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## ”One Exam Determines One’s Life”: The 2014 Reforms to the Chinese National College Entrance Exam

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# ”One Exam Determines One’s Life”: The 2014 Reforms to the Chinese National College Entrance Exam

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## **Abstract**

This Note first outlines the history of the hukou system in China before and after the major economic reform of 1978. Second, this Note outlines the specific institutional barriers that migrant children face when accessing compulsory, secondary, and tertiary education, with a specific focus on the hukou system. Third, this Note analyzes the goals and content of China’s State Council’s opinion released on September 4, 2014 suggesting a reform to the gaokao system intended to alleviate the institutional barriers to education. Finally, this Note argues that first, the State Council’s suggested reform directly addresses only one of the multiple institutional barriers that migrant children face in accessing tertiary education, and even then, does not provide adequate specificities to make any real impact and, second, ultimately without major reform to the hukou system the government will be unable to achieve a level of equality between urban and migrant students.

**KEYWORDS:** The Hukou System, The Gaokao Reform, China, International Law

## NOTE

### “ONE EXAM DETERMINES ONE’S LIFE”: THE 2014 REFORMS TO THE CHINESE NATIONAL COLLEGE ENTRANCE EXAM

*Amy Burkhoff\**

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*“The school years are too long, courses too many,  
and the method of teaching is by injection instead of  
through the imagination. The method of examination  
is to treat candidates as enemies and ambush them.  
Therefore, I advise you not to entertain any blind faith  
in the Chinese educational system. Do not regard it as  
a good system. Any drastic change is difficult, as  
many people would oppose it.”<sup>1</sup>  
- Chairman Mao Zedong, 1964*

#### INTRODUCTION

The Chinese government is beginning to identify the numerous institutional barriers that migrant students face in accessing tertiary education and attempting to address the impediments to create an environment where all citizens, not just the elite, have access to higher education.<sup>2</sup> Each June, Chinese high school seniors sit for probably the most important exam they will ever take, the national

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1. Chairman Mao Zedong offered this advice to a group of Nepalese teachers who visited Beijing in 1964 to learn from the Chinese education model. Mao Tse-tung, On Education - Conversation with the Nepalese Delegation of Educationists (1964), *Full Text of “Selected Works of Mao Tse-tung: Vol. IX,”* INTERNET ARCHIVE, [https://archive.org/stream/SelectedWorksOfMaoTse-tungVol.Ix/MicrosoftWord-Document1\\_djvu.txt](https://archive.org/stream/SelectedWorksOfMaoTse-tungVol.Ix/MicrosoftWord-Document1_djvu.txt) (last visited Jan. 22, 2015); Sheila Melvin, *China’s College Revolution*, 30 *WILSON QUARTERLY* 37, 37 (2006).

2. China’s State Council designed the Chinese college admissions reform to increase equality by allocating more spaces to underrepresented students from rural areas and inland provinces. *The Implementation Opinions on Deepening the Reform of Examination and Enrollment System* “关于深化考试招生制度改革的实施意见,” STATE COUNCIL PEOPLE’S REPUBLIC OF CHINA (Sept. 4, 2014), [http://www.gov.cn/xinwen/2014-09/04/content\\_2745653.htm](http://www.gov.cn/xinwen/2014-09/04/content_2745653.htm) (translated by Xin Xin Chen and Jing Liu, LL.M. Students at Fordham University School of Law) [hereinafter *Examination Reform 2014*]; see Nathan Beauchamp-Mustafaga & David Cohen, *Anti-Privilege Campaign Hits the Chinese Middle Class*, *CHINA BRIEF*, Sept. 10, 2014, at 1, available at [http://www.jamestown.org/single/?tx\\_ttnews%5Btt\\_news%5D=42812&tx\\_ttnews%5BbackPid%5D=381&cHash=21cef677728b0b69b465cffb0264206e#.VCW5VitdWPI](http://www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=42812&tx_ttnews%5BbackPid%5D=381&cHash=21cef677728b0b69b465cffb0264206e#.VCW5VitdWPI) (stating this reform is likely to be the most “public-facing component of a wide-ranging effort by the Xi Jinping administration to address perceptions of elite privilege and social inequality”).

college entrance exam called the gaokao (“高考gāokǎo”).<sup>3</sup> Many students agree, “one exam determines one’s life.”<sup>4</sup>

Students in the United States can relate to the pressures surrounding college entrance exams, such as the Scholastic Aptitude Test (“SAT”) or the American College Testing (“ACT”); however, the pressure that students in the United States face does not compare to that of Chinese students for a number of reasons.<sup>5</sup> First, the gaokao is more than twice the length (approximately nine hours as compared to four) and is only offered once a year, eliminating the possibility of retaking the exam for a higher score until the following year.<sup>6</sup> Second, while Chinese universities admit students based solely on their gaokao scores, universities in the United States consider SAT scores merely as one factor among many used to determine acceptances including high school grades, personal statements, and extracurricular activities.<sup>7</sup> As a result, the gaokao has much higher stakes for Chinese

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3. The gaokao is important to Chinese students because it is the only factor considered for college admissions, getting into college is incredibly difficult because of the number of applicants, and attending an elite university creates better employment opportunities. See Xin-Ran Duan, *Chinese Higher Education Enters a New Era*, ACADEME, Nov.–Dec. 2003, at 22, 24 (stating that the gaokao is “probably the most important examination [Chinese students] will ever sit”); Gregory Kristof, *China GaoKao Reflects Importance and Extremes of Nation’s College Entrance Exam*, HUFFPOST EDUC. (June 11, 2012), [http://www.huffingtonpost.com/2012/06/07/china-gaokao\\_n\\_1578905.html](http://www.huffingtonpost.com/2012/06/07/china-gaokao_n_1578905.html).

4. “One exam determines one’s life” is a popular way to describe the gaokao because, for Chinese students, the gaokao is widely regarded as the principal determinant of their future success. See Wang Jian, *An Exploration of the Reform of National College Entrance Examination and Enrollment System*, in 1 CHINESE RESEARCH PERSPECTIVES ON EDUCATIONAL DEVELOPMENT 155, 168-69 (Yang Dongping ed., 2013) (stating that the feeling that “one score determines your whole life” still exists); Lifeng Li, *A Narrative Study of Thirty Years of Entrance Exam Reform in Shanghai*, CHINESE EDUC. & SOC’Y, Jan.–Feb. 2013, at 23, 27; Liu Jiaying & Shi Rui, *The Multiple Changes and Hopes Brought by the Gaokao Reform*, CHINA DEV. BRIEF (Sept. 5, 2014), <http://chinadevelopmentbrief.cn/news/multiple-changes-hopes-brought-gaokao-reform/>; see also Sharon Lafraniere, *Failure Is Not an Option: China’s Annual College Entrance Exam Can Make or Break Young Lives*, N.Y. TIMES UPFRONT, Jan. 28, 2013, available at <http://www.thefreelibrary.com/Failure+is+not+an+option%3A+China’s+annual+college+entrance+exam+can...-a0316663422>; *China to Reform College Entrance Exam, Enrollment System*, XINHUA (Sept. 4, 2014), [http://news.xinhuanet.com/english/indepth/2014-09/04/c\\_133621671.htm](http://news.xinhuanet.com/english/indepth/2014-09/04/c_133621671.htm) [hereinafter *Xinhua Sept. 2014*].

5. See *infra* notes 6-8 and accompanying text.

6. See FEI-LING WANG, ORGANIZING THROUGH DIVISION AND EXCLUSION: CHINA’S HUKOU SYSTEM, 140 (2005); Lafraniere, *supra* note 4.

7. While the SAT is only one portion of the American admissions decision, the gaokao is by far the most significant factor, if not the only factor, in Chinese college admissions. See Kristof, *supra* note 3; see also Jian Wang, *supra* note 4, at 169; Zhuran You & Yingzi Hu, *Walking a Policy Tightrope: The Dilemma of Balancing Diversification and Equality in Chinese College Entrance Examination Reform*, 26 Higher Educ. Policy 309, 309 (2013);

students than the SAT has for students applying to universities in the United States.<sup>8</sup>

Chinese students from rural China are at a great disadvantage compared to their urban counterparts when taking the gaokao, and have lower chances of gaining admission to top tier universities.<sup>9</sup> The main reason for this inequality is the household registration system, the hukou (“户口 hùkǒu”).<sup>10</sup> The hukou is a residency status system that links government-provided services, including education, to the individual’s registered address.<sup>11</sup> Therefore, when a rural resident moves to an urban area outside of his or her registered hukou location, the government is no longer required to provide social services to that individual.<sup>12</sup> Despite the restrictions that limit

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*Xinhua* Sept. 2014, *supra* note 4; Yan Yiqi, *Shanghai, Zhejiang to Pilot Gaokao Reforms*, PEOPLE.CN (Sept. 20, 2014) <http://english.peopledaily.com.cn/n/2014/0920/c90882-8785479.html>.

8. The gaokao is a high-stakes, high-pressure exam that is unrivaled even by the SAT. *15 Facts About China’s Grueling College Entrance Exam*, COLLEGESTATS, <http://collegestats.org/2012/08/15-facts-about-chinas-grueling-college-entrance-exam/> (last visited Jan. 22, 2015); *see* Lafraniere, *supra* note 4 (“For Chinese students, the stress [of the gaokao] can be overwhelming.”); Beauchamp-Mustafaga, *supra* note 2.

9. *See* Xiaobing Wang et al., *What is Keeping the Poor Out of College? Enrollment Rates, Educational Barriers and College Matriculation in China* 36 (Rural Educ. Action Project Working Paper 210, 2009), available at [http://iis-db.stanford.edu/pubs/22723/210\\_Wang\\_et\\_al\\_What\\_is\\_Keeping\\_the\\_Poor\\_out\\_of\\_College\\_China\\_Journal.pdf](http://iis-db.stanford.edu/pubs/22723/210_Wang_et_al_What_is_Keeping_the_Poor_out_of_College_China_Journal.pdf) (“the participation rate of the poor in accessing the opportunity for a college education is substantially lower than the students from nonpoor families . . . . [O]nly four percent of students from poor rural areas are able to enter tier one, two or three universities.”); *The Road to University*, PROJECT CHINA 2008, 17 (Aug. 2008), <http://www.projectchina.se/Boken/ebooken.pdf> (“you need significantly higher Gaokao scores if you come from rural areas or underdeveloped regions”).

10. *See* PROJECT CHINA 2008, *supra* note 9, at 17 (explaining that universities may place geographical restrictions based on the hukou system in order to reserve up to 30% of their places to candidates from the region in which the university is located); *see also* Farzana Afridi et al., *Social Identity and Inequality: The Impact of China’s Hukou System* 23 (Inst. for the Study of Labor, IZA Discussion Paper No. 6417, 2012) (concluding that there is a causal effect of administratively-created social identity in distorting individuals’ performance on incentivized tasks and potentially exacerbating existing inequalities in the distribution of gains from economic growth).

11. Wei Jianwen & Hou Jiawei, *The Household Registration System, Education System, and Inequalities in Education for Migrant Children*, CHINESE EDUC. & SOC’Y, Sept.-Oct. 2010, at 77, 79 (stating that the hukou system is one of the main institutional sources of educational inequality for migrant children); *see* Afridi et al., *supra* note 10, at 3 (noting the relationship between the hukou system and children’s education).

12. *See* JASON YOUNG, CHINA’S HUKOU SYSTEM: MARKETS, MIGRANTS AND INSTITUTIONAL CHANGE 1 (2013); Afridi et al., *supra* note 10, at 8 (noting that when internal migrants move from their place of permanent hukou residence to another hukou zone they are not eligible for social services unless they can transfer their hukou to the new area).

government-provided services to one's hometown, as of 2013 there were about 269 million rural Chinese citizens, typically from inland villages, living in the developed coastal metropolises (such as Beijing and Shanghai) in order to earn a better living and to support their families.<sup>13</sup>

Rural children dream of "getting out of the rural gate," meaning to trade in their rural residence for an urban hukou.<sup>14</sup> The college degree, afforded through success on the gaokao, can give rural transplants an opportunity to acquire a permanent local urban hukou, allowing them to remain in areas of greater economic opportunity legally and indefinitely.<sup>15</sup> Without eliminating the hukou's role in education laws, migrant children will not be able to compete and gain access to tertiary education equally with their urban counterparts. Reforming the gaokao, while a step in the right direction, is not in itself a solution to existing educational disparities. At the same time, this Note recognizes that the logical alternative—completely unlinking the hukou system and the education systems—is not an easy feat either, and potentially could create new problems.

This Note first outlines the history of the hukou system in China before and after the major economic reform of 1978. Second, this Note outlines the specific institutional barriers that migrant children face when accessing compulsory, secondary, and tertiary education, with a specific focus on the hukou system. Third, this Note analyzes

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13. See *Migrant Workers and Their Children*, CHINA LABOUR BULLETIN, <http://www.clb.org.hk/en/view-resource-centre-content/110306> (last visited July 28, 2015) (noting that despite the hukou system, there are approximately 262 million rural migrant workers in China) [hereinafter *China Labour Bulletin*]; *Statistical Communiqué of the People's Republic of China on the 2013 National Economic and Social Development*, NAT'L STAT. BUREAU CHINA (Feb. 24, 2014), [http://www.stats.gov.cn/english/PressRelease/201402/t20140224\\_515103.html](http://www.stats.gov.cn/english/PressRelease/201402/t20140224_515103.html) (stating that in 2013 there were 268.94 million migrant workers); YOUNG, *supra* note 12, at 51 ("[M]ost of China's wealth accumulat[es] in the more developed eastern provinces, perpetuating the trend towards migrating to the east where . . . incomes are higher . . . . Migrants from poor rural areas can earn far more than they could at home.").

14. See Gaoming Zhang et al., *Between a Rock and a Hard Place: Higher Education Reform and Innovation in China*, 20 ON THE HORIZON 263, 268 (2012) (explaining that enrolling in a university or getting a job in a prosperous area means the sponsorship for a new hukou in the prosperous area and therefore the eligibility for better overall benefits); see also YOUNG, *supra* note 12, at 49 (explaining that even though rural people move to the cities, work and live there for long periods of time, they cannot officially migrate because they cannot transfer their *hukou* location to their new place of residence).

15. See Gaoming Zhang, *supra* note 14, at 268 (stating that earning a college degree can give rural students an opportunity to earn a job in the governmental sector, which guarantees an urban hukou); FEI-LING WANG, *supra* note 6, at xii (explaining that one of the only ways to legally acquire permanent local residency in an urban center is by getting a college degree).

the goals and content of China's State Council's opinion released on September 4, 2014 suggesting a reform to the gaokao system intended to alleviate the institutional barriers to education. Finally, this Note argues that first, the State Council's suggested reform directly addresses only one of the multiple institutional barriers that migrant children face in accessing tertiary education, and even then, does not provide adequate specificities to make any real impact and, second, ultimately without major reform to the hukou system the government will be unable to achieve a level of equality between urban and migrant students.

### I. *THE HUKOU SYSTEM: CHINA'S HOUSEHOLD REGISTRATION SYSTEM*

This Part outlines the major legal system that has historically created barriers to education for migrant children: the hukou system.<sup>16</sup> The hukou system can be divided into three major time periods: before the 1978 economic reforms, after the 1978 reforms, and the most recent 2014 reforms.<sup>17</sup> It is important to understand the hukou system before learning about China's education system because the two are inextricably linked.<sup>18</sup>

Before 1978 China operated under a planned economy; the hukou system allowed the government to regulate the population to assure that rural citizens would continue to work the farms so as not to move elsewhere and neglect the country's agriculture.<sup>19</sup> Beginning

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16. See Jianwen, *supra* note 11, at 78, 79 (arguing that the sources of educational inequality for migrant children rest in the hukou and educational systems); Wu Yuxiao, *Educational Opportunities for Rural and Urban Residents in China, 1978-2008: Inequality and Evolution*, SOC. SCI. CHINA, Aug. 2, 2013, at 58, 58 (discussing rural-urban divide in educational opportunities).

17. See *infra* Parts I.A-C.

18. See Jianwen, *supra* note 11, at 79-80 (explaining that under the hukou system, the education system was implemented as "local responsibility and level-by-level administration;" funding was allocated according to the number of students with residence registrations); Josh Rudolph, *Education Gap Remains After Hukou, Gaokao Reforms*, CHINA DIGITAL TIMES (Sept. 11, 2014), <http://chinadigitaltimes.net/2014/09/education-gap-remains-hukou-gaokao-reforms/> (explaining that the hukou and education systems are inextricably linked because students can only access government-provided social services, including education, in their registered place of residence).

19. See CHINA LABOUR BULLETIN, *supra* note 13 (explaining that the hukou system was supposed to ensure that China's rural population stayed in the countryside and continued to provide food that urban residents needed); Charlotte Goodburn, *The End of the Hukou System? Not Yet 2* (Univ. of Nottingham China Policy Inst. Policy Paper No. 2, 2014) (noting the goal of promoting agriculture).



in 1978, China shifted to a capitalist market economy, which generated a need to relax the hukou system in order to promote the migration of cheap labor from rural towns into the cities.<sup>20</sup> The Chinese citizens with rural hukous who moved from their rural homes to the cities in search of employment are called "rural migrant workers."<sup>21</sup> While the hukou system still remains in effect today, in July 2014, China's State Council announced a reform to the system to promote greater equality between urban residents and migrant workers and their children.<sup>22</sup>

A. *Pre-1978 Economic Reform: The Planned Economy with an Eye Towards Promoting Agriculture and Strict Internal Migration Controls*

The Standing Committee of the National People's Congress promulgated a set of administrative regulations forming the legal basis of the hukou system in 1958.<sup>23</sup> The government classified every Chinese resident as rural ("agricultural") or urban ("non-agricultural") and assigned each person a permanent residence on this basis.<sup>24</sup> Only

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20. See Justin Yifu Lin, *Lessons of China's Transition from a Planned Economy to a Market Economy*, 1 (Dec. 17, 2004) (noting the beginning of China's market-oriented reforms in 1978); Hayden Windrow & Anik Guha, *The Hukou System, Migrant Workers, & State Power in the People's Republic of China*, 3 NW. J. INT'L HUM. RTS. 1, 1 (2005) (stating that the economic reform since 1978 reoriented the country's "once-Soviet style planned economy toward the market").

21. See YOUNG, *supra* note 12, at 3 (defining rural migrant workers (农民工) as rural laborers moving into urban employment and living on the margins of urban society with temporary residency visas); CHINA LABOUR BULLETIN, *supra* note 13 (defining rural migrant workers (农民工) as those with a rural hukou who are employed in an urban workplace).

22. See CIRCULAR OF THE STATE COUNCIL: OPINION ON HUKOU REFORM, (July 30, 2014), <http://chinalawtranslate.com/en/state-council-opinion-of-hukou-reform/> [hereinafter *2014 Hukou Reform*]; Goodburn, *supra* note 19, at 1 (explaining the circular on the end of the hukou system).

23. According to the Constitution, the National People's Congress is the highest law-making body at the national level and has the power to make national laws, while the State Council and its ministries have legislative power to make the administrative regulations necessary to enforce, interpret, and supervise the law. Wing-Wah Law & Su-Yan Pan, *Legislation and Equality in Basic Education for All in China*, 40 INTERCHANGE 337, 342 (2009); see Zhonghua Renmin Gongheguo Hukou Dengji Tiaoli [Regulations of the People's Republic of China on Hukou Registration] (issued Jan. 9, 1958) art. 5. (stating that the hukou system was promulgated in 1958).

24. See Mingqiong Zhang et al., *The Institution of Hukou-based Social Exclusion*, 38.4 Int'l J. Urb. & Reg'l Research 1437, 1442 (2014) (stating the distinction between rural and urban classifications); Goodburn, *supra* note 19, at 2 (defining the two classifications); CHINA LABOUR BULLETIN, *supra* note 13 (explaining that individuals are broadly categorized as "rural" or "urban" based on their place of residence); Christina Larson, *The Change in China's*

registered residents in a specific location can access social services including housing, health care, and education in that jurisdiction.<sup>25</sup> For example, if a resident from a rural area migrates to Beijing, he or she has no right to any fundamental government services.<sup>26</sup>

Like a caste system, the hukou divides China's population into two classes with the urban resident economically and socially superior to the rural resident.<sup>27</sup> For example, this rural-urban classification creates vast inequalities in educational opportunities; the central government puts more resources and attention into urban education than into rural education.<sup>28</sup> This system also influences Chinese governance styles because local governments are only

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*Hukou Policy Hasn't Solved the Education Gap for Beijing's Migrant Children*, BLOOMBERG BUSINESSWEEK (Sept. 10, 2014), <http://www.businessweek.com/articles/2014-09-10/china-s-hukou-policy-change-hasn-t-solved-education-gap-for-beijing-s-migrant-children> (stating the distinction between rural and urban classifications).

25. See Shuang Chen et al., *Parental Migration and Children's Academic Engagement: The Case of China*, 59 INT'L REV. EDUC. 693, 696 (2013) (stating that access to social services is limited by one's hukou); Law & Pan, *supra* note 23, at 348 (explaining that the hukou system links public services to domicile registration); CHINA LABOUR BULLETIN, *supra* note 13 (describing the hukou system as one that entitles only registered residents access to social welfare services).

26. See Jianwen, *supra* note 11, at 79 (explaining that the hukou system is the main basis for government allocations of various resources and serves as the principal qualification for obtaining such social welfare benefits and rights as education and employment); Mingqiong Zhang, *supra* note 24, at 1443 ("Urban-hukou holders have a range of benefits and entitlements that rural-hukou holders do not enjoy.").

27. See FEI-LING WANG, *supra* note 6, at 24, 127 (stating that the urban population, which is only 14-26% of the total population, has had better access to economic and social opportunities, activities, and benefits, and has also dominated Chinese politics because of its urban hukou status; the hukou system is responsible for unequal income distribution across regions and an uneven economy in general between rural and urban areas; major income and spending gaps between rural and urban residents as well as per capita income; urban residents enjoy a much higher income level than rural residents in every administrative unit across the country); Kam Wing Chan & Li Zhang, *The Hukou System and Rural-Urban Migration in China: Processes and Changes* 24 (Ctr. for Studies in Demography & Ecology Univ. of Wash., Working Paper No. 99-16, 1999) (noting huge differences in economic opportunity and social position between those with urban hukou and those without).

28. See Jianwen, *supra* note 11, at 79, 81 (noting that the hukou system causes inequalities for rural children – shortages of educational funds for migrant students; evaluation systems only take into account local students so schools pay more attention to education of students with local residence permits); Teng Margaret Fu, *Unequal Primary Education Opportunities in Rural and Urban China*, CHINA PERSPECTIVES, July-Aug. 2005, at ¶ 2 (explaining that primary education in rural China is marginalized as compared to that of urban China because 1. of emphasis on immediate economic growth rather than long-term improvement in educational development, 2. urban education receives more attention and resources from the central government; because of the lack of public educational funding in rural areas, children from peasant families are often forced to drop out of schools at the junior high, or even primary level).

responsible to local hukou holders rather than being required to take into account all local inhabitants including those without local hukous.<sup>29</sup> For example, the local governments are only responsible for allocating school funding based on the number of students with local hukous, excluding migrant students who live in the city.<sup>30</sup>

The hukou system was originally conceptualized to allow the government to distribute resources, and control internal migration.<sup>31</sup> Historically, one of the main reasons for controlling internal migration was to promote the country's agricultural sector and protect it from neglect.<sup>32</sup> The government wanted to prevent farmers from rushing to the cities in search of higher wages than were available in the agricultural system.<sup>33</sup> Under the constraints of the hukou system it was very difficult for rural citizens to transfer their hukou classifications from rural to non-rural or from a smaller city to a more populous city.<sup>34</sup> To cap urban migration, the government enforced a

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29. Mingqiong Zhang et al., *supra* note 24, at 1443 (stating that local governments only take care of local-hukou holders); see Hudson Lockett, *Hukou Reform: Beijing Abolishes "Agricultural" Residence Class, but Rural-Urban Split Remains*, CHINA ECONOMIC REVIEW (Sept. 8, 2014), <http://www.chinaeconomicreview.com/hukou-reform-beijing-abolishes-agricultural-residence-class-rural-urban-split-remains> (explaining that local governments manage their own hukou-related affairs).

30. Aris Chan, *Paying the Price for Economic Development: Children of Migrant Workers in China* 34 (China Labour Bulletin, 2009) ("Because government funding for education is based on the number of school age children of local residents, urban governments have no absolute obligation to educate migrants."); see Jianwen, *supra* note 11, at 81-82 (explaining that there is a shortage of educational funds in China because funding education for migrant students would greatly increase the financial burden on governments in places of migration).

31. See CHINA LABOUR BULLETIN, *supra* note 13; Eileen Yuk-ha Tsang, *The Quest for Higher Education by the Chinese Middle Class: Retrenching Social Mobility?*, 66 HIGHER EDUC. 653, 659 (2013); Shaohua Zhan, *What Determines Migrant Workers' Life Chances in Contemporary China? Hukou, Social Exclusion, and the Market*, 37 MODERN CHINA 243, 252 (2011) (stating that the hukou system was designed partially to control internal migration); Larson, *supra* note 24; Law & Pan, *supra* note 23, at 348; FEI-LING WANG, *supra* note 6, at 24 (explaining the two main reasons for the hukou system were to control migration internally and to distribute resources).

32. See CHINA LABOUR BULLETIN, *supra* note 13 (explaining that the hukou system was supposed to ensure that China's rural population stayed in the countryside and continued to provide food to urban residents); Goodburn, *supra* note 19, at 2 (noting the goal of promoting agriculture).

33. See Shuang Chen et al., *supra* note 25, at 696 (explaining that the hukou system allowed the government to control internal migration); CHINA LABOUR BULLETIN, *supra* note 13 (stating that the hukou system allowed the government to control the production of agriculture).

34. See YOUNG, *supra* note 12, at 48 ("Government restrictions on changing 'hukou zone' through 'hukou transfer' are determined by a set of transfer criteria and 'control quotas'").

strict quota system for converting a hukou from a rural to an urban area.<sup>35</sup>

Another important aspect of the hukou system is that, unlike internal migration in other developing countries, migrant parents pass on their “outsider” status to their children.<sup>36</sup> In other words, Children inherit their parents’ hukou status irrespective of where they are born or raised.<sup>37</sup> This is problematic because the hukou’s hereditary nature prevents new generations born in urban areas with rural parents from ever fully integrating into urban society and competing with registered locals on equal footing.<sup>38</sup> Rural citizens are unable to compete with local urban citizens because of employment segregation and a lack of social welfare benefits that result in social segregation of migrants: rural migrant workers are prohibited from working in

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on the number of inward hukou transfers to urban areas. . . . Both policy and quota are used to manage and limit transfers;” explaining the more developed a hukou zone, the harder it is to transfer a hukou and the stricter the enforcement of quotas; the smaller the city and the more underdeveloped it is, the lower the criteria for inward hukou transfer and more flexible the quota system); Mingqiong Zhang et al., *supra* note 24, at 1442 (stating that the hukou system allows the government to control hukou transfers); Goodburn, *supra* note 19, at 3 (explaining the difficulty in transferring one’s hukou).

35. See YOUNG, *supra* note 12, at 48 (discussing the difficult process of converting a rural hukou to an urban hukou); Mingqiong Zhang et al., *supra* note 24, at 1442 (describing the hukou system’s quota policy).

36. YOUNG, *supra* note 12, at 60 (discussing the hereditary nature of the hukou system); CHINA LABOUR BULLETIN, *supra* note 13 (noting that the hukou system is hereditary); Goodburn, *supra* note 19, at 2 (noting the hereditary nature of the hukou system); Lihua Wang & Tracey Holland, *In Search of Educational Equity for the Migrant Children of Shanghai*, 47 *COMPARATIVE EDUCATION* 471, 473 (2011) (stating that the hukou system is hereditary); Hilary K. Josephs, *Residence and Nationality as Determinants of Status in Modern China*, 46 *TEX. INT’L L.J.* 295, 297 (2011) (stating every citizen inherits a household registration); Mingqiong Zhang et al., *supra* note 24, at 1442 (describing the hereditary nature of the hukou system).

37. CHINA LABOUR BULLETIN, *supra* note 13 (explaining that children whose parents have a rural hukou inherit that rural hukou irrespective of their place of birth); Goodburn, *supra* note 19, at 2 (explaining the hereditary nature of the hukou system); Wang & Holland, *supra* note 36, at 473 (noting the hukou system is hereditary); Josephs, *supra* note 36, at 297 (noting that citizens inherit their household registration); Mingqiong Zhang et al., *supra* note 24, at 1442 (discussing the hereditary nature of the hukou system); Lin Jin, *Rights-Based Approach to the Educational Experience of Migrant Children in China* 19 (Dec. 2012) (unpublished research paper, International Institute of Social Studies) (stating that migrant children inherit their parents’ rural household registrations, even if the migrant children were born in the city and lived there ever since).

38. See YOUNG, *supra* note 12, at 60 (arguing that migrant children inherit their “outsider” status, preventing new generations from ever integrating into society and competing with locals “on an equal footing”); Afridi et al., *supra* note 10, at 6-7 (stating that educational attainment “of the next generation of rural populace was restricted by birth” because of the hereditary hukou system).

government offices and state-owned enterprises in cities, and the government does not provide unemployment and health benefits to migrant workers.<sup>39</sup>

B. *Post-1978 Economic Reform: The Transition Into a Capitalist Market Economy Encouraged Relaxed Internal Migration Policies*

Beginning in 1978, China began to undergo major economic reform, shifting from a planned economy to a capitalist market economy.<sup>40</sup> With this major reform came additional freedoms for rural Chinese citizens, including greater opportunity to seek higher wages in the cities.<sup>41</sup> As a result of the economic reform, there was a strong push for relaxation of the hukou system because its restrictions on mobility and exclusion of the rural population created unfavorable economic conditions, such as low labor efficiency and market segmentation.<sup>42</sup> The reform also created higher demand for cheap labor in the cities.<sup>43</sup> As a result, during the mid-1990s China

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39. See YOUNG, *supra* note 12, at 60 (arguing that migrant children inherit their “outsider” status preventing new generations from ever integrating into society and competing with locals “on an equal footing”); Afridi et al., *supra* note 10, at 7 (explaining that rural citizens are unequal to urban citizens because of the inequalities in job opportunity and social benefits that result in social segregation in the cities of the migrant population).

40. See Windrow & Guha, *supra* note 20, at 1 (stating that the economic reform since 1978 reoriented the country’s “once-Soviet style planned economy toward the market”); Yifu Lin, *supra* note 20, at 1 (noting the beginning of China’s market-oriented reforms in 1978).

41. See YOUNG, *supra* note 12, at 20 (arguing that migration in China will continue to flow from the rural sector to the urban sector in response to higher wages until a turning point is reached when surplus rural labor is fully absorbed in urban industries); Windrow & Guha, *supra* note 20, at 1 (“millions of rural Chinese have abandoned their plows to seek their fortunes in the city”).

42. See FEI-LING WANG, *supra* note 6, at 180 (“the hukou system and the related population immobility are considered to be creating economic irrationalities”); CHINA LABOUR BULLETIN, *supra* note 13 (explaining that hukou restrictions on internal migration were counter-productive to economic development); see also Zhang, *supra* note 24, at 1442 (describing reasons for the gradual reform to the hukou system beginning in the early 1980s); Goodburn, *supra* note 19, at 3 (explaining why the cheap labor of migrant workers was necessary for the growth of the economy).

43. See Brian Holland, *Migrant Children, Compulsory Education and the Rule of Law in China*, 14 BUFF. HUM. RTS. L. REV. 209, 215 (2008) (noting the increased demand for cheap labor in urban centers); Shuang Chen et al., *supra* note 25, at 697 (describing China’s economic conditions, which created a need for cheap labor); CHINA LABOUR BULLETIN, *supra* note 13 (explaining that cities needed cheap labor as the economic reforms of the 1980s took place).

experienced one of the greatest popular migrations in history.<sup>44</sup> Hundreds of millions of people from rural areas of the country rushed to the cities to seek jobs in manufacturing and construction.<sup>45</sup>

In 2013 there were about 269 million migrant workers in China.<sup>46</sup> Altogether, migrants make up about one third of China's total urban population.<sup>47</sup> Migrant workers are primarily employed in the service industry or in physically demanding jobs such as construction work, manual labor, or textile and garment factory work—work that legal urban residents are reluctant to do.<sup>48</sup> Migrant workers are useful to the urban economy because they are willing to do the jobs that legal urban residents will not.<sup>49</sup>

Despite the fact that migrant workers form a critical component of the urban economy, they remain socially “invisible” in the cities

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44. See Mingqiong Zhang et al., *supra* note 24, at 1437 (“China has been experiencing the largest, sustained city-oriented migration in human history.”); CHINA LABOUR BULLETIN, *supra* note 13 (describing the 1990s migration from rural to urban areas as one of the greatest human migrations of all time); see also 2 WING-WAH LAW, CITIZENSHIP AND CITIZENSHIP EDUCATION IN A GLOBAL AGE 21 (A.C. (Tina) Besley, et al. eds., 2011) (“Post Mao reform led to a massive inflow of peasants from rural to urban areas”).

45. See CHINA LABOUR BULLETIN, *supra* note 13 (describing the mass migration); Larson, *supra* note 24 (describing mass migration to the cities for employment opportunities); see also Josephs, *supra* note 36, at 299 (stating that the rural population found the opportunity to earn money in the cities very attractive).

46. National Bureau of Statistics of China, *supra* note 13 (stating in 2013 there were 268.94 million migrant workers); *Report Says 269 Million Migrant Workers in 2013*, CCTV (Feb. 21, 2014), <http://english.cntv.cn/program/china24/20140221/100766.shtml> (reporting that The Ministry of Human Resources and Social Security's latest statistics showed 269 million migrant workers in 2013). Migrant workers are mostly in their late teens to early thirties. YOUNG, *supra* note 12, at 51; Zai Liang & Zhongdong Ma, *China's Floating Population: New Evidence from the 2000 Census*, 30 *POPULATION & DEV. REV.* 467, 481 Table 4 (2004).

47. CHINA LABOUR BULLETIN, *supra* note 13 (explaining that migrants currently make up about one third of the total urban population); see Kam Wing Chan, *Crossing the 50 Percent Population Rubicon: Can China Urbanize to Prosperity?*, 53 *EURASIAN GEOGRAPHY & ECON.* 63, 68-69 (2012) (calculating the migrant population as the difference between the de facto urban population and the urban hukou population).

48. See YOUNG, *supra* note 12, at 51 (explaining that migrant workers are employed in the services industry or doing manual labor that urban residents would not do); Daniel Fu Keung Wong et al., *Rural Migrant Workers in Urban China: Living a Marginalised Life*, 16 *INT'L J. OF SOC. WELFARE* 32, 34 (2007) (stating that migrants work in the services industry or in physically laborious jobs).

49. See YOUNG, *supra* note 12, at 51; Kenneth D. Roberts, *Rural Migrants in Urban China: Willing Workers, Invisible Residents*, *ASIA PAC. BUS. REV.*, July 30, 2002, at 141, 146 (explaining that migrants work jobs with low salaries and long, hard hours, and which residents do not want to do, including manual labor jobs like construction and manufacturing).

and experience immense discrimination.<sup>50</sup> This is partially because migrants achieve much lower education levels and are therefore ineligible to work as high-skilled laborers.<sup>51</sup> Further, rural migrants remain "institutionalized outsiders" in the cities where they work and pay taxes but are not registered, and, because of limited economic opportunities, they are restricted to a lower socioeconomic status with limited opportunity for social mobility.<sup>52</sup>

Once it became apparent that tight restrictions on mobility of the migrant population became counterproductive in light of the economic reforms, the Chinese government recognized the need to change its attitude about migration to further their economic goals.<sup>53</sup> In a 2001 article, the Chinese government newspaper, Renmin Ribao (People's Daily) reported the following about China's economic reform on the migrant population:

While restricting population mobility, the hukou system also restricts China's economic development and further intensifies the urban-rural gap . . . . It is extremely incompatible with the current economic development of China, and has to a great extent

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50. See YOUNG, *supra* note 12, at 51, 56; FEI-LING WANG, *supra* note 6, at 183 ("the key problem of the PRC hukou system has been its creation and maintenance of inequality and discrimination among the people"); Roberts, *supra* note 49, at 155 (arguing that migrant workers are "invisible residents" because they live and work separately from local residents, have an inferior status to local residents requiring them to maintain a low profile, yet perform critical jobs in the cities).

51. Migrant workers on average have much lower education levels than local urban residents, and therefore, are less qualified to work in high-skilled jobs. See YOUNG, *supra* note 12, at 55; Roberts, *supra* note 49, at 145; CONG.-EXEC. COMM'N ON CHINA, CHINA'S HOUSEHOLD REGISTRATION SYSTEM: SUSTAINED REFORM NEEDED TO PROTECT CHINA'S RURAL MIGRANTS, 10 (Oct. 7, 2005) [hereinafter COMMISSION ON CHINA] ("Educational opportunities are similarly skewed, limiting the upward mobility of rural residents and migrants.").

52. Juhua Yang, *Social Exclusion and Young Rural-Urban Migrants' Integration into a Host Society in China*, 648 ANNALS AM. ACAD. POL. & SOC. SCI. 52, 55 (July 2013) (explaining that the hukou system and public institutions still exclude outsiders from public benefits and resources and act as "fundamental barriers for migrants' integration into the host society"); see YOUNG, *supra* note 12, at 60 (explaining that the migrants occupy a low socioeconomic position and are subject to discrimination); Weiping Wu & Emily Rosenbaum, *Migration and Housing: Comparing China with the United States*, in URBAN CHINA IN TRANSITION 250, 255 (John R. Logan ed., 2008) ("The system of hukou has institutionalized this local-non-local divide and exerted a profound impact on China's migrants.").

53. See Zhong Zhao, *Migration, Labor Market Flexibility, and Wage Determination in China*, 43 DEVELOPING ECONOMIES 285, 287 (2005) (explaining that while the basics of the hukou system remain intact, some provinces and cities are starting to reform it in order to accommodate increasing need for cheap migrant labor); see also FEI-LING WANG, *supra* note 6, at 183 (explaining that the hukou system has a great negative impact on China's economy).

damaged China's image of reform and opening . . . . To abolish the existing hukou system is inevitable, as the market economy demands population mobility and migration, and China needs to have a more liberal image.<sup>54</sup>

While the government has made minor reforms to this system since its reinstatement such as eliminating food rations and modifying regulation of hukou transfers, rural citizens are still widely marginalized and their urban counterparts consider them inferior in terms of legal, civil, and political citizenship.<sup>55</sup>

While parents are the ones making the difficult life-altering decision to migrate to urban areas, children can only passively accept the ramifications of these choices.<sup>56</sup> Literature on the topic typically discusses two main categories of children of migrant workers: those who migrate to the cities with their parents, and those left behind in the countryside.<sup>57</sup> "Migrant children" are children with rural hukous who migrate to urban China with their parents.<sup>58</sup> These children have

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54. FEI-LING WANG, *supra* note 6, at 182 (quoting the author from the People's daily newspaper).

55. Migrant workers are outsiders, segregated from the local urban population; the local urban population portray migrants as outsiders, treat them poorly at work, discriminate against them because of their low socio-economic status, and blame them for increases in crime in the cities. See WING-WAH LAW, *supra* note 44, at 21; Jian Guan & Li Liu, *Recasting Stigma as a Dialogical Concept: A Case Study of Rural-to-Urban Migrants in China*, 24 J. CMTY. & APPLIED SOC. PSYCHOLOGY 75, 76 (2014) ("They often experience much discrimination because of their low socio-economic status . . . Stigma has thus a great impact on the various aspects of rural-to-urban migrants' lives.").

56. Aris Chan, *supra* note 30, at 57 ("Children, however, can only passively accept the choices made by their parents and often suffer more than them [sic] in terms of psychological harm as well as economic and social deprivation."); see, e.g., Andrew Browne, *Left-Behind Children of China's Migrant Workers Bear Grown-Up Burdens*, WALL ST. J. (Jan. 17, 2014), <http://www.wsj.com/articles/SB10001424052702304173704579260900849637692> (stating that about 61 million Chinese children are left behind without seeing their parents for months, or even years, because their parents chose to migrate to cities in search of employment).

57. See, e.g., HOLLY H. MING, *THE EDUCATION OF MIGRANT CHILDREN AND CHINA'S FUTURE: THE URBAN LEFT BEHIND* 42 (2013) (defining the two distinct groups of migrant workers' children: left-behind children and children who reside in the cities with their parents); YOUNG, *supra* note 12, at 52 (noting that some families migrate together to the cities while other families cannot take their children with them due to employment, financial or schooling constraints); CHINA LABOUR BULLETIN, *supra* note 13 (providing information about migrant children and left-behind children); see also Kenneth D. Roberts, *Female Labor Migrants to Shanghai: Temporary "Floaters" or Potential Settlers?*, 36 INT'L MIGRATION REV., 2-3 (2002) (describing women who brought their children with them to the city and who are generally staying longer in the cities).

58. See Ran Zhang, *China*, in *THE EDUCATIONAL RIGHTS OF STUDENTS* 45, 50 (Charles J. Russo et al. eds., 2007) (defining migrant children as children from the countryside living in



little access to social welfare services such as healthcare, education, and housing because they are not registered at their urban addresses.<sup>59</sup> In 2013, estimated ranged from sixteen million to nineteen million migrant workers' children living throughout the country outside of their hukou registration area.<sup>60</sup>

The second category is the "left-behind children."<sup>61</sup> These are children who remain in the countryside, in the care of grandparents, on their own, or as physical laborers, while their parents migrate to cities.<sup>62</sup> In 2010, there were about sixty-one million children below eighteen years old "left behind."<sup>63</sup> Left-behind children are often separated from their parents for a year or more.<sup>64</sup>

### C. 2014 Hukou Reform: Promote Limited Migration to Urban Towns and Cities By 2020 Based on City Size

As of 2014, the core of the hukou system adopted in 1938 remains in effect.<sup>65</sup> In July of 2014, China's State Council published a

cities with migrant-worker parents); CHINA LABOUR BULLETIN, *supra* note 13 (describing migrant children as children who live in urban areas but possess rural hukous).

59. See Caroline Watson, *Developing the Potential of Migrant Workers in China*, CHINA OUTLOOK (JULY 10, 2014), <http://china-outlook.net/essays/developing-the-potential-of-migrant-workers-in-china/> (explaining that migrant children have little access to social services when they live outside of their hukou zones); CHINA LABOUR BULLETIN, *supra* note 13 (explaining why migrant children have little access to social services in the cities).

60. See Amanda Brown-Inz, *View from the Media: College Entrance Exam Woes for Migrant Children*, CHINA DEV. BRIEF (Feb. 22, 2013) (estimating sixteen million migrant workers' children living throughout the country outside of their hukou registration area), <http://www.chinadevelopmentbrief.cn/?p=1862>; see also Aris Chan, *supra* note 30, at 5 (approximating nineteen million migrant workers' children living with their parents in major cities outside of their hukou registration area).

61. See YOUNG, *supra* note 12, at 52 (defining left-behind children); Aris Chan, *supra* note 30, at 7.

62. See YOUNG, *supra* note 12, at 52 (describing left-behind children); CHINA LABOUR BULLETIN, *supra* note 13 (defining left-behind children).

63. CHINA LABOUR BULLETIN, *supra* note 13 (describing the lifestyle of left behind children); see Liu Qiang, *China's Left-Behind Children Lag Behind*, CHINA.ORG.CN (Aug. 9, 2013) [http://www.china.org.cn/china/2013-08/09/content\\_29672476.htm](http://www.china.org.cn/china/2013-08/09/content_29672476.htm) (estimating 60 million children are left behind in the countryside).

64. See CHINA LABOUR BULLETIN, *supra* note 13 (explaining that left-behind children are often separated from their parents for extended periods of time); Aris Chan, *supra* note 30, at 9 (stating that children are often separated from their parents for years on end); see also YOUNG, *supra* note 12, at 52 (explaining that left-behind children see their parents on only rare occasions like the Chinese New Year).

65. See Ming Lu & Guanghua Wan, *Urbanization and Urban Systems in the People's Republic of China: Research Findings and Policy Recommendations*, 28 J. Econ. Surveys 671,

circular on reforms to the system out of recognition of the discrimination and inequalities that migrant workers and their children face while living in urban areas.<sup>66</sup> The goal of this reform is to allow approximately 100 million people without urban hukous to settle in towns and cities by 2020.<sup>67</sup> This reform removes all limitations on transferring a rural hukou to an urban hukou in small cities, relaxes restrictions in medium-sized cities, and sets new qualifications for large cities.<sup>68</sup> According to *Xinhua*, the People's Republic of China's official press agency, this reform ends "the system which has divided the nation into rural and urban populations since the 1950s" and will greatly benefit migrant workers.<sup>69</sup>

Scholars express that these guidelines will not make it any easier for migrants to settle in major cities like Beijing and Shanghai; the system for moving to major cities remains virtually unchanged.<sup>70</sup> The 2014 policy establishes a uniform household registration system that does not distinguish between rural ("agricultural") and urban ("non-agricultural").<sup>71</sup> Instead, every Chinese citizen will have a "resident's hukou," registered to his or her place of birth.<sup>72</sup> Migrants will then have the opportunity to apply for a temporary residence permit in the

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671 (2014) (explaining that the hukou system "remains in effect today"); Goodburn, *supra* note 19, at 3 (noting the continuation of the hukou system today).

66. See 2014 Hukou Reform, *supra* note 22; Goodburn, *supra* note 19, at 1 (explaining the circular on the end of the hukou system).

67. 2014 Hukou Reform, *supra* note 22; see Arnold Hou, "Hukou" Reform to Help Millions Settle in Cities, ALL-CHINA WOMEN'S FEDERATION (July 30, 2014), <http://www.womenofchina.cn/womenofchina/html1/news/china/17/4755-1.htm> (stating the goal of the 2014 hukou reform).

68. Hou, *supra* note 67 (stating the reform will remove all limitations on transferring a rural hukou to an urban hukou in small cities); see FEI-LING WANG, *supra* note 6, at 180 (explaining that in 2005, already noticed the government relaxed control of internal migration in small cities); Goodburn, *supra* note 19, at 1 (explaining details of the reform).

69. Mu Xuequan, *Hukou Reforms to Help 100 Million Chinese*, XINHUA (July 30, 2014), [http://news.xinhuanet.com/english/china/2014-07/30/c\\_133520576.htm?\\_ga=1.248236999.1905717420.1407510463](http://news.xinhuanet.com/english/china/2014-07/30/c_133520576.htm?_ga=1.248236999.1905717420.1407510463) (describing the hukou reform); see Goodburn, *supra* note 19, at 1 (reporting that the circular calls for the end of the rural-urban divide).

70. See Goodburn, *supra* note 19, at 4 (explaining that different guidelines for various city sizes will prevent most rural migrants acquiring local hukou in China's 14 most important cities); Lockett, *supra* note 29 (pointing out that even with this new reform to the hukou system it remains as difficult to migrate to cities of over 5 million people; migrants "cannot move where they want to move, they can only move where they don't want to move").

71. See Goodburn, *supra* note 19, at 3 (noting the end to the rural-urban distinction); Hou, *supra* note 67 (noting the reform got rid of the distinction between rural and urban residents).

72. See Goodburn, *supra* note 19, at 3 (explaining the new classification system); Lockett, *supra* note 29 (noting the end to the rural-urban distinction).

place where they live, giving them equal rights with locals in basic healthcare and education.<sup>73</sup> Depending on how long they hold the temporary residence permit, migrants will be able to apply for a local hukou.<sup>74</sup>

The hukou system plays a huge role in every government-provided service, including education.<sup>75</sup> It creates multiple institutional barriers to education and thus restricts the level and quality of education each child can access at every stage of education.<sup>76</sup> In 2014, the State Council circulated a gaokao reform, which attempted to abolish some of the major institutional barriers to education.<sup>77</sup> However, without a major overhaul of the hukou system, as opposed to the gaokao, it will be nearly impossible to achieve further levels of equality between urban and migrant students.<sup>78</sup>

## II. INSTITUTIONAL BARRIERS TO EDUCATION & THE 2014 GAOKAO REFORM

The Ministry of Education administers China's state-run public education system.<sup>79</sup> The educational system relies on multiple legal documents including the Constitution of the People's Republic of China, national statutes, State Council regulations, and local legislation.<sup>80</sup> Although China's Constitution and national statutes

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73. See 2014 Hukou Reform, *supra* note 22 (stating that those who move to a new location outside of their hukou designated area can apply for a residence permit in that location after living there for half a year or more); Goodburn, *supra* note 19, at 3-4 (explaining the changes to the hukou system).

74. See 2014 Hukou Reform, *supra* note 22 ("Eligible residence permit holders can apply to register for permanent residence in the location of their residence."); Goodburn, *supra* note 19, at 4 (explaining the changes to the hukou system including allowing residents to apply for a local hukou).

75. See *supra* note 18 and accompanying text.

76. See *infra* note 81 and accompanying text.

77. See *infra* Part II.B.

78. See CHINA LABOUR BULLETIN, *supra* note 13 (arguing that the government should delink the hukou system and social services in order to allow all children living in the same city to have access to the same rights to educational services); see also Wang & Holland, *supra* note 36, at 472 ("in today's China, migrant children will suffer from inequitable educational opportunities and conditions, which is a direct result of the barriers imposed upon them by the household registration (hukou) system").

79. *Further Education in China*, ASSOC. COLLEGES 1 (May 16, 2011), [http://www.aoc.co.uk/sites/default/files/Country\\_Guide\\_China.pdf](http://www.aoc.co.uk/sites/default/files/Country_Guide_China.pdf); *Education System China: The Chinese Education System Described and Compared with the Dutch System*, EP-NUFFIC 5 (Jan. 1, 2015), <https://www.nuffic.nl/en/library/education-system-china.pdf>.

80. Ran Zhang, *Education Law in China*, in YEARBOOK OF EDUC. 287, at 288 (Charles J. Russo ed., 2011)(explaining the legal basis of China's education system); Xu Zhao & Robert

guarantee all citizens equal education, like all other government services in China, education is still tied to one's hukou, making it extremely difficult for rural citizens to access education because there are fewer opportunities available to them.<sup>81</sup>

Part II outlines the institutional barriers that migrant children face in accessing education. First, it demonstrates how the Chinese government uses institutional exclusion to organize an unevenly developed nation.<sup>82</sup> Second, this Part discusses the goals and the content of the 2014 changes to the gaokao system.

#### A. *Institutional Barriers to Education for Migrant Children*

Migrant children's right to equal educational opportunities is a hotly debated issue in China.<sup>83</sup> As a result of the restrictive hukou system, China has created a huge gap in educational opportunities between migrant students living in the cities and students from cities.<sup>84</sup> Thus, quality education remains out of reach for migrant

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L. Selman, *Combating the Effects of Academic Stress in Chinese Schools*, CHINA OUTLOOK (Feb. 10, 2014), <http://china-outlook.net/essays/1201-2/> (explaining that despite the promise of equal education for all, education is limited by the hukou system).

81. XIANFA art. 4, 46 (1982) (China) (stating that all citizens are equal; citizens have the "duty as well as the right to receive education"); Goodburn, *supra* note 19, at 3; Wang & Holland, *supra* note 36, at 472 (although the Constitution states that all citizens in China are equal before the law and that all citizens have the duty and the right to education, a citizen's hukou is still determinative of the level of education he actually receives).

82. See China's Household Registration (Hukou) System: Discrimination and Reforms: Roundtable before the Cong.-Exec. Comm'n on China, 109th Cong., 1st Session, at 9 (Sept. 2, 2005), available at <http://www.gpo.gov/fdsys/pkg/CHRG-109hrg24019/html/CHRG-109hrg24019.htm> (discussing institutional exclusionary tactics that China utilizes to discriminate against rural migrants); FEI-LING WANG, *supra* note 6, at 114 (arguing that the hukou system has created imbalances and waste in the Chinese economy).

83. See Ran Zhang, *supra* note 58, at 50 ("Perhaps the most controversial issue about equal educational opportunity in China is the right to education of migrant children."); HOLLY H. MING, *supra* note 57, at 42 ("The term 'migrant workers children' frequently makes the headlines in Chinese newspapers these days, and never fails to provoke contentious debate."); see, e.g., John Ruwitch, *Plight of Teen Prompts Education Debate, Protest in China*, REUTERS (Dec. 22, 2012), <http://www.reuters.com/article/2012/12/22/us-china-migrants-idUSBRE8BL03T20121222> (noting that there has been debate about migrant children's right to education; "For as long as there have been migrants after market reforms started more than three decades ago there have been complaints about the hukou system's inadequacies.").

84. Wang & Holland, *supra* note 36, at 472 (describing the education opportunity gap between rural and urban areas); Law & Pan, *supra* note 23, at 360 (stating that the hukou system skews educational opportunities leaving migrant children lagging behind their local counterparts).

families.<sup>85</sup> Further, rural students cannot compete academically with their urban counterparts because of the drastic income gap between rural and urban areas and fewer resources available to rural students.<sup>86</sup> Education represents one of the only paths toward, and the most important mechanism for, upward social mobility in China.<sup>87</sup> This is because the local governments in cities will often sponsor urban hukous for rural students who are admitted to universities in that city, and students additionally have the chance to get a high-ranking job within that area after college thus qualifying for an urban hukou.<sup>88</sup>

There are four key hukou-related institutional barriers to education.<sup>89</sup> First, migrant students cannot receive compulsory education in the cities because public education is tied to local hukous and migrant children are not registered in cities.<sup>90</sup> Second, funding is based on the population of legal urban residents, so there is not adequate funding to provide schooling for the illegal and unregistered migrant students.<sup>91</sup> Third, all students must attend high school in the place of registration on their hukou which is inherited – therefore, even if a migrant student was born and raised in a city, the student must return to their family hometown for high school.<sup>92</sup> Fourth, the government sets point cutoffs based on geographic location, making it

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85. See, e.g., Holland, *supra* note 43, at 214 (arguing that urban residents enjoy a higher quality of education than rural residents); Jing Liu & W. James Jacob, *From Access to Quality: Migrant Children's Education in Urban China*, 12 EDUC. RES. POL'Y PRAC. 177, 184 (2012) ("Teacher participants also voiced concerns regarding the hukou system and the quality of migrant children's education."); Rudolph, *supra* note 18 (stating that migrant children do not receive quality education).

86. See Holland, *supra* note 43, at 225 ("China's worsening state of social and economic inequality is perhaps nowhere more keenly illustrated than in the primary and secondary schools of the nation's capital."); Wang & Holland, *supra* note 36, at 472 (stating that rural students are unable to compete academically with urban students).

87. See FEI-LING WANG, *supra* note 6, at 139 (education in college is one of the main avenues for upward socioeconomic mobility); YOUNG, *supra* note 12, at 55 ("One study found that only education, Party membership, and military service 'facilitate hukou mobility' for China's agricultural hukou holders"); Law & Pan, *supra* note 23, at 361 (arguing equal educational opportunity to access education is an important means of upward social mobility).

88. See Gaoming Zhang, *supra* note 154, at 268 ("Getting enrolled in a university and/or getting a job in a more prosperous area means the sponsorship for a new Hukou document in the prosperous area"); FEI-LING WANG, *supra* note 6, at 139 (arguing that by passing the gaokao and earning a college degree, anyone can acquire an urban hukou).

89. See *infra* notes 90-93 and accompanying text.

90. See *infra* notes 94-98 and accompanying text.

91. See *infra* notes 103-116 and accompanying text.

92. See *infra* notes 120-122 and accompanying text.

much easier for students from cities to get into college than students from rural areas.<sup>93</sup>

### 1. Migrant Students do not Have Access to Public Compulsory Education in the Cities Without Local Hukous

It is the hukou that limits migrant children from accessing compulsory education in cities by requiring students to have local hukous to attend public schools.<sup>94</sup> According to China's Compulsory Education Law of 1986, revised in 2006, the first nine years of education are mandatory, consisting of six years of primary education and three years of middle school.<sup>95</sup> This law provides all citizens the right to receive a basic education, regardless of ethnic background, gender, religious belief, or occupation.<sup>96</sup> Despite the 2006 reform, China does not provide schooling to migrant students in the urban areas where they live because it limits funding for compulsory education to the areas where the child's parents are originally from.<sup>97</sup> As the factors described herein demonstrate, despite the Compulsory Education Law, the nine years of compulsory education are not guaranteed for migrant children.<sup>98</sup>

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93. See *infra* Part II.A.3.

94. See *Yi wu jiao yu fa* (中华人民共和国义务教育法 [已被修订]) [Compulsory Education Law (revised)] (promulgated by the Standing Comm. Nat'l People's Congress, April 12, 1986, effective July 1, 1986) Standing Comm. Nat'l People's Cong. (P.R.C.) [hereinafter *Compulsory Education Law (revised)*], available at <http://www.lawinfochina.com/display.aspx?lib=law&id=1166&CGid=> (restricting school admissions by hukou).

95. *Compulsory Education Law (revised)*, *supra* note 94, at arts. 5, 7; CHINA LABOUR BULLETIN, *supra* note 13 (explaining China's compulsory education laws); see Law & Pan, *supra* note 23, at 341 (stating that China's 1986 Basic Education Law provided for nine years of compulsory education); John N. Hawkins et al., *Higher Education in China: Access, Equity and Equality*, in 24 *INEQUALITY IN EDUCATION* 215, 220 (Donald B. Holsinger & W. James Jacob eds., 2009) (noting that there are six years of primary education and three years of middle school).

96. *Compulsory Education Law (revised)*, *supra* note 94, at art. 4; see Ran Zhang, *supra* note 80, at 290 (discussing the goals of the amendment).

97. See Holland, *supra* note 43, at 241 (noting that charging student fees allows local governments and schools to raise additional funds for operational costs and even profit); YOUNG, *supra* note 12, at 59-60 (explaining that migrant children face institutionalized exclusion by their inability to receive government-funded compulsory education in the areas their parents are working).

98. See Holland, *supra* note 43, at 210; Law & Pan, *supra* note 23, at 340; CHINA LABOUR BULLETIN, *supra* note 13; Aris Chan, *supra* note 30, at 34; Wang & Holland, *supra* note 36, at 471 (explaining that despite China's implementation of the Compulsory Education Law, legislation has not completely eradicated educational inequalities in compulsory schooling).

There are multiple hurdles in the way of migrant students actually accessing compulsory education.<sup>99</sup> First, migrant parents must produce five documents proving employment and temporary residency in the capital in order to access the education: temporary residence permits, work permits, proof of residence, certificates from their place of origin, and household registration booklets to apply to school for their children.<sup>100</sup> Second, many schools request "donations," which are really additional fees charged to migrant families for admission to the school.<sup>101</sup> Thus, migrant children end up paying additional fees to attend local schools even though their families, as temporary hukou holders, already pay local taxes.<sup>102</sup>

Migrant students are further institutionally excluded from accessing compulsory education because local education budgets are based on the number of students with local hukous rather than the total number of students enrolled in the local schools, which means that migrant children are excluded from budgetary calculations.<sup>103</sup> Since the early 2000s, the central government has placed the

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99. See *infra* notes 100-102 and accompanying text.

100. See Xiang Huilian, *Government Again Cracks Down on Schools for Migrant Workers' Children*, CAIXINONLINE (Sept. 9, 2014), <http://english.caixin.com/2014-09-09/100726559.html> (stating the five documents necessary for migrant children to attend public schools); Jessica L. Montgomery, *The Inheritance of Inequality: Hukou and Related Barriers to Compulsory Education for China's Migrant Children*, 21 PAC. RIM L. & POL'Y J. 591, 600 (2012) (stating the five documents that migrant students must produce before gaining admission to public school); Wang & Holland, *supra* note 36, at 481 (stating the five documents a migrant student must produce to attend public school).

101. See CHINA LABOUR BULLETIN, *supra* note 13 (describing the required fees to attend public schools); Aris Chan, *supra* note 30, at 34-35 (describing the fee system); Montgomery, *supra* note 100, at 600 (explaining that schools often require large donations to admit migrant children); Wang & Holland, *supra* note 36, at 481 (noting that a majority of survey respondents claimed to pay a fee per semester); see, e.g., Law & Pan, *supra* note 23, at 360 (showing for example, in Guangzhou, migrant children were required to pay a school fee).

102. FEI-LING WANG, *supra* note 6, at 71, 78 (a temporary hukou is required for those living outside their permanent hukou zone for more than three days, and though they have no access to community-defined distribution of benefits like welfare, they are required to pay local taxes); Anita Chan, *Exploitation of Migrant Workers in China's Export Manufacturing Sector*, LERA, <http://www.lera.uiuc.edu/Pubs/Perspectives/onlinecompanion/fall04-chan.html> (last visited Jan. 28, 2015) ("For local governments, admitting migrants can be lucrative. Migrant workers generate tax revenue by attracting companies that want cheap labor. At the same time, these localities have no responsibility for the welfare of the migrants, who are not eligible for any of the medical, housing or unemployment benefits available to local residents.").

103. Wang & Holland, *supra* note 36, at 474 (stating that China's local governments are responsible for managing and funding compulsory education despite budgeting based on children with local hukous); see Jianwen, *supra* note 11, at 79-80 (explaining that education funds are allocated according to the number of students with residence registrations).

responsibility on local urban centers to educate migrant children even though these migrant students do not possess the requisite local hukous; however, the local governments themselves do not accept this responsibility.<sup>104</sup> Specifically, in 2004, the State Council expressed that migrant children should not be subjected to different admission requirements for compulsory education.<sup>105</sup> The following year, the Ministry of Finance added that migrant children should not pay more than local students for the same education, specifically prohibiting collection of temporary student fees and school selection fees (“donations”).<sup>106</sup> In 2008, the Ministry of Finance and the National Development and Reform Commission stated that they would abolish temporary student fees completely by 2009.<sup>107</sup>

These policies place a tremendous burden on local governments with a high proportion of migrant students.<sup>108</sup> Because these students are not counted, the urban local governments do not see it as their responsibility to provide funding to educate them and urban educational systems view migrant children as an added burden.<sup>109</sup> The central government is urging cities to account for migrants in their budgets, and has asked the host cities and the migrants’ rural hometowns to share the costs of social services, including

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104. See Decision of the State Council on the Development and Reform of Elementary Education (国务院关于基础教育改革与发展的决定), May 29, 2001; *but see* Aris Chan, *supra* note 30, at 49 (noting that local governments are responsible for providing education to migrant students despite their hukou statuses).

105. Circular of the State Council on Further Improving the Conditions for Peasants Who Seek Employment in the Cities (国务院办公厅关于进一步做好改善农民进城就业环境工作的通知), 27 December 2004; Aris Chan, *supra* note 30, at 49 (noting the State Council’s goal of making admissions requirements equal for all students because of the reality that so many migrant students are not able to access compulsory education).

106. Aris Chan, *supra* note 30, at 49 (stating that the State Council forbid public schools from collecting fees); FEI-LING WANG, *supra* note 6, at 194 (urban schools charged migrant students hefty fees to keep them away).

107. Guanyu Gongbu Quxiao He Tingzhi Zhengshou 100 Xiang Xingzheng Shiyexing Shoufei Xiangmu De Tongzhi (关于公布取消和停止征收100项行政事业性收费项目的通知) [Notice to Cease the Levying of Administrative Fees 100 Projects] (promulgated by the Ministry Fin. and the Nat’l Dev. & Reform Comm’n, Nov. 13, 2008, effective Jan. 1, 2009) [hereinafter *Abolish Temporary Student Fees*]; *see* Aris Chan, *supra* note 30, at 49 (stating that various governmental bodies agreed to abolish student fees).

108. *See Abolish Temporary Student Fees*, *supra* note 107; Aris Chan, *supra* note 30, at 50 (abolishing fees places a financial burden on local governments).

109. *Compulsory Education Law (revised)*, *supra* note 94, art. 12 (2006); Wang & Holland, *supra* note 36, at 474; *see* Jianwen, *supra* note 11, at 79-80; Aris Chan, *supra* note 30, at 54; Ran Zhang, *supra* note 80, at 290 (explaining that while migrants moved into urban areas, payments of educational funds did not, resulting in shortages of funds for the education of migrant children).



education.<sup>110</sup> Despite this push, the government has not promulgated any substantial regulations to encourage a shift in funding to the host cities.<sup>111</sup> Therefore, while all children are guaranteed equal education in China by law, access to compulsory education is hardly guaranteed to migrant students.<sup>112</sup>

Fenghua, a city in Zhejiang Province, is a prime example of how even when a city wants to provide compulsory education to migrant students, the educational system prevents it from doing so.<sup>113</sup> From 2001 to 2002, Fenghua granted urban hukous to 13,000 former rural residents in an effort to take responsibility for all local residents.<sup>114</sup> The city government lost over 20 million Yuan RMB (approximately US\$3.2 million) in additional school fees that they would have earned from migrant students with rural hukous, and had to come up with more money to expand schools to accommodate the new students.<sup>115</sup> If, like Fenghua, other cities grant more migrant workers urban hukous, the education bureau would not get the special fees paid by

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110. See Aris Chan, *supra* note 30, at 54 (describing the shared budgeting between host cities and rural hometowns); Douglas J. Besharov & Karen Baehler, *Prospects for China's Migrant Workers*, OXFORD UNIVERSITY PRESS BLOG (Sept. 10, 2013), <http://blog.oup.com/2013/09/china-migrant-workers-hukou-social-policy/> ("The Chinese government introduced new policies in 2003 that tied responsibility for education delivery to the receiving jurisdiction rather than the district of origin and forbade the imposition of differential school fees based on household registration status.").

111. See Aris Chan, *supra* note 30, at 54 (noting the lack of legislation); Besharov, *supra* note 110 (explaining that while the government introduced new policies tying the responsibility for education to the receiving jurisdiction, these policies did not address the financing constraints of the receiving local governments and did not offer fiscal relief for local and municipal jurisdictions faced with large numbers of migrant students); A. Melander & K. Pelikanova, *Reform of the Hukou System: A Litmus Test of the New Leadership*, ECFIN ECON. BRIEF, July 2013, at 10 ("lack of incentives and financial capacity of local authorities to deal with extra-provincial migrants").

112. See FEI-LING WANG, *supra* note 6, at 197 (explaining the difficulties in providing all students in cities free education); Besharov, *supra* note 110 (describing the lack of budgeting for migrant students).

113. See FEI-LING WANG, *supra* note 6, at 197 (explaining that cities cannot afford the immense inflow of migrants because of inadequate budgeting processes that ignore migrants).

114. ALEXANDRA HARNEY, *THE CHINA PRICE: THE TRUE COST OF CHINESE COMPETITIVE ADVANTAGE* 116 (2008) ("Fenghua gave 13,000 select rural hukou holders urban hukou over a period of eight months in 2001 and 2002"); FEI-LING WANG, *supra* note 6, at 197 (showing that Fenghua could not afford its decision to grant urban hukous to 13,000 people).

115. HARNEY, *supra* note 114, at 116 ("\$2.6 million in extra school fees these migrants were paying dried up overnight"); FEI-LING WANG, *supra* note 6, at 197 (explaining how much money Fenghua lost when granting 13,000 urban hukous).

non-local residents, reducing the available resources for the system as a whole.<sup>116</sup>

## 2. Migrant Students Must Attend Secondary Education in Their Hukou-Designated Place of Residence

At the end of nine years of compulsory education, students have three choices for secondary education: high school (senior secondary school), vocational school, or enter the work force.<sup>117</sup> In China, high school is three years long and is fee-based.<sup>118</sup> Since China does not provide free high school education, migrant students (in addition to all rural students generally) are filtered out of the education system simply because they cannot afford the education.<sup>119</sup>

Beyond financial constraints, the main institutional barrier to accessing secondary education is that students must attend high school where their hukou designates.<sup>120</sup> This means that, even if a student has lived in a major city his or her whole life, and his or her entire family live in that city, that student still must return to their hukou for high school – often a long and expensive journey.<sup>121</sup> A large number of migrant students who return home to study in high

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116. HARNEY, *supra* note 114, at 116 (“the *hukou* system provides too many benefits to the Chinese government—in terms of social control, economic development and governance—ever to be allowed to disappear completely”); YOUNG, *supra* note 12, at 92 (“many argue that it is the associated cost of providing the same services to non-hukou residents as hukou residents and the lack of a funding stream for such reforms that increases the opposition local government officials have to proposals for greater reform”).

117. See Emily Hannum et al., *Examinations and Educational Opportunity in China: Mobility and Bottlenecks for the Rural Poor*, 37 OXFORD REV. EDUC. 267, 270 (2011) for a discussion of the post-compulsory education landscape; see generally *Education in China*, CHINA HIGHLIGHTS, <http://www.chinahighlights.com/travelguide/education.htm> (last visited April 22, 2015).

118. See Hannum, *supra* note 117, at 270 (briefly explaining the high school system in China); Hawkins, *supra* note 95, at 220 (stating the duration of high school in China).

119. See Hannum, *supra* note 117, at 270 (explaining that since higher education is non-compulsory, local areas set tuition and room and board fees commensurate with national policy and with costs); Chengfang Liu et al., *Development Challenges, Tuition Barriers, and High School Education in China*, 29 ASIA PAC. J. EDUC. 503, at 14 (2009) (“high school tuition/fees may constitute one of the greatest barriers for rural students to circumvent the quest to enter high school”).

120. See Wang & Holland, *supra* note 36, at 481 (stating that students are required to attend high school in their hometowns).

121. See Liu & Jacob, *supra* note 85, at 7 (“Therefore, in order to continue schooling at the high school level, most migrant children must return to their hometown before or after they complete their junior high school education.”); CHINA LABOUR BULLETIN, *supra* note 13 (explaining that migrant students typically have to attend high school in their designated hukou area).

school have trouble adapting to this new environment and simply drop out.<sup>122</sup>

One of the most important purposes of Chinese high school education is to prepare students for the gaokao.<sup>123</sup> By requiring migrant students to return to their hometowns to attend high school and sit for the gaokao, rural students are placed at a distinct disadvantage for a number of reasons.<sup>124</sup> First, the quality of high school education in rural areas is much lower than in urban areas.<sup>125</sup> Second, each region sets its own curriculum for the gaokao, thus disadvantaging migrant students who spent their earlier years of education learning a different curriculum than that of their hometown.<sup>126</sup>

### 3. Migrant Children are Unable to Access Tertiary Education Because of Harder Gaokao Cutoff Score

Migrant children suffer from inequitable educational opportunities in tertiary education because of the barriers that the

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122. CHINA LABOUR BULLETIN, *supra* note 13 (describing the difficulty that migrant children face in adjusting to their home environments after attending schools in cities); Zhijun Liu & Fangsheng Zhu, *China's Returned Migrant Children: Experiences of Separation and Adaptation*, 12 ASIA PAC. J. ANTHROPOLOGY 445, 447 (2011) (describing the difficulty migrant students face when adapting back to their hometowns); see Han Jialing, *Education for Migrant Children in China* 8 (2009) *commissioned by the Education for All Global Monitoring Report as background information to assist in drafting the 2010 report*, U.N. Doc. 2010/ED/EFA/MRT/PI/42 (2010) (noting that migrant students have to return to their hometown to go to school and adapt to studying in a new environment).

123. You, *supra* note 7, at 310 (explaining that the gaokao drives Chinese K-12 education into teaching and learning strictly to prepare for the gaokao); see Gaoming Zhang, *supra* note 14, at 268 (describing how Chinese students view the gaokao as deciding their entire future).

124. Lin Jin, *supra* note 37, at 10 ("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 [sic] them at a disadvantage"); see CHINA LABOUR BULLETIN, *supra* note 13 (describing the disadvantages of being a migrant student).

125. See Chengfang Liu, *supra* note 119, at 14 ("The quality of rural education in China is far lower than education in China's cities, where investment is higher;" this includes all aspects of schooling from the facilities to teachers' abilities); Wu Chun-Xia, *The Study on the Evolvement and Determinants of Urban-Rural Fiscal Expenditure Gap of Compulsory Education in China*, Education Science, 1-5 (2007).

126. See You, *supra* note 7, at 316 (showing that each province and municipality develops and customizes its own gaokao curriculum); CHINA LABOUR BULLETIN, *supra* note 13 (explaining that decentralized curriculum design disadvantages migrant students); Wang & Holland, *supra* note 36, at 483 (explaining that different regions use different curriculum and textbooks, making it difficult to transition from one region to another).

hukou system creates.<sup>127</sup> The gaokao governs as the sole entrance criteria for most universities.<sup>128</sup> Rural Chinese students are at a great disadvantage when taking the gaokao as compared to their urban counterparts, and have much lower chances at gaining admissions to top tier universities.<sup>129</sup>

Similar to the hukou system, the gaokao is one of the few paths for social mobility in China.<sup>130</sup> The exam is only offered once a year, in early June.<sup>131</sup> Due to the high-stakes nature of the gaokao, students spend most hours of every day throughout their middle and high-school years preparing for the exam.<sup>132</sup> Parents spend tremendous amounts of money and time selecting schools and tutors in order to put their children in the best position to succeed on the gaokao.<sup>133</sup> The Ministry of Education sets two separate cutoff points for exam scores: a higher one for prestigious universities and a lower one for general university admission.<sup>134</sup> Universities then select their incoming class

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127. Wang & Holland, *supra* note 36, at 472 (stating that the hukou system creates barriers to educational opportunities for migrant students).

128. See *Xinhua Sept. 2014*, *supra* note 4 (describing the gaokao as the sole criteria for college admissions); Yiqi, *supra* note 7 (describing the gaokao as a path for upward social mobility); Jian Wang, *supra* note 4, at 169 (“score is the only criterion”); You, *supra* note 7, at 309 (noting that the gaokao is the sole admissions criteria for Chinese universities).

129. FEI-LING WANG, *supra* note 6, at 140, 143 (when it comes to admissions the fair exam quickly becomes inherently unfair to applicants from rural and less developed regions because of the hukou system); see Prashant Loyalka et al., *The Impacts of Building Elite High Schools for Students from Disadvantaged Areas 4* (Rural Educ. Action Project, Working Paper 250, 2013), available at [http://fsi.stanford.edu/sites/default/files/Impacts\\_attending\\_elite\\_high\\_schools\\_for\\_poor\\_China2.pdf](http://fsi.stanford.edu/sites/default/files/Impacts_attending_elite_high_schools_for_poor_China2.pdf) (“In our study’s context, students from poor areas in Northwest China have lagged behind students from non-poor areas in opportunities to attend college and elite colleges.”).

130. See FEI-LING WANG, *supra* note 6, at 139 (by passing the gaokao and graduating from college, anyone can acquire an urban hukou, such that the chance to earn a college degree is the main hope for students from rural regions to legally change their hukou location and type); Gaoming Zhang, *supra* note 154, at 268 (arguing that the gaokao exists as one of the few paths, if not the only path, for social mobility); Law & Pan, *supra* note 23, at 361 (noting equal educational opportunity to access education is an important means of upward social mobility).

131. See Lafraniere, *supra* note 4 (stating that the gaokao is only offered once a year); Yiqi, *supra* note 7 (noting the gaokao is offered once a year).

132. Zhao & Selman, *supra* note 80; Lindsey Lucenta, *China’s Higher Education Lacks Higher Learning*, PHI DELTA KAPPAN, Dec. 2011/Jan. 2012, at 76-77 (describing the preparation for the gaokao).

133. See Zhao & Selman, *supra* note 80; FEI-LING WANG, *supra* note 6, at 140 (explaining that the gaokao brings parents’ lives to a standstill while their children prepare for the exam).

134. The Ministry of Education is the agency of the State Council that regulates all aspects of education in China. Hannum, *supra* note 117, at 272 (explaining the system of two

from the pool of students who have achieved the minimum cutoff score.<sup>135</sup>

The first major barrier to accessing tertiary education is that students must take the gaokao in their place of registration according to the hukou.<sup>136</sup> Children of about 200 million migrant workers have to take the gaokao in their parents' hometowns.<sup>137</sup> There is currently a heated debate among Chinese citizens as to whether or not migrant students can take the gaokao in the place where they live and study, rather than where their hukou is registered.<sup>138</sup>

The Outline of China's National Plan for Medium and Long-Term Education Reform and Development (2010-2020) provides that the State intends to explore ways to enable migrant students to take

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separate cutoff scores); see You, *supra* note 7, at 309-10 ("Since its debut in 1950, this test has been officially stipulated as the sole college admissions criteria for most of the time to ensure that only those who have reached the gaokao cut-off scores for higher institutions will be admitted"); Prashant Loyalka et al., *The Effects of Attending Selective College Tiers in China*, 41 SOC. SCI. RES. 287, 287 (2012) ("Each year provincial governments usually set official tier eligibility cutoff scores based on the overall results on an annual college entrance exam so that only higher scoring students are eligible to attend higher tier institutions.").

135. See Jeff M. Smith, *Chinese Students Face Off Against the Gaokao*, AM. FOREIGN POL'Y COUNCIL (July 26, 2012), [http://www.afpc.org/publication\\_listings/viewBulletin/1627](http://www.afpc.org/publication_listings/viewBulletin/1627); You, *supra* note 7, at 312 (describing the gaokao as the equivalent to "college admissions *per se*" because candidates are admitted only if their gaokao results reach the cutoff point of the institution; the gaokao is the sole factor for admissions, colleges do not look at grades, admissions essays etc.).

136. See Sun Zhao & Yao Chun, *Gaokao Reform Significant for Enhancing Social Equity*, PEOPLE'S DAILY ONLINE (Sept. 5, 2014), <http://english.peopledaily.com.cn/n/2014/0905/c90882-8779543.html> (stating that students must take the gaokao in their official place of residence according to the hukou system); Wang & Holland, *supra* note 36, at 481 (stating that students must take the gaokao where their hukous are registered); Jiao Feng, *supra* note 120 (arguing that one barrier to accessing tertiary education is that migrant students have to take the gaokao in their hukou designated area).

137. Zhao & Chun, *supra* note 136; see Wang & Holland, *supra* note 36, at 481 (noting that students have to take the gaokao in their place of registration); see Jiao Feng, *supra* note 120, at 3.

138. From the migrant students' perspectives, by having to go to their registered home they must familiarize themselves with new materials that will be on the gaokao in their home province and they also face even fiercer competition where the gaokao cutoff score is much higher. Meanwhile, local urban residents do not want to increase the number of students taking the gaokao in the cities overall, as it would make it more difficult for a local urban student to access the top universities. See Gaoming Zhang, *supra* note 154, at 269 ("The biggest debate of the Gaokao reform nowadays is whether or not a migrant student can take the Gaokao in the place he lives and studies"); Luo Wangshu & Jin Zhu, *Moves to Change Gaokao Rules Spark Heated Debate*, CHINA DAILY (Jan. 24, 2013), [http://usa.chinadaily.com.cn/epaper/2013-01/24/content\\_16169927.htm](http://usa.chinadaily.com.cn/epaper/2013-01/24/content_16169927.htm) (arguing that because the policies sparked protests "the new gaokao rules were issued in 2012 as a major effort by the central government to provide equal rights in education and matriculation opportunities for those children").

the gaokao in the city where their parents work and live.<sup>139</sup> Further, in August 2012, the State Council forwarded a circular from the Ministry of Education asking each province to implement a plan for migrant students taking college entrance exams locally by the end of 2012.<sup>140</sup> While there have been more attempts to modify existing restrictions on migrant students' access to tertiary education—some migrant students can now sit for the exam in the city where they live—the threshold for eligibility is high, making this reform essentially “worthless.”<sup>141</sup>

Second, admissions quotas for universities are also linked to the hukou system, clearly favoring the major urban centers over the rural provinces.<sup>142</sup> Rather than distributing the quotas based on the size of the applicant pool in each province, the distribution is heavily based on where the colleges are located, reserving more places for students with a local hukou than for those with a hukou elsewhere.<sup>143</sup> Regional

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139. See Outline of China's National Plan for Medium and Long-Term Education Reform and Development (2010-2020) (July 29, 2010) [hereinafter *Long-Term Education Reform Plan*]; Xiong Bingqi, *Enabling Migrant Workers' Children to Take the College Entrance Exam in the City Where Their Parents Work and Live Moving Forward*, in 2 CHINESE RESEARCH PERSPECTIVE ON EDUCATIONAL DEVELOPMENT 108-09 (Yang Dongping ed., 2014) (discussing China's consideration of allowing migrant students to take the gaokao where they live); Jiao Feng, *supra* note 120, at 4.

140. Circular of the State Council: Opinions on Enabling Children of Migrant Workers to Take the College Entrance Examination in the City Where Their Parents Work and Live After Completing Compulsory Education (国务院办公厅转发教育部等部门关于做好进城务工人员随迁子女接受义务教育后在当地参加升学考试工作意见的通知) (promulgated by the St. Council, Aug. 30, 2012).

141. CHINA LABOUR BULLETIN, *supra* note 13 (arguing that despite reform attempts, the high threshold for eligibility makes any concessions effectively worthless); see, e.g., Fang Yang, *Chongqing Lifts Exam Ban for Migrant Workers' Children*, XINHUA (Dec. 12, 2012), [http://news.xinhuanet.com/english/china/2012-12/21/c\\_132056190.htm](http://news.xinhuanet.com/english/china/2012-12/21/c_132056190.htm) (explaining that children of migrant workers can become eligible to sit for the gaokao where they live based on school grades, the number of years that their parents have worked in the city, their family property in Shanghai and years of social security payments by their families).

142. FEI-LING WANG, *supra* note 6, at 141-43; Wang & Holland, *supra* note 36, at 472; COMMISSION ON CHINA, *supra* note 51, at 10 (“The Ministry of Education employs a strict system of hukou-based quotas to allocate available spaces for college admission. These quotas are biased in favor of the residents of large cities.”); see Wu Yuxiao, *supra* note 16, at 67 (“In China, where educational resources differ considerably between rural and urban areas, household registration status is an important factor weighing on educational attainment.”); Gaoming Zhang, *supra* note 14, at 269 (explaining that universities set different cutoff scores for applicants from different locations such that by taking the gaokao in a certain location the test-taker may earn a greater chance of admission).

143. See FEI-LING WANG, *supra* note 6, at 140-41 (explaining the college admissions quota system); Yiqin Fu, *China's Unfair College Admissions System*, THE ATLANTIC (June 19, 2013), <http://www.theatlantic.com/china/archive/2013/06/chinas-unfair-college-admissions->

admission quotas are classified as a State secret, and some scholars argue that this is to mask the inequity of the admissions process.<sup>144</sup>

In addition to geographical quotas, other factors make it difficult for migrant students to access tertiary education.<sup>145</sup> China does not treat all provinces equally under the college admissions system, instead favoring certain areas mandating a lower minimum admission score than in other areas for the same college spot in addition to favoring certain ethnicities and parents' occupations.<sup>146</sup> Each of the thirty-one provincial level college admissions offices announces the local minimum admission scores after the gaokao is completed.<sup>147</sup>

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system/276995/ ("universities located in Beijing will reserve more spots for students with Beijing *hukou*, and thus the lowest qualifying score for a Beijing-based test-taker may be vastly lower than the score required from a student taking the examination in Henan or Jiangsu."); see, e.g., COMMISSION ON CHINA, *supra* note 51, at 10 ("A Chinese student with a Beijing *hukou* can score nearly 150 points lower than a rural Chinese student in Shandong province (on a test with a maximum score of 750), but the former can still receive a college admission slot while the latter is refused.").

144. See FEI-LING WANG, *supra* note 6, at 141 ("details of regional admissions quotas and the breakdown of the origins of college students in China are classified as a state secret, for good reason"); see also Yiqin Fu, *supra* note 143 ("setting quotas proportional to the number of test-takers would be systematic justice, and favoring students from poorer provinces in central China would be restorative justice, yet the current system could be described only in terms of its absurdity.").

145. See YOUNG, *supra* note 12, at 60 ("Depending on the location of the exam, different scores are required to attend the best universities."); Hannum, *supra* note 117, at 276 ("Within China, different cut-off scores are required for different provinces"); Gaoming Zhang, *supra* note 14, at 269 ("required admission scores from the same university are different for test-takers in different places across the country").

146. See FEI-LING WANG, *supra* note 6, at 145 (explaining how some students are favored over others based on location); YOUNG, *supra* note 12, at 60 (explaining that the gaokao scoring system favors students from specific locations); Hannum, *supra* note 117, at 276 (stating that the admissions process takes an applicant's place of residence into account); Gaoming Zhang, *supra* note 14, at 269 ("taking the Gaokao in a certain place (usually a more prosperous area such as Beijing or Shanghai) may benefit the test-takers a much greater chance for higher education, even with the same test score."); Barry Sautman, *Affirmative Action, Ethnic Minorities and China's Universities*, 7 PAC. RIM. L. & POL'Y J. 77, 99–101 (1998) (explaining that the passing gaokao score varies based on a number of factors, and describing these factors).

147. FEI-LING WANG, *supra* note 6, at 143 (describing the process); Prashant Loyalka, *supra* note 129, at 291 ("After students take the province-wide college entrance exam in early June, each provincial government grades the exams and publishes a list of tier eligibility score cutoffs based on the overall score distribution and student quotas within each tier."); see Hannum, *supra* note 117, at 272 ("the Ministry of Education determines two cut-off points for exam scores, based on the quantity of university places and the number of applications.").

*B. The 2014 Gaokao Reform: Goals and Content*

On September 4, 2014 the State Council announced the largest reform to the gaokao since its reintroduction in 1977 at the end of the Cultural Revolution.<sup>148</sup> The reform is called “The Implementation Opinions on Deepening the Reform of Examination and Enrollment System.”<sup>149</sup> The State Council expects the reform to be fully implemented by 2020.<sup>150</sup> On December 16, 2014, China’s Education Ministry emphasized its plan to reform China’s current college entrance system by creating a more holistic admissions process looking at supplemental factors, such as high school grades, in addition to the gaokao score.<sup>151</sup> The State Council set two main overarching goals for the 2014 reform of the gaokao: “[f]irst, narrowing the gap between admissions of rural and urban students to all universities, and second, addressing the larger inequalities in admissions to elite universities.”<sup>152</sup>

The State Council’s first mission of the reform is to increase the college admission rate in Midwestern provinces and populous provinces, and the numbers of students from rural areas in key universities.<sup>153</sup> In order to achieve this goal, the reform first increases enrollment quotas for students from the less developed central and western parts of China, and other populous regions.<sup>154</sup> Next, the

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148. See Shen Qing, *China Voice: Gaokao Reform Significant for Enhancing Social Equity*, XINHUA (Sept. 5, 2014), [http://news.xinhuanet.com/english/china/2014-09/05/c\\_133624107.htm](http://news.xinhuanet.com/english/china/2014-09/05/c_133624107.htm) (reporting reforms to the gaokao); Sun Zhao, *supra* note 136; see also Lu Hui, *China to Overhaul Exam, Enrollment System by 2020*, XINHUA, Sept. 4, 2014, [http://news.xinhuanet.com/english/china/2014-09/04/c\\_133621112.htm](http://news.xinhuanet.com/english/china/2014-09/04/c_133621112.htm) (reporting the gaokao reform).

149. *Examination Reform 2014*, *supra* note 2.

150. See *Examination Reform 2014*, *supra* note 2; Lu Hui, *supra* note 148 (describing the timeline for the gaokao reform).

151. See Xu Heqian, *Government Fleshes Out Reform to Gaokao System*, CAIXIN (Dec. 19, 2014) <http://english.caixin.com/2014-12-19/100765295.html> (reporting the Education Ministry’s plans to implement the reform); *China Focus: College Entrance Exam Reform to Take Focus Off Score Results*, XINHUA (Dec. 16, 2014), [http://news.xinhuanet.com/english/china/2014-12/16/c\\_133859432.htm](http://news.xinhuanet.com/english/china/2014-12/16/c_133859432.htm) (reporting on the Education Ministry’s announcement).

152. Beauchamp-Mustafaga, *supra* note 2 (stating the State Council’s two main goals for the gaokao reform); see *Examination Reform 2014*, *supra* note 2.

153. *Examination Reform 2014*, *supra* note 2; Beauchamp-Mustafaga, *supra* note 2 (describing the first goal of the gaokao reform).

154. See Sun Zhao, *supra* note 136; *The Problems with the “Revolutionary” Gaokao Reforms*, CHINA OUTLOOK (Sept. 7, 2014), <http://china-outlook.net/blogs/the-problems-with-the-revolutionary-gaokao-reforms/> (explaining the changes to the quota system); *Xinhua Sept. 2014*, *supra* note 4 (reporting measures to level the playing field between regional inequalities).



reform aims to improve the provision of primary and secondary education to migrant children.<sup>155</sup> Neither the State Council nor the Ministry of Education has released any specifics about the reformed quota system and changes at the primary and secondary levels of education.<sup>156</sup>

The second goal of addressing inequalities in admissions to elite universities is aimed at creating a fairer and transparent gaokao system.<sup>157</sup> The State Council wants to eliminate the exam-focused nature of students by decreasing the emphasis placed on the gaokao subjects, thus avoiding the single-minded mentality that the gaokao creates.<sup>158</sup> Moreover, the State Council aims to reduce the pressures of the exam by splitting up the multiple parts into different time periods.<sup>159</sup> The reform states specific changes to the current system in order to achieve this goal, for example, students will no longer earn extra gaokao points for sporting or artistic achievements.<sup>160</sup> Further, each elite university will have its own admissions procedures in which students must partake after completing the gaokao.<sup>161</sup>

The State Council has recognized the importance of modernizing the gaokao system to promote equality across the country and assist

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including adjusting enrollment quotas to increase recruitment of students from central, western and very populous regions).

155. Beauchamp-Mustafaga, *supra* note 2 (stating the State Council's goal of improving primary and secondary education); *see Examination Reform 2014, supra* note 2.

156. *See* Beauchamp-Mustafaga, *supra* note 2 (articulating that the State Council did not state any specifics regarding how it plans to improve the quality of primary and secondary education); *cf. Examination Reform 2014, supra* note 2 (lacking any specificities about the plan to reform the quota system and change the primary and secondary education systems).

157. *See* Lu Hui, *supra* note 148 (expressing the State Council's goal to increase fairness and transparency); Sun Zhao, *supra* note 136 (describing the State Council's goal to increase transparency of the gaokao); *Xinhua Sept. 2014, supra* note 4 (reporting that China plans to overhaul the gaokao system in order to improve fairness and transparency).

158. Shi Rui & Liu Jiaying, Reform Plan Aims to Cut Importance of National College Exam, CAIXIN (Sept. 5, 2014), <http://english.caixin.com/2014-09-05/100725828.html> (describing the State Council's goal to eliminate the exam-focused nature of Chinese students); *see Examination Reform 2014, supra* note 2.

159. *See Examination Reform 2014, supra* note 2; Yiqi, *supra* note 7 (explaining the State Council's goal to decrease the pressure that Chinese students feel because of the gaokao).

160. *See The Problems with the "Revolutionary" Gaokao Reforms, supra* note 154 (stating that students will no longer receive extra points for extracurricular activities); Rui & Jiaying, *supra* note 158 (explaining that there will be no more extra points on the gaokao for extracurricular activities); Jiang Xueqin, *Opinion: China's Education Arms Race*, CNN (Sept. 9, 2014), <http://www.cnn.com/2014/09/09/opinion/china-education-opinion/>.

161. *See Examination Reform 2014, supra* note 2.

the rural population in achieving higher levels of education.<sup>162</sup> Students and their families, however, are left wondering exactly how the State Council plans on implementing these changes.<sup>163</sup> More specifically, the State Council has promised migrant children higher quality primary and secondary education but has not indicated what this means for them.<sup>164</sup>

### III. *THE 2014 GAOKAO REFORM IS NOT ENOUGH ON ITS OWN TO SUFFICIENTLY ADDRESS THE INSTITUTIONAL BARRIERS THAT MIGRANT STUDENTS FACE IN ACCESSING TERTIARY EDUCATION*

As explained earlier, there are four key hukou-related institutional barriers to education that migrant students face in China.<sup>165</sup> The State Council's 2014 gaokao reform does not specifically address any of these barriers in enough detail to actually overcome the major problems that migrant students face in accessing tertiary education.<sup>166</sup> The first three institutional barriers have to do with primary and secondary education in China.<sup>167</sup> First, migrant students cannot attend elementary schools in the cities where they live because public education is only provided to students with local hukous.<sup>168</sup> Second, there is no adequate funding to provide schooling for migrant students because public school funding is based on the population of urban hukou holders, and not the total number of students living in any particular city.<sup>169</sup> Third, all students must attend high school in their place of registration as designated by their hukou.<sup>170</sup>

The State Council stated in its 2014 reform that one of its goals is to improve primary and secondary education for migrant students in China.<sup>171</sup> This is an important focus for the State Council because

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162. See *Examination Reform 2014*, *supra* note 2; Beauchamp-Mustafaga, *supra* note 2 (stating the State Council's two main goals for the gaokao reform).

163. See *Examination Reform 2014*, *supra* note 2; Beauchamp-Mustafaga, *supra* note 2, at 2 (stating the State Council's two main goals for the gaokao reform).

164. *Examination Reform 2014*, *supra* note 2.

165. See *supra* Part II.A.

166. See *supra* Part II.B.

167. See *supra* Part II.A.1-2.

168. See *supra* note 94 and accompanying text.

169. See *supra* notes 103-15 and accompanying text.

170. See *supra* notes 120-22 and accompanying text.

171. See *supra* note 155 and accompanying text.

these institutional barriers at the early stages of education prevent migrant students from ever reaching college.<sup>172</sup> The State Council, however, did not provide any details as to how it will improve education for migrant children.<sup>173</sup> There is a pressing need for the State Council to elaborate on specific plans to assist migrant students in accessing primary and secondary education.<sup>174</sup>

The fourth institutional barrier to tertiary education is that the government sets different gaokao score cutoffs based on location, making it much easier for students from cities to get into college than students from rural areas.<sup>175</sup> The State Council's 2014 reform addresses this issue of the college quota system by increasing the number of spots available for students from Midwestern and populous provinces.<sup>176</sup> Increasing the number of spots available to rural students at universities could counteract the problem created by setting differing gaokao score cutoffs based on location and therefore even out the admissions process between urban and rural students.<sup>177</sup> But without knowing the details of this reform, it is difficult to assess whether this feature could actually overcome an institutional barrier.<sup>178</sup>

Further, while increasing the number of spots available at universities for students from poorer parts of the country will directly help migrant students access tertiary education, this change will not wholly address the other barriers that migrant children face.<sup>179</sup> First, this system is very much like affirmative action in the United States, which tends to create feelings of resentment from the more privileged students.<sup>180</sup> In China particularly, urban citizens may feel slighted by

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172. *See supra* Part II.A.1-2.

173. *See supra* note 156 and accompanying text.

174. *See supra* notes 89-126 and accompanying text (recommending that while the State Council wants to assist migrant students in accessing primary and secondary education, it must state how it will accomplish this goal in order for it to come to fruition).

175. *See supra* notes 78-81 and accompanying text.

176. *See supra* note 154 and accompanying text.

177. *See supra* notes 145-47 and accompanying text (discussing the custom of setting different cutoff scores for the gaokao based on location, making it easier for urban students over rural students to gain admission to universities).

178. *See supra* note 156 and accompanying text.

179. *See supra* notes 136-38, 142-47 and accompanying text (outlining additional barriers migrant children face in accessing tertiary education including the fact that students must take the gaokao in their place of registration according to their hukou).

180. In the United States, "affirmative action" in higher education refers to admission policies facilitating equal access to education for groups that have been historically excluded or underrepresented, such as women and minorities. *See generally* Grutter v. Bollinger, 539

their local governments who, in their opinion, should create systems that benefit them, rather than non-local citizens.<sup>181</sup> Second, without fully eliminating the control that the hukou system has on education laws, migrant children will not be able to compete equally with their urban counterparts and gain equal access to tertiary education.<sup>182</sup> University enrollment opportunities can sometimes vary in different parts of China because of gaps in development and population.<sup>183</sup> The government has worked on narrowing regional disparity in education for years, but without reform to the hukou system, there will never be a level playing field between urban and rural students.<sup>184</sup>

In order to overcome the institutional barriers that migrant students face in accessing tertiary education, the Chinese education

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U.S. 306, 343 (2003). The policy, however, causes a form of reverse discrimination by favoring one group over another, based on racial preference rather than academic achievement. *See, e.g.*, *Hopwood v. Texas*, 236 F.3d 256, 269-70 (5th Cir. 2000). Further, there is concern that minority groups may be stigmatized and treated differently by peers and professors who may believe that the success of minority groups in higher education institutions is unearned. *See* Richard H. Sander, *A Systemic Analysis of Affirmative Action in American Law Schools*, 57 *STAN. L. REV.* 367, 369 (2004).

181. *See* YUN CHEN, *TRANSITION AND DEVELOPMENT IN CHINA: TOWARDS SHARED GROWTH* 30-31 (2009) (explaining that urban citizens expect the local government to look after them and do not want to share their resources with migrants); *see also* GORDON MCGRANAHAN ET AL., *China's Radical Urbanisation and Bringing Capital and Labour Together Step by Step*, in *URBAN GROWTH IN EMERGING ECONOMIES: LESSONS FROM THE BRICS* 55, 89 (2014) (explaining that “governments of wealthy places generally do not want to cover the social costs for large flows of low-income migrants, particularly if the migrants may not be able to secure employment” because resources should go to the local urban hukou holders).

182. *See supra* Part II.A (explaining the major institutional barriers to education that migrant students face, and that are directly linked to the hukou system: public education admission is only available to local hukou holders; public school funding is based on the population of urban hukou holders; and the gaokao point cutoffs for college admissions are based on an applicant’s hukou location).

183. *See* Bai Yang, *supra* note 148; Hongbin Li et. al., *Unequal Access to College in China: How Far Have Poor, Rural Students Been Left Behind?* 5, 17-18 (Rural Education Action Project, Working Paper 263, 2013) (concluding that rural students were eleven times less likely to access any college and elite colleges than urban students and that these gaps in college access were driven by rural-urban differences rather than income differences).

184. Zhao & Chun, *supra* note 136 (arguing that there will never be a “level playing field” between urban and rural students without a more equal income distribution system that would come with a change to, among other things, the hukou system); *see* Bingqin Lin, *China's Hukou Reform a Small Step in the Right Direction*, *E. ASIA FORUM* (Jan. 13, 2015), <http://www.eastasiaforum.org/2015/01/13/chinas-hukou-reform-a-small-step-in-the-right-direction/> (arguing that China needs to continue to reform the hukou system and the corresponding social services policy to eliminate inequalities between urban and rural areas).

system should be entirely independent from the hukou system.<sup>185</sup> Creating an educational system in China completely independent from the hukou system, however, is much easier said than done because the government may not have the funding necessary to educate the additional millions of migrant students.<sup>186</sup> It is impractical to simply open the doors to millions of migrant students without any additional financial resources.<sup>187</sup> The government would have to modify the tax system to account for the non-urban hukou-holding students in the cities, or come up with some system to account for the drastic increase in students.<sup>188</sup>

Therefore, the State Council's 2014 gaokao reform does not address any of the four, key hukou-related institutional barriers in enough detail to actually overcome the major problems that migrant students face in accessing tertiary education.<sup>189</sup> The government does not provide any specifics about how it plans to assist migrant students in accessing primary and secondary education.<sup>190</sup> And lastly, while the State Council's reform addresses the issue of the university quota system by increasing the number of spots available for students from Midwestern and populous provinces, again there are no specifics about what modifications the State Council will make to the quota system – and, therefore, it is impossible to tell whether this reform will in fact help migrant students access tertiary education.<sup>191</sup>

While the State Council has recognized an important goal of leveling out the playing field between rural and urban students in

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185. See Goodburn, *supra* note 19, at 8 (arguing that the current hukou reform, which eliminates the "agricultural" and "non-agricultural" distinction, does not do enough, and that the government must make fundamental changes to how it provides public services); *China's Hukou System Puts Migrant Workers at Severe Economic Disadvantage*, PRI (May 1, 2013), <http://www.pri.org/stories/2013-05-01/chinas-hukou-system-puts-migrant-workers-severe-economic-disadvantage> (explaining that some Chinese citizens hope that the government relaxes the hukou system even further, or even abolishes it, so that migrant students can stay in the cities through senior high school and take the gaokao in the cities so that they "have a better chance of reaching their highest potential, which in turn benefits the urban economy").

186. See *supra* notes 108-12 and accompanying text (increasing migrant student access to urban schools would be a huge financial burden to local governments because they would no longer receive the additional school fees that they earn from migrant students, and would therefore have to come up with more money to expand schools to accommodate the new students).

187. See *supra* notes 113-116 and accompanying text.

188. See *supra* notes 113-116 and accompanying text.

189. See *supra* Part II.B.

190. See *supra* note 166 & 1743 and accompanying text.

191. See *supra* note 164 and accompanying text.

accessing tertiary education, it has failed to specifically enumerate how the 2014 reforms will be carried out.<sup>192</sup> It is likely that China will need much more time and many more reforms before the rural migrant population actually experiences a change in the college admissions process.<sup>193</sup> Moreover, the State Council should put more effort into reforming the hukou system, which is truly at the core of each level of institutional barrier to education that migrant students face.<sup>194</sup>

### CONCLUSION

This Note has discussed the barriers that the hukou system creates for migrant students in accessing tertiary education in China. The hukou system and the education system are inextricably related, hindering migrant students' opportunities beginning in the earliest stages of compulsory education and rising all the way up to the level of tertiary education. By the time migrant students reach the age to sit for the gaokao, they stand little chance to compete with their urban counterparts. The State Council has identified an important goal of shrinking the inequality gap in educational opportunities between the rural and urban students. This goal is important in order to allow China to advance its economy from one based on unskilled, cheap labor towards a more skilled, innovative, and dynamic workforce and therefore compete internationally with sophisticated economies like the United States.

Given the problem of noncompliance and lack of legal enforcement in China, one cannot expect this reform to effect

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192. *See supra* notes 152-56 and accompanying text (discussing that the State Council did not specify how the reform will create equal opportunities for rural students to access higher education).

193. *See* Jiang Xueqin, *supra* note 160 (arguing that the gaokao reform is “just window dressing” and advocating that to truly help the rural population the government should spend resources on a Finnish-style early childhood education program to address early deficiencies in nutrition and emotional stability, a German-style vocational training to provide marketable skills, and a more developed system of community colleges); Patti Waldmeir, *China's University System Faces Criticism for Being Unfit for a Modern Economy*, <http://www.ft.com/cms/s/2/07c0aa44-283b-11e4-9ea9-00144feabdc0.html#axzz3YQRrKjip> (last visited April 26, 2015) (quoting experts such as Xiong Bingqi, vice-president of the 21st Century Education Research Institute in Beijing, arguing that little has been achieved as of 2014, the mid-point of the gaokao reform plan period (2010-2020), that the problem with China's higher education is that the government runs the universities, and that therefore the universities have no autonomy).

194. *See supra* note 184 and accompanying text.

immediate and significant changes. China has a long way to go before achieving an education system where rural and urban students have equal opportunities to attend top universities. Chairman Mao Zedong's words in 1964 still ring true today. He advised: "[a]ny drastic change is difficult, as many people would oppose it."<sup>195</sup> The gaokao is still viewed by many citizens as one of the fairest systems in China and one of the only opportunities for social mobility because rather than one's future being predetermined by one's family background, each student is judged based on his or her gaokao score. Therefore, many citizens, even the rural citizens, resist change to this age-old system. Despite the resistance to change, the State Council's efforts to level out the playing field for the entire population by aiding rural students achieve higher levels of education is significant for China's future advancement.

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195. *See supra* note 1.

