



Rights-based Approach to the Educational Experience of Migrant Children in China

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This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

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List of Acronyms

BMEC	Beijing Municipal Education Commission
CPPCC	Chinese People's Political Consultative Conference
GDP	Gross Domestic Product
NPC	National People's Congress
SSB	State Statistical Bureau
UDHR	Universal Declaration of Human Rights
UNCRC	United Nations Convention on the Rights of the Child

Abstract

In the last few decades, China has experienced a great flow of internal migration with more than 200 million rural labourers moving into urban area in pursuit of better economic opportunities. At the same time, the number of migrant children increased significantly as they accompany their migrant parents in the cities. Due to China's special hukou (household registration) system, many migrant children's basic rights to education are violated despite the fact that they are entitled to the right to education in both domestic law and international conventions. Both central and local governments have adopted policies in tackling the issue over years, yet, it is still difficult for many migrant children to receive quality education.

This research investigates the tension between China's hukou system and children's rights to education with the city of Beijing as a case study. It analyzes the ways in which committed schools have been challenged to provide quality education for migrant children. With China being a state party of the United Nations Convention on the Rights of the Child (UNCRC), this research applies the rights-based approach and uses the 4 As framework, which suggests that the right to education should be available, accessible, acceptable and adaptable, as an analytical tool in examining the situation of migrant children's education in public and private schools in Beijing. In addition, the concept of 'differential citizenship' is also introduced as a way of conceptualizing the liminal status of migrant workers and their children—living in the urban area yet cannot enjoy an urban life.

Relevance to Development Studies

Attaining an adequate level of education is an important component of human development and Human Rights. This research deals with migrant children's educational rights—which are challenged in China in the process of industrialization and rural-urban migration. Violation of the rights to education seriously affects these children's future development. Urgent measures need to be taken in tackling this issue and ensure migrant children are provided with proper education. Therefore, this study contributes to the deeper understanding, policy and method that can be promoted in the process of realizing children's rights to education.

Keywords

Internal migration, hukou, migrant children, education, rights-based approach, differential citizenship

Chapter 1 Introduction

1.1 The Research Problem

1.1.1 *“Under the Same Blue Sky?”*

The historical movement of population from rural to urban areas in the course of the development process has played a critical role in many development strategies (Ye and Pan 2011: 356). Following the path of most industrialized countries, the current trend of rural-urban migration is occurring in many developing countries (ibid.). The moving of more than 200 million rural labourers into urban China is considered the greatest flow of internal migration in history (Chan 2009: 5). Whereas in many western countries, rural-urban migrants have the same legal and social rights as residents in the new locality, such as access to housing, education, employment health services, legal protection, etc, in China despite the high number of rural labourers coming to the cities, the percentage of permanent migrants is low. Few of the migrant workers are able to become permanent urban residents. This is mainly due to the existing hukou (household registration) system that divides the population in China into different categories as “peasants” or “residents”, which further determines the rights and benefits they enjoy.

Increasingly children are also migrating with their parents as part of the migration process. According to the 2000 census, it has been estimated that during this mass movement, 58 million children have been left behind in the countryside, and 19 million staying with their migrant parents in the cities (Chan 2009: 27). An important constitutional right of all children is to have education. This right has come under strain as a consequence of their migration, as the financial allocation and responsibilities for education are based on China’s household registration system. At the same time, several urban municipalities have had to meet these challenges in the light of increasing numbers of migrant children within their jurisdiction.

Once Premier Wen Jiabao visited a migrant school in Beijing and he wrote on the blackboard: 同在蓝天下，共同成长进步 (Under the same blue sky, grow up and progress together). Yet unfortunately, the same blue sky seems to be the only thing that children of migrant workers share with the urban children (Chan 2009: 27).

1.1.2 *Rural-Urban Worker and Child Migration*

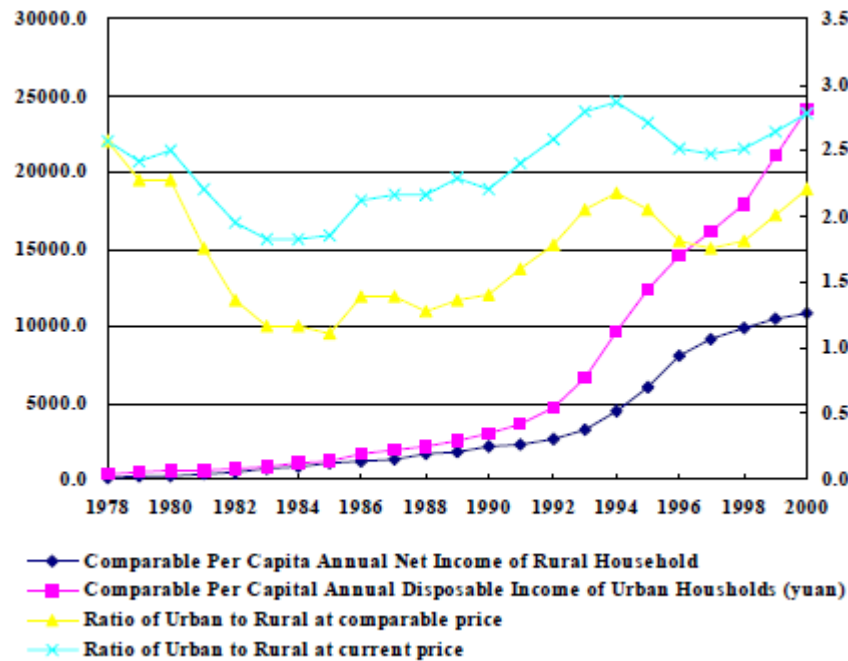
Since the liberalization economic reforms that started in December 1978, China has been experiencing a rapid economic growth. Rapid industrialization led to a growing demand of labour in the secondary and tertiary industries in urban areas and at the same time, the amount of land per capita was shrinking as a result of population growth and the conversion of agricultural land to non-agricultural uses. The growing unemployment and underemployment in rural

areas pushed a large number of rural labourers into cities in order to seek better employment opportunities.

Two strong forces were driving this great flow of internal migration, “the fierce pushing forces from rural area to transform surplus rural labour unleashed by the decollectivization program in 1978; the strong pulling forces that resulted from rapid industrialization and from a continuing large income disparity between rural and urban residents as well as inland and coastal regions” (Liu et al 2003: 34).

As was cleared indicated in the figures, in 1978, the Per Capita Annual Disposable Income of Urban Households was 2.6 times the Per Capita Annual Net Income of Rural Households at comparable price.

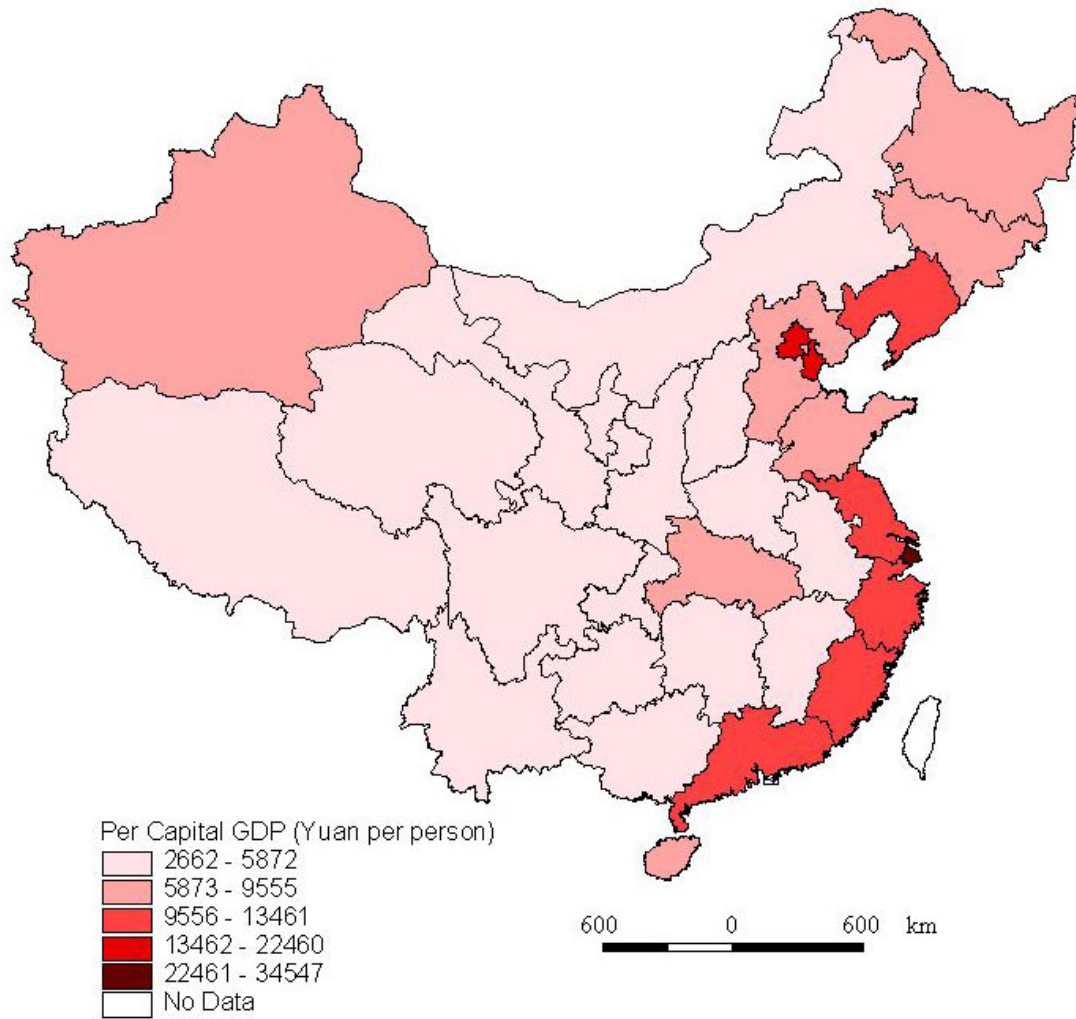
Figure 1 Rural-urban Income Disparity in China 1978-2000



(Data source: SSB, 2002, China Statistical Yearbook 2001.)

The following figure shows that there is also a huge regional disparity of economic development within China between the inland areas and coastal areas. It could be identified from the map that “Per Capital GDP at provincial level reduces sharply from the coastal regions to the middle and western inland regions” (Liu et al 2003: 36-37).

Figure 2 China's Regional Disparity in Per Capita GDP in 2000



(Data source: SSB, 2002, China Statistical Yearbook 2001)

The 1980s marked the beginning of the greatest internal migration of rural labourers to urban China (Ye and Pan 2011: 356). According to statistics based on the 1 percent population sample in 2005, the temporary worker population nationwide amounted to 147 million, or 2.05 percent more than in 2000 (Chen 2007). This large scale internal migration in China makes a great contribution to the country's economic development as a whole. According to the reports of the Chinese People's Political Consultative Conference (CPPCC) and the National People's Congress (NPC), in 2004, the proportion of migrant workers in the workforce reached 25 percent in the highly developed Pearl River Delta (Ye and Pan 2011: 357). The National Statistics Bureau revealed that in 2003 China's GDP was 11,669.4 billion yuan. In other words, the value created by migrant workers would be 2,333.8 billion yuan even if they contributed to only 20 percent of GDP in that year (ibid.). Furthermore, the migration of rural labourers has accelerated the adjustment of the industrial structure in cities and fuelled the growth of labour markets. With an adequate supply of cheap labour, labour intensive industries are able to develop, and the influx of the migrant workers has also increased the mobility of the urban labour force (ibid.).

Migrant workers not only managed to increase their own income but also played an inevitably important role in the development of market economy in China.

It is quite difficult to track the exact number of migrant children in China's cities since among the migrant population, many of whom are not registered. Moreover, it is not required for children under 16 years old to register as temporary residents. According to the 2000 census, 19 percent of the migrants, or 19.8 million in number, were under 18 years of age, who made up 6 percent of all children in China then. Also, migrant children below 15 years of age reached 11.2 million (Chan 2009: 27). The following provinces were identified with the highest concentration of migrant children: Guangdong, Anhui, Henan, Sichuan, Hunan, Hubei, Shandong and Jiangsu. The number of migrant children in the above-mentioned provinces accounted for 49 percent of all the migrant children in China (Chan 2009: 28).

The 2000 census also estimated that around 72 percent of migrant children were living in a family environment (56.5 percent with their parents; 7.5 percent with their grandparents and about 6 percent with other family members) (Chan 2009: 28). It was also showed that 29.9 percent of migrant children were born in cities. Among those who were not, 30 percent had been living there for five years or more, and 75 percent for two years or more. Despite the fact that most migrant children spent large part of their lives in the urban areas, they are still treated as outsiders (ibid.).

1.2 Objectives of the Study

This study deals with the tensions between the Hukou system and children's rights to education, analyzing the ways in which committed schools have met the challenges of providing adequate education for migrant children. It benchmarks the experiences of these children in terms of their right to education based on the Constitution, local law and the United Nations Convention on the Rights of Child (UNCRC).

1.3 Research Questions

Main research question

How does the institutional segregation exclude children of migrant parents in urban China from the rights to education enshrined in the Constitution and UNCRC, and how can the rights-based approach help in rectifying the situation?

Sub-questions

1. What are the rights that are stipulated in national and international law and how are they supposed to be accessed?
2. What problems do migrant children face in accessing their rights to education?

3. Why and how migrant children have been denied of access to education even though China is party to the UNCRC?
4. What have been the adaptive strategies in Beijing?
5. In what way these strategies do or do not comply fully with articles of UNCRC?
6. In what way rights-based approach can be useful for migrant children?
7. How do the conditions of differential citizenship affect migrant children and their families?

1.4 Methodology

A rights-based approach is applied in this research to benchmark the educational experience of migrant children. The study uses an analytical framework that is based on the notion of differential citizenship and ‘liminal status’ which it argues is being produced by the hukou system and affecting the lives of migrant children in many ways, especially their access to the rights to education as stipulated under national law (Constitution, Compulsory Education Law of the People’s Republic of China) and international law.

A combination of quantitative and qualitative methods has been adopted in this research and the data has been collected mainly through reviewing of existing literature, documentary research and observation. The secondary sources include journals, newspaper articles, government sources such as census, budgets, policies, procedures, etc.

This research takes up the city of Beijing as a case study. Beijing is China’s capital city and its economic activities involve the employment of a large number of migrant workers from all over the country. By applying the 4 As framework as an analytical tool and collecting data on two different types of schools in Beijing—one local public school and one private school for migrant children, this study aims to investigate the situation of migrant children accessing their rights to education through the analysis of different aspects such as the physical condition, teaching practice and recruitment policy of the two schools.

Justification of the Problem

With accelerated urbanization, it is likely that rural-urban migration will increase as also the migration of children. The National Demographic Development Strategy Report, issued in early 2007, predicted that 300 million more rural people will move to cities and towns in the next 20 years (Ye and Pan 2011: 356). It is therefore extremely urgent that adequate measures are taken to ensure that the children migrating are provided adequate social welfare facilities, and in particular good education. By analyzing the challenges and tensions in realizing children’s rights to education, the study will contribute to understanding, policy and methods that can be promoted in this process.

1.5 Structure of the Paper

Chapter 1 deals with the background, objectives and methodology of the research paper. Chapter 2 focuses on the analytical framework based on how the hukou system creates a form of differential citizenship and how it influences the right to education of migrant children in urban areas. Chapter 3 examines the experiences of migrant children in the city of Beijing. Chapter 4 and 5 deal with the case studies of two different schools in Beijing that have tried to cope with the challenges on providing education to migrant children. The chapters assess these experiences in the light of the children's rights. Chapter 6 is the conclusion.

Chapter 2 Differential Citizenship and the Rights to Education for Migrant Children

2.1 Introduction

This chapter discusses how the hukou system has resulted in a form of differential citizenship which has placed hurdles to children in realizing their rights to education. It illustrates how the hukou system has put the migrant workers in a “liminal state” and affected the experience of the children in Chinese education system. Then it goes on to introduce the rights-based approach to education and bring up the 4 As framework which could be adopted as a tool in assessing the situation of migrant children’s right to education.

2.2 The Hukou system

2.2.1 *Historical Background*

China adopted a strict household registration policy known as “hukou” in the 1950s, which aimed to “...prevent the rural population from spontaneously moving to cities and to keep grain price low to support a high rate of industrialization (particularly in heavy industries) in cities” (Xiang 2005: 5). Under this system, people are divided into different categories as “peasants” or “residents”, reflecting their birth place, either in the rural area or urban area (ibid.). Therefore, migrant workers are usually referred to as “floating population”. Most of the migrant workers come from the less developed central and western China where income levels are relatively low, such as Henan, Sichuan, Anhui, Jiangxi, Hunan, Hubei, and move to the relatively developed cities especially in the coastal areas in the southeast, for instance, Guangdong, Beijing, Jiangsu, Shanghai, Zhejiang, and Fujian. Without good educational background and skills, they usually take up manual labour jobs and receive low wages. According to research done in 2006, forty percent of them work in secondary industries, mainly in manufacturing, construction, and mining, while 60 percent of them work in tertiary industries, mainly in services (Ye and Pan 2011: 356).

As could be indicated in the table below, the majority of rural-urban migrants fall under the category of non-hukou migration and were registered as agricultural population (Liu et al 2003: 33).

Table 1 Relationship between *hukou* status and types of rural-urban migration

		Rural-urban migration %		
		Total	Non-agricultural <i>hukou</i>	Agricultural <i>hukou</i>
Composition of <i>hukou</i> and non- <i>hukou</i> migration	Total	100.00	100.00	100.00
	<i>hukou</i> migrants	39.17	93.27	9.85
	non- <i>hukou</i> migrants	60.83	6.73	90.15
Composition of non-agricultural and agricultural <i>hukou</i>	Total	100.00	35.23	64.00
	<i>hukou</i> migrants	100.00	83.90	16.10
	non- <i>hukou</i> migrants	100.00	3.90	94.84

(Data Source: The 1% sample survey data of the 4th National Census.)

It is quite obvious that the majority of non-*hukou* migrants are rural-urban migrants with agricultural *hukou* status and the non-*hukou* migration still dominates the current rural-urban migration in China. Migrant workers are usually supposed to go back to the countryside one day despite the long time they have been working in the cities and their work performance, therefore they are considered as the “floating population” or “temporary population” even though they are the “main targets of potential urbanization population in China in the future” (Liu et al 2003: 34).

Although in recent years the *hukou* system has gradually be relaxed and reformed, for instance in 2001, under “Guidelines on Promoting the Reform on *Hukou* Management System at Small Cities and Towns”, the *hukou* in county-level cities are open to all, the entrance permission requirements are still very high. The applicants have to have stable non-agricultural jobs and stable living support, and possess their own accommodation in those selected cities and towns. Lately there are some pilot programs extending this reform to medium and large cities at vice province level, such as Shijiazhuang, Changsha, and Chengdu, the capitals of Hebei, Hunan and Sichuan provinces. Still the selective procedure and the difficulty in meeting the high standard make the urban *hukou* out of reach for most of the migrant workers (Liu et al 2003: 30).

In spite of the great contributions made by migrant workers, they are treated differently in the cities from their counterparts. The above-mentioned household registration system (*hukou*) prevents migrant workers from getting the opportunity of permanently residing in urban areas. Due to this, migrant workers cannot be entitled to the same rights and benefits as their urban counterparts in terms of salary, work time, and workload. Even worse, the absence of labour security and delayed payments can plunge them into economic insta-

bility. Migrant families are excluded from the social welfare system in urban areas.

2.2.2 Hukou and Children's Education

According to the Compulsory Education Law, all children in China are required to receive at least nine years of education. It specifies that local governments should provide an “equal environment” for both local and migrant children in terms of access to education. However, as this “equal environment” is not clearly defined, it is up to local governments to interpret and implement the law. Furthermore, government funding for education is based on the number of school age children of local residents. Therefore, urban governments have no absolute obligation to take care of migrant children's education (Government Documents 2010).

Although the *1996 (Trial) Measures*¹ for the Schooling of Children and Young People in the Migrant Population, and the *1998 Provisional Measures*² for the Schooling of Migrant Children and Young People urged municipalities to accept migrant children aged between 6 and 14 in the state-run or privately run schools under the status of temporary students, it also emphasized that the major responsibility for education should remain with the out-flowing areas. Only children who had no guardian in their place of permanent residence could study elsewhere. On 23 June 2003, State Council forwarding the Circular of *Opinion of the Ministry of Education and other Departments on the Work of Curbing Arbitrary Fee Collection* made it clear that urban public schools are not allowed to charge extra fees. Yet the local implementation of these measures varies greatly and the progress of improving the situation for migrant children is very slow. Under the hukou system, migrant children have to meet two criteria in order to be accepted by the public schools in cities. First, students must reside within the local school district in the city. Second, students must be registered in the school district as well. (Liang and Chen 2007: 30).

In some provinces, a new policy was introduced to facilitate the admission of migrant worker's children into public schools. Migrant children can go to public schools on a condition that their parents are able to provide required documents, which usually include “provision of a temporary residence certificate, evidence of the parent's or guardian's employment at a local enterprise, and evidence of previous schooling” (Davies and Ramia 2008: 147). Although these policies were intended to integrate migrant children into urban state

¹ *Chengzhen Liudong Renkou zhong Shiling Ertong Shaonian Jiuxue Banfa (Shixing) (Trial Measures for the Schooling of School-age Children and Youth among the Floating Population in Cities and Towns)* issued by the Ministry of Education.

² *Liudong Ertong Shaonian Jiuxue Zanzing Banfa (Provisional Measures for the Schooling of Migrant Children and Young People)* issued by the State Education Commission and Ministry of Public Security.

school system and improve their access to education, there is a “continued emphasis on eligibility rather than entitlement”. And consequently, children who fail to provide the required documentation remain excluded (Davies and Ramia 2008: 148).

Under these circumstances, many migrant children have faced difficulties at attending and remaining in school. According to the research done by China Labour Bulletin, about half of all migrant children enrol in school one or even two years after the usual entry age, and about six percent of them have never attended school. And even when they do go to school, they tend to have a high drop-out rate, low daily attendance and low graduation rates. (Chan 2009: 35). After the nine-year compulsory education, it is estimated that “only one-third of migrant children go on to high school, compared with 95 percent of urban children” (Chan 2009: 38). Even for those who manage to go on to high school, they are forced to return to their hometown to take the college entrance examination, which put them at a disadvantage.

In China, government funding for education is based on the number of school age children of local residents. Therefore, urban governments have no absolute obligation to take care of migrant children’s education. At the same time, since the local governments are responsible for allocating the education budget, if they take in migrant children, it will without doubt add financial burden to respective local government. In some places, instead of denying their access to education in public schools, conditions and requirements were set up for migrant children. In order to enrol in the urban public schools, parents of migrant children need to provide various kinds of documents and go through costly procedures. The required documents usually include “provision of a temporary residence certificate, evidence of the parent’s or guardian’s employment at a local enterprise, and evidence of previous schooling” (Davies and Ramia 2008: 147). Some schools even ask for as many as eight documents from the parents before accepting migrant children, which include identification card, temporary residence permit, employment permit, health certificate of the parent, population planning certificate, social insurance of the child, etc. As a matter of fact, very few migrant workers are able to provide all the documents that are required (Qi 2010: 55).

In addition, unlike urban children who are automatically enrolled in, migrant children very often have to take additional entrance examinations which are observed as a way served to “screen out” rather than “screen in” migrant children. (Qi 2010: 56) Second, migrant children tend to be treated differently as “inferior” or “outsiders”. For example, they are not allowed to participate in extracurricular activities; they are not qualified for joining social organizations such as Young Pioneers; they have no opportunity to be nominated as “outstanding students” even if they have good performance. Third, strong discrimination from the urban peers makes it difficult for migrant children to fit in and get along with urban children. Migrant children are often alienated simply because they wear shabby clothes or speak a different dialect. In addition, local parents also hold negative opinion towards migrant children and are afraid they would become “bad influence” to their children. (Qi 2010: 58) According to a

study carried out in Guangzhou, one third of migrant children studying in public schools said that they were often mocked or teased. In another study done in Beijing, 33.7 percent of migrant children claimed that they were not accepted by locals and as many as 40 percent said they were discriminated against. (Chan 2009: 38) As a consequence, many migrant children have “voluntarily given up their chances to study at local public schools”. (Qi 2010: 59)

While the majority of the migrant workers are involved in low-paid jobs in manufacturing, construction or service industries, their children, on the contrary, have to pay more than local children when going to urban public schools. Various fees are charged from migrant parents and this becomes a huge burden for the less well-off families. Not being able to afford the cost is another factor that prevents migrant children from receiving decent education in the cities. Since the urban local education budget doesn't cover the part for migrant children, the financial burden thus in turn shifted to schools. On one hand, urban public schools are very reluctant to recruit migrant children. On the other hand, they need to collect additional fees to cover the additional cost. It became normal for schools to make up the shortfall by collecting various fees such as temporary student fees, education compensation payment, school selection fee, etc.

For instance, in Nanjing in 2003, the annual cost for a primary school student was 1,500 yuan and the Nanjing municipal government set the standard that 480 yuan could be collected as temporary student fees, which means that the school still had to pay around 1,000 yuan upon recruiting one migrant children. Another example in Beijing in 1999, aside from the 480-yuan temporary student fee, a 2,000-yuan education compensation payment and a 1,000-yuan school selection fee were demanded from the migrant students. Moreover, high-ranked state school sometimes ask for more than 10,000 yuan or as high as 230,000 as school selection fees. (Chan 2009: 34) In Shenzhen, it is found out that migrant children enrolled in state primary schools have to pay three times as much as local students. From 2003 to 2005, the school selection fee for middle schools in Guangzhou province ranged from 30,000 to 60,000 yuan. (Chan 2009: 35)

According to a national survey carried out in mid-2000s, on average, the cost for migrant children's education was 2.450 per head per year and this accounted for nearly 20 percent of family income. Many migrant students drop out simply because their parents cannot afford the exorbitant costs. In an interview with China National Radio in 2005, Mr. Zhang, a migrant worker in Hefei, Anhui province told the story of how he had to take his daughter out of the state-run primary school because could not afford the cost. He earned a daily wage about 30 yuan as a construction worker, yet had to pay several thousand yuan every year for his eight-year-old son to go to a public primary school. (Chan 2009: 35)

Given the situation that migrant children have very limited access to urban public schools, many private schools are set up which cater to the needs of mi-

grant children in particular. However, either set up illegally or being very problematic, these schools are often struggling in the “grey zone” and cannot guarantee quality education for migrant children. First of all, unlicensed private migrant schools generally have very poor conditions. Some of these private schools are housed in converted factories, located near dumps or construction sites. In addition, there is a significant lack of basic infrastructure and necessary teaching facilities. For example, many of the schools have very small or no playgrounds, no “teaching aids for music, art and physical education classes”. Second, migrant schools are lacking teaching staff or experiencing a high staff turnover. This could be attributed to the fact that the staff in migrant schools are poorly paid and without social insurance. The lack of teaching resources and qualified teaching staff lead to the consequence that most migrant schools are not able to offer the complete state curriculum. (Qi 2010: 63)

Meanwhile, a large number of migrant schools were set up illegally, that is to say, they were not registered with local authorities. They are under the threat of being closed down by the local government at any time without any warning. Then what happen to the migrant children once the schools are closed down abruptly? Although sometimes the government official would promise to send the affected migrant children to nearby public schools, it is not often that these promises could be realized in the end. Some migrant children have to be sent back to the countryside instead. (Qi 2010: 65)

In China, under the hukou system, citizens are categorized into different groups, such as peasant and non-peasant workers. The Chinese household registration system is similar with the “propiska” in Russia which serves as an “internal passport” and a way of “citizenship rights allocation” (Wu 2007: 2). Without local hukou, migrant workers are essentially ‘noncitizens’ and unable to enjoy welfare such as healthcare as their urban counterparts. Under the hukou system, one can only be citizen when he/she stays in his/her native places. Otherwise, he/she must risk being an alien or noncitizen. Thus, class inequality, unequal distribution, social discrimination are built upon this differential citizenship.

2.3 Citizenship Rights and Children’s Education

The interweaving of hukou and citizenship rights in China has led to the phenomenon of “differential citizenship”, which can be seen as a way of social exclusion. The concept of differential citizenship, which could be defined as follows:

Citizens within a polity are organized into a hierarchy of groups on the principle of differentiation of status and rights, so as to effect inequality in economic gains, welfare benefits and political rights among a rank of citizen groups, sanctioned by the state, central and local governments (Wu 2007: 7).

It has been pointed out by Dorothy Solinger: “(C)itizenship does not come easily to those outside the political community whose arrival coincides

with deepening and unaccustomed marketization.” “(C)apitalism rather than promoting citizenship, may be antagonistic and detrimental to it, especially when it appears on the heels of a system of governmentally granted benefits.” (Wu 2007: 6). China’s hukou system has evolved into “an even more complicated matrix of governance during the market transition years” (Wu 2007: 3).

Fei Xiaotong, a Chinese social anthropologist has created the term *chaxu geju* when interpreting social relationships in traditional China more than fifty years ago. *Chaxu geju* means the different mode of association and this concept is closely related to the concept of differential citizenship defined by Wu Jieh-min which was quoted above. Fei suggests that unlike the western societies, in which the universal and equal rights are granted for all, the Chinese traditional society lacked the similar system. Instead, in China, a social relationship “traditionally defined by the distance to, and affiliations with, one’s family line and relatives”. As a result, this created the ambiguity of one’s rights and obligations (Wu 2007: 7).

Although these two notions are closely related, Wu’s concept of differential citizenship puts an emphasis on the outcome of the policies by the state in pushing modernization and industrialization, in this case, the institutional inequality. (Wu 2007: 7) However, Wu’s definition is in consistence with the observation of Marshall: “Status was not eliminated from the social system. Differential status, associated with class, function, and family, was replaced by the single uniform status of citizenship, which provided the foundation of equality on which the structure of inequality could be built.” (Wu 2007: 8)

Moreover, the hukou system and the resulting differential citizenship have also brought about the ambiguity in accessing the rights to education of migrant children. Living in urban areas while holding rural hukou, migrant children have tremendous difficulties realizing their rights to education.

2.4 Rights-based Approach to Education and 4 As Framework

2.4.1 Rights-based Approach

In China, all children are granted with rights to education by Chinese national law, including the Constitution³, the Education Law⁴, the Compulsory

³ The present Constitution was adopted at the Fifth Session of the Fifth National People’s Congress and promulgated for implementation by the Announcement of the National People’s Congress on December 4, 1982. It has gone through four amendments at National People’s Congress in 1988, 1993, 1999, and 2004 respectively.

⁴ The current Education Law of the People’s Republic of China was adopted at the third session of the eighth National People’s Congress, promulgated

Education Law⁵, and Law on the Protection of Minors⁶. And according to international law, the state is the prime duty bearer in ensuring the fulfillment of the rights to education and addressing the factors which might impede the ability of a rights holder to enjoy their right to education. Meanwhile, it is suggested by international law such as the United Nations Convention on the Rights of the Child (UNCRC) that the rights-based approach is of vital importance in realizing the rights to education.

Rights based approach hold duty bearer accountable in fulfilling their responsibilities towards rights holder by clearly identifying who the rights holder and duty bearer are. As China is more and more involved in the international community, which has set standards for state practices through various international laws, it is necessary for China to fulfill its responsibility and meet the international standards. For example, the UNCRC is an important international legal framework for protecting children's rights and a method in realizing children's rights. UNCRC⁷ has been ratified and entered into force for China in April, 1992. In Article Two, it obliges the government to safeguard children's rights "within its jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." Therefore, it could be used as a yardstick in reviewing China's overall practices, that is to say, what China has been required to do under these international standards, what has been done and what has not.

2.4.2 The 4As Framework

"For education to be a meaningful right it must be available, accessible, acceptable and adaptable". Developed by the former UN Special Rapporteur on the Right to Education, Katarina Tomasevski, the 4 As is very useful in explaining the right to education and assessing the tangible factors. In this study,

by Order No.45 of the President of the People's Republic of China on March 18, 1995 and effective as of September 1, 1995. This law is applicable to all levels and types of education.

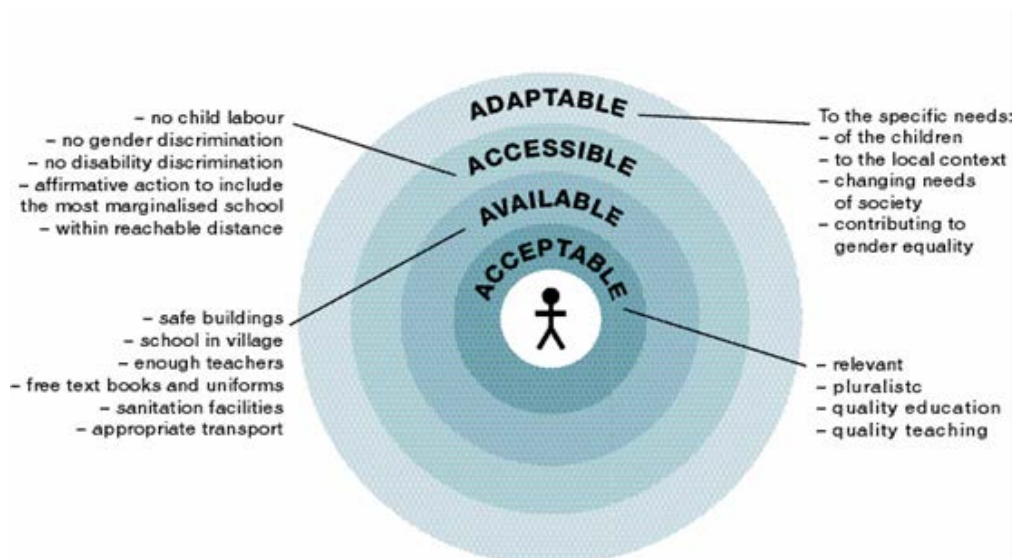
⁵ The Compulsory Education Law of the People's Republic of China was adopted at the Fourth Session of the Sixth National People's Congress on April 12, 1986, and amended at the 22nd Session of the Standing Committee of the 10th National People's Congress on June 29, 2006.

⁶ The Law of the People's Republic of China on Protection of Minors was adopted at the 21st Meeting of the Standing Committee of the Seventh National People's Congress on September 4, 1991 and promulgated by Order No.50 of the President of People's Republic of China on September 4, 1991.

⁷ The government of People's Republic of China became a signatory to the Convention on August 29th 1991. The ratification of the Convention by the People's Republic of China received at the United Nations on March 2nd 1992.

the 4 As framework will be taken up in assessing the situation of migrant children with regards to their education in urban China (RTEP 2008).

Figure 3 Education Rights Circle Diagram



(Source: <http://www.right-to-education.org/node/231>)

In a concept paper for the Right to Education Project, Beco points out that the 4 As framework is “best suited to identify state obligations relating to the right to education” (Beco 2009:11). He then further explains that there are three advantages in taking the 4As framework as starting point to establish right to education indicators. First of all, as mentioned above, being the best way in identifying state obligations relating to the right to education, the indicators based on the 4 As framework is most closely linked to international human rights law. It not only helps to create a more comprehensive and accurate set of right to education indicators but also facilitates in establishing a clear general structure of these indicators. Second, this framework is also effective in bridging disciplinary gaps and it is rather important since the indicators stem from the development field. This way, it is possible that the development concerns be integrated into the 4 As and it in turn allowed to make use of existing education indicators. Third, by measuring not only the right to education but also rights in education and rights through education, the 4 As framework emphasizes both the quantitative and qualitative aspects of the right to education (ibid.).

Availability

According to various international treaties, such as the Universal Declaration of Human Rights (UDHR) and the Convention on the Rights of the Child (UNCRC), primary education should be free and funded by the government of each country. Meanwhile, the government should also respect parents’ freedom in choosing how they would like their child to receive education, whether in a public or private funded school or home school (Tomasevski 2004: iii-iv).

Accessibility

Accessibility stresses the importance of the elimination of all different forms of discrimination against vulnerable, marginalized or disadvantage children. With discrimination being a moving target, it is of key importance to reduce the gap between each group of population in carrying out the principle of accessibility (Tomasevski 2004: iv-v).

Acceptability

Acceptability is involved with the quality and relevance in children's learning experience. The government is responsible for providing proper syllabus, curriculum and infrastructure in order to create a better environment for children to better develop themselves. Preparing an education with acceptable quality does not only involve the time when children are in school, but also when they enter the job market. One important aspect in improving acceptability is protecting educator's rights. Violation of teacher's rights may result in the degradation of the education children receive (Tomasevski 2004: v-vi).

Adaptability

Adaptability implies that the government should make education system meet the various needs of students, and fulfill the mission of transmitting core values, eliminating poverty, child labour, or child marriage. For example, working on increasing girls' enrollment in schools helps greatly in reducing child marriage. This last element of the four-fold schema stresses that education should serve the best interest of the child (Tomasevski 2004: vi-vii).

2.5 Concluding Remarks

In this chapter it has been argued that differential citizenship not only put migrant children in a vulnerable situation and affects their entitlement to the right to education, but also put them in a liminal status that while living in the city, they are not able to live an urban life. Then the rights-based approach and the 4 As framework as an analytical tool has been introduced.

Chapter 3 Internal Migration, Hukou System and the Consequences for the Social Rights of Migrant Workers and their Children: A View from Beijing

3.1 Introduction

This chapter brings into focus the context of migration in the capital city Beijing, investigating how migrant children are marginalized and excluded from the public education system in the city and briefly looking at some of the adaptive strategies of the local government.

3.2 Migrant Workers in Beijing

The proportion of migrant population in China's capital city Beijing grew from one quarter in 2000 to one third in 2007 (Kwong 2011: 872). Migrants are marginalized in the city first in the sense that they usually live on the outskirts, the Fourth and the Fifth Ring Road⁸ or further. Most of them concentrated in districts along the Fourth and Fifth Ring Road such as Yang ,Haidian, Shijingshan, and Fengtai. (Kwong 2011: 873). On the other hand, migrants are marginalized in many other ways. Without good educational background and skills, they are usually involved in low-paid manual labour works such as construction, service industry, garbage collection, etc., so called 3-D jobs (dangerous, dirty and demanding). According to a research done in 2007, their average income per month was about 1,200 yuan, much lower than the city's average monthly income which was over 3,000 yuan (ibid.).

Compared with urban workers, migrant workers do not enjoy equal employment opportunities. The Ministry of Labour once released a document called "The Interim Regulations Regarding the Management of Employment of Inter-provincial Rural-urban Migrants", which includes the discriminative principle of "local job seeker first, migrants second". (Zhu et al. 2009: 4) In Beijing, migrant workers used to be restricted to 200 job categories, including the dirtiest blue-collar jobs (Qi 2010: 45).

Not holding the urban hukou also makes migrant workers excluded from getting subsidy for housing from the government. As a result, they usually live in the outskirts of the city and form their own communities. Based on the re-

⁸ In the old days, four districts located within the second ring road—Xuansu, Dongcheng, Xicheng and Chongwen were considered to be downtown area. Later with the urbanization process, the downtown area expanded to the third, and even fourth ring road. Another four districts—Chaoyang, Haidian, Fengtai, and Shijingshan were included into the urbanized area.

sult of a survey conducted in 2006 by National Bureau of Statistics, 6.5 per cent of migrants live in working shed, 7.8 per cent live in working site, 30.4 per cent live in dormitory, 23 per cent live in house without bathroom or kitchen and only 21 per cent of migrants live in house with both bathroom and kitchen. The remaining 11.3 per cent of migrants live in other places (Qi 2010: 49). This situation makes it difficult for migrant workers to settle down in the city and integrate into the urban society.

Additionally, not possessing urban hukou means no social security for migrant workers. As has been stated by Deputy Director General of the Social Insurance Administration Centre at a workshop in Beijing, as of June 2006, 16 million migrants were participating in industrial injury insurance; 11 million migrants were participating in pension insurance and 10 million migrants were participating in medical insurance nationally. Based on the most conservative estimate of the 120 million migrants in China, these figures represent only 13 per cent of migrants participate in industrial injury insurance; 9 per cent of migrants participating in pension insurance and 8 per cent of migrants participate in medical insurance (Nielsen & Smyth 2008: 4).

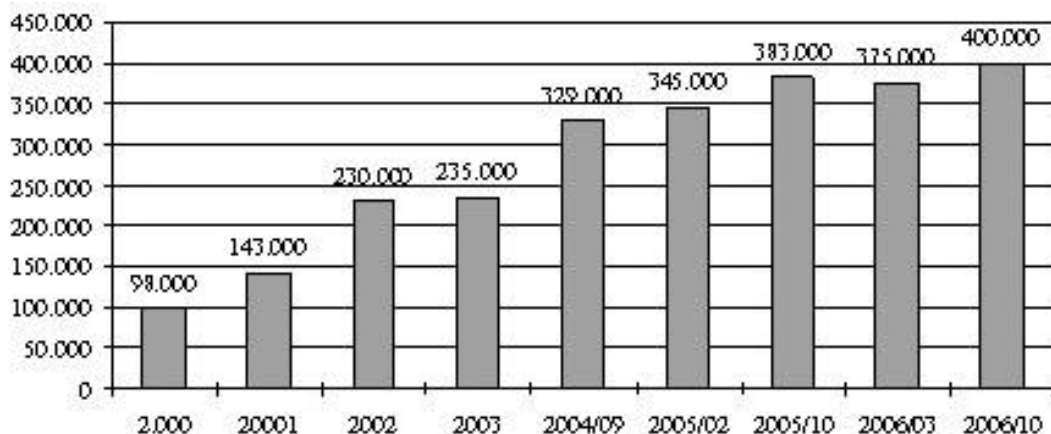
Judging from migrant workers' lives, unstable and poorly paid jobs, social exclusion, lack of social security, it is rather hard for them to guarantee a good education for their children.

3.3 Migrant Children and Their Educational Experience in Beijing

3.3.1 General Information

According to a document from Beijing Municipal Education Commission (BMEC), the number of school-age migrant children living in Beijing grew from 98,000 in 2000 to 400,000 by the end of 2006. The following graph clearly illustrates the trend of growth.

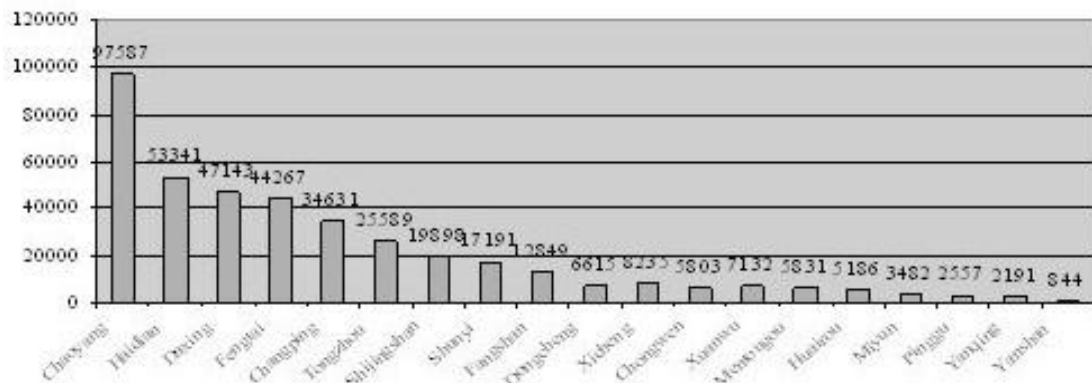
Figure 4 Number of migrant children in Beijing since 2000



(Source: Confidential Document from BMEC, dated February 9, 2007)

The geographic marginalization could be identified from the following graph that there is a significantly uneven distribution of migrant children in the city of Beijing. Nine districts on the outskirts hold 88 percent of all the children and therefore, the local governments are facing much more pressure in taking care of these migrant children's education. (Qi 2010: 68)

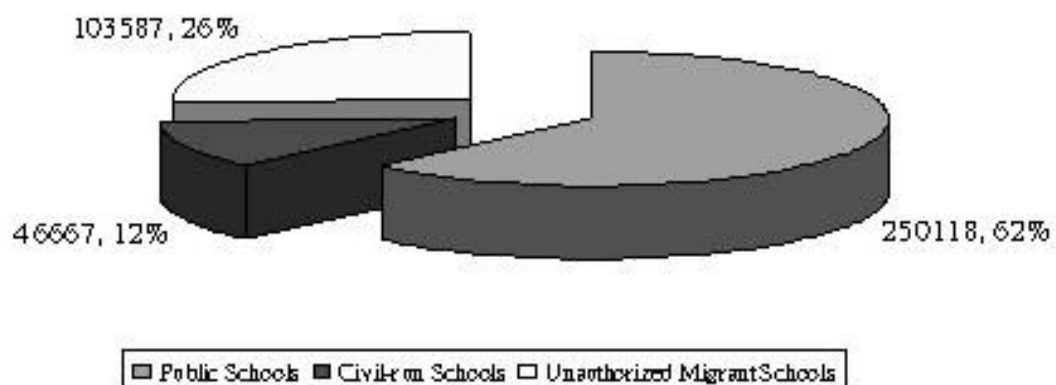
Figure 5 Migrant Children Living in Different Districts in Beijing



(Source: Confidential Document from BMEC, dated February 9, 2007)

Inherited their parents' rural household registrations, even if some of the migrant children were born in the city and have been lived there ever since, they are still differentiated from the local children when accessing their rights to education. Statistics from Beijing Municipal Education Commission shows that among the 400,000 migrant children, 62.5% of them were accepted by public schools, 11.7% went to private schools, and the rest 25.8% attended migrant schools.

Figure 6 Migrant Children Attending Different Types of Schools in Beijing



(Source: Confidential Document from BMEC, dated February 9, 2007)

3.3.2 Adaptive Strategies in Beijing

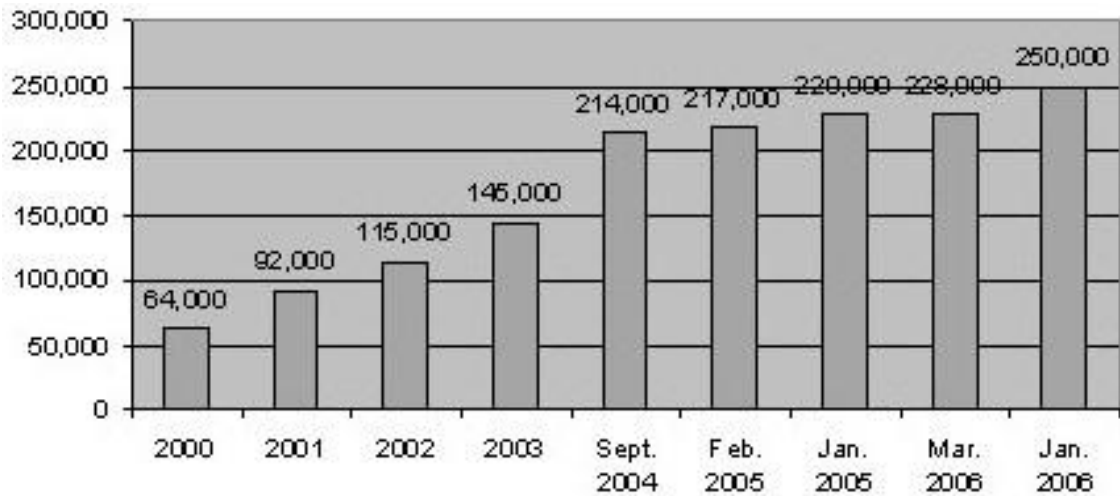
In 2002, Beijing local government issued “Temporary Regulation on Implementing Comprehensive Education to Migrant Children”. Under this regulation, a complicated recruiting procedure was created and migrant parents are required to submit a series of documents if they want to send their children to public schools. These documents include “a certificate authorizing employment, a certificate authorizing residence, a certificate certifying they have only one child and proof that there is no one to look after their children in their home region”. (Kwong 2011: 874)

However, in reality, many migrant workers are involved in low-level manual labour jobs. As a result, it is not unusual that they do not possess work contracts. And without a work contract, they are not eligible for getting an employment certificate. Then without an employment certificate, it is not possible for them to get a residence permit. Besides, many migrant families have more than one child, which not only violates China’s one-child policy but also make them ineligible in this situation. All these factors prove that it is extremely difficult for migrant children to meet all the requirements and be accepted into the public schools. A study in 2009 found out that there were only 2.7 % of the migrants interviewed can provide all the required documents. (Kwong 2011: 874)

Moreover, all these documents together still do not guarantee that the migrant children could be accepted by public schools. On top of the regular tuition, a temporary student fee is demanded before a migrant child could enter a public school. Temporary student fee, *Jiedufei* in Chinese, literally means “education borrower’s fee”, which indicates that the migrant children are not entitled the rights to study in urban public schools. Therefore they have to “borrow” the education. (Kwong 2011: 874)

There is an attempt by both central and local government to regulate the amount of temporary student fee. For example, in 1998, Beijing local government set the standard at 500 yuan for primary school and 1,000 yuan for junior high school. In 2007, it further suggested that the temporary student fee could be exempted for migrant children in need. However, these government gestures are considered to be weak and often ignored by schools, which still charge fees in the name of “voluntary donations”. Apart from the temporary fee, many schools even charge “school selection fee” of about 500-1000 yuan per year. Better or more prestigious schools charge even larger amount which very few migrant parents could afford. (Kwong 2011: 875)

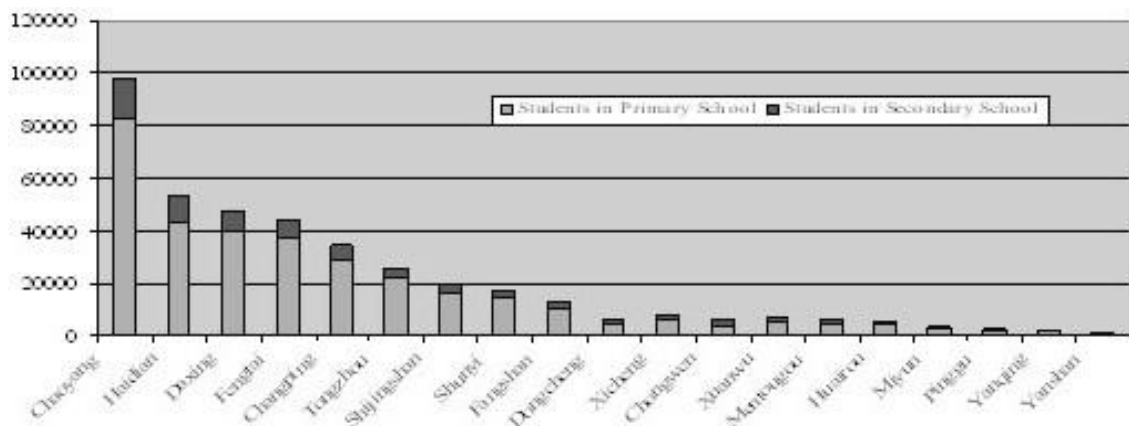
Figure 7 Migrant Children Attending Public Schools in Beijing



(Source: Confidential Document from BMEC, dated February 9, 2007)

Statistics also shows that the number of migrant children attending primary schools and those attending junior high schools differ greatly. The former reaches 82.9 percent, far exceeding the latter which is only 17.7 percent. This difference could be clearly identified in the following graph. (Qi 2010: 69)

Figure 8 Distributions of Migrant Children in Different School Periods



(Source: Confidential Document from BMEC, dated February 9, 2007)

Since migrant children could only take college entrance examination in their places of household registration, they usually have to return to their hometown for senior high school. As a matter of fact, instead of going back, many of them remain staying in Beijing. However, it is very hard for them to receive senior high school education in the city because it is no longer part of the compulsory education and they can barely afford the fees charged by the school. Moreover, the private migrant schools have not yet extended their business to this stage yet. Therefore, after graduating from junior high school, migrant children usually choose to go to vocational schools instead, or even start working at the age of 15 or 16. In contrast, the enrollment rate to higher

institute of local student has reached 75.9 percent in the year 2008 (Qi 2010: 20).

Beijing is divided into ten districts and eight counties and there is a high level of decentralization which means that each district government implements the city regulation in their different ways. As for the 2002 “Temporary Regulation on Implementing Comprehensive Education to Migrant Children”, each local government has “focused on different parts of the document adopting only strategies that coincide with its own interests (Kwong 2004: 1081).

Positive measures were taken by some district governments in improving the education of migrant children. In June 2001, two schools, Honglian Primary School and Jinding Jie High School were set aside by Xuanwumen district for migrant children. They accepted 40 and 80 students respectively. In September 2002, similar approach was taken by the government of Shijingshan which transformed Mayu Primary School into a migrant children elementary school and turned a senior high trade school into Jinding Junior High School. Although the number of students they took in was limited due to the various restrictions imposed on the children, both of the two schools were funded by the government, in which the teachers were treated as civil servants and students were considered as regular students in the public system (Kwong 2004: 1081).

However, such “sympathetic action” is rather the exception instead of the rule. First of all, the above-mentioned two districts are not the places where there is a high concentration of migrants. In fact the district and county governments where there is a high concentration of migrant population are usually unwilling or reluctant to spare their resources for the education of migrant children. Instead, they consider the migrant community a source of trouble and are unwilling to shoulder the responsibility to take care of them. One of the local officials said: “These parents should think of their children’s welfare, and should not be moving around like that” (Kwong 2004: 1082).

Table 2 Uneven Distribution of Migrant Children and Different Approaches Adopted by District Governments

District/ County	number of migrant children	Public school	Authori zed migrant school	Unauthorized migrant school	
				Number of school	Number of student
Dongcheng	6615	6241	374	0	0
Xicheng	8235	7899	336	0	0
Chongwen	5803	5803	0	0	0
Xuanwu	7132	6458	100	1	574
Chaoyang	97587	47796	2804	80	46987
Haidian	53341	38579	3544	28	11218
Fengtai	44267	39274	3124	2	1869
Shijingshan	19898	9705	1657	9	8536
Mentougou	5831	5831	0	0	0
Yanshan	844	844	0	0	0
Changping	34631	14472	11960	31	8199
Daxing	47143	18285	12208	22	16650
Fangshan	12849	8166	3006	9	1677
Tongzhou	25589	14516	7355	6	3718
Shunyi	17191	13400	18	16	3773
Huairou	5186	4800	0	1	386
Miyun	3482	3480	2	0	0
Pinggu	2557	2557	0	0	0
Yanqing	2191	2012	179	0	0
Total	400372	250118	46667	205	103587

(Source: Confidential document from BMEC, dated February 9, 2007)

3.4 Concluding Remarks

This chapter mainly addresses the question of how the institutional segregation—hukou system has excluded children of migrant workers from the rights to education in the city of Beijing. Migrant workers and their family are living a rather marginalized life in the capital city Beijing due to the existing hukou system. Their children's basic rights to education cannot be guaranteed. Migrant parents do not have much freedom in choosing the form of education for their children since the requirements for entering local public schools are high and the conditions of most private migrant schools are not satisfying enough. It also tries to identify some adaptive strategies taken by the local government, which however, turn out to be quite limited.

Chapter 4 A Rights-based Approach to Education: Case Study of a Local Public School

4.1 Guang'an Junior High School

Guang'an Junior High School is located in Xuanwu District within the Second Ring Road (Qi 2010: 235). It used to be an ordinary school until the year 2001⁹ when local district government nominated it as a local public school catering to the education needs for migrant children. In the beginning, only 125 students out of 705 in Guang'an were not local students. In 2007, the number changed drastically, with the number of migrant students growing up to 397, equalling 96.5% of the total number of students (Qi 2010: 236). What have led to the drastic change and what has the school been through in these years?

Physical Condition

As is indicated on the school's official website, Guang'an Junior High School covers a total of 10,200 square meters, with 5,300 square meters occupied by the classroom building and the rest covered by playground. The teaching building is four-storey in eight and white in colour. The playground is paved with plastic cement, consisting of a badminton pitch, two basketball pitches and a running track about three hundred meters in length. The interior decoration of the classroom building is also comfortable and pleasant. Walls are painted in white, decorated with big square windows. The floor is tiled in white as well, shining against the sunlight coming through the big windows (Qi 2010: 236-237).

Moreover, Guang'an is equipped with modern high technologies, for example, multimedia teaching devices, closed circuit television network, broadband network, etc. There is also school library, several laboratories, a professional gym, a computer room, a music room, and an arts room as well. These modern devices and equipments laid a solid foundation for pursuing a quality modern education for its students. (Qi 2010: 237)

Teaching Practices and Staff

Through observing the teaching activities in person, the researcher found out that first of all, the classrooms in Guang'an were kept tidy and in order,

⁹ In 2001, the State Council carried out the *Guanyu Jichu Jiaoyu Gaigeyu Fazhan de Jueding (Decisions on the Reform and Development of Fundamental Education)*. Article 12 of it points out that the issue of education for migrant children should be addressed with due concern, with major responsibility shouldered by the governments of receiving areas and by full-time public schools.

fully equipped with modern devices such as television, air conditioners, computer and projector. There were around twenty students in each class, sitting in four rows. The size of the class was relatively small which made the classroom look quite spacious. During a physics class, the teacher was found to be well prepared for the lesson, whose notes on the blackboard were comprehensive and easy to follow and experiments were interesting and attractive (Qi 2010: 238).

The school claims that since its establishment, it had highly valued the quality of education. It had also made great efforts in improving education quality which could be proved by the performances of its students and teachers. “The school has achieved a hundred percent passing rate in the graduation examination. Moreover, all through these years, the performance of students in the senior high school entrance examination has ranked high among schools in Xuanwu District”. At the same time, quite a number of the teaching staff had been awarded with a variety of honours. (Qi 2010: 239)

Recruitment of Migrant Children and Equal Treatment

The school started recruiting migrant children in 2001. At the beginning, as was required by the municipal government, the migrant children were charged for 1,000 yuan as sponsor fees. Then, the fees were reduced by half in the next semester, and eventually, they were completely abolished in 2002. Migrant students could register at Guang'an for free but on the condition that their parents could present a “Transient Schooling Proof” ratified by any sub-district office in Xuanwu District. (Qi 2010: 241)

An application procedure is needed in order for migrant parents to get the proof. The first step was to prepare five required documents which includes “Temporary residence permit, Actual address in Beijing”, “Working certificate”, “Proof issued by the governments at county or township levels in the rural origins, proving the absence of guardian for the children in their origins”, “Copy of the Household Registration of the students and the parents”. After obtaining these five documents, migrant parents could proceed to the second step, namely applying for the proof itself. By providing the above documents and certificates, and submitting an application to any sub-district office or any county government, the proof will be issued to those who are qualified for a temporary schooling in Beijing. On the “Transient Schooling Proof” there will be words like “Child of Farmers”. By showing this proof, transient student fees will be exempted (Qi 2010: 242).

For some migrant children, attending public schools might be a nightmare because of the discriminatory treatments against them. Discrimination not only comes from the urban students and their parents, the teachers, but also from the discriminatory rules and regulations in the school. Being naturally sensitive to their surroundings, migrant children's feeling might be easily hurt when looked down upon or unfairly treated (Qi 2010: 246).

Guang'an has been taking different measures in order to prevent such negative consequences. For example, it was forbidden to treat local students with preference and students were given the same opportunity to participate in various competitions regardless of their places of origins. At same time, Guang'an let students mix together in the same class instead of separating the migrant children into different classrooms. This way, they could learn from each other, so the headmaster said. The school even made it one of the criteria in assessing the performance of teachers. According to the headmaster of the school,

Since the admission of the first group of migrant children, it had been made a rule by the school leaders that migrant children should be treated equally. During their primary school study, because of the limited quotas for awards like the "Student of Three Excellences", their teachers might have given preference to local students. Hence, we brought forward the idea that excellent non-local students ought to be entitled to these awards, too. Also, they must be guaranteed equal opportunities in elections for the members of class committee (Qi 2010: 247).

Difficulties Encountered

The official assignment and the sudden change in 2001 were not welcomed by the whole school. Some teachers began to worry about the future of the school, while others were deeply concerned with their own teaching career. Some teachers were afraid that the coming of migrant children might be a drag on the overall quality of their students, which might eventually push the school into a dead end. Their worries and hesitations were somehow understandable, because for all the schools, a fine reputation and a high rank decision on their future development, for the sake of which, they had to hold tightly on the quality of the students (Qi 2010: 244).

As a matter of fact, since all the migrant children in Guang'an came from various education and family background, it is hard for the teachers to stick to a unified standard in their teaching. Instead, they had to take into consideration different needs of each individual student. At the same time, the age difference of students complicated the situation even more since many migrant families had delayed the schooling of their children due to all kinds of reasons. Some migrant parents might have missed the proper time to send their children to school due to their heavy work, others might be financial incapable in doing so due to their unstable income. Generally, migrant families had to move around and the frequent resettlement had seriously interrupted the schooling of their children. Migrant children were usually required to retake the previous one or two years when being transferred to a new school so as to catch up well with other students (Qi 2010: 245-246).

On the other hand, Guang'an has indeed lost many local students over the years after 2001. Statistics showed that from 2001 to 2007, the number of migrant students enrolled at Guang'an increased from 125 to 397, while the number of local students dropped from 580 to 15. The year 2003 witnessed the smallest disparity between the numbers of migrant and local students. 2004

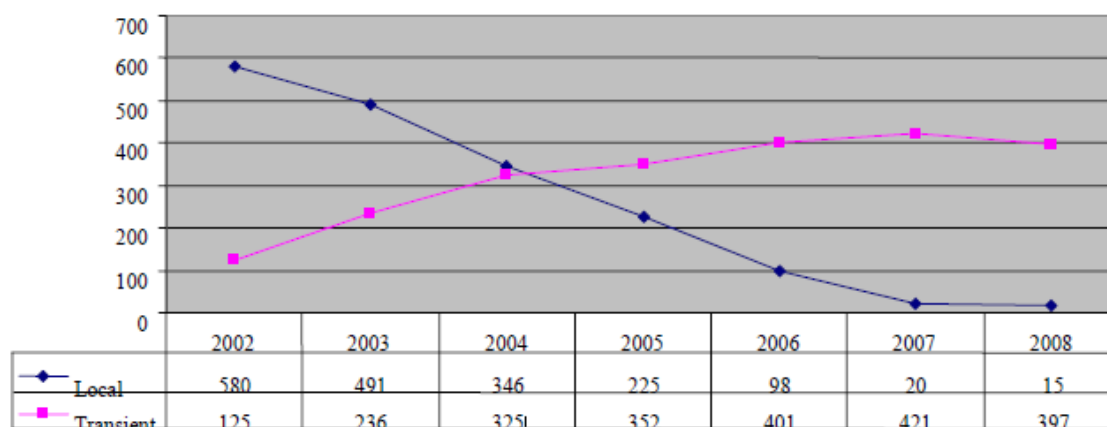
recorded the first time the number of migrant children surpassed that of the local kids. Then, around 2005, migrant students became the absolute majority, and in 2006, their number reached the peak. Eventually, in 2007, there were only 15 local students studying at Guang'an (Qi 2010: 248)

Table 3 Recruitment of Students at Guang'an

	<u>Grade 1</u>		<u>Grade 2</u>		<u>Grade 3</u>		<u>Total</u>	
	Local Students	Transient Students	Local Students	Transient Students	Local Students	Transient Students	Local Students	Transient Students
2001.9	125	107	241	11	214	7	580	125
2002.9	128	125	132	98	231	13	491	236
2003.9	81	136	134	112	131	77	346	325
2004.9	13	155	82	124	130	73	225	352
2005.9	1	194	15	139	82	68	98	401
2006.9	5	177	1	159	14	82	20	421
2007.9	5	157	8	147	2	93	15	397

(Source: Document offered by the *Guang'an Secondary School*, obtained on March 19, 2008)

Figure 9 Changes in the Recruitment of Students since 2001



(Source Qi 2010: 249)

Statistics show that the school has eventually transformed from an ordinary local public serving local students to a special one primarily catering to the needs of migrant children. The main reason why the local students would leave is that their parents were worried about the negative influence coming from the migrant children and the potential deterioration of education quality when there were too many migrant children in the school. Despite the fact that the school had made great efforts in comforting the local parents and trying to explain the situation and eliminate parents' worries, it did not seem to be working. More and more local students started to leave for better options even outside the original school district (Qi 2010: 251).

Judging from the experience of Guang'an, it was feasible to entrust urban public schools with the responsibility of educating migrant children. Since the transition in 2001, it handled its role well and had many achievements. However, at the same time, its huge sacrifice could not be overlooked. The coming of a large number of migrant children made it no longer favoured by local students and their parents. For many local public schools, pleasing the two sides at the same time could be as hard as "a mission impossible" (Qi 2010: 252).

4.2 Assessment through the 4 As Framework

4.2.1 Availability

The Compulsory Education Law in China clearly indicates that children of school age in China enjoy the equal rights of receiving 9-year compulsory education. In Article 12 it deals specifically with the situation when children are not able to receive education at their place of permanent residence.

School-age children and adolescents shall go to school without taking any examination. The local people's governments at all levels shall ensure that school-age children and adolescents are enrolled in the schools near the permanent residences of the school-age children and adolescents.

For a school-age child and juvenile whose parents are working or dwelling at a place other than their permanent residence, if he/she receives compulsory education at the place where his/her parents or other statutory guardians are working or dwelling, the local people's government shall provide him/her with equal conditions for receiving compulsory education. The concrete measures shall be formulated by the provinces, autonomous regions and municipalities directly under the Central Government.

The administrative departments of education of the people's government at the county level shall guarantee the right of a serviceman's children to compulsory education within its administrative area (Government Documents 2010).

While encouraging the children to attend schools near their places of permanent residence, this legislation requires the local governments to provide equal opportunities to non-resident children to receive compulsory education at the same time. (Holland 2008: 239) However, since the government funding for education in China is based on the number of school age children among local residents, local urban governments are usually reluctant to take care of migrant children who are considered to be a great burden. Otherwise, additional fees will be charged from the migrant children as a way of making up for the insufficient budget. Although in recent years, the government has been making an effort to regulate the amount of temporary student fee charged from migrant students, still many of the students are kept out of the school because they

cannot afford to pay all the fees. Instead of placing onus on local authorities, the central government should first reconsider the more fair distribution of resources and spare more on enhancing social welfare for all.

Judging from the case of Guang'an, the government is also trying to make education more accessible to migrant children by assigning certain public schools to take in more migrant children. The public schools are usually well facilitated and equipped, with qualified teaching staff. However, the criteria for entering the public school are still difficult to meet for many migrant families. And the school is allowed to charge additional fees from migrant children. Due to this, many migrant children simply could not enter any public schools because of financial difficulties. Although the amount of fees has been reduced over the years and can be waived under certain conditions, the fact that migrant children are required to pay fees to get education in a junior high school goes against the Compulsory Education Law which states that compulsory education should be free of charge. Meanwhile, UNCRC also points out that "States Parties shall recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, in particular, make primary education compulsory and available free to all; encourage the development of different forms of secondary education...make them available and accessible to every child, and take appropriate measures such as introduction of free education and offering financial assistance in case of need" (UNCRC Article 28). In fact, it is true that lacking of government fund is one of the major reasons that public schools charge extra fees from migrant children.

4.2.2 Accessibility

Although it is advocated that migrant workers and their children should not be discriminated against, in reality various kinds of discriminations still exist. Not being able to attend local public school without providing various certificates or extra fee is the major one, and even if they manage to be enrolled in to public schools, still they have to endure the discrimination or even bullying from urban students, their parents and the teachers. Sometimes, migrant children are separated from the local students and not allowed to mix with the local children since they might bring "bad influence". Sometimes local fellow students would laugh at them just because of their rural accent or appearance. Or like what had happened in Guang'an, parents of local students would rather transfer their children to other schools further away instead of letting them study together with migrant children. Teachers feel insecure and do not want to teach after the number of migrant children exceeds that of local children. All these might bring negative influence to migrant children and make them lose their motivation to go to school. This also violates UNCRC which clearly states that "States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities..." (UNCRC Article 2).

At the same time, since migrant workers usually live in the relatively poor neighbourhood in the outskirts of the city, geographically it would also be difficult for their children to attend the good public schools in the city. Moreover, migrant workers often have to work from early morning till late at night and do not have the time to take their children to school. In this case, they would prefer to send their children to nearby migrant school even if its condition is not satisfying enough. Guang'an is located in Xuanwu District within the Second Ring Road in Beijing. Given the fact that most migrant population concentrated in areas along the Fourth and Fifth Ring Road, Guang'an is not geographically convenient for migrant children.

The most common obstacle is still the high cost in attending public schools which is not affordable for migrant families. Besides the cost for textbooks, school uniforms, migrant children are still forced to pay "temporary student fee", "school selection fee", "voluntary donations", etc. In the case of Guang'an, it used to charge 1,000 yuan as sponsor fees from migrant parents. Later reduced to 500 yuan, and finally abolished, yet with condition.

Last but not least, the administrative obstacles that come along with the household registration system remain the origin of all the discriminations. Various certificates and proofs such as temporary residence permit, working certificate are required from the migrant parents if they want to send their children to public schools. As long as the administrative restrictions and unfair regulations are not entirely removed, education cannot be fully accessible to migrant children.

4.2.3 Acceptability

Guang'an is a government funded local public school. Therefore, the school is generally well facilitated, equipped with modern teaching devices, and the standard of curriculum could be guaranteed. Teachers are mostly selected through strict recruiting process and are qualified for their job. Generally, a public school like Guang'an is considered being able to offer proper education with acceptable quality.

However, since Guang'an started taking in migrant children who came from various education and family background, some teachers found it hard to stick to a unified standard in their teaching. The level of each student, especially migrant students could be very different since their schooling has been affected by their unstable lifestyle. Some migrant families have to move around frequently and hence their children are not able to receive continuous schooling. Wherever they go, they might find it difficult to catch up with the local students while it takes time to adapt to a new environment as well. It is quite challenging for the school to take into consideration different needs of each individual student. This, to some extent, had a negative influence on the teaching practice in the school.

Moreover, with more and more migrant children coming to Guang'an and leaving of local students, many teachers are afraid this might lead to the degradation of the school. In other words, they lost faith in the future of the school as well as their career path and began to leave for better opportunities. This is not only a kind of discrimination from the teaching staff, but it also became a great loss to the teaching quality of the school.

4.2.4 Adaptability

Adaptability requires that the education should meet the specific needs of each individual. Although sharing the same language and nationality, migrant children have been living in a relatively different environment. Also, the education system in different parts of China differs in certain aspects and there are quite a few different versions of textbooks being used in different regions. It is also important to identify the migrant children's different levels of previous education and gradually lead them into the local education system. However, no specific measures seem to be taken by Guang'an in order to help migrant children adapt to and fit in the urban environment.

Another deficit is that in China, students are required to take national college entrance examination in their places of origin, which makes it inconvenient for the migrant children since not only the education system, text books, even the content of the examination in different regions are different. Migrant students usually have to be sent back to their hometown since high school in order to prepare for the examination. Many students who choose to stay in the city might end up going to vocational schools or enter the job market before reaching the legal working age. Proper education does not only cover the period when students are at school, but also their future development after leaving school. What Guang'an has done is not enough to prepare the students for their future development.

4.3 Concluding Remarks

In looking into the situation in the local public school Guang'an, this chapter examines the problems faced by migrant children in detail and analyzes the ways the school have met the challenges of providing adequate education for migrant children. By applying the rights-based approach and the 4 As framework, it answers the question of whether or not these measures comply fully with articles of UNCRC. Guang'an as a public school that recruits migrant children has made its efforts and contributions. Yet the influence of the deep-rooted hukou system is huge and there remains a lot to be done.

Chapter 5 A Rights-based Approach to Education: Case Study of a Private Migrant School

5.1 XX Migrant School

In order to protect the interviewees and avoid any unnecessary trouble, the researcher did not reveal the real name of the migrant school. Located in Daxing District, the XX Migrant School was a non-profit migrant school founded in 2001. In the first three years after its establishment, the school was considered to be “illegal” and was forced to move by the local government as many as five times. Yet in October 2004, it was among the first group of migrant schools in Beijing to receive official authorization. Because of these twists and turns, it has gained a lot of public attention and drawn a lot of media coverage. As has reported in the paper, it aimed at providing quality education to migrant children at an affordable price and had 1,200 students from pre-school through ninth grade. Later XX Migrant School managed to earn its name as one of the best among the hundreds of migrant schools in Beijing (Qi 2010: 193-194).

Physical Condition

XX Migrant School was not small in size, at least as large as ordinary primary schools in Beijing, only even bigger. The school campus had been made use of efficiently. It was divided into four yards, with the two bigger ones accommodating most classrooms. In the front yard, which was the second largest one, were located classrooms for grade five to grade nine. Next to the school gate, there was a small tuck shop which sells all kinds of cheap snacks. On the other side of this yard, there was a sand-pit. Rubber tires were arranged around it for safety issue. Some worn exercise equipment stood behind the sand-pit. Opposite the sand-pit, there were three rooms, including a computer room equipped with donated second-hand computers, a dormitory for several girls who lived on the campus, as well as an empty dormitory of a former staff (Qi 2010: 197).

Further inside the school, there was the biggest yard, which accommodated the classrooms for students under grade five. A playground stretched over this yard. It had six basketball stands and a 300-meter plastic jogging track. Classrooms stood in the west and south, teachers’ offices in the northwest. An office, a classroom, a social worker’s room and several dormitories were located in the northeast. There was a boiler room in the northeast corner and a kitchen in the east. Two narrow corridors at each end of this row of classrooms in the south connected this main yard with another one. The third yard was narrow and small and was occupied by dormitories. Unlike those in the main yard which were shared by several young teachers, dormitories here were for the families of married staff. The last yard was in the west end of the school. Being the third biggest one, this yard accommodated several big class-

rooms, including a music room equipped with donated multimedia devices and a dancing floor, two experimental rooms for physics and chemistry classes, a small library, as well as an art studio. This yard was connected with the main campus by a long and narrow pathway. (Qi 2010: 198)

Teaching Practice and Staff

According to a report entitled “The Ecology of the Education for the Children of Migrant Workers in China and Our Action” written by the school’s headmaster, the XX Migrant School was a non-profit making, civil-run and government-subsidized full-time school with pre-school, primary and junior high sectors, with the mission of providing migrant children with quality education. Its aim was to set a good example to other migrant schools, by fully guaranteeing the lawful rights of migrant children to compulsory education, promoting education equality, and pushing forward the sustainable development of the society and the whole mankind. Its education services covered four areas, which were civil education, mental health education, traditional culture cultivation, as well as vocational enlightenment education (Qi 2010: 205).

The ideas of Tao Xingzhi, a famous Chinese educator, such as “society as school”, “life as education” and “unity of teaching, learning, and reflective acting” were all employed at the school for fulfilling its missions. The curriculum of the school included not only compulsory courses required by the State but also complementary courses designed by the school itself. The complementary courses ranged from psychological health education, traditional Chinese literature, diversified local culture, migrant worker and urban culture, to knowledge on running business, looking for employment and starting an enterprise (Qi 2010: 205).

With regard to the teaching methods, teaching activities were to be carried out inside migrant families, on the school campus, as well as in the society. To put it more specifically, the school would offer lectures to migrant parents introducing the concepts of legal education, vocational education and civil society. On the other hand, teaching activities inside the school will be carried out under an integrated education mode based on various ideas and philosophies. Teaching activities outside the school meant that chances would be given to students to participate in social activities such as public charity events (Qi 2010: 206).

There were fifty-three teachers in total in the migrant school. Their average monthly salary was around 2,000 yuan, which was slightly higher than that offered by most other migrant schools. However, compared with the salaries offered by local public schools, this amount was still a bit low. As a matter of fact, teachers in this school came from different origins and only two or three of them were local. And the majority of the teachers were female, especially young women. It was estimated that about one fourth of them were last year students of a normal university in Northeast China, as the school was their university’s internship base. These university students shared the same responsibilities in day-to-day teaching. However, after the internship, they would go

back to their universities and very few of them would choose to come back and teach in the school after graduation. As was informed by some of the young teachers, the researcher found out that some teachers only tended to work here on a temporary basis as what they really wanted was to find a better job or go for Master's study in Beijing. This place was merely a transition when they could earn some money as well as have a place to live (Qi 2010: 210).

Sources of Funding

According to the headmaster, as an affordable, non-profit making and high quality migrant school, the tuition fees collected were not sufficient for covering the daily operational cost, therefore, they had to rely on the funds from elsewhere. Generally, cooperating with a foundation brought to the school 500,000 yuan for the first year of their cooperation, followed by another 500,000 in the next five years. Besides, tuition fees made up 450,000 to 500,000 yuan every year. Meanwhile, since 2006, the local governments started subsidizing the school at an annual rate of 100,000 yuan, which equalled to 200 yuan per student per semester. The school could also receive donations up to 100,000 to 200,000 yuan ever year even since its establishment (Qi 2010: 211).

Table 4 Estimated Annual Income in the Next Five Years (yuan)

Resource	Amount (Per School Year)	Note
Foundation	100,000	Only for the first five years of their cooperation
Tuition Fees	450,000-500,000	450 per semester for preschool and 500 for primary school
Government Subsidy	100,000	200 per student
Donation	100,000-200,000	Since its establishment
Total	750,000-900,000	

(Source Qi 2010: 211)

The school had been receiving a lot of funds from companies and individuals, especially in its early days. Quite a few companies had generously contributed to its development. For instance, the Ford Foundation once donated 400,000 yuan to the school (Qi 2010: 212). And the China Red Cross donated 200,000 yuan in equipping the school with computers and computer-assisted teaching equipment (Qi 2010: 213).

Although the school was receiving quite sufficient funding from various sources, it followed the principle of “running the best school with the least money” and made an effort on avoiding unnecessary spending. For example, teachers were encouraged to make teaching aids by themselves to cut cost. However, it was open-handed in some other aspects such as providing scholar-

ships to outstanding students and lowering or even exempting the tuition fees for students from poor families (Qi 2010: 213).

Table 5 Tuition Fees and Other Charges at the *XX Migrant School* (yuan)

Resource	Tuition fees per semester	School bus (optional)	Lunch (optional)	Note
China Daily (2004)	Primary sector: 400 Junior high sector: 600	---	---	Preschool sector unmentioned
Headmaster's report (2007)	Preschool sector: 450 Primary sector: 500	---	---	Junior high sector unmentioned
Interviews (2008)	Preschool sector: 500 Primary sector: 600 Junior high sector: 800	200	15 per week	10 for preschool students

(Source Qi 2010: 216)

Difficulties and Problems

In 2007, the school was about to close due to 500,000 *yuan* debt. Some people assumed that being a “Min Ban (civilian-run)” school, it could hardly get any assistance from the local governments, which caused its bankruptcy. Other people worried that reducing and exempting the tuition fees became a financial burden to the school. Worse still, it was reported that the teacher had not get paid for three months. However, public donations finally managed to save the school from being shut down (Qi 2010: 215).

Strange thing was that while the teachers were complaining about the delaying of their salary payment, the school headmaster got a new sedan when the research was conducted, as well as a driver under his command. Since it is not possible to access the accounts of the school, one could not figure out the accurate income and expenses (Qi 2010: 217). However, the researcher was able to find out the “other side” of the school through an in-depth interview with two teachers.

Power concentration

Power inside the school was highly concentrated and unchallengeable. Due to the fact that migrant schools were not under the direct supervision of the local governments, what happened inside them could hardly be known by outsiders. Moreover, the concentration of power also led to unclear school finance. Only a few people who were considered as the core members knew what was going on behind the scenes. Other teachers could barely do anything other than complaining about the delay of salary in private (Qi 2010: 227).

Under the headmaster's suggestion, an executive council was formed in 2004 to improve the school's management. This was considered by the media to be another innovation by the school while the teachers interviewed did not hold a favourable opinion about it:

In fact, I think whether or not there is the executive council doesn't mean too much, since it is still our Headmaster who has the real power. I feel that the school does have problems. There is hardly any supervising mechanism for this kind of private schools. So, how to make it function openly is still a problem...At least, it is not like a well-managed enterprise. Everything here was operated by one person...We do not know how the money was spent. The key problem of the school is that the power is too concentrated (Qi 2010: 228).

Value of education

In XX Migrant School, extracurricular activities were believed by the headmaster to be more beneficial to the well-being of the children than book knowledge, scores or exams. On the contrary, teachers held different opinions and were worried that too many extra-curricular activities were in fact jeopardizing the normal studies of students. It was not advised to attach great importance to students' academic performance and this was believed to be the reason of the degradation of school performance of the students and the bigger gap between the students there and those in public schools.

The scores of the student from grade one and two are very good. But from grade three, their performance is just unsatisfactory. Students from the primary sector do their homework carelessly. Starting from grade three or four, (some students) just could not pass the mathematics examinations. English is taught from grade three. And the students just cannot pass the examinations. Their scores in English and mathematics cannot be improved, just get around 50 points. You can imagine that mathematics is fairly easy in grade three or four. Students from other schools can get 80 or 90 points. But students at our school just can't. As to the junior high sector, only 16 students had passed the examination. 32 of them failed. The exam papers we used are the same with those used at public schools (Qi 2010: 221).

Through the observation of the researcher, the frequency of activities taken place at school was every two or three days, either with guests being invited over or students being invited out. Very often, students had to skip classes in order to take part in the activities.

Take today for example. Isn't it that some journalists came to our school? We were having an examination. They just asked our students to stand in a row, for welcoming the Olympic Games or something. When we were taking the exam, they just did that. The students did not come back until twenty minutes later. Our school is always like that (Interview with Mr. W, April 27, 2008). If someone wants to see the student's gymnastic show, we will start preparing it a few days in advance. Having classes comes second (ibid).

Furthermore, the school was also criticized for not being able to help the students make plan for their future development. Since the importance of education was not stressed, many students were either not aware of the ways of continuing education after graduation or not able to move on to senior high school because of poor academic performance. Most of the students would thus choose to go to local vocational schools to learn practical skills and start working in a few years. Some of them even started working at the age of fourteen or fifteen. Going to universities was an even far-fetched dream that only very few students could realize. Only when the students finally entered the job market would they realize the importance of a decent education. In fact, many of them would later find out that they remain at the bottom of the society, nothing different from their migrant parents (Qi 2010: 225).

Being one of the most outstanding migrant schools in Beijing, XX Migrant School was still no match to local public school in terms of geographical location, the physical situations, the facilities, as well as the class size, etc. However, for migrant children who were not able to go to public school, migrant school like this was already a great help (Qi 2010: 230). Obviously there were many other migrant schools with even poorer conditions and insufficient resources. It was also identified that the lack of governmental control and monitoring could be a serious problem for migrant schools. This might make them flexible to some extent to be able to take in migrant children who were rejected by public schools, however, it was also problematic that many migrant schools could not meet the standard and provide quality education (Qi 2010: 231).

5.2 Assessment through the 4 As Framework

5.2.1 *Availability*

As a matter of fact, migrant parents do not have the freedom to choose education for their children due to their unstable working conditions and financial difficulties. Being a vulnerable group of people suffering from discrimination as well as unfair treatment they sometimes even have to sacrifice their children's education in order to give priority to making a living in the cities.

With most of the local public schools being unreachable to migrant children, private migrant schools might be the best choice for migrant families. However, many of the private schools are set up within a migrant community,

not legally approved by the government, lack of funding, basic teaching equipments and qualified teaching staff, even without proper teaching buildings and sanitation facilities. XX Migrant School was one of them. Yet later when local government decided to encourage the establishment of more private migrant schools, it luckily became one of the very first migrant schools in Beijing to receive official authorization. It also managed to get donation from both private sector and civil society, such as China Red Cross and Ford Foundation. Even the local government started subsidizing authorized migrant schools a few years later.

5.2.2 Accessibility

Although XX Migrant School has its own problems, generally speaking, it has made great contribution in educating migrant children. As has been reported, it had 1,200 students from preschool to ninth grade. It applies the idea of famous Chinese educator Tao Xingzhi such as “life as education”, “society as school” and promotes equality of education.

To most of the migrant families, the existence of migrant schools serves as a great help and a second best choice for them. Considering the importance of education, some schooling is always better than no schooling at all. Moreover, if one thinks about the severe discrimination coming from all different sources in public schools, being able to study with peers from the same background could to some extent prevent migrant children from being discriminated against and ease their emotional burden.

However, judging from a different perspective, the existence of migrant schools itself is a proof of inequality in the education system. Why migrant children have no access to the “normal” schools? Why migrant children have to be left with this “alternative” choice?

5.2.3 Acceptability

In many of the poorly equipped migrant schools, the quality of education cannot be guaranteed. First of all, the migrant schools are usually not strictly controlled or monitored by the government, which might provide certain flexibility for recruiting migrant children while cause more problems in the school management and teaching quality. For example, the XX migrant school was found to be ignoring the importance of education while putting too much attention on extracurricular activities as a way of publicity. If this is the case, it is not impossible that migrant schools would simply become certain “marketable products to fill policy and service gap” instead of institution that provides quality education (Qi 2010: 133). Moreover, due to the lack of monitoring, the power had been concentrated on the headmaster and a few senior staff which led to embezzlement, financial problems and it was even in arrears with teachers’ salary payment. It is also doubtful whether the teachers at the school are providing appropriate instructions to the students on a daily basis.

With regards to the teaching staff, they also play an important role in providing quality education. In the case of the XX migrant school, as has been revealed in the interviews, some of the teachers there were merely interns from universities and there is a frequent shift of the teaching staff. Some of the teachers even consider the teaching position there as a transition in their adaptation to the life in Beijing. It is very doubtful the school has a certain standard in recruiting the teaching staff and make sure they are dedicated in their work instead of treating it as a transitional option. Moreover, the delaying in payment of salaries could also affect the motivation of the teachers thus lead to the degrading of teaching quality.

In Article 3 of UNCRC indicates that “State Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision”. In the case of the migrant schools, lack of qualified staff and competent supervision become significant problems in ensuring acceptable education.

5.2.4 Adaptability

Adaptability indicates that education should be adapted to the changing needs of society and better prepare children for their future development in career. As has been identified in the XX migrant school, not only did the school fail to guide the students to their future path, but they also ignored the possible influence that education might make in their students’ life. Without decent education, those migrant children might just end up like their parents, taking up low-paid jobs and enduring endless discrimination at the bottom of the society.

Additionally, adaptability also includes the responsibility to enhance human rights through education such as the elimination of child labour and child marriage. As for the students in XX migrant school, the main rights violation is the risk of dropping out of school and being exploited as child labour. According to Chinese law, the minimum age for working is sixteen. However, many migrant children might give up further education after junior high school and start working at the age of fourteen or fifteen.

In UNCRC, it is clearly states that “State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development” (UNCRC Article 32). There are still a lot of work to be done in strengthening supervision of private migrant schools and preventing migrant children from turning into victims of child labour.

5.3 Concluding Remarks

This chapter applies the 4 As framework in examining and evaluating the practice of a private migrant school in its efforts of providing education to migrant children. Although the establishment of such migrant schools to some extent helps migrant children in accessing their rights to education, the existence of such special school itself reveals the tension between the hukou system and migrant children's educational rights. And as a matter of fact, lacking resources, proper monitoring and supervision from the authority, migrant schools are facing various challenges in offering quality education.

Chapter 6 Conclusion

For a long period of time, “development of cities in China was based on the deprivation and depression of rural areas, which is now reoccurring in the current context of rural-urban migration” (Ye and Pan 2011: 375). Although the rural communities invested in human resources and education in its population, once they migrate to urban areas, they devote their ability and creativity to the cities rather than their own communities. Furthermore, the major part of the value created by migrant workers remains in the urban sector (Xiang 2005: 25). And despite this huge contribution made by migrant labourers, they tend to earn much less than urban citizens and have limited access to social welfare (Ye and Pan 2011: 375).

Some people argue that for migrant workers, it is simply a personal choice to leave their hometown and work in the cities, and it is their decision to bring their family or leave them behind. However, in reality, this is “a choice between economic deprivation in the countryside or social disadvantage in the cities” (Chan 2009: 57). And for children, who in fact do not have any choices but have to passively accept whatever choices made by their parents, apart from the economic and social deprivation, they often suffer more in terms of psychological harm and emotional burden (ibid.). Especially with the existence of hukou system, migrant families have to bear the unfair treatment living in the urban area.

In this research, it investigates the issue of the existing tension between China’s institutional segregation caused by the discriminatory hukou system and migrant children’s educational rights. In addressing the questions of what specific problems migrant children are facing and what adaptive strategies are taken by the government, this research applies a rights-based approach to identify the rights that are stipulated in both national and international laws, and uses the 4 As framework in assessing to what extent migrant children are accessing these rights in both public and private schools in the case study city Beijing.

It found out that the Chinese government had been making an effort to ensure the availability of education by offering free compulsory education to every child. It also tried to improve the accessibility of education for migrant children by reducing discrimination, loosening restrictions for them to enter urban public schools, and lowering additional fees charged from migrant families. Some local governments even began to subsidize private migrant schools so that they would be able to afford better equipment and provide better education to migrant children. It is also regulated by law that the minimum working age is sixteen in order to prevent child labour.

However, some policies and measure could not be fully implemented and migrant children are still suffering from various kinds of discriminations when

actually accessing their rights to education. For example, the additional fees and different kinds of certificated required by the urban public schools, discriminative attitude from local students and teachers are still keeping many migrant children away from local public schools. Insufficient teaching equipment and relatively poor environment, unskilled teaching staff, inappropriate management and ignorance of education also prove privately run migrant schools not to be an ideal choice for migrant children, either. Not being able to receive quality education, many migrant children had no choice but to leave schools early, acquire practical skills and end up to be cheap labour workers just as their parents.

The concept of differential citizenship was also used as a way of conceptualizing the problematic legal status of migrant children. As a matter of fact, differential citizenship is found out to be the main factor which prevents migrant children from enjoying rights to education. Categorized as the “floating population” and without local hukou, while living in the cities, migrant children are actually excluded from different kinds of social welfare which are taken for granted by the local residents. Differential citizenship has affected migrant children’s lives in a fundamental way and shaped the opportunity structure of migrant children in accessing the rights to education. It created an awkward liminal status for migrant children that they are living in urban area but could not live a real urban life.

With China’s economic power drawing attention from all over the world, its social issues also become the concern of not only its own people. The state, as the duty bearer, ought to shoulder more responsibility in resolving the tension between the institutional segregation and children’s rights to education. Children are the future mainstay of the country. When the growth of children becomes problematic, it poses a threat to the social equity and societal harmony which ought to be a strategic emphasis by the government (Ye and Pan 2011: 375). Whether or not China can successfully address the issue of educational rights of migrant children could be of vital importance to its future sustainable development.

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