

# The Right to Education of Rural-Urban Migrant Households in Chongqing, China



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With the collaboration of Shisong Jiang,  
Xi Chen, Dongmei Liu and Hanbing Ai

Localizing Human Rights Working Paper Series No. 3  
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## **Localizing Human Rights Working Paper Series**

The Localizing Human Rights Working Paper Series consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences. The localizing human rights research program is coordinated by the Law and Development Research Group at the University of Antwerp (Belgium). General Editors of the Series are Professor Koen De Feyter, Chair of International Law at the University of Antwerp, and dr. Ellen Desmet, University of Antwerp and Ghent University. The studies are also available online on the website of the Law and Development Research Group.

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## ABBREVIATIONS

C	Child
CEL	Compulsory Education Law
CPC	Communist Party of China
CSR	Chinese Senior Researcher
ESC	Economic, Social and Cultural
F	Female
FG	Focus Group
GDP	Gross Domestic Product
ICESCR	International Covenant on Economic, Social and Cultural Rights
LHR	Localizing Human Rights
M	Male
P	Parent
PRC	People's Republic of China
O	Other stakeholder
SDEC	Shapingba District Education Commission

## OVERVIEW OF LEGISLATION AND POLICY

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## GLOSSARY

Pinyin	English	Mandarin
<i>Dannai Gongcheng</i>	Egg and Milk Project	蛋奶工程
<i>Dingdian Xuexiao</i>	Allocated school	定点学校
<i>Ertongquanli</i>	Rights of children	儿童权利
<i>Fangchanzheng</i>	Property ownership certificate	房产证
<i>Jiaoyu</i>	Education at school; raising children	教育
<i>Jiaoyuquan</i>	Right to education	教育权
<i>Jiedao</i>	Subdistrict	街道
<i>Gaokao</i>	National College Entrance Exam	高考
<i>Gongmin</i>	Citizen	公民
<i>Guanxi</i>	Personal social connections; network	关系
<i>Huji Suozaidi</i>	Permanent residence	户籍所在地
<i>Hukou</i>	Household registration	户口
<i>Jiedufei</i>	Temporary schooling fee	借读费
<i>Jiujin Ruxue</i>	Nearby principle	就近入学
<i>Liangliexing</i>	Do things according to your ability	量力而行
<i>Nongzhuanfei</i>	Transfer of <i>hukou</i> from rural to urban resident	农转非



<i>Nonmingong zidixuexiao</i>	Rural-urban migrant workers' children school	农民工子弟学校
<i>Qishi</i>	Discrimination	歧视
<i>Quanli</i>	Rights and power/authority	权利/权力
<i>Renquan</i>	Human rights	人权
<i>Shangyouzhengce, xiayouduice</i>	Where there are policies from above, there are counter-policies from below	上有政策，下有对策
<i>Shequ Juminweiyuanhui</i>	Neighborhood committee	社区居民委员会
<i>Shoujiaoyuquan</i>	Right to receive education	受教育权
<i>Sishang Jiaoyu Ketang</i>	Four quotients education classroom	“四商”教育课堂
<i>Wairen</i>	Outsiders	外人
<i>Weiquan</i>	Rights protection	维权
<i>Xiaoqu</i>	Residential community	小区
<i>Xinzaobuxuan</i>	Tacitly	心照不宣
<i>Zexiaofei or Zanzhufei</i>	School selection fee/ Sponsorship fee	择校费/赞助费

## EXECUTIVE SUMMARY

### **Research context and problem**

The exponential economic growth of China's megacities has attracted an increasing number of internal migrants since the mid-1980s. This creates problems regarding access to (quality) education for the children of these rural-urban migrant households in the cities. Access to education is determined by one's household registration (*hukou*), and the *hukou* of migrant workers normally remains at the countryside. The People's Republic of China (PRC) has however ratified various international human rights treaties incorporating the right to education and the prohibition of discrimination.

This report presents the results of a socio-legal research on the right to education of children of rural-urban migrant workers in Chongqing. It unravels the intricacies at play in accessing and enjoying compulsory education and assesses the relevance of invoking human rights language in that context. It is the result of an intensive collaboration between the Law Faculty of Chongqing University and the Law and Development Research Group of the University of Antwerp.

### **Theoretical and conceptual frameworks**

This research project forms part of the *localizing human rights* research program, coordinated by the Law and Development Research Group of the University of Antwerp (Belgium). Through various case studies, it is analyzed whether and how urban and rural groups are using human rights to protect themselves from perceived threats to their human dignity (De Feyter, 2007). The localizing human rights process has been disentangled in various tracks (Oré Aguilar, 2011). The findings of this research mostly deepen our understanding of the process of arriving from a local need or transgression to a human rights claim (Track 1).

To operationalize this process, a *transformation perspective*, as developed in the study of the emergence of disputes (Felstiner, Abel, & Sarat, 1980), was employed. In this framework, unperceived injurious experiences may become perceived as injurious (naming). They become a grievance when a person attributes that injury to the fault of another individual or entity (blaming). A grievance may then be voiced to that person or entity believed responsible, asking for a remedy (claiming).

Finally, the research is also embedded in a research network which studies human rights law as an integrated whole from a *users' perspective* (Brems & Desmet, 2014). Children and parents can be qualified as potential users of human rights. At the level of Chongqing, the presence and impact of supportive users (e.g. NGOs) was very limited, whereas at the international level various supportive users (e.g. UN treaty bodies) did pronounce on the right to education of children of rural-urban migrant workers in China.

### **Research aim**

This research aims to refine the localizing human rights approach, on the basis of a case study on the relevance of human rights for rural-urban migrant households in Chongqing in the context of education. Particular attention is paid to the transition from primary school to junior middle school.

### **Methodology**

An intercultural and gender-balanced research team was composed. The fieldwork was mainly conducted in May and June 2013, using a multiplicity of data collection methods (interviews, focus group discussions, direct observation and document analysis). The conversations were transcribed in Mandarin, translated to English and double-checked on accuracy. Overall, 65 persons participated in the research: mainly parents and children, but also some other stakeholders, predominantly from government and the educational sector. Finding research participants was a considerable challenge, whereby *guanxi* (personal social connections) was critical. Not one research participant was upset when the topic of human rights was broached. Some expressed a certain discomfort about the questions relating to the evaluation of the school and of government policies, whereby stressing confidentiality resulted important. Factors influencing the openness of research participants in general include social desirability and political space. Additional elements for migrant parents seem related to education, self-image and fear for repercussions.

### **Access to education**

Access to education is determined by the ‘nearby principle’: urban children have to go to a school in their enrolment areas, there is no freedom to choose a school. Given the large discrepancy in actual and perceived quality between schools, parents often circumvent this principle by paying school selection fees to enter another, ‘better’ school. Such fees are however explicitly prohibited by both national legislation and international human rights law, given the right to *free* compulsory education.

At the time of fieldwork (May-June 2013), rural-urban migrant children had to go to so-called ‘allocated schools’, i.e. schools who are instructed by the local government to enroll migrant children and receive financial support for doing so. Such a different treatment on the basis of (urban or rural) status conflicts with the international prohibition of discrimination. Also rural-urban migrant parents tried to have their child allowed in ‘better’ (non-allocated) schools, by paying a school selection fee or changing *hukou*.

In general, many things happen ‘under the radar’ and in contravention of state laws and policies. There is also a lot of flexibility, for instance in the amount of school selection fee that is charged – influenced by personal connections. This creates socio-economic as well as cultural disparities and insecurity.

### **Transition from primary to junior middle school**

At the moment of fieldwork, the transition from primary to junior middle school was characterized by competitive exams, fees and quotas. Because of their non-local *hukou*, migrant children face more restrictions in their school choice.

### **Going to school**

Going to school in China is characterized by severe competition, generating much pressure on children. Some counter-reactions are emerging, though, which focus more on children's well-being. Migrant children face additional challenges as a consequence of cultural, social and economic differences with their urban counterparts, often leading to discrimination, a sense of inferiority, and increased pressure. Moreover, especially migrant parents often lack time to invest in their children's education, given their time-intensive jobs and work schedules that are not compatible with their children's schedules.

### **Localizing human rights**

Overall, there was a limited use of rights language by parents and children in relation to injurious education-related experiences in Chongqing. No explicit human rights actions or disputes were identified.

A tentative explanatory analysis was undertaken in relation to the process leading from transgressions to (human rights) claims and action, which must be tested and refined in follow-up research. Contextual (e.g. political climate and cultural context) and socio-economic (e.g. migration status, education and personal social connections) factors seem to play a role in each of the three phases of naming, blaming and claiming, whereas the socio-psychological dynamics seem to differ for each phase. To explain why certain parents and children named an education-related injurious experience as such and others did not (naming), one's self-image, frame of reference and rights awareness appear to matter, as well as an assessment of possible risks and benefits related to expressing discontent. Whether an external actor (school, the government in general or the education commission in particular) was deemed responsible (blaming), depended among others on the attribution of the problem (external or internal, e.g. as belonging to one's parental duties) and knowledge who to blame.

Three types of responses were identified when faced with an injurious education-related experience: toleration, self-help and claiming. The category of self-help includes the subcategories of changing *hukou*, paying (prohibited) fees, mobilizing *guanxi* and 'going public' (to the press or online). Socio-psychological factors that seem to influence the (type of) response include the perception of agency, a risk-benefit assessment, group dynamics and rights awareness. They interact with socio-economic elements, especially *guanxi* and economic resources, as well as contextual elements.

At least in certain cases, there seemed to be a discrepancy between a general, more implicit rights awareness (e.g. pointing to the discrimination of migrants), on the one hand, and the familiarity with specific rights-terms and especially the ability to give a description of these terms, on the other. Many people “had heard of” terms like ‘rights’, ‘human rights’ or the ‘right to education’, but were unable to formulate their own understanding of these terms.

### **Final reflections**

There remain serious inequalities in access to and quality of education between migrant and urban children in the Shapingba District in Chongqing, China. The fact that access to school is determined by the household registration works stigmatizing and discriminating. The new policies on exam exemption, the nearby principle and *hukou* reform, which were adopted in 2014 after the completion of the main phase of fieldwork, may be a step in the good direction. However, they do not address the root causes of unequal (access to) quality education in the city, and are being diverted in their implementation at the local level. So discrimination continues: in the Shapingba District, five schools remain inaccessible for migrant children (“capacity-limited schools”).

The case study shows that there is great potential to unravel with more care the dynamics at play in the first track of the localizing human rights course, namely between the local experience of abuse and the formulation of human rights claims, whereby particular attention is to be paid to socio-psychological aspects.

## INTRODUCTION

This publication presents the results of a socio-legal research on the right to education in Chongqing, China. Particular attention is paid to the educational situation of children of rural-urban migrant workers. The research unravels the intricacies at play in accessing and enjoying compulsory education in Chongqing and assesses the relevance of invoking human rights in that context. It is the result of an intensive collaboration between the Law Faculty of Chongqing University (China) and the Law and Development Research Group of the University of Antwerp (Belgium). The project was initiated upon the invitation of the dean of the Law Faculty of Chongqing University, in implementation of a Memorandum of Understanding between the two faculties.

Localizing human rights research focuses on how rights holders navigate through the complex human rights architecture. This research program is coordinated by the Law and Development Research Group of the University of Antwerp. Through various case studies, it is analyzed whether and how urban and rural groups are using human rights to protect themselves from perceived threats to their human dignity. From 2012 until 2017, the localizing human rights research line is embedded in an interuniversity research network on “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective”.<sup>1</sup>

The research presented here constitutes a pilot study, intended to inspire and guide other more long term case studies. For one of the essential aspects of the localizing human rights research program constitutes the interaction and mutual learning between research teams of different countries, cultures and backgrounds. In the Democratic Republic of the Congo, the UNICEF-supported Villages Assainis program in the Bas-Congo is being studied in cooperation with the Human Rights Centre at the Université Kongo. After an analysis of UNICEF’s human rights-based approach and its implementation in the Villages Assainis program (Destrooper, 2015), fieldwork is being carried out to grasp local conceptions of human rights and to assess the impact of the Villages Assainis program on these conceptions. In India, research on the right to water and privatization in the slums of New Delhi is conducted in cooperation with the National Law University, Delhi.

Given its character as a pilot study, time as well as human and financial resources for this project on education in Chongqing were limited. This has impacted on the formulation of the research questions as well as on the selection of data collection techniques and research participants. In the autumn of 2014, one of the research

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<sup>1</sup>This research has been funded by the Interuniversity Attraction Poles Program initiated by the Belgian Science Policy Office, more specifically the IAP ‘The Global Challenge of Human Rights Integration: Towards a Users’ Perspective’ ([www.hrintegration.be](http://www.hrintegration.be)).

assistants of this project started a PhD research at the Sant'Anna School of Advanced Studies in Pisa (Italy), to continue and extend the research presented here.

## 1. RESEARCH CONTEXT, PROBLEM AND QUESTIONS

### 1.1. RESEARCH CONTEXT AND PROBLEM

#### 1.1.1. Migration and compulsory education in China

The exponential economic growth of China's megacities has generated an increasing number of internal migrants since the mid-1980s. According to the National Bureau of Statistics, the migrant worker population amounted to 163,36 million in 2012.<sup>2</sup> This influx has created problems regarding access to and quality of education for the children of these rural-urban migrant households in the cities. For access to education is determined by one's household registration (*hukou*), and the *hukou* of migrant workers normally remains at the countryside.

According to the Regulations on Household Registration of People's Republic of China of 1958, *hukou* is the document that proves Chinese citizenship.<sup>3</sup> It divides urban and rural residents into different ways of registration, in which the urban *hukou* is based on the household and the rural *hukou* is based on the rural cooperation commune.<sup>4</sup> The *hukou* system thus made a strict distinction between urban and rural residents, and "imposed a significant negative impact on every Chinese citizen, especially those who normally reside in rural areas" (Zhu, 2003, p. 520). The entitlement to access public services, such as education, is linked to the place where one's *hukou* is. The system also implies restrictions on moving from rural to urban areas.

Moreover, the intake capacity of urban schools is limited. To address this problem, local governments have allocated certain urban primary schools and junior middle schools, in which migrant students are expected to enroll. These 'allocated schools' receive financial support from the local government, for their acceptance of migrant workers' students. Their quality is often (perceived as) lower than other urban schools.

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<sup>2</sup> National Bureau of Statistics, "The Investigative Report on the Monitoring of Rural-Urban Migrant Workers", 12 May 2014, [http://www.stats.gov.cn/tjsj/zxfb/201405/t20140512\\_551585.html](http://www.stats.gov.cn/tjsj/zxfb/201405/t20140512_551585.html). Last access on 5 February 2015.

<sup>3</sup> The Standing Committee of the National People's Congress, Regulations on Household Registration of the People's Republic of China. 9 January 1958.

<sup>4</sup> *Ibid.*, Article 4.

### 1.1.2. International and domestic protection of the right to education

The People's Republic of China (PRC) has ratified various international human rights treaties incorporating the right to education and the prohibition of discrimination.<sup>5</sup> A key provision on the right to education is Article 13 of the International Covenant on Economic, Social and Cultural Rights, adopted on 19 December 1966.

CAT - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (4 October 1998)
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women (4 November 1980)
CERD - International Convention on the Elimination of All Forms of Racial Discrimination (29 December 1981)
ICESCR - International Covenant on Economic, Social and Cultural Rights (27 March 2001)
CRC - Convention on the Rights of the Child (2 March 1992)
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (20 February 2008)
CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (3 December 2002)
CRPD - Convention on the Rights of Persons with Disabilities (1 August 2008)

**Table 1. Human rights treaties ratified by China**

<p>1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.</p> <p>2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:</p> <p>(a) Primary education shall be compulsory and available free to all;</p> <p>(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;</p>
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<sup>5</sup> The PRC has not ratified the UNESCO Convention against Discrimination (14 December 1960). The PRC has signed, but not ratified the International Covenant on Civil and Political Rights (19 December 1966).



(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

**Table 2. Article 13 International Covenant on Economic, Social and Cultural Rights**

In this report reference is made occasionally to the findings of the treaty monitoring bodies with regard to the right to education in general (in the monitoring bodies' general comments), and in China in particular (the monitoring bodies' concluding observations with regard to periodic reports by China under the reporting procedure).

The Constitution of China is silent on the domestic status of international treaties and on the justiciability of international treaties before domestic courts. Some domestic laws deal with the relationship between international and domestic law. Article 260 of the Civil Procedure Law (1991 – revised 2012) thus provides that if an international treaty concluded or acceded to by the PRC contains provisions that differ from provisions of the Law, the provisions of the international treaty shall apply, except those on which China has made reservations. Most laws, including those dealing with human or citizen's rights do not address the issue. There is some application of international treaties by domestic courts, but reportedly very little or no use of international human rights treaties (Guo, 2009, p. 165). In one commentator's view, the few court decisions dealing with international treaties "are ambiguous on the question as to whether the introduction of an international treaty into the Chinese legal system requires, as a precondition, an act of the legislator or whether courts and the administration can apply international treaties directly" (Ahl, 2010, p. 365). At the UN Committee against Torture, the Chinese representative

declared in 1990 that “any convention acceded to by China became binding as soon as it entered into force. Furthermore, in the event of discrepancy between provisions of an international instrument and domestic law, the latter was brought into line with the former. Where subtle differences remained, international instruments took precedence over domestic law” (UN General Assembly, 2000, par. 487).

In its Concluding Observations on the second periodic report of China (2014), the UN Committee on Economic, Social and Cultural Rights recommends (in par. 9) that: “the State party guarantee the direct applicability of all rights under the Covenant in its domestic legal order. The Committee also recommends that the State party raise awareness of the content of the Covenant rights and their justiciability, in particular among judges, lawyers and law enforcement officials, as well as the members of the National People’s Congress and other actors responsible for the implementation of the Covenant, and among rights holders. The Committee also draws the State party’s attention to its general comment No. 9 (1998) on the domestic application of the Covenant”.

**Table 3. Domestic implementation of international human rights law**

The right to education also appears in the Constitution of China (1998, amended 2004) in Article 46: “Citizens of the People’s Republic of China have the duty as well as the right to receive education. The state promotes the all-round moral, intellectual and physical development of children and young people.” According to the constitutional provision, only Chinese citizens hold the right to education; they also have a duty to receive the education that the State provides. Elsewhere, the State commits to run schools of various types, to make primary education compulsory and universal, to develop secondary vocational and higher education and to promote pre-school education (Article 19, par. 2). The State also encourages the collective economic organizations, state enterprises and undertakings and other social forces to set up educational institutions of various types in accordance with the law (Article 19, par. 4).

In March 2004, at the occasion of the most recent amendment of the Constitution, a third section was added to Article 33 providing that “the state respects and protects human rights”. The term ‘human rights’ thus made its first appearance in China’s constitutional history, arguably in recognition of China’s obligations under international human rights treaty law (Chen, 2004, p. 6), thus indicating “the acceptance of the concept of human rights by central state authorities” (Chunli, 2006, p. 49).

The Constitution is the highest instrument in the hierarchy of the Chinese legal system and no lower rules shall contravene it. There is a limited, and contested case-law on the use of citizen’s rights as included in the Constitution in civil cases (via the

section on personal rights in the General Principles of Civil Law (1986) (see Zhu, 2010, pp. 13-18).

China has adopted a system of nine-year compulsory education, consisting of six years of primary school and three years of junior middle school.<sup>6</sup> This compulsory education is free;<sup>7</sup> all children and adolescents who have the nationality of the People's Republic of China and have reached the school age have equal right and obligation to receive compulsory education, "regardless of gender, nationality, race, status of family property or religious belief, etc."<sup>8</sup> This research focuses on the compulsory education system, paying particularly attention to the transition from primary to junior middle school.<sup>9</sup>

The key piece of legislation is the Compulsory Education Law (CEL), which was adopted in 1986 and revised in 2006. Pursuant to Article 7 of the CEL 2006, the responsibility for realizing compulsory education has been decentralized (see Figure 1):

Compulsory education shall be under the leadership of the State Council, be carried out under the overall planning by the provinces, autonomous regions, municipalities directly under the Central Government, and be mainly administered by the people's governments at the county level.

The education administrative departments of the people's governments at the county level or above shall be responsible for the implementation of the compulsory education policy. Other relevant departments of the people's governments at the county level or above shall, within the scope of their respective functions, be responsible for the implementation of the compulsory education policy.

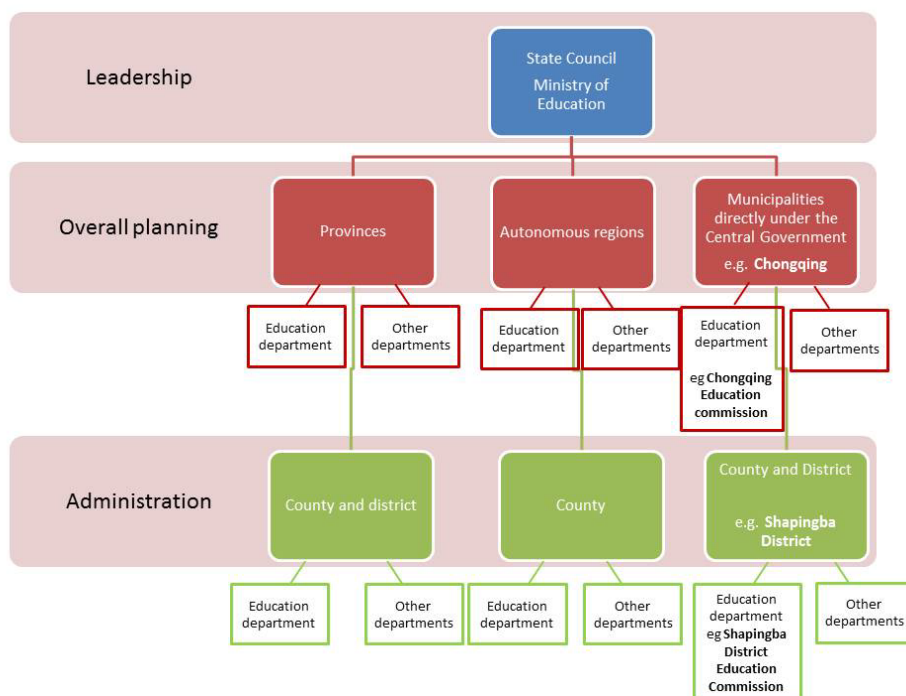
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<sup>6</sup> Article 18, Education Law 1995; Article 2 CEL 2006.

<sup>7</sup> Ibid.

<sup>8</sup> Article 4 CEL 2006.

<sup>9</sup> On the challenges faced by migrant students in their education after middle school, see Ming (2013).



**Figure 1. Governmental division of responsibilities for compulsory education**

### 1.1.3. Chongqing and the Shapingba District

Chongqing, the southwestern metropolis of China, is one of the four municipalities directly under the Central Government (together with Beijing, Shanghai and Tianjin), and has 33,3 million inhabitants. The city has become well-known for its rapid economic development, which has attracted many rural-urban migrant workers.<sup>10</sup> As from June 2014, Chongqing Municipality is composed of 21 districts, 13 counties and 4 autonomous counties. The research project was carried out in the Shapingba

<sup>10</sup> It is estimated that there are about 5.48 million rural-urban migrant workers of Chongqing working in Chongqing. News of Xinhua Agency, Chongqing's Rural-Urban Migrant Workers Who Are Employed in Chongqing Are with Nearly One Million More than Their Fellows Employed Outside of Chongqing, 2 November 2012, [http://news.xinhuanet.com/politics/2012-11/02/c\\_113590824.htm](http://news.xinhuanet.com/politics/2012-11/02/c_113590824.htm). Last access on 10 February 2015. In addition to Chongqing's rural-urban migrant workers working in Chongqing, there are nearly one million migrant workers coming from another province. Xinhua Agency, Chongqing, A Mega City of Labour Export, Attracts Nearly One Million Rural-Urban Migrant Workers of Other Province, 21 February 2013, [http://www.gov.cn/jrzq/2013-02/21/content\\_2337398.htm](http://www.gov.cn/jrzq/2013-02/21/content_2337398.htm). Last access on 10 February 2015.

District, one of the six districts of 'Central Chongqing' (see Figure 2). Shapingba District is one of the most urbanized districts, and therefore attracts many migrant workers. But even in this District – which covers 396,2 square kilometers – there are rural areas, so the research focused on the urban areas within the Shapingba District.<sup>11</sup> This District is also called the 'science, education and culture district', because of both a historical reason – a few well-known universities temporarily moved to the Shapingba District during the Anti-Japanese War – and a contemporary one – the district hosts many universities and high-quality schools, including the 'best' schools.<sup>12</sup>

The focus on the district level was recently supported by Pong (2015, p. 5), in order to counterbalance "a tendency to discuss the general problems of migrant children... at the *municipal* level, with little attention given to *district*-level dynamics". The choice for the Shapingba District in particular was based on three reasons: first, from a human rights perspective, one aims to identify the most marginalized persons or groups, who are most affected by a problem (Oré Aguilar, 2011, p. 132). It was supposed that the educational situation of migrant children would be comparatively more difficult in the Shapingba District than elsewhere, i.e. that the *gaps* as regards access to and quality of education between urban and migrant children would be larger in this 'educational district' than in some other urban districts. Second, in 2006, the Shapingba District was appointed by the Chongqing Government as an 'experimental area' regarding the service and management for rural-urban migrant workers as well as their children's education.<sup>13</sup> Third, the Chinese partner in this project, Chongqing University, is located in the Shapingba District. This facilitated the identification and engagement of research participants.

Administratively, the Shapingba District is divided in a number of subdistricts (*jiedao*), which are on their turn composed of various neighborhood committees. The neighborhood committee (*shequ juminweiyuanhui*) is an organization financed by the district government and under the leadership of the communist party, which is responsible for a variety of matters at the local level. This committee is in charge of the households within its area. These households may be organized in residential communities (*xiaoqu*).

At the level of Chongqing, the governmental institution responsible for education is the Chongqing Education Commission. For the Shapingba District, this is the Shapingba District Education Commission (SDEC) (see Figure 1). In 2011, the

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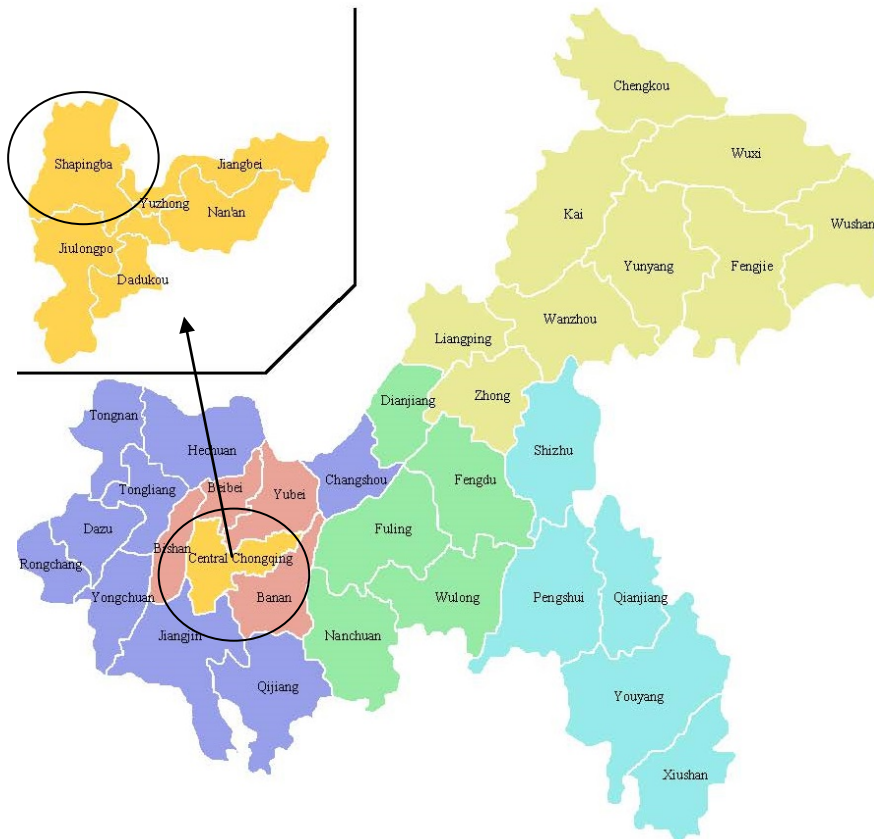
<sup>11</sup> The identification of 'rural areas' and 'urban areas' is made by an administrative decision of the Chongqing Government.

<sup>12</sup> Shapingba District Government, the Introduction of Shapingba, see the website of Shapingba District Government, [http://spb.cq.gov.cn/Spb\\_ShowArticle.asp?ArticleID=88186](http://spb.cq.gov.cn/Spb_ShowArticle.asp?ArticleID=88186). Last access on 25 January 2015.

<sup>13</sup> Interview with education official (O1), 2 April 2013. It was decided by Chongqing Municipal Government on 11 April 2005, <http://www.lawtime.cn/info/laodong/ldfg/ldzhfg/2007070321469.html>. Last access on 5 February 2015.

*Regulation of Compulsory Education for Chongqing Municipality* was revised, on the basis of the CEL 2006 and other related laws and administrative regulations.<sup>14</sup>

This research focuses on public (allocated and non-allocated) schools. In the Shapingba District, there are no ‘migrant schools’, i.e. schools that are established and run by migrant workers themselves. These migrant schools have been a common phenomenon in other parts of China, such as Beijing (Kwong, 2004; Pong, 2015). They were however declared non-approved, and had to be shut down.<sup>15</sup> The announced reason of shutting down was that they had not met safety and hygiene standards.<sup>16</sup>



**Figure 2. Location of the Shapingba District within Chongqing Municipality<sup>17</sup>**

<sup>14</sup> Article 1. The Standing Committee of National Congress of Chongqing, Regulation of Compulsory Education of Chongqing, 25 March 2011.

<sup>15</sup> News of BBC, Migrant schools closed in Chinese capital, 17 August 2011, <http://www.bbc.com/news/world-asia-pacific-14556906>. Last access on 8 February 2015.

<sup>16</sup> Reuters, Closure of migrant children schools in China sparks anguish, 18 August 2011, <http://www.reuters.com/article/2011/08/18/us-china-migrant-schools-idUSTRE77H10I20110818>. Last access on 9 February 2015.

<sup>17</sup> Wikipedia, List of administrative divisions of Chongqing, [http://en.wikipedia.org/wiki/List\\_of\\_administrative\\_divisions\\_of\\_Chongqing](http://en.wikipedia.org/wiki/List_of_administrative_divisions_of_Chongqing). Last access on 6 January 2015.

#### 1.1.4. Balanced development of compulsory education

In July 2010, the Central Communist Party and the State Council drafted the National Outline for Medium and Long-term Education Reform and Development (2010-2020).<sup>18</sup> This is a comprehensive document on the nation-wide development of the education sector for this decade at all levels (such as compulsory and higher education), including attention for specific groups (such as children with disabilities and children of ethnic minorities). To implement this National Outline, on 7 September 2012, the State Council launched a policy on the “Balanced Development of Compulsory Education”.<sup>19</sup> This policy concentrates on bridging the educational gap between different regions, between rural and urban areas, within urban areas, and between different schools. It aims to distribute educational resources more evenly, more specifically to balance the allocation of financial resources, to appropriately assign quality teachers, to guarantee the compulsory education of specific groups (for example, rural-urban migrant workers’ children), to comprehensively improve the quality of compulsory education, to improve school management, and to strengthen leadership, supervision and evaluation.<sup>20</sup> The Ministry of Education has signed Memorandums of Understanding with each province, autonomous region and municipality directly under the Central Government (such as Chongqing), to clarify the time table, roadmap and tasks in order to achieve this balanced development of compulsory education in each area.<sup>21</sup> 65 percent of the schools should reach these goals in 2015, and 95 percent in 2020.<sup>22</sup> The idea is to implement the balanced education step by step, until every school conforms to the national standard.<sup>23</sup>

To implement the policy on the balanced development of compulsory education, the program of teacher/director exchange was initiated in 2012.<sup>24</sup> In Chongqing, directors who have worked more than 10 years, under the age of 53 (male) or 48 (female), and teachers who have worked more than 9 years, under the age of 50 (male) or 45 (female), can be exchanged between the county/district schools.<sup>25</sup> The

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<sup>18</sup> State Council, Outline of National Plan for Medium and Long-term Education Reform and Development (2010-2020), 29 July 2010.

<sup>19</sup> State Council, Opinion of State Council on Balanced Development of Compulsory Education, 7 September 2012.

<sup>20</sup> Ibid.

<sup>21</sup> Ministry of Education, “The Ministry of Education Has Signed Memorandums with Sichuan Province, Tibet, Qinghai and Gansu”, 7 September 2012, [http://www.gov.cn/gzdt/2012-09/07/content\\_2218988.htm](http://www.gov.cn/gzdt/2012-09/07/content_2218988.htm). Last access on 15 February 2015.

<sup>22</sup> State Council, Opinion of State Council on Balanced Development of Compulsory Education, 7 September 2012.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Chongqing Policy, Organization Department (communist party), Education Working Committee (communist party), Education Committee, Human Resources and Social Security Bureau, Recommendation on the Exchange of Leaders and Teachers in Primary school and Junior Middle School in Chongqing (trial), 27 September 2012.

logic behind this exchange program is that when a prominent teacher is assigned to a relatively less good school for a certain period, he might improve the school quality, while the normal teacher who is assigned to a high quality school might learn from his colleagues. Such an approach will in any case require time to achieve tangible results.

To assess whether the balanced education has been achieved, the Ministry of Education developed a series of indicators in four areas: (i) access to education, (ii) guarantee mechanisms<sup>26</sup>, (iii) improvement of the number of teaching staff, teacher-student ratio, and quality of teaching, and (iv) improvement of quality of education and management. In each of these four areas, various criteria are evaluated. The full mark of the evaluation is 100.<sup>27</sup> However, these indicators do not seem able to fully capture reality. For instance, the indicators of quality education contain three aspects: curriculum, enrolment rate and health condition.<sup>28</sup> In contrast, the series of indicators on the quality of school education developed within the European Union include indicators that aim to assess the ‘knowledge challenge’, which relates to attainment in the areas of mathematics, reading, science, information and communication technologies (ICT), foreign languages, learning to learn, and civics.<sup>29</sup> Such knowledge-related indicators are not included in the Chinese system, even though Chinese parents are very much concerned with having access to knowledge (i.e. a ‘good’ school), much more than with having (only) access to ‘a’ school. The evaluation is conducted by the education commission at the provincial level (in our case the Chongqing Education Commission). The Evaluation Mission of the State Council supervises and gives instruction to the province level.<sup>30</sup>

In addition, every year there is a survey probing for the satisfaction of ordinary people with the compulsory education system in Chongqing.<sup>31</sup> This survey is divided

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<sup>26</sup> The area ‘guarantee mechanisms’ consists of the following criteria: i. Establish the mechanisms for responsibility, supervision and accountability; ii. Separate the primary education budget, the education budget should have been increased in the last three years including government’s financial allocation, the education expenditure per pupil, the teacher’s salary and school facilities (infrastructure); iii. Promote the standardized construction of school, formulate and implement the plan for the less qualified school, prioritize the fiscal budget to the less qualified school; iv. The transfer payment by the rural tax and fee reform should be proportionally used in line with the requirements of the provincial level.

<sup>27</sup> Ministry of Education, Article 3 of the Trial Measures on the Supervision and Evaluation of Balanced Development of the Compulsory Education at County (district) Level, 20 January 2012.

<sup>28</sup> i. There are sufficient courses in conformity with the standard of the national curriculum program; ii. The consolidation rate of primary school-junior middle school is in conformity with the standard of the provincial level; iii. The pass rate of the health condition of the pupils in primary school and junior middle school is in conformity with the standard of the provincial level.

<sup>29</sup> European Report of May 2000 on the Quality of School Education, Sixteen Quality Indicators. Report based on the work of the Working Committee on Quality Indicators. [http://europa.eu/legislation\\_summaries/education\\_training\\_youth/lifelong\\_learning/c11063\\_en.htm](http://europa.eu/legislation_summaries/education_training_youth/lifelong_learning/c11063_en.htm). Last access on 16 February 2015.

<sup>30</sup> Ministry of Education, Article 3 of the Trial Measures on the Supervision and Evaluation of Balanced Development of the Compulsory Education at County (district) Level, issued on 20 January 2012.

<sup>31</sup> Chongqing Municipal Government, Measures of the Evaluation Indicators of Balanced Compulsory Education at County Level of Chongqing (trial), 6 September 2012.



into two parts, which are called external evaluation (society and parents) and internal evaluation (school directors, teachers and pupils). The survey targets 1.5 percent of the resident population in a county or district. Respondents include Congress representatives (5%), members of the Political Consultative Conference (5%), school directors (5%), teachers (35%), parents of pupils and other ordinary people (50%).<sup>32</sup> The survey results of Chongqing were announced with 85% degree of satisfaction of parents, but without further details.<sup>33</sup> However, a survey carried out in five counties in the northwest region of China gives more detailed information (Dan, 2014) (see Table 4).

		Qualified school			Satisfaction degree					
		Yes	No	Total	0.8-1	0.6-0.79	0.4-0.59	0.2-0.39	0-0.19	Total
<b>Students &amp; Parents</b>	Number	4604	752	5356	3883	721	280	220	252	5356
	Ratio	86.0%	14.0%	100.0%	72.5%	13.5%	5.2%	4.1%	4.7%	100.0%
<b>Teachers &amp; Directors</b>	Number	2560	615	3175	2278	282	268	115	232	3175
	Ratio	80.6%	19.4%	100.0%	71.7%	8.9%	8.4%	3.6%	7.4%	100.0%
<b>Other people</b>	Number	1590	108	1698	1224	366	49	43	16	1698
	Ratio	93.6%	6.4%	100.0%	72.1%	21.5%	2.9%	2.5%	1.0%	100.0%
<b>Total</b>	Number	8754	1475	10229	7385	1369	626	337	512	10229
	Ratio	85.6%	14.4%	100.0%	72.2%	13.4%	6.1%	3.3%	5.0%	100.0%

**Table 3. Satisfaction survey on compulsory education in Northwest China**

According to the sheet, 14% of the parents evaluated the school as not qualified; 86% evaluated the school as qualified. Within the latter group, 72.5% of parents gave a score from 0.8 to 1, which ranges from satisfaction to great satisfaction. In the group of teachers and directors, 19.4% evaluated their school as not qualified; 80.6% as qualified. Within the latter group, 71.7% gave a score between 0.8 and 1. The formal, general appreciation of the quality of the schools is thus very high.

To some extent, the possibility to develop compulsory education in a balanced way depends on economic development. However, when not only the economy grows, but also the gap between the rich and the poor increases, the implementation of this policy as well as the realization of social equality is challenged. According to data of

<sup>32</sup> Ibid.

<sup>33</sup> Ministry of Education, the Feedback of the Organization of Educational Supervision and Inspection on the Application of the Implementation of Basically Balanced Education in 6 Counties (Cities or Districts) of Chongqing, 27 November 2014.

the National Bureau of Statistics, in 2013 the Gini coefficient was 0.47334; a Gini of more than 0.4 has been considered undesirable.<sup>35</sup> The gap between the rich and the poor manifests itself not only in differences between individuals but is also evident in the different situation of regions. Examples include the disparities between the western and the eastern region, between rural and urban areas, and between different cities in China.

Compulsory education is administered by the county (district)-level government,<sup>36</sup> which requires that financial resources must be available at that level. To achieve the Central Government's policy of Implementation of the Outline of China's National Plan for Medium and Long-term Education Reform and Development,<sup>37</sup> the province-level government (Chongqing Municipality in our case) is required to destine 4% of the local Gross Domestic Product (GDP) to compulsory education. Accordingly, the city-level and county (district)-level governments should also allocate 4% of their budget to compulsory education.<sup>38</sup> For compulsory education expenditure, the principle is 'financing at province level, and administering at county level'.<sup>39</sup> This is problematic since the different regions (including different levels) have different financial incomes: given that the 4% allocation comes from local tax income, the budget available for education thus turns out to vary between regions. Because the funds allocated to education are a percentage of the local GDP, this implies that governments of rich areas will have more money to spend on education than governments of poor regions, which is problematic given the already existing large disparities between rich and poor regions. This raises the issue of disparity

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<sup>34</sup> Report of The National Bureau of Statistics, The Development of National Economy is Stably Going Better in 2013, 20 January 2014,

[http://www.stats.gov.cn/tjsj/zxfb/201401/t20140120\\_502082.html](http://www.stats.gov.cn/tjsj/zxfb/201401/t20140120_502082.html). Last access on 6 March 2016.

<sup>35</sup> United Research Institute for Social Development, Inequalities and the Post-2015 Development Agenda, October 2012,

[http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=F7619CAD1B60C5D3C1257A8C0035A481&parentdoctype=brief&netitpath=80256B3C005BCCF9/\(httpAuxPages\)/F7619CAD1B60C5D3C1257A8C0035A481/\\$file/RPB15e.pdf](http://www.unrisd.org/80256B3C005BCCF9/httpNetITFramePDF?ReadForm&parentunid=F7619CAD1B60C5D3C1257A8C0035A481&parentdoctype=brief&netitpath=80256B3C005BCCF9/(httpAuxPages)/F7619CAD1B60C5D3C1257A8C0035A481/$file/RPB15e.pdf). Last access on 29 February 2016.

<sup>36</sup> Article 7 CEL 2006.

<sup>37</sup> State Council, Outline of National Plan for Medium and Long-term Education Reform and Development (2010-2020), 29 July 2010.

<sup>38</sup> Interview with the vice-minister of the Ministry of Education, Du Yubo, Spend the educational allocations where it is most needed, 20 February 2014.

[http://education.news.cn/2014-02/20/c\\_126165113.htm](http://education.news.cn/2014-02/20/c_126165113.htm). Last access on 1 March 2016.

<sup>39</sup> Ministry of Finance, Response on the suggestion to 'Strengthen the Macro Control on the Education Fund of Per Student on Compulsory Education in Order to Guarantee the Development of Balanced Education' (Summary), to the representative's advice at the National Congress in 2012.

[http://www.mof.gov.cn/zhuantihuigu/2012lhtadf/2012rddb/201303/t20130301\\_741888.html](http://www.mof.gov.cn/zhuantihuigu/2012lhtadf/2012rddb/201303/t20130301_741888.html). Last access on 6 March 2016.

Ministry of Finance and Ministry of Education, Emergency Notification for Enforcing the Management of the Education Budget, 26 November 2012.

According to this document, the provincial government decides the financial obligation of every level of government in its administration area, and organizes their financial investment; manages the transfer of funds of the Central Government and of the provincial government; supervises the management and expense of the education budget within its administration area.

[http://www.gov.cn/zwgk/2012-12/07/content\\_2285019.htm](http://www.gov.cn/zwgk/2012-12/07/content_2285019.htm). Last access on 6 March 2016.

based “on the inequality in tax-based school funding between rich and poor districts and a lack of sufficient resources in poor districts to guarantee a minimum quality level of education” (Coomans, 2009, p. 442). Given that the possibility to realize balanced education depends on the economic situation, when the latter is not achieved, how can the former be reached? It is possible that the government prioritizes the realization of balanced education by allocating more resources in an ad hoc manner, but this is occasional rather than regular.

## 1.2. THEORETICAL AND CONCEPTUAL FRAMEWORKS

### 1.2.1. Localizing human rights

The main theoretical framework of this research is the ‘localizing human rights’ approach, as developed by De Feyter (2007, 2011). This approach starts from the understanding that for human rights to be effective, they have to be relevant at the local level. Localization then implies “taking the human rights needs as formulated by local people (in response to the impact of economic globalization on their lives) as the starting point both for the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all levels ranging from the domestic to the global” (De Feyter, 2007, p. 68). This project examines the educational situation of children in rural-urban migrant households. Vandenhole (2012) has shown that the localizing human rights approach is also applicable to children’s rights. Other studies examining human rights ‘from below’ were equally built upon .

The localization process has been operationalized by Oré Aguilar (2011), who has distinguished various tracks. Track 1 explores why and how people articulate their claims on the basis of the human rights framework. For the purposes of our research, a local claim qualifies as a ‘human rights claim’ when it satisfies three criteria (De Feyter, 2011, p. 20): (i) the claim uses human rights language (although there can be a fusion with local concepts of justice); (ii) it identifies a duty holder (the state or another agent); (iii) it insists on accountability from the duty holder. Track 2 concerns the translation of these claims into human rights action. In Track 3, strategies are employed aimed at obtaining responses from administrative, policy-making or judicial actors at the local, national and/or international level. Track 4 examines (i) the impact of these responses on the local community and (ii) the consequences for international or regional human rights norms, practices or institutions. Track 5, finally, analyses “whether and how global human rights norms enhanced by local experiences have the power to transform similar realities of human rights transgression or deprivation” (Oré Aguilar, 2011, p. 139).

In the research design, research questions were formulated regarding the first four tracks. The hypothesis was formulated, however, that the field research would not generate a same amount of data regarding each track, as evident from the main research question probing for the relevance “if any” of human rights for rural-urban migrant households (see 1.3.2). Most information retrieved during the field research indeed related to Track 1 (see Figure 3).

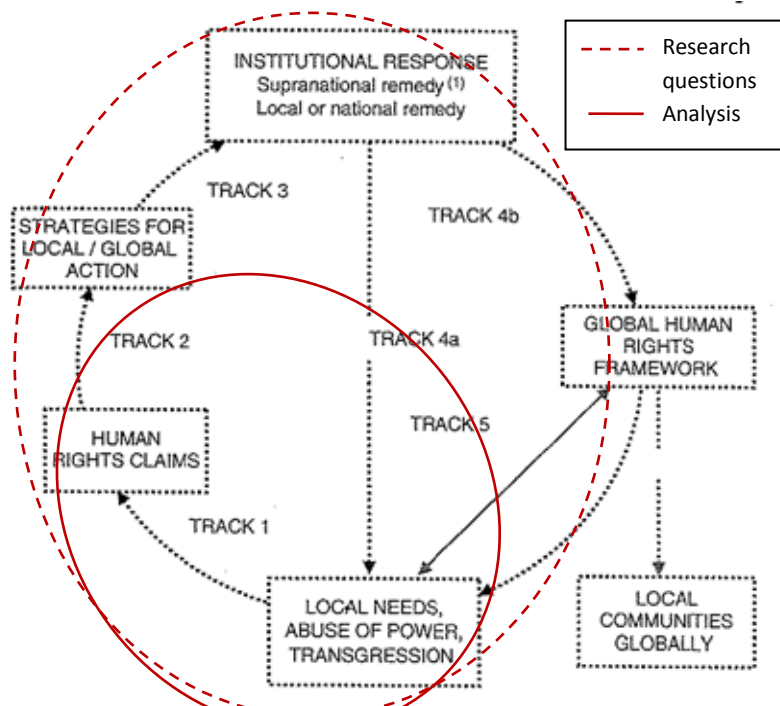


Figure 1 The process of localizing human rights  
<sup>(1)</sup> Regional court, UN monitoring body, decisions by international organisations, universal jurisdiction judgments.

Figure 3. Situation of the research within the localizing human rights process<sup>40</sup>

### 1.2.2. Transformation perspective

To operationalize the process of arriving from a local need or transgression to a human rights claim (Track 1), the theoretical framework on the emergence of disputes developed by Felstiner et al. (1980) was employed (see Figure 4).<sup>41</sup> In this framework (transformation perspective), unperceived injurious experiences may become perceived as injurious (*naming*). A perceived injurious experience becomes a grievance when a person attributes that injury to the fault of another individual or

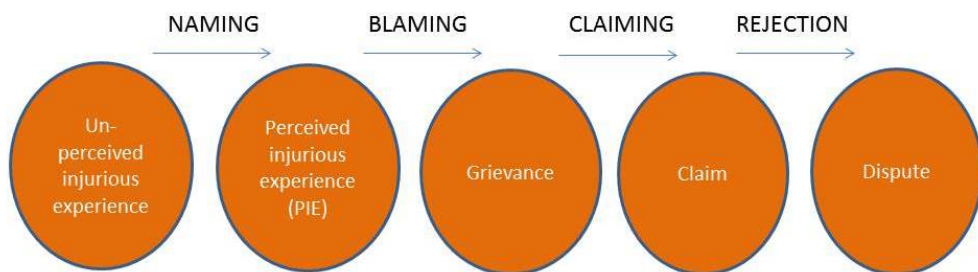
<sup>40</sup> Adapted from Oré Aguilar (2011, p. 131).

<sup>41</sup> For an application in children’s rights research, see Godoy Angelina (1999).

entity (*blaming*). A grievance may then be voiced to that person or entity believed responsible, asking for a remedy (*claiming*). When such a claim is rejected, a dispute emerges. When there is a dispute, one may decide to resort to a legal regime. The concept of ‘legal mobilization’ describes “the tendency for various individuals and groups to define their problems as legal ones and to take them to some legal regime for help or settlement” (Merry, 2012, p. 72).

The transformation approach does not focus specifically on human rights. Applying this approach to human rights research, leads to distinguishing between human rights-based/-inspired types of naming, blaming, claiming, and other instances of naming, blaming, claiming. When based on or inspired by human rights, an injurious experience would be perceived as injurious, because one considers it a violation of one’s human rights. One would blame the person or instance who is (perceived as) a human rights duty bearer in relation to the situation concerned. And one would formulate a claim using human rights language, insisting on the accountability of that duty bearer. Such an approach is consistent with the three criteria of a human rights claim as identified above. In this process of naming, blaming, claiming, ‘translators’ may be present, who easily move between layers and are able to translate local needs and claims in human rights language (Merry, 2006, p. 210)

Does a child or parent perceive an education-related injurious experience as such? How does it become a grievance, i.e. is someone blamed for this injurious experience? Are claims formulated? To whom? What happens with these claims? Are these processes of naming, blaming, claiming inspired by human rights language and standards, or are they based on other considerations or concepts?



**Figure 4. Stages in the development of disputes**<sup>42</sup>

<sup>42</sup> Own elaboration, based on Felstiner et al. (1980).

### 1.2.3. Users' perspective

This project is embedded in a research network which aims to study human rights law as an integrated whole from a users' perspective (Brems & Desmet, 2014). A human rights user has been broadly defined as "any individual or composite entity who engages with (uses) human rights" (Desmet, 2014, p. 125). One can be identified as a human rights user from the moment there is an explicit interaction (engagement) with human rights. It also reveals interesting, however, to explore why people who could invoke human rights have not taken this step, i.e. to extend the field of enquiry towards *potential* users of human rights (Desmet, 2014, p. 137). This is the approach that has been taken here: parents and children were interviewed as regarding their evaluation of their (children's) educational situation, with a focus on rural-urban migrant children. As will be seen, some of the interviewees invoked a kind of human rights language, whereas many others did not. Four empirical categories of users may be distinguished (Desmet, 2014, pp. 129-131). Parents and children can be considered (potential) 'rights claimants', i.e. those who (may) invoke human rights. Another category of direct users are the 'rights realisers', who give effect to human rights. Indirect users of human rights are either 'supportive users' (e.g. NGOs, national human rights institutions, UN treaty-based bodies) or 'judicial users', who impose the implementation of human rights (e.g. courts and tribunals). At the level of Chongqing, the present and impact of 'supportive users' was very limited: no NGOs were identified who explicitly worked on education for migrant children from a human rights perspective. In contrast, at the international level, supportive users such as the Special Rapporteur on the right to education, the Committee on Economic, Social and Cultural rights and the Committee on the Rights of the Child did pronounce on the right to education of children of rural-urban migrant workers in China. Within the scope of our research (compulsory education in Chongqing), no court cases were found regarding the right to education of rural-urban migrant workers' children.<sup>43</sup>

## 1.3. RESEARCH AIMS AND QUESTIONS

### 1.3.1. Research aims

The overall aim of the case studies undertaken in the framework of the localizing human rights research program is to test and refine the localizing human rights approach. The contributions in the volume 'The Local Relevance of Human Rights' (De Feyter, Parmentier, Timmerman, & Ulrich, 2011), which outlined the contours of

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<sup>43</sup> In China more broadly, there were some lawsuits with regard to the right to education, e.g. the *Qi Yuling* case, in which the right to receive education was claimed as a constitutional right by the plaintiff. The court supported the plaintiff's claim (Tong, 2010).

this approach, drew on theoretical analyses and desk studies. The present research program aims to fill this gap by carrying out empirical research – in addition to legal analyses – on the localization of human rights. Other case studies are being carried out in the DRC and India (see Introduction).

The aim of this project was to assess the relevance of human rights for rural-urban migrant households in Chongqing in relation to the educational situation of their children. Particular attention was paid to the issue of transition from primary school to junior middle school. Although in recent years, more empirical approaches are being used in human rights research in China (see e.g. on women's rights Liu, Hu, & Liao, 2009), more interdisciplinary research is required as to “better explore how human rights are embedded and contested in Chinese society” (Svensson, 2012, p. 685). More in particular, “there is need for more research that pays closer attention to the experiences and practices of ordinary citizens” (Svensson, 2012, p. 685). Similarly, most research regarding the education of rural-urban migrant children has been based on legal and documentary analysis; little empirical research on this matter has been undertaken in the Chinese context (but see Wang, 2008; Wenbin, 2009). This research aims to contribute to filling these gaps.

### 1.3.2. Research questions

#### **Main research question**

The main research question can be formulated as follows:

***What, if any, is the relevance of ‘human rights’ for rural-urban migrant households in Chongqing (China) in relation to the child(ren)’s education in general, and the transition from primary to junior middle school in particular?***

To avoid conceptual confusion, it must be clarified how the various terms employed in this research question are understood within the framework of this study. The formulation of the research question also indicates the scope of the research, among others as regards topic, location and target group.

#### **Relevance**

The term ‘relevance’ refers to the idea of the localization of human rights, which is further disentangled in the various subquestions elaborated below. It may not be presumed that human rights are relevant for local, marginalized people. Human rights may also *not* be relevant (i.e. not known and/or not used and/or without impact) for migrant households in Chongqing. Therefore, the wording ‘if any’ is explicitly added to the research question.

The present study is ‘atypical’ compared with the localizing human rights methodology as proposed by Oré Aguilar, in the sense that the study did not focus *a*

*priori* on “experiences in which claims were either framed using human rights language or argued under a principle contained in international human rights law” (Oré Aguilar, 2011, p. 115). Rather, the case study examined experiences of social exclusion related to education in the context of internal migration, and aimed to unveil *whether* human rights claims were formulated, and *why* this was (not) the case. Moreover, there was no clear “network of human rights actors” present, which is also posited as an “essential criterion for LHR case study selection” (Oré Aguilar, 2011, p. 117).

### **Human rights**

The wording ‘human rights’ is put in quotation marks in the research question, to indicate that the meaning of the term itself is not always clear, and sometimes contested. Different persons have different understandings of the meaning of the concept of ‘human rights’. The term is often used to refer to human rights *law*, i.e. those human rights that have been codified in legal instruments. At the level of the United Nations, nine core international human rights treaties have been adopted, building on the Universal Declaration of Human Rights of 1948.<sup>44</sup> Particularly relevant for our research are the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as both recognize the right to education. China ratified these treaties in 1997 and 1990 respectively; they came into force in 2001 and in 1992.

Some ‘human rights’ may not yet be recognized by hard law, but invoked as a mobilizing power in social struggles, and thus have an impact in practice. For instance, various (groups of) children, both in developing and developed countries, have been claiming a right to work in dignity, even though this right is not inscribed for children in international human rights law, which tends to focus on prohibiting and abolishing child labor (Hanson & Vandaele, 2003; Leonard 2004). Thus, as De Feyter (2011, p. 18) has argued: “[I]f one is to learn from the local practice of human rights with a view to increasing their social relevance domestically and globally, *what counts as a local human rights claim should not be limited to a claim based on international human rights law*. Such a restrictive approach would prevent any consideration of the group’s own understanding of human rights.”<sup>45</sup> It is thus important to investigate local conceptions of human rights.

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<sup>44</sup> These nine core international human rights treaties are: the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD, 1965); the International Covenant on Civil and Political Rights (ICCPR, 1966); the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (CAT, 1984); the Convention on the Rights of the Child (CRC, 1989); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW, 1990); the International Convention for the Protection of All Persons from Enforced Disappearance (CPED, 2006); and the Convention on the Rights of Persons with Disabilities (CRPD, 2006).

<sup>45</sup> Emphasis added.



The research project focuses on the education of children of rural-urban migrant households in the city of Chongqing. Therefore, the right to education will probably be among the most relevant rights in this context. Other human rights may also turn out to be relevant. This also goes for the general principle in human rights law of the prohibition of discrimination.

### **Rural-urban migrant households**

The term, 'households', includes parents and children. Given the pilot character of this study, it was decided to focus on the perspectives of children and parents and to complement these with some expert interviews (see 2.3). In order to be able to compare and identify possible explanatory factors of the situation of rural-urban migrant households, some urban parents and children were also included in the research (see 2.3).

In China, the population is traditionally divided into two types of 'status', based on occupation: the agricultural population and the non-agricultural population (but see 3.4.2 for the new policy on this matter). The former category refers to people who live from agriculture, including both the people who engage in agriculture themselves and those who are raised by them; the latter indicates those people who do not (need to) live from agriculture.<sup>46</sup> The population of Chongqing consists of 20,5 million 'agricultural populations' and 12,8 million 'non-agricultural populations' (National Bureau of Statistics, 2012, p. 281)

There is no unified definition of the term "rural-urban migrant worker" in China. The term has been used to refer to the migrant worker whose household registration is in the rural area.<sup>47</sup> The term has also been employed to identify the person who works and lives in an urban area but holds agricultural *hukou*, and is not treated in the same way as urban residents regarding employment and social welfare (Research Group of Development Research Centre of the State Council, 2011). In this report, the term of rural-urban migrant worker is used in this second meaning, thus in the context of agricultural *hukou*.

### **Education**

Within the educational system, focus is placed on compulsory education, consisting of six years of primary school and three years of junior middle school. Given that the main objective of the research is to analyse whether *human rights* are useful for or being used by marginalized individuals or groups, the research did not concentrate

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<sup>46</sup> National Bureau of Statistics of China, The Accounting System of National Economy (Trial Scheme, Brief Explanation), 1992, issued on 8 October 2010, [http://www.stats.gov.cn/ztc/tjzdg/hsyj1/yjxslj/q/201010/t20101008\\_69198.html](http://www.stats.gov.cn/ztc/tjzdg/hsyj1/yjxslj/q/201010/t20101008_69198.html). Last access on 5 February 2015.

<sup>47</sup> National Bureau of Statistics, The Monitoring and Investigating Report on Rural-Urban Migrant Workers, 2012, issued 27 May 2013, [http://www.stats.gov.cn/tjsj/zxfb/201305/t20130527\\_12978.html](http://www.stats.gov.cn/tjsj/zxfb/201305/t20130527_12978.html). Last access on 10 February 2015.

on one specific aspect of education. It makes more sense to find out what parents and children perceive as the most important problems in relation to education, and then to see whether they have formulated (human rights) claims and undertaken (human rights) actions to address these issues (see also subquestions).

Nevertheless, in addition to the general enquiry on problems with respect to education, specific questions were asked regarding the transition from primary to junior middle school. Attention for the transition between various stages of compulsory education has been identified as a gap in current research, especially in the context of migrant children (Chunli 2006, p. 39). Moreover, such a focus allowed for comparison between the different interviews on a specific theme and permitted to gather more concrete data with respect to one issue.

### **Subquestions**

In order to be able to answer the main research question, various subquestions were identified. Questions 3 to 6 are inspired by the tracks as proposed by Oré Aguilar (2011) (see 1.2.1). As will become clear, the findings relate primarily to the first three subquestions.

1. *What is the educational situation and social context of rural-urban migrant households in Chongqing?*
2. *What is the level of rights awareness of children and parents? What are local conceptions of human rights?*
3. *Whether and how do the child(ren) and parents formulate human rights claims to change the child(ren)'s educational situation? (Track 1)*
4. *Which human rights actions are undertaken by children and parents to improve the child(ren)'s education? Are rights holders able to organize, taking into account the legal and political context in China, and to establish links with groups facing similar difficulties within the city, country and elsewhere? (Track 2)*
5. *What is, according to the child(ren) and parents, the response given to these actions and claims? (Track 3)*
6. *What is, according to the child(ren) and parents, the impact of the human rights action(s) and response(s) on the situation of other individuals and groups (at the local level)? (Track 4a)*

## 2. METHODOLOGICAL FRAMEWORK AND CHALLENGES

This chapter focuses on methodological issues, paying much attention to a contextual account of the research process. Undertaking human rights research in China, in a rapidly changing social, economic and cultural context, is not evident. Our experience is in line with the assessment of Svensson (2012, p. 687): “Despite the official recognition of human rights the issue remains highly sensitive, and the ability to get access to reliable data and do serious fieldwork continues to be very circumscribed, although the situation has much improved.” Decisions regarding security and processing of information were taken by the Chinese research team. Various particularities were observed, as well as challenges encountered. After a general overview of the research process and strategy (2.1), the different data collection techniques (2.2) and characteristics of the research participants are discussed (2.3). Access to the field was obtained in a variety of ways (2.4). Thereinafter, aspects of the interview process (2.5) and of the intricacies of doing cross-cultural and cross-language research (2.6) are reviewed.

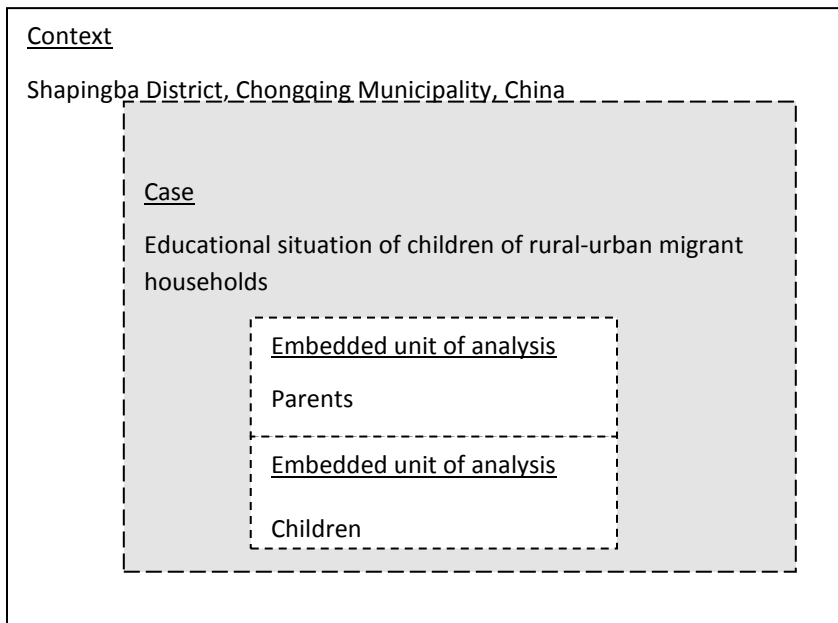
### 2.1. OVERVIEW OF THE RESEARCH PROCESS AND STRATEGY

The research focus on the right to education of rural-urban migrant households was proposed by the Law Faculty of Chongqing University, at the initiative of the then dean of the faculty. An intercultural and gender-balanced research team was composed, consisting of one Chinese senior researcher (CSR), four Chinese research assistants and one Belgian senior researcher, under the overall coordination of prof. Koen De Feyter. The research plan was drafted between November 2012 and February 2013, and discussed in a closed international expert seminar on 15 March 2013. A flexible research design was adopted.<sup>48</sup> This implied that, where relevant and necessary, the research plan was adapted in the light of, for instance, expert recommendations, particular circumstances on the ground, or insights acquired on the basis of preliminary data analysis. For instance, focus group discussions were included as a data collection technique in the course of the actual fieldwork (see 2.2.2 and 2.4.).

This research project uses a case study as research strategy (Yin, 2003). Given the project’s pilot character, a single case design (in contrast to a multiple-case design) was opted for, i.e. the educational situation of children of rural-urban migrant households in the Shapingba District of Chongqing Municipality. Within this case, two principal units of analysis were identified: parents and children.

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<sup>48</sup> In relation to qualitative interviews, Rubin and Rubin (2005, p. 63) speak of a “continuous redesign”.



**Figure 5. Embedded single-case design**<sup>49</sup>

After methodological training both in Antwerp (January - March 2013) and Chongqing (April 2013), the main bulk of the interviews and focus group discussions were conducted in May and June 2013 by the Chinese research team. Follow-up interviews took place in the months thereafter. More information on the interview process and translation is provided in sections 2.5 and 2.6 respectively.

The analysis of the interview transcripts, observational notes and other relevant documents was done with the support of the software program NVIVO. A coding strategy was developed, both deductive and inductive. Central concepts of the study were operationalized (e.g. human rights claim) on the basis of the theoretical and conceptual frameworks. Some codes related to themes and concepts in the topic guides, whereas others emerged from the interviews and focus group discussions.

The preliminary research results were presented and discussed at an international seminar at the Law Faculty of Chongqing University on 19 September 2014. During that visit, some final follow-up interviews were also undertaken. The Chinese members of the research team contacted the research participants again, to probe how they evaluated their participation in the research *ex post* – which was generally positive. An in-depth discussion of the research results with the research participants was deemed too sensitive considering the present political atmosphere. The Chinese research team was worried that if the researchers would express any criticism on the basis of the research findings, this would be perceived as a provocation of social harmony. The research report was launched at an international seminar in Antwerp on 23 February 2015.

<sup>49</sup> Adapted from Yin (2003, pp. 39-55).

## 2.2. DATA COLLECTION METHODS

### 2.2.1. Semi-structured interviews

The main data collection technique were semi-structured interviews (Kvale, 2007). This choice is justified by the exploratory nature of the research and the limited amount of empirical data available within the Chinese and Chongqing context, particularly on parents' and children's own perceptions on education and human rights. Semi-structured interviews leave more freedom to the researcher and the interviewees than closed questionnaires, for instance to go deeper into certain issues that come up during the conversation. The technique of semi-structured interviews also faces limitations, however. There are the general challenges and constraints inherent in (the analysis of) verbal communication (Briggs, 1986). Moreover, one only retrieves what the interviewee wants to share with the researcher at that moment in time.<sup>50</sup>

A total of 42 interviews were carried out with parents, children (being the primary rights holders regarding education), and a number of experts (see further 2.3). The following tools were developed to support the interview process: (i) a research information sheet (presented in the contact phase and at the beginning of the interview where deemed appropriate); (ii) a topic guide for interviews with parents; (iii) a topic guide for interviews with children; and (iv) an observation sheet (see Annexes). The topic guides were tested and refined through role plays in Belgium (January 2013), a first test interview with a migrant parent and child in Chongqing (February 2013), discussion at an expert meeting in Belgium (March 2013) and a second round of test interviews in Chongqing (April 2013). The observation sheet contains basic information of the interviewee (gender, age, occupation etc.), the interviewer and research assistant as well as particular observations in relation to the interview (including observations of the context, things that were said after the taping etc.). It was filled out immediately after the interview had taken place, by both the senior researcher and the research assistant.

### 2.2.2. Focus group discussions

In view of the flexible research design adopted (see 2.1) and the challenges in gaining access to the field (see 2.4), focus group discussions were added as a data

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<sup>50</sup> In this regard, Kritzer (2002, p. 155) has noted: "Interviews by their nature get only the information the interviewer solicits (with some relatively rare exceptions) and then usually only in a highly edited or abbreviated form. The most skillful interviewers can mitigate this problem to a limited degree, but the difference between what can be seen during observation versus what can be heard during an interview will remain large. Of course, observation does not allow the seeing of what is unseeable; and an interview can bring out to some degree the inner views, thoughts, motivations and feelings of participants that the observer will typically not "see" (Footnotes omitted). See also, e.g., Kidder (2002, p. 91), assuming that people's "words and actions contain information about what they want the observer to think about them".

collection method during the fieldwork (Barbour, 2008). Why and how are further discussed in the section 'access to the field' (2.4). In total four focus group discussions were held, one with seven migrants, one with six migrant children and two with five urban children each (see Table 5). In the focus group with migrant parents (FG1), the two fathers were the most talkative, whereas the female parents did not say much. In the other focus groups, there were no obvious gender-related differences in behavior.

### 2.2.3. Direct observation and document analysis

To partially counter the limitations inherent in interviews and focus group discussions, two other data collection techniques were used, albeit in a subordinate way: direct observation and document analysis. As regards direct observation, the senior researcher and the research assistant observed the circumstances in which the children and parents lived (or of the place of the interview), the non-verbal behavior of the interviewee, etc. These observations were noted down immediately after the interview in the observation sheet. Also, allocated as well as non-allocated schools were visited, and some school activities were attended.

Finally, relevant documents were gathered to corroborate and contextualize the accounts of the parents and children. These included legislation, academic literature, newspaper articles, web blogs and some online official responses of the local government. It proved however difficult to get access to exact numbers and maps in relation to the educational system in Chongqing. Little statistical information is available online; some numerical information was obtained from the expert interviews.

## 2.3. CHARACTERISTICS OF RESEARCH PARTICIPANTS

In total, 65 persons participated in the research. Three categories of research participants can be identified: parents, children, and other stakeholders/experts (see also Annex 5).

	Parents (P)			Children (C)			Other stakeholders (O)
	Migrant	Urban	Total	Migrant	Urban	Total	Urban
<b>Interviews</b>	18	8	26	6	2	8	8
<b>Focus groups</b>	1 (with 7 parents) FG1	-	7	1 (with 6 children) FG4	2 (with 5 children each) FG3&FG5	16	-
<b>Total number involved</b>	25	8	<b>33</b>	12	12	<b>24</b>	<b>8</b>

**Table 4. Overview of research participants and data collection methods**

### 2.3.1. Parents

Interviews were conducted with twenty-six parents. One focus group discussion was held with seven (migrant) parents, leading to a total of thirty-three parents involved in the research. The large majority of them were in their thirties or forties. Although a gender balance was envisaged in the research plan, twenty-three of the parents were female (70%), whereas only ten fathers (30%) could be engaged in the research. This may have to do with the Chinese senior researcher’s personal network, but also with the fact that children’s education is traditionally considered as a ‘female’ area of concern in Chinese society, as evidenced by a migrant father (P6) who says that his child “usually goes to his mother to talk (about school)”. Four parents (12%) – one urban and three migrant parents – were divorced; the others were married. About half of the parents had one child, the other parents had two (and sometimes even three) children.<sup>51</sup> All but one of the parents were Han Chinese.<sup>52</sup>

The majority of research participants were rural-urban migrants (twenty-five persons, or 76%). To be able to compare with the situation of urban parents, eight urban parents (24%) – with a local *hukou* – were interviewed, in line with the division of 75%-25% provided for in the research plan. The number of years that migrant parents had been living in Chongqing varied between four and nineteen years. However, not all ‘urban’ parents were indigenous to Chongqing. Only two of the eight urban parents interviewed were born and raised in the urban areas of

<sup>51</sup> The urban families only had one child, except one family. Because the latter urban parents were both born in a one-child family, they were allowed to have a second child.

<sup>52</sup> For an account of the experiences of migrants from ethnic minority regions, also in relation to access to education, see Wang (2008).

Chongqing, the others had arrived in the urban areas of Chongqing between sixteen and twenty-three years ago, coming from another region. They for instance entered in university to study, transferred on that basis their household registration to the city<sup>53</sup> and stayed in Chongqing afterwards, with an urban *hukou*. Two women had changed their *hukou* from rural-urban migrant worker to local/urban worker (*nongzhuanfei*, P2 and P4-F) some time ago, they were therefore qualified as urban mothers. One mother (P18) had just recently changed her *hukou* from her hometown to Chongqing at the moment of the research, she was therefore still considered a migrant woman. These nuances indicate the sociological relativity of the formal distinction between migrant and urban households, as determined by the household registration.

There was a clear difference in the level of education of migrant and urban parents who participated in the research. The majority of the urban parents had enjoyed higher education.<sup>54</sup> In contrast, fifteen migrant parents had dropped out during primary school, ten had finished junior middle school and only one migrant father went to senior middle school. A similar divide was observable as regards professional occupation, with many urban parents being employed at university,<sup>55</sup> whereas migrant parents were labourers, self-employed in small businesses (like hairdresser) or unemployed.

### 2.3.2. Children

An equal number of migrant and urban children have been involved in the research. Here, a gender balance was achieved: as many boys as girls were interviewed. Given the particular focus of this research on the transition from primary to junior middle school, ten children were in grade one of junior middle school, the other children were in grade five or six of primary school. Their age varied between ten and fourteen years.

The original idea was to interview children and parents of a same family. This proved not possible, mainly because many children were under a lot of stress, preparing their exam for the transition from primary to junior middle school, and therefore refused to participate in the research. Six interviewed children were the daughter or son of a parent who also participated in the research; the other children were found through the school.<sup>56</sup>

As regards data collection techniques, the relative importance of focus group discussions can be noted. Of a total of twenty-four children involved in the research,

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<sup>53</sup> This is another way of changing a rural household registration to an urban household registration, especially at a time when *hukou* policy was very strict.

<sup>54</sup> One of the reasons therefore is that interviewees were partially found through the personal network of the Chinese senior researcher, which logically included university staff (see also 2.4).

<sup>55</sup> See previous footnote.

<sup>56</sup> The parent-child relationship is indicated through the fact that they hold the same number. For instance, C3 is the son of P3.



eight children were interviewed, whereas the others participated in a focus group. Although the first focus group came about by coincidence (see 2.4), focus group discussions proved an interesting way to probe for children's opinions, and to compare urban and migrant children's perceptions. They were also practical to involve children while respecting their school schedule and final exam preparations. Doing research with children requires a tailored approach. A specific topic guide was developed (see Annex 3), and additional ethical issues considered. The interviewers paid attention to signs of distress or reluctance of the child (see also 2.5.3), and the interview could be ended at any time when the child expressed this will (Alderson & Morrow, 2011, p. 40). In some interviews (C0/C1/C3/C7), one or both parents were present.

In the discussion of the research results, it was opted for not to discuss the reflections of children and parents separately, as in (children's) human rights research, the boundaries between the categories of 'children' and 'parents' are often too strictly drawn. This may lead to an artificial division, broadening the distance between children and adults instead of focusing on their mutual interdependence (Reynaert, Desmet, Lembrechts, & Vandenhoele, 2015).

### 2.3.3. Other stakeholders

To contextualize research findings and obtain some policy-related information, a limited number of other, urban stakeholders were interviewed, mainly from the government and the educational sector. Specifically, four civil servants of the Shapingba District Education Commission and the Chongqing Education Commission were interviewed, as well as two school directors and a main teacher of a primary allocated school. Finally, a representative of an NGO working on migrant children's issues was interviewed. Follow-up interviews were conducted with some of the civil servants and the two school directors. The focus of the analysis nevertheless remains on children's and parents' perceptions of their (children's) educational situation and the relevance of human rights therein.

## 2.4. ACCESS TO THE FIELD

It was anticipated that access to the field would be facilitated by the fact that the Chinese researchers were all living in Chongqing and thus familiar with the political, social, economic and cultural context. This was indeed an important factor, but even then, finding research participants proved to be a considerable challenge. *Guanxi* (personal social connections / network) turned out to be critical (see also 3.3.1.1).

At first, it was attempted to find interviewees at random, by addressing people on the street. This proved quite difficult, for two reasons. First, it was hard to know whether a certain person belonged to the 'target group' of the research (e.g. having

a child in the fifth or sixth grade of primary school or the first (or second) grade of junior middle school). Second, according to the Chinese researchers' impressions and experiences, Chinese people are increasingly suspicious towards strangers, and thus less inclined to 'help' (i.e. participate in the research). This lack of trust seems fueled by the proliferation of 'cheaters', people who – in the words of one of the researchers – “start talking to you and then will cheat you, using a lot of tricks”. Comparing with empirical research carried out in 2006 by the CSR, it seemed more difficult now to find people on the street willing to collaborate.

Given this practical impossibility of finding interviewees at random, *guanxi* were used. Various entry points can be identified, which all start from the personal networks of the Chinese senior researcher and, in some cases, of the junior researchers (see Table 5). These ways of access can be summarized as follows: (i) via governmental institutions, i.e. the neighborhood committee and the Shapingba District Education Commission (although the impact of these two institutions is different, see 2.4.1); (ii) via school personnel and activities; (iii) via direct personal relations. The only interviewee for which no *guanxi* was mobilized, was the representative from an NGO working on migrant issues, which was found on the internet. This account confirms that “gaining access to ... interview participants is most convenient when using one's social network” (Liang & Lu, 2006, p. 163). The possible impact of these differential ways of access is assessed in section 2.5.4.

	Number of interviewees	Number of participants in focus groups	Total	Identification <sup>57</sup>	%
Neighborhood committee	7	-	7	P0/P5/P6/P8/P11/P18 C0	10,8
Shapingba District Education Commission	6	17	23	P21/P22/P23-M/P23-F C24/C25 FG1(1-7); FG3(1-5); FG5(1-5)	35,4
Schools (personnel and school activities)	12	6	18	P1/P2/P3/P4-M/P4-F/ P10/P12/P15/P16/P19 C1 O8 FG4(1-6)	27,7
Personal networks	16	-	16	P7/P9/P13/P14/P17/P20 C3/C7/C13/C17 O1/O2/O3/O5/O6/O7 _	24,6
Internet	1	-	1	O4	1,5
<b>Total</b>	<b>42</b>	<b>23</b>	<b>65</b>		100

**Table 5. Access to the field**

#### 2.4.1. Via governmental institutions

##### **The Shapingba District Education Commission**

The Shapingba District Education Commission (SDEC), a branch of the Chongqing Education Commission, is a governmental institution charged with drafting and implementing educational policies at the level of the Shapingba District (see 1.1.3). To carry out a research regarding the schools within its administrative jurisdiction, the permission of this Commission is required.

Contact with the SDEC was established in two ways. A first contact, with O1, came through an old classmate of the CSR. Later, the CSR found out that another old classmate had been appointed at a higher position within the SDEC, so it seemed more convenient to directly contact this person at the top of the Commission (O5). During the interview with O5, the CSR noticed that he took the project “seriously/formally”. She felt from his reaction that he thought the research could be sensitive or have negative consequences, and became worried “that he would help me officially instead of personally”. This was probably because the official had just been appointed. Under the supervision of O5, the Propaganda section of the SDEC gave official permission for the research project (see also 2.5.1).

The CSR’s impression that O5 took the project ‘seriously’, turned out to be true. He officially introduced the CSR to another senior official of the Shapingba District

<sup>57</sup> Three interviews were held with two persons, namely both parents (P4-M and P4-F; P23-M and P23-F) and two migrant boys (C24 and C25).

Education Commission (hereinafter also 'SDEC senior official'). This senior official was charged with 'assisting' the research project, and has played an influential role in selecting a number of interviewees and focus group participants. The account of how focus group discussions, which had not been envisaged in the research design, came to be included, illustrates this impact. As the CSR relates:

I had told the [SDEC senior official] that I would like to visit an allocated junior middle school. My plan was to then tell the school director that I would like to talk to some parents. However, when arriving at the school, the [official] had already organized a kind of parents meeting. At that moment, I had to find a solution to deal with this change. That's why I did a focus group discussion. I did not ask the [official] why she had organized this, because I was afraid that she would think that it was a complaint.

The concern that a question could be interpreted as a complaint, points to the importance of maintaining a good relation with the government. The incident also illustrates the need of being able to adapt to unexpected events and circumstances, when doing this type of research. As the SDEC senior official told the CSR afterwards, she had called the school director the day before, to ask to select a few parents for this meeting. The school director then asked the chief teacher who is in charge of grade one students, to invite some migrant parents.

During that focus group discussion (FG1), the parents did not express any criticism regarding the school or the government. One parent said he would not know how to complain (FG1-6): "If we would want to, who should we address? You don't know how this works, they might not even bother." Although none of the three parties involved in selecting the parents (the SDEC senior official, the school director and the chief teacher) told the CSR anything about the criteria they used in identifying the parents, it is possible that they considered the factor of 'having a critical attitude'. Since it would be very sensitive to ask such a thing, the CSR refrained from doing so: "I didn't ask, they didn't tell me". Another factor that may have influenced parents' behavior in the research is children's school performance, in that parents of children with good school performance seemed more talkative. Parents whose child was not doing so well at school, more easily felt that they had nothing to say.

The Shapingba District Education Commission proved to be an important gatekeeper in finding research participants who did not belong to the personal network of the researchers, especially children. As mentioned (see 2.3.2), many children of the interviewed parents did not want to participate in the research because of being busy due to exam preparations. In total, the SDEC senior official arranged three focus group discussions (the one with parents (FG1) and two focus groups with urban children (FG3 and FG5)) as well as interviews with four migrant parents and two migrant children (see Table 5). Each time, the SDEC senior official called the school director, who instructed the chief teacher to choose some students or

parents to participate. The students were then gathered in the school for the focus group, and the parents' mobile phone number was given by the chief teacher to the CSR. When contacting the parents for an interview, mentioning that the phone number had been received from the chief teacher was critical in gaining trust. Of course, being invited by the chief teacher, it may have been quite difficult for a student or parent to refuse to participate in a focus group discussion or interview. Moreover, the SDEC senior official was present during the two focus group discussions with children and the interview with the two children that she had arranged. Given the challenges in finding sufficient research participants, it was nevertheless decided to include the results of these conversations in the data analysis (but see 2.5.4).

### **The neighborhood committee**

Another type of instances that were approached to find interviewees was neighborhood committees (*shequ juminweiyuanhui*). These committees, who are financed by the district government and fall under the leadership of the communist party, are responsible for a variety of matters at the local level (see 1.1.3). A first neighborhood committee could not provide much help, but the attending lady knew a woman with a daughter in the sixth grade of an allocated primary school; this mother and child agreed to be interviewed.

One of the research assistants knew someone working in another neighborhood committee in the Shapingba District (*guanxi*). That committee had a project to support unemployed people, whereby small pavilions were put along the street. Unemployed people could rent such a pavilion to set up a small business, such as fixing shoes or selling snacks and newspapers. It was mainly migrant workers who participated in this project. In this way, five interviews with migrant parents could be realized. In total, seven interviews were thus facilitated through a neighborhood committee. In contrast to the situation with the Shapingba District Education Commission, here there was less to no control by the neighborhood committee in the actual selection of research participants.

#### **2.4.2. Via the school**

Two visits of allocated primary schools (A and B) were arranged by another senior official of the Shapingba District Education Commission (X1), who was contacted by the CSR through an old classmate (*guanxi*). This chief called in advance to arrange the visits at these schools, during which the school directors could be interviewed. That the 'intervention' of an official is necessary to be able to access a school, became clear when the Belgian senior researcher and a Chinese junior researcher wanted to visit a primary school without previous arrangements. Because no prior contact had been made with an official of the SDEC, access was refused at the gate. So to enter a school in China, one needs permission from 'above', even though in

this case, the foreign presence probably complicated the matter even more. This measure was adopted out of security considerations since a few serious criminal cases had occurred in Chinese schools, including five attacks between March and May 2010, which caused 17 deaths and nearly 100 persons wounded.<sup>58</sup>

Five migrant parents were 'found' via the directors and a teacher of the allocated primary schools A and B. It seems probable that they selected parents who had a good relationship with the school. In addition, through this channel, one focus group with six migrant children (FG2) was organized.

Another school-related entrance to the field concerned the so-called 'school theme's activities', a yearly feast at the school. The Chinese researchers had been invited to give 'legal consultation' there, which they accepted as a kind of reciprocity – although no actual consultations took place. Their presence at the festival gave them the opportunity to look for possible interviewees. When directly approached by the researchers, parents were not very eager to cooperate. Only when the chief teacher intervened and helped to find parents, the latter reacted positively. From the school theme's activities, the researchers gathered contact data of various parents. Later, only four parents and one child consented to an interview. Others refused because of being too busy, or had given a wrong telephone number. This shows again the difficulty of finding research participants.

#### 2.4.3. Via direct personal relations

Although finding interviewees through the SDEC, the neighborhood committees and the schools was also based on and facilitated by *guanxi*, other interviewees were found directly via the personal social networks of the Chinese senior and junior researchers. These interviewees were mostly urban persons, since the researchers did not know many migrant people personally, as "life is separated". They included many of the other stakeholders/experts.

## 2.5. THE INTERVIEW PROCESS AND ETHICAL CONSIDERATIONS

Most of the interviews were conducted by the Chinese senior researcher, accompanied by a research assistant. Some interviews were conducted by two research assistants. The fact that typically two researchers were present during the interviews, may be questioned on the basis of the argument that this numerical preponderance of the researchers risks to (further) imbalance power relations between the less educated and economically poorer interviewee, on the one hand, and the researchers, on the other. The decision to be present with two researchers was however upheld on the basis of three reasons. First, it allowed for a broader

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<sup>58</sup> Wong, Edward, "Fifth Deadly Attack on a School Haunts China", 12 May 2010, [http://www.nytimes.com/2010/05/13/world/asia/13china.html?\\_r=0](http://www.nytimes.com/2010/05/13/world/asia/13china.html?_r=0). Last access on 11 February 2016.

data collection: whereas the interviewer focused on the conversation and interaction with the interviewee, the (other) research assistant could take observational notes, including an observation of the context of the interview. The fact that there were two observers increases the richness of data and the reliability of the observational evidence (Yin, 2003, p. 93). The second reason to opt for the presence of two researchers were safety concerns: some interviews had to be done in the evening, because during the day parents were working and children were attending school. Finally, the research assistant's presence at the interviews facilitated an accurate transcription of the interviews.

### 2.5.1. Presentation of the research

In various interviews with migrant parents, the interviewers emphasized that it concerned a 'pure academic research' (e.g. P18) or a 'standard academic research' (e.g. FG1). This was helpful to relieve the interviewee's anxiety that the research would have a political objective.

A dilemma was to what extent the involvement of a foreign university (the University of Antwerp) was to be mentioned, especially to the Shapingba District Education Commission. To the first official of the SDEC who was contacted (O1) it was told that the research project involved cooperation with a foreign university, as this was not deemed so sensitive at that moment. However, the 'formal' reaction of the higher ranked official of the Commission (O5) who was subsequently interviewed, and the appointment of the SDEC senior official to 'assist' the project (see 2.4.1), withheld the CSR of laying too much emphasis on the involvement of a foreign university, out of fear that this would trigger burdensome bureaucratic procedures and suspicion. It is very probable, though, that the SDEC senior official was aware of the involvement of a foreign university, since some visits to primary schools had been carried out in the presence of the Belgian senior researcher in April 2013. The official nevertheless tacitly (*xinzhao*) accepted the presentation of the project as one being carried out by Chongqing University.

All interviews with parents, children and governmental officials have been done by the Chinese research team alone, without foreign presence. To most of the parents and children, the fact that the research was carried out in collaboration with a foreign university, was not mentioned. This was a decision of the Chinese research team, because it was feared that mentioning the involvement of a foreign university would trigger suspicion and lead to reluctance or refusal to participate in the interview. Only to one urban parent, a university colleague of the CSR, the collaboration with a Belgian university was mentioned, as an expression of trust.

In contrast, the Belgian senior researcher was present at the interviews with the two directors of primary allocated schools and with the NGO representative. For these groups, foreign presence was not deemed a problem since it did not concern "bureaucratic places". On the contrary, for the directors of the allocated schools,

which suffer from a 'bad' reputation compared to the 'high quality' primary schools, the presence of a foreign researcher indicated that they were able to establish connections with the outside world. For them, foreign presence was something attractive, which could boost their school's reputation.

### 2.5.2. Informed consent, taping and confidentiality

All interviewees were informed about the objectives of the research project, as provided in the project information sheet (see Annex 1), both in the phase of acquaintance and at the start of the interview (see also 2.5.3). It was stressed that they could choose to answer a question or not, stop the interview at any time, have access to the data later, could always contact the researchers for further information, and would be informed about the research results (see Annexes 2 and 3). Asking people to sign a document in order to obtain a written informed consent would have made them nervous, giving them the feeling that they had some kind of responsibility. Therefore, an oral informed consent was obtained before the interview started, and taped whenever the interview was taped.

Parents sometimes expressed some initial reluctance towards the taping, whereby e.g. an urban parent (P13) inquired whether the recording was "essential for the research". A migrant parent (P10) said: "If it was nothing sensitive, then recording is fine. But if we were talking about sensitive things, I'd rather not be recorded." After the researchers explained again the focus and objectives of the research and answered questions from the interviewees, all parents and children who were interviewed or participated in a focus group, expressly consented to the taping. This seems to indicate that the topic of education is not 'so' sensitive. Nevertheless, after the taping was stopped, one migrant mother (P18) said that she was afraid of "telling some truth" when being recorded. It may thus be that some parents or children have told less because of the taping. It was nevertheless considered that taping was preferable whenever the respondents agreed to it, especially given the cross-cultural and cross-language nature of the research (see 2.6).

One expert, a school teacher, to whom taping was proposed explicitly refused: "The recording isn't necessary I think, let's just talk!" (O8). For the other expert interviews (with government, educational and NGO actors), it was not asked if the interview could be taped. It was considered that taping would only lead to 'superficial' information, because the interviewees would be much more 'on their guard' and not provide in depth information.

The interviews were made anonymous immediately. The observation sheet (see Annex 4) only contained a number identifying the interviewee. The list linking this number to the name of the interviewee was kept confidential by the Chinese senior researcher. The participants are only quoted when they cannot be identified. The names of the schools are also kept confidential; only relevant general characteristics



are mentioned (e.g. 'an allocated primary school'). Letters (A, B, C etc.) are used to indicate when the same school is being referred to.

### 2.5.3. Hypothesis guessing and sensitive questions

One methodological challenge concerned hypothesis guessing, i.e. "when respondents guess how the interviewer expects them to behave or answer" (Rombouts, 2004, p. 133). This concerned for instance the question how to avoid that the interviewees would only talk about human rights or the right to education because they knew it was the focus of the research. It was anticipated that this could be a particular challenge in the Chinese context, where it appears culturally not appropriate to 'say no' (see also 2.5.4).

To address this issue, the research was presented as "an investigation on education in Chongqing" (see Annex 1), whereby the focus on human rights was not explicitly mentioned during the first contact or at the beginning of the interview. Although this may give rise to ethical considerations of not being completely open about the research topic, it was considered acceptable in light of the research objectives. To know whether human rights are locally known and relevant, it would be interesting to see whether interviewees would invoke human rights (*renquan*) or other rights-related concepts themselves, spontaneously, when being probed for problems regarding their children's educational situation and possible ways to address these.<sup>59</sup> It turned out, however, that many respondents were quite unfamiliar with rights conceptions (see 3.3.2).

The interviewer only mentioned the term 'human rights' him- or herself in the second part of the interview. The idea was to slowly build up the interview toward potentially more sensitive issues. In the first part, interviewees were asked about their background, the educational trajectory and current situation of their children, their evaluation of this situation and the school, the actors who they deemed responsible for particular problems, the actions they had undertaken to address these problems, and their evaluation of governmental policies (see Annexes 2 and 3). Somewhat contrary to the expectations, not one interviewee was upset when the topic of human rights was broached. When asked at the end of the interview whether there was anything bothering for them during the interview, parents expressed most discomfort about the questions on how they evaluated their child's school or governmental educational policies.

In two focus groups discussions, one with urban and one with migrant children, the children reacted very timid when asked about what could be improved in their school. They remained silent for twenty to fifty seconds and eventually answered that they could not think of anything to change (FG3 & FG4). In the third focus group (FG5), urban children indicated a rather 'innocent' issue to be improved, namely the meals. In three interviews (37,5% - 3 out of 8 children interviewed), children

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<sup>59</sup> See e.g. Engel and Engel (2010, p. 16) for a similar methodological approach.

expressed some reluctance and/or uneasiness with some questions, especially the ones about what they would do if they were the Minister of Education of China or the mayor of Chongqing. Then the interviewers did not insist further.

#### 2.5.4. Factors influencing openness of research participants

At some points during the interviews and focus group discussions, parents were reluctant to speak freely and seemed to withhold from expressing critical thoughts. This was especially the case when they were asked about problems at school or what they thought of the educational policies of the government (see also 2.5.3). Here, it resulted important to stress the confidentiality of the research, particularly that it would not be revealed that *they* had provided certain information. Even then, some did not answer these questions, others only gave a positive, superficial or commonplace appreciation.

Various interplaying factors can tentatively be identified that may have contributed to this reluctance. Some factors applied equally to migrant and urban parents and children, others seemed to play more or exclusively for one group. Many of these factors also play a role in the substantial analysis regarding the transformation of injurious experiences to grievances or claims (see Figure 4).

A first cluster of factors relates to social desirability, i.e. “interviewees answering questions in light of what is socially desirable in their particular cultural context” (Rombouts, 2004, p. 133) and political space. In China, there is no culture, no tradition of publicly expressing criticism – whereas in the private sphere, among friends or family, one can be very critical. For the interviewees, accepting our interview and answering questions was considered the same as speaking in public. In light of Chinese political history, it is a risk to criticize authority in public, including any kind of “public sphere” (Habermas, 1989, p. 231). On the one hand, the influence of traditional patriarchal society generates a general attitude of submission to authority, even today in Chinese society (Ma, 1998). On the other hand, the half-hearted propaganda of political participation does not give people confidence since “the Chinese Communist Party still monopolizes political power, determining who gets what, when and how” (Kuan & Lau, 2002, p. 300). In recent years, the fight against corruption undertaken by President Xi Jinping seems to go hand in hand with an even more restrictive media environment, whereby it becomes more difficult to express diverging opinions.<sup>60</sup> Also academics have been ‘warned’ not to criticize the Communist Party or politics.<sup>61</sup> Linked to this cultural and political context is a sense of powerlessness: what use will it have to express one’s complaints? This feeling was

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<sup>60</sup> See, e.g., Washington Post, “China’s leader, Xi Jinping, consolidates power with crackdowns on corruption, Internet”, 3 October 2013, [http://www.washingtonpost.com/world/chinas-leader-xi-jinping-consolidates-power-with-crackdowns-on-corruption-internet/2013/10/01/fd8ceeee-1eb7-11e3-9ad0-96244100e647\\_story.html](http://www.washingtonpost.com/world/chinas-leader-xi-jinping-consolidates-power-with-crackdowns-on-corruption-internet/2013/10/01/fd8ceeee-1eb7-11e3-9ad0-96244100e647_story.html). Last access on 25 January 2015.

<sup>61</sup> See, e.g., BBC, “China universities ‘must shun Western values’”, 30 January 2015, <http://www.bbc.com/news/world-asia-china-31052682>. Last access on 30 January 2015.

reinforced by one's own and other people's (negative) experiences when trying to undertake action (see 3.3.1.4).

Migrant parents in particular were probably also less talkative and critical because of at least two other factors. First, they have a lower level of education (see 2.3.1), and may thus be less 'equipped' to be critical. Secondly, migrant parents (and their children) often seemed to struggle with a sense of interiority towards urban people (see 3.2.2.2). This may also have played in the relationship with the researchers, who were all urban and highly educated. According to a teacher (O8), migrant workers' feeling of 'being less' may explain why certain migrant parents did not want to be interviewed. As a Chinese expression says, "they don't want outsiders (*wairen*) to know about their pain".

A final question that arises is whether the differential ways of access to the research participants had an impact on their openness or critical attitude (see 2.4). There seems to be an ambivalent impact of the involvement of governmental or education actors in finding research participants. On the one hand, parents were more cooperative when the contact was facilitated by the school (on its own initiative or upon request of the state authorities, i.e. the SDEC senior official). Because parents usually trust the teachers, their attitude towards the researchers was more positive when the latter had been introduced by a teacher.

On the other hand, given the 'formal' character of these encounters, parents may not have been inclined to express critical opinions regarding government or school policies. On the basis of an analysis in NVIVO, it was indeed possible to establish a correlation between the 'critical attitude' of research participants and the 'way of access'. Respondents who were found through the personal social networks of the researchers were more critical when asked about government policies on education and the household registration system, than interviewees who were contacted via the SDEC, the neighborhood committees and the schools.<sup>62</sup> One explanatory factor is that parents were afraid of possible negative repercussions on their children. They were concerned that the school or the department would 'revenge' on their children, if they would be too critical. For migrant parents, who are in a more vulnerable situation as regards the education of their child(ren), this factor seemed more at play than for urban parents. As a migrant mother (P3) formulated it: "I just worry that today's interview will affect my child's study in the future and worry whether he will be refused by other schools in the future." In these cases, questions regarding the assessment of the government's educational and *hukou* policies, and regarding suggestions to improve the school, were left unanswered or answered in a superficial way.

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<sup>62</sup> In the responses to questions on how the research participants evaluated government policies, the following categories were distinguished: being positive; making non-controversial suggestions (that are in line with government policies, e.g. on balanced education); being critical; feeling powerless; feeling insecure (due to changing policies); being ignorant; and having no opinion.

However, there was also a clear relationship between the level of education of the respondents and their critical attitude: respondents with a higher education were more critical towards government policies than interviewees who had only finished primary or junior middle school. As mentioned (see 2.3.1), many of the respondents who were found through the personal networks of the Chinese researchers, had enjoyed higher education, being urban. The discrepancy in level of education thus corresponded to the urban-rural divide. It is therefore possible that the degree of 'critical attitude' is to be explained by the level of education, rather than by the way respondents got involved in the research. To ensure transparency and allow the reader to interpret him- or herself the quotations used hereinafter, Table 5 indicates the way in which each research participant was included in the research.

For a few cases, an additional complication arose. As mentioned above, the SDEC senior official was present during the two focus group discussions with urban children (FG3 & FG5) and the interview with two migrant boys (C24 and C25) that she had organized. During these conversations, her status was not clear – she was not officially presented as a representative of the Shapingba District Education Commission. In the first focus group, she intervened a few times, clarifying an aspect of educational policy and giving her interpretation of the right to education. In the other focus group and the interview, she did not talk. It seems probable that the presence of the SDEC senior official, whose status and link with the government were unclear, will have induced the research participants to be more cautious in their answers.

On the other hand, some respondents expected the researchers to pass their opinion to "the upper level organizations" (P2) or "the upper levels of society" (P23), and believed that "the research will exert a positive influence" (P13).

## 2.6. CROSS-CULTURAL AND CROSS-LANGUAGE RESEARCH

Interviews and focus group discussions were conducted in the local language, Southwest dialect, to ensure that accurate meaning was captured. All interviewers and research assistants were from Chongqing and fluent in Southwest dialect, "a variant of standard Mandarin with different pronunciation" (Smith, Chen, & Liu, 2008, p. 2). If an interviewee did not understand the question, the researcher shifted to colloquial expression.

The interviews were transcribed verbatim in Mandarin by the junior researcher who was present at the interview. This ensured that the transcription remained embedded in the context of the interview. The transcripts were then translated to English by two senior researchers of the Department of Translators and Interpreters of the University of Antwerp. The accuracy of the translations was double checked by the Chinese senior researcher, who had carried out the bulk of the interviews. The data analysis was done on the basis of the English transcriptions, which

permitted the triangulation of different researchers' perspectives. The translation in English also enlarges accessibility, and hence the general transparency of the research towards the international research community.

Translation presents various challenges, however. As Tsai et al. (2004, pp. 9-10) note: "[T]ranslated data are products of translators' culture and lived experience as well as their knowledge of the subtleties of the language to which they translate. ... Before analysis begins, data have already been colored by the translators' interpretations of interviewees' narratives (in addition to the interviewer's interpretations during the interview) and their decisions about the preservation of original narratives in their translation." Moreover, the different grammatical structure of Mandarin compared to English may have as a consequence that "the narrative of an interview might not be captured accurately" (Smith et al., 2008, p. 1). Birbili (2000) concludes: "When collecting data in one language and presenting the findings in another, researchers have to make a number of translation-related decisions. Words which exist in one language but not in another, concepts which are not equivalent in different cultures, idiomatic expressions and/or differences among languages in grammatical and syntactical structures are issues which call for very specific decisions. These decisions along with factors such as, for example, who the researcher or her translators are and what they 'know' have a direct impact on the quality of the findings of the research and the resulting reports."

A variety of these challenges were encountered in the research process. For instance, to certain words in Mandarin, several meanings can be assigned. This influenced the way research respondents answered certain questions (cf. discussion on *quanli*, which can mean 'right' and 'power', see 3.3.2.1). Also, an adequate interpretation of the interviews may include the need to go back to the original transcripts in Chinese. An example is the sentence that was translated as "Everyone should enjoy the rights he or she deserves." This induced the question: why "deserve"? Does this indicate some kind of meritocratic approach to rights? Going back to the original Chinese text, it became clear that the same sentence could also be translated as: "Everyone has his own right". Although this does not sound fluently in English, it clarifies that no meritocratic meaning is implied.

Doing research in an intercultural research team (consisting of Chinese and Belgian researchers) also presents various challenges. It is a time-consuming process, since the researchers have to learn about and understand each other's background. Certain concepts or aspects that are clear or 'logical' from a Chinese, insider perspective need to be explained to and discussed in depth with foreign researchers. This may also foster a richer interpretation. In any case, a 'thick' understanding of reality requires an intensive process of dialogue and exchange.

### 3. FINDINGS OF THE SOCIO-LEGAL RESEARCH

The first section of this chapter presents the findings of the socio-legal research in relation to access to education in general, and the transition from primary to junior school in particular (3.1). Thereinafter, the experiences of children going to school, e.g. in relation to their well-being, competition and the role of parents, are discussed (3.2). The section on localizing human rights (3.2) starts with pointing to some overall contextual factors, before analysing the different stages of the transformation process, from naming and blaming to different types of responses, among which claiming. Towards the end of the interview, understandings of rights-related terms were explicitly probed for, which are discussed thereinafter. It is important to flag that after the completion of the major phase of fieldwork (in May-June 2013), significant policy evolutions took place, which would impact on the educational situation of rural-urban migrant children (3.4).

#### 3.1. ACCESS TO EDUCATION

##### 3.1.1. Access to education in general

##### 3.1.2. For urban children

###### **Nearby principle**

Primary and junior middle school attendance is based on the ‘nearby principle’ (*jiujin ruxue*). In the 1986 CEL, this principle was formulated as follows: “Local people’s governments ... shall establish primary schools and junior middle schools at such locations that children and adolescents *can attend* schools near their homes” (Article 9). The language in the revised CEL 2006 is more mandatory, in that “[t]he local people’s governments ... *shall ensure* that school-age children and adolescents *are enrolled* in the schools near the permanent residences of the school-age children and adolescents” (Article 12). This change in language seems to indicate an intention of the government to apply the nearby principle in a more stringent way – as is also confirmed by subsequent policies (see 3.4.1). At the level of Chongqing, the nearby principle was affirmed in Article 9 of the 2011 *Regulation of Compulsory Education for Chongqing Municipality*. The term ‘permanent residence’ refers to the household registration (*hukou*). Access to primary and junior middle school is thus tightly linked with and determined by the household registration system.

To implement the nearby principle, the Measures on School Register Management of Compulsory Education Schools (trial) (2008 Measures) provided that the administrative departments of education (the district and county education

commissions) divide the area within their administrative jurisdiction, so that school-age children can be enrolled in schools near the places where they are living (Article 6).<sup>63</sup> The Shapingba District Education Commission consequently divided the Shapingba District into various such enrolment areas (*huapian ruxue*). The boundaries of these enrolment areas differ from the existing administrative divisions in subdistricts and neighborhood committees (see 1.1.3). According to an education official (O5), these boundaries are drawn on the basis of historical and geographical considerations. The boundaries are fluid, however, in that they can be adapted in response to new city developments. The exact delimitation of enrolment areas as well as the process through which the areas' boundaries may be changed are not transparent.<sup>64</sup>

In densely populated areas, the capacity of (especially 'good') schools to accommodate all pupils of a certain enrolment area may come under pressure. The considerable economic growth of Chongqing has led to a boom in new residential communities. Many households moreover purposefully settle in enrolment areas with 'good' schools (as the Shapingba District). When problems arise as to accommodating all pupils of a certain enrolment area and in order to keep class size under control,<sup>65</sup> the boundaries of an enrolment area may be changed. Therefore "it is possible that children in one residential community are divided into two enrolment areas",<sup>66</sup> whereby a part of the residential community has to go to a school in an enrolment area that lies geographically outside its 'own' enrolment area (see Figure 6, child 2). In this case, children of a same residential area must go to different schools, which may be of different quality and reputation. This may cause difficult situations, particularly when parents especially bought an apartment in a certain residential community, to enable their children to go to a 'good' school. Parents thus have to consider this factor before purchasing real estate.

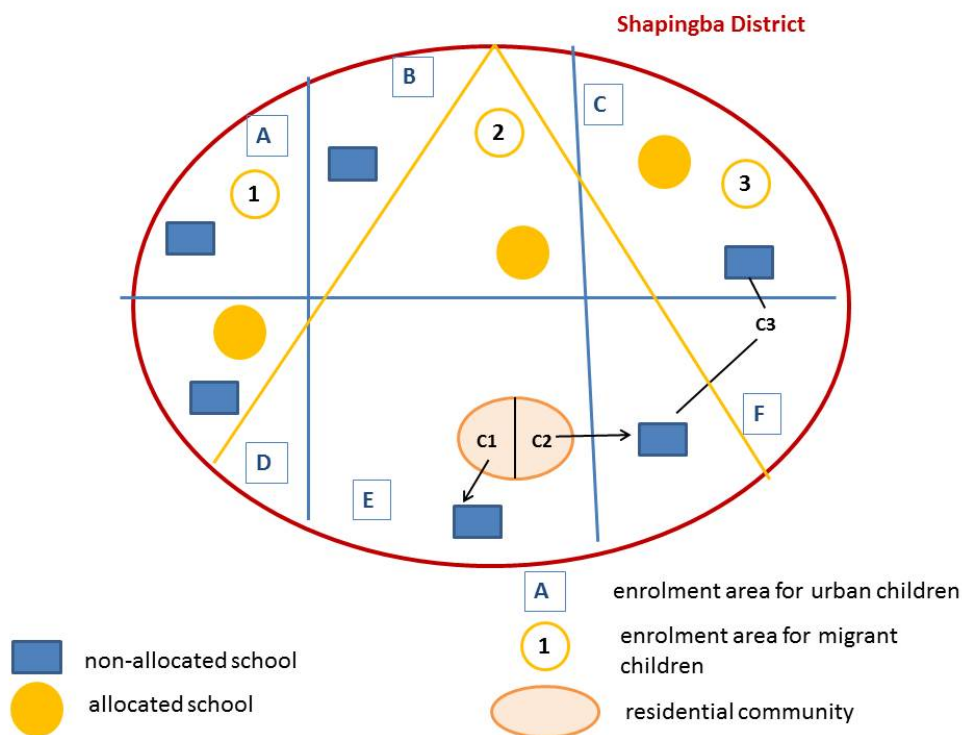
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<sup>63</sup> Chongqing Education Commission, Measures on School Register Management of Compulsory Education Schools (trial), 24 September 2008.

<sup>64</sup> It was for instance not possible to obtain a map of the enrolment areas in the Shapingba District.

<sup>65</sup> Even though Article 15 of the CEL 2006 reads as follows: "The local people's governments at the county level or above shall, on the basis of factors such as the number and distribution of the school-age children and adolescents dwelling in their respective administrative areas, formulate and adjust the plans on the setup of schools in accordance with the relevant provisions of the State. Where a school needs to be set up in a newly established residential area, it shall be built along with the construction of the residential area."

<sup>66</sup> Telephone interview with education official (O5), 23 May 2014.



**Figure 6. The nearby principle**

Summing up, only urban children whose *hukou* belongs to the enrolment area in which a certain school is located, are entitled to enrol in that school (for free). The nearby principle thus restricts the freedom of parents and children to choose a school.

In theory, the nearby principle should benefit school-age children and adolescents, by offering them access to a school in their neighborhood. In practice, however, the principle turns out to present various challenges. Three reasons may be identified why parents and children would prefer a school outside their own enrolment area: quality of education, distance and safety. The most important reason for wanting to go to a school outside the own enrolment area is the (perceived) quality and reputation of the school. It is possible that parents and their children consider that there is no ‘good’ school in their enrolment area, which is a problem, given the importance of high quality education from the start, and the strong (perceptions of) differences in quality between schools. Among the research participants, there was a very strong sense of which schools were ‘good’ and ‘bad’.<sup>67</sup> This goes at least partially back to the distinction between ‘key’ schools and ‘non-key’ schools: key schools were to prepare young promising students for top education, leading to

<sup>67</sup> It goes beyond the objectives of this research to verify to what extent these perceptions on school quality are backed up by reality today, but it was clear that this ‘public knowledge’ and informal perceptions had a great impact on decisions of school choice and school evaluation.



large disparities in educational quality between these schools and non-key schools. Article 22 of the CEL 2006 explicitly prohibits the division of schools into key and non-key schools. Nevertheless, the distinction remains lingering in practice. An indicator of the quality of a primary school is the quota of the school, which determines the number of pupils that are allowed to access high quality junior middle schools (see 3.1.4.1).

Another reason may be that a school that lies administratively outside the enrolment area, is geographically much closer for the pupil in question (see Figure 6, child 3). In this case, a child would not be allowed to enter this school that is geographically very near, but administratively belongs to another enrolment area (unless upon payment of an (illegal) school selection fee, *infra*) – which actually goes against the *ratio legis* of the nearby principle of offering access to a school close to home. Finally, in a megacity with hectic traffic, safety considerations are another reason for preferring a school outside one’s own enrolment area.

### Conditions for enrolment

The 2008 Measures determined the principle of ‘three conditions’.<sup>68</sup> To decide to which enrolment area children belong, the school-age children need to present (i) their parent’s *hukou*, (ii) a property ownership certificate (*fangchanzheng*)<sup>69</sup> and (iii) proof of their actual place of residence (Article 7). Only children who match all these requirements can access the schools near where they are living.

At the time of primary school enrolment, the requirements for school admission are posted up in public. Schools seem to adapt the formal requirements somewhat in practice. According to a public announcement of high quality (non-allocated) primary school C of the Shapingba District in May 2013, a six year-old child must present the following documents to enter the first grade of this school: (1) his *hukou* and his parents’ *hukou*; (2) a property ownership certificate; and (3) a vaccination certificate (proving the vaccination of the child against certain infectious diseases, such as hepatitis B and tuberculosis). The announcement complied with the first two documents required by the 2008 Measures, but no proof of the actual place of residence was demanded – probably because this is not very practical. Instead, one had to supply a proof of vaccination. Nevertheless, both the property ownership certificate and the vaccination certificate are linked with *hukou*, because owning real

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<sup>68</sup> Chongqing Education Commission, Measures on School Register Management of Compulsory Education Schools (trial), 24 September 2008.

On 24 November 2014, after completion of the fieldwork, new policy of Measures was launched by the Chongqing Education Commission. The ‘three conditions’ are still provided in Article 9. <http://www.cq.gov.cn/publicinfo/web/views/Show!detail.action?sid=3955561>. Last access on 6 March 2016.

<sup>69</sup> The parents must possess real estate in the enrolment area concerned.

estate is a prerequisite for having an urban *hukou*, and the vaccination of children is also related to where the child lives.<sup>70</sup>

The *hukou* condition of (primary and junior middle) school admission seems common knowledge. During a focus group interview (FG3), pupils of the fifth grade of a high quality (non-allocated) primary school were asked: “If you were not registered resident in the community, [could] you still go to [this school]?” One pupil responded: “A friend of my mother wanted his child to go to [this school] ... He first had to buy an apartment in the community, and move his *hukou* there to become a registered resident. Then his child could go to school in the community”.

### **School selection fee**

Urban (and migrant, see 3.1.3) parents who want their child to go to a school located outside their own enrolment area, commonly circumvent the nearby principle by paying a fee to be admitted to their school of preference. This fee is usually called ‘school selection fee’ or ‘sponsorship fee’ (*zexiaofei* or *zanzhufei*). This practice goes against the legal prohibition on charging fees in the implementation of compulsory education. Article 10 of the 1986 CEL provided that “[t]he State shall not charge tuition for students receiving compulsory education”. Article 2 of the revised CEL 2006 extended the prohibition towards any “tuition or miscellaneous fee”.<sup>71</sup> At the level of Chongqing, the prohibition of charging fees in relation to compulsory education has been repeatedly confirmed in various documents. For instance, the Regulation of Compulsory Education of Chongqing (2011), broadly states: “No tuition, miscellaneous fee, school selection fee, temporary schooling fee and any other fees which violate the State’s and municipal regulations may be charged in the implementation of compulsory education” (Article 2).<sup>72</sup>

On 15 May 2013, the Chongqing Education Commission promulgated the *Opinion on the Admission of Schools at the Compulsory Education Stage* (2013 Opinion), which reemphasizes the importance of compulsory education. The 2013 Opinion was a preparation of the Central Government’s policy of January 2014 regarding the nearby principle and the abolishment of any kind of school selection fee (see 3.4.1).<sup>73</sup> There are four basic principles in this Opinion: the principle that school-age children are obliged to accept compulsory education, the nearby principle, the

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<sup>70</sup> The same conditions for enrolment for urban children in primary school were observed in Yuzhong District in Chongqing.

<sup>71</sup> See also Article 61 CEL 2006, on the gradual abolishment of ‘extra’ fees: “The measures for implementing the policy of exempting sundry expenses from school-age children or adolescents shall be formulated by the State Council.”

<sup>72</sup> See also, e.g., Article 20 Standing Committee of the National Congress of Chongqing, Regulation for the Protection of Minors of Chongqing, 23 July 2010, “No school may charge any fee in violation of the provisions of the State and the Municipality.”

[http://www.law-lib.com/law/law\\_view.asp?id=325783](http://www.law-lib.com/law/law_view.asp?id=325783). Last access on 2 March 2016.

<sup>73</sup> There exists a kind of dynamic in China, whereby local governments feel the urge to anticipate the policies that Central Government will adopt, in order to make a ‘good impression’ on the Central Government.

principle of three conditions, and the principle of transparency and equity. Under these principles, the Chongqing Municipal Government again reaffirmed that any kind of additional fees were prohibited. New in this Opinion were the implementation measures provided to consolidate this prohibition of fees. The government was to establish a public information system, publicly announcing the conditions of enrolment. Also, a 'consultation system' was to be put in place, whereby parents could come with their questions and access information. Finally, a social supervision system was installed (see 3.3.1.4).

Notwithstanding these legal prohibitions at both the national level and the municipal level of Chongqing, many research participants testified to the ongoing practice of school selection fees being charged and paid. An urban mother (P14), who paid twenty thousand RMB for her elder son to be admitted to a primary school located outside 'their' enrolment area, was willing to pay again for her younger son to go to the same school, considering it an 'affordable' financial burden. However, for urban parents in a more precarious socio-economic situation, such a school selection fee may not be 'affordable'. Do these parents ever think of choosing a school outside their enrolment area, or will their children go to the school of their household registration area? A single urban mother (P5), who is raising her daughter by running a food stall, answered this question as follows: "Of course the school of household registration. How could I afford to let her choose a school?" Also for urban parents, the cost of sending their child(ren) to a 'better' school (outside their enrolment area), may thus be high and consume a substantive part of their earnings. It is a common situation that (urban) parents invest a lot of money in their child's education; this is confirmed by the following quote of a mother (P8): "Parents today invest what they earn in their children's education."

Moreover, the amount of the school selection fee is not fixed, but varies with who is paying, and most importantly with the *guanxi* (personal network) of that person. If there are personal connections with certain teachers or the director of a school for example, the fee can be considerably lowered – creating inequalities between well-networked persons and others. This is the case for both urban and migrant children, although the latter ones will probably have less *guanxi* (see 3.3.1.1).

International human rights law requires that education is affordable to all. This includes an immediate obligation to provide free primary education, and a progressive obligation to introduce free secondary and higher education. Education should be affordable in practice; the prohibition of fees in law does not suffice.

*The Committee is also concerned that compulsory education is still not free and is often unaffordable for children in rural areas and poor urban areas. In addition, the Committee notes that the costs for secondary education are excessively high, being one of the main factors associated with drop-out particularly among (...) children of rural-to-urban migrant workers. (UN Committee on ESC Rights, Concluding Observations on 2<sup>nd</sup> periodic report China, 2014, par. 35).*

*The formal enactment of legal guarantees is routinely mistaken for the end rather than merely a means of human rights protection.*

*Sample studies should be carried out to determine the real costs of education as soon as possible as the basis for a strategy to eliminate financial obstacles to the realization of the right to education of every child. (UN Special Rapporteur on the Right to Education, 2003, par. 8 and 13).*

**Table 6. The private cost of public education**

### **Concluding reflections**

For urban children in China, entering ‘a’ school is not an issue, the problem arises when they choose a school that is not in their enrolment area. Particular groups of children, such as children with disabilities, may face additional and serious challenges regarding access to education (Deklerck, Desmet, Foblets, Kusters, & Vrieling, 2009; Human Rights Watch, 2013).

Chinese parents are much concerned with their child’s education;<sup>74</sup> this is even more so than elsewhere because the one-child policy put parents in a position that they lay all their hopes on their only child. Therefore, finding a good school for their child became even more important. For this, they are willing to invest as much money as they can. The presently adapted policy which allows some families to have a second child does not seem to have much impact on the importance that Chinese parents attach to education.<sup>75</sup>

Because of the nearby principle, a lot of urban children have to go to a school that is not their first choice. The UN Special Rapporteur on the Right to Education

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<sup>74</sup> Education is traditionally considered very important in Chinese society. Historically, however, there were economic constraints for poor families to send their children to school, and boys were long preferred over girls in school education (girls were not allowed to go to school until the end of the 19<sup>th</sup> century).

<sup>75</sup> Central Committee of the Communist Party, Decision on Some Major Issues Concerning Comprehensively Deepening the Reform, 12 November 2013.

After the field research of this project, another new policy launched, which allows every family to have second child. Central Committee of the Communist Party and State Council, Decision on the Implementation of a Comprehensive Two-Child Policy and the Reform, Improvement on The Service and Management of Family Planning, 31 December 2015.

Tomaševski noted: “China’s legislation defines education as a right as well as an obligation. The further specification of nine years of education as compulsory reinforces its definition as an obligation. Parents have to send their children to school under the threat of legal enforcement, but *they cannot choose education for their children*” (UN Special Rapporteur on the Right to Education, 2003, par. 17).<sup>76</sup> Chinese parents have to send their children to a school whether they like that school or not.

In such a situation, many parents decide to pay for school selection, so that their child can go to the school of their choice. According to Article 13 ICESCR, “primary education shall be compulsory and available free to all”. The fact that one has to pay a fee goes against the right of free education. There are many parents who are not able to pay the school selection fee: their children have to go to a school in the enrolment area, reluctantly. This situation discriminates and segregates children on the basis of their residence and their financial means.

There is a saying in China: “we can't lose at the scratch line” which reflects the intense competition among children during all the phases of their life. Since primary school is perceived as the scratch line, going to a good school is seen as very important for a child’s future. Those children who have to go to a school which is (perceived) less good than other schools, would be deemed as already losing the competition at this early stage of their life. Nowadays, some people start to criticize this competitive atmosphere, pointing to its harmful effects on children (see 3.2.2.1).<sup>77</sup>

### 3.1.3. For migrant children

#### **Brief overview of legislative and policy evolution**

The education of rural-urban migrant children is a topic that until the mid-1990s remained devoid from policy attention, although by then the number of migrant children in cities had already considerably increased (Dong, 2010, p. 146).<sup>78</sup> In the policies on access to compulsory education for rural-urban migrant children in urban areas that were subsequently adopted, a clear evolution is noticeable (see also Dong, 2010).

The Interim Procedures of Attending School for Migrant Children and Juveniles, adopted by the Central Government in 1998, attempted to discourage migration from school-age children with their parents to the cities, by providing that children should follow education in their *hukou* neighborhood, whenever a legal guardian

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<sup>76</sup> See also: “Although ... provisions regarding parental freedom to choose education for their children form part of the Convention on the Rights of the Child, this is not recognized in domestic law.” (UN Special Rapporteur on the Right to Education, 2003, par. 6)

<sup>77</sup> Jianmin Wu, “Talking about ‘We Can't Lose at the Scratch Line’”, 20 July 2011, [http://www.chinatoday.com.cn/ctchinese/second/2011-07/20/content\\_377906.htm](http://www.chinatoday.com.cn/ctchinese/second/2011-07/20/content_377906.htm). Last access on 16 February.

<sup>78</sup> The first regulation addressing the education of rural-urban migrant children was adopted in 1996.

was present (Article 3).<sup>79</sup> Only when there was no legal guardian in the *hukou* locality, could migrant children be allowed to public urban schools. Moreover, the 1998 Regulations stipulated that urban public schools that provided education to migrant children could charge ‘temporary schooling fees’ (*jiedufei*) to these migrant families (Article 11). Both articles found their justification in the fact that local government subsidies for education were based on the number of *hukou* children; local governments did not receive financial support for the education of migrant children, and thus passed this financial burden to the migrant families.

The *Decisions on Reform and Development of Basic Education* of 2001 changed this policy of attempting to prevent the migration of school-age children, as it identified the local urban governments as responsible for the education of migrant children.<sup>80</sup> However, the system of temporary schooling fees was not altered, as urban governments were not provided with financial support to realize this task. On 5 January 2003, the State Council made a notice which required the hosting government to adopt various measures to allow rural-urban migrant workers’ children to be enrolled in local public primary and middle schools under equal conditions of admission as local pupils, and without illegal charges.<sup>81</sup>

The *Opinion on Further Strengthening the Compulsory Education of Rural-Urban Migrant Workers’ Children* in September 2003 provided that migrant children should pay the same fees as local pupils (Article 6),<sup>82</sup> thus abolishing the (legality of) extra fees for migrant children.<sup>83</sup> Since then, the local governments in China have adopted the policy to allocate some public schools for rural-urban migrant workers’ children (*infra*).

Article 4 of the CEL 2006 includes a general prohibition of discrimination in education:

All school-age children and adolescents of the nationality of the People's Republic of China shall, in accordance with law, enjoy the equal right, and fulfill the obligation, to receive compulsory education, regardless of sex, ethnic status or race, family financial conditions, religious belief, etc.<sup>84</sup>

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<sup>79</sup> Ministry of Education, Interim Procedures of Attending School for Migrant Children and Juveniles, 2 March 1998.

<sup>80</sup> State Council, Decisions on Reform and Development of Basic Education, 29 May 2001.

<sup>81</sup> General Office of State Council, Notice on the Employment Management and Service for the Rural-Urban Migrant Worker, 5 January 2003, [http://www.gov.cn/zwggk/2005-08/12/content\\_21839.htm](http://www.gov.cn/zwggk/2005-08/12/content_21839.htm). Last access on 16 February 2015.

<sup>82</sup> General Office of State Council, Opinion on Further Strengthening the Compulsory Education of Rural-Urban Migrant Workers’ Children, 17 September 2003.

<sup>83</sup> Ministry of Education, State Commission Office for Public Sector Reform, Ministry of Public Security, National Development and Reform Commission, Ministry of Finance, Ministry of Human Resources and Social Security, Opinion on Further Improving Compulsory Education to Rural-Urban Migrant Workers’ Children, 13 September 2003.

<sup>84</sup> See also more generally Article 9 Education Law 1995.

Compared to Article 5 of the 1986 CEL, the list in the 2006 law is non-exhaustive (“etc.”) and could thus include discrimination on the basis of household registration and/or migrant status. Article 12 of the CEL 2006, a new provision compared to the 1986 CEL, explicitly provides that migrant children should receive compulsory education under ‘equal conditions’ as urban pupils:

For school-age children and adolescents whose parents or other statutory guardians work or reside in places other than the places of their registered residence and who have to receive compulsory education in the places where their parents or other statutory guardians work or reside, the local people’s governments shall provide equal conditions for them to receive compulsory education. The specific measures in this regard shall be formulated by provinces, autonomous regions, and municipalities directly under the Central Government.

This article also includes the urban-urban migrant child whose *hukou* is not in the city where he stays, as the article refers to children whose parents or guardians “work or reside in places other than the places of their registered residence”. Already in 1998, the policy on the *Interim Procedures of Attending School for Migrant Children and Juveniles* of the Ministry of Education grouped the rural-urban migrant children and the urban-urban migrant children in one category; as both of them have no *hukou* in the place where they are residing.<sup>85</sup> In this sense, the urban-urban migrant child is in general treated in the same way as the rural-urban migrant child. For urban-urban migrant children, it is however easier to change their *hukou* from one city to another as the requirements are not so strict (except when moving to Shanghai and Beijing). Also, their socio-economic situation is generally better. Therefore, we focus our analysis on rural-urban migrant children. Since implementation measures are to be formulated by provinces, autonomous regions, and municipalities directly under the Central Government, there are important differences in the implementation of the Central Government’s educational policies between different provinces, cities, and districts (Chunli, 2006, p. 51).

In 2005, the Chongqing Municipal People’s Government promulgated the *Measure of the Chongqing Municipality on Protection of Rights and Interests and Management of Services for the Migrant Peasant Workers*.<sup>86</sup> The measure clarified that rural-urban migrant workers who obtained a resident permit for migrants were entitled to various rights. One of these rights was that their children who satisfied the regulations’ requirements could be enrolled in allocated schools (Article 33).

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<sup>85</sup> Ministry of Education, *Interim Procedures of Attending School for Migrant Children and Juveniles*, 2 March 1998.

<sup>86</sup> Chongqing Municipal Government, *Measures of the Chongqing Municipality on Protection of Rights and Interests and Management of Services for the Migrant Peasant Workers*, 13 September 2005.

### Conditions of enrollment

Article 7 of the 2008 Measures, which implements the Compulsory Education Law of 2006, states that for rural-urban migrant children to access urban schools, their parents or statutory guardians are in charge of submitting an application to the administrative departments of education of the district or county where they are working or dwelling.<sup>87</sup> They have to present their identity card, household registration (*hukou*), proof of employment, resident permit for migrants as well as the proof of children's student status or certificate of primary school graduation. The district or county's administrative department of education shall arrange their school admission in accordance with the nearby principle. This was repeated in Article 10 of the *Regulation of Compulsory Education of Chongqing Municipality* of 25 March 2011. If a child meets the abovementioned conditions, he or she can be admitted to an allocated school without payment.<sup>88</sup>

### Access in practice

To realize access to education for migrant workers' children, local governments have assigned some primary and junior middle schools as so-called 'allocated schools' (*dingdian xuexiao* or 'school for children coming from rural-urban migrant households'). In June 2008, the Shapingba District Education Commission made a policy about the admission to primary school, providing that "the migrant children including the rural-urban migrant children ... shall go to the rural-urban migrant workers' children school to register... If the migrant child wants to go to a non-allocated school, the school will accordingly charge him a school selection fee."<sup>89</sup> Migrant children are thus allowed to enter allocated schools without payment.<sup>90</sup> According to this policy, migrant children could choose another, non-allocated school, but then they had to pay a school selection fee. In 2010, however, the Ministry of Education issued a policy, prohibiting the school selection fee.<sup>91</sup> These allocated schools receive financial support from the local government for their acceptance of migrant workers' students: 500 yuan of RMB per semester for each

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<sup>87</sup> Chongqing Education Commission, Measures on School Register Management of Compulsory Education Schools (trial), 24 September 2008.

<sup>88</sup> However, the local education authority was considering making the requirements for enrollment stricter because allocated schools were coming under pressure since there were so many migrant workers' children. Interview with education official (O1), 2 April 2013.

<sup>89</sup> Shapingba District Education Commission, Opinions of Shapingba Education Commission on the Primary School Admission, 31 March 2008.

Although urban-urban migrant children (who are also 'non-local-*hukou*-children') should also go to the allocated schools, these allocated schools are explicitly called 'rural-urban migrant workers' children schools'. Both types of migrant children are treated in the same way, but the fact that the schools' name only refers to rural-urban migrant children, indicates that the issue is more critical for rural-urban migrant children than for urban-urban migrant children.

<sup>90</sup> In addition, every child is supplied a box of free milk by the school every day (see 3.2.2.2).

<sup>91</sup> Ministry of Education, Instruction on the Countermeasure against Unauthorized School Selection Fee, 13 October 2010.



student to cover tuition and other fees.<sup>92</sup> In this situation, it is not burdensome for the allocated school to accept migrant workers' children. In 2009, there were 95,000 children from rural-urban migrant households enrolled in such allocated urban schools in the main urban area of Chongqing.<sup>93</sup> In two visited allocated primary schools (A and B), there were respectively 82% and 87% of migrant children on a total population of 616 and 607 pupils in 2014. This percentage of migrant children includes rural-urban and urban-urban migrant children, although the majority are rural-urban migrant children. Local urban governments are reluctant to assign top schools as allocated schools; these (former) 'key schools', which are expected to be the cradle of future elite, remain mainly reserved for urban children. Allocated schools are thus generally (perceived as) of a lower educational quality.

The Shapingba District has a relatively high number of children of rural-urban migrant workers.<sup>94</sup> There are currently nine allocated primary schools and four allocated junior middle schools in Shapingba, on a total of 87 primary and middle schools. Since there are less allocated schools, and the allocated junior middle schools are situated outside the centre of the Shapingba District, it seems that the boundaries of enrolment areas are in practice 'enlarged' for migrant children – especially for allocated junior middle schools (see Figure 6).

### **School selection fee**

According to an education official (O1), until April 2013, 1/3 of the migrant children in the Shapingba District were studying in allocated schools.<sup>95</sup> This means that 2/3 of the migrant children were studying in non-allocated schools and thus paid a school selection fee to be admitted. For instance, a migrant mother (P1) paid seven hundred yuan of RMB per semester to send her child to a non-allocated school. A migrant father (P16) testified that, to access another primary non-allocated school, the school selection fee could run up to 7000 or 8000 yuan of RMB if you had no *guanxi*. This imposes a considerable financial burden on the migrant household, even more so because the amount of the school selection fee varies with their *guanxi*, which migrant parents tend to have less than their urban counterparts (Zhang, 2011, see also 4.3.1). The reasons to choose for a non-allocated school seem to run similar with those of urban parents to prefer a school outside their enrolment area: quality of education, distance to school and safety (see 3.1.2). Comparatively, however, migrant parents seemed to attach somewhat more importance to distance and safety, whereas urban parents put more emphasis on educational quality.

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<sup>92</sup> Interview with school director (O3), 16 April 2013.

<sup>93</sup> News article of the central government of China, New Breakthrough of the Enrolment of the Children Belonging to the Rural-urban Migrant Workers, 11 November 2009, [http://www.gov.cn/gzdt/2009-11/11/content\\_1461600.htm](http://www.gov.cn/gzdt/2009-11/11/content_1461600.htm). Last access on 6 March 2016.

<sup>94</sup> Interview with education official (O1), 2 April 2013. The proportion of migrant students in junior middle schools is slightly lower, because these pupils are more independent and some of them go back to their hometown.

<sup>95</sup> Interview with education official (O1), 2 April 2013.

Moreover, this does not mean that migrant children will be accepted permanently in such a non-allocated school. In certain circumstances, the school 'suggests' these pupils to move to another school. After one semester, a mother (P1) had to transfer her son to an allocated school although the non-allocated school was much closer to her home and her son had a good score. Other migrant children in the same non-allocated school were also asked to move. As P1 relates: "The scores of those children were quite good. But the teacher said those children were too naughty and [he] didn't want them to stay in the class and exert a bad influence on other students." In this case, the migrant parents were willing to pay the school selection fee to be able to go to a non-allocated school. But when that school shut the door upon them, they had to accept this because they knew that their *hukou* was not in the urban area. Mother P1 continues: "Since the *hukou* of my child was not here, we were not qualified to attend the school. All the teachers thought in the same way." The son of P1 was deeply impressed by the whole situation: "He felt that no matter how good his scores were, he couldn't attend a good school" (P1). Migrant children and their parents thus depend on the goodwill of non-allocated schools, when they want to attend a 'high quality' school.

### **Changing *hukou***

Another way for migrant parents to 'escape' from the system of allocated schools is to change their household registration (*hukou*). In 2010, Chongqing Municipality reformed the *hukou* system, allowing holders of a rural household registration to transfer their rural *hukou* to urban *hukou* when they met one of three conditions: (i) having bought a real estate (no limitation of maximum size, in contrast to previous policy); (ii) having worked or done business in Chongqing for more than five years and have legal and stable residence; (iii) having invested in an enterprise and paid a tax total of 100,000 RMB within three years or more than 50,000 RMB tax within one year.<sup>96</sup>

Changing one's status from rural to urban resident thus requires a lot of money. Beyond money, another crucial factor in deciding whether or not to change one's household registration is land. Many rural-urban migrant workers are worried about losing their land in the rural area if they transfer their *hukou* to the city.<sup>97</sup>

In conclusion, migrant workers face difficult decisions when they want to let their children go to primary or junior middle school in the city: either they have to send their children to a (low quality) allocated school, or they have to pay a school

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<sup>96</sup> Chongqing Municipal Government, Measures of Chongqing Municipality on the Reform of the Transfer of Rural Resident by Balancing the Urban Household System and Rural Household System, 25 July 2010.

<sup>97</sup> According to the Law of the People's Republic of China on Land Contract in Rural Areas, the agricultural household has the right to have contracted land from the rural collective. The Standing Committee of the National People's Congress, Law of the People's Republic of China on Land Contract in Rural Areas, 29 August 2002.

selection fee to be allowed into a non-allocated school, or they have to change their household registration. However, changing *hukou* is costly and implies giving up some benefits (most importantly their land in the rural area). Migrant workers thus have to weigh the advantages and disadvantages. In our sample, two women (P2 and P4-F) had changed their rural *hukou* to urban a while ago, and were considered as ‘urban’ women (see 2.3.1). A third woman (P18) had only recently changed her *hukou*. She was however too late, so her child had not been assigned to the junior middle school of her preference.

Denial of access of a child to a school on the basis of (urban or rural) status conflicts with the international prohibition of discrimination:

“The exercise of Covenant rights should not be conditional on, or determined by, a person’s current or former place of residence; e.g. whether an individual lives or is registered in an urban or a rural area.” (UN Committee on ESC Rights, General Comment No. 20 on Non-discrimination in economic, social and cultural rights (2009), par. 34).

“The prohibition against discrimination is subject to neither progressive realization nor the availability of resources” (UN Committee on ESC Rights, General Comment No. 13 on The Right to Education (1999), par. 31).

“The Committee remains concerned that these migrant workers, particularly those who lack household registration, continue to be de facto discriminated against in (...) education... Calls upon the State party to strengthen its efforts to abolish hukou” (UN Committee on ESC Rights, Concluding Observations on 2<sup>nd</sup> periodic report China (2014), par. 15-16).

“The Committee recommends that the State party continues to strengthen programmes and policies to ensure the accessibility of quality education for all children in mainland China particularly children of migrant workers.” (UN Committee on the Rights of the Child, Concluding Observations on 3<sup>rd</sup> and 4<sup>th</sup> periodic report China (2013), par. 76).

“The denial of migrant children’s right to education because they do not possess the required permits openly conflicts with the Convention.” (Report of UN Special Rapporteur on the Right to Education, Mission to China (2003), par. 7).

**Table 7. The prohibition of discrimination**

## Conclusion

Historically, access to education of migrant children to urban schools was first discouraged and later made financially more burdensome. Today, it is formally required that the local government provides migrant children with “equal conditions for receiving compulsory education” (Article 12, CEL 2006). Access to education remains however determined by the household registration (*hukou*). This household registration functions as a means of social exclusion and systemic discrimination

(Chunli, 2006), as a consequence of which urban and rural children have differential access to (quality) education.

The policy of allocating certain schools as ‘schools for children coming from rural-urban migrant households’ seems problematic, and not to comply with the requirement of “equal conditions” provided in the CEL 2006. Since migrant children can only access allocated schools for free, and the number of allocated schools is very limited compared to the overall number of schools, their freedom of choosing a school is considerably restricted. Moreover, the quality of such allocated schools is generally less good, since no ‘top’ schools are allocated by the local government. Finally, such a segregated system works stigmatizing and contributes to an inferiority complex.

In research, most attention has – rightly – been paid to policies regarding the access of rural-urban migrant children to the compulsory education system in cities. However, various challenges appear similar for urban and migrant children alike: parents with money and/or *guanxi* can afford to pay the school selection fees, and thus have their children admitted to a ‘better’ school – be it a school outside their enrolment area (for urban children) or a non-allocated school (for migrant children). Also within the urban population, there thus exists an inequality as regards the access to high quality schools, based on financial resources and personal connections. In general, many things happen under the radar and in contravention of explicit laws and policies. There is also a lot of ‘flexibility’, for instance in the amount of the school selection fee. This creates socio-economic as well as cultural disparities and insecurity.

In general, all these disparities – between urban and migrant children, between poor and rich children, between children who happen to live in an enrolment area with ‘good’ schools and others, between children with well-networked parents and others – raise questions in relation to the ‘balanced education’ that is being advocated by the Central Government since 2010 and aims to distribute educational resources more evenly (see 1.1.4).

### 3.1.4. Transition from primary to junior middle school

#### 3.1.4.1. For urban children

This research has paid particular attention to the transition from primary to junior middle school, given the relative absence of research on that matter (see 1.3.2). After primary school, urban children are allowed to go to a junior middle school based on their household registration (*hukou*) and the assignment by the local education commission. Every primary school has one or more ‘assigned’ junior middle schools where children can continue their study. In addition, there are a few top junior middle schools, which are not assigned, but have quota for admission. Certain primary schools are offered such quota, primarily based on the number of

local urban pupils and historical reasons (having had quota in previous years). Other primary schools do not have such quota. This explains why schools with quota are more demanding (and more in demand) than non-quota schools.

To enter into a top junior middle school on the basis of the quota of their primary school, pupils have to pass a competitive exam. For instance, the primary school of the son of P9 had a quota of twelve pupils, who would be allowed to enter into a top junior middle school. The son of P9 came out as one of the best twelve pupils in the exam, and could thus enter this top school.

If pupils do not fall within the quota of their primary school, even if they pass the exam and are highly ranked, they have to pay a (legally prohibited) school selection fee to go to a top junior middle school. Even then, it is still competitive to enter into such a top school by paying the school selection fee because many parents are willing to pay for their children, and the intake capacity of these schools is limited. An urban mother (P2) said that she hoped her child could enter into a good junior middle school: "I try to get her into [Middle School D]. After all, it is a famous school. I prepared an extra fee of thirty thousand, but the school did not take it... The school said it is not sure of the number of students to be assigned yet". The last phrase refers to the fact that the local government puts a maximum on the number of students that every school can accept.<sup>98</sup>

#### 3.1.4.2. For migrant children

For migrant children, the access to junior middle school is even more challenging. An education official (O6) explained the problem as follows: "Considering the urban children's demand, migrant students will not be enrolled into the most centrally located middle schools. ... It is more difficult for migrant students to be admitted into middle school because there are merely over 20 middle schools in the district." This points to the discriminatory treatment of migrant children compared to urban children in relation to access to junior middle schools. In the Shapingba District, the number of allocated junior middle schools (four) is smaller than the number of allocated primary schools (nine). Moreover, whereas the latter are spread across both densely populated areas and suburban areas, the former are all located in suburban areas, far away from the city centre. This impedes access for migrant children to the junior middle schools that they are "supposed to go to". A mother based the choice for a non-allocated middle school for her daughter on such considerations of distance and transport: "If she would attend [allocated Middle School A], which is far from my home, she would need to transfer to another bus." Another example is allocated Middle School E, which is located at more than 20 minutes by car from the district centre. Moreover, the school is not easily accessible by bus, since there is quite a distance to walk through the narrow and ascending

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<sup>98</sup> Article 23, The Standing Committee of National Congress of Chongqing, Regulation of Compulsory Education of Chongqing Municipality, 25 March 2011.

road from the bus stop to the school. When visiting this school, it gave a feeling of exclusion.

Reality is more complex, however. On the one hand, some non-allocated junior middle schools, which are non-key schools and perceived as low quality schools, are willing to accept some 'good' migrant workers' children without the payment of a school selection fee. These schools even go headhunting for good students in primary schools. For example, PO's daughter has good school results in an allocated primary school, and she could go to some non-allocated middle schools without payment. PO is however reluctant to let her daughter go to this kind of junior middle school: "She can go to [non-allocated Middle School B] ... without the need to pay. And to [non-allocated Middle School C]. But teachers often tell me that sending my daughter to [School C] is the same as pushing her into her grave." Why is Middle School C perceived as 'a grave'? It is considered that such a low quality school cannot guarantee a good future for children. It is noteworthy that the caution came from the teachers of the primary school, who are more familiar with the educational reality than the parents. The teachers used the term 'grave' to emphasize that good students do not go to this kind of school and to encourage pupils to study hard in order to enter into a 'good' school. Nevertheless, the consequence is that students who have to go to this kind of school, will consider themselves as inferior. Given that most migrant workers' children end up going to this level (or lower level) of schools, they may regard their social status (of being a migrant) as a main reason for 'being pushed into their grave'.

On the other hand, some allocated primary schools are assigned a few quotas for pupils to enter into the top junior middle schools. For example, allocated Primary School A receives ten quotas, which allows ten of its pupils to enter into Middle School D through the competitive exam. In this case, it is possible that some outstanding migrant workers' children enter into this middle school. This is what many migrant workers expect from their children, leading to disappointment when the latter fail to be admitted to a top junior middle school. As the Chinese senior researcher relates:

Migrant mother PO longed for her daughter's success of being [admitted] in Middle School D. When we interviewed her, she gave me the impression that she was proud of her daughter because of her daughter's "excellent marks", and she was also confident that her daughter might pass the exam. She said: "I've always wanted to send her to [School D]. She would like to go there too". However, one year after the interview, when I met her coincidentally on the street, and I asked her which middle school her daughter had entered into, she reluctantly told me that her daughter entered into Middle School B. She then looked uncomfortable and was moving away from me while I

was trying to ask more questions. Since I understood her sorrow for her daughter's failure of entering into Middle School D, I did not insist. Finally, those migrant pupils who want to enter into a 'key' middle school but did not perform well enough on the exam to fall within the quota, may pay the school selection fee – which depends on the rank of the school. However, some migrant parents are not able to pay for their children to go to a better junior middle school. A migrant mother and father were worried about their situation, and pointed to the very high level of fees required:

P4-F: We expected to send our child to [Middle School D], but with no *hukou* here, and a large amount of extra fees required, she cannot go, although [School D] is very close to where we live.

Interviewer: Why [can't she] go to [School D]?

P4-F: An amount of 38 thousand extra fees are required.

P4-M: If business is not very good, it could be my yearly income.

### 3.1.4.3. Conclusion

Comparing urban and migrant children, the transition from primary school to junior middle school is not easy for either of them. At the time of the fieldwork, all of them had to face the quotas, extra fees and competitive exams. Things are supposed to change with the new policies adopted though (see 3.4.1). The major difference troubling migrant children is their *hukou*. Since migrant children do not have their household registration in the urban areas where they live, they face more restrictions in school choice. This may exclude migrant children from mainstream society, and marginalize them even more.

## 3.2. GOING TO SCHOOL

### 3.2.1. Evaluating the school's quality

In 2009, UNICEF initiated the concept of 'child-friendly school' in order to achieve quality education. Its main concern is "the needs of the child as a whole, not just on the 'school bits' that educators traditionally feel responsible for" (UNICEF, 2009, pp. 2-3). What are the needs of migrant children and their parents in the urban schools of Chongqing? Their answers to questions regarding the evaluation of their schools were not always straightforward though.

During the interviews, pupils or parents did not complain about the capacity of the teachers. This does not necessarily mean, however, that teacher capacity is satisfactory. The research participants might hesitate to talk about this to the researchers, because they see them as observers rather than friends. As was discussed in the methodological section (see 2.5.4), in general, Chinese people hesitate to criticize in public (the Cultural Revolution era was an exemption). In this

context, the following quote of a migrant mother on the quality of education is understandable: "I think the teaching quality is ok, teachers are responsible and my child is obedient to her teacher. It's good to be strict" (P15). The mother does not directly evaluate the teachers' capacity, she just mentions other factors to avoid a direct evaluation. Another migrant father of a junior-middle-school pupil answered our question about the quality of education: "Just that I hope the teachers really care about our child's study, that's my only expectation. I would be so grateful to it" (P23). These are typical examples of the Chinese attitude towards evaluation. Another phenomenon is that the pupils' appreciation of the quality of education appeared to be more positive than the parents' one. During a focus group interview, migrant workers' children expressed their opinion on the educational quality of their school as follows:

FG4-1: "The environment of the school is good. The education quality here is good. And teachers here won't practice physical punishment to students."

FG4-3; "Teachers in this school are nice. The environment is great. There are flowers all year round. We like it here very much."

Their positive evaluation could to some extent be explained by their framework of reference: compared to rural schools, where migrant children may have gone before moving to the city, allocated schools in the city are usually an improvement (see also 3.3.1.2). The abovementioned cultural factor (of not criticizing in public) is also at play, however. This is evident from the fact that urban pupils of a key primary school also gave much praise to their school:

FG3-1: "I am pleased with the instructors of the schools here. Teachers are gentle and nice. And they have higher degrees. We are taught well in the school. I am happy to be here."

FG3-4: "Our teachers, for instance our class adviser Pang, create their own teaching method and have their own teaching philosophy. Each class has its unique characteristics. The school as a whole has its unique characteristics. This makes the school special. Besides, the [green environment] and teaching facilities are very good here."

Interestingly, when we asked if there was an area in which the school could improve, all urban pupils were silent for more than thirty seconds, and had nothing to say. Likewise, when we raised the same question to the migrant workers' children, they were silent for about fifty seconds, and tended to say nothing. The question arises whether this situation reflects the cultural context or the pupils' perception that their school has nothing to improve. The main factor seems to be the cultural context, in that they hesitate to criticize in public, especially face to face.



### 3.2.2. Children's well-being at school

#### 3.2.2.1. School performance and competition

It is important to evaluate a school on how it caters to a child's well-being in order to support learning (UNICEF, 2009, p. 15). In China, however, school performance (mainly school marks) is almost the sole standard to assess a student, and it is also a key factor in determining in which type of school children can be enrolled. In the words of a parent: "Children with good marks are always appreciated, wherever they go" (FG1-6). This is especially so because "[t]he grades of the students determine the evaluation, performance and income of the teacher" (P13). Having good marks will thus often be a key determinant for children's well-being at school.

School performance is so important that it seriously upsets parents and children. The period of the fieldwork was the time that children were intensively preparing their final exam for entering into junior and senior middle school. Both the urban and migrant workers' children were anxious about their performance (and therefore reluctant to participate in the research, see 2.3.2). A migrant father (FG1-5) told us that his son studied hard and went to bed after eleven o'clock or even after midnight because he must finish the teacher's assignments: "I told him to go to bed, but he said he wasn't ready yet, he hadn't caught up with the others yet. He spent a lot of time studying English, memorize words, because the teacher would do a dictation every day. He didn't want to lag behind."

Given the importance of school marks in determining school transition (see 3.1.4), the most crucial aspect in evaluating a school is whether that school can improve students' scores. For instance, a migrant mother (P1) was quite satisfied with the non-allocated school of her son, because the school could improve his scores. Therefore, schools generally pay much attention to pupils' marks, and even create a competitive atmosphere, for example by drawing up a monthly rank after exams to stimulate pupils' motivation. Some schools establish a special class, called 'advanced class', especially for outstanding pupils. The daughter of migrant worker P4-M could be enrolled in this sort of class, which comprises the forty most promising pupils of a grade, who are well disciplined. "It has very strict rules for the children. The students are paid extra attention. They even use different textbooks," P4-M said. This establishment of separate classes seems to go against the prohibition of key classes enshrined in Article 22 of the CEL 2006.

In China, competition among children in school is thus quite common since there are many reasons that justify that children compete with their peers: they must perform better than others in order to attract more care from their teachers; they must behave better in order to be appointed (or elected) as a class leader which gives them more confidence; ultimately, they must compete for a higher score, better than their classmates, in order to enter into a good school (because of the quota system, see 3.1.4). An urban father (P9) described the situation as follows:

In China, there are so many people, so you must compete, you must fight for limited resources, including the limited job opportunities. It's always like that, everybody wants to belong to the top, only the elite can achieve.

At various levels, however, some 'counter-reactions' against this competitive sphere are noticeable. First, some schools are trying to weaken the importance attached to high marks, in order to improve the quality of education (see also Lou, 2010). For instance, a high quality non-allocated primary school was promoting the "Four quotients education classroom" (*sishang jiaoyu ketang*). This means that the school develops the pupils' intelligence quotient (IQ), emotional quotient (EQ), creativity quotient (CQ) and adversity quotient (AQ) in the process of education. Through this 4Q process, students are able to receive a more holistic quality education instead of only focusing on marks.<sup>99</sup> Second, although students are facing competition, teachers also encourage solidarity. For instance, an allocated primary school used an approach of "one student helps one student". Some parents (e.g. P13) also proposed to move away from the exam-oriented education, which already starts in kindergarten and pays little attention to the development of children's imagination. Other parents purposefully did not send their child to a key school because it is too competitive. If a pupil is not outstanding, he or she will be less confident. To avoid this situation, some parents preferred to send their child to a less reputed school. Finally, some pupils think that they live in an unpromising environment, which decreases their motivation to study. A migrant father (FG1-6) told us that his son was worried about his future. His son said: "When I go to university, I want to become a graduate student, but afterwards, what will I do? I might study well, but afterwards, in society, it won't necessarily give me a bright future." Some parents were also worried that their children did not consider schooling useful because they had seen some successful people without education.

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<sup>99</sup> This reform may have had some effect, because in the focus group discussion with the pupils of that school (FG 3), they answered the questions very fluently. In comparison, pupils in another group interview (FG 4) were much more introvert and reticent. For instance, when asked: "What was the requirement to attend this school? How can you get into this school?", all of them just responded: "Nothing", whispering.

The Convention on the Rights of the Child defines “the development of the child’s personality, talents and mental physical abilities to their fullest potential” as the primary aim of education (Article 29(1)(a)). Children should be protected against all forms of physical or mental violence (Article 19); school discipline should be administered in a manner consistent with the child’s dignity (Article 28(2)). The question is thus whether compulsory education as practiced in China enables children to fully develop their potential.

“It should be emphasized that the type of teaching that is focused primarily on accumulation of knowledge, prompting competition and leading to an excessive burden of work on the children, may seriously hamper the harmonious development of the child to the fullest potential of his or her abilities and talents.” (UN Committee on the Rights of The Child, General Comment No. 1 on the Aims of Education (2001), par. 12)

**Table 8. Competition and the aim of education**

### 3.2.2.2. Migrant children’s experiences in school

According to Chunli (2006, p. 64), “[m]igrant children in China currently have characteristics different from those of urban children and form a specific group with special needs which calls for differential treatment”. In the view of an NGO working with migrant children in Chongqing (O4), key problems are: “firstly, migrant children usually have a sense of inferiority; secondly, those children lack basic skills to adapt to city life; thirdly, they receive little support from their families.”<sup>100</sup> For instance, as regards basic skills, some migrant children do not know how to use public transport. Given the competitive context described above, going to school in China seems intimately related with pressure on children. However, migrant workers’ children may feel pressure because of other reasons that have nothing to do with their marks. First of all, migrant children have to adapt to a new environment, and deal with their parents’ expectations and possibly homesickness. Like a migrant father (FG1) said: “Moving to another environment implies really big changes.” If it does not go well, the parents and child will become stressed. A migrant mother (P19) suffered from this situation:

I have been under enormous pressure since my son’s mid-term examination. I think that my second son is suffering from a psychological fall, which puts a huge pressure on me. After the mid-term examination, he cried twice before me. Because he is a migrant student, he bears psychological burdens.

Secondly, since the first day the migrant worker’s child enters into an allocated primary school, he knows that not all urban schools’ doors are open for him, and that it will not be easy to go to a good junior middle school without tremendous effort and/or money. The child moreover does not know how long he can study in the school because of his parents’ unstable job. Since the allocated school has fewer

<sup>100</sup> The lack of support from their families is treated below in the section ‘lacking time’ (see 3.2.3).

or no quotas for top schools, the migrant worker's child cannot expect to enter into a top school since he has no local *hukou*. This might put the child into the following situation: on the one hand, he has to be more competitive than in other schools to have a better result in order to be accepted by a junior middle school; on the other hand, although his parents are normally not able to pay the school selection fee, they would do so under the pressure of adapting to a foreign place where they do not really belong.

Thirdly, migrant children are often under psychological pressure of being excluded, for various reasons (Kan, 2004, p. 108). For instance, a migrant worker's son (C1) had to transfer to allocated Primary School A after he was rejected by a non-allocated school (see 3.1.3). His mother (P1) related:

It exerted a great influence both on the child and on my husband and me. We felt that migrant children could not go on with their study here and could not attend a good school...He (her son) was deeply impressed by this. He said: "My scores are not bad, 100 points and 99 points. But I can't find a way to study here. I can only choose to study in those affordable schools that do not charge extra money. Anyway I will attend whichever school that accepts me."

Also, since migrant workers "mainly occupy jobs that local residents disdain" (Keung Wong, Li, & Song, 2007, p. 34), some of their children might feel inferior to others because their parents are doing this sort of work. For instance, P19, who works as a street cleaner, is worried that her son suffers from this:

My child has been in a bad mood recently ... for this reason. As a rural-urban migrant child, he felt stressed at first and second grade in primary school, while he bears more pressure now and is afraid of being looked down upon by others. His classmates know I'm a sanitation worker, so they purposefully drop litter as they walk along. I never tell my child, for I'm afraid that it will make him sad.

This thing is hard to bear for parents, let alone for a child.

Moreover, because migrant children lived in the countryside before they came to the city, they tend to pay little attention to hygiene, being slovenly (Wenbin, 2009). This may make their urban classmates despise them, so that migrant workers' children often feel inferior. The pupils in focus group 3 were urban children and top students in their class. According to one pupil, "children from the rural are of less caliber (quality) than those from the city" (FG3-5). Other pupils specified this conclusion, explaining that quality mainly meant manners, for instance, using bad language (swearing) or behaving badly. Others expressed a more nuanced opinion, namely that "children growing up in the rural are more simple and honest, and healthier, whereas children growing up in the city are more dependent on technology. Both have their own strengths and weaknesses" (FG3-3).

In urban schools, rural-urban migrant pupils may sometimes have negative experiences with their teachers. Pupils from different provinces or regions have different textbooks. Consequently, they may have more or less difficulty to adapt to the learning process when they transfer to another school. When a rural child switches to an urban school, he has to adapt to new textbooks, new subjects (for instance, English), and new didactics. In this case, his teacher should invest extra time and effort to help him adapt to the new learning environment (Wenbin, 2009). However, if a teacher is not willing to do this extra effort, the rural child and even his parents may be treated unpleasantly. Migrant mother P19 told us her experience:

His former teacher reported that my child is not active, but he used to like sports. I once asked my son's head teacher about his performance in school, yet his head teacher always answered with "I don't know", eyeing me coolly, and let me go to ask his classmates. I always feel that (my son) is a naughty boy, and he just entered a new environment at that time, so maybe he cannot accommodate to the changed conditions. I requested his head teacher to leave me a contact, but he said that he had no cell phone, asking me to phone his office. From now on, I don't call on my son's head teacher anymore.

Fortunately, not every teacher treats migrant workers' children in a negative way. During the interview, some pupils and parents gave a good evaluation of a teacher (O8), praising her with the words "responsible" and "care for the pupils". In the teacher's opinion, "[k]ids from the countryside are rather simple and sincere".

Another element is that rural-urban migrant children going to allocated schools in the Shapingba District are supplied every day with a small carton of free milk. This was initiated by the Chongqing Education Commission and is financed by the Shapingba District Government. This "Egg and Milk Project" (*dannai gongcheng*) aims to improve the nutrition of pupils.<sup>101</sup> Some migrant parents are pleased with this special offer: "I think I am already very happy with the school... I think it was from last year, or the year before, that the government provided financial support to supply free milk to the students from migrant families" (P12). This policy has only benefited migrant children so far. Although we did not hear any complaint from urban pupils, the question arises: "Is this a benefit or stigmatization?" On the one hand, rural-urban pupils may be considered as a vulnerable group, which justifies their entitlement to free milk. On the other, the policy divides the pupils into two groups, which emphasizes the differences between two social statuses.

In fact, the migrant pupil does not like to be considered as 'special'. A migrant mother (P19) for instance said: "I came to the city with the hope that my son would

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<sup>101</sup> Chongqing Municipal Government, Opinion on In-Depth Promotion of Balanced Development of Compulsory Education and the Improvement of Educational Equality, 9 April 2012. This project reflects some of intrinsic values of child-friendly school models for developing quality in the education, (UNICEF, 2009, p. 5).

receive better education, but urban residents never accept us, and teachers' treatments differ between urban students and rural students. This is what makes me feel uncomfortable. They divide us into two groups". A teacher in an allocated primary school (O8) gave us her view: "I think they shouldn't establish schools especially for those [migrant] children, this is one of the reasons for the students' inferiority complex. The parents say: although it is intangible, the children feel the difference". In this sense, to realize equality of education, the school should not divide the pupils in two groups or label rural-urban migrant children as such. The director of an allocated primary school (B) told us that his school "addresses the principle of 'four similarities', which mainly refers to treating and charging students from rural areas in the same way as those from cities". The school aims to be a "sunshine school", which implies showing the same concern and affection for rural-urban migrant workers' children as for urban children, instead of labeling the former.

In conclusion, migrant workers' children in urban schools face many challenges relating to social, economic and cultural barriers, which they may not have in their hometown. In the meantime, they have to study hard in order to obtain high scores. Consequently, migrant children are often under more pressure than urban children.

### 3.2.3. The role of parents in education

According to Chinese tradition, children's education is important for a family. The Confucianists advocated four steps for a successful life of a man: "Those who wished to bring order to their states would first regulate their families. Those who wished to regulate their families would first cultivate their personal lives. Those who wished to cultivate their personal lives would first rectify their minds. Those who wished to rectify their minds would first make their will sincere" (Chan, 1969, p. 86). To cultivate one's personal life, the man must receive good education from his parents and teachers. Parents are supposed to play a significant role in children's education. Today, educators have suggested that increased parental involvement can improve student achievement (Drummond & Stipek, 2004). Whether the parents are urban or rural, they have a strong wish to give their children a good education in the city. Some rural-urban parents even come especially to the city so that their children can receive better education (see e.g. P19 above). However, compared with urban parents, migrant parents may face particular difficulties, which may also have an influence on their children.

#### **Lacking of time**

It appeared very difficult for migrant workers to combine making a living and taking care of the child. Most of the migrant parents who participated in the research were small storekeepers, newspaper deliverers, vendors of clothes or poultry, sanitation workers, hairdressers, supermarket staff or housemaids, or carried out other low-

tech work. Since they are so busy with earning their living, they hardly have time to take care of their children's daily life and study. The daughter of a migrant mother who is a cleaner in a university has to take care of herself every day from morning to evening. The mother (P11) told us: "Actually we have done little for them [her children]. We are always busy. So usually my children do their homework themselves without our help or supervision". Instead, her 11-year-old daughter has to cook for her parents in the evening.

It is true that urban parents are also quite busy and may lack time to spend on their children's education. However, since rural-urban migrant parents' work schedules are in general more conflictive with their children's schedules, they have less time than urban parents to be with their children and take care of them.

### **Division of roles between parents and teachers**

In urban schools, the school teacher assigns some homework every day to the pupils, requiring the parent's signature on the pupil's assignment. In this case, the rural-urban migrant parents have to cooperate with the teacher in order to improve the pupil's educational achievement. However, given their limited capacity, many migrant parents have to transfer this role to the teacher. One parent (P8) said: "For parents like us who are not well educated, we have to depend fully on teachers." Another parent (P19) confirmed: "I am illiterate, so I always turn to my son's teacher for help. His teacher is very nice, and he shows me a right and clear way every time I ask help from him". Therefore, sometimes the teacher has taken over the role from the parents. Consequently, the pupil may be less motivated without his parents' involvement, and the teacher may become overburdened. Especially when the teacher has around forty to fifty pupils to supervise, it results impossible to give every pupil special care.

The research shows that a lot of migrant parents mostly rely on the teacher to take care of their children, and that children may then be more inclined to accept the teacher's education than their parents'. P19's son likes his teacher very much, his mother said: "Our son believes in O8. My son often puts this teacher in the first place and me in the second place. He bought flowers for his teacher as a present on Teacher's Day". Although some migrant parents have limited capacity to directly play a role in their children's schooling, they support their children in other ways, for instance, by sending them to extra courses from their teachers.

### **Parents participating in school life**

The main avenue of parent participation in school life is the parents committee, which is quite common in primary and junior middle schools. The parents committee is an autonomous organization, which links the school, the pupils and the parents. It represents all parents and is involved in the democratic management of the school,

supporting and monitoring the school in education.<sup>102</sup> Some parents are very active and even regularly organize events, such as an urban father (P13) who chairs the parents committee at a key middle school and is responsible for the exchange of ideas between parents and the school. He has to inform parents of the school's educational ideas and policies, on the one hand, and tell the school about the opinions and recommendations of parents, on the other. In addition, he communicates with the parents and pupils by conducting knowledge contests, games, sports and so on. However, in practice, he and the parents have little contact with the school, "since the school does not value the committee. Therefore, we parents always carry out our activities ourselves, without the help of the school" (P13).

In allocated schools, some parents are also involved in school affairs by being a member of the parents committee, and the school organizes such meetings to communicate with parents. "The parents are invited to attend a meeting with the director of the school. They have so many interactions with the parents on how to educate and communicate with our children. There are plenty of meetings like this" (P12). Although migrant parents are very busy, they would like to participate in the parents meeting. However, if their child's school performance is not satisfactory, his parents are reluctant to attend the parents meeting, as the following mother (P19) said: "I didn't dare to attend the parent-teacher meeting before, for my son's poor achievements and my indecent work. I was criticized by my son's teacher every time I went to the parent-teacher meeting, which made me afraid of communicating with teachers." Moreover, to a certain extent the parents meeting is more likely to be an occasion where the teacher informs the parents about certain issues, instead of being a real space of participation: "We go there and listen to what the teachers ask us to do" (P21).

### **Raising children**

Families pay much attention to raising their child since most families only have one child.<sup>103</sup> Consequently, they aim for perfection and have great expectations of this one child. As a Chinese mother, who lived in Shanghai, concluded: "Being the only

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<sup>102</sup> Term definition: Parents Committee.

[http://guoqing.china.com.cn/2012-03/14/content\\_24892129.htm](http://guoqing.china.com.cn/2012-03/14/content_24892129.htm). Last access on 5 February 2015.

<sup>103</sup> Article 18 of the Population and Family Planning Law of the People's Republic of China provides: "The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple". In January 2014, the Central Committee of the Communist Party of China launched the official document, "Decision on Some Major Issues Concerning Comprehensively Deepening the Reform", 12 November 2013, of which Article 46 indicates: "While persisting in the basic national policy of family planning, we will initiate a policy that allows married couples to have two children if one of the parents is a single child, and gradually adjust and improve the birth policy to promote balanced population growth in the long run". On 27 December 2015, the Standing Committee of National Congress revised Article 18 of the Population and Family Planning Law, which provides now: "The State encourages two children per couple."



child in a family, today's babies are really raised with gold".<sup>104</sup> Our research showed that both urban and migrant parents care about their children and eagerly look for good education for them. Some urban parents motivated their child by promising a nice trip (e.g. FG3-2).

When their children are becoming rebellious, parents find raising children very hard. To solve this problem, one migrant mother (P10), who runs a barbershop, was very worried about her rebellious son, and enquired the interviewers how to deal with this problem, because she thinks "whichever school a child goes to, he has to have some manners. If a child cannot be disciplined by his parents, how will a teacher be able to manage him?". However, another migrant mother (P12) planned to send her daughter to boarding school because "if she is in the boarding school, she will have to listen to whatever the teachers say, and she will have a good environment there". In general, what troubles rural-urban migrant parents when raising their children is money. They often sacrifice a lot to give their children a good school education. As a consequence, they can no longer spend much money on raising their children. In the words of a migrant father (P6): "[F]or us coming from the countryside, financial difficulties are the most severe [difficulty]".

Although some urban parents also face challenges relating to raising their child(ren), their main concern is different from migrant parents. Like an urban father (P9) said: "I think the most important for me is [for my child] to be happy". Likewise, an urban mother (P14) tries to create a relaxed and free environment for her children from since they were little: "I try to provide whatever I can to support them developing their interests. I also pay attention to their reading, and playing games". In this sense, urban parents are seeking to offer 'more' to their children, e.g. by broadening their horizons via travels abroad (FG3), whereas rural-urban migrant parents are often struggling to realize their children's basic needs. In focus group FG4, with rural-urban migrant workers' children, no one had traveled abroad.

### **Parental duties**

China's Constitution provides that the right to receive education is a duty as well as a right (Article 46). It is deemed that everyone has to receive education, and parents should enrol their school-age children in school to receive compulsory education.<sup>105</sup> In this sense, Chinese parents have gotten used to being a duty bearer in relation to their children's education.

To fulfill their parental duties, parents make a lot of effort to find a 'good' school for their children. However, a 'good' school does not necessarily mean it is an appropriate school for their children. According to Article 13, 3 ICESCR, parents have the responsibility to choose an appropriate school for their children. In this article

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<sup>104</sup> Li Ping, How Do You Raise a Child in Today's China? 1 December 2004, [http://www.chinadaily.com.cn/english/doc/2004-12/01/content\\_396352.htm](http://www.chinadaily.com.cn/english/doc/2004-12/01/content_396352.htm). Last access on 5 February 2015.

<sup>105</sup> Article 11 CEL 2006.

“the responsibilities of the parents are taken as the starting point” (Glenn & De Groof, 2002, p. 95). It can be understood that parents should find a school which best suits their children’s needs. Unfortunately, given the policy of the nearby principle and the system of allocated schools for rural-urban migrant workers’ children, parents cannot really fulfill their duties in relation to their children’s education. All they can do is sending their children to a school (if they do not pay (illegal) school selection fees).

### **Left behind children**

Some migrant parents leave their children in the rural area with the grandparents. Later on, they have to face the consequences of this decision. A father (FG1-5) desperately said: “[O]ur parents are of course much older. Their generation didn’t receive much education, so they can only feed and dress them... and when I went back, our boy was very unruly.” However, in certain circumstances, parents have no choice but to leave their children behind:

Nobody wants to leave their children at home, wherever one goes.

But the truth is it is sometimes so hard to find the child a school to go to in the cities where we work. Some of us had no choice but to leave the children at home. We have to become migrant workers to earn money, to support our children’s future. But we just cannot provide better lives for the children with us in the city. (P23-F)

Migrant worker’s children, once they live and study in the city, generally do not want to return to the rural area – despite the difficulties they encounter in the city. One reason is that “the education is better in the city” (FG4-4). Because parents know their children’s opinions and needs, they work hard in the city to support their children’s study.

### **3.2.4. Additional financial burdens**

Although education is in principle free – at least for migrant children going to an allocated school, and for urban children going to a school in their enrolment area – parents are often faced with additional costs. This is a challenge for poor migrant and urban households alike, although proportionally, there are more migrant households facing economic constraints. For example, when the school organizes certain activities, it is possible that parents have to pay for these. Therefore, some parents are reluctant to allow their children to participate. A migrant pupil’s mother (P0) expressed her concern as follows: “[There are] so many migrant workers’ children from families whose conditions are poor. ... Although the school encourages all the children to participate [in its activities], the conditions of some families don’t allow it.”

In addition to participation in school activities, many parents have to pay some after-school courses for their children in order to improve their school performance. In

general, it is prohibited for the school teacher to give after-school courses. But the competitive educational situation motivates parents to do so anyway, whereas the teacher can earn some side money. Under these circumstances, the school teacher sometimes secretly organizes private courses for his pupils. A migrant mother testifies to the great financial burden this imposes on her household:

P8: The children are asked to go to the teacher's home to take more after school classes. So [the teacher] earns a lot every month. When the teacher asks, as a parent, I have no choice but to cooperate.

Interviewer: But the teacher can only secretly do this.

P8: Of course, they have to keep it a secret. But it is very common. For families like ours, all we ever wanted is the best for our child, so we have no choice but to bear it. We have invested almost everything we earned in her study. God knows how much money has gone for her to go to school.

Finally, because of the prohibition of school selection fees in public schools, some non-government-run schools have emerged in response to the need on the market (see 3.4.1). However, to enter such a school is even too expensive for many urban parents, let alone that migrant parents would be able to afford this. If parents send their child to this sort of school, they will definitely face heavy additional financial burdens.

### 3.3. LOCALIZING HUMAN RIGHTS

#### 3.3.1. Naming, blaming, claiming

What is the relevance of human rights for, particularly migrant, parents and children in relation to the compulsory education system in Chongqing? Since no explicit human rights actions or disputes were identified within the sample, the analysis focuses on whether, how and why a transformation took place from an unperceived injurious experience to a (human rights) claim. This corresponds to Track 1, "From transgression to human rights claims", in the localization course (Oré Aguilar, 2011, p. 131) (see also 1.2.1).

It must be emphasized that the explanatory analysis hereinafter is tentative, to be tested and refined on the basis of long-term follow-up research.<sup>106</sup> Where relevant, the perceptions from urban and migrant research participants are analyzed separately.

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<sup>106</sup> It is only possible to identify those instances of naming, blaming and claiming that have been externalized/expressed to the interviewers. It may be, for instance, that parents or children perceived certain issues as injurious or unjust, but that they refrained from admitting so in the context of the interview.

### 3.3.1.1. Cross-cutting contextual factors

Certain political and cultural contextual factors were common to all research participants. No variation can thus be explained on the basis of these elements, but they may help to explain why overall, there was some general rights awareness, but limited use of human rights language by parents and children in relation to injurious education-related experiences in Chongqing. Some of these factors also played a role in restricting the 'openness' of the participants in the research, such as the absence of a culture of publicly expressing criticism and the restrictive political climate (see 2.5.4).

The political context co-determines the potential of human rights claims and actions to emerge. As noted by Oré Aguilar (2011, p. 117),

[i]n human rights claims, the degree of 'political space' is measured not only by the existence of an ongoing armed or violent conflict ..., but also by the existence and level of functioning of institutional (civilian) governance structures, decision-making channels, freedom of expression, rule of law and open access to information.

In China, especially the latter elements of freedom of expression, rule of law and access to information seem problematic (see 2.5.4). However, the overall limited political space cannot be the only explanatory factor, because in other places and cases in China, human rights mobilization has significantly increased in the last decades: "Whereas before 1989 human rights was regarded as a foreign and sensitive topic, addressed, if at all, by marginalized dissidents, it is today a language understood and evoked in many everyday social and legal practices and struggles by diverse groups of people" (Svensson, 2012, p. 686).

Another shared contextual factor is that no organizations or individuals working on education and migration from a human rights perspective, or on human rights in general, were identified in Chongqing. As a consequence, there were no "translators" who could translate problems in human rights language (compare with Liu et al. (2009)). The exposure to human rights language of parents and children participating in the research came mainly through the media (television, newspapers, internet) (see 3.3.2). Therefore, on the basis of this case study, the hypothesis formulated by De Feyter (2007, p. 89) that "in countries where the space for political action is very limited, intervention by external actors is vital", can neither be confirmed nor rejected, since no external actors intervened.

A possible explanatory cultural factor for the limited use of human rights language and actions concerns the argument that the 'naming, blaming and claiming' process, necessary to arrive at the formulation of a (human rights) claim, goes against Confucian values and perspectives: "One of the most pervasive worries about Confucianism is that the practice of claiming one's rights is conflictual. That is, it both reflects a breakdown in social harmony and is a cause of further social strain" (Tiwald, 2012, pp. 249-250). The impact of Confucianism in current Chinese society is

a matter of debate. According to some, “Confucianism is making a comeback ... The Chinese government has started to promote Confucianism very explicitly” (Deklerck et al., 2009, p. 398). As a matter of fact, however, it has also been argued that “[t]he People’s Republic of China ... is hardly a Confucian society any longer” (Svensson, 2000, p. 202).

Finally, the impact of *guanxi* must be noted, both as regards access to the field (see 2.4) and in the various stages of the transformation process, as elaborated below. The term *guanxi* literally means ‘relationships’ or ‘connections’, but is more and more used to indicate “the networks of personal connections (*guanxiwang*) which people cultivate and utilize to gain access to resources which may bring them some advantage, and which they might not be able to acquire without such connections” (Stockman, 2000, p. 85). In a similar vein, Zhang has described *guanxi* as “social ties of various strengths that are cultivated and maintained through the continued exchange of favours between different parties to achieve instrumental purposes in Chinese society”.<sup>107</sup> Especially in the current context of increasing capitalism and the market economy, the prevalence and rise or decline of *guanxi* has been the subject of (heated) academic debate (see Guthrie (1998); Yang (2002)).

A rural-urban migrant status negatively impacts on *guanxi*. In comparison to parents with an urban *hukou*, rural-urban migrant workers have less social connections to build on, and fewer resources to nurture existing relationships. In the words of Zhang (2011, p. 582):

As a result of the prolonged rural-urban divide, peasants have limited *guanxi* connections in the city. Few have effective *guanxi* with those who occupy a superior position in the urban hierarchy, such as government officials or public service providers, which is critical, for instance, in getting a legalised urban status and enjoying its related benefits. Even if they have some *guanxi* connections in the city, they have limited economic, social and cultural capital to invest in the maintenance and nurturing of *guanxi*, as cultivating *guanxi* continues to be associated with the exchange of favours and gifts.<sup>108</sup>

Moreover, *guanxi* networks may also lead to abuse, e.g. within employment relations between rural-urban migrant women and their employers in the city (Zhang, 2011, p. 581).

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<sup>107</sup> *Guanxi* cannot be put on a par with the Western construct of ‘social networks’, differing as to “its historical and cultural roots in Confucianism, the overlap of personal networks with instrument networks in *guanxi*, its instrumentality and its emphasis on reciprocity, indebtedness, moral obligation, gratitude and trust” (Zhang, 2011, p. 582).

<sup>108</sup> Reference omitted.

### 3.3.1.2. Naming

#### **Descriptive analysis**

In the answers of migrant parents and children to the question about ‘things that could improve’ in relation to the educational situation, five categories could be distinguished. A first group of parents and children indicated that they were generally happy, that there was not much to be improved. Second, safety issues were sometimes identified as problematic, both as regards traffic (e.g. a student was hit by a car in the access road to the school) and physical integrity (e.g. robbery and bullying of primary school students by middle school students). Infrastructure problems were another category of problems identified, e.g. the state of the school buildings and access roads. A fourth group of answers related to other smaller issues, such as the quality of the meals. All these issues can be considered as not very sensitive from a political point of view.

Finally, although some migrant parents evaluated the policy of allocated schools for migrant workers’ children in the urban area positively, other migrant workers identified the restrictive character of the *hukou* policy as injurious, and explicitly linked this to discrimination and inequality in educational opportunities. P3 stated that “*hukou* shouldn’t be a base for discrimination” (*qishi*), whereas P1 claimed that “we have settled here. Therefore, the government should enable us to enjoy the same treatment as the locals”. P16 said: “I think... if a child has met the score requirement, she should be able to go to [“top” middle schools like F, G and H]. *She is also a Chinese after all*. It is after all the Nine-Year-Compulsory-Education, not going to a university”.<sup>109</sup> FG1-5 agreed that “[o]ur children should have the chance to use their ability to study. Now this *hukou* policy doesn’t give them the full choice”. If migrant parents want to send their child to a non-allocated (and ‘better’) school, they have to pay a – legally prohibited – school selection fee (see 3.1.4.2). P22 expressed his discontent as follows: “It’s unfair that we have to pay extra money in order to make the school accept my child, since those whose *hukou* are registered here need not pay extra money to the school.”

The new policy adopted by the Central Government in January 2014, which reaffirms the prohibition of school-related fees in compulsory education (see 3.4.1), appears at first sight beneficial for migrant workers. The policy implies however that migrant workers are obliged to send their children to a (previously) allocated school, whereas before, migrant workers’ children could enter the school of their choice, be it upon payment of a (serious) fee. In the perception of migrant workers, the policy thus also has a negative impact. P1 relates how a teacher said that “according to the [nearby principle], we are not allowed to take in students who are not locals, as there are no fees for non-natives now”. So the abolition of the school selection fees implies that

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<sup>109</sup> Emphasis added.

migrant children cannot enter non-allocated schools anymore, nor previously allocated schools that may now be 'full'.

Turning to the urban research participants, they seemed in general more satisfied with their life – which is not very surprising. In the words of a well-educated urban mother (P17): “Some people have experienced unjust things and want to get what they deserve by appealing to the government. As for me, I have never experienced such kind of things”. She does indicate that people who experience an injurious experience would take action “by appealing to the government”. As will become obvious, this possibility did not often materialize in this case study.

The experiences perceived as injurious by urban interviewees differed to some extent from those of migrant workers and their children. Frustrations that were shared with migrant interviewees included the quality of meals and the poor equipment and infrastructure of schools. Other problems were not mentioned by migrant workers, such as the huge amount of homework and pressure on children – also mentioned by children themselves (FG5), the fact that there are too many students in one classroom (up to 50 and even 72 students), the lack of good teachers, and (impressions of) corruption. In relation to the latter, a well-educated urban mother (P20) related:

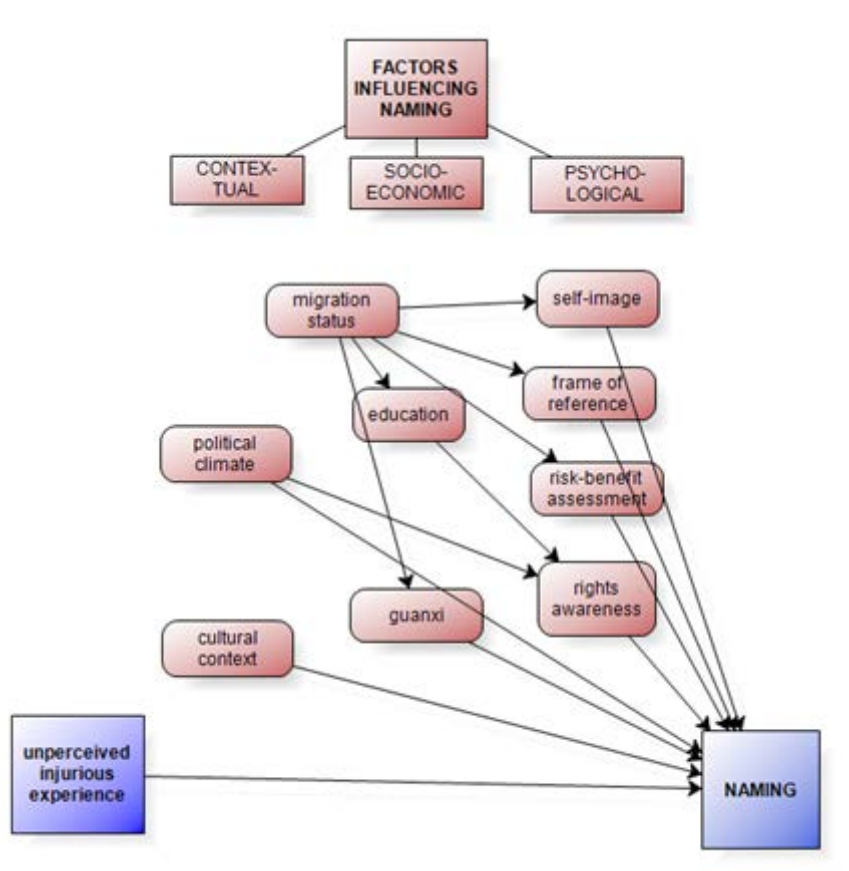
When my son was preparing for middle school last year, and he was finally selected for [Middle School F and Middle School G], on the name list the first and second names were both pupils who were children of their school's teachers. Everybody knew that usually, the marks of these children were not very good, but in the end, they had the best marks...

### **Explanatory analysis**

Which factors seem to influence the transformation from an unperceived injurious experience to a perceived injurious experience ('naming')? It is suggested that this transformation results from an interplay between contextual, socio-economic and socio-psychological factors (see Figure 7). Naming an education-related experience as injurious seems to be related to the frame of reference used, risk assessment, self-image, the presence of *guanxi*, and rights awareness. These aspects often seem directly or indirectly influenced by the migration status of the person concerned.

A first factor influencing the evaluation of experiences is the frame of reference used. Comparing the allocated primary school of her son and her hometown's school, a migrant mother (P19) found that “the teachers there (countryside) are irresponsible” and “it's far away from my home. It takes one hour to go to school, and my son had to climb mountains”. Migrant parents and children may thus genuinely have a more positive appreciation of their child's school, since their framework of reference and standard of comparison is the countryside, where distances to school are larger, and education quality and infrastructure lower than in

– even allocated – urban schools (see also 3.2.1). This finding is in accordance with relative deprivation theory, which states that the relative value may be more important than the absolute value: comparing with what one had in the past (temporal comparisons) and with other relevant, similar persons (social comparisons) may influence whether one perceives a problem as injurious (Coates & Penrod, 1980, p. 657). Such a situation may thus represent “a failure to perceive that one has been injured” (Felstiner et al., 1980, p. 633).



**Figure 7. Factors influencing naming**

A second aspect that seems to influence whether one will adopt a critical attitude and thus identify a particular experience as problematic, is related to the assessment of risks that are associated with such a critical attitude (see also 2.5.4). Especially migrant parents, who are in more vulnerable situation as their children’s education is concerned, were afraid of negative repercussions on their child (e.g. by the school), if they were to name injurious experiences as such. This factor seems only relevant for parents and children who participated in the research via the school or government actors.



Two other factors that may influence the naming process are one's self-image and *guanxi*. On the one hand, a low self-image, especially of migrant parents, may prevent them from naming an injurious experience as such (see also 3.2.2.2 and 3.3.1.4). On the other, *guanxi* may help in raising awareness of the injurious character of a particular situation. For instance, a migrant housekeeper who was helped by her employer and employer's friend in finding a school for her son, became more aware of the injurious character of this situation (whereas before, she wanted to find a school for her son, but was not really aware that the situation in which she found herself was 'unjust').

Finally, being aware of the idea of rights (e.g. discrimination, see 3.3.2.1) also seems to enhance the probability that an injurious experience will be explicitly named. Such rights awareness appears to be related to the level of education (see 2.3.1).

In conclusion, a frame of reference based on the countryside, fear of reprisals, a low self-image, the absence of 'positive' *guanxi* and a low rights awareness are factors that – alone or combined – seem to reduce the probability that an injurious experience will be perceived as such. These factors may be compounded by the common political and cultural factors identified above.

### 3.3.1.3. Blaming

#### **Descriptive analysis**

The transformation of a perceived injurious experience into a grievance occurs "when a person attributes an injury to the fault of another individual or social entity" (Felstiner et al., 1980, p. 635). The majority of the parents do not blame a specific person or entity for their problem, but immediately resort to another type of response, namely toleration or self-help (see 3.3.1.4).<sup>110</sup> This may be because they regard a certain problem, such as finding a good school for their child, as their parental duty, and not as an obligation of the government. Various parents feel, for instance, that the payment of fees forms part of their parental duties, to ensure a good education for their children (e.g. P22: "[I]t is what I should do for my child") (see also 3.2.3). A political climate where the government is not to be criticized and the lack of a tradition of publicly expressing criticism (see 2.5.4), is not conducive for attributing an injury to a government actor either.

Even if one wants to blame another individual or entity, one needs to know whom. Some migrant parents said that they did not know to whom they should report their issues (e.g. P19; P16; FG1-6). They may receive some help from teachers (*guanxi*), as is testified by P19: "I don't know to which department I should go to report my issues, and it is always my son's teacher who directs me to solve these problems." Other migrant and urban parents explicitly identified 'the government' as responsible (e.g. migrant P1: "We have settled here. Therefore, the government should enable us to enjoy the same treatment as the locals") or specifically indicated

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<sup>110</sup> No 'blaming' or 'claiming' was observed in the interviews and focus group discussions with children.

the (Shapingba District) Education Commission as the entity to talk to (e.g. migrant P3; urban P5).

### Explanatory analysis

Blaming involves a two-step process: (i) external attribution and (ii) identification of the individual or entity deemed responsible. First, “people who blame themselves for an injury are not likely to make claims against others” (Coates & Penrod, 1980, p. 660). If one does not attribute the cause of an injurious experience externally, but considers for instance that the problem belongs to the realm of parental duties, one will not blame other persons or entities. Secondly, (a perception of) knowledge is needed as to who to blame, which may be influenced by the level of education (and thus migration status) and the communication on this matter by the government. Social connections (*guanxi*) may act as a mediating factor.

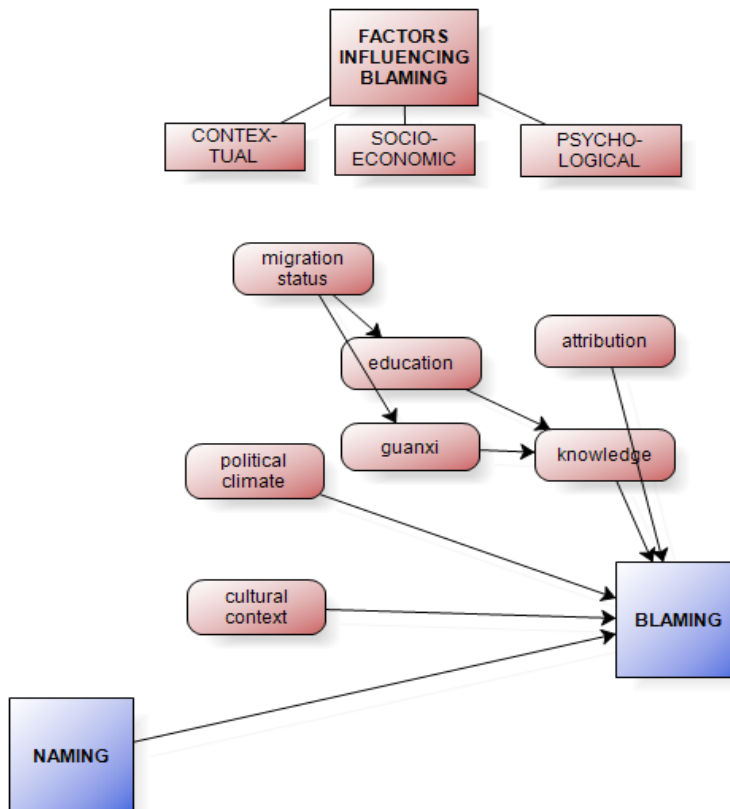


Figure 8. Factors influencing blaming

### 3.3.1.4. Claiming, self-help or toleration

#### **Descriptive analysis**

‘Claiming’ refers to the voicing of a grievance to the person or entity believed to be responsible, hereby asking for a remedy (Festiner et al, p. 635). When confronted with an injurious experience, one may also respond in another way, however. In the present case study, three types of responses could be distinguished: toleration, self-help and claiming. A gap appeared between actual and hypothetical behavior: when asked *hypothetically* what they would do when their daughter or son would be confronted with an injurious education-related experience, parents were more assertive and mentioned self-help and claiming more frequently. When asked about what they had *actually* undertaken, toleration (i.e. not undertaking any action) was the most prevalent response.

The concept of ‘self-help’ is defined as strategies employed by parents to improve the educational situation of their child, without claiming this from official actors (the government or the school). This often concerned trying to have their children admitted to a better (in the case of migrant parents: non-allocated) school. Four broad subcategories of self-help emerged from the data: (i) changing *hukou* (see 3.1.3); (ii) paying money – usually the school selection fee (see 3.1.1); (iii) using one’s social network (*guanxi*), and (iv) ‘going public’. The response of ‘going public’ includes actions such as going to the press or posting a complaint online. This was only mentioned as a hypothetical possibility by the parents; none of them told about a public action undertaken by themselves. One case was mentioned where a dirt road outside the school campus had been cemented after the press had exposed the problem (P2).<sup>111</sup> According to the director of an allocated primary school (A), parents do complain at online forums.<sup>112</sup>

These categories of self-help can be situated on a continuum from being legal (changing *hukou* or going public) to being formally illegal (paying certain fees), whereas using *guanxi* may be either legal or illegal – depending on its nature and objectives. As noted by Stockman (2000, p. 85), “the use of *guanxi* can extend into the realm of bribery and corruption”. This would be the case, for instance, when students’ school marks would be changed on the basis of *guanxi*. These forms of self-help are either focused on immediate relief of an individual’s situation (changing *hukou* and paying), or have a deferred, but potentially more widespread impact (going public) (see Table 9). The mobilization of *guanxi* may work in a variety of ways.

Mobilizing one’s personal network (*guanxi*) is a broad category which may encompass many different kinds of actions. For instance, when the children of

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<sup>111</sup> Today, the road needs to be reconstructed again, as it has been damaged during the demolition of old buildings.

<sup>112</sup> For instance “Yangguang Chongqing”, a website established by the government with a special forum for consultation, claims or complaints. <http://www.ygcq.com.cn/>. Last access on 16 February 2015.

migrant father P16 were rejected by a certain primary school, the supervisor of P16’s working place called the school. As this did not work, P16 “just had to let it go”. Having *guanxi* may be an independent form of immediate self-help, but it may also be a precondition for other forms of self-help (such as paying fees or going public). This is illustrated by the answer of migrant mother P8 on the question if she would be prepared to pay extra money to send her child to a ‘good’ Middle School: “It does not work that way, even if I pay. I have no connections here.” Another important precondition for many – albeit not all – forms of self-help is disposing of economic resources (to change one’s *hukou*, to pay fees, or to compensate one’s social connections for their assistance or intervention).

	<b>Immediate &amp; individual impact</b>	<b>Indirect &amp; potentially collective impact</b>
<b>Legal</b>	Changing <i>hukou</i> Mobilizing <i>guanxi</i> (e.g. involving one’s work supervisor)	Going public Mobilizing <i>guanxi</i> (e.g. going to a Congress representative)
<b>Illegal</b>	Paying Mobilizing <i>guanxi</i> (e.g. changing student’s school marks) (= corruption)	Mobilizing <i>guanxi</i> <sup>113</sup>

**Table 9. Categories of self-help**

On the general issue of rights claiming in China, Perry argues that social protests based on ‘rights’ have focused on the people’s right to expect an improvement in standards of living from the government. She argues that there is a long tradition in Chinese political thought recognizing that the measure of good government is guaranteeing the livelihood of ordinary people, and this includes a right of people to claim improvements when officials fail to provide welfare. Such demands for socio-economic justice from the state are, however, different from demands for legal protection against the state, as well as from demands for political participation in the state (associated with the liberal human rights tradition), as they do not pose a threat to political stability (Perry, 2008). Svensson (2012, pp. 695-696) has criticized Perry’s account, among others for not considering the struggles for civil rights, such as freedom of expression, that have been and are taking place in Chinese society, for instance by the *weiquan* (rights protection) lawyers.

<sup>113</sup> An example would be ‘bribing a Congress Deputy’, but this was not mentioned during the interviews, neither as an actual nor as a hypothetical action.

The possibility of claiming is explicitly foreseen in Article 9 of the 2006 Compulsory Education Law, which provides that “[a]ny social organization or individual may expose or complain about any violation of this Law to the relevant state organ.”<sup>114</sup> As indicated earlier, some criminal, civil, and administrative claims relying on the right to education, arguing lack of diligence by school administrations and officials have been brought before domestic courts in China (Zhu, 2010).

For the purposes of this study, a claim is qualified as a ‘human rights claim’, when human rights language is used, a duty holder (the state or another agent) is identified, and the accountability of that duty holder is insisted upon (De Feyter, 2011, p. 20). No actual human rights claims have been formulated by the research participants to the responsible entities (only hypothetical ones, *infra*). A few instances of claiming without the use of human rights language could be identified, either to the teachers (as directly responsible for the education of their children) or to the Shapingba District Education Commission (as the local governmental actor responsible for education).

Some migrant and urban parents ‘voiced their concerns’ to teachers. Although the latter can be seen as “persons believed to be responsible” for certain educational matters, parents seemed reluctant to ask for concrete remedies. The teacher of an allocated primary school (O8) testified that migrant parents talked about their – unsatisfactory – educational situation, but only to her. In relation to the overload of homework, a well-educated urban mother (P14) expressed her concern to her son’s teacher. However,

“[a]pparently one parent is not influential enough. The teacher told me that most of the parents asked for more homework, which I am very disappointed about. I don’t know what they are thinking! Maybe to them, more homework means better scores and their children’s future is therefore guaranteed. We are totally on two paths.

The mother tried to persuade the teacher to change this situation, but since she was alone on the matter, nothing changed.

To give effect to the *Implementation of the National Outline for Medium-term and Long-term Education Reform and Development (2010-2020)*, the Chongqing Municipal Government established in 2010 the education supervision system to improve balanced compulsory education, including the supervision on quality-oriented education and teaching quality.<sup>115</sup> Later, in 2012, it became obligatory that the education supervisor’s duty area was announced in public on a board with his

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<sup>114</sup> Article 9 CEL 2006 continues: “In the event that this Law is grossly violated, the implementation of the compulsory education policy is hampered and bad consequences are caused to the society, the liable persons in charge of the people’s government or of the administrative department of education of the people’s government shall take the blame and resign from their posts due to their mistakes.”

<sup>115</sup> Chongqing Municipal Government, Opinion on Further Strengthening Education Supervision, 27 July 2010.

name, telephone number, the school under his supervision and his main responsibilities, hanging on the grand gate of junior middle schools and primary schools.<sup>116</sup> Also in 2012, the State Council promulgated the *Regulation of Education Supervision* according to which the county-level government appoints education supervisors.<sup>117</sup> One of their responsibilities is receiving and verifying relevant reports and complaints.<sup>118</sup> During research visits, it was indeed observed that the existence of this supervisor, including his or her mobile phone number, was announced at the entrance of the schools on a public board. Although this seems in principle an interesting route to express complaints and claims, this avenue was not mentioned in the interviews or group discussions. During follow-up visits in September 2014 to two allocated primary schools (A and B), both school directors confirmed that their school's supervisors had not received any complaints. In the view of one director (school B), there are two reasons why no complaints had been formulated yet: first, because "the director can deal with things", in the sense that the director himself acts as a mediator, e.g. in conflicts between children and/or their parents that were not handled well by the teacher. Second, people tend to think that "complaining has no use", since in reality, complaint procedures do not work and have no result. The school's supervisor did however regularly visit the school to attend some courses and "give suggestions".

In a few instances, there was an actual contact with the Shapingba District Education Commission – a governmental actor and duty bearer as regards the right to education. Such actions were however not conceptualized as human rights actions. Moreover, the outcome was disappointing. For instance, a migrant parent (P18) went to the Education Commission to ask about the new policy prohibiting any form of extra fees, after she had read about it in the newspaper. The Commission said: "[I]t is impossible for all the children from migrant workers to go to school, there are requirements". This is quite a surprising and strong statement from a government institution. It refers however to the fact that there will not be enough allocated schools, if migrant workers are not allowed anymore to pay a school selection fee to send their children to a non-allocated school (see P10 and 3.4.1). Another migrant parent, P23-F related:

I called the Shapingba District Education Commission, they asked me to call another number. But no one answered this number. That's negligent! They don't care about the policy! All they want is for us to pay the money! Our children go to school, we have to pay the extra money, they don't care if our children are outstanding or what! I

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<sup>116</sup> Office of Education Supervision of Chongqing Municipal Government, Working Program of Education Supervision (trial), 11 April 2012. On 1 April 2015, the Standing Committee of National Congress of Chongqing launched "The Regulation of Education Supervision".

<sup>117</sup> Article 6, State Council, Regulation of Education Supervision, 9 September 2012.

<sup>118</sup> Ministry of Education, Measures of Supervision on Junior Middle School and Primary School by Hanging out the Responsible Supervisor's Shingle, 17 September 2013.

think we migrant workers are neglected all the time! I know there's nothing we can do about it. I called the Education Commission, but no one answered.

Various migrant and urban interviewees hypothetically indicated that they would go to the Education Commission, if a school would not accept their child. Some linked this to their child's right to education:

Interviewer: What would you do if you want to transfer your child and the school does not accept your child?

P4-M: I will go to the Education Commission to reveal it. I am a migrant worker, being employed in the city, *my children have the right to go to a local school*. If the thing happened, I would definitely go to the Education Commission to reveal it.

The question arises, however, whether one would realize this intention, because other persons told how they intended to approach the Education Commission, but then in the end decided not to do so (e.g. P22: "I planned to report this to the local Education Commission, but I gave up several times when I arrived there", also *infra*). Summing up, the wide palette of possible responses to injurious experiences is nicely illustrated by the answer of a well-educated urban mother (P14). If treated unfairly, she "would let the people know what I feel [*claiming*]. And if no attention was paid to me, I would go to the press [*going public, self-help*] or maybe go to a related government department [*claiming*]." Other actions she mentioned were to "call for people around me to support. If I knew someone like a representative of the National People's Congress, I would [approach him]" [*mobilizing guanxi, self-help*]. When asked what she would do when her child would not be admitted at a school, she answered: "It is a big problem. If that happens, I will take the most popular way here in China: to bribe someone" [*paying, self-help*].

### **Explanatory analysis**

Which factors seem to influence the type of response (toleration, self-help or claiming) (see

Figure 9)? In many cases, identification of a responsible person or entity (blaming) was immediately followed by the expression of a feeling of powerlessness, especially by migrant interviewees. This led to a perception of impossibility or inutility of claiming, as is illustrated by the observations of migrant father P16:

*The government is sure responsible. The teaching quality and standard teaching method are things that should be the government's job. But our opinions don't count. It is impossible for us to ask for anything.*<sup>119</sup>

Such a feeling of powerlessness was expressed numerous times by rural-urban migrant workers. A mother (P18) said that “we don't have the power to change anything. We do according to what the ‘upper side’ decides”. Another mother (P21) claimed that “[f]or people like us with no power, it does not work to take actions”. Asked about what P1 had done against the impossibility for migrant children to freely choose their school, she answered: “I have done nothing. There is no way out, we are helpless.” She had never thought about going to court, “because we think the government is in charge and has the final say in these issues”. Urban interviewees shared this feeling of powerlessness, albeit somewhat less deterministic. In the view of urban mother P5, nevertheless, “individuals can't fight with the government.” Various migrant parents used the expression “people like us”, who are, according to them, without money, without power and/or without knowledge. As a consequence, “people like us” have to work hard, “suffer more in society” (P4-M), and may feel helpless when confronted with inequalities or unfair treatments. This awareness of unequal power relations was intimately connected with a lack of confidence in the ability to bring about change (perception of agency), as illustrated by FG1-6: “Common people *like us*, when we say something, what use does it have?”<sup>120</sup> This finding corresponds with perceived control theory in social psychology, according to which “actions are most likely to be taken by people who feel they can effectively influence or manipulate outcomes” (Coates & Penrod, 1980, p. 659). This feeling of powerlessness seems to some extent related to the low social position of rural-urban migrant workers in urban environments.<sup>121</sup> This marginalized position is strengthened by “urbanites’ perception of peasants’ ‘backwardness’”, excluding in this way migrant workers from urban *guanxi* networks (Zhang, 2011, p. 582).

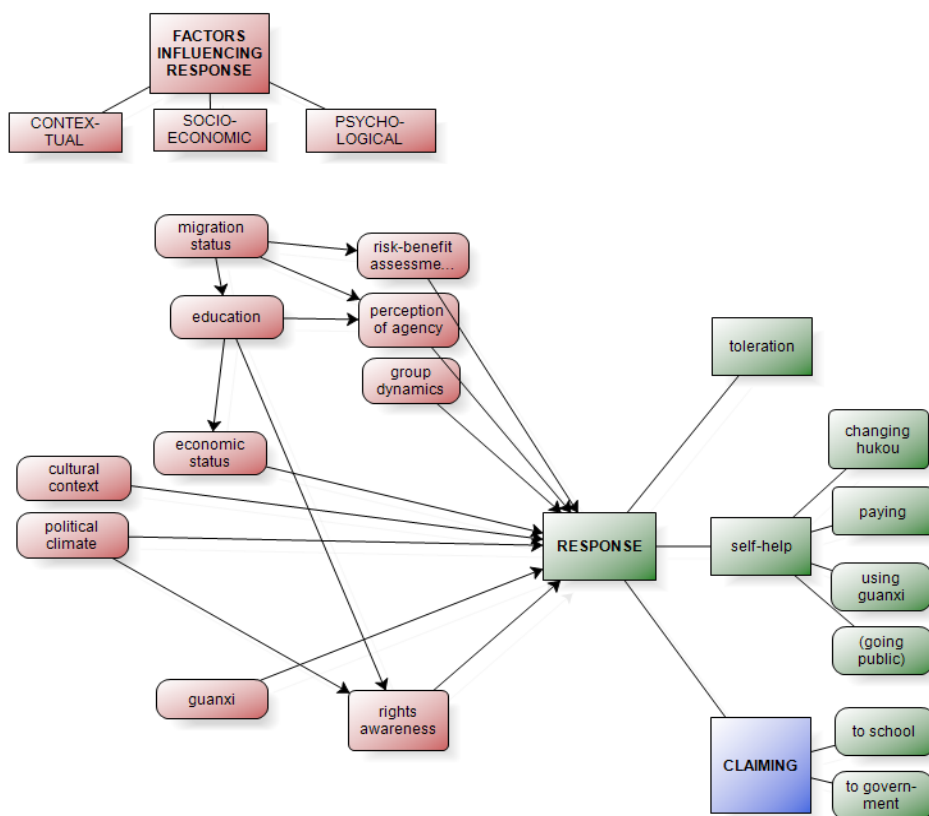
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<sup>119</sup> Emphasis added.

<sup>120</sup> Emphasis added. Education is seen as a possible way out though: “[F]or people like us, the best way is to send my child to be educated” (P10).

<sup>121</sup> That the impact of an action may differ depending on the social position of the undertaker of the action, was also noted in relation to the different status of teachers and students: “What the teachers say will definitely be effective, but what students say won't necessarily be so” (FG1-5).





**Figure 9. Factors influencing response**

The relative absence of claiming in relation to unsatisfactory or unjust educational situations is also related to other reasons, as illustrated by the following quote from a migrant mother, P22:

Interviewer: Have you ever reported these problems to relevant departments? Or have you taken any measures to protest?

P22: I don't think it works. When we wanted to send my son to the school, the school asked us to pay 4,000 or 5,000 yuan for the fee for non-natives, but later the fee became 10,000 yuan. I planned to go to the local Education Commission and report it to the officials concerned, but I gave up. Because I believed that no matter what I did, I had to pay the fee and I was also afraid that my action would exert a bad influence on my child. ... Because I think that 8,000 yuan is not so much. ... What's more, other parents also paid the money.<sup>122</sup>

In addition to a feeling of powerlessness and inability to bring about change (“Because I believed that no matter what I did, I had to pay the fee”), another factor in refraining from claiming, especially among migrant parents, was the fear that actions would have a negative impact on the child (risk-benefit assessment). This

<sup>122</sup> The fee originally asked by the school was 10000 yuan; the mother eventually paid 8000 yuan.

was also the case in the situation of P4-M, whose son broke his arm in primary school. P4-M related: “I could sue the school to the court and we can be paid by the insurance company and probably by the school. But considered my son is still going to the school, we let it go”. There is also a more general concern to ‘avoid trouble’, as illustrated by P23: “I don’t want to risk myself over tens of thousands to be involved with some fight! I’d rather pay the money. There’s no need to get into trouble, don’t you think?” Similarly, a well-educated urban mother (P14) who proposed ‘posting online’ as a hypothetical action that she could take to improve her situation, was afraid that the government “would come after her”.

The other side of the risk-benefit assessment comes at play when the probable benefits do not outweigh the efforts. Regarding the overpopulation of classrooms and the poor school infrastructure, urban mother P17 did not report this to the school or governmental department because “even if the government takes measures to change all these things, it still needs a long time for the measures to take effects. Then at that time, my son must have graduated from university and got a job.” Given that claiming to the government would not benefit one’s own child anymore – because change takes time –, it was not deemed interesting.

Another factor restraining claiming, evident from the quote of P22 above, is not wanting to make fuss about little things (“8000 yuan is not so much”). This was confirmed by P16: “[P]eople would think you go (to the local authorities) because of tiny things like that...”. This quote also indicates the importance of the perception by others. And as P22 said: “[O]ther parents also paid the money”. So there is a kind of negative, paralyzing effect of group dynamics: nobody acts, so I won’t either. Parents do not organize but deal with their problems at the individual level; this impedes making strategic decisions to try to challenge the educational situation of their child. According to political opportunity / political process theory, three essential elements influence the emergence and development of social movements: (i) insurgent consciousness; (ii) organizational strength; and (iii) political opportunities (Cragun & Cragun, 2010). The element of ‘insurgent consciousness’ can be linked to the chain of naming, blaming, claiming. For a social movement to emerge, it is necessary that the persons who share a grievance join forces to establish or become members of a movement. This has not been the case here: there is no social movement of (migrant) parents in the Shapingba District in Chongqing to protest against education-related inequalities. The grievances, claims and (few) actions undertaken remain stuck at the individual level.

Final factors explaining the absence of action (self-help or claiming) are the lack of financial resources and personal network (*guanxi*), as well as limited rights awareness. On the question what a migrant mother (P21) would do if her child would be rejected by a school, the answer was: “What could we possibly do? We have no money, no personal network. ... We have a saying: Do things according to your ability (*liangliexing*).”

In conclusion, a low perception of agency, a low preference for risks and group pressure seem to decrease the probability that parents will formulate (human rights) claims or engage in a form of self-help. Having economic resources and/or *guanxi* seems positively correlated with certain forms of self-help, such as changing *hukou* and paying fees. Nevertheless, the situation may be even worse on the countryside, as was observed by P19: “In big cities, you can report your issues to the officials, however, you don’t even think about it in my hometown”: it is thus more convenient to report issues in cities than in rural areas (although even in cities, it only happens rarely).

### 3.3.1.5. Conclusion

Summing up, many migrant parents feel that the educational system, especially the requirement of *hukou*, is unfair to them. Some explicitly blame the government in general or the education commission in particular. This ‘naming’ and ‘blaming’ does not often lead to ‘claiming’ though. Many parents endure the situation; others resort to a kind of self-help, such as paying fees, changing *hukou* or mobilizing *guanxi*.

### 3.3.2. Rights conceptions

Rights consciousness is “a slippery, unquantifiable concept” (Merry, 2006, p. 201). Towards the end of the interviews and focus group discussions, familiarity with and understanding of rights-related terms were explicitly probed for (see 2.5.3). Overall, many people “had heard of” terms like ‘rights’, ‘human rights’ or the ‘right to education’. Often, however, they were unable to formulate their own understanding of these terms. In this sense, there seems to be a discrepancy, at least in certain cases, between a general, more implicit rights awareness (e.g. talking about discrimination of migrants) and the familiarity with specific rights-terms and especially the ability to give a description of these terms. Given that the input on these questions was more fragmentary, only a description is offered hereinafter.

The main channels through which migrant parents and children had heard about (human) rights and/or new policies were the newspaper and (news on) TV. Urban children also mentioned internet and books as sources of information. In the media, there is a careful and prudent use of rights language. One migrant worker who was a delegate at the 2012 Party Congress, for instance, emphasized that the policy “protects the lawful rights and interests of migrant workers, but it has not fulfilled”.<sup>123</sup>

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<sup>123</sup> News of CPC: The New Faces of 18th CPC Party Congress, 5 November 2012. At the 18th CPC Party Congress in 2012, there were 26 migrant workers among the more than 2200 delegates – which drew a lot of attention. <http://cpc.people.com.cn/18/n/2012/1105/c350827-19504593.html>. Last access on 6 March 2016.

### 3.3.2.1. Rights

The terms 'rights' (权利 *quanli*) and 'power/authority' (权力 *quanli*) are homophones: they are pronounced in the same way, but written differently. When parents and children were asked whether they were familiar with the concept of 'rights', they thus could not know on the basis of the pronunciation whether the interviewer was referring to 'rights' or 'power'. This obviously complicated the conversation.

Three situations could be distinguished, across both urban and migrant parents and children. Although the sophistication of understanding was clearly greater with *some* urban parents and children, no clear line could be drawn on the basis of migrant status.

Some parents and children said they were not familiar with the term *quanli*, or did not know what it meant. This may have been out of genuine ignorance, especially in the case of migrant persons in our sample, who had completed less years of formal education (see 2.3.1). This may also be partially due to the fact that *quanli* is not a traditionally Chinese term. As Svensson (2002, p. 82) notes, "the Chinese language had no clear equivalents to "rights" and "human rights" before the creation of the neologisms *quanli* and *renquan*". The term *quanli* was first used in the sense of 'rights' in the translation of Henry Wheaton's work "Elements of International Law" in the mid-19<sup>th</sup> century (Angle, 2002, p. 3). In some cases, however, a concern to avoid sensitive subjects seemed underlying an "I don't know" response. An urban mother (P20) for instance said: "I mainly work at the university, I don't have much contact with society, so I don't have many feelings with regard to this word."

The majority of parents and children interpreted the term *quanli* immediately as referring to 'power/authority', as was obvious from the nature of their answers. *Quanli* was said to mean, for instance, "prestige, social position and privilege" (migrant children in FG4), or "the government and those businessmen" (urban child C17). A migrant mother (P18) said: "I got nothing to do with [*quanli*]. It is for those who are in power. ...[C]ommon citizens like myself have nothing to do with it."

Finally, some parents and children gave their reflections on the term *quanli* as referring to 'rights', often after some further explanation by the interviewer. An eleven-year old urban boy described 'rights' as "the freedom of a person. What one can do in a given context. It represents one's dignity" (FG3-4). Whereas some linked 'rights' to 'duties' (urban P13), an urban father (P9) had the following point of view: "I never really thought about rights, also not for my child's education, I think the most important for me is to be happy." Migrant workers were rather pessimistic as regards the relevance of the concept of rights for them, as expressed by a migrant father (P6): "What rights can someone like a migrant worker have? We have no rights." Similarly, a migrant mother (P15) stated: "We common people have no rights, it's up to the leaders".

As regards the content of *quanli* (rights), a migrant girl (C0) interestingly expressed a conception of the right to a remedy, saying that "when your right is injured, you may

have compensation". Given the focus of the research on education, others related the content to education, such as P4-M: "I am a migrant worker, being employed in the city, my children have the right to go to a local school" (see also 3.3.1.4). An urban boy (C17) referred to his right to participation, when asked whether he had rights at home and in school: "I guess so. Sometimes my advice is required."

### 3.3.2.2. Human rights

The term most commonly used today to denote 'human rights' in Mandarin is *renquan* (*ren* = individual human being; *quan* = right). This term was in 2004 included in Article 33 of the Constitution, which provides that "the State respects and protects human rights" (see 1.1.2). A different, but more widely known term is *jibenquanli*, which means 'fundamental rights' or 'basic rights'. This term is since long mentioned in the Constitution (cf. Title of Chapter II: "The Fundamental Rights and Duties of Citizens", see Cheng, Ni, Sin King, and Cheng (2012)), and is therefore used more often in the media and in education.

In general, there was a lack of ability to provide an own understanding of the concept of human rights. One of the reasons thereof may be that

[t]he contemporary human rights discourse is dominated and monopolized by the regime, which raises the problem of representativity. Human rights work in China today is a predominantly top-down affair. It is more of an issue between the Chinese government and foreign governments than an issue between the government and its people (Svensson, 2002, pp. 310-311).

The same eleven-year old urban boy (FG3-4) who provided an eloquent description of 'rights', said about 'human rights': "Human rights refer to one's freedom and dignity. If one has no human rights, it is like a dead body walking." Other persons mentioned "the right to be happy or not to be happy" (migrant P15) or linked human rights to food and shelter (migrant P16) or freedom of press (urban P17). When asked if she had heard of 'human rights', a migrant mother (P21) however answered: "It means that high officials have greater power than us. We have no human rights!" Finally, various migrant workers interpreted human rights as citizen rights (P22; P12). P22 for instance explained *renquan* as "every citizen's rights". P12 said: "I am a Chinese citizen. I preserve my human rights at all times. This, I do have some idea about it." The fact that the word 'citizen' (*gongmin*) is used, instead of 'people', points to a higher educational level of these migrant workers. The teacher of an allocated primary school (O8) associated the notions of "equality, autonomy, democracy" with human rights. According to her, the topic of human rights "is treated in the mandatory lessons". This claim is not confirmed by other findings. During a follow-up interview in September 2014, the director of allocated primary school A said: "We do not mention human rights in the classroom. The concept of

human rights of the foreign countries is different”. According to him, children’s rights were not mentioned in class either. In the courses on the Chinese Legal System, pupils are taught about what good behavior according to the law is. This includes protecting the environment and speaking Mandarin well (the latter raising questions from a minorities’ rights perspective). One chapter of a textbook on legal education was entitled “Using Law to Protect Yourself”, telling pupils how to protect themselves when they face bullying.<sup>124</sup>

Article 26, par. 2 of the Universal Declaration of Human Rights provides that education should be directed not only at the full development of human personality, but also at strengthening the respect for human rights and fundamental freedoms. Articles 29 and 42 of the Convention on the Rights of the Child require children to be educated about their rights. Public investment in human rights awareness is essential to achieve effective protection.

The UN World Programme for Human Rights Education Plan of Action (second phase) (2010) defines human rights education as encompassing

- “(a) Knowledge and skills – learning about human rights and mechanisms, as well as acquiring the skills to apply them in a practical way in daily life;
- (b) Values, attitudes and behavior (...)
- (c) Action – taking action to defend and promote human rights.” (par. 4)

The following principles apply to human rights education activities, among others:

- “(d) Empower communities and individuals to identify their human rights and to claim them effectively; (...)
- (f) Build on the human rights principles embedded within the different cultural contexts and take into account historical and social developments in each country; (...)
- (j) Be relevant to the daily life of the learners encouraging them in a dialogue about ways and means of transforming human rights from the expression of abstract norms to the reality of their social, economic, cultural and political conditions.” (par. 9)

“Human rights education should provide information on the content of human rights treaties. But children should also learn about them by seeing human rights standards implemented in practice, whether at home, in school, or within the community.” (UN Committee on the Rights of the Child, General Comment No. 1 on the Aims of Education (2001), par. 15).

**Table 10. Human rights education**

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<sup>124</sup> Nevertheless, it is possible that the teacher mentions the concepts of “equality, autonomy, democracy” to students in the class.

### 3.3.2.3. Rights of children

For the research participants, the most familiar rights-related term appeared to be *ertongquanli*, rights of children. In patriarchal ideology, children were regarded as “dependants and the property of men” (fathers), pointing to a strong hierarchy (Liu et al., 2009, p. 530). Nevertheless, as a consequence of the one-child-policy, children receive a lot of (parental) attention, and risk being spoiled. The fact that children are so valuable and unique, may also explain an increasing awareness of and interest in the rights of children.

When the concept of *ertongquanli* was introduced during the conversations with the research participants, the link was not made between ‘children’s rights’ and ‘human rights’. ‘Rights of children’ are generally perceived as less sensitive, whereas the concept of ‘human rights’ is more immediately associated with political, civil and other more ‘difficult’ rights in the Chinese context. In English scholarship, in contrast, the concept of ‘children’s rights’ has generally become understood as referring to the ‘human rights of children’ (e.g. Invernizzi & Williams, 2011; Vandenhole, Desmet, Reynaert, & Lembrechts, 2015).

Whereas also in relation to *ertongquanli*, various (both urban and migrant) interviewees responded that they had never heard of the term, many others did have some ideas on the rights of children. When asked what kind of rights children have, a well-educated urban mother (P14) answered: “As a human being, they are born to be equally treated and to have the right of freedom. They deserve to be protected and respected and away from any danger.” A migrant boy (C1) mentioned that he had learned about the rights of children in the Chinese course: “They taught us what children’s rights are, if you don’t have rights, you can’t do anything.” According to another migrant boy (C3): “Children have some right to do things that cannot be interfered by others”, pointing to the negative obligations linked to rights. An urban boy (C17) referred to the “Law of the People's Republic of China on the Protection of Minors”.

Various interviewees emphasized the protective aspects of children’s rights, in general (see also FG4-1) or in particular. A well-educated urban mother (P14) for instance said: “Children, unlike adults, are underdeveloped in minds and self-discipline. But they sure do have rights. Since they are unable to practice their rights to protect them, they should be paid more attention to and deserve more protection in a legal way. The society is obliged to provide such safety and protection to our children.” This reflects a limited view on children’s capacities, focusing mostly on protection without recognizing children’s autonomy.

More in particular, child abuse has been a serious area of concern in China. Especially in the domestic sphere, child abuse has long not been sufficiently perceived as a social problem meriting public concern, but was rather seen as strong (but admissible) discipline (Qiao & Chan, 2005). It has also been reported that child abuse has been triggered by the failure of a child to achieve educational excellence

(Qiao & Chan, 2005). This was confirmed by a migrant father (FG1-6): “[W]hen it comes to his studies, I don't give him too much pressure, not like some parents, who when their child's marks are not that good, might scold them, or even beat them”. This indicates the high pressure that is put on children in relation to education (see 3.2.2.1). The fact that corporal punishment has been and still is quite prevalent and not always problematized is illustrated by a migrant father (P18), who said: “[My daughter] is very self-disciplined. But sometimes we physically punish her. Frankly she survived a lot of the punishments.” According to a school director, now one can see “corporal punishment in disguised form”, e.g. asking a pupil to stand up the whole time, whereas any form of punishment is prohibited.

Awareness of the problematic nature of violence against children seems to be growing though. When migrant boys in a focus group discussion were asked whether they were happy with their school, they answered affirmatively: “The environment of the school is good. The education quality here is good. *And teachers here won't practice physical punishment to students.*”<sup>125</sup> A migrant boy (FG4-1) had learnt from TV “that people will call 911 to stop the parents if they beat up their children. Some of the parents may be put into prison” (referring however to the American context). A migrant mother (P0) testified about the awareness of her child of her right not to be abused: “[S]ometimes when my daughter is naughty, we will scare her, but then she will say: ‘you are mistreating a child!’ Nowadays, children have a quite strong sense of self-protection.” In a similar vein, a migrant father (P21) noted: “My child always complains: ‘You hit me, I will sue you for abusing me!’ whenever I punish her”, even when something small happens. Since the girl also threatens with ‘suing for abuse’ in respect to minor issues, it is probably more intended as a joke. Nevertheless, it is an indication that this child is aware that it would not be acceptable if her parents would abuse her (strongly), and that there are avenues (going to court) that are in principle available to redress such a situation. An urban girl (FG5-3) said this more explicitly: “For instance violence at home, children can go to court then... Right?”

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<sup>125</sup> Emphasis added.



Various UN treaty bodies have pronounced on the issue of corporal punishment, including in schools:

“Corporal punishment is inconsistent with the fundamental guiding principle of international human rights law (...): the dignity of the individual. Other aspects of school discipline may also be inconsistent with human dignity, such as public humiliation.” UN Committee on ESC Rights, General Comment No.13 on the Right to Education (1999), par. 41.

“Explicitly prohibit by law corporal punishment in the family, schools, institutions, and all other settings, including penal institutions.” Recommendation by the UN Committee on the Rights of the Child, Concluding Observations on combined third and fourth periodic reports.

**Table 11. Corporal punishment**

Various interviewees linked children’s rights primarily to a notion of privacy, for instance relating to a prohibition for parents to secretly read a child’s letter (FG4-2), to sneak in their child’s things (P10) or to push children when they do not want to say things (FG4-4).

Some research participants referred to provision rights, such as the right to education (urban P5). Other interviewees emphasized the autonomy and participation rights of children, understanding children’s rights as “respecting [children’s] personal needs to develop” (urban P9) or as “the children’s own right of choice” (migrant P3). A migrant mother even had a very broad notion of children’s rights, as she said that it “means that [my son] can do whatever he wants to” (P1). Another migrant mother, P8, understood children’s rights as “the advantages a child gets in all aspects”.

C3 referred to the tension between children’s interests and parental expectations – especially as regards education: “I want to go out riding bicycles after finishing my homework. But my parents want me to study for a little longer.” C7 related *ertongquanli* to watching TV, playing computer, playing cell phone, “to be free”. P4 mentioned the right to play, but also pointed to the inherent nature of rights of children: “Children have rights when they are born”.

#### 3.3.2.4. The right to education

In English, the term ‘education’ may refer to both ‘schooling’ and ‘parenting’. In Chinese, the same confusion exists in relation to the term *jiaoyu*, which can equally mean ‘education at school’ and ‘parenting/raising children’. This complicated questions that aimed to gauge perceptions in relation to the duty bearers of the right to education.<sup>126</sup>

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<sup>126</sup> This was probably also related to the way the question had been formulated. In many interviews, it was asked “who do you think should be responsible for the education of your children?”, intending to gauge who should be responsible for *realizing the right to education* of their children. Because of the

Pursuant to Article 46(1) of the Chinese Constitution, “[c]itizens of the People's Republic of China have the duty as well as the right to receive education”. This constitutional provision indicates how the Chinese government tends to realize human rights in a way that suits the Chinese situation. Because according to constitutional law, there is no freedom of (choosing) education, Chinese citizens are ‘obliged to receive’ education. Because the term ‘right to *receive* education’ (*shoujiaoyuquan*) is enshrined in the Constitution, it is generally more known than ‘right to education’ (*jiaoyuquan*).

When asked what the right to education meant to them, quite some respondents mentioned the system of nine-year compulsory education, both migrant and urban parents as well as children (see e.g. migrant child FG2-1; migrant parents P15 and P16; urban children FG3-1 and C13). Another migrant father (P4M) interestingly made the link with his own (non-realized) right to education: “Children have the right to receive better education. As for adults like us, even if we want to learn and study, we have no chance.” According to another migrant parent (P8), the right to education “means that if my child cannot go to a school in this enrolment area, I could go to the Education Commission”. An urban, well-educated parent (P14), showed a more sophisticated understanding of the right to education, indicating the government as the duty bearer: “[C]hildren, they are born to have the right to receive education. In this sense, somebody should have the duty to provide education to the children. So the government is obliged to provide equal, accessible and the best education to our children.”

Interestingly, the way access to education is currently realized in China, namely through a very strong differentiation on the basis of school performance via the system of quota and competitive exams,<sup>127</sup> impacted on how the right to education itself was perceived by some interviewees. A 13-year-old urban boy (C17) stated: “The right to education means [that] those who have better scores can go to a better school and receive better education. [T]hose who have no good scores go to an average school to receive average education. ... If one works hard, he deserves better education.” A similar line of thought was observed in the answer of a migrant mother (P3) on a question on children’s rights: “[C]hildren have the right to choose their favorite school. He is a diligent child, so he wants to go to a better school. *If he isn’t, it doesn’t matter to what kind of school he goes.*”<sup>128</sup> A well-educated urban father (P9) provided a more nuanced view, pointing to the need that education should be tailored to the capacities of each child.

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double meaning of *jiaoyu* and the unclear formulation of the question, it was not possible during the data analysis to know whether interviewees understood the question as relating to (the right to) education or to parenting. It was therefore decided to discard this question and its answers from the data analysis, in those cases where it was not absolutely clear how the interviewee had interpreted the question.

<sup>127</sup> The new policy adopted in January 2014 by the Central Government however abolishes the exams in the transition from primary to junior middle school (see 3.4.1).

<sup>128</sup> Emphasis added.

### 3.4. SUBSEQUENT POLICY EVOLUTIONS

Two policies adopted by the Central Government in 2014 have particular impact on the education of rural-urban migrant workers' children.<sup>129</sup> The first policy, regarding the transition to junior middle school and the (renewed emphasis on the) prohibition of fees, was adopted in January 2014. The *Opinion on the Admission of Schools at the Compulsory Education Stage*, adopted by the Chongqing Education Commission in May 2013 (see 3.1.2), was a preparation ('warming up') of this Central Government's policy of January 2014. Therefore, during the fieldwork in May-June 2013, parents already expressed some observations on this new policy, based on the 2013 Opinion and the expectations regarding the upcoming Central Government's policy. These reflections are included hereinafter. The second policy on changing the *hukou* system was only adopted in July 2014, after the interviews. The term 'allocated schools' is being gradually deleted, and does not seem to be used anymore in recent policies. However, in practice, migrant children are still allocated to a school.

#### 3.4.1. New policies on exam exemption and the nearby principle

On 26 January 2014, the Ministry of Education of China launched the *Notice on Further Improving the Exam Exemption and Nearby Principle of Admission of Compulsory Education in Major Cities*.<sup>130</sup> This policy determines two key issues. First, no exams are allowed anymore in the transition from primary school to junior middle school. This is a new decision, implying that pupils would not need to struggle anymore with exams to enter into a 'top' junior middle school (on the basis of the quota system, see 3.1.4). Second, and related to the abolishment of exams, the nearby principle is reaffirmed for primary and junior middle schools: pupils are obliged to enter into a nearby school (i.e. a school within their enrolment area). This implies a renewed emphasis on the strict prohibition of school selection fees. As described above, the nearby principle and the prohibition of charging fees have already been included in many legal and policy instruments before. Their inclusion again here points to the intention of the Central Government to follow up more stringently on this.

Much depends on how this policy will be implemented by the local governments. P23-M, for instance, was not very confident regarding the implementation of Central Government's policies. He states: "The policies themselves are good. The country is paying more and more attention to education. But when it comes to implementing it, they do not put the policies into good practice. You see, the local officials are just a mess". This is a more general feeling among Chinese citizens, as evident from the

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<sup>129</sup> i. State Council, Opinions of Further Improving the Reform of Household Registration System, 30 July 2014.

ii. Ministry of Education, Notice on Further Improving the Exam Exemption and Nearby Principle of Admission of Compulsory Education in Major Cities, 28 January 2014.

<sup>130</sup> Ibid. (ii).

Chinese saying: “Where there are policies from above, there are counter-policies from below” (*shangyouzhengce, xiayouduice*). Moreover, as we have seen with the school selection fees, legal prohibitions already exist since many years at both the national and local level, and are based on international human rights law, but this has not prevented the system from being upheld in practice.

In May 2013, Chongqing had already launched a policy in order to prepare for the Central Government’s new policy by prohibiting any sort of school selection fees of compulsory education (the 2013 Opinion, see 3.1.2).<sup>131</sup> In March 2014, the Chongqing Education Commission responded with an announcement to the new Central Government’s policy of January 2014 regarding the nearby principle, exam exemption and the abolishment of any kind of school selection fee.<sup>132</sup> To implement this policy, the Commission has charged the district education commissions to adjust the school admission areas following the nearby principle.<sup>133</sup> There are two types of enrolment areas to regulate the transition from primary school to junior middle school: (1) one-school areas, in which one junior middle school accepts all the pupils in one area; (2) multi-school areas, in which various junior middle schools accept pupils coming from one area. In addition, if the capacity of certain schools is reached, pupils will be randomly selected to go to another school.<sup>134</sup> All the pupils must be enrolled according to this system; the school is strictly prohibited to charge any school selection fee.

## Evaluation

This new policy implies a big change for pupils who are used to fighting for a good school through the competitive exam; it is also positive in that parents would not need to pay the school selection fee anymore. Given the great disparities in the quality of schools, this policy may however have some undesirable consequences for individual children and their parents: some pupils will be obliged to enter into a ‘normal’ school because of their residence, whereas other pupils can enter into a ‘good’ school also because of their residence. A child’s residence thus becomes crucial in determining his educational future.

During the research, some parents indeed expressed their concern that an excellent pupil would be sent to a less good school, which might be harmful for his future. An urban father (P9) said:

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<sup>131</sup> Chongqing Education Commission, Opinion on the Admission of Schools at the Compulsory Education Stage in 2013, 15 May 2013.

<sup>132</sup> News article of the central government of China, The Responses of 19 Cities to the Working Program of Education Commission on the Nearby Principle, 19 February 2014, [http://www.gov.cn/jrzg/2014-02/19/content\\_2615097.htm](http://www.gov.cn/jrzg/2014-02/19/content_2615097.htm). Last access on 6 March 2016.

<sup>133</sup> News article of the central government of China, The City is Going to Implement the Exam Exemption and Nearby Principle of Admission of Compulsory Education in the Autumn, 29 January 2014, [http://www.gov.cn/fwxx/wy/2014-01/29/content\\_2578049.htm](http://www.gov.cn/fwxx/wy/2014-01/29/content_2578049.htm). Last access on 6 March 2016.

<sup>134</sup> Ministry of Education, Opinions on the Implementation of Further Improving the Exam Exemption and Nearby Principle of Admission of Compulsory Education, 14 January 2014.

From the surface it looks good, but abolishing school selection fees can actually harm the children too, since [then] everything is based on the nearby principle and the division in enrolment areas... The National College Entrance Exam is very decisive, so you must definitely choose the [best] junior and senior middle schools.

The father points to the definite character of the National College Entrance Exam (*gaokao*), which determines access to higher education (universities and colleges). If pupils have not received high quality education at middle school, their chances to pass this exam will be much lower. In the same vein, a migrant worker's son was very disappointed with the nearby policy because he will not be able to go to a good school as he planned to. His mother (P10) was sad and felt helpless: "There is huge impact [of the new policy] on those students who have competitive scores and desire to go to the best middle schools."

The renewed prohibition of school selection fees implies that rural-urban migrant workers' children will not be able to go to a non-allocated school upon payment anymore, which until now was an informal practice. What are then alternative ways to gain access to a 'good' school? Two options seem open. First, it has been argued that for urban parents, this new policy just changes the way of entering into a good school, from selecting a school through the payment of a fee to selecting a school by choosing a right living area (with a 'good' school).<sup>135</sup> For migrant parents, this implies that – if they would change their household registration to the urban area – it will be even more important to choose a right living area. Given that they enter into competition with urban parents, who have more financial strength, this may not be evident. The form of the financial burden may thus shift – and become larger – but parents will continue to strive to let their child go to a 'good' school.

Second, various parents expressed their concern that the policy will increase informal ways of gaining access to 'good' schools. A migrant father (P16) said: "The policy has its own advantages. But if it was like before, I could send my children to go to a better school even if it means that I had to borrow money. Now it is all about *guanxi*, which I do not have". Likewise, an urban mother (P14) criticized the new policy and was concerned that it will lead to rent-seeking:

If the school selection fee is no longer applicable, the choice left is to bribe concerned officials, which actually might be more expensive than the school selection fee. The money then goes to individuals. The school selection fee can at least support the school to improve the software and hardware facilities. So I think the new policy can only make the situation worse and reinforce inequality of education.

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<sup>135</sup> News article of Sina, Nearby Principle of School Admission is Blamed to Increase the Price of the School-nearby House, 26 February 2014, <http://news.sina.com.cn/c/2014-02-26/112729568533.shtml>. Last access on 16 February 2015.

An – unintended, but quite probable – consequence of the new policy may thus be that the payment of fees will go (more) underground. More structural solutions are needed to solve the disparities in educational quality, namely the abolishment of differentiation on the basis of *hukou*, as well as a more equal division of both financial resources and teaching capacity among the different schools.

### **Implementation by the Shapingba District Education Commission**

In June 2014, the Shapingba District Education Commission adopted a follow-up policy on pupil enrolment in ‘state-run primary schools’ in which the nearby principle is specified as ‘three-eligible conditions’. According to this policy, the identification of the primary school to which a child is eligible to go to is done on the basis of three criteria: (1) the household registration (*hukou*) of the school-age child’s father or mother; (2) the property ownership certificate; and (3) the actual residence. The conditions of enrolment thus remain the same as in previous policies (see 3.1.2).<sup>136</sup> The new element is that “since the capacity of certain primary schools is limited”, some eligible school-age children are assigned to another school, namely when they are in one of the two following situations: (1) In one residence a child has already been enrolled in a certain school within the previous six years. If the parents legally have more than one child, the year of the enrolment of the youngest child is taken into account; (2) The property ownership certificate was acquired after the first September of the year prior to the enrolment.<sup>137</sup> In our view, the reason for these restrictions is that the Government tries to avoid that one residence is used by different children; and that real estate is sold just for earning money because there is a good school in the area. This shows that the Government anticipates an impact on the real estate market (people buying real estate to then sell to interested parents, just to make money).

Another particularity is that the policy on pupil enrolment only applies to ‘state-run primary schools’. The establishment of ‘non-state-run primary schools’ would thus be a way to escape the restrictions of this policy. More money must be paid to be allowed in the latter schools, leading to additional financial burdens for the parents (see 3.2.4). When being assigned to a ‘bad’ school, this will be the ‘way out’ for parents and children to access quality education. In the end, this comes down to another (and higher) kind of school selection fee. By explicitly limiting the policy to “state-run primary schools”, state authorities leave this option open.

In the meantime, the Shapingba District Education Commission has also launched a new policy about the enrolment of migrant school-age children.<sup>138</sup> Aiming at all migrant children, this policy does not distinguish between rural-urban migrant

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<sup>136</sup> Shapingba District Education Commission, Pupil Enrolment of the State-Run Primary School (trial), 5 June 2014.

<sup>137</sup> Ibid.

<sup>138</sup> Shapingba District Education Commission, Measures of School Allocation for Non-Local-Hukou-School-Age Children (trial), 5 June 2014.

workers' children and urban-urban migrant workers' children. These children may be enrolled in the Shapingba District when two conditions are fulfilled, referred to as "two stabilities": the parents or the legal guardian have (1) stable residence in the district and (2) stable vocation (being employed or self-employed). Based on these two conditions, the possibility of admission for a child is calculated on the basis of credits which consist of two aspects: basic credits and incentive credits. Basic credits are based on the duration of dwelling in the district, whereby one month counts as one credit. Incentive credits are to motivate the non-local-*hukou* people to contribute to the city (the more you contribute, the more credits you get in benefit of your child). These incentive credits have two ways of calculation: one is the stable vocation which is counted on the basis of the urban pension insurance or the business license, by calculating 0.5 credit per month; another one is the tax payment (the more tax the parents pay, the more credits (max. 15) the child gets). In conclusion, a migrant child in the Shapingba District is assigned to a school on the basis of his dwelling place, his credits and the capacity of the school. The more credits, the better school the child is assigned to. This credit system is thus again problematic, because children will be assigned to better schools, on the basis of the economic capacity of their parents.

Today, migrant children can be admitted to all primary schools on the basis of the credit system, except those five schools "where the capacity is limited".<sup>139</sup> Not coincidentally, these five primary schools are 'key', 'top' schools. So although there is a substantial policy shift, discrimination between urban and migrant children persists.

The Shapingba District Education Commission has established a system to find out the number of school-age children who are interested to enroll in Shapingba. On 5 June 2014, the Commission announced that anyone interested to go to school in Shapingba had to sign up.<sup>140</sup> In this way, the SDEC can know how many children want to go to school in its district, in order to assign each child to a particular school. This system divides the school-age children into local urban children and migrant children, the latter will be assigned to a school on the basis of their credits. In the same announcement, the SDEC alerts the guardians of migrant children who temporarily work or live in Shapingba that some of them will have to find another solution by themselves: it was predicted that school capacity in Shapingba in the school year 2014 would not be sufficient to accept all migrant children.<sup>141</sup> This is

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<sup>139</sup> Shapingba Education Commission, The Announcement on the Limited Enrollment Primary Schools in 2015, 5 June 2014. In this announcement, the Shapingba District Education Commission identified the following five schools as with pupil number limitation: Shuren Primary School, Shapingba Primary School, No.1 Experiment Primary School, Yuying Primary School and Nankai Primary School. In 2015, it announced the same limited enrollment of the same five schools.

[http://xxzsbm.cqedu.net/common/xxfb/wzxx\\_view.jsp?wzxx\\_id=461451](http://xxzsbm.cqedu.net/common/xxfb/wzxx_view.jsp?wzxx_id=461451). Last access on 6 March 2016.

<sup>140</sup> Shapingba District Education Commission, Announcement of the Tendency Registration of the School-Age Children in 2014 for the Admission of Grade One (of Primary School), 5 June 2014.

<sup>141</sup> *Ibid.*

obviously quite problematic. In 2015, the policy of the enrolment for migrant workers' children was as strict as in 2014. The school-age children would be assigned to a certain school (not the key schools) in accordance with their credits.<sup>142</sup>

From now on, every year the Shapingba District Education Commission will decide how to divide the enrolment areas for the school-age children; also urban children are assigned to one school (and have no choice anymore). This implies a restriction of the school choice for urban children.

The difference lies in the quality of the schools that urban and migrant children are assigned to. Urban children have a 'chance' in the sense that they can (try to) live in a good area, where there is a good school. But even if migrant children live in a good area, they have no chance to enter into a good school, because they will be assigned to a less good (probably a former 'allocated') school. Although the term of 'allocated school' is not used anymore in recent policies, in practice it still exists. For example, the migrant children who live in the enrolment area of a high-quality non-allocated primary school are required to register in School A, which was an allocated school before.<sup>143</sup>

This shows that complex and hidden mechanisms of exclusion and discrimination are still at play, to the detriment of migrant children.

### 3.4.2. Reform of the household registration system

On 30 July 2014, the State Council adopted a new policy on the reform of the household registration system.<sup>144</sup> It aims to abolish the distinction between the agricultural household registration and the non-agricultural household registration, and to unify these into resident registration in order to establish a new system including education, health, birth control, employment, social security, housing, land and demography.<sup>145</sup> Migrant people would be allowed to register as a local resident (and thus obtain urban *hukou*) with their spouse, minor child and parents, if they comply with three conditions: (1) have a stable job for a minimum number of years; (2) have legally stable residence (including renting); and (3) participate in urban social security for a minimum number of years in a city which has a million to three million urban residents.<sup>146</sup> Compared to the previous situation, a particular improvement appears to be that no ownership of real estate is required, but that renting is sufficient.

However, this policy is not specific enough to be applied immediately. For instance, the number of years that a stable job and participation in urban social security are

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<sup>142</sup> Shapingba District Education Commission, Pupil Enrolment of the State-Run Primary School (trial), 5 June 2014.

<sup>143</sup> Shapingba District Education Commission, Indication of the Registration for the Grade One of Primary School in 2014, 5 June 2014.

<sup>144</sup> State Council, Opinion of Further Improving the Reform of Household Registration System, 30 July 2014.

<sup>145</sup> *Ibid.*, section 3.

<sup>146</sup> *Ibid.*, section 2.



required, is not determined. There are also no further specifications as regards the renting condition. Provinces and cities at different levels must thus work out concrete measures.<sup>147</sup> In September 2014, no local policy had been adopted yet in Chongqing specifying the reform of household registration.

In any case, it will not be so easy for migrant workers to register as a local resident. First, not many rural-urban migrant workers will meet the first condition since migrant workers normally do not have a stable job. The ability to comply with the second criterion will depend on further implementation, for instance whether a certain term of residence will be required. Third, not many migrant workers participate in the urban social security, let alone for a certain number of years, because rural social security is cheaper than urban social security. For instance, one rural-urban migrant worker told a journalist: "I only pay 8 yuan per year to buy the medical security from the Rural Credit Cooperatives, I receive 50 yuan allowance per year from the government, and I get 70% to 75% refund if I am ill in the hospital. What is more, I can get cash immediately." In contrast, "for the urban social security, [it was only beneficial if I would pay] one hundred thousand yuan to two hundred thousand yuan. I cannot afford this cost according to my current employment condition."<sup>148</sup>

The flexibilization of the household registration system will thus definitely not benefit all migrant workers, especially not during the first years of their life in the city.

### 3.4.3. Conclusion

The new policies do not address the root causes of unequal (access to) quality education in the city. Regarding the impact of the two new policies described above on the access to education of rural-urban migrant workers' children, the following conclusions can be drawn. First, a rural *hukou* is an obstacle to school admission when migrant parents want to send their children to a good school. Second, when it comes to changing their rural *hukou* into urban *hukou*, migrant parents have to try to register in a 'right' living area where there is good school. This will cost a huge amount of money since every parent is eager to buy real estate in this sort of area. Within one district (or county), the allocation of resources between the different schools is based on the number of students. Schools with larger number of students will receive a larger part of the financial resources. High quality schools ('key schools') are larger, which have more pupils, because they offer high quality education. In the Shapingba District, the largest schools are the five schools that have been declared as 'full' by the government; they receive more government

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<sup>147</sup> Ibid., section 5.

<sup>148</sup> News article of People.cn, Why most migrant workers do not want to "Nongzhuanfei" (transfer *hukou* from rural to urban resident), saying being an urban resident is not worth it. 17 August 2014, <http://politics.people.com.cn/n/2014/0817/c70731-25480016.html>. Last access on 6 March 2016.

funding. This may have as a consequence that they will remain better than other schools, which undermines the development of balanced education. The right to education implies that everybody should have equal access to quality education. The nearby principle should thus be implemented with respect of this right. In this sense, the implementation of the nearby principle should be made dependent upon the realization of the balanced education.

A balanced allocation of financial resources is envisaged in the policy on balanced development of compulsory education (see 1.1.4). As long as this is not achieved, however, the nearby principle – which should be beneficial for children – may have detrimental consequences as regards (especially migrant) children’s right to access quality education. The nearby principle thus has some unintended, and unfavorable consequences for children who do not live in an area with a ‘good’ school. Before balanced education is achieved, the stricter the nearby principle is applied, the more children may be excluded from quality education.

In 2014 it was announced that four districts in Chongqing had reached the goal of balanced compulsory education in 2013, including the Shapingba District with 98 marks.<sup>149</sup> It can be doubted, however, whether balanced education has been actually achieved in the Shapingba District, since five primary schools are not accessible for migrant children. Compulsory education would only be really balanced when quality would not be an issue of concern for parents and children choosing a school. As long as the five schools are ‘most wanted’, some rich urban parents will try to buy real estate in the neighborhood of these five schools to have their children enrolled in these schools. In contrast, rural-urban migrant workers’ children have no opportunity to do so since they have no local *hukou* and some are poor. For rural-urban migrants’ children, going to school in the urban area is harder than for urban children since they are prevented from entering the best schools. They are assigned to a certain school which is more or less nearby but definitely not the best. As a consequence, they really risk to ‘lose at the scratch line’. The selectivity in school admission thus creates inequality.

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<sup>149</sup> The Evaluation Committee of the State Council, The Decision about the List of the Counties (cities, districts) that Have Reached the Balanced Compulsory Education Development. 21 February 2014, <http://www.moe.gov.cn/publicfiles/business/htmlfiles/moe/s7878/201402/164175.html>. Last access on 16 February 2015. In September 2014, the three senior researchers of this project went to allocated primary school B for feedback on the preliminary research results. The director mentioned the evaluation and said: “Every school had to prepare well before the evaluation mission came to evaluate since the evaluation mission selected a few schools randomly, and no one knew in advance which school would be selected, we were very nervous.” The evaluation mission did not visit his school though.

## 4. FINAL REFLECTIONS

This study examined experiences of social exclusion related to education in the context of rural-urban migration in Chongqing, China. It aimed to assess the relevance of human rights for rural-urban migrant workers and their children, as potential users of human rights. The findings of the case study deepen our understanding of the process leading from transgressions to (human rights) claims (Track 1 in the localizing human rights course, see 1.2.1). Operationalizing this track on the basis of a transformation perspective in three stages of naming, blaming, and claiming, a tentative explanatory analysis was undertaken. In each phase, contextual, socio-economic and socio-psychological elements seem to interplay.

The contextual (political climate and cultural context) and socio-economic (especially migration status, education and *guanxi*) factors play a role in each of the three phases of naming, blaming and claiming, whereas the socio-psychological dynamics seem to differ for each phase. It is suggested that, to explain why certain parents and children named an education-related injurious experience as such and others did not, one's self-image, frame of reference and rights awareness matter, as well as an assessment of possible risks and benefits related to expressing one's discontent. Whether an external actor (school, the Government in general or the local education commission in particular) is blamed, depends on their attribution of the problem (external or internal, e.g. as belonging to one's parental duties) and knowledge who to blame.

Overall, three types of responses were identified when faced with an injurious education-related experience: toleration, self-help and claiming. Within the category of self-help, possible actions included changing *hukou*, paying (prohibited) fees, mobilizing *guanxi* and (hypothetically) 'going public' (to the press or online). Socio-psychological factors that seem to influence the (type of) response include the perception of agency, a risk-benefit assessment, group dynamics and rights awareness. As mentioned above, they interact with socio-economic factors such as *guanxi*, economic resources and the level of education, as well as with the cultural and political context.

The case study thus shows that there is great potential to unravel with more care the dynamics at play in the first track of the localizing human rights course, between the local experience of abuse and the formulation of human rights claims, whereby particular attention is to be paid to socio-psychological aspects.

Although the educational situation of children of rural-urban migrant households in Chongqing has improved in recent years, there are still important inequalities in access to and quality of education between migrant and urban children. The fact that access to school is determined by the household registration works stigmatizing

and discriminating. Many things happen 'under the radar' and in contravention of explicit laws and policies. There was also a lot of 'flexibility', for instance in the amount of the school selection fee. This creates socio-economic as well as cultural disparities and insecurity. Educational policies often seem to foster more confusion – and insecurity because they change so regularly. They should go accompanied with the necessary financial resources, and be more grounded in local needs.

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## 6. ANNEXES

### ANNEX 1. PROJECT INFORMATION SHEET

**Title of research:** The education of children in Chongqing

**Principal researcher:** Jingrong Chen

**Assistant researchers:** Shisong Jiang, Xi Chen, Dongmei Liu, Hanbing Ai

**Sponsor:** Law School of Chongqing University

My name is \_\_\_\_\_, and I work at Chongqing University. We are doing a research which might help you and your child to better understand the educational situation. We are asking children and parents for their views on education: what do you think about your school, and about the education system in Chongqing?

There may be some words that you do not understand. Please ask me to stop as we go through the information and I will take time to explain. If you have questions later, you can ask them to me or to another researcher.

▪ *About this research*

The research project is to learn about the education system in Chongqing, to improve our knowledge and formulate recommendations to the policymakers.

▪ *Why do you choose me?*

We are studying the education for local communities, focusing on children between 12-15 years old, belonging to households who live in Chongqing city. You are this type of child/parent of this type of child, so we would like to know your experiences and views about education.

▪ *Do I have to do this?*

You do not have to agree to talk to us. You can choose to say yes or no.

▪ *Procedure*

Interview: If you do not wish to answer any of the questions during the interview, you may say so and the interviewer will move on to the next question. The interview will take place in \_\_\_\_\_(location of the interview), and no one else but the interviewer and you (in some cases including a parent or legal representative, if the child so desires) will be present. The information recorded is confidential and no one else except the researchers of this group will have access to the information documented during your interview. Your information will be destroyed after accomplishment of this project.

▪ *How long does the interview take?*

We will spend one hour or one hour and a half to do the interview.

- *Reimbursements*

Your will receive a small gift and we will pay the transportation costs.

- *Sharing of Research Findings*

At the end of the study, we will give feedback to the participants and the community.

- *Right to refuse or withdraw*

You may choose not to participate in this study if you do not wish to do so. You may stop the interview at any time.

- *Who to Contact*

If you have any questions you may ask them now or later, even after the study has started. If you wish to ask questions later, you may contact any of the following:

(name, address/mobile phone/telephone number/e-mail).

## ANNEX 2. INTERVIEW GUIDE PARENTS

Structure	Questions
<p><b>Presentation and introduction of the research</b></p> <p>Presentation</p> <p>Introduction of research and thank you</p> <p>Duration</p> <p>Taping and confidentiality</p> <p>Informed consent</p>	<p>Hello,</p> <p>Start with informal chatting</p> <p>My name is ... from ... (institution); this is ... (research assistant).</p> <p>We want to ask you some questions on the education system in Chongqing, especially regarding your child(ren). This is a project of Chongqing University. It's really academic research, I'm very happy that you can help me to complete this research, thank you.</p> <p>The interview will take between 1 and 1 ½ hour</p> <p>The interview will be taped, and we will take some notes. But the tapings will be stored very carefully, only the members of the research team will have access to them. In the report, it will not be possible to identify you as the person who said something (since you will be given a number). Also, you don't have to answer a question if you don't want to, and you can stop the interview at all times.</p> <p>Do you have any questions about what I just told you?</p> <p>Do you agree to participate in the interview and that the interview will be taped?</p>
<b>PART I: EDUCATION</b>	
<p><b>Information on interviewee</b></p>	<p>Where were you born?</p> <p><i>If not born in the Shapingba District:</i></p> <p>How long have you been living in the Shapingba District?</p> <p>Why did you come to live here? Can you tell me more about that?</p> <p>What are the differences between Shapingba and your hometown?</p> <p>What is your highest education? (primary school – middle school – high school – higher education)</p> <p>What is your current occupation?</p> <p>To which ethnic group do you belong?</p>
<p><b>Information on the child</b></p>	<p>How old is your child? Is it a daughter or a son?</p> <p>Is your child going to school?</p> <p><i>If not:</i></p> <p>Why not? When did he stop?</p> <p><i>If yes:</i></p> <p>Is your child in primary school or junior middle school? In what grade?</p>

<b>Information on (choice of) school</b>	<p>Where is the school located?  Why does your child go to that school? Was this school your first choice? Why (not)? Can you tell me more about that?  Were there any preconditions for your child to be enrolled in that school?  Is it an allocated school?  What is, according to you, meant with the term 'allocated school'?</p>
<b>General evaluation of school</b>  <b>Identification of problems</b>	<p>Are you satisfied with the school of your child?</p> <p><i>If generally yes:</i>  Are there things that can improve? Can you give an example?</p> <p><i>If no:</i>  Can you tell me about a problem of the school?  How do you know about this problem?  Is this a problem for your child?  Do other children have [this problem] to? Which children? Or: Is this a problem for all the children at the school? Is it different for boys or girls?</p>
<b>Relation with the child</b>	<p>Have you talked with your child about this problem? What did you say?</p> <p>Why should this issue be addressed? Which arguments could you use to ask that [this problem be solved]?</p>
<b>Responsibility of the problem</b>	<p>Who is responsible for this problem?  How can this problem be solved?</p>
<b>Own action (+ reaction)</b>	<p>Have you done anything to try to change any of these problems?</p> <p><i>If yes:</i>  Can you tell me more about it? For what problem? What did you do? When?  Did you undertake the action alone, or with other people? Was there a kind of (formal or informal) organization?  Which arguments did you use?</p> <p><i>If no:</i>  Why not?</p>
<b>Reaction to this action + impact</b>	<p>Was there any response to this action? From whom? What exactly? Which arguments were used? Did this response change anything to the reality / improve the situation on the ground? Were there other reactions (from other actors)? What? Did it change anything to the problem?</p>
<b>Action of child / other people</b>	<p>Do you know whether other people or organizations have done something to try to address this issue? (e.g. your child, other parents...)</p> <p><i>If yes:</i>  Can you tell me more about it? For what problem?  Was there a kind of (formal or informal) organization?  Which arguments were used?</p>

<b>Reaction to other actions</b>	<p>Was there any response to this action of other people or organizations? From whom? What exactly? Which arguments were used?</p> <p>Did this response change anything to the reality / improve the situation on the ground?</p> <p>Were there other reactions (from other actors)? Which ones? Did it change anything to the problem?</p>
<b>REPEAT FOR OTHER ISSUES</b>	<p>Are there other things you would like to see different / What are other problems? Why? Can you explain?</p> <p>➔ Repeat structure above</p>
<b>Prioritization</b>	<p>Of all the things that we discussed (... , ... , ...), what is for you the most important problem?</p>
<b>Other school</b>	<p>Would you like your child to go to another school? Why (not)?</p> <p>What can you do if a school refuses your child?</p> <p>In case of migrant parents:</p> <p>What would happen if you and your husband/wife lost their residence permit?</p> <p>If you would stop working in the city and return to your hometown, what would you do with your child(ren)?</p>
<b>Transition from primary to junior middle school</b>	<p><i>If in sixth grade:</i></p> <p><i>What will your child do next year? Will he go to junior middle school?</i></p> <p><i>If no: why not?</i></p> <p><i>If yes: to which school? Is this school your first choice? Why (not)?</i></p> <p><i>Do you foresee any problems regarding the transition to junior middle school?</i></p> <p><i>If in junior middle school:</i></p> <p><i>Why does your child go to this school?</i></p> <p><i>Were there any problems in the transition from primary to middle school?</i></p> <p><i>If yes: repeat cycle of questions</i></p>
<b>EDUCATION POLICY</b>	<p>In general, are you satisfied with the education policy of the Central Government?</p> <p>Why (not)? Can you explain this? What would you change?</p> <p>+ same questions on</p> <p>(own) Action</p> <p>Reaction</p> <p>Action by other people</p> <p>Reactions</p>
<b>REPEAT for other levels of policy</b>	<p>In general, are you satisfied with the education policy</p> <ul style="list-style-type: none"> <li>• of Chongqing Municipality?</li> <li>• of the Shapingba District?</li> </ul>

<b>PART II: HUMAN RIGHTS</b>	
<b>Awareness of right to receive education</b>	<p>What does 'the right to receive education' mean to you? What is related to this right for you?</p> <p>Where have you heard about the right to receive education? Where could you find information about it?</p> <p>Do you think this 'right to receive education' is relevant for one or more of the problems we talked about? If yes, which problem(s)? How?</p> <p>Do you think your child learns about 'the right to receive education' at school? What do they teach him?</p>
<b>Awareness of children's rights</b>	<p>Does your child have rights?</p> <p>What is this for you, 'children's rights'? What do you associate with the word 'children's rights'?</p>
<b>Awareness of human rights</b>	<p>What is this for you, 'human rights'? What do you associate with the word 'human rights'?</p> <p>Do you think 'human rights' may be relevant for one or more of the problems we talked about? If yes, which problem(s)? How?</p> <p>Repeat questions under the right to receive education</p>
<b>OTHER CHILDREN</b>	<p>Do you have other children?</p> <p>(if relevant: repeat questionnaire for school of other child(ren))</p>
<b>EVALUATION</b>	<p>Is there anything else you want to add?</p> <p>Was there anything bothering you during the interview?</p>
<b>CLOSURE</b>	<p>Give explanation of how the project will proceed further</p> <p>Do you know anybody else we could talk to?</p> <p>If we have remaining questions, can we contact you again?</p> <p>Thank you very much!</p>

### ANNEX 3. INTERVIEW GUIDE CHILDREN

Structure	Questions
<p><b>Presentation and introduction of the research</b></p> <p>Presentation</p> <p>Introduction of research and thank you</p> <p>Duration</p> <p>Taping and confidentiality</p> <p>Informed consent</p>	<p>Hello, Start with informal chatting</p> <p>My name is ... from ... (institution); this is ... (research assistant).</p> <p>We want to ask you some questions about your school. This is a project of (Chongqing) University. I'm very happy that you can help me, thank you.</p> <p>The interview will take between ½ and 1 hour.</p> <p>We will tape the interview, and take some notes. But the tapings will be stored very carefully, only the members of the research team will have access to them. In the report, it will not be possible to identify you as the person who said something (since you will be given a number). Also, you don't have to answer a question if you don't want to, and you can tell me anytime you want to stop.</p> <p>Do you have any questions about what I just told you?</p> <p>Do you agree to talk with me and that our conversation will be taped?</p>
<p><b>PART I: EDUCATION</b></p>	
<p><b>Information on interviewee</b></p>	<p>Where were you born?</p> <p><i>If not born in the Shapingba District:</i> How long have you been living in the Shapingba District? Why did you come to live here? Can you tell me more about that? What are the differences between Shapingba and your hometown?</p> <p>How old are you? Are you going to school?</p> <p><i>If not:</i> Why not? When did you stop?</p> <p><i>If yes:</i> Are you in primary school or junior middle school? In what grade?</p>
<p><b>Information on (choice of) school</b></p>	<p>Where is your school located? Is it close by or far away?</p> <p>Why do you go to that school? Was this school your first choice? Why (not)? Can you tell me more about that?</p> <p>Were there any preconditions to be enrolled in that school?</p> <p><i>If in an urban area:</i> Is it an allocated school (a school for migrant workers' children)? Yes / no / I don't know</p> <p>What is, according to you, meant with the term 'allocated school'?</p>



<p><b>General evaluation of school</b></p> <p><b>Identification of problems</b></p>	<p>Do you like going to school? Why?</p> <p>Do you like your school? Why?</p> <p><i>If generally yes:</i></p> <p>Are there things that can improve? Can you give an example?</p> <p><i>If no:</i></p> <p>What don't you like about your school? Can you tell me about a problem of your school?</p> <p>Do other children have [this problem] to? Which children? /Or: Is this a problem for all the children at the school? Is there a difference between boys and girls?</p>
<p><b>Relation with the parents</b></p>	<p>Have you talked with your parents about this problem? What did you say / what did they answer?</p> <p>If you were the director / the teacher of the school, what would you do about this problem?</p> <p>Why should the director / teacher do something?</p>
<p><b>Own action (+ reaction)</b></p>	<p>Have you yourself done anything to try to change this problem?</p> <p><i>If yes:</i></p> <p>Can you tell me more about it? For what problem? What did you do? When?</p> <p><i>If no:</i></p> <p>Why not?</p>
<p><b>Reaction to this action + impact</b></p>	<p>Was there any response/answer to this action? From who? What did they say/do?</p> <p>Did this response change something?</p> <p>Were there other reactions (from other actors)? What? Did it change anything to the problem?</p>
<p><b>Action of child / other people</b></p>	<p>Do you know whether other people or organizations have done something to try to address this issue? (e.g. your parents, other parents etc.)</p> <p><i>If yes:</i></p> <p>Can you tell me more about it? What did you do? When?</p>
<p><b>Reaction to other actions</b></p>	<p>Was there any response to this action of other people? From whom? What exactly?</p> <ul style="list-style-type: none"> <li>- Did this response change something?</li> <li>- Were there other reactions (from other actors)? Which one? Did it change anything to the problem?</li> </ul>

<b>REPEAT FOR OTHER ISSUES</b>	<p><i>Are there other things about your school that you don't like / that you would like to let me know? What are other problems? Why? Can you explain?</i></p> <p>➔ Repeat structure above</p>
<b>Prioritization</b>	Of all the things that we discussed (...), what is for you the most important problem?
<b>Other school</b>	<p>Would you like to go to another school? Why (not)?</p> <p>If you would have been born in the city, would you have a different education? Do you see a difference between children who were born in urban areas and rural areas?</p>
<b>Transition from primary to junior middle school</b>	<p><i>If in sixth grade:</i></p> <p>What will you do next year? Will you go to junior middle school?</p> <p><i>If no:</i> why not?</p> <p><i>If yes:</i> do you know to which school? Are you happy with that?</p> <p>Are you looking forward to going to the junior middle school? Why (not)?</p> <p><i>If in junior middle school:</i></p> <p>Was it difficult to make the change from primary to junior middle school? Why (not)? Can you tell me more about that?</p> <p><i>If yes:</i> repeat cycle of questions</p>
<b>EDUCATION POLICY</b>	<p>If you were the Minister of Education in China, what would you change?</p> <p>And/or: if you were the mayor of Chongqing, what would you change?</p>
<b>PART II: HUMAN RIGHTS</b>	
<b>Awareness of right to receive education</b>	<p>What does 'the right to receive education' mean to you? What is related to this right for you?</p> <p>Where have you heard about the right to receive education? Where could you find information about it?</p> <p>Do you 'have' a right to receive education?</p> <p>Do you think this 'right to receive education' is relevant for one or more of the problems we talked about? If yes, which problem(s)? How?</p> <p>Do you learn about 'the right to receive education' at school? What do they teach you?</p>
<b>Awareness of children's rights</b>	<p>What is this for you, 'children's rights'? What do you associate with the word 'children's rights'?</p> <p>Do you have rights?</p> <p>Repeat questions under right to receive education</p>
<b>OTHER CHILDREN</b>	Do you have brothers or sisters?

<b>EVALUATION</b>	Is there anything else you want to add? Was there anything bothering you during the interview?
<b>CLOSURE</b>	Give explanation of how the project will proceed further Do you know anybody else we could talk to? If we have remaining questions, can we contact you again? Thank you very much!

## ANNEX 4. OBSERVATION SHEET

<b>Name of the person filling in the form</b>	
<b>INFORMATION ON INTERVIEWEE</b>	
Number assigned to interviewee	
Age	
Gender	
Occupation (where relevant)	
Migrant status (urban or migrant)	
<b>INFORMATION ON INTERVIEW</b>	
Date and time of the interview	
Duration of the interview	
Place of the interview (e.g. house of the interviewee)	
Where there other persons present during the interview? If yes, who? Specify at which moments they were present (whole interview or parts of the interview)	
Did any more conversation take place after the taping was stopped? What was said?	
<b>GENERAL OBSERVATIONS</b>	
What are general observations regarding the interviewee? Was he at ease? Include observations regarding non-verbal behavior.	
What are general observations regarding the place of the interview / the context? (e.g. living conditions of the interviewee).	

## ANNEX 5. OVERVIEW OF RESEARCH PARTICIPANTS

Identification	Role	Gender	Migrant status	Level of education
P0	parent	female	migrant	Technical Secondary school
P1	parent	female	migrant	Primary school
P2	parent	female	urban	High school
P3	parent	female	migrant	Junior middle school
P4-M	parent	male	migrant	Primary school
P4-F	parent	female	migrant	Primary school
P5	parent	female	urban	Junior middle school
P6	parent	male	migrant	Primary school
P7	parent	female	migrant	Primary school
P8	parent	female	migrant	Junior middle school
P9	parent	male	urban	Bachelor
P10	parent	female	migrant	Junior middle school
P11	parent	female	migrant	Primary school
P12	parent	female	migrant	Junior middle school
P13	parent	male	urban	Bachelor
P14	parent	female	urban	PhD
P15	parent	female	migrant	Primary school
P16	parent	male	migrant	Primary school
P17	parent	female	urban	Bachelor
P18	parent	female	migrant	Junior middle school
P19	parent	female	migrant	Primary school
P20	parent	female	urban	Master
P21	parent	female	migrant	Primary school
P22	parent	female	migrant	Junior middle school
P23-M	parent	male	migrant	Junior middle school
P23-F	parent	female	migrant	Primary school
C0	child	female	migrant	Primary school
C1	child	male	migrant	Primary school
C3	child	male	migrant	Primary school
C7	child	male	migrant	Junior middle school
C13	child	male	urban	Junior middle school
C17	child	male	urban	Junior middle school
FG1-1	parent	male	migrant	Primary school
FG1-2	parent	female	migrant	Primary school
FG1-3	parent	female	migrant	Primary school
FG1-4	parent	female	migrant	Primary school
FG1-5	parent	male	migrant	Junior middle school
FG1-6	parent	male	migrant	Junior middle school
FG1-7	parent	male	migrant	High school

FG2-1	child	male	migrant	Junior middle school
FG2-2	child	male	migrant	Junior middle school
FG3-1	child	female	urban	Primary school
FG3-2	child	female	urban	Primary school
FG3-3	child	female	urban	Primary school
FG3-4	child	male	urban	Primary school
FG3-5	child	male	urban	Primary school
FG4-1	child	male	migrant	Primary school
FG4-2	child	male	migrant	Primary school
FG4-3	child	female	migrant	Primary school
FG4-4	child	female	migrant	Primary school
FG4-5	child	female	migrant	Primary school
FG4-6	child	female	migrant	Primary school
O1	government	male	urban	
O2	director	male	urban	
O3	director	male	urban	
O4	NGO	male	urban	
O5	government	male	urban	
O6	government	female	urban	
O7	government	male	urban	
O8	teacher	female	urban	

The exponential growth of China's megacities has attracted an increasing number of internal migrants since the mid-1980s. This creates problems regarding access to quality education for the children of these rural-urban migrant households in the cities, since access to education is determined by one's household registration (*hukou*). This book presents the results of a socio-legal research on the right to education of children of rural-urban migrant workers in Chongqing. It unravels the intricacies at play in accessing and enjoying compulsory education and assesses the relevance of invoking human rights language in that context.

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The **Localizing Human Rights Working Paper Series** consists of studies on the local relevance of human rights, particularly but not exclusively in non-Western contexts. They form part of a long-term interdisciplinary project, combining insights from law, political and social sciences.

