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## RESPONSES TO INFORMATION REQUESTS (RIRs)

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26 September 2005

**CHN100544.E**

China: The situation and treatment of homosexuals (2003 - 2005)  
Research Directorate, Immigration and Refugee Board, Ottawa

As the United States (US) Department of State reported in its 2004 country report, in China "[n]o laws criminalize private homosexual activity between consenting adults" (*Country Reports 2004* 28 Feb. 2005, Sec. 5; see also *Beijing Review* 28 Oct. 2004; BBC 13 Jan. 2004; Gaytimes n.d.). The crime of "hooliganism," which in the past was used to prosecute homosexuals, was repealed in 1997 (BBC 13 Jan. 2004; *Country Reports 2004* 28 Feb. 2005, Sec. 5; ILGA 31 July 2000), and since May 2004, homosexuality is no longer prohibited under regulations relating to the behaviour of persons serving time in detention (*Country Reports 2004* 28 Feb. 2005, Sec. 5).

According to some sources, government and Chinese society are showing greater tolerance towards homosexuals than they have in the past (Gaytimes n.d.; see also *Beijing Review* 28 Oct. 2004; *Country Reports 2004* 28 Feb. 2005, Sec. 5), and homosexuals have acquired more "lifestyle options" (*The Gay and Lesbian Review Worldwide* 1 May 2003). More and more gays and lesbians have been "coming out" since the 1990s (ILGA 31 July 2000; see also Gaytimes n.d.), particularly in urban areas (AFP 22 Nov. 2003; BBC 13 Jan. 2004), though sources note that most homosexuals do not publicly reveal or discuss their sexual preference (*Beijing Review* 28 Oct. 2004; *Country Reports 2004* 28 Feb. 2005, Sec. 5; see also CSSTM 30 Dec. 2003). Telephone hotlines and Websites specifically for homosexuals are available (*Beijing Review* 28 Oct. 2004; see also BBC 13 Jan. 2004) while gay bars and clubs have sprung up even in smaller cities (*ibid.*; *Beijing Review* 28 Oct. 2004), and are for the most part tolerated by local authorities (AFP 22 Nov. 2003) or even sometimes publicly advertised (*Sydney Morning Herald* 27 Aug. 2005). A prominent gay novelist who goes by the pseudonym Tong Ge remarked to *The Sydney Morning Herald* that before 1999 the meeting place for gays was public toilets and parks (*ibid.*). A gay and lesbian film festival was held in "the outskirts" of Beijing in 2005 (BBC 24 May 2005; *SCMP* 25 Apr. 2005) and in 2001, when both times Peking University banned the festival from its campus (*ibid.*).

While Shenzhen in Guangdong Province is reportedly one of the most tolerant cities for gays in China (Gaytimes n.d.), the Chinese countryside has not experienced the same level of openness as urban areas have (BBC 13 Jan. 2004). According to *The Sydney Morning Herald*, "[i]n the Chinese hinterland ... the gay emergence is more tentative but strengthening among a homosexual community" (27 Aug. 2005). The manager of a prominent gay Website in China told Agence France-Presse (AFP) that "'[i]n a small village, if you find you're gay, there aren't many ways for you to talk'" (AFP 18 May 2005). Gay-bashing is reportedly uncommon in China (*The Gay and Lesbian Review Worldwide* 1 May 2003; *Sydney Morning Herald* 27 Aug. 2005), but reports of police blackmailing gays with threats of jail time in "less-cosmopolitan areas" have been noted (*Chicago Tribune* 9 May 2004).

Courses on homosexuality have been offered at Fudan University in Shanghai (BBC 13 Jan. 2004; ILGA 9 Sept. 2004), "a sign that mainstream attitudes towards homosexuals are becoming more liberal" (BBC 13 Jan. 2004), while in the eastern city of Ningbo, a new textbook for school children that tackles issues including

homosexuality has been introduced (BBC 7 Sept. 2004). Li Yinhe, a sociologist and expert on sex issues in China, drafted a proposed law allowing same-sex marriages and submitted it to a delegate for discussion by the Chinese parliament (ibid. 13 Jan. 2004). Though her proposal was unsuccessful, the British Broadcasting Corporation (BBC) noted that "the fact that she could make the proposal at all was seen as a breakthrough" (ibid.).

Nevertheless, homosexuals in China continue to face social stigma (AFP 18 May 2005; *Beijing Review* 28 Oct. 2004; *Country Reports 2004* 28 Feb. 2005; CSSSM 30 Dec. 2003), and thus have little community support (AFP 18 May 2005). Most Chinese lack knowledge about homosexuality (Women of China 4 June 2005), and view it as "abnormal, disgraceful, or distasteful" (*Beijing Review* 28 Oct. 2004; see also *The Gay and Lesbian Review Worldwide* 1 May 2003). Homosexuals whose sexual preference is revealed may face job loss or removal from school (CSSSM 30 Dec. 2003). Books and films featuring homosexuality are banned (*Chicago Tribune* 9 May 2004; *Sydney Morning Herald* 27 Aug. 2005). Homosexuality is also considered a taboo subject in the media, though the BBC reported that by 2004 there was more coverage of homosexual issues in the mainstream media than there had been in the past (BBC 13 Jan. 2004).

*Country Reports 2004* notes that "strong pressure to conform to family expectations" also comes to bear on homosexuals (28 Feb. 2005, Sec. 5). As a result, many homosexuals enter into marriage with heterosexuals (CSSSM 30 Dec. 2003; *The Economist* 30 July 2005; Women of China 4 June 2005), but conceal their sexual orientation (ibid.). People interviewed by *China Daily* for an article on homosexuals affirmed that "the single biggest source of pressure and stigma comes from their own families," as Chinese culture insists on men "'carrying on the family line'" (*China Daily* 6 Sept. 2005). Many parents reject their gay children when they reveal their sexual orientation (ibid.). At the same time, *The Gay and Lesbian Review Worldwide* reports that "the tendency for urban women to marry at a later age or not at all is taking some of the pressure [to get married] off women who prefer women" (1 May 2003). Population policies have also "made it more acceptable for people not to have children" while economic prosperity in the cities has acted as a "camouflage" for some gays who enjoy both "the safety of marriage [and] the joy of same-sex relationships" (ibid.).

Police often do not allow public gatherings of homosexuals to take place (CSSSM 30 Dec. 2003). For instance, police banned a get-together for gays at a resort in Dalian in 2002 "on the ground[s] [that] possible 'subversive' elements [were involved]" (ibid.). In 2003, AFP reported on a police raid of a gay brothel in Chongqing City in southwest China (22 Nov. 2003). In Shanghai, the owner of a gay bar was sentenced to eight years in prison and fined US\$7,3000 for allegedly running a gay prostitution service (AP 18 Feb. 2004). Associated Press (AP) reported that even though laws against homosexuality have been relaxed, police raids on public toilets and gay bars often result in gay men being fined or sent to labour camps for short terms (ibid.). According to the Chinese Society for the Study of Sexual Minorities (CSSSM), there are no laws in China protecting homosexuals from discrimination (30 Dec. 2003).

Websites for gays and lesbians number in the "'several hundred[s]'" in China (AFP 18 May 2005), and continue to multiply (BBC 13 Jan. 2004). Such sites have been credited with bringing "Chinese gays into contact with each other and with news, ideas and information" (ibid.). At the same time, the BBC points out that gay Websites "exist in a grey area, with some official interference" (BBC 24 May 2005). Chinese authorities blocked one of the most popular sites for homosexuals in 2005, and in 2004 access to a number of similar Websites was blocked for a period of one week while the government conducted an "inspection" (AFP 18 May 2005). According to an acquired immune deficiency syndrome (AIDS) activist in China, these Websites are one of the few venues for information on the human immunodeficiency virus (HIV) and AIDS available to the gay community (ibid.).

The first survey of China's gay population, undertaken in 2004, revealed that about 80 per cent of the five to ten million gay men in the country were ignorant about HIV/AIDS (AFP 18 May 2005; AP 15 Dec. 2004). No comparable figures on lesbians were available (AFP 18 May 2005). Studies have shown that the incidence of HIV among the Chinese gay community is on the rise, and that lack of information as a result of the social stigma the community faces "compounds the problem" (*Beijing Review* 28 Oct. 2004; see also AP 15 Dec. 2004). Yet, while HIV/AIDS education campaigns and other efforts aimed at the general public have intensified since 2002, AIDS activists argue that the gay community has been largely ignored (AP 15 Dec. 2004; see also *Beijing Review* 28 Oct. 2004). *The Economist* reports that over 30 "independent groups are trying to fill the gap," offering HIV/AIDS information and assistance to homosexuals (30 July 2005). In the provinces of Zhejiang, Hunan, Guangdong and Heilongjiang, programs at the provincial and local levels set up in collaboration with international and foreign organizations such as the World Health Organization have been introduced, with the aim of educating gay men and providing free HIV testing and counselling (*Beijing Review* 28 Oct. 2004; *Shenzhen Daily* 6 Dec. 2004; Xinhua 20 June 2005). Volunteers in the gay community who have been printing pamphlets on HIV/AIDS and distributing condoms in places such as Guangzhou have received the

support and encouragement of the Ministry of Health (*Shenzhen Daily* 23 June 2005). As noted by *The Sydney Morning Herald*, "the need to control the spread of AIDS has led authorities, however reluctantly at first, to enlist the help of homosexual activists" (27 Aug. 2005).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

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One oral source did not provide information within time constraints.

**Internet sites, including:** Amnesty International, *Asia Times* Online, Chi Heng Foundation, Gay Hong Kong, Human Rights Watch, International Chinese Comrades Organization, International Gay and Lesbian Human Rights Commission (IGLHRC), Open Net Initiative, *Time* (Asia).

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