

The Impact of China's Illegal Same-sex Marriage System on Homosexuality

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Abstract. Influenced by history and culture, China attaches great importance to collective interests, and the concept of "following the trend" is deeply embedded in the thinking patterns of every generation. Therefore, Chinese people are prone to develop non social pattern bias aversion. As a minority group, the LGBTQ+community undoubtedly contradicts China's deep-rooted traditional family model in terms of sexual orientation. This behavior pattern that does not conform to the "trend" is easily perceived by those who follow the "man-woman" family model as "breaking the rules", leading to disgust towards the LGBTQ+community. This disgust has always deepened society's prejudice against homosexuals. And this prejudice keeps the LGBTQ+community under pressure from various external parties, causing them to be naturally marginalized by society and facing various difficulties in their lives. In order to better protect the rights and interests of the LGBTQ+community, this article will point out the current dilemma of the LGBTQ+community in China,analyzing the relationship between this dilemma and the illegality of same-sex marriage in China.

Keywords: Homosexuality; same-sex marriage; rights of LGBTQ+community; Chinese law.

1. Introduction

In 2001, China removed homosexuality from the Third Edition of the Chinese Classification of Mental Disorders, which made the homosexual community no longer treated as patients in Chinese medical practice [1]. This has a positive impact on reducing the general public's aversion to non social biase [2]. Towards the LGBTQ+community. For example, more homosexuals are willing to "come out" after this, and because the reasons of they believe their behavioral costs have decreased. Clear identification with self-concept plays an important protective role in the psychological state of homosexuals. Getting rid of the title of mental illness has improved the survival situation of the LGBTQ+community psychologically, while reducing the reasons for their marginalization in society. Therefore, it is worth exploring the hypothesis that the legalization of same-sex marriage in China can have the same effect in this regard.

According to Freud's psychological research, everyone in society has a tendency towards bisexuality. So the true potential population of homosexuals in society should be 100% [1]. This statement may be a bit exaggerated, but at least it indicates-- love between the same sex is completely possible. However, not everyone can respect and understand the LGBTQ+community. Even though there has been a significant increase in the level of tolerance towards the LGBTQ+community in Chinese society compared to before, the government no longer considers homosexuality as illness or guilt. However, in the Civil Code launched in 2020, the subject of marriage is still defined as heterosexual couples, which means that same-sex marriage is not included in the scope of legal protection, or it does not recognize that same-sex romantic relationships can develop into marital relationships. At the same time, considering that the public generally holds a negative attitude towards homosexuality, same-sex marriage is not supported by the law, making it more difficult for same-sex relationships to be recognized and respected by the public. For example, research has shown that up to 80% of Chinese gay men have not revealed their true gender identity to the outside world [3]. The public's disapproval, in turn, affects opposition to same-sex marriage, thereby slowing down the process of legalizing same-sex marriage. This vicious cycle makes it even more difficult for them to break through their survival difficulties. In the situation where their own human rights are being compressed

to the extreme, many homosexuals have begun to seek remedies for their own rights by infringing on the rights of others, such as the "fraudulent marriage" behavior that will be discussed in this article.

According to relevant data statistics, the population of homosexuals in China has exceeded 70 million, and even though they are still a minority group compared to heterosexual groups, this does not mean that their rights can be ignored, in contract, it represents the urgency of relieving their rights, because minority groups have been regarded as vulnerable groups, which means their rights are most vulnerable to oppression [4]. The oppression and exploitation of the rights of vulnerable groups are considered anti Marxist. This article will discuss this argument and explain the necessity of promoting the legalization of same-sex marriage.

2. The Survival Dilemma of the LGBTQ+community in China

As a minority group, the formation of survival difficulties for the LGBTQ+community mainly stems from discrimination by the majority. Human beings are social animals, and the opinions of others have a significant impact on their self-concept. Being discriminated against for a long time and living in an unrecognized social environment, people tend to feel pressure. Stress is always positively related to the incidence of mental illness. Therefore, homosexual groups have always been the groups with high incidence rate of mental illness, such as depression and bipolar disorder, which will seriously affect patients' physical health and social productivity. The emergence of diseases makes patients more "different" from the majority, and together with their homosexual identity, it forms a force that drives them to be marginalized by society, continuously compressing their rights.

2.1. Defining the LGBTQ+community and Homosexuality

"LGBTQ+" refers to a group that differs from most people in society in terms of sexual orientation, gender identity, sexual identity or behavior, including homosexuality, bisexuality, transgender, queer,etc. It can be seen that the LGBTQ+community includes homosexuals [5].

Homosexuals means: Driven by sexual drive, sexually mature individuals, who have full freedom in choosing their sexual partners, attach love to the same sex, voluntarily maintain intimate relationships with the same sex, engage in sexual activities with the same sex voluntarily, and obtain a sense of physical and mental pleasure in intimate relationships or same-sex sexual behavior [6].

2.2. High Incidence Rate of Mental Disorders among Homosexuals Influenced by the Low Self-esteem

Self-esteem is an individual's positive or negative evaluation of themselves [7]. Self esteem plays an undeniable mediating role between self-concept clarity and psychological well-being. Due to the inconsistency between sexual preferences and social expectations, it is easy to develop a sense of inferiority, which can lead to lower self-esteem during the growth process of homosexuals. For example, homosexuals is difficult to meet parents' expectations of their marriage model, so they always feel inferiority about their sexual orientation. Having a lower level of self-esteem will be harmful to the improvement of self-concept for homosexuals, as it means they lack recognition of their true selves, which can confuse social expectations with their true selves, thereby harming the improvement of their self-concept. Compared to heterosexuals, self-concept has a more important protective effect on the psychological well-being of homosexuals. And there is a positive correlation between lower psychological well-being and mental disorders [1]. Therefore, lower levels of self-esteem have a fundamental impact on the occurrence of mental disorders in homosexuality. It is the root of incorrect self-concept and lower psychological well-being.

Considering that Chinese society is still deeply influenced by traditional anti homosexual morality, the social atmosphere can easily lead to lower self-esteem levels among homosexuals, resulting in incorrect self-concept. This can lead to lower psychological well-being, thereby increasing the rate of mental disorders among homosexuals.

2.3. Homosexuality is Marginalized by Society

The LGBT community is a high-risk group for frequent mental illness, which brings a huge medical burden [8]. The lower level of self-esteem leads to confusion in the perception of self-concept among homosexuals, which makes them tend to hide their true selves in the crowd. Even if it does not develop into a mental disorders, the pressure caused by hiding oneself can make homosexuals display themselves more chaotic in social life, which makes others more confused about their behavior. This confusion can easily develop into misunderstandings. For instance, in order to integrate into society, homosexuality shows the same lack of emphasis on boundaries in interactions with same-sex friends as heterosexuality, leading the friends of homosexuals misunderstanding normal social behavior of homosexuals as a behavior of expressing admiration for them. It will make them feel fear and thus stay away from homosexuality, which can cause homosexuals to lose friends. Gradually, homosexuality will be marginalized by society. This marginalization leads to a lack of belonging among homosexuals in environments such as schools and work.

2.4. Legislative Vacancy

In terms of Marriage Law, China has not yet legalized same-sex marriage. It is not conducive to the normalization of same-sex marriage and love.

In terms of labor law, there is only one provision regarding discrimination: “Workers should not be discriminated against due to differences in ethnicity, race, gender, or religious beliefs during the employment process [9].” There is no official legal interpretation on whether the “gender” includes sexual orientation. This will prevent homosexuals from seeking legal remedies when being discriminated against due to sexual orientation in the workplace.

In terms of criminal law, only those who publicly insult others through violence or other means, and the circumstances are serious, constitute a crime. However, insults towards homosexuality in society are often subtle and difficult to define as violence. For example, homosexual discriminatory individuals create rumors in social circles and privately give derogatory nicknames to homosexuals. If the discriminator is a homosexual boss, they will refuse to give homosexuals promotion opportunities and subtly satirize their sexual orientation in public. These behaviors are usually done in the form of “joking around”, yet it is obvious that it will indeed harm the rights of homosexuals, very harmful to the mental health of homosexuals.

Overall, the rights of homosexuals are not explicitly mentioned in China’s legislation, and it is difficult to seek relief when they are violated.

3. The Adverse Effects of the Survival Dilemma of Homosexuals on Society

Homosexuality, due to long-term discrimination from the outside world, is excluded by society, which can easily trigger their reactive attacks that are harmful to social harmony [10]. At the same time, in the context where same-sex marriage is not explicitly supported by the law, some homosexuals may pretend to be heterosexual and marry the opposite sex to meet the expectations of their parents, hiding their true sexual orientation from their spouses, which is known as fraudulent marriage. This makes the LGBTQ+ dilemma not only harmful to the LGBT community, but also affects heterosexuals.

In terms of social efficiency, Affected by psychological disorders, environmental discrimination, and other factors, the social productivity of the LGBT community will also decrease.

3.1. Discrimination Reflexion Endangers Social Harmony

Reactive attack, as an immediate attack response triggered by someone else's attack or provocation, is a defensive response made by an individual after sensing the threat stimulus. Empirical studies have also shown that social exclusion can lead to individuals developing a bias towards hostile attribution [10]. Hostile attribution bias, as a cognitive processing method, can affect an individual's judgment

of stimulus situations, thereby affecting their behavioral responses. Empirical studies have shown a close relationship between hostile attribution bias and reactive attacks [11]. Therefore, in the dilemma of homosexuality, homosexuals are prone to reactive attacks against hostility, including but not limited to indiscriminate disgust towards non homosexuals, unjustified denigration of popular heterosexuals who are opposite to their own attractiveness in social situations. These behaviors are essentially their reflex reactions to discrimination, and it is obvious that they will be harmful to social harmony.

3.2. The Phenomenon of Homosexual Marriage Fraud

Homosexual marriage fraud refers to a person who has a same-sex sexual orientation but hides their true sexual orientation from their partner, pretending to be heterosexual and entering into a marriage with the opposite sex. The clear self-concept of homosexual individuals who choose marriage fraud to conceal their true selves is extremely low. They often have emotional indifference and avoidance of sexual activity towards their opposite sex partners in marriage. In severe cases, they may also engage in emotional abuse or physical assault towards their opposite sex partners, allowing them to vent their hidden self pressure through this means [3]. The phenomenon of same-sex marriage fraud can be seen as the most direct manifestation of the LGBTQ+dilemma harming non LGBTQ+individuals. At the same time, it will also deepen the stigmatization of homosexuality in society, such as believing that homosexuality is irresponsible and lacking empathy. This further deepens society's prejudice against the LGBTQ+community, making them less understood and accepted, making it harder for them developing clear self-concept, choose marriage fraud, and continue to harm social harmony. It can be seen that the beginning of this cycle chain is that the society's lack of recognition of same-sex marriage.

3.3. Reducing the Social Productivity of the LGBTQ+community

Homosexuals with mental illnesses often find it difficult to focus on work due to their illness. If mentally healthy homosexuals are in an environment with a strong discriminatory atmosphere, as mentioned earlier, encountering superiors who refuse to recognize the achievements of homosexual work due to sexual orientation discrimination will weaken homosexuals work enthusiasm and reduce their productivity. This can be attributed to homosexuals feeling learned helplessness during the work process, which refers to a psychological state in which an individual forms an uncontrollable cognition that no matter how hard they try, they cannot change the outcome of the situation when facing an uncontrollable situation, leading to giving up on their efforts [12,13]. From a utilitarian perspective, it is difficult to maximize the social value of the LGBTQ+ community. Of course, there are also some homosexuals who work harder and contribute more productivity than ordinary people because they realize their own situation. However, this does not mean that the dilemma of homosexuality has no impact on social productivity or has a positive impact. It can only indicate that the psychological resilience of these homosexuals is beyond that of ordinary people.

4. Methods of Improving the Live Situation of the LGBTQ+community

Although the LGBT community still exists as a minority group in China, its total size cannot be ignored. As mentioned earlier, the rights of the LGBTQ+community have been infinitely compressed to a certain extent in society, and the problems caused by their rights being compressed have become social in nature, such as threatening social harmony. Improving their survival difficulties is urgent. There are several solutions to this.

4.1. Deepen public understanding of the LGBTQ+community

Society regards the existence of homosexuality as a social disorder, leading to disgust towards homosexuality. This judgment of disorder is believed to come from an inner lack of understanding of the LGBTQ+community. Therefore, understanding homosexuality in society is very helpful in improving the discriminatory atmosphere. First, the society needs to face up to the existence of

homosexuality, see the needs of LGBTQ+community, and understand the normality of love between homosexuals, which requires the help of the Internet. The Internet is considered to be the fastest medium for information transmission nowadays. Whether LGBTQ+community rights defenders use the Internet to publish videos about homosexuality, or human rights researchers publish some authoritative articles, it is beneficial for LGBTQ+community to be seen by the society, so that the society can understand this phenomenon, thus reducing social hostility to LGBTQ+community and improving the plight of homosexuals.

4.2. Expand the Definition of Gender Discrimination in the Law

Rights need to have content [14]. The prohibition of gender discrimination is explicitly stipulated by laws in China, such as the Constitution, labor laws, etc. However, there is no clear legal explanation on whether gender discrimination includes discrimination based on sexual orientation. It is necessary to expand the scope of gender discrimination to include sexual orientation discrimination, because sexual orientation discrimination cannot be included in other types of discrimination stipulated by Chinese law, and the development of non heterosexual sexual orientation among homosexual groups is partly due to confusion in their gender cognition, such as transgender individuals. Therefore, expanding the explanation of "gender" can include "sexual orientation" in the content of gender discrimination. This approach is beneficial for the LGBTQ+community to seek remedies for sexual orientation discrimination, as gender discrimination has always been a sensitive topic and is protected by explicit legal provisions.

4.3. Promote the Legalization of Same-sex Marriage

The LGBTQ+community, like heterosexuals, yearns to form families with their partners and desires social recognition and legal protection for their relationships. In China, same-sex marriage is not protected by law, and the personal and property relationships between same-sex couples are considered as legal relationships between ordinary natural persons and are subject to civil law regulation. However, the legal relationships formed by most same-sex couples during their interactions have already exhibited the characteristics of marital relationships, such as long-term cohabitation and the shared property of the couple used to subsidize household expenses. The illegality of same-sex marriage means that this special legal relationship can only be adjusted as a regular legal relationship. Therefore, legalizing same-sex marriage is beneficial for making legal adjustments to same-sex marital relationships more targeted, opening up legal channels for homosexuals to relieve their rights, and thus improving the living situation of homosexuals.

5. The Role of Legalizing Same-sex Marriage in Improving the Plight of the LGBTQ+community

As mentioned earlier, the LGBTQ+community develops a more chaotic self concept due to the perceived lack of acceptance of their sexual orientation from the outside world [6]. This sense of non acceptance from the outside world is the fundamental reason for the dilemma of homosexuality. Based on the vicious cycle mentioned earlier, it is not feasible to overly rely on public opinion in the process of protecting the rights of homosexuals, as public opinion is not always correct [15]. According to the basic national conditions of China's rule of law, the law has a strong guiding effect on social concepts. Therefore, in order to break the vicious cycle mentioned earlier, respect and protect the human rights of homosexuals, improve the survival difficulties of homosexuals, the regulatory role of the legislative body is crucial. The following text will discuss this crucial role.

5.1. Improving Social Cognitive Biases

Non social pattern bias aversion refers to the activation of negative emotions towards perceived patterns that are disrupted, or distorted [2]. The discrimination against homosexuality in society is a negative emotional activation, because society believes that same-sex marriage distorts socially recognized patterns of marriage and love. Therefore, making society no longer perceive same-sex

marriage as a distortion of their recognized marriage patterns will have a positive effect on weakening this activation, then improving the social cognitive biases. Due to the absolute authority of the law in China, the law is undoubtedly the best tool for promoting this concept. Because Chinese people have a natural obedience to authority, which fundamentally stems from the basic national conditions of China's rule of law.

5.2. Enhancing the Self-esteem Level of the LGBTQ+community

Research has shown that individuals who establish self-esteem on external value conditions need to constantly seek self validation from the outside [16]. Since the law is the best tool to promote the non differentiation of same-sex marriage, it has a positive effect on improving society's non social bias towards the LGBTQ+community, and the improvement of this aversion is conducive to reducing discrimination against the LGBTQ+community. The decrease in the concentration of discrimination in society means an increase in the acceptance of homosexuality in society. When one feels accepted by society, this self verification is successful, and their self-esteem level will increase. Therefore, legalizing same-sex marriage at the legislative level has a positive effect on enhancing the self-esteem level of the LGBTQ+community.

5.3. Make it Easier for LGBTQ+individuals Whose Rights Have Been Violated to Receive Relief

At present, China's legal system exhibits a characteristic of completely ignoring the LGBTQ+community. Due to the lack of any legal or judicial interpretation in China that mentions the rights of homosexuals, it is difficult to protect the rights of the LGBT community when they are violated. For example, in China, it is not clear that same-sex couples can get married, so public remedies cannot be sought when same-sex marriage registration is rejected. As a country with a written legal system, China can only protect rights that are clearly defined by law. Therefore, legalizing same-sex marriage is beneficial for homosexuals to seek relief when their freedom of marriage rights are violated. At the same time, legalizing same-sex marriage is also beneficial for the LGBTQ+community to seek relief for other rights, such as the common property between same-sex couples being protected by law, and being able to accuse the other party of domestic violence if subjected to violence in same-sex relationships. Moreover, once same-sex marriage is legalized, special ethical issues that may arise in same-sex marriage will also have to be considered by legislators, such as the reproductive rights of same-sex couples, in order to promote the improvement of legal protection for the rights and interests of the LGBT community. It can be seen that in China, the legalization of same-sex marriage is only the first step in protecting the rights of homosexuals.

6. Conclusion

Due to its unique historical and cultural background, China has always neglected the protection of the interests of the LGBTQ+community. Fortunately, with the progress of society and the development of the Internet, Chinese society has shown a trend of paying more and more attention to their human rights . The discussion of homosexuality on the Internet is on the rise. It can be seen that society has gradually begun to pay attention to the survival difficulties of the LGBTQ+community. However, whether this kind of attention is a good thing for improving the survival situation of the LGBTQ+community depends on whether the public's cognitive bias towards the LGBTQ+community can be corrected, which means a decrease in the concentration of discrimination in the LGBTQ+community living environment. Considering the guiding role of the law in society, the legalization of same-sex marriage is of great significance in improving society's cognitive bias towards homosexuality, and is the most important aspect in enhancing the living environment of the LGBT community in China. The fact is it is difficult to legalize same-sex marriage in China, but in order to protect the rights and interests of the LGBTQ+community while promoting social harmony and stability, the progress of promoting the legalization of same-sex marriage cannot be stopped.

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