
Emerging Markets and Migration

Policy: China

Frank N. Pieke

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Introduction

China's development has given rise to massive flows of both domestic migration and international emigration. Recently, China has also emerged as a major immigration country. According to the 2010 census, which for the first time included foreign residents, China currently has a foreign population of 1 million (including residents from Taiwan, Hong Kong and Macao). Estimates that include the many non-registered non-PRC nationals add up to double that figure. While this is still a minute fraction of China's total population of 1.34 billion, the *absolute* number already makes China an immigration country the size of a mid-sized European or Asian country.

Immigration to China is fuelled by the opportunities that China's economic growth offers entrepreneurs, traders; the rising demand for labor and skills; and the safe and high standard of living that China has to offer. Moreover, China's alarmingly unbalanced gender ratio will mean that there are (and will continue to be) many more men than women, creating a demand for women (mainly as wives, but also as concubines or prostitutes) that is likely to be filled at least in part by international migration. Demand for labor is predicated in the short term on the continued growth of China's export-based economy and, in the medium term, on a transition to an urban and service-based economy. In the long term, the impact of population ageing will be much more extreme in China than in the West or the developed Asian countries, in part because of the effect of mandatory family planning since 1979. In sum, economic and social development and demographic trends will combine to create increasing shortages of labor and people that cannot only be met by the domestic population.

Immigrants in China include students, expatriate or locally hired professionals, entrepreneurs, traders, marriage migrants, and unskilled laborers. They include ethnic Chinese and non-Chinese foreigners. They are both from the neighbors of the People's Republic of China (mainly South and North Korea, Taiwan, Japan, Vietnam, Burma and Russia) and from much farther afield (South Asia, the Middle East, Africa, Latin America, Australia, North America and Europe). The main areas that attract foreigners are the large urban areas along the coast (Guangzhou, Shanghai, and Beijing) and borderland regions in the South, Northeast and Northwest, but also smaller cities across China.

China still lacks a clear administrative framework and apparatus to deal with the presence of foreign residents. Administrative responsibilities are scattered over numerous departments. These departments not only do not work together, because each takes responsibility for only certain categories of foreigners (diplomats, experts, workers, business people and investors, students, seafarers), but also compete for turf and influence.

Despite these problems, the new exit-entry law (promulgated in 2012 and coming into force in 2013) for the first time addressed exit, entry, settlement, immigration, expulsion, naturalization, refugee status, and trafficking of all categories of foreigners within the context of one document, reforming several separate and more specific laws and regulations. This significant development highlights a growing recognition of immigrants as part of Chinese society. The emphasis in the law is placed heavily on stricter regulation with a view to create properly regulated channels for the entry, employment and residence of desirable, 'high-end' immigrants, while aspiring to put an end to the largely unregulated entry, residence and employment of less desirable traders and unskilled foreigners.

Beyond the narrow issues of entry, residence and employment, China will also have to find ways of dealing with a permanent foreign presence. Like internal migrants before, international migrants in China's cities are beginning to confront outdated government policies to assert individual and collective identities, interests, and rights. Since the founding of the People's Republic of China in 1949, non-Han minorities, foreigners, overseas Chinese and rural or urban household registration have been statuses defined and imposed by the Chinese Communist Party's state. They came with non-negotiable sets of duties, privileges and restrictions regarding residence, employment and so on. Today, international migration adds to new patterns of mobility and diversity in China that challenge and blur some of the basic categories that undergird the state-sanctioned cultural and political map of Chinese society.

As ethnic communities of foreigners based on common nationality, race, language, religion, or culture are beginning to grow, China is more obviously becoming an immigration country rather than a place where foreigners happen to live. With this, China, like other immigration countries, will have to find ways of permanently integrating these communities, dealing with questions of ethnic and race relations, religious and cultural pluralism, nationality and political rights, and the emergence of a second generation in ways never faced before.

Currently, the trend is towards a more integrated approach that facilitates the entry and stay of foreigners. The recognition that foreigners are there to stay also comes with the necessity to cater to their needs, such as education for their children and the right to profess their religion in churches, mosques, or temples. Yet in certain respects, the normalization of immigration will continue to be less than straightforward as it touches on some politically very sensitive issues such as religion. In addition, a perception is emerging that not all aspects of immigration are necessarily beneficial. Unskilled or unwanted immigration is considered a burden on Chinese society, while immigration is also associated with terrorism, subversive activities, and international organized crime. As a result, an increasing emphasis on control and national security in addition to service and equal treatment of foreign residents is to be expected.

Patterns of migratory flow in China

In 1949, the year of the victory of the Chinese Communist Party (CCP), more than 200,000 foreigners lived in China. Immediately after this victory, virtually all foreign residents either chose to leave China voluntarily, or else were expelled as foreign or Guomindang spies, imperialist exploiters, or Christian missionaries. The most important foreign presence in the new China of the 1950s was the thousands of experts sent by the Soviet Union and its allies to help China industrialize and set up a socialist planned economy. With the growing rift between China and the Soviet Union after 1956, these experts were withdrawn. In the 1960s, and especially from 1964, restrictions on foreigners were re-introduced. At the start of the Cultural Revolution, China had become a hermetic state that few foreigners could travel to, and just a few diplomats, journalists, students and businesspeople from countries that recognized the new People's Republic remained in China.

In the 1970s, after the end of the 'revolutionary' phase of the Cultural Revolution (1966-1969), a gradually rising number of foreigners began to arrive in conjunction with the gradual opening up of Chinese society and normalization of China's international relations. In the 1970s and 1980s foreigners who resided in China for a longer period of time consisted of four main categories: degree students mainly from Africa and North Korea; Chinese language and culture students mainly from the developed world; expatriate businesspeople, journalists and diplomats; and foreign language teachers and other 'foreign experts' hired by Chinese state employers through the state's Bureau for Foreign Experts. Foreign residence in all categories was still strictly controlled by state agencies rather than by market forces or other factors beyond the economic plan. Only the further growth and maturation of the market economy in the 1990s and 2000s created the conditions for autonomous immigration and settlement.

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The scale and variety of immigration in China already clearly defies easy and unambiguous characterizations. As a start, five broad and overlapping categories of both older and new types of immigration can be distinguished: (1) students; (2) middle class professionals, businesspeople, and traders; (3) cross-border migrants.

Students

China has become a magnet for fee-paying foreign students. In 2007 the number of foreign students was 190,000, more than five times as many as in 1997¹. Major state and private investment in the tertiary education sector has made Chinese universities competitive in the lucrative international student market. As China's global role increases, first-hand knowledge of Chinese language and culture becomes a more important asset, attracting ever larger numbers of students to China. The majority of such students take short-term courses specifically tailored to foreigners. China has also become the choice of many degree students, mainly from Southeast and South Asia. In 2008, 50,468 foreign students were enrolled in undergraduate and 10,743 in postgraduate programs (Yu and Liu, 2010: 50). Some of this is part of the government's 'soft power' strategy, but many students apply to Chinese universities also because of the combination of good-quality education, reasonable fees and geographic proximity.

¹ *China Daily* (2008, July 29). "Foreign Student Quota to Expand".

Professionals, businesspeople and traders

China's cities attract ever larger numbers of businesspeople and professionals from the developed world. The communities of middle class and elite resident foreigners are no longer numerically dominated by expatriate employees of foreign multinationals, international organizations, diplomatic missions, and 'foreign experts' hired by Chinese state enterprises or organizations. Large numbers of foreigners have independently taken up long-term residence in search of local employment (with either a Chinese or foreign firm), cheaper living costs, or to set up their own businesses. Younger foreigners may be enrolled at a university or language school to facilitate their stay, much like many Chinese students at private language schools in the UK, for instance. In addition, we should also include in this category the very diverse group of traders from Russia, Central, South and Southeast Asia, the Middle East and Africa. To all of these foreigners, China is the land of opportunity, not just a stopover on an international career.

In the eyes of many Chinese, (white) westerners are the paradigm of what are known as *yang dagong* (foreign workers). However, numerically this category of foreign residents is in fact dominated by hundreds of thousands of middle class Taiwanese, Hong Kong Chinese, South Koreans, Japanese and Southeast Asians, and, of course, returning Chinese nationals and Chinese who lost their nationality by taking the nationality of another country. Many professional middle class immigrants expect to stay long-term. Increasing numbers have brought their families over, while others (usually men) have found a Chinese spouse, partner, or lover. Cities like Shanghai, Beijing, and Guangzhou are becoming more like metropolitan areas elsewhere, one of the many homes to Asia's and the world's highly mobile transnational elite and middle class professionals.

In the 1990s, the creation of high-price housing estates specifically for foreigners came before the marketization of urban housing for Chinese, leading to a clustered residential pattern of high-income professional and expatriate foreigners in cities such as Beijing and Shanghai. However, following the housing reforms, foreigners have started to rent or buy houses both in foreign and domestic estates, countering the earlier trend of residential clustering. Home ownership among foreigners continues to be on the rise, particularly among Hong Kong Chinese and Taiwanese in Guangdong and Shanghai, but Western Europeans and Russians have also entered China's property market. Some of these are long-term residents, while others buy houses as an investment or a second home. Despite their spread beyond areas designated specifically for foreigners, many groups of immigrants who share a common background tend to concentrate in one particular city or neighborhood and/or specialize in a particular type of employment or business. Such clustering (for instance through chain migration or professional specialization) is an important feature of settlement of foreign communities in, for example, Guangzhou (Zhang, 2008). In some cases, this has enabled the emergence of an ethnic infrastructure. In Beijing, 80,000 or so mainly middle class South Koreans live in the city's Wangjing district, supporting a large and well-equipped Korean school, restaurants, shops, and travel agents.

Taiwanese migrants have settled in China in large numbers since the mid-1990s. Shanghai, as East Asia's emerging cosmopolitan center, is their favorite destination. In China, the very large communities of Taiwanese in Shanghai, Shenzhen and Dongguan have established many schools that teach towards Taiwanese degrees, while Dongguan even has a Taiwanese hospital. Taiwanese migrants are able to capitalize on a combination of an international background and native language and cultural skills. The Chinese government in practice actively encourages their migration. Entry, one-year residence visas, and work permits are much easier to obtain than for other foreigners; since 2005, work permits are given without the normal restrictions on foreign employment. Taiwanese migration, together with migration from Hong Kong and Macao and return migration of (former) Chinese nationals, is a phenomenon that straddles the divide between international and domestic migration.

Much smaller communities of traders exist from Russia, Central, South and Southeast Asia, the Middle East, Latin America, and Africa. Traders tend to create and exploit highly specific niches where dense co-ethnic networks and access to specific overseas markets give them a competitive advantage. Traders are concentrated in the Pearl River Delta and in northern Zhejiang, especially the city of Yiwu that has become China's premier wholesale market in a staggering range of industrial products. China's borderlands (especially in the Northeast and Southwest) are also places where many traders from neighboring countries live and work. Russian traders are found in cities in the northern and central parts of China, and are best-known for their presence in Beijing.

The group of foreign traders that are by far the best researched are the Africans in Guangzhou, partially because of the visibility of what is locally known as 'Chocolate City' and partially as a corollary of the recent interest in the connections between China and Africa.² Many of these traders have become long-term residents of China, often with families; quite a few of them have become very wealthy. Others operate more in the margins, searching for the deal that will make them rich too. Many of the latter either reside in China illegally, or else shuttle back and forth between China and Africa on tourist visas.

Cross-border migrants

China's international borders no longer divide and separate. China's border areas are becoming part of larger cross-border regions defined by complex relationships of co-ethnicity, religion, legal trade and illegal smuggling, marriage, employment, study, immigration and emigration, crime, and (particularly in the case of Xinjiang) terrorism. In the south-western province of Yunnan, the limits of the bounded nation-state are perhaps tested most clearly.

² See Li, Lyons, and Brown (2012) for the most recent addition to this literature.

For centuries, Yunnan has been a frontier area that was as much a part of Southeast Asia as of China proper. Today probably more than at any other time since the establishment of the PRC, people in Yunnan living close to the border continue to maintain contact with their relatives and co-ethnics and move freely across the border, with or without a permit (Sturgeon, 2005). One particular issue that concerns local authorities is the inflow of women from the other side of the border as wives either for local co-ethnic men or, increasingly, Han Chinese men. These women and their children are permanent members of their communities in China, yet have no legal status and are a major headache locally in the enforcement of state family planning.

The leniency in border control has facilitated cross-border traffic both in and out of China, and a considerable economic and social integration has been the result. This integration has been much encouraged since 2002 by China's accession to the WTO and the process of the creation of the China-ASEAN Free Trade Area. However, traffic and trade have also created space for illegal activities. Drug, gun, and people smuggling into and out of China have become major problems, made worse by ethnic and religious factors and further facilitated by money laundering and financing provided by underground brokers and banks.

The long history of cross-border links coupled with the recent surge in China's opening up have created a highly diverse foreign population in the province. Traders from Burma, often with ancestral links in Yunnan, sell jewels and precious stones in the trading centers along the Burmese-Chinese border. Similarly, small traders from ethnic groups that reside at both sides of the border buy and sell agricultural products or other small merchandise. Some of these traders have bought a house or land in Yunnan and have become a very visible presence in border cities; for instance, Ruili city alone has more than 500 Burmese traders. In addition, seasonal workers from Burma and Vietnam come to Yunnan in search of work. All three groups of trans-border migrants have travelled farther inland to Yunnan's capital Kunming or the province's main tourist sites in search of business or work, as a rule without proper permits. As a result, the composition of these irregular foreign migrants is relatively straightforward in border areas as they are mainly from the other side of the border, but becomes more complex farther inland. Further away from the border, migrants can no longer rely on their relations with kin and co-ethnics residing immediately across the border. As a result, relationships between migrants themselves based on residential concentration, kinship, ethnicity, or nationality become more important (He, 2009).

Who does what? Migration policy-making in China as an illustration of “fragmented authoritarianism”

China still lacks a clear administrative framework and apparatus to deal with the presence of non-PRC residents. Administrative responsibilities are scattered over numerous departments. These departments not only do not work together, because each takes responsibility for only certain categories of foreigners (diplomats, experts, workers, business people and investors, students, seafarers), but also compete for turf and influence. Policies tend to come in packages that require cooperation between many different ministries. Adjustments to such a package will then inevitably lead to long drawn-out renegotiations between the main ministry in charge and each of the other parts of government. If one ministry is slow in making the necessary budget adjustments or the like, the entire package is delayed. This process tends to be characterized by long delays resulting in slow change and inefficiency.

China's politics regarding foreign immigration thus closely matches the concept of ‘fragmented authoritarianism’ that was developed in the study of Chinese politics in the late 1980s. Divisions of power and interests between departments and levels of government inform and often mar policy making and implementation. The interests of foreign-invested firms, private enterprises, foreign residents, workers, and students have only limited impact on policy; the interests of others – major city governments, state-owned enterprises or leading universities and research institutions – do play an important role, but do so only indirectly through the administrative departments involved. As an emerging policy field, immigration also lacks coordinating mechanisms within the administration, such as an informal leadership group or a formal department of migration affairs, although the CCP's Politburo itself and the Organization Department seem to have stepped into this role. Policy therefore always runs the risk of being disproportionately hijacked by specific departments or interests. It is therefore very difficult for an outside observer to know exactly who is responsible for what, and how the policymaking process works. What follows below is a reconstruction mainly based on interviews in 2010 and a reading of the most important policy documents.

1. Overseas Chinese return migration – including aspects of the return flow of students and professional Chinese emigrants – is dealt with by the administrative system for overseas Chinese affairs. At all levels of administration, from the Center down to the county or even the township

level, overseas Chinese affairs institutions include the Office of Overseas Chinese Affairs (*Qiaoban*, the arm of the government dealing with overseas Chinese affairs), the Overseas Chinese Federation (*Qiaolian*, representing overseas Chinese and returned overseas Chinese), the People's Congress Overseas Chinese Commission (*Huaqiao Weiyuanhui*, a special commission of the Chinese parliament), and the People's Political Consultative Conference's Taiwan, Hong Kong, Macao and Overseas Chinese Affairs Commission (*Zhengxie Tai-Ao-Gang Qiaowei*, a special commission of Chinese consultative (i.e. non-law-making) parliament). Furthermore, one of China's eight so-called democratic parties that participate in the rule of China under the guidance of the CCP, the *Zhigongdang* (a name usually not translated but roughly meaning 'party dedicated to the public cause'), represents returned overseas Chinese and the relatives of overseas Chinese (Barabantseva, 2005). Overseas Chinese Affairs work is coordinated and supervised by the Communist Party through its United Front Department (*Tongzhan Bu*) as part of its task to guide the party's relationship with patriotic forces sympathetic to but (semi-)autonomous from the CCP.

2. Although the Ministry of Foreign Affairs is responsible for the issuance of visas, regarding foreign entry, residence, and employment, the Ministry of Public Security occupies a central position, most directly through the Border Exit and Entry Management Bureau (*Churujing Guanli Ju*) within the ministry. Applications for work permits, for instance, take a tortuous route across several different departments (possibilities include Human Resources, Education, and Commerce), but Public Security is ultimately responsible. Regarding foreign study, the Ministry of Education takes the lead; when we include the increasingly important issue of immigration of the highly educated, the Ministry of Human Resources and Social Security and the Ministry of Science and Technology play an important role as well. The Ministry of Commerce is often involved as well: many foreign 'talents' settle in a science and innovation park that is managed through committees that fall under the Ministry of Commerce or the Department of Commercial Affairs of the local government.

3. The Ministry of Education is involved in policymaking regarding foreigners in China because many Chinese universities want to boost their recruitment of foreign students and to attract high-level academic staff as teachers and researchers. The latter objective the ministry shares with the Ministry of Science and Technology. Particularly the latter chimes very well with the priorities of the main drivers behind efforts to boost foreign talent recruitment (Ministry of Commerce, Ministry of Human Resources and Social Security, the CCP Center, China's large coastal cities). The former, however, jars with the general priority of encouraging 'high-end' migration and limiting 'low-end' migration, because many foreign students in China use their student status to work or run a business. In recent years, the educational sector has therefore become another site for stricter immigration regulation,

as the Chinese universities have been compelled to be more selective in their foreign student enrolment.³

4. The Ministry of Commerce and the Ministry of Human Resources and Social Security are the main government departments responsible for foreign workers in China. Human Resources administers the work permits of foreign employees recruited by Chinese and foreign enterprises. Within the same ministry, the largely independent National Foreign Experts Bureau (a leftover of the planned economy period that has successfully adapted to the rigors of the socialist market economy) administers high-end 'foreign experts' specifically recruited abroad for short-term or long-term employment within Chinese state-owned enterprises, universities, or the administration. The Ministry of Commerce is in principle responsible for business migrants and investors, but also seems to have assumed a more general coordinating role in the implementation of China's foreign talents program, thus straying onto the turf of, in particular, the Ministry of Human Resources and Social Security.

5. Finally, the Chinese Communist Party at the central level seems to have taken a direct interest in at least some aspects of immigrant work, especially those that directly relate to the more general strategic priority of upgrading the Chinese economy in order to avoid the so-called 'middle income trap.' The Organization Department of the CCP is responsible for the national medium-term talent development plan 2010-2020 and more generally in the facilitation of high-skilled immigration, most likely in an effort to prevent this key policy being undone by the infighting between government departments. The Organization Department's imprint is especially clear in the extraordinary fact that the first recruits of the national talent plan have reportedly received training at the National Party School, a duty and privilege normally reserved for very high-ranking officials of the CCP itself (Wang, n.d.).

Immigration policy in China: walking the ethnic divide

There is considerable terminological complexity regarding the category of 'foreigner' in China due to the inherently fuzzy boundaries of the Chinese nation as defined by the PRC state. 'Foreigners' (*waiguoren*) usually refers only to people with a non-Chinese nationality. This officially includes ethnic Chinese and former PRC nationals with a foreign nationality (*waiji Huaren*), although such foreign Chinese in bureaucratic practice are often treated separately from non-Chinese foreigners. Although people from Taiwan, Hong Kong, and Macao are considered part of the inclusive category of 'Chinese' (*Huaren*, *Zhongguoren*) or even 'Chinese nationals' (*Zhongguo guomin*), as

³ Heidi Haugen has made this point with particular reference to African students, but it applies much more generally to students from, for instance, Europe or North America; see Haugen, (2013).

residents of a separate administrative region or country they constitute intermediate categories between pure foreigners and full citizens (*gongmin*) of the PRC, and are usually termed Taiwanese ‘compatriots’ (*tongbao*) and Hong Kong and Macao ‘residents’ (*jumin*). In discussions and statistics on foreign immigrants in China, some or all of such non-PRC Chinese and full foreigners are often merged into the broader category of ‘persons’ or ‘population’ ‘from outside the border’ (*jingwai ren yuan, jingwai ren kou*).

One way to boil down this terminological wilderness to manageable proportions is to focus on the main distinction that runs through the attitudes and policies of the PRC, namely between ethnic Chinese and other non-Chinese foreigners. Below I therefore discuss these two separately, although, as we will see, in recent policy (chiefly the new migration law of 2012) attempts are made to reduce this divide.

Emigration and return migration: the ethnic Chinese

China is known primarily as a country of emigration and rural-urban internal migration. As a policy issue, immigration is still chiefly regarded as *return* migration of overseas Chinese and Chinese students and professionals abroad. Since the end of the 19th century, China’s government policies towards emigrated Chinese and their descendants have wavered between two opposing notions, one inclusive, the other restrictive. The inclusive notion recognizes all Chinese worldwide, regardless of nationality or residence (and sometimes even ethnicity), as belonging to the Chinese nation. The opposite is a restricted notion of ‘Chinese’ that only includes those who live in China, often further restricted in terms of either having Chinese ethnicity of descent or else citizenship.

In 1977, after the turmoil of the period of Cultural Revolution, China formally reinstated notionally restrictive policies towards overseas Chinese, but immediately their scope was widened in practice to include significant elements of the other, inclusive notion of Chineseness. When the overseas Chinese policies of the PRC were designed in the 1950s, Chinese outside China were primarily considered a diplomatic liability. China wanted to establish itself as the leader of the movement of non-aligned countries. In particular, having to represent the interests of very large numbers of ethnic Chinese in Southeast Asia limited the PRC’s freedom in its relations with countries like Indonesia, Malaysia, or Thailand. Overseas Chinese were also often seen as a ‘fifth column’ of communist insurgency; cozy relationships between the PRC and local Chinese would only add to these suspicions.

Compared to the pre-Cultural Revolution period, the privileges and profile of overseas Chinese and returned overseas Chinese were expanded in an effort to strengthen their attachment and dedication to the land of their ancestors. China was no longer interested in being a leader of non-aligned countries, but needed economic growth, foreign investment and foreign knowhow. Overseas Chinese were quickly identified as a source that could readily be tapped, much more easily, in fact, than non-Chinese foreigners. Overseas Chinese had a direct cultural and linguistic affinity with China, but

more importantly an appeal could be made to their patriotism and loyalty to the place that they or their ancestors had come from. Overseas Chinese were encouraged to make charitable donations to their native place and to invest there or elsewhere in China. They were also encouraged to return to China for visits to their place of origin, and for tourism, study, or business. Overseas Chinese visits, residence, employment, and investment were privileged over those of other foreigners. This approach yielded rich dividends: since the start of reform overseas, Chinese have generated the vast bulk of inward overseas investment in China.

An altogether different matter is the migration of students, skilled professionals, businesspeople and, increasingly, organized contract workers. Studying abroad has become the fastest growing flow of foreign migration; (former) students account for most of the growth of the Chinese population in many destination countries, especially in the developed world. Study abroad has long ceased to be the privilege only of China's most talented youth. Many senior high school graduates will at some point have the opportunity to study abroad for a period of time, while the children of many of China's elite often venture abroad even earlier, being prepared for an application to a foreign elite university in pre-university programs, private high schools, or, in some cases, even earlier than that.

As the Chinese economy has grown, Chinese students and professionals abroad are increasingly talked about in terms of a brain drain. According to the Ministry of Education, at the end of 2011 the accumulated number of Chinese students abroad was 2,244,100, of whom 818,400 or 36 per cent have returned to China. This is considered very low by policy makers and advisors in China, especially in view of the fact that the higher the educational qualifications attained, the lower the chance that a student returns (Wang, 2012).

Policy has increasingly emphasized return, as part of the 'inviting in' (*yin jinlai*) of foreign businesses and individuals. In 1987 returning was made a legal requirement for publicly funded students. In 1993 a policy was adopted towards students abroad summarized as 'support study overseas, promote return home, maintain freedom of movement' (*zhichi liuxue, guli huiguo, laiqu ziyou*).⁴ In 1996 China started actively encouraging students abroad to return with the founding of the China Scholarship Council. Policy documents have been coming out every year, such as the 2007 regulations according to which publicly funded students have to return upon completion of their degree and work in China for a minimum of 2 years. Failure to do so results in having to pay back the entire scholarship plus a 30% service charge.⁵

⁴ Cheng Xi, "The evolution of the Chinese Government's policies on selecting and sending students abroad since China's opening up" (Gaige kaifang yilai Zhongguo zhengfu xuantai liuxueshengde zhengce yange), *Huaqiao Huaren shi yanjiu* Vol. 1, p. 43; cited in Barabantseva *Trans-nationalising Chineseness*, p. 16.

⁵ Chen Hefang and Feng Jie, "Gaige kaifang yilai woguo gongpai liuxue huiguo zhengce huigu yu sikao" (Review and reflections on policies regarding China's

Returnees, or *haigui* in Chinese, are very prominent among academics and senior administrators in higher education and research institutions, especially the more prestigious and better funded ones. Others are high-tech entrepreneurs or independent professionals; yet others work for large multinationals or government. National and local governments and university administrations strongly encourage students and scholars abroad to return to China to take up academic employment, encouraging them with a range of privileges and perks (salary, housing, research funds) regardless of foreign permanent residence status or even citizenship.

Returnees have become a policy priority in China. Chinese administrations actively recruit among overseas graduates and scholars and encourage them to set up businesses or contribute their knowledge, skills, and patents to partnerships with Chinese businesses. To woo potential investors, governments frequently organize conventions or fairs, creating what Xiang Biao has called an elaborate 'ritual economy of "talent"'.⁶ Returnees were also the main target of China's first 'green card' policy, which came into effect in 2004, although in practice only a few thousand people have benefited.

Educated Chinese abroad are increasingly talked about in terms of *brain gain*, a huge talent pool that China will be able to draw on in the years to come. In this regard, return migration is directly linked with the strategy for China to retain its long-term competitiveness and not get caught in the so-called 'middle-income trap.' The middle-income trap has become a major policy issue in the last ten years as fears have risen that China has begun to reach the end of its current growth strategy based on cheap and abundant labor. Instead, China should make the transition to a capital-intensive development trajectory based on innovation and technological change. Attracting or keeping highly educated workers and entrepreneurs, or 'talents' (*rencai*) in Chinese government jargon, became central to this. In 2010, the government published a long-term talents strategy that in 2011 was incorporated into the 12th Five-Year Plan. Although these talents explicitly include non-Chinese foreigners, in practice the majority is ethnic Chinese or even Chinese nationals, and *ethnic Chinese are also given long-term or permanent residency more easily. For instance, the government's flagship Thousand Talents Program had, by August 2011, already recruited over 1,500 leading scientists and entrepreneurs. Whilst over 70 per cent were foreign nationals, most of these were ethnic Chinese (Wang, n.d.: 3).*⁷

A key issue regarding the exit of Chinese citizens for purposes of residence abroad remains that they lose their household registration in their place of residence in China (Ho, 2011). With that, they and their children also forfeit a very extensive range of rights to settlement, housing, education, and

publicly-funded foreign study and return since the reforms), *Shijie jiaoyu xinxi* 2012, No. 2.

⁶ Xiang Biao, "A ritual economy of 'talent': China and overseas Chinese professionals", *Journal of Ethnic and Migration Studies* 37: 821-38, 2011.

⁷ More generally on the place of human resources in China's science and technology policies, see Simon and Cao (2009).

welfare; their rights and legal status are therefore not much different from returning ethnic Chinese with foreign citizenship. If they choose to return to China, they therefore have to do so as overseas Chinese.⁸

Immigration: Non-Chinese foreigners

In contrast to emigration and return migration, immigration as a policy field has been slow to develop. After 1955, the People's Republic of China adopted a severely restricted notion of Chineseness in its dealings with emigrants, returned migrants and their descendants. A sharp break with the past, a cornerstone of the policies that followed from this choice was the refusal to allow dual citizenship to Chinese abroad. A system was put in place to accommodate the travel and stay of New China's 'foreign guests' (*waibin*) and 'foreign friends' (*waiguo pengyou*): delegates, visitors, students, businesspeople, and even some tourists. Although loosely modelled on the Soviet Union, the PRC's 'foreign affairs' (*waishi*) system was unique in the world in the meticulous differences between foreigners and Chinese that it created in all spheres of life and politics. Foreigners could only live in specific quarters or hotels, their travel was restricted to certain 'open' areas, all local governments and government institutions had a mandatory 'foreign affairs office' as part of their administrative setup, special foreigners desks or offices existed in train stations and airports, special 'friendship stores' were open only to foreigners, and so on. Aspects of this system continue to exist, still informing attitudes towards foreigners both within the state and among the general population (Brady, 2003).

Many foreigners in China either reside illegally or have only short-term visas, forcing them to frequently travel in and out of the country and to be visible to the administration as visitors rather than residents. It is even more difficult to obtain work permits, particularly for foreigners who are self-employed or work for employers other than foreign-invested firms or state organizations. Public security bureaus are supposed to be responsible for the coordination of entry, residence, and employment of foreigners, but specialized offices for foreigners only exist relatively high up the hierarchy or in cities with places with very high concentrations of resident foreigners, such as Guangzhou, Beijing, Shanghai, or Yiwu. These places are often given the status of 'foreign communities.' In such areas the local police may consider handing over much of the responsibility for the registration of foreigners to the real estate companies that own or manage the apartment blocks. In some of these places, special foreign affairs services stations have been set up that combine some of the services of, for instance, the local police, water and electricity departments, property management companies, and housing agencies.

Immigration in the public opinion: a security issue

⁸ Article 13 of the 2012 Exit and Entry Law.

Almost every group of immigrants in China is internally stratified, containing both highly successful professionals and businesspeople as well as more marginal groups without formal jobs, or fully registered businesses relying on their own resources and personal contacts to carve out a life for themselves in China. Here we see the beginnings of the 'ethnic enclave' pattern of immigrant settlement found among many immigrant groups the world over, where the institutional infrastructure and employment offered by a co-ethnic community provides new arrivals with the chance to get established and ultimately become successful too. However, we should be careful when applying this concept in the contemporary Chinese context. It is likely to overstate the insular nature of foreign communities. Conversely the concept of the ethnic enclave tends to underexpose both the transnational nature of foreign immigrant groups in China and their connections with members of national groups and with Chinese citizens, especially those of the same religion or ethnicity.

The presence of more marginal foreigners is cause for increasing concern. Chinese media coverage and academic articles written by researchers at police academies increasingly conclude that such immigrants do not deserve the courtesies normally extended to foreigners. This is partially a leftover of the time that all foreigners in China were 'foreign guests' (*waibin*) and partially because China needs their 'talent' and contribution, but should rather be considered similar to the 'floating population' (*liudong renkou*) of domestic rural-urban migrants. Such foreigners are also said to compete with China's own huge labor force for jobs. Local police in places with many foreigners periodically carry out crackdowns on illegal foreigners, leading to fines, detentions and even expulsions, and more recently also to protest by foreign communities targeted by police, such as Africans in Guangzhou.

The problem of undesirable and uncontrolled foreign immigrants (sometimes dubbed 'fortune seekers' (*taojinzhe*) or the 'foreign blind flow' (*waiguo mangliu*)) is directly connected with that of the 'three illegalities' (*san fei*) of illegal entry, residence, and work. As in all countries, it is by its very nature impossible to quantify exactly how serious the issue of foreign illegality is, but it is certain that it has rapidly increased, and is concentrated in China's large metropolitan areas. However, despite the fact that illegality and crime are often mentioned together and a link is assumed to exist between illegality and at least some forms of criminality, most Chinese researchers believe that the lack of compliance with China's regulations regarding foreign entry, employment, and residence should be separated from more serious law enforcement issues. The illegality of many foreigners in China often has to do more with the lack of appropriate regulation, the continued restrictions on travel and other activities by foreigners, and a general lack of expertise and coordination within those branches of the administration that are responsible for foreigners. With its entry to the World Trade Organization (WTO) in 2002, China also signed up to the principle that foreigners in China are entitled to the same treatment as Chinese citizens.

Evolving out of the exclusionary discourse? The 2013 law on exit and entry

Until 2013, entry, residence, and employment of foreigners in China were subject to a regulatory framework dating back to the mid-1980s: the Law on Control of the Entry and Exit of Aliens and the Law on Control of Exit and Entry of Citizens, both promulgated in 1985; the Rules for the Administration of Employment of Foreigners in China of 1996; and, lastly, the Regulations on Examination and Approval of Permanent Residence of Aliens in China of 2004. Foreigners also featured in several other laws (including the constitution and the labor law); in addition, a large number of local regulations and rules existed. In the management of foreign immigration, the 1985 law on the entry and exit of aliens were somewhat of a watershed. They signaled a public move away from an exclusionary discourse and the recognition that the presence of foreigners was a normal aspect of social life that had to be regulated by law rather than politics. In the 1990s, this new normalizing discourse gradually evolved into the perception that China, in order to fulfil its modernizing ambitions, needed specific skills, knowledge, and expertise from foreign talents, ultimately leading to the 1996 regulations on the employment of foreigners. Foreigners were still considered somewhat special, but no longer constituted a politically marked category of people. The next step in the process of gradual normalization of a foreign presence was the recognition that foreigners are there to stay. This led to the regulations on permanent residence of aliens in 2004, a policy modelled on the American green card system.

This regulatory framework was widely felt to be too limited and fragmented. Its foundations dated from the 1980s and early 1990s when the presence of foreigners was restricted and temporary. It failed to treat foreign residents as subjects of the state with a minimum set of legal and social rights and duties on a par with Chinese citizens. In other words, foreigners were treated as a special alien presence rather than an integral part of Chinese society. Examples are basic rights like the right to access to education, health care, and social security, but also more extensive social rights to employment, integration, culture, or religion. In all of these areas, foreigners were either given privileged and special treatment as foreign guests (often without there being a legal guarantee of such treatment) or existed outside the law with no rights at all (Zhu and Price, 2013).

The patchwork of laws and regulations concerning foreign entry, residence, and work was replaced in 2012 by more comprehensive legislation when China's first 'Exit and Entry Administration Law of the

People's Republic of China' came into force.⁹ This law has in fact been very slow in coming. Discussions at a crucial meeting at Shantou University in 2008 suggested that work on a new entry and exit management law and/or migration law was well underway. In April 2010, a revision was published of the rules of the management law of foreigners' border exit and entry, a first draft of the new law that came into force in 2013. Also in 2010, the national census included foreign residents for the first time, signaling that foreign residence had been acknowledged as a policy area.

However, the 2012 law's exclusive focus on exit, entry, and residence should be read as a failure to reach consensus over more comprehensive policy regarding immigration and diversity. Tellingly, the law fails to mention the need to set up a separate immigration administrative agency that can pull the many different aspects of immigration together under one umbrella, despite the fact that an important new purpose of the law was 'to strengthen communication and coordination in the control of exit and entry affairs,' including establishing 'a uniform exit and entry control information platform to share information among administrative departments' and improving the collection of biometric data (articles 4,5, and 7). The competition between the many departments involved, as outlined in section 2 of this paper, has most likely been a major factor in this: if all aspects of immigrant regulation are managed together, who then will be in charge? Instead within the law, different departments have been given their own concessions in managing the scope of China's desirable immigration. For instance, the Ministry of Human Resources and Social Security (including the Foreign Experts Affairs Bureau) continue to 'formulate and regularly adjust the guiding catalogue for foreigners working in China based on the needs for economic and social development as well as the supply and demand of human resources' (article 42). The same article (no. 42) gives the Ministry of Education the right to 'establish rules for the administration of work-study foreign students, providing for the scope of jobs under work-study programs and work-study periods of foreign students.'

Overall, the new migration law is strongly biased in favor of the law-and-order agenda of the Ministry of Public Security and the desire of especially the Organization Department, the Ministry of Human Resources and Social Security, the Ministry of Commerce to import high-level foreign and returned Chinese professionals and entrepreneurs that are good for China's economic upgrading. Much less attention seems to have been paid to, for instance, the needs for unskilled labor in the export-processing industry in the Pearl River Delta, the contributions that African, Middle Eastern, and Latin American traders make to the export of Chinese products to often remote parts of the world, or the need to facilitate marriage migration to help less affluent men find a wife.

⁹ For the English translation of the 2012 "Zhonghua Renmin Gongheguo chujing rujing guanli fa" (Exit and entry administration law of the People's Republic of China), see <http://www.mps.gov.cn/n16/n84147/n84196/3837042.html>, accessed 4 December 2013.

A further and more fundamental reason for the limited scope of the new law is the political sensitivity of immigration. Creating a comprehensive immigration policy and administration would amount to stating publicly that China is becoming an immigration country, which, it is feared, would encounter widespread popular and administrative resistance. China still sees itself as defined by its huge population, and policies in many areas are still predicated on or justified by that fact. This includes highly contested policies like birth control household registration that severely and – according to many – unjustifiably limit fundamental freedoms of Chinese citizens.

As an exit and entry law, the new law is silent on the larger issues of social, cultural, and religious integration into Chinese society. This would require policies to enable the political participation and rights of immigrants. More generally, such issues ultimately require the development of the concept of Chinese residence and citizenship that move away from a fundamental distinction between Chinese and non-Chinese. China still refuses to recognize that non-Chinese coming from outside China can (and perhaps should) be given a way to become Chinese. In certain regards, the law is in fact regressive, again restricting freedoms that foreigners had gradually come to enjoy. Article 44, for instance, stipulates that ‘public security organs and national security organs may impose restrictions on foreigners and foreign institutions from establishing places of residence or work in certain areas (...) Without approval, foreigners shall not access foreigner-restricted areas.’

Despite its disappointingly limited range, the new Exit and entry Law is a breakthrough in that it regulates the entry and exit of both Chinese citizens and foreigners, whereas previously these had been dealt with in separate laws. The basic idea behind the new law is that a balance has been struck between on the one hand safeguarding sovereignty and security, and on the other hand the requirements of economic and social development. The emphasis in the law is heavily on stricter regulation with a view to create properly regulated channels for the entry, employment, and temporary or permanent residence of desirable, ‘high-end’ immigrants while putting an end to the largely unregulated entry, residence and employment of less desirable traders and unskilled foreigners.

We may conclude that the law will make the life of some ‘desirable’ foreigners no doubt more comfortable and secure. However, the life of many other foreigners will become more difficult, especially those at the margins of legality, and will subject the entry, exit, residence, and employment of all foreigners to much greater scrutiny, control, and bureaucratic regulation. Whether this will in fact meet the stated objective of serving the needs of Chinese development and opening to the outside world remains to be seen.

Prospective view

Beyond the narrow issues of entry and employment, China will also have to find ways of dealing with a permanent foreign presence. As ethnic communities of foreigners based on common nationality, race, language, religion, or culture are beginning to grow, China is more obviously becoming an immigration country rather than a place where foreigners happen to live. With this, China, like other immigration countries, will have to find ways of permanently integrating these communities, dealing with questions of ethnic and race relations, religious and cultural pluralism, nationality and political rights, and the emergence of a second generation in ways never faced before.

At present, there seems to be no desire at the national level to tackle these issues. However, as is so often the case in China, the situation in specific localities often looks very different. Local policy making or implementation might give an idea where things might go in the future, or at the very least might illustrate which possible scenarios exist.

To this aim, Yiwu experiments with an interesting mix of measures. The city allows selected foreigners to observe the city's people's congress and people's consultative conference and gives them the opportunity to raise suggestions during special feedback meetings. Yiwu also has equipped special stations at the administrative community (*shequ*) level for residence and visa formalities. Foreigners are involved in the running of certain test-point administrative communities where they live; Chinese language training stations have been set up for foreigners; while their children are given the right to attend local schools. They are also given the same rights as Chinese in business and financial transactions, and have freedom of religion. Special cultural activities are organized to promote Chinese and foreign understanding and friendship. Information networks have been set up with the participation of heads of residential blocks, landlords, personnel of associations, public security cadres, and local people's police to prevent and fight crime by and against foreigners. Lastly, Yiwu aims its policies mostly at the administrative community level and seeks to concentrate its foreign population even more in those communities that already have a high concentration of foreigners (Li, 2006). Inspiration for these measures seems to have been drawn from several different sources. Empowerment, recognition of equal rights, government service provision, and policing are part of a modern approach based largely on foreign templates. Conversely, celebration of cultural difference and friendship are more reminiscent of China's older minority and 'foreign friends' policies. Lastly, residential concentration and indirect administration through community leaders might

be an echo of more specifically Chinese preferences in dealing with internal migrants in pre-1949 Chinese cities.

China still does not possess the regulatory framework and administrative capacity to deal fully with the wider and long-term political, social, religious, and cultural implications of large-scale immigration. The next few years are likely to be a window of debate and policy making that will determine what kind of immigration country China will become. Currently, the trend is towards a more integrated approach that facilitates the entry and stay of foreigners. The recognition that foreigners are there to stay also comes with the necessity to cater to their needs, such as education for their children and the right to profess their religion in churches, mosques, or temples. Yet in certain respects, the normalization of immigration will continue to be less than straightforward as it touches on some politically very sensitive issues: religion, human rights, minorities, democracy, political dissidence, even national unity. In these areas, foreigners are still treated on the basis of the old exclusionary discourse as carriers of subversive influences that may harm Chinese society and even the rule of the CCP.

The clearest example here is possibly religion. In 1994, the State Council issued the 'Rules on the management of religious activities of foreigners in the People's Republic of China'¹⁰ that give them the right to conduct collective religious activities in specially designated locations. However, the import of religious materials that could be used to spread religion in China is explicitly forbidden. Moreover, in their implementation of the rules, local religious affairs authorities ban Chinese citizens from attending religious activities organized by foreigners. It seems unlikely that this lingering sensitivity to foreign subversion will disappear completely, especially given the fact that thousands of foreign missionaries (mainly from the US, South Korea, and Europe) are active in China, and often quite openly.

In addition, as we have seen, a new perception is emerging that not all immigration is necessarily a good thing. The growth of a 'foreign floating population' is considered a burden on Chinese society, while immigration is also associated with terrorism, subversive activities, and international organized crime. As a result, an increasing emphasis on control and national security in addition to service and equal treatment is to be expected.

¹⁰ Zhonghua Renmin Gongheguo jingnei waiguoren zongjiao huodong guanli guiding, State Council document no. 144 (1994), online at www.sara.gov.cn/GB//zcfg/37d8114b-0a1c-11da-9f13-93180af1bb1a.html, accessed 4 December 2013.

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Visas and residence permits: some basic facts

Entry visas to China are issued by Chinese embassies, consulates, and Chinese visa application centers outside China. Only under special circumstances will visas be issued at a port of entry. Inside China, the exit-entry office of public security bureaus issue visas for extension or to apply for a residence permit.

Under the 2012 Exit and Entry Law, the following visa categories exist:

C: Issued to foreign crew members of aircraft, trains, and ships, or motor vehicle drivers engaged in cross-border transport activities, or to the accompanying family members of the crew members of the above-mentioned ships.

D: Issued to those who intend to reside in China permanently.

F: Issued to those who intend to go to China for exchanges, visits, study tours, and other activities.

G: Issued to those who intend to transit through China.

J1: Issued to resident foreign journalists of foreign news organizations stationed in China. The intended duration of stay in China exceeds 180 days.

J2 (short-term): Issued to foreign journalists who intend to go to China for short-term news coverage. The intended duration of stay in China is no more than 180 days.

L: Issued to those who intend to go to China as a tourist.

M: Issued to those who intend to go to China for commercial and trade activities.

Q1: Issued to those who are family members of Chinese citizens or of foreigners with Chinese permanent residence and intend to go to China for family reunion, or to those who intend to go to China for the purpose of foster care. The intended duration of stay in China exceeds 180 days.

Q2 (short-term): Issued to those who intend to visit their relatives who are Chinese citizens residing in China or foreigners with permanent residence in China. The intended duration of stay in China is no more than 180 days.

R: Issued to those who are high-level talents or whose skills are urgently needed in China.

S1: Issued to those who intend to go to China to visit foreigners working or studying in China to whom they are spouses, parents, sons or daughters under the age of 18 or parents-in-law, or to those who intend to go to China for other private affairs. The intended duration of stay in China exceeds 180 days.

S2 (short-term): Issued to those who intend to visit their family members who are foreigners working or studying in China, or to those who intend to go to China for other private matters. The intended duration of stay in China is no more than 180 days.

X1: Issued to those who intend to study in China for a period of more than 180 days.