, “The protection of people on the basis of sexual orientation and gender identity does not require the creation of new rights or special rights for LGBT people. Rather, it requires enforcement of the universally applicable guarantee of nondiscrimination in the enjoyment of all rights.”<sup>254</sup>

On 22 October 2013, the UN Human Rights Council conducted China’s second Universal Periodic Review. The issues of sexual orientation and gender identity were raised and discussed before and during the review and China did accept the recommendations to: “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)”; and to “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)”.<sup>255</sup>

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<sup>253</sup> China has ratified the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. China has also signed the International Covenant on Civil and Political Rights.

<sup>254</sup> United Nation Human Rights Office of The High Commissioner, “Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law,” HR/PUB/12/06 (2012). <http://www.ohchr.org/documents/publications/bornfreeandequalowres.pdf> (accessed November 11, 2014).

<sup>255</sup> Human Rights Council, Twenty-fifth session. “Report of the Working Group on the Universal Periodic Review China (including Hong Kong, China and Macao, China),” A/HRC/25/5, December 4, 2013. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/188/55/PDF/G1318855.pdf?OpenElement> (accessed December 13, 2014).

## IV. Conclusions and Recommendations

In China, transgender people do not necessarily face outright legal penalties, but the absence of non-discrimination laws and lack of enforcement of overarching policies on non-discriminatory access to healthcare and HIV related services, means they are left without effective protection. Transgender people face varying degrees of discrimination in their daily lives, including at school, in the workplace, in housing and in obtaining medical treatment. Transgender sex workers are further oppressed by the police and, due to social and other factors are forced to engage in high risk activities that put them at increased risk of HIV and STD infection.

China lacks a legal and policy framework to address these issues, within a context of an ultra-conservative philosophy of “not encouraging, not discouraging and not promoting.”<sup>256</sup> This attitude is preventing any progress on safeguarding the interests of China’s minorities. In a recent resolution passed by the UN Human Rights Council regarding “Human Rights, Sexual Orientation and Gender Identity” in September 2014, China again cast an abstaining vote.<sup>257</sup>

**“The community of female presenting sex workers is very complex and includes MSM, transgender people and transsexuals. Their vulnerabilities to HIV and their varied health needs need to be carefully assessed, strategically targeted and addressed.”**

China has also paid little attention to transgender people in its HIV-prevention work and the 12<sup>th</sup> Five Year Action Plan for China’s HIV/AIDS Control, Prevention and Treatment strategy does not include a program of work for the transgender community. Although some provinces and cities have become conscious of the problem of HIV risks in the transgender community, they have not yet taken action. A study in Chengdu in 2010 found that the transgender community there was comprised mainly of cross-dressing performers, street-based sex workers and transsexuals totaling around 300 in number. Among them, street-based sex workers and transsexuals, numbering around 100, mainly serviced heterosexual men, and there was little contact with the MSM community. Despite authoritative international guidelines recommending targeted transgender focused interventions to reduce and combat HIV prevalence in this community, because of the small number of people, Chengdu’s local authorities

<sup>256</sup> Tom Mountford, “The Legal Position and Status of Lesbian, Gay, Bisexual and Transgender People in the People’s Republic of China.” March 2010.  
<sup>257</sup> Human Rights Council. “Human Rights Council adopts resolution on sexual orientation and gender identity and concludes twenty-seventh session.” September 26, 2014. <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15109&LangID=E> (accessed December 13, 2014).

decided to treat transgender people as a subgroup of MSM, rather than establish stand-alone HIV-prevention programs for them.<sup>258</sup>

The research for this report illuminates that the community of female presenting sex workers is very complex and includes MSM, transgender people and transsexuals. Their vulnerabilities to HIV and their varied health needs must be carefully assessed, strategically targeted and addressed. As China is the process of drafting a new HIV/AIDS action plan for 2016-2020, now is a good opportunity to develop a specific strategy on HIV prevention and care for the transgender community.

At the global level, the health and rights of the transgender community are drawing increasing attention and concern. At the 20th International AIDS Conference in Melbourne, Australia in 2014, concrete epidemiological statistics were used to show the high risk of HIV infection faced by the transgender community. At that conference, the World Health Organization launched new “Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations,” which included recommendations for interventions targeting five groups, including transgender people. WHO noted the five groups were people who were “most at risk of HIV infection yet are least likely to have access to HIV prevention, testing and treatment services. In many countries they are left out of national HIV plans, and discriminatory laws and policies are major barriers to access.”<sup>259</sup>

The Global Fund to Fight AIDS, Tuberculosis and Malaria is the world’s largest health financing organization for the each of the three diseases on which it focuses. In consideration of the increased vulnerability of sexual minorities caused by social expectations regarding gender, and the consequent effect on the health of these minorities, the Global Fund formulated a “Global Gender Equality Strategy” and a “Global Fund Sexual Orientation and Sexual Identities Strategy.” These strategies provide concrete guidance on how Global Fund projects concern themselves with problems of sexual orientation and gender identity.<sup>260</sup>

At the same time, more states have been acknowledging transgender communities in their laws. In April 2014, the Supreme Court of India issued a ruling recognizing “third gender,” allowing the choice of a third gender beside male or female, and the

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258 Chengdu Tongle Health Counseling Service Center. “Assessment analysis report on the scale and sexual health needs and behavior of the MSM subgroup in Chengdu.” [成都市MSM亚群体规模及性健康需求和行为评估分析报告]. June 2011.

259 World Health Organization. “WHO: People most at risk of HIV are not getting the health services they need.” July 11, 2014. <http://www.who.int/mediacentre/news/releases/2014/key-populations-to-hiv/en/> (accessed November 15, 2014).

260 The Global Fund to Fight AIDS, Tuberculosis and Malaria. “The Global Fund Strategy in Relation to Sexual Orientation and Gender Identity.” [http://www.theglobalfund.org/documents/core/strategies/Core\\_SexualOrientationAndGenderIdentities\\_Strategy\\_en/](http://www.theglobalfund.org/documents/core/strategies/Core_SexualOrientationAndGenderIdentities_Strategy_en/) (accessed November 15, 2014).

right of transgender women to be recognized as female and transgender men to be recognized as male. This was considered a landmark ruling symbolizing legal approval for India's millions of "hijra," and the broader transgender community.<sup>261</sup> In November 2014, a Malaysian Appeals Court ruled that a state Sharia-law ban on cross-dressing was unconstitutional <sup>262</sup> and Nepal, Bangladesh, Pakistan, Australia, Germany and other countries now all recognize a third gender.<sup>263</sup>

Similar changes are occurring in the educational sphere. In May 2014, the Education Department of Vancouver, Canada amended its 2004 regulations on "Sexual Orientation and Gender Identity." The most significant changes in the draft amendments relate to transgender students: Students can decide

their attire based on their gender identity, and students have the right to choose which toilet or locker room to use based on their gender identity. Being transgender is defined to not just include people who have undergone SRS, but also those who express their gender identity through their attire and their names.<sup>264</sup>

In many aspects, transgender female sex workers face similar challenges to other sex workers. However, these challenges are often magnified by the double stigma and discrimination associated with sex work and a transgender identity. In places where sex work is criminalized, sex workers are at significant risk of experiencing violence in the course of their work, often as a result of punitive law enforcement practices. As a result, the sex-work sector invariably restructures itself to avoid punishment. This often leads to a move of the sex worker population, often

**"In many aspects, transgender female sex workers face similar challenges to other sex workers. However, these challenges are often magnified by the double stigma and discrimination associated with sex work and a transgender identity. In places where sex work is criminalized, sex workers are at significant risk of experiencing violence in the course of their work, often as a result of punitive law enforcement practices."**

261 Dhananjay Mahapatra. "Supreme Court Recognizes Transgenders as Third Gender." *Times of India*, April 15, 2014. <http://timesofindia.indiatimes.com/India/Supreme-Court-recognizes-transgenders-as-third-gender/articleshow/33767900.cms> (accessed November 15, 2014).

262 "Malaysian court overturns law that banned cross-dressing." *The Guardian*, November 7, 2014. <http://www.theguardian.com/world/2014/nov/07/transgender-malaysia-court-law-crossdressing-appeal> (accessed November 14th, 2014).

263 Zhang Baoyu. "India recognizes 'third gender.'" *Youth Reference*, April 24, 2014. [http://news.ifeng.com/a/20140424/40028659\\_0.shtml](http://news.ifeng.com/a/20140424/40028659_0.shtml) (accessed November 15, 2014); Lucien Mae, "Hijras recognized as third gender in Bangladesh." *Four Two Nine*. November 14, 2013. <http://dot429.com/articles/3467-hijras-recognized-as-third-gender-in-bangladesh> ((accessed November 15, 2014); Ria Misra, Pakistan Recognizes Third Gender. *Huffpost Politics*. <http://www.politicsdaily.com/2009/12/25/pakistan-recognizes-third-gender/> ((accessed November 15, 2014).

264 Vancouver School Board, "Draft Revised Policy and Regulation: Sexual Orientation and Gender Identities (ACB and ACB R-1 ACB)," April 10, 2014. <http://www.vsb.bc.ca/sites/default/files/C3%20%20item%202%20ACB%20draft%20policy%20and%20reg%20memo%20all.pdf> (accessed November 15, 2014).

towards unsafe areas, and reduced “bargaining power” of sex workers in choosing clients and negotiating condom use.<sup>265</sup> It also inhibits sex workers from seeking police protection against violence.<sup>266</sup>

Numerous international agencies have concluded that decriminalization of sex work and sex worker involvement in policy formation on issues that affect them directly, is the best way to address human rights violations against sex workers and increase the access and effectiveness of HIV services.<sup>267</sup>

In the 2012 joint report by UNAIDS, UNFPA and UNDP “Sex Work and the Law in Asia and the Pacific”, the agencies recommended decriminalization as the most effective way “to enable sex workers to fully enjoy rights to health and safety in the workplace.”<sup>268</sup> Decriminalization was articulated as the repeal of: laws explicitly criminalizing sex work or clients of sex workers; laws that criminalize activities associated with sex work, including removal of offences relating to: soliciting; living on the earnings of sex work; procuring; pimping; the management and operation of brothels; and promoting or advertising services; laws that require mandatory HIV or STI testing or treatment of sex workers; laws that authorize the compulsory detention of sex workers for the purposes of re-education, rehabilitation or correction. ”<sup>269</sup>

In its 2012 report, the Global Commission on HIV and the Law called for countries to reform their approach towards sex work, and to decriminalize sex work and sex work related activities and ensure safe working conditions for sex workers.<sup>270</sup> In its recommendations for programming for sex workers on HIV and sexually transmitted infections, WHO, UNFPA, UNAIDS and the Global Network of Sex Work Projects recommended that all countries work toward decriminalization of sex work and elimination of unjust application of non-criminal laws and regulations against sex workers.<sup>271</sup>

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265 Anand Grover, “Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,” A/HRC/14/20, April 27, 2010. <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.20.pdf> (accessed November 15, 2014).

266 Susanne Y.P. Choi and Eleanor Holroyd, “The influence of power, poverty and agency in the negotiation of condom use for female sex workers in mainland China,” *Culture, Health & Sexuality*, September-October 2007, 9(5): 489-503.

267 UNAIDS Reference Group on HIV and Human Rights, “5 Issue Paper for the Session: HIV, sex work and human rights. Fifteenth Meeting, December 4-6 2013,” <http://www.hivhumanrights.org/commitmenttohumanrights/wp-content/uploads/downloads/2014/09/5-Sex-work-issue-paper-FINAL-rev-post-mtg.pdf> (accessed November 15, 2014).

268 UNAIDS, UNFPA and UNDP. “Sex work and the law in Asia and the Pacific,” Geneva, 2012. <http://www.undp.org/content/dam/undp/library/hiv/English/HIV-2012-SexWorkAndLaw.pdf> (accessed November 15, 2014).

269 *Ibid*

270 Global Commission on HIV and the Law, “Risk, Rights and Health,” July 2012. <http://www.hivlawcommission.org/resources/report/FinalReport-Risks,Rights&Health-EN.pdf> (accessed November 15, 2014).

271 WHO, UNFPA, UNAIDS, NSW, “Prevention and Treatment of HIV and other Sexually Transmitted Infections for Sex Workers in Low- and Middle-income Countries,” December 2012.

## **Recommendations To the Chinese government:**

1. Prohibit discrimination on the grounds of gender expression, gender identity, and sexual orientation. Anti-discrimination legislation must include gender identity and sexual orientation as protected categories.
2. Develop transparent and efficient procedures, based on international human rights standards, to allow citizens the right to change their gender marker on legal documents on the basis of their gender identity, including ID cards, passports, household registration, educational certificates and other documents;
3. Amend the law in such a way that transgender people can apply to have the gender marker on their documents changed without having to satisfy any medical conditions. In particular, abolish the current pre-condition of sex reassignment surgery.
4. Support HIV and health services targeting the needs of transgender people. Include targeted programming for the transgender community, including those who are sex workers, in the new HIV/AIDS action plan for 2016-2020, including the development of a supportive legal environment. China's HIV sentinel surveillance system should particularly include the transgender community and understand the epidemiological situation of this group. HIV prevention efforts should distinguish transgender people from MSM and provide services tailored to them.
5. Fund the collection and analysis of data on the human rights and health situation of transgender persons, including the discrimination and intolerance they encounter, with due regard to the right to privacy of the persons concerned.
6. Support community based organizations in their efforts to provide health, legal, and other services to transgender people. Legally acknowledge the status of community organizations, allow them to register and provide them with financial support.
7. In consultation with transgender people and organizations representing them, fund education and training programs and awareness-raising campaigns to promote respect for the human rights of transgender people.
8. Provide training for healthcare workers on gender identity, non-discrimination,

and the specific needs and rights of transgender persons; ensure the availability, accessibility, acceptability, and quality of medical and psychological services and support required by transgender people, including for transitioning.

9. Use WHO and UNODC guidelines and principles to develop harm reduction<sup>272</sup> services for Amphetamine-type stimulants (ATS) users in the community, provide interventions designed to mitigate the potential harm from ATS use and concomitant lifestyle.
10. Stop police abuse and extortion against sex workers, provide law enforcement officers with training and sensitization on human rights, gender identity, and non-discrimination towards transgender people.
11. Investigate and punish abusive and otherwise improper treatment of all sex workers; due diligence includes actions to prevent, investigate and punish violations by responding to all incidents.

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<sup>272</sup> "Harm reduction" refers to policies, programs and practices that aim primarily to reduce the adverse health, social and economic consequences of the use of legal and illegal psychoactive and narcotic drugs, without necessarily reducing drug consumption. (From WHO Technical Briefs on amphetamine-type stimulants (ATS)2 Harm reduction and brief interventions for ATS users).

## **Recommendations To International Donors:**

1. Fund HIV and health services targeting the needs of transgender people. On the basis of concrete evidence and experience, including the guidelines formulated by the World Health Organization, the Global Fund and UN organs, support a national AIDS strategy that includes transgender people, including the development of a supportive legal environment.
2. Fund community based organizations in their efforts to provide health, legal and other services to transgender people.
3. Fund the collection and analysis of data on the human rights and health situation of transgender persons, including the discrimination and intolerance they encounter, with due regard to the right to privacy of the persons concerned.
4. Support training to health service professionals, including psychologists, psychiatrists and general practitioners, as well as social workers, with regard to the specific needs and rights of transgender persons and the requirement to respect their dignity.

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## About the Researchers

### **Asia Catalyst**

Asia Catalyst works with community based organizations from marginalized groups in Asia that promote the right to health. We train our partners to meet high standards of effective and democratic governance, to establish a stable foundation for future growth, and to conduct rigorous human rights research and advocacy. We aim to help our partners become leading advocates at the local, national and global levels.

For more information, see [www.asiacatalyst.org](http://www.asiacatalyst.org).

### **About Shanghai CSW&MSM Center**

Shanghai CSW (commercial sex worker)&MSM (men who have sex with men) Center is a non-governmental, non-profit organization which focuses on the rights and well-being of vulnerable sexual minorities. Our work is devoted to improving the environment surrounding these communities and improving their access to better medical and legal services. In addition, we also cooperate with numerous academic institutions, mass media outlets, and other social institutions. We do our best to improve the environment of these vulnerable groups. For more information, see [www.shscmc.org](http://www.shscmc.org).

### **About Beijing Zuoyou Information Center**

Beijing Zuoyou Information Center is a non-profit organization dedicated to the eradication of violence and discrimination against MSM/transgender sex workers in the Beijing area because of their profession and the promotion of their equal rights.

Established in 2004, we work within the gay male community in HIV/AIDS awareness education through a variety of activities to promote health consciousness. In 2007 the Center began providing services to MSM/transgender sex workers in the Beijing area. These services include professional health and safety, medical referral and rapid STI tests. It has provided a platform for sex workers to exchange information and to mutually support each other. It has served as a mouth piece for sex workers to ask for the end of discrimination and prejudice. For more information, see [www.bjzuoyou.org](http://www.bjzuoyou.org).

## Annex 1: Demographic Breakdown of Interviewees

Category	Number	Percentage
<b>Age</b>		
16-24	4	5.71
25-30	39	55.71
31-40	22	31.43
≥40	5	7.14
<b>Marital status</b>		
Unmarried	57	76
Married	10	13.33
Divorced	3	4
With children	5	6.67
<b>Hukou <sup>273</sup> Registration</b>		
Local urban	2	2.86
Outer province	68	97.14
<b>Education</b>		
Illiterate	1	1.43
Primary school	4	5.71
Middle school	19	27.14
High school / technical school	40	57.14
University or above	6	8.57
<b>Transgender conditions</b>		
SRS	2	2.86
Breast implants	30	42.86
<b>Planning sex change</b>		
Yes	17	24.29
No	53	75.71
<b>Gender identity</b>		
Male	24	34.29
Female	30	42.86
Third gender	16	22.86

<sup>273</sup> A Hukou is a record in the system of household registration required by law in China. A household registration record officially identifies a person as a resident of an area and includes identifying information such as name, gender, parents, spouse, and date of birth.

## Annex 2: Management Standards for Gender Reassignment Surgery (Trial)

### 变性手术技术管理规范（试行）

为规范变性手术技术审核和临床应用, 保证医疗质量和医疗安全, 制定本规范。本规范为技术审核机构对医疗机构申请临床应用变性手术技术进行技术审核的依据, 是医疗机构及其医师开展变性手术的最低要求。

本规范所称变性手术, 是指通过整形外科手段(组织移植和器官再造)使易性癖病患者的生理性别与其心理性别相符, 即切除其原有的性器官并重建新性别的体表性器官和第二性征。

#### 一、医疗机构基本要求

(一) 医疗机构开展变性手术技术应当与其功能、任务相适应。

(二) 三级甲等综合医院或整形外科医院, 有卫生行政部门核准登记的整形外科诊疗科目。

(三) 医院设有管理规范、运作正常的由医学、法学、伦理学等方面专家组成的变性手术技术临床应用伦理委员会。

(四) 整形外科。

1. 设置整形外科10年以上+, 床位20张以上, 有较强的整形外科工作基础。

2. 能独立完成整形外科各种手术, 包括器官再造和组织移植。

3. 病房设施便于保护变性手术患者隐私和进行心理治疗等。

(五) 有至少2名具备变性手术技术临床应用能力的本院在职医师, 有经过变性手术相关知识和技能培训并考核合格的、与开展的变性手术相适应的其他专业技术人员。

#### 二、人员基本要求

(一) 手术组由整形外科医师为主组成, 必要时可有其他相关科室医师参与。

(二) 手术者: 取得《医师执业证书》的本院在职医师, 执业范围为整形外科, 具有副主任医师及以上专业技术职务任职资格; 从事整形外科临床工作10年以上, 其中有5年以上参与变性手术临床工作的经验, 曾独立完成10例以上的生殖器再造术。

(三) 第一助手: 从事整形外科临床工作5年以上的整形外科医师, 或者其他相关科室具有主治医师以上专业技术职务任职资格的医师。

#### 三、技术管理基本要求

(一) 遵循整形外科以及相关学科诊疗规范和技术操作常规。

(二) 变性手术的实施顺序: 生殖器的切除、成形是变性手术的主体手术, 任何改变第二性征的手术必须在性腺切除之后或与性腺切除术同期进行。

(三) 手术前要求患者必须提供的材料和应当满足的条件:

1. 手术前患者必须提交的材料:

(1) 当地公安部门出具的患者无在案犯罪记录证明。

(2) 有精神科医师开具的易性癖病诊断证明，同时证明未见其他精神状态异常；经心理学专家测试，证明其心理上性取向的指向为异性，无其他心理变态。

(3) 患者本人要求手术的书面报告并进行公证。

(4) 患者提供已告知直系亲属拟行变性手术的相关证明。

上述材料须纳入病历资料。

2. 手术前患者必须满足的条件：

(1) 对变性的要求至少持续5年以上，且无反复过程。

(2) 术前接受心理、精神治疗1年以上且无效。

(3) 未在婚姻状态。

(4) 年龄大于20岁，是完全民事行为能力人。

(5) 无手术禁忌证。

(四) 实施变性手术前，应当由手术者向患者充分告知手术目的、手术风险、手术后的后续治疗、注意事项、可能发生的并发症及预防措施、变性手术的后果，并签署知情同意书。

(五) 医院管理。

1. 实施变性手术前须经过医院和伦理委员会同意，获准后方可施行。

2. 完成每例次变性手术的一期手术后，将有关信息按规定报送至相应卫生行政部门。

3. 性腺切除后，送病理检查，其他组织视情况送病理检查。

4. 变性手术后，医院为患者出具有关诊疗证明，以便患者办理相关法律手续。

5. 医务人员应尊重患者隐私权。

(六) 开展变性手术的医疗机构应建立健全变性手术后随访制度，按规定进行随访、记录。

(七) 医疗机构和医师按照规定定期接受变性手术技术临床应用能力审核，包括病例选择、手术成功率、严重并发症、死亡病例、医疗事故发生情况、术后病人管理、病人生存质量、随访情况和病历质量等。

