

Critical Reflection on Queer Rights Discourse & Determinants of Queer Rights Violations in Mainland China

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Executive Summary

The assumption of human rights in the Universal Declaration of human rights is that there is a subject that is not affected by any external factors other than its own existence, and that human rights merely restore its prior prerogatives and express this series of rights (Slaughter, 2006). Similarly, queer rights are based on a virtual global gay community, suggesting that its members are in the same situation and facing the same dilemma. This is indeed a beautiful vision of individual well-being, but their homogeneity and generality ignore the diversity and specificity of the range they cover, whether in terms of human rights or other identity-based expressions of rights. In other words, these inclusive terms are not practical because they do not take into account the intersection with social background factors such as culture, race and politics. Using an intersecting framework and a heterogeneous perspective, this paper examines the reasons why the discourse of rights is difficult to play an effective role in promoting the queer rights movement in mainland China. The muteness of queer rights discourse in mainland China is related to the sexual concepts of Confucianism, family values, and collectivism in traditional Chinese culture. Yet, the key factors that dominate queer rights violations are the imbalance of power relations between the state and civil society, as well as depoliticized political homophobia. Therefore, the queer rights movement in China should focus more on growing the queer community, building nationwide networks of queer civil society organizations, improving the public's political understanding of queer issues, and promoting policy and legal reforms.

Main findings

- Human rights show the characteristic that its rhetorical universal discourse will dispel its inclusiveness in practice. This is mainly caused by the direct connection -- which is often overlooked in the application -- between human rights discourse and the power structure of the system, and the failure to accurately identify the objects of its protection based on specific contexts.
- The globalized norms of queer identity need to be viewed with caution, as it may lead to the risk of association with new practices of colonialism. Meanwhile, the out-of-focus and ineffectiveness of the integration of queer rights discourse in non-western local contexts have suggested its underlying assumption of western-centric homogeneity.
- With regard to the queer movement, there are difficulties in localized translation between the framework of Western rights discourse and the particularity of the social environment in mainland China.
- Though the public's attention and openness to the queer community have increased in recent years, the overall attitude is still regional conservative and negative. Confucianism and Taoism that underlie traditional Chinese culture and values, in general, do not historically constitute an absolute opposition to the pluralistic concept of sex and gender. The close connection between the sexual concept and family responsibility as well as parental authority in traditional values is the main cultural obstacle to the practice of queer rights in the Chinese context.
- Depoliticized political homophobia constitutes the determinants in the violation of queer rights protection in the context of mainland China. The intervention and control of civil society by state authorities, as well as the stigmatization and repression of queer rights movements in the name of maintaining traditional values and national sovereignty, have made queerphobia internalized into a new social norm.





Introduction

The identity of gender and sexual orientation is an indispensable aspect of an individual. Discrimination against queer people who identify as sexual minorities is a violation of human rights principles (See OHCHR website). However, neither human rights nor the queer rights derived from them have been effectively practised so far. Today, queer communities around the world still generally face the risk of stigma, arrest, violence and discrimination. Consenting same-sex relationships and homosexual acts are still criminalized in 69 countries and territories and are the measure of the death penalty in 11 countries (Mendos et al., 2020). Given this situation, it's worth thinking about exactly whose human rights and what rights are we talking about in the human rights discourse. Also, in the process of queer rights discourse being applied into practice, what are the dynamic paradoxes and considerations that need to be alerted and carefully dealt with?

Reflecting on existing theories and debates, this paper explores and interprets the gaps and barriers between rhetorical discourse and the practice of human and queer rights. In addition, to further elaborate on the complexity and intersectionality of the factors affecting the practice of queer rights, a case study of mainland China is launched. Through evidence-based analysis, this paper demonstrates the determinants that hinder the development of queer communities and violate queer rights in the context of mainland China. The author believes that discussion of queer rights issues presupposes a full understanding of the concept of human rights. Therefore, in the next section, this paper begins with a discussion of the human rights paradox involving universality and exclusivity.

Part 1

Theoretical reflection



1.1. The Universality and Exclusion of Human Rights Discourse

The concept of human rights was formally proposed and established after the adoption of the United Nations Declaration of Human Rights in 1948 (Ibhawoh, 2014). Everyone is admitted to having a series of unassailable freedoms and rights simply because of their substantial existence and humanity. This groundbreaking universal definition of rights emphasizes its inherent and inalienable attributes, regardless of any externally exposed or given identities such as gender, colour, race, class, and social status (Assembly, 1948). Despite UDHR does not have mandatory legal binding force, yet the human rights discourse it's confirmed challenges privileges, oppression and discrimination, which is therefore widely used at the national and international levels, dealing with various social issues related to inequality (US Department of State, 2015; Carroll & Itaborahy, 2015). However, the universalism on which the discourse of human rights is based has also aroused intense debates due to its efficacy and assumptions in practical applications. The proponents stress that it is precisely the characteristics of human rights discourse that can be applied in all social and cultural contexts that make it powerful and compelling for it is not constrained by differences in various normative systems (Merry, 2006). On the contrary, the relativists argue that the inability to address distinctions between different contexts with a targeted approach has exposed ambiguities in expression and coverage of human rights in practice (ibid.). Nowadays, increasing evidence from practice and movement points to a more widely shared view among human rights activists, that is, the human rights tailored and adapted to local cultural contexts and institutions could be more effective and with greater legitimacy (Coomaraswamy, 1994; An-Na'im, 2002; Tagliarina, 2015).

Relativists maintain a challenge to the universalism of human rights in many ways, which mainly for the historical concept of human rights was not actually inclusive. In fact, the development history of human rights has been one of an

ongoing campaign between two movements: the movement to bring marginalized groups into the protection of human rights, and the movement against that effort (Ibhawoh, 2014). While the international community recognizes the fundamental rights of all people, most of them remain rhetorical and idealistic — given that countless empirical cases have proven that not everyone actually owns or enjoys these rights, both at the international and national levels. Judicial systems, rights protection systems, and public policies in most countries and regions still treat people with different genders and sexual orientations, ethnicities, races, and religions differently, putting some of them in disadvantaged and excluded positions (Salisbury, 2011). Insufficiency and inequitable distribution of technology and resources may in some cases have contributed to this phenomenon, yet the lack of political incentives to break through entrenched (often cultural) stereotypes and prejudices and to accurately apply human rights protection to marginalized groups is often one of the underlying determinants (Mihir & Gibney, 2014; Ibhawoh, 2014). This cultural and political exclusion at the local level constitutes the exclusivity component of the human rights discourse. In other words, the universality of the discourse of power dispels its inclusiveness — the privileges it aims to challenge as well as the vulnerable and marginalized groups it aims to protect did not disappear on account of the emergence of the concept of human rights, which actually explains the relevance and relationship between the discourse of rights and political power in practice to a certain extent.

In particular, power is an element that cannot be avoided and cannot but be taken into account all the time in the rights movement concerning groups defined as minorities. The discourse of rights that is separated from power and political will is weak and incapacitated. In other words, the institutional power structure determines the definition of mainstream and minorities, ordinary and unusual, normal and abnormal. The “human” in the idea of universal human rights is nothing more but a combination of rhetoric, “an empty vessel”, as Douzinas indicated, contained three abstract concepts of free will, rationality and spirits (Douzinas, 2013, p. 56). It doesn't seem to have anything to do with nationality, colour, race, gender, sexuality,

race, culture or values, while the empirical evidence is distinctly suggesting a fact otherwise. The one who longs to thoroughly and effectively enjoy human rights has to be *The human*: an affluent, able-bodied, heterosexual white male who lives in the urban area. Whereas, to those who are not “canonical humans”, the inborn rights have always been the hard-to-acquired rights that they have to constantly strive for in their lifetime.

In this case, universal human rights can only be understood ideologically, but cannot be used as a framework of action for the affirmative movement — whether it is for a given group of people or a given region. For whenever a right is discussed to a subject, the right must be concrete and assigned to a particular person. In other words, the “human” of human rights is necessarily shaped and influenced by all the circumstances and ideologies to become the current person. This means that when the human rights are in the specific application to the practice of affirmative action, this abstract concept of “human” cannot but be abandoned; meanwhile, it is necessary to pay more attention to the understanding and research of the context and various decisive factors of the subject of rights, for they are the actions with real practical meaning that could make changes.

Therefore, the author believes that the paradox of universality and inclusiveness in human rights pointed out by Douzinas can be resolved in appropriate and tailored practical strategies. This requires more and considerable attention to the exclusive actions and tendencies, to prevent human rights discourse from being used to protect only some but not all people. Also, it needs to be kept in mind that the possession of universal human rights should not be taken for granted, and that attention to its universality also needs to be redirected to marginalized domains and minorities that are not highlighted in international human rights norms.



1.2. Heterogeneity & Intersectionality of Queer Rights

Queer people, or sexual minorities, are one of the many groups covered by the umbrella term of human rights, yet meanwhile, they are also a group with a specific identity that is marginalized and

excluded from full protection. In general, these characteristics and attributes of human rights discourse are embodied in the heterogeneity and intersectionality of queer rights discourse. This section revolves around these two characteristics to reflect on the connotation and practice of queer rights from different dimensions, to construct a more concrete and stereoscopic comprehension of queer rights.

1.2.1. Precondition: reveal the marginalised portraits in minorities

To gain a more comprehensive and deeper understanding of the living standard of sexual minorities and exclusivity against them, the first thing that needs to be acknowledged is that the queer rights movement is not homogeneous, but heterogeneous. This is reflected in the heterogeneity of sexual identity within the queer community, as well as in the intersection of the queer rights movement and other identity-based rights movements. The term “queer” is a broad spectrum of references to all non-normative sexual and gender identities, derived from an emphasis on the complexity and diversity within the LGBTQI+ community (Slagle, 1995; Britzman, 1995; Jagose, 1996). It highlights that the exclusion of heterosexuals and cissexuals does not only include gay and transgender people, but that sexual and gender fluidity and variability are the key indicators of the identity of sexual minorities (ibid.). While the discourse has shifted and evolved to become more inclusive, queer, like any other identity-based term, is at risk of becoming a buzzword because of its overuse. Undoubtedly, as an umbrella term for a community with similar identities, queer covers a wide range of identities that are de-labelled, eliminating the risk of any group being left out in acronym terms (Budhiraja, Fried & Teixeira, 2010). However, the problem with identity politics has never been its ability to reveal differences and margins, but the fences it erects around the identities, isolating them from the human whole while making their internal differences easy to confuse or ignore (Crenshaw, 1990; Brown, 2000, p.2). Whether LGBT, LGBTQI+ or queer, the terms used to address and refer to this given community

Moreover, in the broader view of human rights, more dimensional identities are often overlooked in the queer movement. It is important to raise these questions in the practice of queer rights discourse, about who is included in the queer community and for whom the queer movement is striving for rights. Discrimination and inequality against queer people are not always about sexual

rights, although it has been regarded as the most essential right the queer movement needs to claim (Cornwall & Jolly, 2006; Budhiraja, Fried & Teixeira, 2010). The dimensions of gender, age, disability, race and religion must be taken into account for there are always people who have more than one identity that fits the characteristics of the socially disadvantaged groups. As Crenshaw explores with regard to violence against women of color, the overlap between the identities of people of color and women is so pervasive and visible, yet the efforts of feminism and anti-racism to politicize experiences and issues often seem to take place respectively in two completely disparate realms (Crenshaw, 1990). Overlapping identities leave women of color exposed to violence from both racism and sexism, while at the same time being in a position of being voiceless and cannot express themselves (ibid.).

Women, people of colour, people with disabilities, children and the elderly in the queer community are in a more vulnerable position on some occasions and situations from time to time. The intersection between queer and other affirmative movements, such as the disability rights movement and the women’s liberation movement, therefore, needs to be emphasized.

In this case, one needs to be vigilant about the generality of the term queer while using it in practice. In other words, in the empowerment of queer people as a whole, extra attention to be paid not to lose sight of internal heterogeneity and intersections with other identities, as it could further perpetuate marginalization and vulnerability.

1.2.2. The globalized definition and localization of queer rights

The heterogeneity and intersectionality of queer rights is highlighted not only in the internal structure of queer groups and the specific content of their rights advocacy, but also in the different national and cultural backgrounds that must be considered in the process of localising its discourse. Though the demand for queer rights is a global movement, it is important to acknowledge that the queer rights discourse originated in the Western context and therefore, inevitably has

some specific and exclusive attributes. The perception of the influence of globalized queer identities is divided and controversial, which contributes to intense debates. One view holds that the approach of universalizing queer rights within the framework of human rights can promote and enhance the use and status of this framework in many countries and regions (Kollman & Waites, 2009). The

counterargument is that the globalized normative discourse of queer rights is largely configured by the liberal definition of universality from the United States and Europe, which has led to the westernization of queer identity and sexual politics as well as a new colonial practice of the global south (Altman, 2010; Binnie, 2004; Browne et al., 2010).

There is no doubt, as Altman points out, that globalization has played an important role in the emergence of sexual minorities and the development of queer identity in different cultural and national contexts (Altman, 1996). A term for “sexual citizenship” has also been widely proposed and discussed, which involves “the sexual contract” as an essential part of the concept of citizenship, as well as the civil rights of people with non-normative sexual and gender identities (Pateman, 1988; Cossman, 2007; Bamforth, 2012). Nonetheless, like the universal human rights framework, the globalised queer rights discourse still reveals the issues that it does not acclimate to in a non-Western context. Clearly, there is a misalignment between the liberal and individualistic ideologies that underpin it and the rights consciousness and sexual culture of the locals (Richardson, 2017). This irreconcilable situation exposes the assumption of homogeneity based on western-centrism in queer rights discourse in the globalization process, which excludes the pluralism of social and cultural contexts.

The discussion on the localization of queer rights, therefore, is the key to breaking the impasse in the practice of rhetorical discourse on rights. It is of great importance to shift the focus back to the specific values, ideologies and historical cultures that shape the self-construction experience of the rights subject. In this way, the determinants and dynamics of rights violations encountered by queer people in their lives can be identified and dealt with appropriately.

As argued above, the violation of queer rights is a multidimensional issue. It is the intersection of multiple fields and dimensions, closely related to issues such as gender equality, stereotypes and power structures, as well as race, ideology, and culture. Viewing and analyzing this issue in a given context is the fundamental prerequisite for developing effective and localized strategies. To that end, the next section of this paper presents a case study of queer rights violations in mainland China, analyzing and examining the determinants impeding the development of queer rights from multiple levels.

Part 2

Case study on mainland China



2.1. Traditional Culture and Values & Social Attitudes

Sexual stereotypes about binary gender and heterosexuality are widely believed to be essential to the non-recognition and violation of queer rights (Klugman, 2000; Hunt, 2004; Cornwall & Jolly, 2006). Based on this view, the International Gay and Lesbian Human Rights Commission (IGLHRC) emphasizes that sexual rights are not only one of the most fundamental aspects of human rights but also queer rights (Budhiraja, Fried & Teixeira, 2010). Accordingly, understanding and openness to sexual issues play an important role in the inclusion of queer people at the local level. Sex is still a sensitive topic with shameful implication in modern Chinese mainland society, which has resulted in a considerable lack of awareness of sexual rights in civil society. Especially in the field of education, formal sex education is only a subsection of biology class and occupies very few hours in the middle school curriculum (Fan & Liu, 2004; Fang, 2012). In addition, homosexuality and transgender identity are still represented in many editions of textbooks as abnormal and pathological (Fang, 2007; Mountford, 2009). From 2010 to 2017, Beijing Normal University Press successively published a series of "Sexual Health Education Books for Primary School Students", involving a wealth of diverse knowledge about gender and sexuality, such as physical and sexual rights and gender equality. However, the textbook was widely criticized by students' parents in 2017 and was officially removed from the shelves in 2019 (The Paper, 2020). The flawed sex education system and conservative sexual concepts have widely affected the public's prejudice against the queer community, which to a certain extent is caused by traditional Chinese values and culture.

Different from the important role of religion in the cultural construction of many western countries in history, Chinese culture is partly influenced by Buddhism, and mainly consists of Confucianism and Taoism (Wu, 2004). This constitutes the different attitudes and responses to the multiple genders and sexual orientations in the Chinese and western contexts. While the dualism of gender and sexual orientation is presented as a basic concept in Judaism and Christianity, it appears very vague and unclear in the norms of Confucianism and Taoism (Wu, 2004; Aldrich, 2006; Eng,

2009). In fact, since the Han Dynasty, neither school of thought in history has explicitly condemned or prohibited homosexuality, even in the context of promoting abstinence (Hinsch, 1990; Laurent, 2005). In the Ming and Qing dynasties of the 17th and 19th centuries, intimate relationships between men of the same sex even became a secretive trend in the upper class, which was quite different from the strong antipathy and resistance to homosexuality in western Christianity at the same period (Wu, 2004; Zhang, 2007). To a certain extent, as Li Yinhe, a Chinese queer rights activist, pointed out, traditional Chinese attitudes are mostly indifferent to sexual minorities, rather than regarding homosexuality as the original sin (DW, 2017).

Nevertheless, as the sexual mores in traditional Chinese values are always closely associated with ethnic reproduction and family responsibilities, homosexuality is opposed by Confucianism mainly due to its inability to have children (Laurent, 2005). The ancient feudal patriarchal system and ethics placed great emphasis on family values and the absolute respect and obedience of the younger generation to the elders, which includes inheriting family blood and maintaining family prestige (UNDP, 2014; UNDP, 2016). Although the traditional inborn responsibility and obligation have been weakened in modern urban families, it is still partly passed down and still has a lasting influence in rural areas of mainland China (ibid.). Concerning the independence and choice of individual life, compared with those who grew up with the Western liberal ideology, the younger generation in China is still influenced by the authority of their elders and often has relatively little decision-making power and voice.

This collectivist cultural value pursues the practice of norms and solidarity, which constitutes an incompatibility with the concept of human rights based on individualism. According to Griffin, the core concept of human rights is the agency of the individual, which refers to the individual's free will to pursue a better life and the capacity to make free choices without being dictated by others (Griffin, 2008). For queer people, expressing their identity of gender and sexual orientation, independent choice of partners, and autonomy over sexual activities are key aspects of their exercise of rights (Richardson, 2017). However, quite the opposite would appear to be the case in the context of Mainland China, communitarianism contributes to the

self-awareness and sense of identity that sexual minorities in China have gradually built up within their families and communities, which allows the feelings of family members to always take precedence over personal happiness and well-being (Richardson, 2017; DW, 2017).

In this case, it is difficult for queer rights discourse to find space for adaptation in the Chinese context. On the one hand, the exclusiveness of queer identities and the binding between sex and family in traditional culture and ideology, therefore, constitute a significant obstacle to the development of queer rights in modern Chinese society. On the other hand, such collectivist cultural value also established the primacy of social order and unified norms at the political level. The centralization of the power structure in the context of mainland China and the imbalance of power relations between civil society and the state have further complicated the challenge and difficulty of queer rights practice.



2.2. Civil Society & Political Context

2.2.1. The stagnant civil society

Various studies have found that a thriving civil society creates a more democratic atmosphere in a country, which is more conducive to the practice of human rights and the reduction of rights violations (Almond & Verba, 1963; Diamond, 1992; Hafner-Burton & Tsutsui, 2005). As the junction between the state and the private sphere, civil society provides a channel for citizens to check the state power organs and participate in political activities (Putnam, 2000; Huntington, 2016). Active communities and interconnected networks between individuals and organizations make civil society a good place to develop people's awareness of their rights and obligations, as well as political skills (Diamond, 1994; De Tocqueville, 2003). As an important part of civil society, non-governmental organizations (NGOs) do not act to pursue state power or seek profits, but to safeguard public interests and civil rights, respond to social problems and promote policy reform (Diamond, 1994). They were supposed to equip citizens and communities with the ability to participate in state governance and to resist authority and oppression (Fung, 2003). However, compared with those developed in a democratic system, Chinese NGOs are

unable to play their due role in the context of a one-party dictatorship and face great survival dilemmas, especially those committed to the protection of the rights of sexual minorities.

In Mainland China, there are almost no queer civil organizations formally registered with the local civil affairs bureau for the founders are always told that it is harmful to society and disturbing to public order and so that the applications are rejected (UNDP, 2014). Most of the NGOs approved for official registration are engaged in the fields of poverty, disability, education and health, as this is in line with the government's vision of building "a harmonious society" (Schwartz, 2004; Gadsden, 2008; Li, 2005, p.2). In this way, most of the NGOs dedicated to queer rights have registered industrial and commercial trademarks and become small companies of various kinds, which have exposed them to high taxes and operating costs, as well as unpredictable inspections and interference from government agencies (UNDP, 2014).

Besides, over the past decade, it has become increasingly difficult for international and transnational queer rights organizations and movements to support domestic queer NGOs, both in practical and financial terms. The "Notice on Issues Related to the Administration of Foreign Exchange Donated by Domestic Institutions", issued by the State Administration of Foreign Exchange (SAFE) in 2009, set a limit on the amount of overseas funds donated to domestic NGOs and adds many steps and complicated conditions to the approval procedure, which greatly lengthened the process of vetting and remitting funds (SAFE, 2009). In 2019, the passage of the "Law on the Administration of Domestic Activities of Overseas Non-Governmental Organizations" gave the government more discretion in the development of civil organizations, which facilitated the deeper intervention of the state authority in civil society (Ministry of Public Security, 2019).

These changes have had a direct impact on the development of the queer community in China. Although around 2008, queer NGOs of different natures began to emerge across mainland China, under many restrictions and obstacles, some small organizations were forced to disband because of the broken capital chain, while some organizations with a certain foundation were subjected to the government's political control makes it difficult to operate or carry out activities normally. In 2008, five organizations focusing on gender diversity issues launched the first gay-friendly space in

Beijing, "Beijing Gay Activity Centre", which was subsequently renamed as "Beijing LGBT Centre" due to its extended scope of concern among sexual minorities (See Beijing LGBT Centre website). As a non-profit organization dedicated to changing the living environment of China's sexual minorities, Beijing LGBT Center organizes various club activities regularly to help queer people in isolated positions to establish healthy and positive self-identity, while providing a safe and inclusive space for the community, as well as necessary social work services, psychological counselling services and legal assistance (Beijing LGBT Center, 2019). However, despite its focus on community building and the provision of space for queer activism, the survival and development of Beijing LGBT Center itself has been quite limited and bumpy. From 2010 to 2013, the Centre had been driven and threatened by the Ministry of Public Security due to reports of homophobic neighbours and had to move out of its original address three times (BTWH, 2020). Besides, the shortage of funds and bad reputation is equivalent to the invisible loss of a large number of potential employees and professionals. According to Judy, an intern at the center, in order to minimize turnover, organizations usually have to first provide limited funds to interns rather than permanent staff. "Beijing LGBT Center has been a relatively successful case in China. Even so, many large-scale events still require a large number of volunteers to participate," she said, "it is hard to imagine how small organisations in other provinces can persist."

Unfortunately, queer organizations in such difficult situation are not alone. ShanghaiPRIDE, for instance, founded in 2009, is an NGO that aims to improve queer people's self-identity and social visibility (See ShanghaiPRIDE website). Sponsored by individuals, the media as well as social enterprises and supported by consulates in Shanghai from countries such as Australia, Britain, Canada and Finland, it holds the largest LGBTQI+ event on the mainland each year. The activities organized by ShanghaiPRIDE cover a wide range of activities, including cultural activities such as theater festivals, film festivals, concerts and art exhibitions; seminar activities such as queer open days, family forums and handicraft workshops; and sports activities such as badminton competitions, rainbow runs and rainbow riding. However, in 2018, ShanghaiPRIDE suddenly announced in 2018 that it was cancelling all its events for that year and terminating future plans without any explanation (ShanghaiPRIDE, 2018). As the organisation has built a large

queer community and social influence during its decade of activity, while being repeatedly interrogated by government authorities and asked to change or cancel the event, the announcement was widely seen as politically motivated (Qdaily, 2018; RFA, 2020).

In addition to intervening in the development of queer civil organizations, the state's intervention in civil society is also reflected in its control of the media in mainland China. In 2006, the State Administration of Radio, Film and Television supplemented the censorship regulations for film and television works. The regulation, which has been strictly enforced to this day, classifies episodes related to homosexuality and sexual perversion as content that need to be deleted (Guojia guangbo dianying zongju ling, 2006). Also, one of the largest social media platforms in China, Weibo, in response to the government's request to "create a clear and harmonious network environment" in 2018, deleted and blocked all relevant content and accounts involving sexual minorities (ABC China, 2018). Though some accounts were reinstated under the strong condemnation from hundreds of millions of users, similar incidents have happened frequently in recent years.

This series of measures taken by the government not only caused the civil society in mainland China to become increasingly depressed, but more importantly, it compressed the space for the queer community to construct self-identity recognition. The mass culture presented by information communication platforms and social media would facilitate people's perception of themselves and others, and help sexual minorities gain the sense of identity and belonging that can be brought about by a community of shared identities (Walters, 2003; Campbell, 2014). The restrictions and controls from the state in the Internet field, therefore, have greatly hindered the development of positive and healthy self-identity and psychological status of queer people while discouraging the establishment and development of their community.

2.2.2. Depoliticised political homophobia

As Professor Bao, a veteran scholar of queer identity studies in China, says, traditional family ideals and a lack of civic space create a difficult environment for the queer community in China (Lees, 2020). The government's political stigmatization and suppression of sexual minorities have exacerbated the predicament of the modern queer rights movement in mainland China. From the

founding of the People's Republic of China in 1949 to the beginning of the 21st century, homosexual acts and activities in public places were regarded as a promotion of the moral degeneration of capitalism (Gonganbu, 1993; Li, 2009). According to the State Public Security Department, support for sexual minorities is an act that violates ethics and social morality and encourages crime (Gonganbu, 1993). While sex minority entertainment venues have been closed down on charges of unlawful assembly, queer people were facing arrests by the police and convictions for "hooliganism" (Wan 2001; Cochrane, 2013; Jeffreys & Wang, 2018).

This type of political propaganda, which associated sexual minority identity with western colonialism and placed it in opposition to traditional values, shaped new social norms that were internalized by the public over the following decades. In May 2017, the parents who supported the children of sexual minorities gathered in Shanghai People's Park were dispersed by the police (Sixth Tone, 2017). Many passers-by expressed support for the police action, saying homosexuality does not conform to traditional Chinese values and should not be publicized (ibid.). In addition, homophobic incidents also occur frequently in society and on campus. In April 2017, students from a top comprehensive research university in China spontaneously hung a banner on the campus that read "Maintain the traditional ethics of the Chinese nation, defend the core values of socialism, resist the erosion of western decadent ideas, and keep homosexuals away from university campuses", which has led to the proliferation of hate speech targeting minority groups on the Internet (New York Times, 2017).

In the analysis of queer rights violations, it is worth noting the difference between such homophobia that was linked to national political ideas and the rejection of queer identity on the personal and cultural level. This political homophobia, which is "powerful enough to structure the experiences of sexual minorities and expressions of sexuality", is a manifestation of nation-building and strategy for it can achieve the effect of asserting external sovereignty and demonstrating state power (Bosia & Weiss, 2013, p.5; Wilkinson et al., 2017). Moreover, to some extent, the spread of homophobia can be understood as a policy response of populist regimes to perceived threats to their authority (Bosia & Weiss, 2013). Selectively exaggerating the part of traditional culture that is contrary to the concept of pluralism and using traditional values to establish a unified political concept across the country suggest the political motivation of the state machine for centralizing power (Wilkinson et al., 2017). At the same time, a depoliticized interpretation of issues involving queer rights legitimizes the discriminations against the people with non-normative sexual and gender identity while keeping underlying power structures hidden (Wilkinson, 2014).

Conclusion

Through the study of the paradox of human rights, it can be concluded that human rights, as the basic theoretical basis of queer rights, show the characteristic that its rhetorical universal discourse will dispel its inclusiveness in practice. This is mainly caused by the direct connection -- which is often overlooked in the application -- between human rights discourse and the power structure of the system, and the failure to accurately identify the objects of its protection based on specific contexts. Therefore, the universal discourse of human rights needs to be regarded as a language rather than as an action strategy or tool of the affirmative movement, so as to avoid limitations and exclusivity it may bring to marginalized groups.

Consistent with the paradox of human rights, queer rights are heterogeneous within themselves and intersecting with other identity-based rights. The globalized norms of queer identity need to be viewed with caution, as it may lead to the risk of association with new practices of colonialism. Meanwhile, the out-of-focus and ineffectiveness of the integration of queer rights discourse in non-western local contexts have suggested its underlying assumption of western-centric homogeneity. Therefore, the analysis of queer rights violations needs to take a more local and intersecting perspective.

Based on a critical reflection on the theory, this paper then analyzes the predicament faced by queer rights practice in the context of mainland China from the ideological, cultural and political levels. The empirical research combined with the theory proves that the close connection between the sexual concept and family responsibility as well as parental authority in traditional values is the main cultural obstacle to the practice of queer rights in the Chinese context. Confucianism and Taoism that underlie traditional Chinese culture and values, in general, do not historically constitute an absolute opposition to the pluralistic concept of sex and gender. Besides, the cultural context of collectivism and communitarianism also limits the popularization of the rights awareness that based on individualism. In the analysis of the power relationship

between the state and civil society in the context of modern mainland China, the author demonstrates that depoliticized political homophobia is a serious violation of queer rights protection. The intervention and control of civil society by state authorities, as well as the stigmatization and repression of queer rights movements in the name of maintaining traditional values and national sovereignty, have made queerphobia internalized into a new social norm.

In addition, it is necessary to recognize the significance of a thriving civil society to the development of the queer rights practice. It plays a crucial role in fostering a sense of democracy and pluralism, as well as in promoting individual awareness of rights and political participation. While the tendency and behaviour of power centralization have created a dreary civil society, it has also resulted in the discourse of power being used only to protect privilege rather than everyone. Thus, the depoliticized interpretation of queer rights needs to be vigilant, and the deconstruction of the power structure needs to be seen as a vital task for the effective practice of queer rights.

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