



**FACULTY OF POLITICAL SCIENCE AND SOCIOLOGY**

***Executive Overview***

**Title:** *The Rights of the LGBTIQ+ Community in East Asia: The legalization of same-sex marriage in the Republic of China and in the People's Republic of China*

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The rights of the LGBTIQ+ community have become an essential focus on the agenda for the United Nations Human Rights Council (UNHRC). The community has historically suffered discriminatory violence, including physical and psychological aggressions, sexual attacks, tortures and murders. However, since Article 2 of the Universal Declaration of Human Rights (1948) does not recognize sexual orientation nor gender identity as discriminatory variables, the universal promotion of LGBT rights is contested by many countries, especially in Asia. Notwithstanding, the acceptance and promotion of LGBT rights is divergent among East Asian countries, especially between two States that share cultural backgrounds but have different perceptions of the LGBT community: China and Taiwan. This project analyzes the situation of LGBT rights in these countries based on the normative evolution of the legalization of same-sex marriage.

Existing literature shows that the situation between China and Taiwan on the promotion of LGBT rights differs, and one of the reasons remains on the institutional framework. Lee (2016) claims that law is the main instrument of reference on which minority groups rely when denouncing discriminatory abuses. Therefore, the legalization of same-sex marriage is an effective variable that provides an overview of the LGBT rights in a country. According to Louie and Edwards (2006), Confucianism and Taoism have widely influenced China and Taiwan on the assumptions of sexuality. However, Liu and Zhang (2022) claim that Taiwan has been more exemplary in naturalizing sexual deviance and legalizing same-sex marriage, while China has opted for maintaining sexuality in the private life, justifying its anti-homosexual attitudes on 'homonationalism'. King Ng et al. (2023) or Chen-Dedman (2023) have provided possible explanations on why Taiwan and China took different paths on same-sex marriage, despite not focusing on its normative evolution. It is deemed appropriate to explain why there is divergence between China and Taiwan on the legalization of same-sex marriage based on its evolution. The research question is: *Why has the legalization of same-sex marriage diverged between China and Taiwan?*

The theoretical framework on which this project is based is the constructivist approach of the cycle of norms provided by Martha Finnemore and Kathryn Sikkink (1998). The constructivist understandings of sexuality are shaped by social norms, cultural values, and historical developments, determining that gender identity and sexual orientation are formed through social interactions that regulate behaviors, as Judith Butler (1990) stated. However, since constructivism might be too broad, using the normative cycle is convenient in this case.

It is composed of three stages: norm emergence, which involves creating and enhancing the meaning of the norm; norm cascade, which supposes reaching a tipping point when a considerable mass of actors start to adopt the norm; and norm internalization, the moment when the norm is taken-for granted. Applying these stages to this study, the normative evolution of the legalization of same-sex marriage help to acknowledge why it has been (un)successful in both countries.

This study follows a qualitative methodology, since it is done on the basis of a comparative case analysis between China and Taiwan that helps to understand particular contexts that can be concreted in a theory. As a result, it can further explain future tendencies on LGBT rights issues in the rest of Asia. The cases of China and Taiwan have been wisely selected, since they share a cultural background due to Confucian and Taoist influences, but differ on the juridic state of same-sex marriage. The basis will be the documentary analysis of primary sources, such as national laws like the Marriage Law of the People's Republic of China (2024) or Laws and Regulations Database of Taiwan (2023), speeches by the Ministry of Foreign Affairs of the PRC (2024), and news from the Beijing Review (2017). The analysis of secondary sources is also tackled, which are academic articles on LGBT rights in China and Taiwan, such as Botton's (2017), Magdalena and Amenes' (2021), or Jeffreys et al.'s (2018).

The results of this study show that the use of the normative cycle has worked on the legalization of same-sex marriage in Taiwan, although the norm is not completely internalized among the society yet. However, since same-sex marriage is not legal in China, the cycle of norms could not be completed, considering that norm emergence has been contested due to a process of norm re-affirmation towards anti-homosexuality. Addressing the research question and moving on to conclusions, according to Finnemore and Sikkink, it is legitimation, conformity and esteem what explains the success of a norm during norm cascading, and they are the reasons why Taiwan opted for legalizing same-sex marriage – that is, to gain international legitimation, to become part of the international system, and to enhance its national esteem – while China did not consider such aspects and preferred to prioritize its traditional values based on heteronormativity, which challenges the universality of human rights.

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