

**Social Networks and the Right to Education of Rural-Urban
Migrant Children in Beijing, China**

By

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Dissertation submitted for the joint degree of

Doctor of Politics, Human Rights and Sustainability (Scuola Superiore
Sant'Anna)

and

Doctor of Law (Universiteit Antwerpen)

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Belgium

Academic year 2018/2019

December 2019

Dedication

*To my wife, Ruby, and my newly born son, Daniel (Xuanhe) Jiang, who
are my encouragement and inspiration*

Acknowledgments

The four-year journey of writing and finally completing this Ph.D. dissertation is a complex and iterative process of reconstructing myself as both a person and an academic. As a matter of fact, every single step of this reconstruction process could be conceived as a composite of various kinds of relational interactions between me and a group of people who have made their valuable contributions in many different ways. Apparently, this dissertation would not have been possible without their priceless presence in my social network of supervisors, teachers, colleagues, friends, and family, for which I would hereby like to express my sincerest gratitude.

My two supervisors, Prof. Andrea De Guttry and Prof. Koen De Feyter, have occupied the most important positions at the center of this network by encouraging, guiding, and helping this research from beginning to end. Undoubtedly, both of them are renowned experts in international law from whom I have gained a broad knowledge of a variety of topics in international law and many inspiring and useful insights about my research. Although there has been a seemingly tacit division of “labor” in supervision between them, i.e., roughly speaking, while Prof. De Guttry has focused more on the normative aspects of international (human rights) law involved in this project, the design, implementation, and analysis of my empirical case study have rather attracted more attention from Prof. De Feyter, their common characteristics, such as professional knowledge and skills, leadership, teamwork orientation, academic openness, and modesty, have set good examples for our younger generation of international lawyers. For this, I am profoundly proud of being their student. As a Chinese idiom says: “一日为师，终生为父” (Once a teacher, for life a father-figure), I will genuinely appreciate this fantastic teacher-student relationship for a long time to come.

In addition to my supervisors, the network dynamics concerned have also been accelerated through a variety of interactions with each member of my Individual Ph.D.

Commission (at the University of Antwerp). Given the joint nature of my program, I have benefited from an international and interdisciplinary Commission chaired by Prof. Jan Velaers and consists of Prof. Ellen Desmet and Prof. Ching Lin Pang (and the two supervisors) over the past years of academic research. I am indebted to them for supporting my research with their expertise and knowledge, during which they have always been on the alert to keep me on the right track (especially in terms of the methodological approaches adopted). By the way, I would like to express my gratitude to the administrative staff Ms. Valentina Mistretta, Dr. Peter De Cauwer, Dr. Evilien Vandenhaute, and Ms. Katleen Anthierens for their help which has made the interactions above possible at both the Scuola Superiore Sant'Anna and the University of Antwerp.

Furthermore, the circle of my network has been expanded by numerous colleagues and friends who have accompanied, encouraged, helped, critiqued, and “laughed at” my research over the past years. I really cannot imagine how my Ph.D. life would be without having like-minded people around. Thus, a particular word of thanks is due to Dr. Silvia Venier, Ms. Denise Venturi, Dr. Rossella Marangio, Dr. Emmanuel Kumah, and so forth, for leaving me with an unforgettable memory in Pisa, the city of Leaning Tower. Speaking of the life in Pisa, I would also like to thank Prof. Xueyan Wu (吴雪燕), former Chinese Director of Confucius Institute of Pisa, who made me feel home from the very moment I arrived in Pisa in 2014. The delicious taste of her Sichuan poached beef has been imprinted in my memory ever since.

Dr. Vincent K.L. Chang cannot remain unmentioned here. The tie between us has been established since 2010 when I was one of his students at the Law School of Chongqing University. Since then, he has engaged in every aspect of my life as a mental tutor, an academic consultant, and, most importantly, a best friend. I have learned so many things from him about, to name but very few, academic research, western culture, and life. To be honest, I have owed him all these years a debt of formal gratitude and today is the right choice: thank you from the bottom of my heart for everything!

Of course, no one could replace the position of my family on my web of relationships. I feel shameful that their selfless sacrifice, uncomplaining wait, and infinite love have been the significant contents of our relational flows over the past years. Regrettably, I have done nothing for them as a son, a younger brother, an uncle, a husband, and a father. Therefore, this dissertation is mainly dedicated to them, my beloved family.

Finally, I am indebted to the Scuola Superiore Sant'Anna for her generous scholarship and other facilities.

Abstract

This Ph.D. dissertation is about the right to education and rural-urban migrant children in China. Rural-urban migrants have played a very significant role in China's rapid development of industrialization and urbanization. However, they are often denied access to adequate health care and housing and are excluded from the vast array of state benefits available only to permanent urban residents. Rural-urban migrant children, in comparison with their urban peers, suffer substantial disadvantages and discrimination in their pursuit of education in terms of availability, accessibility, acceptability, and adaptability. Under international human rights law, education is an inalienable human right for all. The Chinese government, which has already ratified the principal international instruments concerning the right to education, is legally obligated to take measures to guarantee free, quality compulsory education for every child in China. The gap between China's human rights commitments and the educational experiences of rural-urban migrant children on the ground deserves more scholarly attention.

This dissertation intends to explore the role of social networks in the process of localizing human rights in the context of the compulsory education of Chinese rural-urban migrant children. Against the backdrop of the increasing prevalence of applying network theory and methods to human rights research, this dissertation as a whole attempts to contribute to the literature of social networks and international (human rights) law. More concretely, taking Beijing as a case study, this study adopts a qualitative social network analysis approach to empirically investigate whether and to what extent social networks of rural-urban migrant households affect the local relevance of international human rights norms in relation to free and quality compulsory education.

The findings generally demonstrate that international human rights standards are not relevant for rural-urban migrant households' encounters with discrimination and inequality in education. From a social network perspective, the findings reveal that the

excessive concentration of the family and kinship relations and the slippery weak ties in urban cities, which together constitute a passive human rights network, are the relational barriers to the process of localizing human rights in the Chinese context.

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Preface: The (Quasi-)Metatheoretical Considerations

“Love me, love my dog.” Correspondingly, garnering a better and more in-depth understanding of me would be, to some extent, a necessary precondition of comprehending my academic works. This preface, therefore, mainly intends to provide the readers with a preliminary yet fundamental image of my Ph.D. dissertation. In effect, an overarchingly guiding message which will permeate the entire dissertation, either visibly or invisibly, should be clarified at the very outset: this dissertation is by nature an intellectual attempt made by a Chinese international legal scholar to add a socio-scientific innovation to the field of international law research. It may seem irrelevant to this dissertation at first sight. However, as the presentation of the author’s self-reflexivity, this message would help the reader understand why the interdisciplinarity of international (human rights) legal scholarship is regarded as the underlying actuator of this dissertation. The message as such seems very hollow and pompous. It, therefore, needs to be carefully elaborated.

1. Innovation in international law research

As with the concrete rules of international law that have ‘constantly evolved from its inception’ (Trachtman 2013: 1), it is a truism that international legal scholarship is never a static entity. On the contrary, the very idea of *progress* is ‘omnipresent in international legal discourse’ (Altwicker and Diggelmann 2014: 425), through which international law, as a scientific discipline (Crawford 2012; Orford 2014; Singh 2013), is endowed with a dynamic and promising vision of development. It is due to this vision that international legal scholars’ interest in critically envisaging the *future* of international law remains strong¹. Nevertheless, dialectically speaking, the optimism prevailing in international legal scholarship could be ostensible, intending to disguise international

¹ It is not difficult to discern that international legal scholarship has been, indeed, inundated with an explicit propensity of “looking forward”, although there is no unified *future* in the literature. See, e.g., (Alter 2018; Cassese 2012; Fitzmaurice 1976; Oppenheim 1921; Potter 1943; Trachtman 2018).

legal scholars' anxiety about the *crisis* of international law (e.g., Charlesworth 2002; Orford 2004; Tractman 2011). A variety of other different vocabularies appeared in international legal literature, such as danger (Depuy 1999), limitation (Goldsmith and Posner 2005), and decay (Kennedy 1987), could describe the anxiety in question as well.

In this regard, for instance, Eric Posner's academic endeavors (2017, 2009, 2014) are particularly alluring due to his intellectual consecutiveness on the peril and twilight of international (human rights) law. Although Posner looks like a pessimist on the surface, his authentic underlying commitment is instead to emancipate international law from a multitude of crises. According to d'Aspremont's account, Posner is not alone because such a commitment is widely espoused by both international legal scholars and other international legal professionals, who insist on saving international law by resorting to the 'inspired thinking and skilled practice' (d'Aspremont 2014: 680).

Thus, it seems cogent to instinctively infer the *de facto* existence of an interrelationship between the ingrained sense of crisis and the incessant pursuit of innovation in the international legal field. This interrelationship results in an increasing number of academic works conspicuously accentuating the *new* international law scholarship. But it is noteworthy that these works often beg the question of what really constitutes the new or innovative international legal scholarship². At the first glimpse, the begged question could be regarded as unintended neglect maintained by international legal academia due to their cognitive and technical scotomas. In effect, however, a plausible explanation is more likely to associate with the essential sluggishness of innovation in the field of international law. In comparison with domestic legal fields, the scholarly path of international legal scholars has revolved around the lag-behind symptom since the inception of modern international legal scholarship in the 19th century. According to Posner and Goldsmith (2006: 465), 'international law scholarship has fallen behind other areas of legal scholarship by at

² One of the exceptions forthrightly engaging with the aforementioned question is (Kennedy 2000).

least thirty years’.

In addition, the superiority of some international legal scholars derived from the ‘profundity, originality, and creativity’ of their research seems untenable as well, because international law research merely distinguishes itself from other legal fields ‘through its sources and, when it is presented abroad, through its forum and its language, rather than through its methods, approach, or reasoning’ (Vranken 2012: 57). In this sense, it is more appropriate to perceive the results of intellectual endeavors in other domestic legal fields as the decent sources of international legal innovation. Only when this kind of perception is appreciated can an understanding of the progress of international legal scholarship radically tally with its authentic scenario.

An example concerning the incorporation of network theory and methods into international law research can illustrate the above-mentioned lag-behind symptom. In the recent few years, one of the emerging research lines within the field of international law indispensably refers to the interdisciplinary combination of international legal science and network analysis⁴. It is against this backdrop that both network and international law have simultaneously become the keywords in a growing number of journal articles (Borgen 2009; Derlén and Lindholm 2017; Lupu and Voeten 2012; Manley 2016; Olsen and Küçüksu 2017; Paz 2011; Pelc 2014; Šadl and Olsen 2017), books (Dothan 2018; Madsen and Christensen 2016; Puig 2018; Slaughter 2004, 2017), and conferences. For sure, these scholarly efforts are by no means excluded from the aspiring title of innovation, regardless of their respective theoretical or methodological orientations. However, by scanning the relevant literature, it is evident that the development of network research in domestic legal scholarship is earlier, faster, and

⁴ The consensus concerning the employment of network within the existing literature on international law in particular and law in general has not been reached. Incorporating network into (international) legal field(s) means different things to different people. In the ensuing chapter on human rights networks, I will analytically encapsulate this disheveled research line into four genres, namely “network as metaphor”, “network as method”, “network as actor”, and “network as theory”. This categorization can also apply to the emerging field of international law and network analysis. However, given the space limitation and research aims, it is better not to stretch the discussion here.

broader than network research in international legal scholarship⁵. Most network research on international law extensively cited the works of domestic legal scholars, whose research is characterized by network perspectives.

2. “I am a Chinese international legal scholar”

International law is not international. Anthea Roberts’s (2017) heuristic construction of the “divisible college of international lawyers” underlines the national differences in terms of the understandings of and approaches to international law. The conventional idea of the “invisible college of international lawyers” (Schachter 1977), which highlights the uniformity of international lawyers from a professional perspective, is argued to be theoretically and empirically insufficient. Based on Robert’s comparative project (Roberts 2017b; Roberts et al. 2018), Chinese (mainland) international legal scholars have received increasing attention in the global academic market. Besides, their approaches to international law have been subsumed into a nuanced category of the scholarly composite.

To some extent, the overseas concentration on the Chinese ways of engaging with international legal norms and institutions could be interpreted as an intellectual repercussion of China’s rise in the international stage. In the process of China’s rise, some characteristics in terms of, for instance, the attitude, ideology, theory, and method of international law, have been gradually established in Chinese international legal academia. By comparing educational background, topic preference, publishing location, language choice, and funding source (Roberts 2017b), it is feasible to distinguish the Chinese landscape of the international legal profession from other countries. Recognizing the distinctions displayed in Chinese international legal academia is benefited from the rapid developments and arresting achievements of research and

⁵ Although there has been no literature explicitly introducing the intellectual history of the network-oriented legal studies, we could get a clue that *Social Networks*, the premier and the leading journal for studying social networks, published Harris’s paper which diachronically discusses the structural change in the communication of precedent among state supreme courts in the United States even in 1982. See (Jiang 2019)

teaching of international law in China, specifically in the aftermath of the adoption of the national policy of reform and opening-up in 1978 (Kong 2017; Zhang and Zhang 2017). However, some set of disparities in such as state sovereignty, human rights, and cyberspace have been criticized by especially western politicians and academics. These external critiques, conversely, have functioned as one of the catalysts of consolidating and expediting Chinese international legal scholars' commitments to radicalize a Chinese school of international law (e.g., Chan 2014; Chen 2017; He 2017; Su 2014; Tang 2015; Zeng 2011).

The pertinent efforts to establish a Chinese school of international law have been initiated since as early as the 1950s by Chinese academics. At that time, the dichotomy of socialist and capitalist perspectives of international law profoundly influenced these pioneering works (e.g., Hu 1958; Qiu 1958, 1993)(Hu 1958; Qiu 1958, 1993). In recent years, the intensity of excavating and shaping Chinese characteristics has been enormously enhanced especially on the occasion of the recent emergence of some notions like the “One Belt, One Road” (e.g., Li 2018; M. Li 2016; Peng and Mao 2015; Zhu 2017) and the “Community of Shared Future for Mankind” (e.g., Z. Li 2016; Luo 2018; Xie 2018; H. Zhang 2018). These notions have started to reconcile the convoluted lyrics of international affairs with a reassuring Chinese rhythm.

Given the increasing attention to the characteristics of Chinese international legal scholarship, it is necessary to employ a microscope to zoom in the underestimated aspect, namely the lag-behind symptom of socio-legal studies of international law. In fact, Chinese international legal scholars are lag behind both their domestic and international peers. Domestically, the rise of law and social science studies, or “social science legal studies” (*sheke faxue* 社科法学), in contemporary China is more than impressive (Liu and Wang 2015). China is a late-comer in comparison with other countries and regions where socio-legal studies have deeper roots in legal realism. Nevertheless, the rapid development of law and social science studies in China have fundamentally changed its intellectual landscape of legal scholarship, which used to be

exclusively dominated by the doctrinal paradigm of law. Based on Liu and Wang's (Ibid) historical retrospect, Chinese legal academics, by and large, have already experienced or witnessed three waves of law and social science studies, namely from the 1980s to the first half of 1990s, from the mid-1990s to the mid-2000s, and from the mid-2000s to the present. The previous two moves were unsuccessful, mainly due to their failure to generate a nationwide law and society movement (Ibid: 386).

In the latest wave, which reached the peak in terms of its intensity and popularity around 2014, an increasing number of Chinese scholars from different branches of law have enrolled themselves as members of the socio-legal camp. Nonetheless, it is rare to smell the fragrance of international legal scholarship in the garden of Chinese legal knowledge where various flowers of law and social science are in full bloom. Even, there is no searching result when both international law and social science legal studies simultaneously are set up as the retrieval terms in the China National Knowledge Infrastructure (CNKI). One exception does exist, fortunately. Jun Zhao (2011, 2013), as a professor of international law, directly made his contributions to the law and society movement by elaborating on the empirical legal research and the behavioral law and economics in the specific context of China. Even if so, this exceptional case is far from adequate to conceal the negligence of Chinese international legal scholars on the rich theoretical and methodological insights offered by social sciences in particular and other disciplines or fields of inquiry in general.

Besides, the expanding institutionalization of social science legal studies is another example, which could consolidate the general idea of the scarcity of international legal scholars in China's socio-legal enterprise. It is rare to find international legal scholars in the Law and Social Science Union (which was founded as a scientific community of the social science legal studies in 2005), the annual conferences (that have been hosted by the Law and Social Science Union since 2005 and hosted by KoGuan Law School of Shanghai Jiao Tong University since 2016), the specialized journals (the Chinese journal Law and Social Sciences that has been managed by the Research Center of

Comparative Law and Sociology of Law in Peking University since 2006; the English journal *Asian Journal of Law and Society* that have been operated by the cooperation between KoGuan Law School and Cambridge University Press since 2014) (for more details, see Xu et al., 2014).

From a transnational perspective, however, the contemporary mainstream, or the so-called western marketplace, of international legal academia tell a different story by explicitly confirming the significant value of social sciences and humanities in dealing with international legal issues and phenomena (to name but very few, Nourse and Shaffer 2014; Shaffer 2015a; Shaffer and Ginsbury 2012). The leading international legal scholars and younger academic stars in our contemporary age, such as Martti Koskenniemi, David Kennedy, Gregory Shaffer, Jean D'Aspremont, Mikael Rask Madsen, Ryan Goodman, and Anthea Roberts, have shared a fascination with the socio-legal “plug-ins”, emphasizing the interdisciplinary, empirical and pragmatical features of international law research²³. Thanks to the professional involvement in the Law and Society Movement, several international legal scholars have already imprinted their names on the *classics* of the development of the field of law and society²⁴. Likewise, the publishing market has also updated its appetite and preferred to engage with journal articles, edited books, and monographs pertinent to the various socio-legal approaches

²³ Apart from the interdisciplinary nature of international law, it is argued that the new legal realist approach to international law encompasses two principal dimensions – empiricism and pragmatism. see (Shaffer 2015).

²⁴ Within the cooperation between Calvin Morrill and Kelsey Mayo on charting the classics in law and society, three tables were compiled by them for respectively presenting the top twenty most-cited works in, according to their specific division, the law-in-context era (1960s-1970s), the decentering era (1980s-1990s), and the global era (1990s-2000s). Alter’s *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe* (Oxford, 2001), Dezalay and Garth’s *Dealing in Virtue: International Commercial Arbitration and the Construction of a Transnational Legal Order* (Chicago, 1996) and *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (Chicago, 2010), Merry’s “Legal Pluralism” (*Law & Society Review* 22: 869-896), *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (Chicago, 1990), *Colonizing Hawai’i: The Cultural Power of Law* (Princeton, 2000), and *Human Rights and Gender Violence: Translating International Law into Local Justice* (Chicago, 2005) were included as the classics. See (Morrill and Mayo 2015: 18-36). Besides, it is noteworthy that the international legal scholars under such circumstance are roughly defined by the exact scholarship, rather than by the given disciplinary affiliation.

to international law. Besides, both the publishers and academic communities have established the propensity, conferring their awards to scholars whose creative contributions rely on the apposite intervention of socio-legal ideas and methods²⁵.

‘International lawyers typically exist at the intersection of two communities: a transnational community of international lawyers and a domestic community of national lawyers’ (Roberts 2017b). In this vein, it seems impossible for Chinese international legal scholars to live in a vacuum and reject to embrace these socio-legal perspectives and methods which have prevailed in both international and domestic academia of international law.

3. Social sciences as the innovation driver for international law research: China’s scenario

Indeed, not all Chinese international legal scholars are satisfied with the dominance of legal positivism in their research field. Especially against the backdrop of China’s significant role in the international community, academic research that is exclusively guided by international legal positivism could ‘easily neglect the crucial concerns with the operational background or development tendency of international law, and hardly grasp the essence and regularity of international interaction and international legal practice’(Zhao 2016). Furthermore, excessively relying on one single approach could exacerbate the morass of “theoretical immiseration” of Chinese international legal scholarship (Ibid). After all, without competition, it is too easy for these hidebound positivists to block the avenue to the innovation center of international law. Therefore, it is essential to look to the alternative proposals provided by these “heterogeneous” (or

²⁵ For instance, the book awards conferred by the American Society of International Law, the European Society of International Law, and the International Studies Association. Correspondingly see <https://www.asil.org/sites/default/files/ASIL%20Book%20Awards.pdf>; http://esil-sedi.eu/?page_id=34; <https://www.isanet.org/Programs/Awards/ILAW-Book/Past-Recipients> (last visited in March 2019).

pioneer) scholars for smashing the development barrier of international legal science²⁶.

3.1 Being more interdisciplinary

The first generation of Chinese international legal scholars was already aware of the merits of appreciating the conceptual, theoretical, and methodological insights of other disciplines for their research at the beginning of the 1980s²⁷. The first and foremost message that Prof. Teiya Wang, who is one of the world's outstanding international legal scholars, wants to send to his Chinese peers in this regard is the ingrained relationship between international law and international relations. He further encourages Chinese international legal scholars to 'engage in the task of conducting international legal research by referring to the discipline of international relations' (Wang 1980: 27). As an auxiliary, Wang suggests that 'courses like international relations, history of international relations, and history of foreign relations should be incorporated into the international law curriculum' (Ibid). In addition to emphasizing the importance of international relations, Wang does not downplay the relevance of other disciplines for the teaching and research of international law. He explicitly asserts that 'international legal science has a close relationship with a variety of other social sciences. Apart from the history of international relations and international politics, special attention should

²⁶ Sometimes, the ambition of being innovative in academia would take the risk of criticism from their peers. For instance, some (especially young) Chinese scholars specialized in private international law were accused of making their research and writings 'improperly creative, formally colorful yet substantially hollow, and pretentious'. See exactly (Deng 2010).

²⁷ As to the generational division of international legal scholars, a unified standard applicable to the entire academia in China does not exist. Based on both Ling and Deng's methods of differentiation, I analytically divide, in a rough manner, Chinese international legal scholars into four generations. The first generation is mainly, yet not exclusively, composed of these scholars whose academic training and career traversed both the Republic of China era and the New China era and who received legal education in the Soviet Union and returned to China in the mid-late 1950s. The second generation encompasses these scholars who entered the ivory tower of international law as students after the resumption of the national college entrance examination in 1977. The third generation refers to the so-called middle-young aged international legal academics. Most of them were born in the 1970s and received tertiary education in the 1990s or the first half of 2000s. Last but not least, the fourth generation includes the junior faculty members, post-docs, and students at all levels of the legal education system. As the below discussion implies, while Chinese international legal academia has been dominated by the second generation roughly since 2000, the middle-young aged scholars have played increasing role in recent years. See (Deng 2018; Ling 2009)

also be paid to the discussion and research of international economic relationships due to its significance' (Ibid). Ziya Zhou, another eminent international legal scholar in the first generation, agrees with Prof. Wang in terms of the overarching position of the knowledge of international relations. However, he is more precise and elaborated in the sense of enumerating both social and natural sciences which could inform the international legal enterprise. For example, he maintains that:

‘We, researchers and teachers of international law, should not only research international political relations and international economic relations but also learn new knowledge of science and technology. Therefore, in addition to the solid foundation of international law theories and the high level of foreign language competence, we also need to familiarize with social sciences like history of international relations, politics, economics, sociology and comparative law, as well as the basic knowledge of natural sciences like geography, geology, mineralogy, oceanography, biology, astronomy, meteorology.’ (Zhou 1980: 55)

Following the steps of these prestigious international legal scholars belonged to the first generation, a relatively small and sporadic group of scholars in the later generations have also become vigilant to the fact that the application of the typical legal thoughts and methods is difficult to benefit international legal scholarship adequately. Thus, they have expected to explore and undertake the potential knowledge integration with the “disciplinary others”. However, it is not until the 21st century that “being interdisciplinary” does become an identifiable discourse among Chinese international legal scholars. The rapid development of interdisciplinary research on international relations and international law in China is the major contributor to the formation of this discourse (Liu 2011). Even, it is argued that applying international relations theories to international law research ought to be *the* substitution of interdisciplinarity. Because the tool-kit of international relations theories have already included and absorbed the theoretical and methodological quintessence of philosophy and other social sciences (Xu 2009). Moreover, the interdisciplinary field of international relations and international law in China has even transcended the traditional focus on how

international relations can inform international law research. On the contrary, Chinese scholars in this field have initiated the discussion of what international law can contribute to the development of international relations as a discipline (Wang 2010).

Nevertheless, concerns do exist regarding the *status quo* of interdisciplinary research in Chinese international legal academia. One of the most representative concerns is associated with the shortage of the combination of international law and domestic legal scholarship. In lieu of the single approach to interdisciplinarity (i.e., the “international law and ...” formula), it is contended that international legal scholars should pay attention to the intellectual nutrition originated from both without and within legal science (Hu 2010; B. Liu 2012). Prof. Zhipeng He (2010) holds the same opinion and believes that two types of disciplinary sources are applicable in the process of knowledge integration in this regard: disciplines within or without law. In general, there are two reasons for the idea that international law research should connect with other branches of (domestic) law. Firstly, there may arise a problem of disciplinary autonomy of international law when international legal academics rely too much on the substantive knowledge and methods of other disciplines in their research. Secondly, a closer relationship between international law and other branches of law has been formulated in the context of globalization, one of the most notable examples of which refers to the impact of domestic public law on international law (Cai 2009, 2015).

3.2 Being more empirical

‘Theoretical innovation varies in form, but methodological innovation is one of the most fundamental of those forms.’ (Zhao 2017: 190). This is what Prof. Jun Zhao emphasizes in his elaboration of the benefits of incorporating the research methods of social sciences, such as the empirical and experimental research methods, into international law research for the international rule of law. By taking account of his previous writing on the general situation of empirical legal research in China, it is not difficult to recognize that his latest appeal to the empirical study of international law is

based on a survey of the statistical data. The data show that there are only 19 journal articles on international law between 1990 and 2012 that can be classified into empirical research²⁸. Another research (Hu and Cai 2017) also indicates that empirical research is scarce, albeit the number of empirical international legal studies is 16 in total, rather than 19. The difference in the number of empirical research articles is much less important than their common underlying implication for the improvement of the empirical study of international law in China.

This type of advocacy is expressed in a more straightforward and elaborated manner by other scholars (Chen 2015; C. Liu 2013; Liu 2017; Song 2010; C. Zhang 2018). Taking Lianbin Song's journal article (2010) as an example, it expounds step by step the conceptions of empirical methods, the harms and reasons for the shortage of empirical international legal studies in China, and his suggestions for conducting empirical research. Within his analysis, primarily, he summarizes the reasons for the shortage of empirical international legal studies as follows: (1) international law, as a decentralized legal system, receives a stronger influence from legal doctrines; (2) given the embeddedness of international law in the complexity of world politics, Chinese international legal scholars prefer to narrowly resort to the general principles and rationales of international law such as state sovereignty, instead of the concrete rules; (3) the distinction between the *lex lata* and *lex ferenda* in international law is not so clear-cut due to the pluralism of international law; (4) Chinese academic tradition, i.e., good at and predominated by the writing style of literature, strengthen the weakness of empirical paradigm of international law research; (5) the inadequate transparency of the official information on international legal practice impedes the access to empirical data for international law research (Ibid: 52-53).

Knowing the reasons that elucidate why the empirical methods employed by

²⁸ It shows that while legal branches like procedural law and judicial system, administrative law, and criminal law in China are, comparatively speaking, teem with empirical methods, scholars who specialize in international law and constitutional law are away from the fertile soil of legal empiricism. (Zhao 2013)

Chinese international legal scholars are still at the infant stage is indeed a beforehand key to unlock the tied-up enthusiasm towards the methodological reformation and update (Editorial Office 2015). However, a deplorable situation for those who are committed to the methodology of international legal scholarship is related to their estrangement from the mainstream of academic discourse. For instance, China's mainstream journals of (international) legal science rarely published articles specifically discussing the methodological issues of international legal scholarship (e.g., He 2011; Z. Liu 2013; Zhu 2015). That is to say, the vast majority of research articles in question have been ruthlessly exiled to the jungle of academic journals where, typically speaking, the quality assessment is unstable, and the impact is low. Besides, among these journal articles, it is noteworthy that Ph.D. candidates constitute the significant force engaging with the various ways (especially new ways) of studying international law, albeit their outputs are more the translation of the western jurisprudence of international law than the serious, creative, and heuristic research. In this regard, it not only exhibits the vulnerable status of empirical methods in the current politics of research on international law, but also reveals the rudiments of the potentially generational difference in terms of the methodological plurality in Chinese international legal academia. In other words, there is hope for the future development (or prevalence) of empirical studies on international law in China partially due to the methodological awareness and self-consciousness of the young generation of international legal academics.

3.3 Being more theoretical

In addition to the awareness of making international law research more interdisciplinary and empirical, there is a small number of Chinese international legal scholars who rather focus on the theoretical dimension of international law. Precisely, their endeavors are primarily dedicated to the various theories within the field of international law which are influenced by American legal realism in particular. Unlike their peers who are

expertized in the various domains of domestic law²⁹, the majority of Chinese international legal scholars seem to be indifferent to the importation of legal realism and its derivatives, such as the new legal realism (Augsberg 2015; Erlanger et al. 2005). However, Chinese international legal scholars have started to attend to theories like the international relation realism (He and Sun 2014; Jiang 2004; Liu 2007c, 2007a, 2009; Tang 2008; Xiong 2016), the New Haven School of International Law (Liu 2007b; X. Liu 2012; Lu 2010; Wu 2015), the Third World Approach to International Law (H. Li 2009; Li 2011), and the Feminist Approaches to International Law (Huang 2008; Treatise 2011; Yang 2001).

Taking Prof. Chongli Xu's academic journey of exploration into the theoretical aspects of international relations as an example, theories of international public goods, global governance, international society, hard/soft law, realism/new realism, and scientism are all in his series of thematic discussions (C. Xu 2016; Xu 2008, 2010a, 2010b, 2012a, 2012b, 2012c, 2014). In comparison with those hit-and-run scholars who are obsessed with the brief theoretical introduction, Prof. Xu instead remains a long-term ambition of formulating a *jurisprudence* of international law upon which all kinds of international law research and practices are theoretically based³⁰. In this sense, even if Prof. Xu has not sent a straightforward invitation to the general theories of interdisciplinary international legal scholarship, his persistence on the combination of international law and international relations is actually a role model for his Chinese colleagues.

Besides, Prof. Zhipeng He also deserves a particular accentuation thanks to his contributions to the theory of international law research methodology³¹. While running

²⁹ In fact, while American legal realism has been brought into Chinese legal scholars' research agenda for long time, more and more research is carried out for catching up the latest "bus" of legal realism which is entitled as new legal realism. see, e.g., (Deng 2014; Fan 2006)

³⁰ These persistent works conducted by Prof. Xu are regarded as the "butt joint" (对接工作) between international relations and international law, the importance of which is fundamental for the ensuring concrete employments of interdisciplinary approaches to international law and international relations. See this commentary in (Liu 2015: 156).

³¹ See his direct contributions to the methodological dimension of international legal research in

in the same track with the mainstream western scholarship on the methodology of international law which in tune with the three fundamental philosophical factions of international legal science, namely natural law, positivism, and legal realism, He's laudable breakthrough refers to a new proposal of applying critical realism as an international law research methodology. In particular, his critical realist approach to international law treats thoughts and expressions as the two analytical dimensions of methodology. Putting the dimension of expression aside, international legal thoughts are built upon, according to He, the erudite foundation of every branch of international law and domestic law, jurisprudence, social sciences and humanities, and philosophy. This idea demonstrates that the interdisciplinary competence of international legal scholars is a prerequisite for carrying out a sound research project that is both theoretically and methodologically precise, valid, and creative.

4. Implications for this dissertation

In summary, as what the preface has already revealed, to be innovative in the field of international law is, to a large extent, to enthusiastically embrace the interdisciplinary, empirical, and theoretical trend of scholarship on international law. This is more so for Chinese international legal scholars in its entirety. Therefore, the present dissertation, in the broadest sense, should be read together with this general backdrop, treating it as an attempt to implement the abovementioned intellectual trend.

More precisely, the present dissertation contains all of the three characteristics that are conducive to the future development of international legal scholarship. It is interdisciplinary because of its dedicated combination of the knowledge, mainly, from the doctrinal legal research (in the field of international human rights scholarship) and (social) network science. Furthermore, it is empirical because it pursues to understand the issue of the right to education of rural-urban migrant children in China by, among others, conducting interviews and observations in the fieldsite. Lastly, it is theoretical

(He 2011; He and Gao 2014; He and Wang 2012).

mostly because of the theoretical excavation of the possible insights that social network analysis could provide to human rights theory (especially the “localizing human rights” approach).

So, this is *the* dissertation, and this is *me*!

Chapter 1 Introduction

1. A cliché: human rights, the right to education, and rising China

For many, human rights issues in China are cliché. China's human rights record and situation have been rebuked for years (e.g., Biddulph and Rosenzweig 2019). Although with the rapidly increasing influence of its economy China arguably “buys” the silence of the world's human rights critics (Lau 2017), it does not mean these so-called western critics are allowed to completely ease up, especially on the occasion of the recent advent of a variety of (new) human rights issues in China. Among others, just in the year 2019, serious human rights issues concerning the Hong Kong protests (Purbrick 2019) and the Vocational Education and Training Centers in Xinjiang (Zenz 2019) have already attracted considerable attention from the international human rights community. Regardless factually right or wrong³², some insist on denouncing that China ‘is home to the worst human rights crises of our time’ (Garrison 2019). This kind of denouncement may sound unduly pessimistic against the backdrop that the Chinese party-state proudly propagates its unprecedentedly remarkable achievement in terms of human rights protection and promotion in both international and domestic platforms. For example, the Chinese government has been making every effort to push its strategical agenda “human rights with Chinese characteristics” within the UN human rights regime, in which the Chinese notion of development (*fazhan*) has been manipulated to debilitate the fundamental importance of human rights. The agenda has been proceeded smoothly and highlighted by the adoption of China's proposal on building a community of shared future for human beings in the 37th session of the UN Human Rights Council (UNHRC), 2018³³.

³² But the increasing violence from Hong Kong protesters, especially against Hong Kong citizens or others who hold different political opinions, is completely unacceptable. It is inconsistent with the rule of law, democracy, and human rights.

³³ A/HRC/37/L.36. Besides, it is worth noting that China's role in the international human rights system has dramatically changed in the past decades. While China played a very little role before

The term “progress” has already become an idiomatic expression in a variety of Chinese white papers on human rights (Pisanò 2018). In order to demonstrate this progress to the international community, for instance, the Chinese government issued another white paper titled Progress in Human Rights over the 40 Years of Reform and Opening Up in China, accentuating, in the very first sentences, that ‘China has shown respect for, protected, and promoted human rights in the course of reform and opening up. It has blazed a trail of development in human rights that conforms to the national conditions, and created new experiences and new progress in safeguarding human rights’³⁴. This kind of self-boasting has been vehemently disseminated through which China has gradually unclothed itself with the garb of the defensive stance on human rights (politics) and become more assertive in this regard (Carrai 2019). Guided by the tit-for-tat strategy, the Chinese government has preferred to hit back against those human rights criticisms directly, rather than dodging them. On 13 March 2019, the report “Human Rights Record of the United States in 2018” was issued in Beijing, deriding the United States government as a self-styled human rights defender whose human rights record is ‘flawed and lackluster’³⁵. Yet, it is worth knowing that this report is merely one of many countermeasures actively adopted by China (see, e.g., Zheng 2014).

Apart from the government itself, the song of praise is also on the lips of Chinese human rights scholars, academically hailing China’s significant progress in, especially, protecting and strengthening its people’s the right to development (to name but a few examples in English literature: Liu 2016; Sun 2015; Wang and Zhang 2019; Yao 2018). To some extent, it is understandable in the case of Chinese human rights researchers who have no more choice but to keep pace with the overwhelming national interests

1989, it behaved more active from 1989 to 2013 to defend its human rights record in the platform like the United Nations Commission on Human Rights (UNCHR) and the UNHRC. More recently, namely since 2013, China has become more assertive in order to promote its characteristic interpretation of international human rights norms and mechanisms. See (Piccone 2018).

³⁴ See http://www.gov.cn/zhengce/2018-12/12/content_5347961.htm (last visited in March 2019).

³⁵ See http://www.xinhuanet.com/english/2019-03/14/c_137894730.htm (last visited in October 2019)

and mainstream ideology, especially given the dear price of defending academic freedom in totalitarian and authoritarian regimes (Qing Zha and Shen 2018). Otherwise, they would take the risk of being cracked down due to their dissident or difference in their political or religious ideologies (as to the academic freedom in the Chinese context, see, e.g., Qiang Zha and Shen 2018). Or in a better situation, their academic careers would be affected, although softly, by the criteria and standards applied to the selection phases of publication, funding, and promotion. It is noteworthy that, apart from employing censorship to repress specific views in the academic sphere (e.g., Wong and Kwong 2019), China's government is adept at strategically using research funding to "help" the Chinese academy as a whole to assure the subject matter foci (Roberts 2017a). Under such circumstances, it is reasonable to believe that the explosion of research activity in the field of the right to development is another fruit of this kind of "help", presenting as an important topic in the recommendation lists of a variety of funding applications.

Nevertheless, a little surprisingly, several human rights scholars from western and other legal traditions have also joined the chorus of adoration, acclaiming that, in particular, '[a]s it did during World War II, China is and has been playing a decisive role in developing international human rights policy. Its efforts are not only meant to serve the interest of the Chinese people but also the common interests of the wider global community' (Zwart 2015: 5. Also, see Zwart 2017; Oyugi 2018). Of course, it would be incorrect to surmise that their friendly attitudes toward China's human rights situation must be pertinent with their unique ties with Chinese universities or institutions. Nevertheless, in any case, the international academia and scholarly world should not underestimate China's ability and determination to win over foreign academics employing "silent invasion" (for details, see Hamilton 2018), which includes, for instance, cooperation, donation, award, visa-threat, and political pressure. After all, the support of some foreign academic can be bought quite cheaply (Ibid: 135), and the cooperation with a Chinese university or state-owned company is equivalent to entering

‘a partnership with the Chinese Communist Party. The party’s program of “thought management” sets the political and ideological rules that constrain the relationship..... In these partnerships liberalism meets authoritarianism, and liberalism often gives way in order not to offend – and to keep the cash flowing’ (Ibid: 200).

Given the applause from both Chinese and foreign human rights scholars, it seems groundless for pessimists to propose a very radical denouncement anymore, especially in front of the impressive data on, for instance, economic growth, employment, and poverty alleviation in China. Observing in this vein may also readily forge an illusion that human rights have been a relevant notion and tool in the Chinese context, regardless of how it has been named and used. However, it is indeed no more than an illusion because while its government and officials are overtly celebrating the formation of human rights with Chinese characteristics, Chinese people, who should be the *very* primary authors and users of this characterized human rights (Baxi 2002), are still suffering various kinds of human rights violations. The feeling of contrast between the government’s self-boasting and people’s sufferings would be much stronger when the spotlights hit the issues of, for instance, Xinjiang, Tibet, and Chinese Christians. Among others, problems regarding the education of migrant children who move from rural to urban areas of China with their parents have triggered human rights concerns for decades (see, in general, Chunli 2006; Erikson 2015; Froissart 2003; Holdaway 2018; Hunt 1993; Mautner 2010; Zhu 2012).

Rural-urban migrants have played a very significant role in China’s rapid development of industrialization and urbanization. Each year millions of migrant workers move to cities for work in non-agricultural sectors. In contrast with their economic contribution, however, these migrants in practice are often denied access to adequate health care and housing and are excluded from the vast array of state benefits available to permanent urban residents (see Chapter 2). Compared with urban children, rural-urban migrant children suffer substantial disadvantages and discrimination in their pursuit of education in terms of availability, accessibility, acceptability, and adaptability.

The disparity of opportunity and quality of education is inconsistent with international human rights law.

China has ratified various international human rights treaties relevant to the right to education and non-discrimination, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women (see Chapter 3). Under these treaties, China has accepted obligations to provide its citizens with equal opportunities to quality education. The right to education also appears in the Constitution of China in Article 46, par.1: “Citizens of the People’s Republic of China have the duty as well as the right to receive education”. The Constitution further provides that the State runs schools of various types, makes primary education compulsory and universal, develops secondary vocational and higher education, and promotes pre-school education (Article 19, par. 2). The State also encourages social forces to set up educational institutions of various types in accordance with the law (Article 19, par.4). In March 2004, Article 33 of the Constitution was amended to include a provision stating that “the state respects and protects human rights”.

Today, under Chinese domestic laws, compulsory education consists of six years of primary education and three years of junior middle school. The responsibility for compulsory education has been decentralized: since 2002, county governments are entrusted with the primary responsibility for compulsory education. Per-student spending differs substantially between urban and rural areas, resulting in significant differences in the quality of education offered in urban and rural areas. The county government responsible for the realization of the right to education is the government of the place of registered domicile of the household to which the children belong. This creates additional problems for households that migrate from rural to urban areas without officially registering in the city. Few migrants register in the city, due to costly and cumbersome procedures. Although a number of measures have been taken to enable

children from migrant families to enroll in urban schools, problems of access and lower quality of education for migrant children in urban areas remain.

The current law and policy of China on compulsory education for the children of rural-urban migrant workers seems to create several problems that are of direct concern from a human rights perspective. For instance: (1) the quality of education in schools for the children of migrant workers may be less than in the other urban public schools; (2) the policy of school allocation may cause social isolation; (3) the extra charges for those households may undermine the principle of equal access to education. The prohibition of discrimination is relevant to and underlies these three issues.

2. A rumination: the localization and interdisciplinarity of human rights

Human rights and human rights research need more introspection. Human dignity, the orthodox western starting point of human rights language, has been increasingly studied from different theoretical perspectives (e.g., Kretzmer and Klein 2002; Lutz-Bachmann and Nascimento 2014; Quataert 2010). Human rights law has kept playing the dominant role in the realization and protection of human rights all over the world since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The international community has established a relatively comprehensive legal system at the international, regional, and national levels. These legal instruments and institutions have forged a “great wall” for universal human rights (Jiang 2016: 346). However, the notion of universal human rights has been challenged by its effectiveness in practice (Abebe 2001; Shelton 1980). The fact, rather than the beautiful scenery narrated by the global human rights regime, is that human rights violations are happening in every corner of the world every day. The domestic implementation of international human rights law is either problematic or perplexed among the majority of states. Accordingly, skeptics have started to criticize not only the effectiveness of the international legal

system in practice but also the notion of human rights itself in theory³⁶.

Emerging concerns with the effectiveness of international human rights law have been echoed by an uprising shift in human rights scholarship, i.e., in general, there is increasing attention paid to the reality and practice of human rights laws (e.g., Bantekas and Oette 2016; Goodale and Merry 2007). Rather than committing to the normative contents and structures, scholars have moved their focus onto the practice of human rights norms in real life. Gradually, this movement has transformed human rights practice into an academic perspective, the essence of which is to contrast with the legal, as well as philosophical, lens of human rights by asking distinctive research questions like ‘What do human rights do? Why do people use them? What do people actually do when they use them? Why do they use them and not another political or moral framework? What are the effects, implications and drawbacks of relying on human rights in political struggles?’ (Dudai 2019: 274).

One of the outstanding representatives of this scholarly movement refers to the “localizing human rights approach”³⁷, which should be regarded as both an individual innovation of Koen De Feyter and a collective commitment of a group of academics. In other words, while De Feyter has personally persisted in the construction and refinement of the localizing human rights approach since 2006 (De Feyter 2006, 2007, 2011b, 2016, 2018), there remains an increasing number of academics who have enthusiastically joined him to investigate and understand a variety of human rights (issues) from *below* (e.g., Destrooper 2016; Jiang 2016; Kaufman 2017; Vandembogaerde 2017; Vandenhole 2012). In De Feyter’s original construct, the localizing human rights approach chiefly aims to propose a shift of inquiry perspective from the traditional commitment to the universality of human rights towards a

³⁶ For instance, the divergence between universalism and relativism seems impossible to be handled by the conventional approaches. Besides, the theoretical foundation of the legitimacy of global human rights governance is also fragile, etc. See especially (Posner 2014).

³⁷ The localizing human rights approach is the major theory upon which this study is based. Therefore, it will be referred to many times for different purposes in different places of this dissertation.

pragmatic angle of the local relevance of human rights, especially in the context of the Global South. Accordingly, this shift puts weight on the process of localization which ‘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: 68). Thus, De Feyter delineates a two-way dynamic in the process of localization: from international human rights norms to their translation and application in local human rights struggles; and from local human rights claims³⁸ to the further revision and development of international human rights norms.

Oré Aguilar (2011), in her contribution to the methodological framework of the localizing human rights approach, labels this dynamic as a “two-way highway” and demarcates it into five tracks:

‘... the localization of human rights entails a process in which people’s local experiences of disempowerment and deprivation provide the starting point for action (track 1) by a network of actors (including the local community itself) that uses the global human rights framework to frame their claims in terms of human rights and deploy actions at various levels and political spaces (track 2). Such actions target an institutional response through which the effectiveness and relevance of human rights for responding to these claims are tested (track 3). Localization also inquiries into the process by which institutional responses translate into the further interpretation or elaboration of human rights standards (track 4). Thus, local communities become a resource for enhancing human rights protection in theirs and other local communities (track 5)’ (Oré Aguilar 2011: 130).

To generate an authentic and precise understanding of the local relevance and effectiveness of human rights, the inquiry shift in question concurrently evokes a reconsideration of the limitation of law as the dominant discipline in human rights

³⁸ According to De Feyter, a local claim should not be qualified as a human rights claim until (1) the claim uses human rights language; (2) it identifies a duty-holder; (3) it insists on accountability from the duty-holder. See (De Feyter 2011: 18, 2016).

scholarship and practice (also see Meckled-García and Cali 2005; Viljoen 2012). Beyond question, for instance, legal science can more or less expound the reasons why lack of compliance is a principal drawback in human rights law by mainly evaluating the concrete provisions. However, it is difficult for especially doctrinal lawyers to provide more extensive accounts of why compliance problem arises in a particular social setting (De Feyter 2011a: 52-53). In addition, Michael Freeman further provides a more general comment on the legal approach to human rights, asserting that it ‘cannot adequately analyze the ethical, political, sociological, economic, and anthropological dimensions of human rights’ (Freeman 2002: 78).

Timely, in lieu of the long-term monopoly of (international) lawyers in the study of human rights, an increasing number of scholars from other disciplines have unswervingly devoted themselves to the intellectual enterprise of human rights. The human rights issue has been treated as a component of the society or one part of the culture in many cases (e.g., Goodman and Jinks 2013; Goodman, Jinks, and Woods 2012b). Among others, even sociologists, who traditionally refused to touch upon human rights due to the fundamental conflicts regarding issues of, for instance, normativity and neutrality, have been finally awakened by the “bugle call” of the social scientific research on human rights (e.g., Dunn 2012; Hafner-Burton 2014; Huneeus 2015; Regilme 2014; Woodiwiss 2009). One of the primary explanations concerning the explosion of social scientific participation and intervention in the field of human rights is bound up with the realistic ideology and pragmatic purpose of attending to human rights issues. However, a more profound illumination revealed by such an explosion is associated with the very interdisciplinary nature of human rights scholarship. Against an overall backdrop of the burgeoning prevalence of interdisciplinarity in the academic world (e.g., Miller 2017; Sinha 2016), the academic study of human rights has considerably flourished by largely absorbing both the theoretical and methodological nutrition from a variety of disciplines (Landman 2002: 890).

While it seems superfluous to repeat the necessity and importance of interdisciplinarity *per se* and its impacts on human rights research (in general, see Freeman 2002; Goodman, Jinks, and Woods 2012a), it is worth noting that the sequential participation of academics from other disciplines is also conducive to the evolution of research methods in human rights. The methods used in human rights research have been changed from interpretation into empirical and evidence-based methodologies (Andreassen, Sano, and McInerney-Lankford 2017: 3-4). More recently, scholars have begun to advocate for the adoption of mixed methods in human rights research through which ‘all voices are adequately heard and represented, and violations are documented reliably’ (Pham and Vinck 2018). Indeed, conducting human rights research with mixed methods, especially when fieldwork is involved, is more time-consuming, technically challenging, expensive, and dangerous (in the places where human rights situation is more than deplorable) than traditional desk research. The benefit of applying these methods to discover “the truth” and attend to the local relevance of human rights for those “left behind” is, however, worth more than it costs (De Feyter 2018: 18).

3. A novice: the network-oriented human rights research and the relational society of China

Human rights are not an abstract discourse but a real existence for every individual or group. However, the choice of using human rights is not always the result of rational behavior conducted by individuals (see Geisinger and Stein 2008). Individual actors are not entirely free agents, who can determine particular outcomes, but embedded in relational structures that shape their identities, interests, and interactions. It also indicates that human rights are accommodated in a system: a system of human rights legal instruments, a system of human rights courts, a system of human rights-related international organizations, a system of human rights-related NGOs, and so forth. More importantly, these systems are, in fact, all based on the interplay of human rights actors

in which the core of human rights issues, in the end, can be simplified as concerns about the combination of nodes and ties, as well as its implications, from the network perspective.

No one would deny that this is indeed an ‘age of network’ (Agranoff and Mcguire 2001: 677). Network research has been, correspondingly, growing by leaps and bounds in different academic areas. Against this general backdrop, human rights scholars⁴⁵ are not apathetic about the ongoing network fervor. To a large extent, they have conformed to this “raging torrent” by increasingly incorporating the notion of network, as well as its concomitant theories and methods, into their intellectual enterprise. This can be proved by the increasing number of publications that simultaneously involve various networks and human rights (issues). Indeed, the overall academic climate that leans to the network approaches, as well as the gradual maturity, in terms of the theoretical and methodological advancements (Kapucu, Hu, and Khosa 2014: 2), of the network research in other, especially the neighboring, disciplines, is the principal external pull for the emergence of network-oriented human rights research. After all, human rights scholarship is interdisciplinary in nature and is therefore inherently sensitive to the intellectual changes derived from other disciplines.

However, external intellectual seduction alone cannot explain the reason why human rights scholars have paid increasing attention to network research adequately. Instead, an inner desire shared by human rights scholars to escape from the predicament of human rights theories and methods could be another down-to-earth explanation. In addition to the critiques on the traditional legal approaches to human rights which primarily concern the normative and doctrinal aspects of human rights, a number of lately-developed approaches are now under intellectual suspicion due to their reliance on ‘assumptions about human behavior that are out of date’ (Goodman, Jinks, and Woods 2012a: 6). Scholarship on networks, with ‘its promise of measuring previously

⁴⁵ Human rights scholars in this work refer to anyone who academically touches upon human rights topics, regardless of their disciplinary affiliations.

unacknowledged factors such as structural position power and network cohesion' (Lecy, Mergel, and Schmitz 2014: 644), is 'a reexamination, or even a wholesale rejection, of some of these assumptions' that is triggered by 'advances in various social science fields' (Goodman, Jinks, and Woods 2012a: 6). In a nutshell, the unique competence of network research has the potential to remedy the intellectual loopholes of current human rights scholarship.

More importantly, the emergence of network-oriented human rights research could also be understood as a reflection of the current state of human rights regimes, which are 'now well-established in an increasingly sophisticated framework of treaties, institutions, networks and ambitious standards' (Pegram 2015: 596). Without a doubt, global human rights governance has benefited immensely from the rise of non-state actors. In some ways, various human rights-related networks are one type of these actors. These networks have tied human rights actors together to, for instance, transmit human rights information and mobilize human rights advocacies at all levels. Thus, it is the emergence of various networks in the field of human rights, as a reified social or political phenomenon, that constitutes an intellectual resonance from academics.

Nevertheless, in comparison with other disciplines and areas of study, the infusion of network ideas is, by and large, in its infancy in human rights scholarship. Much more efforts need to be made in this regard. Among others, applying network approaches to the study of China's human rights would be a meaningful endeavor due to the relational nature of China's society. As a staunch proponent of the cultural relativism of human rights, the Chinese government, as well as its "complicit" human rights scholars, insists on emphasizing the specific context upon which the Chinese characterized road to human rights is based. Accordingly, the criticisms of China's human rights record have been either ignored or refuted, as Chinese officials believe that 'the cry rises largely from foreigners and a coterie of Chinese dissidents and intellectuals, many now living abroad in exile' (Peerenboom 1993: 29). These people, especially foreigners from Western cultures, are not considered reliable due to their lack of awareness of the

Chinese context. Accordingly, the Chinese foreign minister Yi Wang denounced the “irresponsible” question raised by a Canadian journalist about China’s human rights record, ‘other people don’t know better than the Chinese people about the human rights condition in China and it is the Chinese people who are in the best situation, in the best position to have a say about China’s human rights situation’⁴⁷.

The most apparent context that generations of Chinese people are embedded in is the relational society (Fei 1992; Hwang 1987). In line with the Confucian tradition, the “power of relationalism” has been pervasive for centuries, in which the Chinese people have formed a conviction that:

‘there is a “universal order” underlying all things in the worlds and since all things and all people in the universe are related, they should be treated as such. This hard-earned cultural wisdom is the bedrock of the Chinese cultural value system, social institutions, language, economic and diplomatic behaviors. In a nutshell, relationships are what they see, what they value, and what they act upon. To understand the reasoning behind China’s institutions and people’s actions is to comprehend relationalism. To omit relationalism from an analytic study of the Chinese people is to produce an abridged study’ (Zhu 2018: 3-4).

Likewise, to study china’s human rights (performance) through the Western-centered conception of human rights, which is characterized by its individualism and universalism, is to produce another “abridged study”. Thinking in this way, rather than pushing an ambiguous and controversial/dubious concept (i.e. human rights with Chinese characteristics) to not only legitimize its human rights abuses but also challenge the fundamental principles and framework of the international human rights system (Chen 2019), what the Chinese wisdom could contribute to the very idea of human rights is something related to social relations and individuals’ interactions. The potential of assessing human rights (issues) with a relational eye would not be limited to the Chinese context, for all human beings are born and intertwined in relationships,

⁴⁷ See “Chinese minister vents anger when Canadian reporter asks about human rights” via <https://amp.theguardian.com/law/2016/jun/02/chinese-foreign-minister-canada-angry-human-rights-question> (last visited in October 2019).

regardless of nationality and race (Zhu 2018: 81). The relational turn in social sciences, which has been spreading around the world, is a potent proof of this potential (see, e.g., Emirbayer 1997; Prandini 2015).

In effect, some Chinese scholars have already set examples in this regard. The efforts of constructing a Chinese School of International Relations particularly stand out, for the involvement of the Chinese perspective of relationality (For an epitome of the Chinese School of International Relations, see Zhang and Chang 2016). Yaqing Qin, a professor at China Foreign Affairs University, is one of the most active contributors. Although he was academically trained in the West, his persistence of bringing Chinese ideas into international relations theory is manifest (see, e.g., Qin 2009, 2013, 2016). His specific attempts could be regarded as a strong response to the hegemony of mainstream Western intellectual traditions of international relations (2016: 33). In his constructs, the notion of relationality plays a crucial role as ‘a worldview, a way of thinking and doing, and a perspective’ (Ibid: 35), in which other traditional Chinese wisdom that is primarily rooted in Confucianism, such as *zhongyong*, *yinyang*, can be referred to as the epistemological tool of facilitating the conception of relationships. In contrast with a rational approach to international relations that posits international actors as given entities in world politics, the relational theory of international relations underscores the significant ontological implications of viewing these actors as processual entities.

4. A foundation: relational ideas concerning human rights

Human rights are relational and should be studied as such. In effect, as I will argue (see Chapter 4), one of the biggest weaknesses of the existing state of research on networks in the field of human rights concerns the inadequacy in elaborating on the reasons why human rights should be studied as such. The existence of some relational ideas concerning human rights, most of which are philosophical, can compensate for the intellectual deficiency by providing the ontological foundations to network-related

human rights research. This section intends to introduce these relational ideas. As with a mass of philosophers who have unremittingly delved into the normative nature of human rights, an increasing number of philosophers have paid particular heed to the underestimated significance of the primacy of relationships in human rights. They either relationally reinterpret the prominent philosophers like Aristotle, Kant, and Rawls for their own ends (e.g., Hiskes 2010; Müller 2017; Topolski 2015; Zylberman 2013), or “innovate” in the context of incorporating other practical and intellectual underpinnings in which relational concerns are particularly highlighted (e.g., Susienka 2017). However, all of them have shared the same belief that human rights are *relational*.

Revisiting the classical philosophers, who are traditionally perceived as important symbols of the liberal constructions of human rights (see, e.g., Charvet and Kaczynska-Nay 2008; Farer 1985; Gourevitch 2009), is one of the approaches to implement the commitment of being relational. It is mostly recognized that Kant’s philosophy is ‘one of the major theoretical grounds of human rights’ (Pavão and Faggion 2016: 49), in which the capacity of autonomy is articulated as a key attribute. Certain relational connotations that can be derived from Kant’s theory of human rights, however, remain understudied. Zylberman (2013) shows a keen awareness of this omission in his research on Kant’s juridical idea of human rights, as he underscores the two core features of any right assigned by Kant’s *Doctrine of Right*, i.e., ‘rights are relational and non-instrumentally justified claims to independence’ (Ibid: 33). It is, indeed, a subversion of the conventional path making the equation between Kant and the liberal conceptions of individuality, rationality, autonomy, and freedom. As to the relational nature of rights, Zylberman further clarifies as follows:

‘Rights are *relational* in that they concern exclusively “the external and indeed practical relation of one person to another.” A right is not a special normative property you possess in isolation from your relation to others. Your weight or hair color is arguably non-relational, since they would remain the same even if you had no relations to any other person.

By contrast, a right *is* a relation in which you stand to others. The juridical form of this relation is *correlativity*: your right logically entails and is entailed by my duty to respect your right.’ (Ibid).

In light of this clarification, the Kantian conception of human rights, or rights in general, should be firstly comprehended by spurning away the substantialism which ‘invested in the substance of things – of atoms, of trees, of individuals, of social structures’ (Veenstra and Burnett 2014: 188). Instead, to speak of human rights is to speak of relationality between persons. This is ontologically important because of the radical transformation from perceiving a (human) right as an entity to a relation. In addition, what Kant conveys to us through Zylberman’s mouth is the normative relationship between rights and duties in a relational context. When the relational is exclusively inserted into the ontological attribute of right, it is argued that ‘Kantian right is relational, then, in the practical sense that it is the mirror image of a relational duty’ (Ibid: 34). In this regard, the level of difficulty of comprehension could be reduced with the assistance of a long tradition of philosophical inquiries into the correlativity between rights and duties (among others, see Corbin 1924; Donnelly 1982; Magnell 2011). Even if putting aside this long tradition, the correlativity in question is still central in the recent ‘increase of interest on the part of human rights theorists for the “supply-side” of human rights, i.e., for the duties or obligations correlative to human rights’ (Besson 2015: 244-245), in which human rights are posited as normative relations in the premise of equality (as to the relational structure of rights, see also Siechmann 2012: 126-128). Besides, Kant rejects an instrumental approach for justifying a right, i.e., viewing the right as a means to protect or promote certain values or needs that could be intelligible independently. Conversely, he non-instrumentally justifies rights as ‘one normative pole in “a relation to the other’s choice’ (Zylberman 2013: 34).

By engaging with Kantian relational ideas, Zylberman (2013b, 2015, 2016, 2017b, 2017a, 2018) completes the construction of his own relational account of human rights. His article “Why Human Rights? Because *of You?*” (2015) should be regarded as the quintessence in this regard. First and foremost, it is worth paying attention to the nature

or level of his relational account that locks target on the justification of human rights⁴⁹. His relational account intends to stand in the camp of non-instrumentalists by taking ‘as basic a deontic and relational norm that can be called Reciprocity’ (Ibid: 2). Reciprocity is a principle that ‘every person has a basic claim right to independence and respect against every other person’(Ibid: 2). As one of the non-instrumentalist models of justifying human rights, the relational account is (more) plausible thanks to its capacity to circumvent the challenges faced by conventional non-instrumental approaches to human rights, namely the vicious circularity and emptiness⁵⁰. And the relational deontic principle reciprocity, which that is inspired by ‘Kant’s principle of rights and his notion of external freedom’ (Ibid: 8), is fundamental for the relational approach to human right. As Zylberman expounds:

‘.....I will argue that a relational approach grounding human rights in a master norm of Reciprocity is neither instrumental nor viciously circular nor empty. It is not instrumental because *Reciprocity* makes reference to the concept of rights. It is not viciously circular because taking for granted *Reciprocity* does not mean taking for granted the whole body of human rights as found, for instance, in the Universal Declaration of Human Rights (UNHR). And it is not empty because Reciprocity can generate a robust list of human rights.’ (Ibid: 8)

Besides, the American philosopher Carol Gould also contributes to the relational ideas of human rights by dint of her proposal of a social ontology of human rights⁵², in which human rights are philosophically grounded in sociality and ‘are themselves

⁴⁹ While the justification of human rights is one an important topic that has triggered many controversies in political philosophy and philosophy of law, the necessity of justifying, or the exact object of justification, is often neglected. That may explain why, as Besson asserts, they are often ‘talking at cross purposes’ (2014: 35). See also (Forst 2010; Gorecki 1989).

⁵⁰ While the emptiness briefly refers to the fact that the non-instrumentalist model does not justify human rights based on specific values, the so-called circularity is explained in the following way: ‘A non-instrumentalist account takes human rights as morally basic rather than derivative. Human rights matter, say, because they are necessary aspects of our inviolable moral status as persons. But if this status is itself constituted by human rights, it can seem that a non-instrumentalist justification moves in a tight and unilluminating circle, from status to rights and back to status again’. See (Zylberman 2015: 2)

⁵² Rather than regarding social ontology as a metaphysical theory, Gould takes it as a regional ontology, i.e. ‘a theory of the nature of social reality, in terms of its basic entities, relations, and processes, and operates within an experiential or phenomenological framework’ (Gould 2015: 177). For a fuller picture of her social ontology, also see (Gould 1978, 2004).

fundamentally social or relational conceptions' (Gould 2015: 177). By emancipating human rights from the 'legal ones that hold against nation-states' (Ibid: 177), Gould's framework instead refers to the moral and social dimensions of human rights. It relates to her suggestion in terms of the functional expansion of human rights in our political and social life, which could be realized by requiring 'wider-ranging institutional structures' (Ibid: 178).

Keeping this in mind, the nucleus of Gould's endeavor is more likely subsumed into the political approaches to human rights. She commences with a critical review of the individualist accounts of the basis for human rights in order to expose the problematic aspects of their foundational conceptions, such as Griffin's personhood that is articulated by a conception of normative agency. In response to the exclusivity and staticity of the conception of agency, Gould introduces her social ontology of individuals-in-relations, which 'sees these relations as constitutive of individuals in the sense that they become who they are in and through these relations, to put it in quasi-Hegelian terms' (Ibid: 184). In front of the constitutive model of thinking, the individualism of human rights has the opportunity to redress itself by treating human agency as a process of self-development. In this case, for instance, human embryos alike, who are precluded in the normative agency, can be included in human rights theory and practice. However, Gould also recognizes that her social ontology of individual-in-relations is different from a holistic perspective, which believes that 'individuals are wholly constituted by their relations or by the community of which they are a part' (Ibid: 184). Putting them together, the relationality that is rooted in the notion of agency appeals to a different understanding of human rights.

Gould's social ontology of human rights should be read together with Topolski's heuristic work entitled "Relationality as a 'Foundation' for Human Rights: Exploring the Paradox with Hannah Arendt and Emmanuel Levinas" (2014), although the latter does not directly focus on social ontology. The social ontology in this regard refers to Arendt's principle of plurality, which should arguably be complemented by Levinas's

ethics of alterity in Topolski's construct of a post-foundational ground for human rights (also see Topolski 2015). Topolski (2014: 13) clarifies that 'what characterizes a post-foundational approach is the recognition of its own limitations, its own contingency, and its own absolute uncertainty'. As a post-functional notion, relationality resonates with her attempt to theoretically translate 'Levinas's "metaphysical" ethics of the other man' into the ontic realm of Arendtian politics in which plurality creates a "web or relations" that sustains "the right to have rights"' (Ibid: 2). This anticipation that is underpinned the devoted translation is, at the same time, a concise delineation of her argumentation structure. The first step is to deal with Arendt's plurality. The social ontology of plurality phenomenologically represents the condition of mutual existence in the human realm, in which the ontological singularity of *dasein* (or individualism) is radically challenged. Premised on this general insight, Arendt further argues for the particular thesis that any rights must be rooted in plurality logically because of the plurality of the political realm⁵³. Or, simply interpreting, 'the human is to human rights what singularity is to the political – *nonsense*' (Ibid: 3). By the way, as Topolski emphasizes, Arendt's insistence on the notion of plurality, rather than being obscured by the notions like 'pluralism, diversity or multiculturalism' (Ibid: 4) which are the conceptual or discursive equipment of liberal individualism, is of importance for her ends.

Arendt's politics of plurality might be questioned for grounding human rights in its ontic nature. Indeed, this is where the Levinas's ethics of alterity should be incorporated, according to Topolski, in order to replenish ontological infertility that perplexes the latent promise of plurality. As with Arendt, Levinas aims to transcend singularity embedded in the Western political tradition, the predominance of which in contemporary human rights is the bulls-eye of Levinas's social ontology of others. In short, Levinas's alterity concern the constitutive relation between the self and the other,

⁵³ This is also the original source of Arendt's notion of the right to have rights, which is often neglected or misunderstood in the existing interpretations. For example, see (Oman 2010; Schaap 2011).

which is also ‘essential to the relations that together constitute plurality’ (Ibid: 7). As the difference in terms of the employment of philosophical language between Arendt and Levinas, Topolski undertakes translation work to conceptually equate ‘the constitutive role of alterity for the self in Levinas’ thought’ with ‘Arendt’s notion of uniqueness or particularity as constitutive of plurality’ (Ibid: 8).

One thing that is certain and meaningful: all these notions describe the human in human rights. By arguing against the liberal individualism of human rights which emphasizes freedom, autonomy, independence, and rationality of human being, Levinas advocates for “the rights of the other man” as a consequence of rethinking of rights from a perspective of an ethics of alterity, the heart of which is human relations. Strictly speaking, therefore, what Levinas challenges is a substantialism of human rights, which prioritizes ‘the autonomous subject and the priority of being’ (Ibid: 9).

Topolski is aware of the complementarity of Arendt and Levinas and develops her own post-foundation relational conception of human rights through synthesis. Thus, her notion of relationality must be both ontically and ontologically perceived. More precisely, ‘this relationality is both an ontic fact and points towards an ontological “ground” (what Arendt refers to as the ‘human’ in human rights), the latter of which provides some form of “foundation” for the ontic reality of rights in terms of their legal and political status (the “rights” of citizens in human rights)’ (Ibid: 11). Moreover, in order to evade a disconnection of the theoretical construal of relationality from human rights practice, the drafting process of UDHR is taken by Topolski as an example to, at least in one sense, disclose its drawback of overlooking relationality of human rights.

In proposing a relational approach to human rights, Susienka (2017) emphasizes the inherently relational nature of human rights and the important background role of human rights in the broader normative practices. Her relational approach to human rights not only challenges the naturalistic approaches which ground human rights in possession of particular capacities such as rationality but also the political approaches

which ground human rights in more specific relationship such as those between citizen and state. Susienka instead argues that human rights-related responsibilities ought to be grounded in ‘a basic membership relation that exists between human beings simply as fellow human beings’ (Ibid: 5). Thus, in contrast with the traditional commitments to states as primary human rights bearers, the relational approach to human rights proposed by Susienka recognizes all human being as human rights holders and all human agents as duty bearers, both of which have the source in the basic relationship shared by human beings. Accordingly, the human responsibility originated from relationship leads all human beings to the transformation from thinking about human rights violations to thinking about the positive realization of human rights.

In addition to the abovementioned relational approaches to human rights originating from Western scholars⁵⁴, traditional Chinese wisdom has also been applied to the relational construction of human rights. Based on the premise that the Chinese model of human rights should have its own rationale which is beholden to China’s long history and highly developed culture, Cheng (1979) argues for a relational characteristic of the Chinese model. He first pointed out, according to the Confucian code of social ethics, a system of relationships to others defines what a man is. Thus, one can develop oneself only through relationship, which indicates that certain moral and virtue can not constrain the essence of man in itself. The Confucian reciprocity principle, as Cheng

⁵⁴ These western scholars include not only philosophers but also those who come from other disciplines. Some examples of their commitments to the relational nature of human rights are as follows: A. Becker (2012: 84) claims that ‘human rights are relational and individuals can only claim rights in relation with, and to others..... there is thus an implicit agreement [in the Universal Declaration of Human Rights] inherent in the acceptance of human rights that they should protect the relational aspect of belonging, sharing and togetherness’. Blau (2011: x) notes that ‘human rights are relational and depend not on peoples’ relations with one another, but their relations to the land, natural resources, and the environment, and yes, the arts and sports’. Besson (2015b: 252) provides that ‘human rights are inherently relational and mutual just as the equal political status they constitute. As such, human rights are not only rights of all, but also rights *against all*. We are all duty-bearers of the rights we hold. Importantly, what this means is that we are all duty-bearers *together* and not separately’. Raible (2018: 11) declares that International legal human rights are relational in more than one sense: they are normative relationships between a right-holder and a duty-bearer, but they are dependent on a pre-existing relationship between the two. The latter relationship is what allocates the arising obligations to a particular duty-bearer (or duty-bearers)’.

emphasizes, demonstrates the relational value of human rights in the Chinese context (Ibid: 16). Cheng further explains the different implications of the Confucian notions of *li* and *ren* (or *jen*) for human rights as follows:

The Confucian notion of *li* (rules of propriety) also manifests the relational nature of human rights in the Chinese context. Even though man shares with other men the intrinsic potentiality for goodness (*jen*), *jen* is not a human right per se. On the ground of *jen*, one should not make a claim of rights for oneself but must accept others as a condition of the development of oneself..... Relationships with others are governed by *li* based on the recognition of relatives and their worthiness, not on claims to rights' (Ibid: 16).

Also based on the Confucian philosophy, Chang (2017) formulates a personalist relational philosophy of human rights (PRP), evolving around two objectives. On the one hand, it aims to uncover the justification of global values and universal human rights norms in the context of cultural diversity and pluralism. On the other hand, it ultimately intends to 'mitigate the excessive individualism often associated with modern "Western" secular liberalism' (Ibid: 39-40). To these ends, Chang concentrates on the "human" side in human rights by incorporating a relational perspective into the field. As a springboard, three fundamental types of self-construal, i.e., the individual self, collective self, and relational self, are drawn from social and cultural psychology. Because Chang argues for a relational understanding of self, his theory of human rights does not stick to the liberal ones that are radically based on, for instance, the traditional understandings of the Kantian autonomous self.

In summary, the relational nature of human rights has already been examined and discussed by a number of scholars, although their constructs vary, depending on their own understanding of the world, the people, and relationships. As Blau (2013: xiii) suggests, 'human rights provides a perspective on the world, encourages us to imagine how the world can be a better place, and indeed, gives us the tools to work with others to make that world a better place'. Notwithstanding, their different relational ideas at least espouse the legitimacy and significance of incorporating relationality into the

normative account of human rights. Müller (2017) deconstructs the conventional dichotomy of moral and political conceptions of human rights and develops an alternative analytical distinction between the internal dimension and external dimension of human rights theory. According to him, the existing relational accounts of human rights fall into the internal one.

This type of works is illuminating for the question concerning what human rights *ought* to be in a relational context, whereas it begs the question of how human rights really work within various webs of relations. It follows that more attention should be paid to the external dimension of the relational accounts of human rights, namely the factual relationship (or correlation) between human rights practice and social relations. In this regard, social network analysis, in its various forms, has much to offer in facilitating a better understanding of human rights.

5. A plotline: progression of the chapters

This study is based on a number of central premises and observations that follow from the above review: (1) the awareness that rural-urban migrant children and their families have faced educational problems in the urban areas of China (i.e., facts); (2) the reflection that human rights should be studied from below through which the relevance and effectiveness of international human rights norms can be better revealed (i.e., theory); (3) the emergence of the network-oriented human rights scholarship which could be philosophically underpinned by the relational nature of human rights (i.e., methods and philosophy). Taken all together, this study investigates the relationship between social networks and the local relevance of human rights in the context of rural-urban migrant's education in Beijing, China.

In addition to the introduction (Chapter 1) and the conclusion (Chapter 7), this dissertation consists of two main parts. Part 1 (Chapters 2, 3, 4) provides the fundamental groundwork and theoretical analysis, while Part 2 (Chapters 5, 6) comprises the empirical study.

Chapter 2 sets out the research context, questions, and frameworks. It starts with outlining previous research conducted in Chongqing to clarify the status of the Chongqing project in the present study, which is crucial as it provides a global background on especially the initiation of the presents study. This chapter then introduces the fieldsite with an emphasis on the educational problems confronting the rural-urban migrant children and their families in Beijing. The remainder of this chapter elaborates on the research questions, objectives, and overall methodological framework in a sequential manner.

Chapter 3 provides a legal and policy basis for this dissertation. It revisits both the international human rights standards on the protection of the right to education and China's legal and policy architecture for especially rural-urban migrant children's compulsory education. In conjunction with the interactions that have taken place within the monitoring bodies of international human rights instruments, this chapter comprehensively evaluates the implementation of the right to education of rural-urban migrant children in China.

Chapter 4 situates this study in the network-oriented human rights scholarship with a view not only to take stock of the progress that this newly emerged field of research has made to date but also to point out the shortcomings to which this study seeks to (partially) respond especially through the empirical study. It provides a review of how the notion of network has been perceived and what forms of networks have been touched upon in the literature.

Chapter 5, which opens the empirical part of this study, sets out the research design based on the findings of Chapter 4 concerning qualitative network analysis. It gives a detailed introduction and description of the empirical research methodology as well as the research process. First, the research aims, process and strategy are outlined in general terms. It then elaborates on the data collection techniques used in the fieldwork. The demographic characteristics of the participants involved in the research are

analyzed. Linguistic issues and translational strategies are discussed. Lastly, the strategy adopted for data analysis is explained.

Chapter 6 lays out the findings from the empirical study in Beijing. Chapter 7 integrates these findings with the theoretical discussion and concludes this dissertation with a summary and a critical reflection on the entire study.

Part 1 Setting the Scene

Chapter 2 Research Context, Questions, and Frameworks

1. Introduction

This chapter aims to elaborate on the present research itself⁸⁰. The origin of this dissertation is a remaining empirical question left from a socio-legal research on the right to education of rural-urban migrant children in Chongqing, China (Chen, Desmet, and De Feyter 2016), i.e. what is the role of social networks in the process of localizing human rights in China? In order to answer this question⁸¹, this research chooses Beijing as the case to conduct an in-depth investigation into the potential or possible relationship between the local relevance of international human rights standards on education for the rural-urban migrant households and their social networks. In addition to the empirical dimension, this question also provokes the desire to touch upon a broader research theme that prioritizes the integration of social network analysis and human rights research.

In this chapter, outlining previous research conducted in Chongqing is referred to as the point of departure, through which the relationship, including both continuation and transcendence, between the previous one and the present research is clarified. This is important as it provides a global background on especially the initiation of the present research project. Next, this chapter introduces the fieldsite with an emphasis on the educational problems confronting the rural-urban migrant children and their families in Beijing. Based on the earlier sections, the remainder of this chapter is devoted to research questions, objectives, and methodological framework.

2. Research background

In the final report of a socio-legal study on the right to education of rural-urban migrant

⁸⁰ The structure of this chapter is inspired by (Desmet 2011: Chapter 1).

⁸¹ The detailed research questions will be presented in section 4 of this chapter.

households in Chongqing (China)⁸², the authors clarify that ‘[i]n the autumn of 2014, one of the research assistants of this project started a Ph.D. research at the Sant’Anna School of Advanced Studies in Pisa (Italy), to continue and extend the research presented here’(Chen, Desmet, and De Feyter 2016: 24). As a matter of fact, I am the one who was mentioned in their mouth, and what I am writing is, essentially, a continuity and extension of the Chongqing project in question. Standing on the “shoulders of giants” is, of course, a fortunate situation for a junior researcher like me, whereas it is also challenging to cast off the potential constraints imposed by them. Thus, to a large extent, to understand the present research is to first and foremost understand its congruence and difference with the Chongqing project.

2.1 A glimpse of the Chongqing project

The Chongqing project simultaneously constituted a subordinate part of the localizing human rights research line⁸³ of the Law and Development Research Group of the University of Antwerp and the research network “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective”⁸⁴. As a pilot project, it was expected to set an example for the ensuing empirical studies of the long-term interdisciplinary project. Against this backdrop, the research team of the Chongqing project, which was composed of scholars and assistants from both Belgium and China (especially the Chongqing locals), conducted a case study on the relevance of human rights for rural-urban migrant households in Chongqing in the educational context. Its ultimate research

⁸² A refined or reflective version has already been published as a book chapter as well. See (Desmet 2018).

⁸³ The localizing human rights research line is primarily committed to the interdisciplinary analysis of the effectiveness of human rights for marginalized communities in non-Western societies. By relying on a theoretical hardcore – the localizing human rights approach – that is developed by Prof. Koen de Feyter, a series of empirical studies have already been carried out in for instance China, India and the Bas-Congo. See more via <https://www.uantwerpen.be/en/research-groups/law-and-development/research-program/human-rights-and-glo/localising-human-rights/> (last visited in November 2018).

⁸⁴ The research network “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective” is funded by the Belgian Science Policy Office (BELSPO) and aims to study human rights law as an integrated whole from a users’ perspective. See <http://www.hrintegration.be/> (last visited in November 2018).

aim was to ‘refine the localizing human rights approach’(Chen et al. 2016: 20).

Chongqing is the youngest and largest municipality in southwest China, which is characterized by the combination of “big city and big countryside”. It indicates the salient difference between rural and urban areas in terms of economic development. In the context of education, Chongqing was approved by the Ministry of Education of China as a National Comprehensive Coordinated Urban-Rural Development Experimental Zone in Education in the late 2000s (C. Chen, LeGates, and Fang 2019). The approval illustrated the commitment of China’s central government to treat children from both areas equally in the educational sphere. However, by the time the Chongqing project was conducted, rural children had had to achieve specific requirements to attend free public schools in urban areas. Otherwise, they were only eligible to enter the so-called allocated schools⁸⁵, which are also called “rural-urban migrant workers’ children schools”, without extra school selection fees. Under such circumstances, substantial disparities emerged in terms of educational quality, school infrastructure, and geographical accessibility, and so forth.

Given the abovementioned problems, the Chongqing project formulated one main research question and six subquestions (see Table 1)⁸⁶ by theoretically resting on the localizing human rights approach, transformation perspective, and human rights users’ perspective⁸⁷

⁸⁵ The allocated schools refer to those urban primary schools and junior middle schools that are appointed by the Chinese local governments to enroll migrant students. As a return, these allocated schools receive financial support from the local government. See (Chen et al. 2016: 24)

⁸⁶ It is noteworthy that the research questions formulated by the Chongqing project are unchangeably presented here to achieve the revivification of the original and precise ideas of the Chongqing project, which would facilitate the comparison with my research questions that rely on a relational perspective. See section 4 of this chapter.

⁸⁷ See (Chen et al. 2016: 36-39). More importantly, Section 2.3.1 of this chapter will clarify that the theoretical framework of the Chongqing project is compatibility with the research aims and questions of the present study, for which these theories are also employed by the present study. As to the localizing human rights approach, see Section 2 of Chapter 1 and Section 3.4 of Chapter 4. Concerning the human rights users’ perspective, it mainly encourages a shift of analytic focus of human rights research into the ‘shoes of those who engage with (use) human rights’ (Desmet 2014: 123). Rather than adopting the traditional dichotomy from the legal point of view, i.e. rights holders and duty bearers, it proposes a broad understanding of human rights users, including rights claimants (who invoke human rights), rights realizers (who give effect to human rights),

Main research question	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?
Subquestions	<ol style="list-style-type: none"> 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)

supportive users (who support the realization of human rights) and judicial users (who impose the implementation of human rights). Users’ perspective, similar to the localizing human rights approach, also offers a research agenda, especially analyzing users’ trajectories in human rights, to monitor the interaction among different human rights users. Besides, in respect to the transformation perspective, which was developed by Felstiner and his two partners (1980), it could be briefly expounded as the procedural mechanism of generating a dispute, which consists of three interrelated steps: naming, blaming and claiming. The Chongqing project refined it in order to ‘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 accountability of that duty bearer’(Chen et al. 2016: 38)

	<p>5. What is, according to the child(ren) and parents, the response given to these actions and claims? (Track 3)</p> <p>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)</p>
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Table 1: Research questions formulated by the Chongqing project

In order to answer these questions, a rigorous research design that concurrently leaves some space for flexibility in the implementation process⁹¹ was prepared, discussed, simulated, and finalized between November 2012 and March 2013. Under the research design, a single case study that exclusively attends to the educational situation of children of rural-urban migrant households in the Shapingba District of Chongqing was adopted. By treating parents and children as the primary units of analysis, the case study in Chongqing comprehensively employed multiple methods, namely semi-structured interviews, focus group discussions, direct observation, and document analysis, to collect (mainly qualitative) data.

2.2 Reflections on the Chongqing project

In general, the Chongqing project accomplished its missions both as an empirical socio-legal study and a pilot project for the localizing human rights research line. It is a valuable contribution to a better and deeper understanding of China's human rights reality and the effectiveness of international human rights law at the local site. As a junior assistant of this project, I was endowed with an excellent opportunity to partially participate in, and entirely witness, the research process, through which my own academic appetite was also transformed from the international legal instruments of

⁹¹ A most salient example is that the focus group discussion method was added after the commencement of fieldwork. See (Chen et al. 2016: 51-56).

human rights to the local practice of international human rights law. In this sense, I was an “insider” who possessed more knowledge on the context, respondents, strategical dilemmas and practical difficulties in the course of fieldwork, some parts of which seemed too trivial or overloaded to be included in the final report of the Chongqing project. The additional knowledge allows me to provide a “behind-the-scenes account” (Tomaševski 2005) of the research design, process, and results of the Chongqing project.

2.2.1 Is Chongqing *the* appropriate place?

The seed of a question, concerning whether Chongqing is an appropriate place for socio-legal research on the relevance of human rights for rural-urban migrant households in the context of education, was already sown when I accompanied with the senior researchers to visit the living, working, and schooling places of the rural-urban migrant households and stakeholders⁹³. In my memory, I was actually surprised several times by respondents’ complimentary and satisfactory comments on the educational situation of migrant children in Chongqing.

For example, a representative of the only NGO involved in our interviews, which works on the issue of migrant children in Chongqing, provided a quite positive assessment of the measures taken by the Chongqing government to guarantee compulsory education for migrant children in comparison with other metropolises, albeit he also pointed out some problems in terms of the experience of migrant children in urban schools⁹⁴. Besides, the principals of these involved schools made similar expressions as well during the interviews, showing thorough optimism in the educational situation of migrant children.

⁹³ As to the interviews with migrant parents and children, they were carried out in different places according to their preference or other contingent occasions. For instance, some were conducted in respondents’ homes in the city, some were in their own shops or restaurants, some were in teahouses, and some were on the street close to where they live or work. Unlikely, the focus group discussions were all made in more fixed places, namely their respective schools.

⁹⁴ The key problems include ‘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’. See (Chen et al. 2016: 86).

In a nutshell, from my understanding, their optimistic feelings were primarily based on the intuitive comparison with other cities where the educational problems in question had been more severe because of the larger population of migrant households. After all, apart from the institutional barriers radically generated by the *hukou* system⁹⁵, the asymmetrical relationship between the education supply capacity and the demanding population is one of the root causes of the ongoing difficulty of accepting migrant children in urban public schools. The official statistics published by the National Bureau of Statistics of China indicate that Chongqing has not become the hub aggregating a mass of rural-urban migrant households⁹⁶. To some extent, the lesser population of migrant workers could function as the lubricating oil to more or less mitigate the tension between the capacity limitation and demand expansion.

Against this backdrop, it is relatively easier to understand why the Chongqing project positioned its case study as an atypical enterprise which was not consistent with the localizing human rights methodology. In the localizing human rights research line, a typical methodological approach has already clarified the selection criteria for a case study:

- ‘1. The case represents a wilder problem experienced by other local communities;
2. The problem presented is a (direct or indirect) consequence of economic globalization;
3. the affected local community

⁹⁵ Although the *hukou* system has a long history in China, the current *hukou* system, i.e. the household registration system, was formed in the 1950s during which a series of laws, regulations, and programs were implemented in order to ‘control population movement and mobility and to shape state developmental priorities’ (Cheng and Selden 1994: 644). Based on the birthplace of the head of the household, Chinese citizens have been divided into two isolated sectors, namely rural and urban (Wu 2017). Indeed, the *hukou* system is the culprit that creates China’s urban and rural dual society. Because, as Zhou and Cheung (2017: 1328) describes, ‘the central government implemented the *hukou* system to strictly control labor distributions within each region. However, the *hukou* system also controlled the availability of social benefits for Chinese citizens based on their registered household region, instead of where citizens actually lived and work; although this system has evolved over time, it is still in effect today’.

⁹⁶ It is reported that there were 285.52 million migrant workers in total in China as of 2017. While 159.93 million migrant workers inflowed into the eastern areas of China, 59.12 million into the middle areas, 57.54 million into the western areas, 9.14 million into the northeast areas, and 790,000 into the remaining parts like Hongkong and Macao. However, it is also noteworthy that the number of migrant workers coming to the western provinces is increasing most rapidly. See the report in http://www.stats.gov.cn/tjsj/zxfb/201804/t20180427_1596389.html (last visited in November 2018).

is involved in the human rights claim; 4. There is a presence of NGOs and international actors; 5. The case is geographically relevant (i.e. a region particularly affected by economic globalization)’ (Adapted from Oré Aguilar 2011: 133).

However, these criteria were not fully met at the design stage of the Chongqing project. Notably, it failed to attend to the most substantial criteria of selection, which constitute the nucleus of localizing human rights approach, namely human rights claim and network. Firstly, rather than starting with the preexisting human rights claims, the Chongqing project was designed to ‘unveil whether human rights claims were formulated, and why this was (not) the case’ (Chen et al. 2016: 41). Secondly, human rights-related networks were absent in Chongqing. Although their tactical flexibility and adjustment plausibly remedied these inconsistencies, the cost is that the findings derived from this empirical study are not enough to thoroughly refine the localizing human rights approach.

In many ways, choosing Chongqing (the Shapingba District in particular) should be reasonably perceived as a result of compromising with some pragmatic concerns. At the very beginning, it was the Law School of Chongqing University that proposed the study on the right to education of rural-urban migrant households. Then, this project was subsumed as a concrete project under the cooperative framework between Chongqing University and the University of Antwerp. Thus, to a large extent, this project had had the geographical gene of Chongqing since its inception.

In addition to the cooperative relationship, the Chinese research team, which was composed of one professor and four postgraduates of Chongqing University, reinforced the decision of selecting the Shapingba District as the fieldsite partially based on the convenience of accessing the field. The fieldwork proved that their choice was correct in the sense that the Chinese research team widely mobilized their personal networks (or *guanxi*) to garner access via governmental institutions, school personnel, and activities, and direct personal relations (Chen et al. 2016: 52). Although the familiarity

of the context, as well as the extensive personal networks, did facilitate or even simplify the research process in the Shapingba District, the question is whether or not it is worthy of achieving them at the expense of losing theoretical and methodological consistency and decreasing the representativeness of this case study.

2.2.2 *Guanxi* as an uninvited yet inspiring guest

Before starting the second reflection, the notion of *guanxi* needs clarification. Although the Chinese word *guanxi* is not equivalent to any English word due to its strong cultural specificity (Parnell 2005: 35), Bian (2019), one of the most prominent scholars of the sociology of *guanxi* (Bian 2010), or *guanxi* scholarship in general (Bian 2018), still shares his “1+3 scheme” to simplify the understanding of *guanxi*. Accordingly, while the “1” means that *guanxi* ‘is simply a connection between two individuals’, the “3” means that “importantly it is a personalized connection, a subjectively close connection, and a potentially resourceful connection’. In a personal context⁹⁷, a connection between two individuals is the basic form of *guanxi*, which involves a dichotomy of kin and non-kin. Although kin ties have more potential to be *guanxi* due to the inherent advantage of blood and marriage lineages, both kin and non-kin ties cannot become or remain *guanxi* ties until they meet the three qualifications, namely personal, close, and resourceful.

First of all, *guanxi* must be a personalized tie. A connection, regardless of kin or non-kin, can be upgraded into a personal tie through ‘events of personal significance’ such as, as Bian enumerates, life-cycle events of local significance, family emergencies, events of cultural significance, and career promotion (Ibid: 2). In this sense, kin ties are not necessarily *guanxi* if, for instance, a relative you never met, or whose wedding you

⁹⁷ Bian divides the context to which his “1+3” scheme of *guanxi* can be applied respectively into personal, business and political context. While the business context is relatively colloquial and easy to be understood, the political context is particularly explained as follows: ‘when resources and opportunities are vertically allocated in organizational hierarchy, *guanxi* ties operate in a political context, which involves the distribution of power, the range of stakeholders involved and their interests, and the interplay of formal and informal rules that govern the interactions among different stakeholders’ (Bian 2019: 5).

were not willing to attend. On the contrary, non-kin ties are possible to be the significant *guanxi* if, for instance, a colleague who was never absent from your birthday parties.

Then, *guanxi* must be a subjectively close tie. Once a connection becomes personal, it involves the ‘perceptions of sentimental attachment and obligation fulfillment to each other’ (Ibid: 2). It is all about the subjective valuation of the tie in question. Even if a colleague was never absent from your birthday parties, you may still dislike him and subjectively perceive this tie as a distant one. A *guanxi* tie requires the mutual perception of the closeness. Of course, the perception of the degree of closeness may vary between the involved individuals, which has consequences in the function of *guanxi*. But, *guanxi* can be established or sustained as long as the involved individuals feel certain closeness to each other. And the highest point of *guanxi*, as Bian (Ibid: 3) explains, ‘is when the two parties maintain mutual perceptions of *familial* sentiments and obligations to each other’.

Lastly, a personal tie, which has been mutually perceived as a close one, is not a *guanxi* tie unless the tie in question is potentially resourceful, i.e., a close personalized tie with the potential to ‘facilitate exchanges of favors for expressive and instrumental purposes’ (Ibid: 3). The expressive purposes refer to the emotional and psychological gains generated from the close personal tie. The instrument purposes are resources, tangible and/or intangible, that benefit one or both sides of the tie. In this sense, the connection with a colleague, which is regarded as a personal and close one, can be elevated to the level of *guanxi* tie due to either his sense of humor from which your happiness is derived or his role of being a department director for which your promotion in this department becomes easier. Of course, the premise is the *exchange* of favors, in one form or another.

The “1+3 scheme” of *guanxi* provides a conceptual basis for the comprehension of this reflection. In effect, the relevance and significance of *guanxi* for both the substantive and procedural dimensions of the Chongqing project are unexpected.

Although there was a subconscious preparation for the emergence of the factor of *guanxi* in the course of accessing to the field (as mentioned above)⁹⁸, the research team did not presuppose it as a substantial factor which has an entanglement with the practical enjoyment or violation of the right to education of rural-urban migrant households in Chongqing. Otherwise, why did they mention nothing about *guanxi* in the original research plan? Nevertheless, this unexpected guest instead draws my attention most.

In the fieldwork of the Shapingba District, *guanxi* was substantially pertinent to the distinctive phases of the transformation process⁹⁹, from an unperceived injurious experience of education to, if any, a human rights claim. In the phase of naming, it was found that ‘*guanxi* may help in raising awareness of the injurious character of a particular situation’ (Chen et al. 2016: 100). In the phase of blaming, *guanxi* played a role as a mediating factor that could provide prompt knowledge about who should take responsibility for the perceived injurious experience. Last but not least, *guanxi* acted as one of the “self-help” measures in the phase of claiming. Nevertheless, it also found that migrant households were passively impacted, in comparison with their urban counterparts, due to their dearth of (valuable) personal ties in the city.

These findings in terms of *guanxi* are heuristic because it could provide us with the ample space of imagination, i.e., the potential entry to comprehensively unravel the relevance of human rights in a relational world. An increasing body of literature has already employed this entry to empirically observe and assess Chinese (migrant) children’s education from a perspective of *guanxi*, albeit their focal point has not directly revolved around human rights. The following are some examples of the existing

⁹⁸ For instance, the benefits of mobilizing *guanxi* in the course of fieldwork were also discerned by Prof. Min Yu of Wayne State University, who conducted her fieldwork in Beijing and expressed as such: “As a former teacher in schools for migrant children, I also benefited from the networks of *guanxi* during my fieldwork – I was able to reach out and recruit potential participants through the networks of my former colleagues and students’ parents. In addition, *guanxi* played out through a strong sense of trust during my conversations and interactions with participants and their families.” See (Yu 2018: 435).

⁹⁹ As to the transformation perspective, see footnote 87.

literature written in English.

By perceiving migrant children schools in China as a social movement, Yun (2016, 2018) ethnographically uncovers that *guanxi* networks are one of the most critical local contexts propelling and guaranteeing the development of migrant children schools' movement against the backdrop of China's limited political space. In the course of developing this movement, she realizes that mobilizing 'three kinds of *guanxi* network - kinship, native place, and friendship' is the primary way to approach the related supporters¹⁰⁰. Among others, it is emphasized by Yun that 'NGOs, volunteer groups, and student associations at universities' (Yu 2016: 63), which contribute more to the development of migrant children schools, can also be reached by mobilizing the *guanxi* possessed by migrant schools' leaders or teachers. In addition, Yun underlines the significance of *guanxi* in the process of formulating collective identity among 'teachers, students, parents, and other migrant communities' members' (Ibid: 148), which is crucial for 'activists to begin working to address multiple forms of discrimination and maltreatment while simultaneously moving toward the possibility of a more profound social transformation' (Ibid: 5).

As with the Chongqing project which recognizes the mobilization of *guanxi* as a self-help method of selecting a "good" school, Liu (2018) conceptualizes it as the "Power (*guanxi*)-based *Zexiao*" in his inquiry into the inequality issue in public school admission in urban China¹⁰¹. The "Power (*guanxi*)-based *Zexiao*" refers to 'the practice that some leaders utilize their power to give pressure on school side in order to help their children or children of related people to take part in *Zexiao*' (Ibid: 54). According to Liu, two types of school selection are based on *guanxi*: memo student (*tiaozisheng*)

¹⁰⁰ In this regard, Yun further explains as follow: '[a]t most of the schools, the first group of staff were either family members or friends who were from the same and/or close regions, and they also intended to recruit a high proportion of people who were already friends or relatives.' See (Yu 2016: 63)

¹⁰¹ *Zexiao* refers to school choice at the stage of compulsory education. Liu summarizes the distinctive ways of circumventing the confines of school district and conversely enrolling in these schools with better quality into three channels of *Zexiao*: money-based *Zexiao*, power (*guanxi*)-based *Zexiao*, and achievement-based *Zexiao*. As to the details, see (Liu 2018: 51-75).

and co-founding student (*gongjiansheng*). The former type refers to how students are accepted by “good” (or key) schools due to ‘memos come from powerful departments in one district administration, such as an industrial and commercial department, tax bureau, planning department and discipline inspection department, and so forth’ (Ibid: 54). However, the latter one is softer. Rather than directly utilizing administrative power to pressure good schools in question, this particular enrollment schema relies on the agreement on the quota allocation reached by some government institutes and work units with the designated popular, good schools at the compulsory education level. Although Liu’s project is characterized by its broader interest in the educational inequality problems especially at the stage of enrollment, he also pays special heed to migrant children due to their inferior situation in the competition for admission to urban public schools. Based on the data collected from his fieldwork in Beijing, he informs us of the plights confronting migrant parents who do not have ‘any or strong *guanxi*’ and thus ‘were completely excluded from *Zexiao*’ (Ibid: 152).

In terms of *Zexiao*, Ruan (2017a) intends to explore how and why people use *guanxi* for school places through ethnographic case studies in small cities of China. Unlike others, his ethnographic case studies on school choice are more inclined to serve his own peculiar theoretical claims surrounding *laguanxi* and ritual capital¹⁰², the construction of which is considered to be a contribution to both the social network theory and *guanxi* studies. In simple words, his major contribution is the discovery of the vital role of ritual in the instrumental *guanxi* practice.

Without having the same theoretical ambition, however, Wu (2013) attends to the phenomenon of school choice by merely teasing out its relationship with *guanxi*. In light of the empirical data collected in the city of Nanning, Guangxi province of China,

¹⁰² *Laguanxi* is referred to as an instrumental *guanxi* practice, which is different with ‘other *guanxi* practices, such as visiting siblings with gifts at weekends without any instrumental purpose’ (Ruan 2017b: 664). Ritual capital is conceptualized as ‘an individual’s social capital that is mainly established and maintained by the practice of proper ritual, namely, the ability to use ritual of resources or benefits in a social network’ (Ruan 2017a: 173).

Wu realizes that *guanxi* networks are of significance for keeping well-informed about preferred schools, paving the way to enter a preferred school, and converting social capital into economic capital. Besides, the data also shows that ‘early investment in developing *guanxi* networks for use in future school choice situation was a wise strategic move among some parents’ (Ibid: 55). In addition to parent’s *guanxi* networks, their educational level and income are also discerned as the factors that could influence the school choice strategy and result.

As shown in the abovementioned examples, which more or less resonate with the Chongqing project, the Chinese notion of *guanxi* has gradually been a scholarly concern in the multidisciplinary commitment to eliminate discrimination and inequality in education facing thousands of Chinese children with migrant family background¹⁰³. From my understanding, no matter how it was disguised by different theoretical, or methodological, or thematic cosmetic in the previous studies, the essence of taking account of *guanxi* is to treat the ties, interactions, and networks somehow seriously.

2.3 The status of the Chongqing project in this study: continuation and transcendence

To execute the transition from the Chongqing project to my own Ph.D., it seems inevitable to tease out the relationship between them, i.e., to identify the overlapping areas and to draw the boundary. By doing so, I can have the opportunity to present some decisions concerning the research questions, as well as the theoretical and methodological frameworks, of the present study. More importantly, the possible repetition in terms of contents can be appropriately avoided, and the necessity of the previous description of the Chongqing project can also be reaffirmed. In a nutshell, when I am the storyteller, there is both continuation and transcendence in my scenario

¹⁰³ Since the emergence of the social phenomenon of rural-urban migrant children, it has attracted much attention from scholars who come from different disciplines and fields, including law, sociology, anthroposophy, education, geography, and so forth. Besides, in more recent years, another type of children who are left behind in the rural areas of China has also been an object of research across a variety of disciplines.

of the right to education of the rural-urban migrant children in China.

2.3.1 Continuation

Given the special relationship, the present Ph.D. research mainly inherits three aspects from the abovementioned Chongqing project. First of all, it focuses on the same core problems confronting the rural-urban migrant families in the context of education in China. As you will see in especially Section 3 of this chapter and Chapter 3, although the Chinese government has already taken a series of legal and policy measures to address inequality and discrimination problems existing in education, the progress in this regard has not been satisfactory to the international human rights standards. Especially against the recent backdrop of China's dedication to upgrading the model of urbanization through controlling the population in megacities, rural-urban migrant children have been facing not only the old problems but also more new problems. Thus, it is still necessary and significant to contribute more intellectual supports to the solutions to these problems.

Secondly, this research follows the theoretical pursuits of advancing the understanding of the local relevance of human rights (as global norms). Therefore, the theoretical framework established in the Chongqing project (Chen et al. 2016: 36-39) is internally compatible with the present research. Rather than repeating the theories and perspectives in one single place, they are radically absorbed into the apt places of this dissertation where the elaboration of them is substantially necessary and logically coherent. The localizing human rights approach (De Feyter 2007) is referred to as the pile foundation, not only guiding the research planning and (partial) analysis, but also triggering the excavation of the relational connotation of human rights-related networks. The users' perspective in human rights (Desmet 2014) is conducive to the categorization of various networks in the existing human rights literature. Furthermore, it helps to identify the types of human rights users who constitute the networks involved in the empirical case study in Beijing. Lastly, this research takes advantage of the

transformation perspective (Felstiner, Abel, and Sarat 1980) in analyzing the roles of social networks in formulating human rights claims.

Thirdly, some concepts and terminologies introduced in the Chongqing project, especially concerning the Chinese expressions, are applied to the present research project.

2.3.2 Transcendence

Responding to the first reflection (Section 2.2.1), this study assumes that Beijing would be a better case study than Chongqing. In comparison with Chongqing, the educational situation of rural-urban migrant children is worse in Beijing (see below Section 3). More importantly, based on media reports and academic research¹⁰⁴, rural-urban migrants in Beijing have already taken some actions (e.g., petition, open letter, even self-burning) to fight against governments or educational authorities for their children's education (see below Section 3.3). Besides, there are some (domestic and international) NGOs active in the field of rural-urban migrant children's education in Beijing. Taken together, it seems plausible to assume that Beijing would be a better case than Chongqing in terms of the criteria for localizing human rights case study selection.

As a response to the second reflection (Section 2.2.2), studying human rights from a relational perspective (the network perspective in particular), in which social relations and networks are seriously incorporated into the human rights research agenda, is the all-important contribution this research seeks to make. From a personal point of view, the incentive of adopting a relational perspective refers to both the localizing human rights approach's emphasis on the importance of the human rights network and the empirical findings concerning the relevance of *guanxi* in the Chongqing project.

¹⁰⁴ Up until now, most of the research in the field of rural-urban migrant children's education, especially for those who conducted empirical research, has focused on the situation in megacities like Beijing and Shanghai. See, e.g., (Friedman 2017; Liu 2018; Pong 2015; Zhou 2017). Of course, one may argue that there is a need for more research focusing on other cities or areas. I agree. However, given the reality that these megacities have received significant shares of rural-urban migrants to which the educational problems are associated, the necessity and importance of sustaining the academic enthusiasm in regard to these megacities remain salient.

Adopting a relational perspective has primary implications on the research methods used in the fieldsite. Unlike the Chongqing project, in a nutshell, methods of qualitative network analysis are applied in the phases of data collection, examination, and interpretation (see Chapter 5).

However, it is highly necessary to make a clarification concerning the status of *guanxi* in this study. The findings on *guanxi* derived from the Chongqing project are inspiring, and it is the very original idea from which this study starts. But, what about other relationships or social connections? Do they have effects on human rights in general and the local relevance of human rights in particular? After all, *guanxi* is just a special type of relationship, which certainly cannot represent the others.

Scholars have all agreed on the particularity of *guanxi*. Literally speaking, “guan” refers to gate (as a noun) and “to close” (as a verb), and “xi” refers to connection or system (as a noun) and “to link” (as a verb), the combination of which essentially epitomizes the Confucian tradition of the primacy of family and kinship as well as the norm of reciprocity (Bian 1994; Yang 1994). Perceiving *guanxi* as the major dynamics of Chinese society, Alston (1989: 28) then defines *guanxi* as the ‘special relationships two persons have with each other’ for which the two persons assume that each is completely committed to other. Pye (1992: 101) considers *guanxi* as a ‘special relationship individuals have with each other’ as well, and underscores the unlimited demands that can be made on the other by each. Fan (2002: 546-547) emphasizes that *guanxi* in the simplest term refers to a special relationship between two persons, and the degree of specialty of this relationship depends on *guanxi* base, which can be classified into “relationship by birth or blood”, “relationship by nature”, and “relationship acquired”¹⁰⁵, i.e., blood *guanxi*, helper *guanxi*, and business *guanxi*.

¹⁰⁵ In the meantime, Fan asserts that having a *guanxi* base itself does not automatically lead to the establishment of *guanxi*. More important, even if without *guanxi* base, two total strangers can develop *guanxi*. (Fan 2002: 547-548).

Scholars have also recognized that *guanxi* is a special relationship in comparison with other notions or concepts concerning relationships. Wang (2007: 83) is aware of the difference between the western culture-based social network and the *guanxi* network. While the former is ‘relatively open to any exchange partners as long as one plays by the rule of the game’, the latter is ‘an exclusive circle of members because it embraces some characteristics of expressive ties, which are based on blood relations’. Lu and Reve (2011) identify that *guanxi* is a special relationship that only exists at the individual level, because of which the western network theory such as structural hole and closure, which can be applied at all level and highlight the benefits and constraints emanated from the structures of networks, may not compatible with *guanxi*. The uniqueness of *guanxi* is embodied not only through comparison with the western notions but also with other Asian culture-based relationships. By comparing with Korean *yonggo* ties and Japanese social ties, namely *Kankei*, *jinmyaku*, *en*, *aidagara*, Horak et al. (2019) concludes that the difference between *guanxi* and other Asian relationships is even larger than its difference with social network theory.

As a strategy, this study aims not to focus on *guanxi* (and *guanxi* networks), but to take account of all kinds of relationships or social connections that are pertinent to the engagement with rural-urban migrant children’s compulsory education. In other words, this study is about *guanxi*, but not only about *guanxi*. As emphasized above, *guanxi* is merely regarded as a special relationship, which may be, also may not be, relevant to rural-urban migrant children’s education. It is *one* of the questions concerning relationships that this study wants to explore empirically, rather than the whole questions. The rationale behind this strategy is associated with (1) the negative impacts of a rural-urban migrant status on *guanxi*, which has been proven by empirical data obtained in the Chongqing project (Chen et al. 2016: 96); (2) the positive potential of weak ties (for instance, the new friendship ties established in the destination cities) for rural-urban migrants (see, e.g., Chang, Wen, and Wang 2011). Assuming it is true that rural-urban migrants are vulnerable in cultivating and sustaining the special relationship

guanxi in the destination cities, it seems plausible to pay attention to other kinds of relationships or social connections rural-urban migrants have with local urbanities, migrants, and others.

Connecting back to Bian's "1+3 scheme"(Section 2.2.2 in this chapter), this study intends to be inclusive and committed to the "1", i.e., a connection between two individuals (or/and entities). When the connection transcends the dyadic basis to link more than two persons (or/and entities), a network emerges ((Bian 2019: 6). It is how the term social network is perceived in this study. Besides, when the connection between two persons (or/and entities) meet the "3" qualifications, namely personal, close, and resourceful, *guanxi* emerges. It is how this study identifies *guanxi* (if any, in the fieldwork).

3. Research field and problems

'Here I have laughed, here I have cried, here I will live, and then I will die. Here I will search, here I will pray, here I will wander, yet here I will stay, Beijing, Beijing...'¹⁰⁶. Indeed, as reflected in this song, Beijing is like an "evil angel", making people who live there happy and hate! They are happy because Beijing, as the capital of China, is undoubtedly the epitome of spiritual, material, political, and economic civilization and prosperity through which it has garnered its national and international reputation as one of the Alpha Cities in our contemporary world¹⁰⁷. However, problems like the high house price, air pollution, wealth polarization, and traffic congestion have been reducing its residents' subjective well-being or happiness in recent years. According to a national happiness index (2017-2018), Beijing is far from being recognized as one of the happiest cities in China¹⁰⁸. Although this ranking list seems to occasionally

¹⁰⁶ A famous Chinese song that is produced by Feng Wang. With regard to a voluntary English translation of the lyric, see <https://lyrikoala.wordpress.com/2016/09/23/beijing-beijing/> (last visited in November 2018).

¹⁰⁷ For instance, see the latest city ranking in <https://www.lboro.ac.uk/gawc/world2018t.html> (last visited in November 2018).

¹⁰⁸ The top 10 cities in this happiness index are Wuhan, Xining, Nanchang, Changsha, Tianjin, Fuzhou, Hangzhou, Nanjing, and Hainan. See

embarrass these (economically) advanced megacities like Beijing and Shanghai, it indeed resonates with a broader reality that while the per capita income in China has sharply increased since 1990, its people are not happier than before (Easterlin, Wang, and Wang 2017). By further dissecting the waning of happiness against the backdrop of China's rapid economic development and urbanization, the disparity among urban, rural and migrant residents can be identified. In this regard, the World Happiness Report 2018 statistically informs us that the happiness level of migrants in China is the lowest in comparison with its counterparts, which is caused by a variety of problems including low income, uncertainty about the future, lack of social security, environmental pollution, corruption, social polarization, discrimination, and crime (Knight and Gunatilaka 2018). To a large extent, these problems confronted by migrants are ironic given their considerable contribution to economic growth and urban development in China (e.g., Cai and Wang 2008).

3.1 Beijing: a capital molded by migrants

It is undeniable that migration is an authentically global phenomenon in our time. As the former Secretary-General of the United Nations Ban Ki-moon emphasized: 'migration is an expression of human aspiration for dignity, safety, and better future. Moreover, it is a part of the social fabric, part of our very make-up as human family'¹⁰⁹. Approximately, there are more than 240 million international migrants and 750 million internal migrants in the world (McAuliffe and Ruhs 2017), moving to or from different places for their own ends. Moreover, there are more and more people migrating within their own countries. Hereinto, 'the largest human mobility is occurring in China, which 281 million rural-urban migrant workers account for around a third of all internal migration in the world' (Sun 2019: 1). The proportion would be even higher when we

<http://jingji.cctv.com/special/2017jjshddc/index.shtml> and <https://www.weforum.org/agenda/2018/03/wuhan-is-china-s-happiest-city> (last visited in November 2018).

¹⁰⁹ Secretary-General's remarks to High-Level Dialogue on International Migration and Development (2013), see <https://www.un.org/sg/en/content/sg/statement/2013-10-03/secretary-generals-remarks-high-level-dialogue-international> (last visited in November 2018).

take account of other types of internal migrants, namely urban-urban, urban-rural, rural-rural. The four types of internal migration, which are institutionally shaped by the *hukou* system, have their own features regarding, for instance, gender, age, education, job, location, and floating pattern. The distinctions have not been radically changed by the undergoing *hukou* reforms (Ma, Duan, and Guo 2014). For instance, the urban-urban migrants are averagely more well-educated, and their jobs are primarily in the areas of education, public administration, social organization, transportation, and wholesale and retail. This is not the case in the rural-urban migration population, although a “new generation”¹¹⁰ of rural-urban migrants who are ‘more well educated and skilled, and are likely to work in manufacturing and service industries’ has emerged and rapidly expanded (Zhao, Liu, and Zhang 2018: 18). There are still 51.5 % of rural-urban migrants working in the very front line of the construction and manufacturing industries¹¹¹.

As with the generational evolution of rural-urban migrants, the internal migration as a whole has experienced non-linear alterations since 1949. Although the periodization varies in the literature¹¹², it is fair to say that there is a consensus that the advent, restriction, loosening, and retrenchment of the internal migration are merely the micro appurtenance of the macro-necessity of national economy and security. When the first Five-Year Plan (1953-1957) and the ensuing Great Leap Forward proceeded, peasants were encouraged to devote themselves to the “springtime” of industrialization in cities. They came! When the government realized that the agricultural and social

¹¹⁰ In a rough manner, the new generation of migrant workers refers to these rural-urban migrants who were born after 1980. See http://www.stats.gov.cn/zjtj/ztfx/fxbg/201103/t20110310_16148.html (last visited in November 2018). See more in (Cheng 2014; Wang and He 2016).

¹¹¹ By the way, the National Bureau of Statistics reported that the new generation of migrant workers has been the principal part of the migrant works in urban China since 2017, accounting to 50.5% of its entire population. See http://www.stats.gov.cn/tjsj/zxfb/201804/t20180427_1596389.html (last visited in November 2018).

¹¹² For instance, the four stages – 1951-60, 1961-65, 1966-77, 1978-95 - of internal migration (Zai 2001), the two stages and five periods – 1949-57, 1958-65, 1966-77, 1978-91, 1992-present – of internal migration (Duan, Gao, and Zhu 2015; Lu 2005).

security would be a problem if the urban population cannot be controlled, peasants were seriously restricted to inflow into cities during the 1960s and 1970s. They left! When the Cultural Revolution called for the enthusiastic participation of young talents, intellectuals, government officials in the development of the countryside. They left! When the national strategy was fundamentally shifted to economic development after Reform and Opening-up (1979), peasants, again, were “invited” to cities for building a *xiaokang society* (a moderately prosperous society). They came again! When the “big city disease” has received urgent attention in recent years, these megacities have been trying to control the population through, for instance, expelling rural-urban migrants who are subsumed into the so-called “low-end population”. They have been leaving! The current decline of population numbers in these megacities¹¹³, as well as the growing wave of return migration (Chunyu, Liang, and Wu 2013; Xu, Liu, and Liu 2017), has already indicated the efficacy of the population control policy.

Overall, the situation of migration in Beijing is consistent with the nation-wide picture. In fact, Beijing has a long history of being the capital city of several dynasties of China (for the history of Beijing, e.g., Dong 2003; Wu 1999), readily aggregating people from different places. For instance, as the capital of the Qing dynasty, according to Wang’s historical research (1989), Beijing (then called *jingshi*) had 500000 migrants, which accounted for 30% of its total population. In detail, these migrants consisted of refugees, business people, handicraftsmen, imperial examination takers, job seekers, slaves, buskers, fortune tellers, beggars, and criminals. Back to contemporary China, Beijing has begun to be one of the most attractive megacities for rural-urban migrants since the early 1980s¹¹⁴, mainly because of the wealth gap with other places have been gradually widened. By mainly relying on the inexpensive labor force, the development

¹¹³ Beijing and Shanghai plan to limit the population to 23 million and 25 million respectively by 2020. Based on the official figures (National Bureau of Statistics, 2017), both Beijing and Shanghai succeed in “reducing” about 20,000 and 10,000 population respectively in 2017.

¹¹⁴ In 1980s, these cities include Beijing, Shanghai, Tianjing, Wuhan, Guangzhou, Shenyang, Chengdu. See (Wakabayashi 1990).

of Beijing's urbanization is impressively rapid.

3.2 Migrant children's education in Beijing

Migrant workers do not prefer to come to Beijing by themselves. On the contrary, they are accompanied by their family members. This ongoing evolution of familization of rural-urban migration in China demonstrates that 'the nuclear-family arrangement, where the spouse and children join the pioneer migrant at the host location, is fast replacing the sole and couple-migration models that were prevalent among earlier, older migrants and cohorts' (Fan and Li 2018). Against the backdrop of familization, it becomes convenient for migrant families to reunite or move together (e.g., Xu and Zhao 2017; Yang and Chen 2013). The constant growth of migrant children is one of the consequences of familization of migration.

Moving with migrant parents has a significant impact on a large number of children in various settings, such as their psychosocial development (Lu et al. 2018) and health (Fan and Li 2018). Apart from these examples, children's education is severely affected by migration as well. As a matter of fact, the educational problems concerning migrant children have already become an international concern in recent years. The 2019 Global Education Monitoring Report (GEM Report) is exclusively dedicated to the theme "Migration, Displacement and Education: Building Bridges, Not Walls", unveiling the particularly marginalized and inferior situations of migrant children in different educational systems and reaffirming the international commitment to 'ensure inclusive and equitable quality education and promote lifelong learning opportunities for all' (SDG 4)¹¹⁵.

Within this report, China is one of the most common examples primarily due to its drawbacks of promoting equal access and quality of education for both rural-urban migrant children in urban areas and left-behind children in rural areas. These drawbacks, or most of them at least, are not fresh at all as they did exist from the inception of the

¹¹⁵ <https://en.unesco.org/gem-report/report/2019/migration> (last visited in February 2019).

practical demands of education in the late 1990s and early 2000s.

It is challenging to pledge the accuracy or completeness of the exact number of migrant children attending schools in Beijing due to their high mobility, even if there are demographic census and migrant population monitoring mechanisms at both national and local levels¹¹⁶. It becomes more complicated when we are concerned with these children receiving compulsory education from migrant schools. This type of migrant schools is usually depicted as ‘a type of private-run, low-quality, and inadequately funded schools without permanent addresses’ (Yuan, Noblit, and Rong 2017: 118). After all, according to Zhao and Wei’s (2017) compiled data, as of 2015, 80000 migrant children were attending private migrant schools in Beijing. It is 16.54% of the total number of migrant children – 483,600. In addition to these migrant children, 378,700 went to public schools, and 24900 went to the so-called private elite schools¹¹⁷. The percentage is 78.31% and 5.15% respectively. Speaking of which, it seems inevitable to briefly introduce how Beijing has handled the educational issues of migrant children, i.e. the reasons why some could get admission to local public schools while others had no choice but to attend migrant schools.

As the local response and implementation of a national policy made by the central government, migrant children’s education was officially incorporated into its legislative and administrative agenda of the Beijing municipal government in the early 2000s. In so doing, migrant children began to be allowed to enroll in Beijing’s public schools as temporary students. However, enrolling as a temporary student in public school was not unconditional in the sense that the migrant family had to submit certain documents or

¹¹⁶ For instance, the China Migrants Dynamic Survey which was founded in 2009. See <http://www.chinaldrk.org.cn/wjw/#/home> (last visited in February 2019).

¹¹⁷ There are different types of private schools in China, which can be roughly categorized as follows: 1. Low-fee private schools for poorer migrant households, often run by migrants; 2. Medium-fee private schools affiliated to prestigious public schools, profiting from the public school’s prestigious name; 3. Medium-fee private schools run by individual entrepreneurs; 4. Medium-fee private schools run by corporations often expanded forms of the other type; 5. High-fee private schools, often offering an international degree (International Baccalaureate). See (Schulte 2017). The low-fee private schools are equal to migrant schools in this study unless explicitly stated otherwise.

certificates. In 2004, these demanded documents were for the first time abbreviated as “five certificates”. Nevertheless, it is noteworthy that these certificates required were rather always in the process of alteration and adjustment:

- **Four Certificates.** According to the Notice on the Interim Measures for the Implementation of Compulsory Education for School-aged Children and Juveniles in the Floating Population issued by the General Office of the Beijing Municipal People's Government in 2002, the migrant children who had lived in Beijing for more than half a year could apply for the admission of compulsory schools in Beijing on the basis of the submission of these four certificates, namely the employment certificates of parents, household registration, parents' ID card, and temporary residence permit.
- **Five Certificates.** In 2004, in the light of the Implementing the Document of the General Office of the State Council on Further Improving the Compulsory Education for Children of Rural Migrant Workers in Cities, Beijing put forward the “five certificates” requirement and added the residence certificate based on four certificates required in 2002.
- **Three Certificates.** In 2010, the Beijing Municipal Education Commission issued the Measures for the Administration of Students' Status in Beijing Primary and Secondary Schools, which required only three certificates for migrant children, namely parents' residence certificates in Beijing, household registration, and proof of study at a school on a temporary basis (*jiedu* certificate) in Beijing.
- **Five Certificates *again*.** On 16 March 2014, The Central Government issued the New-type Urbanization Plan (2014-2020), which aims to control the population size of megacities strictly. Various measures such as “controlling people by industry”, “governing people by housing”, and “limiting people by education” have begun to emerge in Beijing. Under such circumstances, the

Opinions of the Educational Commission of Beijing on the Admission of Compulsory Education 2014 explicitly stated that the school-age migrant children in compulsory education stage were required to submit five certificates and other related materials. Starting from this, the five certificates have been more or less stabilized. However, the practical procedures have actually become more complicated than in 2014. For instance, according to the 2016 Beijing Provisional Regulations on Residence Permits, although the five certificates requirement was adopted in general, the temporary residence permit was replaced by the residential certificate.

3.3 Fighting for education

Where there is oppression, there is resistance. The only difference is its modality, breadth, and depth. Even if in an authoritarian regime like China, ‘it has become commonplace for Chinese citizens to engage in disruptive tactics in protecting their economic and social rights’ (Tang 2017: 226). Otherwise, it seems unnecessary for both the central and local Chinese authorities to exclusively prioritize “stability maintenance” operations (*weiwen*) in their governance (Wang and Minzner 2015: 339). The reality is that numerous “citizen-initiated”¹¹⁸ rights defense (*weiquan*) movements, campaigns and/or incidents have occurred in China, whereby the problems and conflicts of, for instance, environment, (land) property, housing, demolition, and corruption have been solved or largely realized by the counterparts.

The extensive emergence of rights defense is associated with a group of stakeholders whose primary goals are to mobilize, lead, assist, and sponsor these rights defense movements in both urban and rural areas of China. Among others, human rights lawyers, which mainly consist of ‘the *weiquan* (rights protection) lawyers, the *sike* (die-

¹¹⁸ According to Benney’s (2013) division, rights defense used to be a tool of the Chinese government, whereby the law could be promoted and the rights of the weak could be protected. However, it has been radically transformed into a tool for individual citizen to attack the government in recent decades.

hard) lawyers, and the *gongyi* (public interest) lawyers¹¹⁹, are one of the most arresting stakeholders. Ironically, however, some of them, especially the high-profile ones, have been declared as “*persona non grata*” by the Chinese government and a series of harsh crackdowns could thus be regarded as the generous returns on their meaningful contributions to their country’s human rights progress (see especially Pils 2015).

Regardless, against the backdrop above, Chinese migrant workers have also increasingly adopted tactics, such as protest, petition, and strike action, to solve their actual problems (especially in the case of problems due to the violation of rights) since the mid-1990s (Sun 2019: 54). Even though the detailed data are not available, it is safe to proclaim at least a general rise of collective actions mobilizing around the migrant community-related issues by referring to both media reports and academic research published in the last years. Among these migrant community-related issues, migrant children’s education in urban China has been one of the primary causes of their collective actions. In this regard, Beijing has become the principal gathering place for these activists, human rights lawyers, NGO practitioners, and migrant parents themselves who are committed to advocating for equal educational rights and non-discrimination for migrant children.

“The Equal Education Campaign” is a typical case. In order to press the government to eliminate the policy and administrative barriers of attending the college enrollment examination in place of residence (*yidi gaokao*), a then human rights NGOs called Open Constitution Initiative (*Gongmeng*) initiated a campaign originating from Beijing yet serving for the migrant community in China as a whole in 2010. By presenting itself as

¹¹⁹ The *wenquan* lawyers refer to ‘these lawyers are suspicious of the utility of the legal process and prefer to resort to social mobilization of a more political nature, parallel to and independent of the legal process, to achieve political objectives’. The so-called die-hard lawyers are more technical-oriented, who ‘fight in courts, supplemented by extra-judicial mobilization, but with a clear focus on influencing and winning court cases based on effective legal argument’. Thus, criminal defense is the focus of this type of lawyers. On the contrary, the *gongyi* lawyers more prefer to advocate for social changes by focusing on ‘mainstream legal issues of general public concern, such as anti-discrimination and equality rights, labor rights, domestic violence and consumer protection’. See (Fu 2018).

the United Citizen Action for Education Equality (*jiaoyu pingdeng gongmin lianhe xingdong*), *Gongmeng* organized and led a group of migrant parents in Beijing to constantly protest in front of government buildings like the Ministry of Education and the Beijing Municipal Education Commission; to gather petition signatures and repeatedly engaged in the letter-and-visit system; to lobby members of the National People's Congress; and to draft a "non-governmental proposal" on the anticipated reform of China's college enrollment system¹²⁰. The organized collective actions of migrant parents in Beijing gave rise to a heated discussion in media and academia¹²¹. The Ministry of Education also promised to consider 'the feasibility of relaxing the hukou restriction in school enrolment' (Zhou 2018: 501). In 2013, this campaign was virtually concluded in the form of *Gongmeng's* reluctant closure and its leader's criminal sentence, albeit Beijing and other cities sequentially adopted new policies on migrant children's college entrance examination, all of which nominally allowed for attending the exam in the place of residence but attached certain conditions.

In addition to the Equal Education Campaign, there were many other cases in which the focal point of struggle was the retention or demolition of migrant schools in Beijing. In these fights, human rights activists were not dominant anymore as the goal was to pragmatically solve the individual problem rather than ambitiously advocating for policy change. The migrant children school movement, to borrow from Min Yu's (2016, 2018) terminology, was heavily based on the participation of the migrant community itself, as well as the assistance of the migrant community-based NGOs. In July 2012, the Tongxin Experimental School (*tongxin shiyan xuexiao*) was informed by the local

¹²⁰ For the major events of this campaign, see, e.g., http://blog.sina.com.cn/s/blog_833f386f0101a6sz.html (last visited in March 2019). More importantly, see (Zhou 2017, 2018).

¹²¹ There were several seminars held in Beijing University Law School in the course of the equal education campaign to specifically address the topics in question. Besides, very established professors like Qianfan Zhang supported this campaign by publicly expressing their opinions and by publishing academic works. Taking Prof. Qianfan Zhang as an example, his articles focusing on the college enrollment system, constitutional right to education, and *yidi gaokao* were published merely between 2009 and 2013, the time frame of which was compatible with this campaign.

authorities that they must close the school immediately due to, for instance, its fire safety risk. After this notification, the local government adopted various measures to “facilitate” the school’s closure. They cut off the electricity and water supplies, blocked up the school gate with an excavator, and employed the “public order joint defense force” members. Consequently, all of the measures made a significant contribution to the extremely intense atmosphere.

As a migrant school in Beijing, Tongxin is unique in the sense that a migrant community-based NGO Workers’ Home (*gongyou zhijia*) is the founder and operator of this migrant school. A group of migrants founded the Workers’ Home in 2002. Its fundamental vision is to utilize cultural entities, especially music, to improve migrants’ life in Beijing. Thus, they created a band and named it New Worker Art Troupe (*xingongren yishutuan*)¹²². The band started the tours around the country by which they could financially support the operation of its migrant school. This peculiar approach also helped them to garner the fame and impact in the field of migrant children’s education, which was a valuable resource for mobilizing various types of support to fight against the rude demolition.

Indeed, apart from mobilizing migrant parents to combat at the frontline, the Director-General of Workers’ Home simultaneously made his effort to attract more attention from public intellectuals, scholars, celebrities, and journalists by primarily utilizing his *guanxi* networks, publishing open letters, and activating on social media. Consequently, his rights defense strategy resulted in the involvement of many stakeholders. Among others, the public support from Yongyuan Cui, a nationally well-known journalist and a member of the National Committee of the Chinese People’s Political Consultative Conference (CPPCC), and the other five famous figures were

¹²² During the fieldwork I participated in their concert in *Picun*, celebrating the New Year of 2019. In this concert, the band officially changed its name into New Worker Band (*Xingongren yuetuan* 新工人乐团). Many migrant students studying in the Tongxin Experimental School also performed in this concert, with their parents’ companions. As far as I know, this kind of concert held around the New Year is a tradition, aiming to gather the migrants together to celebrate. [Fieldnote, 2019/1/1]

determinant for this school's ultimate survival.¹²³

Not all migrant schools in Beijing, however, were as lucky as the Tongxin Experimental School. In fact, the majority of the self-help activities intending to fight for the survival of migrant schools (see more in Cliff and Wang 2018) were unsuccessful. Notably, since the implementation of the population-control policies in Beijing, an increasing number of migrant schools, more than half of which were not awarded the license of running schools, have been demolished. According to the unofficial statistics, the number of migrant schools has been reduced from approximately 300 to 100 over the past two decades (Table 2). Under such circumstances, the closure of migrant schools has become one of the primary triggers for social unrest in Beijing.

Year	Total number of migrant children	Number of migrant children studying in migrant schools	Total number of migrant schools	Number of migrant schools with the running license
2006	375000	130000	300	58
2011	478000	130000	176	62
2014	511000	93000	127	65

Table 2: Unofficial statistics of migrant children studying in migrant schools in Beijing
Adapted from (Zhao and Wei 2017: 119)

¹²³ See some reports on this via, e.g., <http://www.chinadevelopmentbrief.cn/articles/tongxin-experimental-and-new-citizens-jinghua-beijings-migrant-schools-meet-different-fates/>; <http://english.cri.cn/8706/2013/01/11/2381s743148.htm> (last visited in March 2019).

4. Research questions

4.1 The formulation of research questions

4.1.1 Main research questions

The main research questions of this study can be formulated as follows:

Whether and to what extent do social networks affect the relevance of human rights in the context of rural-urban migrant children's education in Beijing, China?

4.1.2 Subquestions

In order to facilitate answering the main research questions, the following subquestions are formulated:

Subquestion 1: *What are the educational situation and social context of rural-urban migrant children in Beijing?*

Subquestion 2: *What are the effects of different actors' network of relationships in the context of rural-urban migrant children's education on their rights awareness and the local conceptions of human rights?*

Subquestion 3: *What are the roles of social networks in formulating human rights claims and in taking human rights actions on the purpose of changing rural-urban migrant children's educational situation?*

Subquestion 4: *Who are the most significant network actors in the education-related human rights claims and actions, and what are their positions within the network?*

Subquestion 5: *What are the responses given to these actions and claims?*

4.2 Further clarifications

In order to facilitate understanding, this subsection provides a more detailed sketch of the main research questions in the form of disassembling the components.

4.2.1 Social networks

Without claiming a particular conceptualization (see Section 2.3.2 of this chapter), social networks in this study should be plainly perceived as social structures constituted by actors who are connected by various kinds of relationships. More precisely, actors include both individual persons and organizations. The organizations, in practice, are approached through their representatives. Furthermore, analytically speaking, this study focuses more on the “meaning structure” of social networks, i.e., ‘the expectations, symbols, schemata, and cultural practices embodied in interpersonal structures’ (Fuhse 2009: 51). It indicates that, therefore, the structure of relationships, which is typically extracted by the simplified depiction of the presence or absence of certain relationships, is comparatively downplayed in this study. Furthermore, it also illustrates that the methodological choice is adapted in order to be in line with this focus.

4.2.2 The relevance of human rights

This study explicitly refers to the relevance of human rights as the process of localizing the human right to education, i.e., the tracks in which the local needs or violations of the right to education are (sequentially) transformed into human rights claims, actions, and responses. In comparison with the five tracks of the localization process of human rights (see Section 2 of Chapter 1), the focus of this study does not include the specific tracks (track 4b and track 5) concerning the “inflow” of local experiences into human rights (legal) framework as well as the “payback” of the updated human rights framework to the improvement of local human rights needs or violations.

There are two reasons for this: one is pragmatic, and another is realistic. In a pragmatical sense, the involvement of the human rights framework and its dynamics

would augment the complexity of the research process, which is beyond the capacity of a single study. Also, it is a reality, to the best of my knowledge, that there has been no single case applying the education-related injurious experience of migrant children in China to the further interpretation and elaboration of global human rights norms. Taken together, it is more feasible for this study to concentrate on the process that is composed of four fulcrums (or stages), namely the local human rights needs or transgression, human rights claim, human rights action, and institutional response (track 1 to 4a).

Thus, this study pays special attention to the localization process of human rights, through which the interactions, ties, and networks of various actors can be properly investigated. This is also inspired by Desmond's (2014: 547) *Relational Ethnography*, which 'involves studying fields rather than places, boundaries rather than bounded groups, processes rather than processed people, and cultural conflict rather than group culture'¹²⁶. In this regard, the relational trait of this study is accentuated, which correspondingly has implications on, for instance, the boundary setting and sampling of the research design.

In addition, it is also vital to clarify that although this study concerns the right to education, it does not mean other human rights, as well as the accessory discourses and knowledge, are intentionally excluded from the study. For instance, human rights awareness, in general, is touched upon in the assessment of the process of formulating human rights claims. More importantly, it is also possible to engage with some civil and political human rights, such as the right to assemble and petition, especially at the stage of taking specific actions to ensure human rights needs or remedies for human rights violations. Nevertheless, the possible engagement with these human rights is confined

¹²⁶ In his own ethnographic study of the eviction in American society (2016), the process of eviction, rather than 'evicted tenants, evicting landlords, eviction court, or a poor neighborhood with high eviction rates', was regarded as his object. Because, in his mind, 'eviction is a process involving a multiplicity of actors (e.g., tenants, landlords, lawyers, family members) and settings (e.g., tenants' poor neighborhoods, landlords' suburban homes, eviction court, jail, homeless shelters)' (Desmond 2014: 565). It is clear that Desmond's relational approach is methodologically compatible with the central aim of fieldwork in Beijing.

to a reasonable area in order to avoid obscuring the focal points of the inquiry.

4.2.3 In the context of rural-urban migrant children's education

Education in this study refers to compulsory education, i.e., the 6-year primary school education and 3-year junior middle school education. Furthermore, it specifically refers to rural-urban migrant children's compulsory education. Other types of migrant children, for instance, urban-urban migrant children, are not the priority unless the individual cases are deserving of attention. By the way, unless specified otherwise, this study also sidesteps the comparison between the local and rural-urban migrant children. Unlike the Chongqing project, it is noteworthy that there is no specific preference of attention to the transition phase between primary school and junior middle school. This study perceives compulsory education as an integral process, through which more types of stories and experiences that have something to do with the right to education could be involved. However, in order to optimize the observation and analysis, this study does keep a careful eye on the possible decision-making moments of especially rural-urban migrant households during the period of compulsory education. It assumes that more practical problems concerning the right to education and more interference of social networks can be identified in these critical moments, such as choosing and/or changing school, responding to school closure, returning to hometown, and so forth.

It is also worth noting that the phrase "rural-urban migrant children" should not be misunderstood as the unit of analysis, as many actors are involved in their compulsory education. In particular, their migrant parents are, to a large extent, more relevant given the primacy of interactions, social relations and networks in this study. After all, normally speaking, children's social relations with both peers and adults are too scarce and thin to articulate the impact on the localization process of human rights. Although this does not entirely overshadow the necessity of attending to rural-urban migrant children, it is a reminder that other actors who are engaged with rural-urban migrant children's compulsory education should be paid more heed. This is the reason why this

study emphasizes rural-urban migrant children's compulsory education as a context. Such emphasis resonates with an underlying rationale of creating a basic boundary line for the relational webs that are examined in this study, albeit the boundary specification is not an independent task in the research agenda (of Desmond's relational approach). Simply put, as with the "event-based approach to defining the boundaries of the network" (Marin and Wellman 2011: 12), this study regards, in the loosest manner, the engagement with rural-urban migrant children's compulsory education as a boundary for identifying the actors (nodes) of networks.

5. Objectives of the research

The present section clarifies the research objectives of this study from theoretical, methodological, and practical aspects. Theoretically speaking, this study aims to connect human rights issues with social network analysis by advocating for envisaging the relational nature of human rights, which is rooted in the philosophical assumption of relationalism (see Section 4 of Chapter 1). By focusing on the relations among various human rights users to investigate the interaction of local and global, nodes and structure, human rights and society, and so forth, the further development of human rights scholarship would be directed to a more promising realm. Besides, another objective, in terms of the theoretical aspects, is to deepen the refinement of the localizing human rights approach in general and its account of networks within the process of localization.

As to the methodological aspect, this study tries to subvert the dominance of the quantitative approaches to social network analysis in the existing network-oriented human rights scholarship, which is mainly contingent on the structural determinism of social network analysis. Alternatively, this study means to qualitatively investigate the possible relationship between social networks and the relevance of human rights for rural-urban migrant households in the context of education. In this vein, methodological issues concerning how to collect qualitative network data and qualitatively analyze

network data are expected to be addressed through the empirical case study.

In addition, from a practical point of view, this study intends to shed new light on the improvement of human rights situations in general and educational challenges in particular facing the Chinese rural-urban migrant households. Thus, it is one of the objectives of this study to extract and refine the down-to-earth implications of the relational and network perspectives on the (national) legal, policy, and societal frameworks of the international human right to education of rural-urban migrant children in China.

6. Methodological framework

This study is divided into two phases. The first phase involves desk research during which relevant literature, legal, policy, and other documents are identified and analyzed. Moreover, the research design for the empirical study is also completed in this phase. The second phase includes fieldwork, data analysis, and draft writing. It is worth noting at the outset that the present section merely provides a glimpse of the methodological framework applied for the entire research project, rather than for the empirical case study in Beijing. Chapter 5 is wholly responsible for the elaboration of the methods used to collect, analyze, and interpret the empirical data. In essence, the current research adopts a multiple methods approach which includes but not limited to:

1. *Literature review.* Primarily, the literature on network-oriented human rights research and philosophical accounts of human rights are synthesized and reviewed;
2. *Legal method.* The international human rights standards on education and China's legal and policy measures on migrant children's education are analyzed through a desk-based legal study;
3. *Social science methods.* The empirical case study in Beijing is based on qualitative egocentric network analysis. In order to collect empirical, fieldwork was conducted, qualitative network map interviews were undertaken, direct, participant, and online

observations were used.

Chapter 3 The Right to Education of Chinese Rural-Urban Migrant

Children: Revisiting the Law and Policy

1. Introduction

The international community has already realized the extraordinary importance of education for everyone, recognizing it as a fundamental human right. As a human right, it has been guaranteed and protected by both international and regional¹²⁹ legal instruments. The UN human rights system has also paid special heed to this particular right by, most saliently, appointing Special Rapporteurs¹³⁰, upon which the evaluation and enhancement of the implementation and development of the human rights standards concerning education are based. Besides, the right to education has increasingly been incorporated into national constitutions and their domestic laws. According to statistics, the right to education has been infused into 82% of national constitutions (Right to Education Initiative 2019: 26). In addition to the legal efforts, the international community has enthusiastically accommodated the right to education in various political commitments and initiatives, through which this human right can make its unique contributions to international politics and vice versa. Given its significance in

¹²⁹ This chapter mainly focuses on international human rights legal instruments pertinent to the right to education and especially pertinent to China. However, significant efforts have also been made at the regional level to recognize and guarantee the right to education. See the regional human rights instruments regarding the right to education in (Beiter 2005: 155-224; Hodgson 1996: 249-251; Right to Education Initiative 2019: 65-70; Onuora-Oguno 2019). By the way, it is worth noting that Asia, differing from other regions, does not have a legally binding human rights instrument. In this sense, the right to education has not been recognized by any regional legal document in Asia. In 2012, the Association of Southeast Asian Nations (ASEAN) adopted the *ASEAN Human Rights Declaration*, which stipulates the right to education in Article 31. See more at <https://asean.org/asean-human-rights-declaration/> (last visited in October 2019).

¹³⁰ The Special Rapporteur on the right to education was established in 1998 and the incumbent Special Rapporteur (the 4th) was appointed in 2016. With the special mandate, the Special Rapporteur is dedicated to examine crucial human rights issues and provide recommendations to governments and other stakeholders by, mainly, undertaking country visits, responding to individual complaints concerning rights violations, submitting annual reports to the Human Rights Council and the General Assembly, and so forth. See <https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/SREducationIndex.aspx> (last visited in October 2019).

this regard, for instance, even the Noble Peace Prize was awarded explicitly for the right to education in 2014¹³¹.

China, at least on the surface, stands in solidarity with the majority of countries to protect its citizens' right to education by various means. China has ratified principal international legal instruments concerning the right to education and tried to implement its international obligations by adjusting the domestic legal system. Indeed, ranging from the Constitution to the relevant laws and regulations, a relatively sound legal and policy framework for the right to education has been established over the past decades. Based on these measures, the Chinese government more profoundly professed its human rights progress by emphasizing that:

'In 2018 the gross three-year preschool education enrolment rate reached 81.7 percent, and the children enrolled in government-funded and privately-run non-profit kindergartens accounted for 73.1 percent of all kindergarteners. The net primary education enrolment rate was 99.95 percent, the gross junior secondary education enrolment rate was 100.9 percent, and the completion rate of the free nine-year compulsory education was 94.2 percent. Availability of senior secondary education in China is now basically universal. In 2018, senior high schools had a total of 39.35 million students on campus. Higher education is becoming universal. In 2018, with 7.91 million newly enrolled students, there were a total of 38.33 million students studying in colleges and universities, representing a gross college enrolment rate of 48.1 percent. A modern vocational education and continuing education system has been established. In 2018, there were 11,600 vocational schools across China, with a total of 26.89 million students, including 9.26 million newly enrolled.'¹³²

Although it seems irresistible to applaud for China's efforts on the respect and

¹³¹ One of the two recipients of the 2014 Nobel Peace Prize is Malala Yousafzai, who was given the Prize due to her struggle for the right of all children to education. See <https://www.nobelprize.org/prizes/peace/2014/yousafzai/facts/> (last visited in October 2019). Also see (Porsdam 2019: 67-95)

¹³² See the White Paper on Human Rights Progress in China (issued by the State Council Office of the People's Republic of China on 22 September 2019) via https://www.chinadailyhk.com/customize/in_depth_china/201909/354974/Seeking_Happiness_for_People_70_Years_of_Progress_on_Human_Rights_in_China.html?showpdf=true (last visited in October 2019).

protection of the right to education in front of these remarkable data¹³³, a set of serious problems pertinent to especially the special groups is still apparent. Among others, the educational issues of internal migrant children in China have been a public concern since the mid-1990s. To guarantee and promote, especially, free and quality compulsory education for this special group of children, the Chinese government has promulgated a series of policies and measures, some of which are indeed imbued with the spirit of international human rights standards.

The purpose of this chapter is to expound the legal aspects of the right to education¹³⁴ for Chinese rural-urban migrant children under international law and China's domestic law and policy. It revisits both the international human rights standards on the protection of the right to education and China's legal and policy architecture for especially rural-urban migrant children's compulsory education. In conjunction with the interactions that have taken place within the monitoring bodies of international human rights instruments, this chapter comprehensively evaluates the implementation of the right to education of rural-urban migrant children in China.

2. Understanding education as a human right

2.1 Justifications of the right to education

Given the different connotations of education for different groups of people who have diverse backgrounds in history, culture, and ideology (Onuora-Oguno 2019), discussing the justification for the right to education is 'highly complex' (McCowan 2012: 112). A consensus has not been reached in this regard for which there is no universal justification of the right to education (Spring 2000). On the contrary, the right to

¹³³ Only if the data provided by the Chinese government is true and reliable. In effect, for instance, the Committee on the Rights of the Child once raised concern about the quality and reliability of education data throughout the country in its concluding observations on the combined third and fourth periodic reports of China. See, *Concluding observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions)*, adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013), 4 October 2013, CRC/C/CHN/CO/3-4, para. 75(f).

¹³⁴ Unless specified otherwise, focusing more on compulsory education.

education has been endowed with multiple philosophical foundations (see, e.g., Curren 2009; Hodgson 1998; McCowan 2012; Spring 2000; Wringe 1986). Beiter (2005: 26-28; also see Hodgson 1998) summarizes them into four types of argument, namely the social utilitarian argument, the prerequisite of individual development argument, the individual welfare argument, and the prerequisite of human dignity argument.

In detail, the *social utilitarian* argument emphasizes the significant role of education for society and democracy in the form of guaranteeing the exercise of citizenship, public responsibilities, and basic political rights such as the right to vote. The argument that education is a *prerequisite for individual development* focuses on the critical function of education for the development of a person and the realization of his potential. This critical function of education has underpinned a set of international human rights instruments. The *individual welfare* argument, based on the idea of the social contract, regards education as a welfare necessity for which an individual, who is unable to provide this welfare by himself, is entitled to require the supply of basic needs from the community at large. Lastly, and for some most importantly, education is deemed to be a requirement of *human dignity* upon which human rights as a whole are based. In this sense, the right to education is qualified as a fundamental human right.

Although these arguments respectively accentuate the importance and benefit of education to the individual, societal, cultural, and democratic development, the aggregation of which is more than enough to lay a solid basis for the right to education. From a retrospective point of view, the divergence in terms of the philosophical foundations of the right to education has something to do with its historical development¹³⁵. Or, more precisely, the general evolution of the very concept of human rights is highly relevant in this regard. For instance, in the 19th century, the liberal

¹³⁵ Historically speaking, the attribute of education, as well as its provider, was too large extent regarded as the underlying logical mechanism by which the cognitive progress of educational rights was proceeded. For instance, before acknowledging its public function in the French and American Revolutions, education was completely subsumed as a private affair which requires the church and parents to be in charge of all aspects of it.

concept of human rights inclined to constrain as much as possible the interference from the state and confirm the primary responsibility of parents for providing an adequate education to their children. Nevertheless, the socialist concept of human rights reversely emphasized the principal role played by the state in the educational supply-side mainly because of its belief that education is basic welfare provided by the state¹³⁶.

In addition to the philosophical foundations, perceiving education as a human right should not ignore its practical dimension for which the latest UNESCO Right to Education Handbook refers to it as “a blueprint for action”. It asserts that ‘education is much more than philosophically interesting, it is also a practical activity. This means education issues are also of interest to students, teachers, civil servants, politicians, and others’ (Right to Education Initiative 2019: 37). These stakeholders are intertwined in different layers of education to reify the potential abstraction of the right to education, through which the vital questions regarding the aims, contents, forms, (social) values, participants, and management of education can be discussed, negotiated and addressed concretely. In this sense, the right to education, as well as human rights in general, is referred to as the guidance for actions in their intertwinement. Moreover, the guidance does not only aim at the substantive answers to the abovementioned questions but also the procedure by which answers should be agreed in accordance with ‘human rights principles such as participation, transparency, and accountability’ (Ibid, 38).

Apart from the philosophical foundations and practical dimension of the right to education, it is equally significant to have a better understanding of this right *per se*. Within the hierarchy of human rights (e.g., Müller 2019), the right to education is treated as an empowerment right. In comparison with these survival rights, membership rights, and protection rights¹³⁸, empowerment rights refer to a set of human rights, such

¹³⁶ The development of the right to education is viewed as one of the ironies in history, for ‘it has its origins in the Socialist concept of human rights, and it was promoted on the international level by Socialist States. But only now, when these States are gradually disappearing, serious efforts for the international implementation of these rights are undertaken’ (Nowak 1991: 418).

¹³⁸ In order to formulate a theoretical framework of assessing a state’s human rights performance, Jack Donnelly and Rhoda Howard categorize human rights into four groups: survival rights,

as the right to education, freedom of the press and association, that ‘provide the individual with control over the course of his or her life, and in particular, control over (not merely protection against) the state’ (Donnelly and Howard 1988: 215). People are empowered by these rights so that they can autonomously determine their ways of life in the economic, social, cultural, and political realm. Without being empowered by any of such, thus, it is almost impossible to exercise other human rights (see more in Hirschl 2000). Among others, the critical role of education can be described as follows:

‘Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labor and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.’¹³⁹

Indeed, this well-known description enshrined in the very first paragraph of the General Comment No. 13 of the UN Committee on Economic, Social and Cultural Rights (CESCR) reminds us of some reasons why the right to education is an empowerment right. Beiter (2005: 28-30), again, provides an appropriate summary in this regard, in which he emphasizes that education (1) has great potential to liberty; (2) signifies political empowerment; (3) acts as the cornerstone for socio-economic development; (4) enlarges the possibility to participate in cultural life.

To a large extent, these empowering reasons also underpin the establishment of a connection between the right to education and some broader political commitments to

membership rights, protection rights, and empowerment rights. In detail, survival rights are human rights that guarantee individual existence, membership rights are human rights that assure one an equal place in society, protection rights are human rights that guard the individual against abuses of power by the state. See (Donnelly and Howard 1988).

¹³⁹ Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, para. 1.

development. The Education 2030 Agenda, which is composed of Sustainable Development Goals 4 (SDG 4) on education and the Education 2030 Incheon Declaration and the Education 2030 Framework for Action¹⁴⁰, is absolutely a good example of such a connection. In order to overcome the shortcomings and restraints of the previous Education for All (EFA) goals and Millennium Development Goals (MDGs), namely ‘a lack of accountability, persistent educational inequalities and a narrow conception of the right to education’ (Right to Education Initiative 2015: 7), a human rights-based approach and the right to education have been injected into the heart of the newest agenda for sustainable development¹⁴¹. The most salient evidence of this radical injection is reflected in the content and scope of the education *for* sustainable development, which intensively ‘corresponds to the right to education and education-related rights’ (Savić 2018: 249).

2.2 The protection of the right to education under international law

Most of the time, it specifically refers to the legal dimension when the right to education is under consideration (e.g., Karmel 2008: iv). From a legal perspective¹⁴², as with human rights in general, the advent of the protection of education as a legal right is purely a domestic matter. A universal consensus that education is a human right rather than a privilege has only been reached in the international community since especially the end of WW2. It is evidenced by the specific enshrinement of the right to education in various international legal instruments and political commitments by which, for instance, the nature, scope, and content of this right are progressively articulated and particularized.

International law does provide the right to education with a steady legal foundation in which both hard law and soft law are simultaneously committed to contributing to

¹⁴⁰ See more via <https://www.right-to-education.org/issue-page/education-2030> (last visited in March 2019).

¹⁴¹ For more on the reaffirmation and enhancement of the importance of the right to education in the post-2015 development agenda, see (K. Singh 2013).

¹⁴² See other perspectives, such as ethical and pedagogical perspectives, in (Jover 2001).

the universal recognition and protection of this right¹⁴⁴. So far, there are ‘at least 48 international (including regional) legal instruments and 23 soft law instruments (not documents)’ guaranteeing the right to education (Right to Education Initiative 2019: 51), which consist of international (and regional) human rights law, international labor law, international refugee law, international humanitarian law, and international criminal law¹⁴⁵.

2.2.1 The right to education in international legal instruments

The achievement, from a quantitative perspective at least, in the construction of an international legal framework for the protection of the right to education is fundamentally inspired by the UDHR. Though its non-binding nature, the adoption of the UDHR in 1948 represents the very first time¹⁴⁶ that the international community focused its attention on the issues of education by explicitly articulating in Article 26 that:

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

In light of the goal of realizing the full development of the human personality, the

¹⁴⁴ The distinction between international hard and soft law is discussed in, e.g., (Blutman 2010; Goldmann 2012; Guzman and Meyer 2010).

¹⁴⁵ Given the purpose of this dissertation, unless clarified otherwise, it focuses on the protection of the right to education under international human rights law, especially the core international human rights treaties.

¹⁴⁶ The *implicit* international recognitions of the right to education can even be traced back to the Declaration of Geneva (1924). See (Hodgson 1996: 239).

right of all to education was deemed “indisputable” in the UDHR drafting process (Morsink 1999: 212). As a result, this indisputable human right was condensed into a single article that emphasizes the universality, equal access, and the role of education, respectively, in its three paragraphs. In effect, ‘the education section is one of the most detailed provisions of the UDHR’ (Brown 2016: 41), in which the social aspect, general ethical aim, and freedom aspect of the right to education are clarified one by one (Beiter 2005: 90-94).

In comparison with paragraph two, reflecting that the full development of the human personality is the general ethical aim of education, and paragraph three, guaranteeing the freedom of parents to determine the education of their children and imposing the state the negative obligation to respect this freedom, it is equally significant to pay special heed to the social aspect of the right to education. It is reflected in the first paragraph of Article 26, which encompasses five elements of this right (also see Morsink 1999).

Firstly, education is a human right for *everyone*. Secondly, education in the elementary and fundamental stages must be free. The usage of the terms “elementary” and “fundamental” actually implies the circumspect concern of the UDHR drafting with the minimum level of education for both children and adults. At the time of drafting, while elementary education was referred to as the primary education of children, fundamental education was explicitly laid down to represent the basic education of adults who had had no educational opportunity during their childhood (UNESCO 2000: 97-99). Thirdly, elementary education must be compulsory. Together with the abovementioned second element, Article 26 of the UDHR is eligible to be ‘the predecessor of free and compulsory primary education’ (Murungi 2013: 41). Fourthly, technical and professional education must be made generally available. Lastly, higher education must be equally accessible to all on the basis of merit.

The reason why paragraph one of Article 26 reflects the social aspect of the right to

education refers to its expectation concerning the responsibility of the state to positively provide education at all levels. Since the right to education enshrined in the UDHR is categorized as one of the economic, social and cultural rights, it usually imposes on governments ‘quite relative and indefinite obligations – requirements for “consistent”, “progressive”, “according the potentialities” implementation’ (Pranevičienė and Pūraitė 2010: 152). Thus, the realization of the right to education largely depends on the prevailing conditions in any particular state, the understanding of which needs the assistance of Article 22 of the UDHR (Beiter 2005; 91). According to Article 22, the economic, social and cultural rights shall be realized ‘through national effort and international co-operation and in accordance with the organization and resources of each State’. In this vein, the obligation of realizing the right to education is attached to a progressive nature thanks to, especially, the real difference in the development and natural endowment between countries (Coomans 2002).

The adoption of the Convention against Discrimination in Education (CADE)¹⁴⁷ in 1960 expanded the original vision of the right to education that had been anticipated by the adoption of the UDHR. As the first international legally binding instrument devoted, comprehensively and exclusively, to the protection of the right to education¹⁴⁸, the United Nations Educational, Scientific and Cultural Organization (UNESCO) considers the adoption of the CADE as an essential way of ‘furthering for all universal respect for human rights and equality of educational opportunity’¹⁴⁹. Because of this, the CADE does not allow any reservations¹⁵⁰. Originating from Article 2 and Article 26 of the UDHR which respectively prescribe non-discrimination and the right of every person to education¹⁵¹, the CADE focuses its attention on discrimination in education based on

¹⁴⁷ It was entered into force on 22 May 1962.

¹⁴⁸ The CADE incorporated and expanded those principles set out in the drafting of an international convention on the elimination of discrimination in education, which had been proposed by Charles Ammoun’s report in 1957. See (Hodgson 1996: 242).

¹⁴⁹ Preamble, CADE.

¹⁵⁰ Article 9, CADE.

¹⁵¹ Preamble, CADE. Besides, it is argued that Article 26 of the UDHR should be read in light of its Article 2, which deals with the principle of non-discrimination (Beiter 2005: 93). Article 2 reads, ‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without

‘race, color, sex, language, religion, political or other opinion, national or social origin, economic condition or birth’¹⁵², through which equal opportunity and treatment in education can be promoted.

Therefore, states are obligated to take measures, in the form of legislation¹⁵³ and national policy¹⁵⁴, to eliminate and prevent discrimination especially in the process of accessing quality, free, and compulsory primary education. Furthermore, similar to the UDHR, the CADE also regards the aim of education as ‘the full development of the human personality’, but emphasizes the critical role of education in ‘strengthening of respect for human rights and fundamental freedom’¹⁵⁵. Parents’ freedom in choosing educational institutions for their children is also guaranteed, but it requires parents to ensure freedom of choice is ‘consistent with the procedures followed in the State for the application of its legislation’¹⁵⁶. However, unlike the general provision on the principle of non-discrimination as stipulated in Article 2 of the UDHR, the CADE clarifies the conditions which should not be perceived as discrimination in Article 2. Among others, Article 2(c) supports states to establish or maintain private educational institutions ‘if the object of the institution is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities’ and if the education provided has the same quality with public educational institutions¹⁵⁷.

In addition to the CADE, UNESCO¹⁵⁸ also extended its efforts on the right to

distinction of any kind, such as race, color, sex, language, religion, political, or other opinion, national or social origin, property, birth or other status’.

¹⁵² Article 1, CADE.

¹⁵³ Article 3, CADE.

¹⁵⁴ Article 4, CADE.

¹⁵⁵ Article 5(1)(a), CADE.

¹⁵⁶ Article 5(1)(b), CADE.

¹⁵⁷ This provision is quite relevant to the issue of private migrant schools in China (Beijing particularly), which shows the dilemma between the maintenance and closure of this particular type of school. Strictly based on this provision, this type of school should be abandoned due to the low quality of education and other pertinent drawbacks. However, the reality informs that the maintenance of these schools has been the only opportunity for most migrant children to receive primary education. See more in Chapter 7.

¹⁵⁸ Other UNESCO’s standard-setting instruments pertinent to the right to education include, for

education to the drafting of Article 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), in which UNESCO played a significant role (Porsdam 2019: 77). Moreover, UNESCO has remained as the major monitoring and implementation body of the right to education guaranteed by the ICESCR since then (Kalantry, Getgen, and Koh 2010: 265). As to the ICESCR itself, it was adopted on 16 December 1966 by the UN General Assembly and came into force on 3 January 1976¹⁵⁹. Article 13 of the ICESCR exclusively concentrates upon the right to education and is, therefore, the single most comprehensive and detailed provision on the right to education in international law (Right to Education Initiative 2019: 51). Furthermore, the content of Article 13 has been interpreted by the CESCR in various comments¹⁶⁰.

While the general recognition of the right of everyone to education is reconfirmed in the very first sentence of Article 13(1) of the ICESCR, the remaining sentences clarify the aims of education. In comparison with Article 26(2) of the UDHR, the full development of the sense of human dignity and the effective participation in a free society were added as the aims of education to the ICESCR. Concerning especially the addition of human dignity, it reflects the requirement for education to ‘make the individual aware of his own inherent worth and of the human rights which accrue to him on this basis’ (Beiter 2005: 95).

Article 13(2) elaborates on the substance of the right to education prescribed by the

instance, Recommendation against Discrimination in Education (1960), Convention on Technical Vocational Education (1989), ILO/UNESCO Recommendation concerning the Status of Teachers (1966), Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms (1974), Recommendation on the Recognition of Studies and Qualifications in Higher Education (1993), Dakar Framework for Action – Education for All: Meeting our Collective Commitment (2000), Declaration of Amsterdam (2004), Jakarta Declaration (2005), Recommendation concerning Technical and Vocational Education and Training (TVET) (2015), Recommendation on Adult Learning and Education (2015), Incheon Declaration and Education 2030 Framework for Action (2015).

¹⁵⁹ A/RES/2200A(XXI).

¹⁶⁰ General Comment 13: The right to education, and General Comment 11: Plans of actions for primary education are the most important comments.

ICESCR from different levels of education. It firstly reemphasizes the right of everyone to compulsory and free primary education¹⁶¹. Secondly, secondary education shall be made generally available and accessible to all¹⁶². Thirdly, higher education shall be made equally accessible to all based on capacity¹⁶³. Fourthly, fundamental education shall be encouraged or intensified. Lastly, a system of schools at all levels shall be developed, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved¹⁶⁴.

There are at least two points that deserve to be underlined when Article 13(2) is approached. First of all, it is noteworthy that both secondary education and higher education are obliged to be accessible to all by every appropriate means and in particular by the progressive introduction of free education. It actually implies the underlying intention of the ICESCR to distinguish the “progressive realization” nature of the right to education that is adhered to these levels of education from the “immediate realization” requirement for the right to free and compulsory primary education (Kalantry et al. 2010: 269). Generally speaking, the rights recognized by the ICESCR, including the right to education in general, have the nature of “progressive realization”¹⁶⁵, as Article 2(1) of the ICESCR reads:

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

However, the right to free, compulsory primary education is different from other levels or types of education in the sense that the ICESCR imposes a particular obligation

¹⁶¹ Article 13(2)(a), ICESCR.

¹⁶² Article 13(2)(b), ICESCR.

¹⁶³ Article 13(2)(c), ICESCR.

¹⁶⁴ Article 13(2)(d), ICESCR.

¹⁶⁵ However, according to Article 2(2) and 3 of the ICESCR, both non-discrimination and equal treatment prescribed in the ICESCR should be immediately guaranteed. Also see (Kalantry et al. 2010: 268-269).

on states to realize the right to free, compulsory primary education ‘within a reasonable number of years’ after ratification¹⁶⁶. Therefore, to some extent, this obligation is not typically progressive, but immediate. The CESCR made this point so clear:

‘the obligations of States parties in relation to primary, secondary, higher and fundamental education are not identical. Given the wording of article 13(2), States parties are obliged to prioritize the introduction of compulsory, free primary education. This interpretation of article 13(2) is reinforced by the priority accorded to primary education in article 14. The obligation to provide primary education for all is an immediate duty of all States parties’¹⁶⁷.

Apart from the distinction between progressive and immediate obligations, it is also worth noting that Article 13(2)(e) imposes a new obligation on states to pursue the development of a system of schools at all levels, establish an adequate fellowship system, and improve the material conditions of teaching staff.

Article 13 of the ICESCR was mostly corresponded by Article 28 of the Convention on the Rights of the Child (CRC)¹⁶⁸, which, in its entirety, represents the most cherished fruit of international commitments to children’s rights¹⁶⁹. Together with Article 29 which sets out the aim of education and status of private educational institutions, it is argued that the CRC embodies ‘the most recent comprehensive formulation at the international level of the right to education’ (Hodgson 1996: 243). By recognizing the right to education for the child in the introductory sentence of Article 28(1) of the CRC¹⁷⁰, it then lays out the provisions on the right to primary, secondary, and higher

¹⁶⁶ Article 14, ICESCR.

¹⁶⁷ CESCR, General Comment 13, para. 51.

¹⁶⁸ The CRC was adopted on 20 November 1989 and entered into force on 2 September 1990. See A/RES/44/25. Besides, the formulation of the CRC was benefited from the Declaration of the Rights of the Child which had been proclaimed by the UN General Assembly (A/RES/14/1386) on 20 November 1959. Principle 7 of the Declaration of the Rights of the Child prescribes a general right to education. Also see (Moody 2015).

¹⁶⁹ For instance, Stern (2017: 2-3) states that: ‘To date, it is the most ratified of all international human rights treaties, having reached the stage of almost universal ratification – a status taken as an indication of the exceptional normative consensus among countries of the need to safeguard and promote the rights of the child..... In this context, the CRC can properly be described as a benchmark against which progress in the field of children’s rights is measured’.

¹⁷⁰ It defines the child as every human being below the age of eighteen years. see Article 1, CRC.

education in a sequential manner from Article 28(1)(a) to (c). The wording of these provisions is quite similar to Article 13(2)(a) to (c) of the ICESCR, in which they oblige states to:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- (c) Make higher education accessible to all on the basis of capacity by every appropriate means;

However, the obligations imposed by these provisions are rather different from the obligations in the ICESCR, especially in terms of the right to free, compulsory primary education. As discussed above, due to the explicit requirement of the timeframe for realizing the right to free, compulsory primary education in Article 14 of the ICESCR, the states parties, in effect, have the immediate obligation in this regard. Article 28(1) clearly states that the right to education shall be achieved progressive, but there is no specific clarification on the immediate realization of the right to free and compulsory primary education. Besides, it is also worth noting that while Article 28(1)(b) of the CRC merely encourages the development of different forms of secondary education, Article 13(2)(b) of the ICESCR accentuates that secondary education in its different forms shall be made generally available and accessible. The different tones in the wording actually reflect the weaker attitude of the CRC towards states' obligations concerning the right to education. And, this is the reason why Beiter (2005: 117) criticizes that 'the standards postulated by article 28(1)(a) to (c) constitute a step backward from those of the ICESCR'.

But even if so, the CRC is still praiseworthy¹⁷¹ in terms of the introduction of some

¹⁷¹ The principle of best interests of the child stipulated by the CRC is more praiseworthy. Article 3(1) reads '1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. See more in (Neumann 2018).

new provisions concerning the right to education, especially in comparison with the ICESCR. The main new provisions include¹⁷²: (1) making educational and vocational information and guidance available and accessible to all children¹⁷³; (2) taking measures to encourage regular attendance at schools and the reduction of drop-out rates¹⁷⁴; (3) taking all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the CRC¹⁷⁵; (4) promoting and encouraging international cooperation in matters relating to education¹⁷⁶; (5) education shall be directed to the development of respect for child's parents, cultural identity, language and values, and child's own country and civilization¹⁷⁷; (6) education shall be directed to the development of respect for the natural environment¹⁷⁸.

In addition to children's right to education, international law has also guaranteed the right to education for other specific groups. For instance, girls and women are entitled to enjoy equal rights with men in accessing and studying at all levels and types of educational institutions, as well as in curricula, quality of teaching staff, and educational infrastructure¹⁷⁹. Religious minorities can have access to education in the matter of religion or belief and to refuse to be forced to receive teaching on religion or belief against their wishes¹⁸⁰. People with disabilities can receive an education of all levels, especially an inclusive, quality, and free primary education, within the general education system¹⁸¹. Although differing from other specific groups whose right to

¹⁷² For an elaborate analysis on these new provisions, see (Beiter 2005: 118-120).

¹⁷³ Article 28(1)(d), CRC.

¹⁷⁴ Article 28(1)(e), CRC.

¹⁷⁵ Article 28(2), CRC.

¹⁷⁶ Article 28(3), CRC.

¹⁷⁷ Article 29(1)(c), CRC.

¹⁷⁸ Article 29(1)(e), CRC.

¹⁷⁹ Article 10, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (adopted by the UN General Assembly on 18 December 1979 and entered into force on 3 September 1981, A/RES/34/180). Article 9, Declaration on the Elimination of Discrimination against Women (adopted by the UN General Assembly on 7 November 1967, A/RES/2263(XXII)).

¹⁸⁰ Article 5(2), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (proclaimed by the UN General Assembly on 25 November 1981, A/RES/36/55).

¹⁸¹ Article 24, The Convention on the Rights of Persons with Disabilities (CRPD) (adopted on 13

education has been enshrined more or less in legally binding treaties or conventions, the human right to education of persons in detention has also been protected by the general right to education standards and several international soft law instruments¹⁸². More importantly, the international community has paid increasing attention to this issue and called for a binding international legal instrument dedicated to the right to education of persons in detention¹⁸³.

The right to education of migrants is also protected by international law. The GEM Report 2019 reminds us that in the present world 1 out of 8 people lives outside the region or province where they were born, 1 out of 30 people lives in a country other than one where they were born, and 1 out of 80 people are displaced within or across borders by natural disaster or conflict¹⁸⁴. Indeed, our globalizing world is creating an age of migration (Castles and Miller 1998). Although more than half of the world's migrants have inflowed into the developed countries, 'they do not always share the wealth of those societies, in many cases, enjoyment of their basic rights as citizens is highly problematic'¹⁸⁵. The human right to education of migrants is one of the problems with which the international community has been trying to grapple. Especially for those migrants who are undocumented or in irregular status¹⁸⁶, the obstacles constituted by

December 2006 by the UN General Assembly, A/RES/61/106, and entered into on 3 May 2008). The inclusive education is recognized as a fundamental human right of all learners, a principle that values the well-being of all students, and a means of realizing other human rights. See Committee on the Rights of Persons with Disabilities (CRPD), *General comment No. 4 (2016), Article 24: Right to inclusive education*, 2 September 2016, CRPD/C/GC/4. Also see (de Beco, Quinlivan, and Lord 2019).

¹⁸² See, e.g., Basic Principles for the Treatment of Prisoners (adopted and proclaimed by UN General Assembly on 14 December 1990, A/RES/45/111). Para. 6 reads 'All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality'.

¹⁸³ *The right to education of persons in detention: report of the Special Rapporteur on the Right to Education, Vernor Muñoz*, 2 April 2009, A/HRC/11/8

¹⁸⁴ This report divides populations on the move into different types based on the reasons for movement. They are internal migrants, international migrants, internally displaced people, asylum-seekers, refugee. See <https://en.unesco.org/gem-report/report/2019/migration> (last visited in February 2019).

¹⁸⁵ *Report of the Special Rapporteur on the Right to Education, Vernor Muñoz*, 16 April 2010, A/HRC/14/25, para. 16.

¹⁸⁶ The term "irregular migrant" has been increasingly favored by the international community, although it is sometimes used synonymously with the term "undocumented migrant", or "non-documented migrant", or "illegal" migrant. Because, for instance, the term "irregular migrant" can

the national discriminatory laws and policies in relation to the requirement of documents for enrollment, such as birth certificates, proof of residency, immigration documents, and recognized diploma¹⁸⁷, are insurmountable.

The former UN Special Rapporteur on the Right to Education reminded the international community that ‘women, men, boys and girls of all ages and backgrounds – whether migrants, refugees, asylum-seekers, stateless persons, returnees, or internally displaced persons – have the right to education’¹⁸⁸. And this reminder does have a basis in international human rights law. In addition to the migration-specific instruments¹⁸⁹, the right to education of migrants is fundamentally guaranteed by the general principles of non-discrimination and equality¹⁹⁰. As the heart of international human rights law, the principles of non-discrimination and equality are the only human rights explicitly included in the UN Charter¹⁹¹ and appear in the preambular paragraphs of virtually all major human rights instruments (Farrior 2016: xi). Article 1 and 2 of the UDHR, Article 1(1) and 3 of the CADR, Article 2(2) of the ICESCR, Article 2(1) of the CRC, and

more clearly embrace a range of different immigration status. Besides, there is possible overlap between different categories of migrants. See, e.g., (Spencer and Delvino 2019). Taking the EU as an example, “migrants with irregular status” often refers to third country nationals – individuals from outside of the European Union and the European Economic Area – who either have entered a European country without authorization (“irregular entrants”), or who entered with a valid entry permit, but whose rights to stay have lapsed (“overstayed”). The latter include individuals who have not complied with the conditions of their visa or temporary residence permit, including: accompanied children who have reached 18 years of age; asylum seekers whose application has been refused; labor migrants following the loss of official employment; and family migrants following the end of a spousal relationship. See (Delvino and Spencer 2019: 10)

¹⁸⁷ Right to Education Initiative, “Paper commissioned for the 2019 Global Education Monitoring Report, Migration, displacement and education: Building bridges, not walls”. See more via https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/RTE_UNESCO_Background_Paper_Migrants_2018_En.pdf (last visited in October 2019).

¹⁸⁸ *Report of the Special Rapporteur on the Right to Education, Vernor Muñoz*, 16 April 2010, A/HRC/14/25, para. 17.

¹⁸⁹ The 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, 1985 Declaration on the Human Rights of Individuals Who are not Nationals of the Country in Which They Live, 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

¹⁹⁰ The general principles of equality and non-discrimination lies at the heart of international human rights law concerning the right to education. For more details on the general principles of equality and non-discrimination, see (Farrior 2016).

¹⁹¹ Article 1(2) and (3), 13(1)(b), 55(c), and 76(c), Charter of the United Nations, 24 October 1945, 1 UNTS XVI.

Article 1 of the ICERD¹⁹² explicitly affirm the principles of equality and non-discrimination, to which the application of the provisions of the right to education enshrined in these instruments must refer. In this sense, all migrants, regardless of their status, should not be treated differently and they are entitled to education like any others. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (IC of 1990 elaborate on the right to education as it accrues to migrant workers.

2.2.2 The right to education as customary international law

Given that the right to education has already been recognized by many international, regional, and national legal documents, it is, therefore, pertinent to ask the question of whether this right has garnered the feature of a norm of customary international law, binding on all nations regardless of whether or not they have formally recognized it (see, in general, D'Amato 1971). This is the fundamental difference from international agreements, which rely on the consent of states and only bind these states¹⁹³. Article 38(1)(b) of the Statute of the International Court of Justice (ICJ) requires the Court to apply 'international custom, as evidence of a general practice accepted as law'. to decide disputes submitted to it. It sets up the two constituent elements for the formation of a rule of customary international law, namely state practice and *opinio juris*¹⁹⁴. These elements present both the objectivity in terms of the general and uniform practices of states and the subjectivity in terms of the belief that such practices raise legal obligations that oblige compliance (Okubuiro 2018: 247).

In light of the two constituent elements, widespread ratification of UN and regional treaties and other instruments recognizing the right to education can formulate an international customary law of the right to education, for these treaties, declarations,

¹⁹² International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) was adopted by General Assembly on 21 December 1965 (A/RES/2106(XX)) and entered into force on 4 January 1969. The right to education is prescribed in Article 5(e)(v), 13, and 14.

¹⁹³ Article 34 of the Vienna Convention on the Law of Treaties (1969).

¹⁹⁴ See, e.g., *North Sea Continental Shelf*, ICJ Reports (1969: 3); *Military and Parliamentary Activities in and against Nicaragua*, Merits, ICJ Report (1986: 14, 97).

and other kinds of documents ‘become evidence of a general state practice in which states engage out of a sense of legal obligation’ (Kinney 2001). As the previous subsections (2.2.1 and 2.2.2) have already shown, the content of the right to education is incorporated into various international and regional treaties and instruments, the outstanding representatives of which are the UDHR (Article 26), CADE (Article 1, 2, 3, and 4), ICESCR (Article 13), and CRC (Article 28).

As to the UDHR, although it is not a binding treaty, the mainstream of the international legal community has accepted its customary law nature. Hannum (1998: 148) explicitly concludes that ‘there would seem to be little argument that many provisions of the Declaration today do reflect customary international law’. It has been the foundation for not only the International Bill of Human Rights, other human rights instruments, and UN declarations and resolutions, but also for national formulations of human rights standards. Against this general backdrop, the right to education is beholden to the UDHR for endowing its Article 26 with a customary law nature (Beiter 2005: 44-45).

In addition to the UDHR, other human rights treaties contribute to the formation of the right to education as customary international law as well. As of 2019, 104 states have ratified the CADE, 170 states have ratified the ICESCR, and 196 states have ratified the CRC. Besides, as mentioned above, the right to education has been incorporated into 82% of national constitutions (Right to Education Initiative 2019: 26). Countries like the United States do not universally accept the economic, social and cultural rights, but their constitutions do guarantee the right to education (Kalantry, Getgen, and Koh 2010: 260). Thus, the wide ratification of these legally binding international treaties, as well as the national legislations, is adequate to confirm that the right to education¹⁹⁵ is a customary international law.

¹⁹⁵ More specifically, the right to free and compulsory primary education and the right to not be discriminated against in the enjoyment of educational rights (non-discrimination) are claimed as customary international law. See especially (Beiter 2005; Hodgson 1996, 1998).

2.3 The “4 As” Scheme

The adoption and state’s ratification of an international human rights instrument is one thing, a better human rights practice is another. Empirical evidence has revealed that ‘there is little to no difference in human rights practices regardless of membership of the human rights regime’ (Mitchell and Flett 2014: 6-7). Indeed, for one reason or another, states choose not to comply with the international legal obligations to which they have consented (see, e.g., Baradaran et al. 2013; Guzman 2002). To some extent, this is the reason why human rights monitoring mechanisms matter. The UN World Conference on Human Rights in 1993 was the turning point for global attention to the implementation of human rights (Kjærøum 2007). After which, the transformation from the priority of norms and standards into the focus on domestic realities has begun in the UN system (Kjærøum 2009: 17). As a result of this transformation, different human rights monitoring mechanisms have been established in the UN system, based on either the UN Charter or the UN treaties.

As the underpinning pillars of the UN “human rights machinery” (Wille 2009), the Charter-based bodies and Treaty-based bodies are different in nature in the sense that while the former monitor the adherence to human rights standards across all UN member states, the latter only monitor implementation of the international human rights treaties¹⁹⁶. In order to facilitate and strengthen the measurement of states’ compliance with their obligations under international human rights treaties, human rights indicators and benchmarks have been created and applied since the early 1990s within the UN human rights machinery. The increasing preference of human rights indicators in a radical challenge to the traditional approach to human rights monitoring, which ‘was largely (though by no means entirely) carried out as a discursive or narrative-based process’ (McGrogan 2016: 386). Although the indicator-based measurement of human rights compliance has been criticized for being too quantitative and rationalist

¹⁹⁶ See more via <https://www.ohchr.org/en/hrbodies/Pages/HumanRightsBodies.aspx> (last visited in November 2019).

(McGrogan 2016; Merry, Davis, and Kingsbury 2015), the “seductions” (Merry 2016) of indicators and especially quantifications have assisted the birth of the Human Rights Indicators: A Guide to Measurement and Implementation¹⁹⁷ in the UN human rights machinery.

Against the general backdrop of recognizing the importance of human rights indicators, as well as against the special backdrop of improving conceptualization of economic, social and cultural rights in the past decades¹⁹⁸, right to education indicators have emerged as a critical tool for specifically assessing the state of implementation of the right to education. Among others (e.g., Right to Education Initiative 2015; Kalantry, Getgen, and Koh 2009), the “4 As” scheme marks the most crucial step in the development of right to education indicators. The “4 As” scheme was developed by Katherine Tomaševski, the former UN Special Rapporteur for the Right to Education (1998-2004), which is widely agreed by the international community as her representative contribution to ‘the current emphasis on monitoring and accountability in education strategies’¹⁹⁹. Although the “4 As” scheme itself is not right to education indicators, it has been regarded as the basis for the establishment of right to education indicators²⁰⁰.

¹⁹⁷ UN Office of the High Commissioner for Human Rights (OHCHR), *Human Rights Indicators: A Guide to Measurement and Implementation*, 2012, HR/PUB/12/5. This guide defines a human rights indicator as specific information on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards; that addresses and reflects human rights principles and concerns; and that can be used to assess and monitor the promotion and implementation of human rights.

¹⁹⁸ For instance, Welling (2008: 395) suggests that the ‘relationship between the development of international ESCR indicators and the continued development of the legal framework should be viewed as an ongoing, reciprocal process leading to the progressive refinement of both normative schemes’.

¹⁹⁹ UN Commission on Human Rights, *Annual report of the Special Rapporteur on the Right to Education, Katarina Tomasevski, submitted pursuant to Commission on Human Rights resolution 2001/99*, 7 January 2002, E/CN.4/2002/60, Pp. 4.

²⁰⁰ For instance, as De Beco (2013: 388) also recognizes in his study on human rights indicators. the UNESCO Institute for Lifelong Learning based its right to education indicators on the 4-A framework, but somewhat differently to the way in which that framework is usually interpreted traditionally. Besides, the right to education indicators established by the Robert F. Kennedy Memorial Center for Human Rights are based on the 4-A framework to which accountability is added (thereby making it a ‘5-A framework’) and were again divided into structural, process, and outcome indicators.

The important role of Tomaševski's "4 As" scheme in right to education indicators was endorsed by CESCR in the form of including it in its general comment No. 13 in 1999 (Table 3), through which to deepen understanding of the human right to education and facilitate monitoring implementation of especially Article 13 and 14 of the ICESCR²⁰¹. In the simplest terms, the "4 As" scheme concerns the 'interrelated and essential features' of education 'in all its forms and at all levels'²⁰², namely accessibility, availability, adaptability, and acceptability.

In detail, accessibility, based on the principle of non-discrimination in access to education, refers to states' obligations to guarantee both physical accessibility (i.e., safe, within reach, or via technology) and economic accessibility (i.e., affordable). Besides, states are obliged to make education available to all by providing a sufficient quantity of functioning educational opportunities. The availability of education involves not only numerous material factors, such as infrastructures, sanitation facilities, safe drinking water, but also trained teachers. Furthermore, education must be acceptable, which requires education to meet minimum quality standards set nationally and to ascertain the relevance and cultural appropriateness of the form and content. Lastly, the adaptability of education refers to states' obligations to adapt education to meet the changing needs of society and to suit specific local contexts and individual students.

(a) **Availability** - functioning educational institutions and programs have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programs are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities, and information technology;

²⁰¹ CESCR, *General Comment No. 13: The Right to Education (Art. 13 of the Covenant)*, 8 December 1999, E/C.12/1999/10, para. 6.

²⁰² Ibid.

(b) **Accessibility** – educational institutions and programs have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

(i) Non-discrimination – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited group.

(ii) Physical accessibility – education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g., a neighborhood school) or via modern technology (e.g., access to a “distance learning” program).

(iii) Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education;

(c) **Acceptability** - the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4));

(d) **Adaptability** - education has to be flexible, so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

Table 3: The 4As framework in the CESCR General Comment No. 13

3. China’s “commitment” to the protection and promotion of the right to education

Communist China is a latecomer to international human rights²¹³. Due to the domestic

²¹³ Communist China is used to distinguish from the Republic of China which was an active actor in the human rights field. In addition to its participation in the drafting of international human

chaos, it was not until the 1980s that China was back to human rights and international human rights mechanisms²¹⁴. As a debut, China ratified the CEDAW in 1980, after which it has gradually become a frequent guest to the international human rights system (Chen 2019). In 1982, China became a member of the UN Commission on Human Rights (UNCHR). As a decade of China's tentative engagement with the international human rights system, 'its early years at the Commission were fairly uneventful for China' (Sceats and Breslin 2012: 3). The tranquility was broken by the Tiananmen Square protests of 1989, for which China was criticized for its domestic human rights record by UNCHR and its subcommission (Ibid: 4). It marked the beginning of China's 'long game on human rights' at the UN system (Piccone 2018). From the era of the UNCHR to the era of the UNHRC²¹⁵, China has devoted to defending its human rights record and stifled criticism in the UN human rights system²¹⁶, albeit the strategies and methods applied have been changed or adapted. To defend, China has preferred to emphasize its outstanding achievement in the fulfillment of international human rights obligations by referring to the following statement:

'To date, China has signed 26 international human rights instruments, including six major ones such as the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. China fulfills all the obligations prescribed in relevant international conventions, ensuring that its legislation and any amendments as well as its policy formulation are consistent with these conventions, and completing and submitting periodic reports to give feedback on the progress made and any difficulties and problems encountered in implementing international conventions on human rights. China accepts reviews from the treaty

rights standards such as the UDHR, the Republic of China ratified several human rights-related conventions. For instance, it ratified 14 International Labor Organization's (ILO) conventions before 1949, all of which were recognized by Communist China in 1984. See (Gong 2014).

²¹⁴ One objective reason is that the government of the People's Republic of China had been long excluded from the United Nations before 1971. However, for almost a decade after 1971, China did not ratify or accede to any UN human rights treaty. Because they were busy for various kinds of political movements. See (Y. Luo 2018).

²¹⁵ After the failure of resisting the formation of the UNHRC, China, as a member state of the council, served from 2006-2012 and has served since 2013. (Piccone 2018: 3).

²¹⁶ Human Rights Watch, "UN: China Responds to Rights Review with Threats", 1 April 2019, <https://www.hrw.org/news/2019/04/01/un-china-responds-rights-review-threats> (last visited in October 2019).

body on its implementation of these conventions. By August 2018, China had submitted 39 implementation reports on 26 occasions to these treaty bodies and received 26 reviews. During the reviews, China conducted constructive dialogue with the relevant treaty bodies and adopted their suggestions in accordance with the actual conditions in China. China supports the necessary reform of the human rights treaty bodies, promoting dialogue and cooperation between the treaty bodies and signatory states on the basis of mutual respect. China recommends Chinese experts as candidate members of the treaty bodies, many of whom have been chosen to serve on bodies such as the United Nations Committee on Economic, Social and Cultural Rights, the United Nations Committee against Torture, the United Nations Committee on the Elimination of Racial Discrimination, the United Nations Committee on the Elimination of Discrimination against Women, and the United Nations Committee on the Rights of Persons with Disabilities.’²¹⁷

Indeed, China has already ratified six of the nine core human rights treaties (Table 4), which in theory represents China’s goodwill and commitment to human rights. However, its obstinate persistence in postponing civil and political rights has always been a cause for concern. China was urged again to ratify the International Covenant on Civil and Political Rights (ICCPR) in the periodic review of China’s human rights record which was just finalized by the UNHRC in March 2019²¹⁸. There have been too many such urges and recommendations in the past 20 years, for which some have started to lose patience, and have suggested that the international community should ‘change tack and instead call on China to remove its signature from this foundational human rights treaty’ (Lewis 2020). For those who still have anticipated ratification, China’s growing ambition to expand its development-centered view (Chen 2019: 1194), which is regarded as a “China Proposal” (Y. Chen 2018), in the global governance of human rights might disappoint them again. The “China Proposal” intends to repeat and strengthen the role of economic development in human rights, which is just consistent with its “overriding priority” of the realization of economic and social rights (Lee 2007).

²¹⁷ Part VII, “Progress in Human Rights over the 40 Years of Reform and Opening Up in China”, The State Council of The People’s Republic of China, 12 December, 2018. See http://www.gov.cn/zhengce/2018-12/12/content_5347961.htm (last visited in October 2019).

²¹⁸ UNHRC, *Report of the Working Group on the Universal Periodic Review - China*, 26 December 2018, A/HRC/40/6.

In this sense, it is really difficult to envision when the sacrifice of civil and political rights can be paid back from economic development.

Human Rights Instrument: (Date into force)	Status	Declaration
International Convention on the Elimination of All Forms of Racial Discrimination: 1969	Signature: NA Ratification/Accession:1981	Yes
International Covenant on Civil and Political Rights: 1976	Signature: 1998 Ratification/Accession: NA	
Optional Protocol to the International Covenant on Civil and Political Rights: 1976	Signature: NA Ratification/Accession: NA	
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty: 1991	Signature: NA Ratification/Accession: NA	
International Covenant on Economic, Social and Cultural Rights:1976	Signature: 1997 Ratification/Accession:2001	Yes
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights:2013	Signature: NA Ratification/Accession: NA	
Convention on the Elimination of All Forms of Discrimination against Women:1981	Signature: 1980 Ratification/Accession:1980	Yes
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women:2000	Signature: NA Ratification/Accession: NA	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987	Signature: 1986 Ratification/Accession:1988	Yes
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or	Signature: NA Ratification/Accession: NA	

Punishment: 2006		
Convention on the Rights of the Child: 1990	Signature: 1990 Ratification/Accession: 1992	Yes
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: 2002	Signature: 2001 Ratification/Accession: 2008	Yes
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography: 2002	Signature: 2000 Ratification/Accession: 2002	
Optional Protocol to the Convention on the Rights of the Child on a communications procedure: 2014	Signature: NA Ratification/Accession: NA	
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families: 2003	Signature: NA Ratification/Accession: NA	
International Convention for the Protection of all Persons from Enforced Disappearance: 2010	Signature: NA Ratification/Accession: NA	
Convention on the Rights of Persons with Disabilities: 2008	Signature: 2007 Ratification/Accession: 2008	
Optional Protocol to the Convention on the Rights of Persons with Disabilities: 2008	Signature: NA Ratification/Accession: NA	

Table 4: Core International human rights treaties (and optional protocols) – Ratification status of China

Source: Office of the UN Commissioner for Human Rights (OHCHR)²¹⁹

Indeed, China has ratified, based on its own rationale underpinning the

²¹⁹ See <https://indicators.ohchr.org/> (last visited in November 2019).

development-centered view of human rights, the core international human rights instruments mainly concerning economic, social, and cultural rights. However, the implementation of these favored rights has been problematic in China. The UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, recognized the drawbacks of China's approach to human rights in his mission to China and commented as follows:

'The current Chinese approach, which denies individual meaningful access to accountability mechanisms for violations of their economic and social rights, not only contradicts the country's international human rights obligations, but is also an unsustainable approach to resolving the inevitable discontent that will ultimately undermine stability.'²²⁰

For the purpose of this study, it is noteworthy that the implementation of the right to education of rural-urban migrant children in China has also been criticized for years in the UN human rights system. As China has ratified most of the core human rights treaties within which the right to education is protected (as discussed in Section 2 of this chapter)²²¹, the Chinese government is obligated to provide education to all, especially to provide free and compulsory education to all children in China.

However, in the Concluding Observations of the CESCR on China 2005, the Committee expressed its deep concern about 'the de facto discrimination against internal migrants' in the field of education²²². Notably, the CESCR referred to China's provision of universal access to free compulsory education with regard to the internal migrant population as the 'continued irregularities'²²³. The CESCR reviewed China's compliance with the ICESCR again in 2014 and emphasized the discriminatory conduct that occurred in China's educational system. The Committee paid explicit attention to

²²⁰ *Report of the Special Rapporteur on extreme poverty and human rights on his mission to China*, 28 March 2017, A/HRC/35/26/Add.2, para. 75.

²²¹ China is not a state party to the CADE.

²²² CESCR, *UN Committee on Economic, Social and Cultural Rights: Concluding observations: People's Republic of China (including Hong Kong and Macao)*, 13 May 2005, E/C.12/1/Add.107, para. 15. By the way, in this Concluding Observations, the Committee is also concerned about the educational problems facing the children of migrants from the mainland China in both Hong Kong and Macao.

²²³ *Ibid.*, para. 37.

the situation of ‘rural-to-urban migrants’ (rather than migrants or internal migrants), identifying the difficulties faced by them and their children in access to and availability of education. The Committee criticized the failure of the Chinese government to make compulsory education completely free for children and particularly noted that ‘the costs for secondary education are excessively high, being one of the main factors associated with dropout, particularly among children from ethnic minorities and children of rural-to-urban migrant workers’²²⁴.

In addition, the Committee on the Rights of the Child (CrC)²²⁵ has also raised the issue of education for migrant children in China and has remained concerned about the ‘persistence of discrimination’ against children of migrant workers, particularly in relation to education²²⁶. It is noteworthy that the CrC was ‘seriously concerned about the report of official harassment and forced closure of private run schools for migrant children in areas where they have little or no access to the State school system’²²⁷. In comparison with other treaty-based bodies, the CrC was stricter also in the sense that it explicitly questioned the quality and reliability of educational data provided by the Chinese government. Even so, the CrC’s concluding observations on the right to education of rural-urban migrant children are still not as concrete as those of the Special Rapporteur on the right to education (Mission to China), in which ‘the denial of migrant children’s right to education because they do not possess the required permits’ was condemned as an overt breach of China’s obligations arising out of the ratification of

²²⁴ CESCR, *Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China*, 13 June 2014, E/C.12/CHN/CO/2, para. 35.

²²⁵ The abbreviation “CrC” is applied to distinguishing the Committee from the Convention on the Rights of the Child (CRC).

²²⁶ CrC, *UN Committee on the Rights of the Child: Concluding Observations: China (including Hong Kong and Macau Special Administrative Regions)*, 24 November 2005, CRC/C/CHN/CO/2, para. 30. Also see CrC, *Concluding observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013)*, 4 October 2013, CRC/C/CHN/CO/3-4, para. 25.

²²⁷ CrC, *Concluding observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013)*, 4 October 2013, CRC/C/CHN/CO/3-4, para. 25.

the core human rights treaties²²⁸.

China's response seems more interesting than concerns and criticisms emerged from human rights monitoring mechanisms in the UN system. For instance, China responded to CrC's question concerning the harassment and forced closure of private run schools for migrant children by simply mentioning that 'no data is available for the time being'²²⁹. Further, in its comments on CrC's Concluding Observations, the Chinese government expressed regret at the Concluding Observations regarding issues like the education of children of migrant workers, criticizing that 'relevant parts of the Committee's Concluding Observations have failed to objectively reflect the reality of China's implementation of the Convention'²³⁰.

Probably, this could be another reason, i.e., circumventing the fundamental yet sensitive questions and then publicly suspecting the objectivity of these questions, why China's participation in the UN human rights review has been rebuked as a 'mockery' of the human rights review²³¹. After all, in the Chinese government's mind, the UN human rights review process is also too burdensome and not developing-country

²²⁸ UNCHR, *The right to education: Report submitted by the Special Rapporteur, Katarina Tomasevski: Addendum Mission to China*, 21 November 2003, E/CN.4/2004/45/Add.1, para. 7.

²²⁹ The standard reporting procedure in the CrC can be summarized as follows: 1. State party prepares and submits its report; 2. The committee presents list of issues to the state party; 3. State party submits to list of issues; 3. Constructive dialogue between the Committee and state party delegation during session of Committee; 4. The Committee issues its concluding observations on the report, including recommendations. See <https://www.ohchr.org/EN/HRBodies/CRC/Pages/ReportingProcedure.aspx> (last visited in November 2019). The List of Issues presented by the CrC to China's combined 3rd and 4th periodic reports contain an issue in relation to the privately-run schools for migrant children. See CRC/C/CHN/Q/3-4. For China's reply to this issue, see CRC/C/CHN/Q/3-4/Add.1, Pp. 17.

²³⁰ China, Comments to Concluding Observations, submitted on 17 January 2014, 2(h), https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx (last visited in November 2019).

²³¹ In terms of China's latest Universal Periodic Review, numerous human rights organizations addressed their criticisms. For example, International Service for Human Rights, in a joint statement with CIVICUS - World Alliance for Citizen Participation, said 'China's approach to the Universal Periodic Review process was not cooperative, illustrated by its rejection of all recommendations to grant access to Xinjiang province. It urged China to stop using the Universal Periodic Review as a fig leaf'; International Federation for Human Rights Leagues stated that 'as long as China continued to oppress civil society and the most fundamental human rights, it made a mockery of the Universal Periodic Review process, and the United Nations treaty bodies'. See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24344&LangID=E> (last visited in November 2019).

friendly (Kinzelbach 2012: 315). Therefore, for the Chinese government, these human rights mechanisms should be more appropriately referred to as political platforms in which the reporting and review process should be as superficial and political as any other China's international human rights dialogues²³².

The Chinese government has made a mockery of international human rights, including the right to education of rural-urban migrant children, for decades, which could be explained from the relationship between international human rights treaties and the Chinese legal system. If China has been truly committed to international human rights and its mechanisms, then how to explain its silence on the status of international human rights treaties in domestic law (?) (Xue and Jin 2009; Zhu 2012). Although China's Constitution²³³ has finally accepted human rights in its 2004 amendment²³⁴, yelling 'the state respects and preserve human rights'²³⁵, no single word refers to the applicability of international human rights treaties, actually international treaties in general, in China. Although some specific laws and regulations touch upon this issue, they normally do not offer clear answers (Guo 2009: 164). The typical example of this "case-by-case" (Zhu 2012) approach to the applicability of international treaties before

²³² As Jiang (2014: 56) says, 'China's international human rights dialogues appear so superficial and political that they are just presentations of political desires rather than substantial and constructive dialogues on certain human rights problems'.

²³³ Article 5 of the Constitution of China stipulates that China "upholds the uniformity and dignity of the socialist legal system". Generally speaking, the socialist legal system is understood to be an organic integration of the Constitution, civil and commercial laws, administrative laws, economic laws, social laws, criminal laws, procedural laws, and other branches of law. While the Constitution has the most weight, national laws constitute the main body of the legal system. Besides, a variety of administrative and local regulations are the major components of this system. The superiority of the Constitution in the socialist legal system is ensured by Article 5 of the Constitution. It highlights that "no law or administrative or local rules and regulations may contravene the Constitution." As the Constitution has supreme legal authority, which is confirmed in Article 78 of the Legislation Law of the People's Republic of China 2000 (LLPRC), all laws, administrative and local regulations must be made in accordance with the Constitution and follow its basic principles. In practice, all Chinese people "must take the Constitution as the basic standard of conduct, and they must uphold the dignity of the Constitution and ensure its implementation" (Article 5 of the Constitution).

²³⁴ In modern Chinese history, there were three Constitutions before the promulgation of the current Constitution (1854, 1975, 1978). The current Chinese Constitution was adopted at the 5th Session of the 5th National People's Congress (hereinafter NPC) on 4 December 1982 and has been amended five times since then. The most recent amendment to the Constitution was adopted in 2018.

²³⁵ Article 33, the Constitution.

the Chinese courts refers to Article 260 of China's Civil Procedure Law, which reads:

'If any international treaty concluded or acceded to by the People's Republic of China contains provisions differing from those in this law, the provisions of the international treaty shall apply, unless the provisions are ones on which the People's Republic of China has made reservations.'²³⁶

Nevertheless, Zhu (2012) also recognizes that while the abovementioned example has been followed by those laws dealing with civil and administrative issues, it has not been accepted by laws in relation to human rights and all these human rights-related laws, such as the Act on Protection of Persons with Disability, the Act on the Protection of the Rights and Interests of Women, have remained silent. Their silence has resulted in a range of academic discussions on the direct and indirect applications of human rights treaties in the Chinese domestic context, which conveys an impression of uncertainty and complexity.

The uncertainty conveyed by these academic discussions seems priceless for the Chinese government, as it could facilitate the government to make both A and B arguments, depending on the so-called national interests.

The "A" argument, made by China on the occasion of responding to questions concerning the Combined 3rd and 4th Periodic Reports on the implementation of the CRC, clarifies that :

'Ratified by the Standing Committee of China's National People's Congress (hereinafter referred to as NPC Standing Committee), the Convention is legally valid in China. However, Chinese courts try cases in accordance with domestic written laws (including laws and judicial interpretations), not directly invoking the Convention's clauses. Through domestic legislative procedures, China has turned the Convention's provisions (except those with reservations) into China's domestic laws.....'²³⁷

The "B" argument, made by the Chinese representative on the occasion of the Chinese initial report to the UN Committee against Torture (CAT), instead

²³⁶ Article 260, Civil Procedure Law (1991) (2017 Amended).

²³⁷ see CRC/C/CHN/Q/3-4/Add.1, Pp. 1.

asserts that:

‘there was no special legislative procedure for incorporating international conventions into domestic law; they automatically entered into force upon ratification’²³⁸.

Both of them can represent the official stance of the Chinese government in the applicability of international human rights treaties in China, as long as the national interests are protected. To some extent, the source of the possibility of possessing two conflicting positions on one issue at the same time is the silence of China’s Constitution in this regard. Probably, this is the reason why the final clarification of the applicability of international human rights treaties in China’s constitution is still pending. Is this the mockery?

Against this general backdrop of China’s “commitment” to the protection of human rights, the next section is going to review the protection of the right to education in China’s domestic law and policy.

4. China’s domestic efforts to protect and promote the right to education of rural-urban migrant children

4.1 The right to education in Chinese domestic law

Article 46 of the Constitution provides a constitutional basis for the right to education in China²³⁹. Unlike the previous three constitutions regarding education only as a right²⁴⁰, the current Constitution defines education as both a right and a duty of Chinese

²³⁸ Report of the Committee against Torture, A/45/44, New York, 1990, para. 472.

²³⁹ Article 46 reads, ‘Citizens of the People’s Republic of China shall have the right and the obligation to receive education. The state shall foster the all-round moral, intellectual and physical development of young adults, youths and children’.

²⁴⁰ Article 95 of the 1954 Constitution reads: ‘Citizens of the People’s Republic of China have the right to right to education. To guarantee enjoyment of this right, the state establishes and gradually extends the various types of schools and other cultural and educational institutions.’ In the 1975 Constitution, the provision concerning the right to education was simplified and integrated into Article 27, it reads: ‘Citizens have the right to work and the right to education. Working people have the right to reset and the right to material assistance in old age and in case of illness or disability’. Against the historical backdrop of the success of crushing the “Gang of Four” (四人帮), the 1978 Constitution was adopted. Article 51 states that ‘Citizens have the right to education.

citizens. It has led to different understandings and interpretations of the nature of the right to education amongst Chinese scholars, which could be roughly divided into three categories (P. Chen 2018; Shen and Chen 2018, 2019), namely “the right viewpoint”, “the duty viewpoint”, and “the combined right and duty viewpoint” .

Scholars who insist that the right to education is a fundamental right of every person are mostly influenced by the concept of human rights established after the end of World War II. According to them (e.g., Liu and Su 2012; Yang 2004, 2005), the nature of the right to education should not be perceived as a composite of rights and duties in which the relationship between rights and duties would be very complex and chaotic. Besides, a composite of rights and duties would generate confusion in legislation and difficulties in enforcing the law in relation to the right to education. However, scholars like Wen (2003) start from the reality that receiving, especially, compulsory education is an obligation for a school-age child in current Chinese laws, regarding education as a duty is thus more compatible with China’s strategy on education. The rationale behind “the duty viewpoint” is that if the right to education is conceived ‘as a right, it can be abandoned, but as a duty, it must be fulfilled’ (Shen and Chen 2019). As an eclectic point of view, the right and duty to receive education should simultaneously remain alive to achieve different goals. While the right to receive an education is conducive to the realization of individual, personal development aims, to emphasize education is a duty, especially at the compulsory education stage, is to concern the collective interests of society. As Xiao, Wei, and Yakeqi (2005: 213) illustrates in their book, ‘Citizens’ education is the foundation of the entire scientific and cultural development. It is not only related to the social survival of individuals, the improvement of cultural quality and the full development of personality, but also to the future and destiny of the entire

To ensure that citizens enjoy this right, the state gradually increases the number of schools of various types and of other cultural and educational institutions and popularizes education. The state pays special attention to the healthy development of young people and children’. For the history of the constitutional protection of the right to education in China, see (Gong 2004; Wen 2003).

country’.

However, in addition to stipulating that Chinese citizens have both the right and duty to receive education, Article 48 of the Constitution does not clarify anything. Actually, it should be read at least together with Article 33 and Article 19(2), which respectively deals with the principle of non-discrimination and equality²⁴¹, and state’s responsibility of ‘run[ning] schools of all types, provide universal compulsory primary education, develop secondary, vocational and higher education, and also develop preschool education’²⁴². Moreover, the Constitution also imposes a positive obligation on the state to provide various forms of professional education and training for adults such as parents and workers²⁴³. More importantly, in Article 19(3) of the Constitution, social forces are encouraged by the government to establish educational institutions of various forms in accordance with the provisions of law²⁴⁴.

Due to the supreme status of the Constitution²⁴⁵, the provisions of the right to education in Chinese statute law are basically in line with the Constitution. In 1995, the Education Law of the People’s Republic of China (EL) was adopted at the 3rd Session of the 8th NPC²⁴⁶. The EL is *the* basic law in the field of education in China. In Article 9, the “right and duty” nature of the right to education in China is reiterated and the ‘equal opportunity of education regardless of their ethnic community, race, sex, occupation, property, religious belief, etc’ for every citizen is further emphasized²⁴⁷. As one part of China’s basic education system, the nine-year compulsory education is stipulated in Article 19 and the local governments are requested to take various

²⁴¹ Article 33, the Constitution.

²⁴² Article 19(2), the Constitution.

²⁴³ Article 19(3), the Constitution.

²⁴⁴ This Article has become the constitutional foundation for running private schools in China. But it has been criticized that the term “social forces” used in the Constitution is confusing, because it ‘reveals neither the source of funding nor the pattern of financial allocation and administration’ of the educational institutions (Lin 1999: 9).

²⁴⁵ Article 5, the Constitution.

²⁴⁶ It was amended in 2006 and 2015 respectively.

²⁴⁷ Article 9(1), EL. Furthermore, Article 37 of the EL aims to guarantee the everyone has equal rights in terms of enrollment, further studies, employment, and so forth.

measures to ensure the enrollment or attendance of school-age children, which also reflects the decentralization of basic education in China (Qi 2017). Notably, it clarifies that parents, guardians, relevant social organizations and individuals have the obligation to enable school-age children and adolescents to receive and complete compulsory education for a specified number of years²⁴⁸. This clarification responds to the question of who has the obligation to education, which is not addressed in Article 48 of the Constitution.

Besides, the right to education is also guaranteed by other specialized laws. For example, the Compulsory Education Law (CEL), which was adopted at the 4th Session of the 6th NPC on 12 April 1986 and amended at the 22nd Session of the Standing Committee of the 10th NPC on 29 June 2006, stipulates that “all children and adolescents who have the nationality of the People’s Republic of China and have reached the school-age shall have equal right and have an obligation to receive compulsory education, regardless of gender, nationality, race, status of family property or religious belief, etc’.²⁴⁹ Besides, the Higher Education Law (HEL), which was originally adopted in 1998 and amended in 2015, insists that ‘citizens shall, in accordance with the law, enjoy the right to receive higher education’²⁵⁰. As to vocational education, the Vocational Educational Law (VEL), adopted at the 9th Session of the Standing Committee of the 8th NPC on 15 May 1996, states that ‘citizens shall have

²⁴⁸ Article 9(3), EL.

²⁴⁹ Article 4, CEL. It is noteworthy that China has paid great attention to the right to compulsory education in its legislation. Generally, compulsory education is defined as the ‘education which is implemented uniformly by the State and shall be received by all school-age children and adolescents’ (Article 2, CEL) As public welfare, compulsory education shall be guaranteed by the State. According to Article 18 of the EL and Article 2 of the CEL, the duration of compulsory education is nine years. In light of the Constitution, receiving compulsory education is a right as well as an obligation in China. The right to education is actually subject to two conditions. First, children must possess Chinese nationality. Second, children reach school age. When a child reaches the age of 6, parents or guardians are obliged to send their child to school for compulsory education. For those children who are living in poverty, the initial time of schooling may be postponed to 7 years old (Article 11, CEL). As a right, school-age children can enroll in schools without taking any examination (Article 12, CEL). Since compulsory education must be free, ‘no tuition or miscellaneous fee may be charged in the implementation of compulsory education.’ (Article 2, CEL)

²⁵⁰ Article 9, HEL.

the right to receive vocational education under the law'²⁵¹.

The rural-urban migrant children's right to compulsory education is expressly included in the CEL. Article 12 stipulates that for a school-age child and juvenile whose parents are working or dwelling at a place other than their permanent residence, if he or she receives compulsory education at the place where his or her parents or other statutory guardians are working or dwelling, the local people's government must provide him or her with equal conditions for receiving compulsory education. To implement this provision, concrete measures must be formulated by the provinces, autonomous regions, and municipalities.

4.2 Policies concerning the right to education of the rural-urban migrant children

In order to solve the educational problems faced by rural-urban migrant children in cities, the Chinese government has issued a series of policies in the past 20 years. The evolution of policy can be reviewed from the following three phases.

4.2.1 The first phase (1996-2000): *jiedu* policy

The rapid increase of rural-urban migrant workers in the 1980s resulted in a severe problem of migrant children's education. From a legal perspective, there was no specific regulation designed to address this intractable problem at that moment. The Central Committee of the Communist Party of China and the State Council attached great importance to the solution of this problem. On 2 April 1996, the *Provisional Measures Regarding the Education of School-age Children of Floating Population* (城镇流动人口中适龄儿童少年就学办法 (试行)) was issued by the then State Education Commission. It marked the official advent of addressing the severe problems confronting the rural-urban migrant children (Guo 2019). Several major cities, including Beijing and Shanghai, were selected as pilot cities to implement this *Provisional Measures*. It stipulated several special requirements on compulsory

²⁵¹ Article 8, VEL.

education for migrant children, such as the local residence permits, through which the public schools could refuse to provide compulsory education for these children (Yu 2016: 35-36).

On 2 March 1998, after the nearly two-year experiment, the then State Education Commission and Ministry of Public Security jointly promulgated the *Interim Measure of School Attendance for Floating Children and Adolescents* (流动儿童少年就学暂行办法). The *Interim Measure* was the first administrative regulation in China to exclusively focus on the elementary education of migrant children and adolescents (Liang and Chen 2007).

According to the *Interim Measure*, the local governments of the inflow areas have various responsibilities to ensure compulsory education by creating conditions and providing equal opportunities for migrant children²⁵². In detail, the administrative departments of education of the inflow areas must ensure these floating children²⁵³ and adolescents to receive compulsory education. With regard to the relationship between the governments of the registered permanent residence and the inflow areas, the *Interim Measure* urged that they should cooperate with each other by exchanging information²⁵⁴. The floating children and adolescents must mainly attend the full-time public primary and junior middle schools in the inflow areas under the status of temporary students or *jiedu* students. In addition to the public school, they may also choose to attend the private schools, subsidiary classes of the full-time public primary and junior middle schools, and the simply equipped schools²⁵⁵. Based on the importance of private schools, it also emphasizes that enterprises and institutions, social groups, other social organizations as well as individuals may run schools specifically enrolling the floating children and adolescents or simple schools after the examination and approval by the

²⁵² Article 4, Interim Measure 1998.

²⁵³ The concept of floating children is broader than migrant children. Floating population are not necessarily migrant workers.

²⁵⁴ Article 5, Interim Measure 1998.

²⁵⁵ Article 7, Interim Measure 1998.

people's governments at the county level and above²⁵⁶. Meanwhile, the floating children and adolescents' legitimate interests in schools must be protected by the administrative departments of education at the inflow areas as well as schools. There should be no discrimination against the floating children and adolescents in awarding, evaluating excellence, applying for joining the Communist Youth League and the Young Pioneers, participating activities in or out of the schools, and so forth²⁵⁷.

The *Interim Measure* clarified the responsibilities of the governments of the inflow areas to accept these floating children to receive compulsory education. However, first of all, rather than be regarded as permanent students, the floating children and adolescents solely obtained a temporary position in the public schools of the inflow areas. Since the local government was only responsible for providing a child who has a local residence with a 9-year free compulsory education, the floating children and adolescents were not included in the local budgetary educational expenditure (Jiang 2005). Therefore, the *Interim Measure* stipulated that the full-time public primary and junior middle schools may charge extra fees or *jiedu* fees per semester for floating children and adolescents²⁵⁸. Secondly, the access procedure is complicated for these floating children and adolescents, because they have to gain permission from the administrative departments of education of the registered permanent residence at the county level or the people's governments of the township, and then their parents or other statutory guardians have to submit applications to the administrative departments of education of the inflow areas with several certificates²⁵⁹. Furthermore, the *Interim Measures* did not explicitly stipulate the financial responsibilities of the governments in the inflow areas, which was an essential problem with the compulsory education of rural-urban migrant children (Sun 2019).

²⁵⁶ Article 9, Interim Measure 1998.

²⁵⁷ Article 14, Interim Measure 1998.

²⁵⁸ Article 11, Interim Measure 1998.

²⁵⁹ Article 8, Interim Measure 1998.

4.2.2 The second phase (2001-2009): “two mains” policy

On 22 May 2001, the *National Plan of Action for Child Development in China (2001-2010)* (中国儿童发展纲要 2001-2010) was published. As a particular national policy, “children first” is the general objective of this Action, which announced to ensure the right of children to education and raise their educational level. It concentrated on guaranteeing children among the floating population to receive a 9-year compulsory education. To achieve this goal, effective actions to enable children of the floating population to enjoy the right to education must be taken and the preferential policies of education need to be implemented to perfect the schooling system for children of the floating population. In addition, it also decided to implement educational plans in accordance with the state urbanization program to meet the needs of the school-age migrant children.

The promulgation of the *Decisions on the Reform and Development of the Basic Education* (关于基础教育改革和发展的决定) and the *Tenth 5-years Project of National Education* (国家教育视野发展第十个五年计划) in 2001 improved compulsory education for children of the floating population to a certain degree (Yuan et al. 2017: 124). It called for extra attention to addressing the problems concerning floating children’s compulsory education. Importantly, it started to emphasize the local governments and full-time public schools of the inflow areas as the key players to protect the right to compulsory education of floating children.

The rural-urban migrant children’s right to compulsory education was treated as a single or independent topic, rather than being subsumed into the floating population, in the 2013 *Notice of the General Office of the State Council Concerning Management and Service for Rural-urban Migrant Workers’ Employment* (国务院办公厅关于做好农民工进城务工就业管理和服务的通知). Among others, the right to compulsory education for the children of migrant workers attracted enormous attention in this *Notice*. This *Notice* reconfirmed that the right to compulsory education for migrant

workers' children needs to be guaranteed. It required that local governments of migration destination should enroll migrant workers' children in full-time public elementary and junior middle schools through multiple forms. Besides, the same standards should be implemented to both migrant children and local children in the phase of the entrance and other aspects (Wang and Holland 2011). It is prohibited to charge extra fees. For those students whose families have financial difficulties, the local governments of the migration destination must reduce and remit fees taking account of the children's actual conditions. Apart from that, it stressed that the governments should enhance the support to the migrant children's simple equipped schools established and run by social forces, and integrate these simply equipped schools into plans and systems of local development of education (Yu 2016). Simply equipped schools' accrediting criteria shall be relaxed appropriately. The educational departments shall actively guide teacher resources, teaching methods, and help to improve the teaching environment. Simply equipped schools should not be closed arbitrarily to avoid depriving migrant children of the right to education. Governments of migration destination must arrange special funds to fulfill works about migrant children. Last but not least, governments of outflow areas shall cooperate with governments of inflow areas to enroll migrant children and should accept these migrant children unconditionally and must not violate relevant regulations to charge fees.

Those measures were also mentioned in the *Decision of the State Council on the Work of Further Strengthening Rural Education* (国务院关于进一步加强农村教育工作的决定), which was issued in September 2003 and reinforced the formulation of the "two mains" policy (两为主政策), i.e., the migrant children's schooling is resolved mainly through the efforts of the local governments and full-time public elementary and junior middle schools of the places the children have migrated to. In comparison with the 1998 *Interim Measure*, this *Decision* made critical changes in its policy documents, suggesting a transformation from an exclusive to an inclusive perspective in migrant

children's education. This was a significant step towards a more inclusive policy of migrant children's education (Liu, Holmes, and Zhang 2018).

Thereafter, the central government has made continuous efforts to promote equal education in China. To adequately address the educational issues faced by rural-urban migrant children, relevant departments under CPCCC jointly launched several policies. In order to implement the 2003 *Decision*, Office of Central Institutional Organization Commission, Ministry of Public Security, National Development and Reform Commission, Ministry of Finance, Ministry of Labor and Social Security introduced the *Opinion on Strengthening Compulsory Education for Rural-urban Migrant Children* (关于进一步做好进城务工就业农民子女义务教育工作的意见) on 13 September 2003.

As a milestone, the *Opinion* was the first time for the Chinese government to directly address the problems of rural-urban migrant children concerning the right to compulsory education (Wang and Holland 2011). Firstly, the “two mains” policy was formally established in this *Opinion* (Yuan et al. 2017). It further obliged the local governments at all levels, especially the administrative departments of education, and the full-time public elementary and junior middle schools must formulate and improve the working system and mechanism of safeguarding the rural-urban migrant children to receive compulsory education.

Secondly, the funding channel for ensuring the compulsory education of the rural-urban migrant children was diversified. This *Opinion* abolished the requirement of extra fees for migrant children. Meanwhile, it stated that municipal governments should provide migrant children with the same rights as local students, and migrant students should not pay more than local students in order to receive a proper education. To support the compulsory education of the rural-urban migrant children, the *Opinion* required that the financial departments of the governments receiving the influx shall finance those schools with a relatively large number of the rural-urban migrant children.

There shall be a part of extra charges in urban education funds set aside for the compulsory education for rural-urban migrant children. In addition to State's finance, enterprises and institutions, social groups, other social organizations as well as individuals are encouraged to donate or contribute.

Thirdly, the *Opinion* provided precise distribution of responsibilities among all levels of governments as well as the different departments. It stated that the governments of inflow areas must draft related administrative regulations and act as a coordinator in a series of works. The administrative departments of education should integrate efforts regarding the compulsory education of rural-urban migrant children into the local working scope as well as crucial working content of the universality of compulsory education. Separately, the administrative departments of education must advise and supervise the elementary and secondary schools to accept and educate these rural-urban migrant children. Police authorities must supply relevant information as to the rural-urban migrant children who attain school-age to the administrative departments of education. The development and reform developments must, on the one hand, bring compulsory education of the rural-urban migrant children into line with the plan of the urban social cause's development, and fit the establishment of migrant children-oriented schools into public infrastructure program on the other hand. Financial departments shall arrange necessary support costs. Offices of institutional organization commission must rationally check and ratify the formation of the teachers and staff members according to the numbers of rural-urban migrant children in schools.

Lastly, the *Opinion* clarified the responsibilities of public schools. For example, the full-time public elementary and junior middle schools shall fully tap potentials to perform as the leading platform to accommodate the rural-urban migrant children as much as possible. There should be no discrimination against the floating children and adolescents. Schools should promote connections with rural-urban migrant families to help them conquer mental obstacles and adjust the new study environment by realizing these students' ideas and life promptly. Additionally, support for schools run by social

forces that mainly receive the rural-urban migrant children should be strengthened and these kinds of schools should be integrated into private education²⁶⁰.

In order to address the malpractice of arbitrary fee collection, the central government further implemented a nationwide “one-fee system” in the *Notice on Issues relating to Integrating Management Fees for Farmer Workers into the Regular Budget of the Local Governments* 2003 (农民工管理等有关经费纳入财政预算支出范围有关问题的通知). It required that migrant children can only be charged with the same fees as those charged to the local students for compulsory education. This was repeated in the State Council’s *Notice on Exempting Urban Students in Compulsory Education from Tuition and Fees* 2008 (国务院关于做好免除城市义务教育阶段学生学杂费工作的通知), which required local governments to exempt rural-urban migrant children with tuition fees as well as any kinds of extra fees. They shall allocate adequate educational funds to the rural-urban migrant children.

4.2.3 The third phase (2010-present): “two inclusions” policy

In accordance with the strategic arrangement of the 17th Communist Party of China National Congress, which ‘give[s] priority to education and turn China into a country rich in human resources’, the *Outline of China’s National Plan for Medium and Long-term Education Reform and Development (2010-2020)* (国家中长期教育改革和发展规划纲要) was issued in 2010. The *Outline* upgraded equal access to education into a basic national policy and emphasized the importance of the coordinated development of compulsory education (Li 2017). It stressed that equal access to education is a major cornerstone of social justice, equal opportunities hold the key to equal access to education and the fundamental requirement of education equity is that all citizens have equal rights to receive education according to law. Therefore, the fundamental way to

²⁶⁰ For consolidating all these achievements, for example, the *Opinion on Policies Promoting Increasing Income for Peasants* 2004, *Opinion of State Council on Solving Rural-urban Migrant Workers’ Problems* 2006, and *Notice on Making Earnest Efforts to Do Relevant Works Well for Migrant Workers* 2008 were published one by one after the promulgation of the 2003 *Opinion*.

achieve this is to allocate education resources reasonably, giving preference to rural, impoverished, remote, border areas and autonomous ethnic areas. The *Outline* asserted that ensuring equal access to education is and always has been a government responsibility, but it cannot be done without concerted public efforts.

The *Outline* insisted that a basic public education service network covering both urban and rural areas shall be set up by the governments at all levels, in which equal services are provided, and regional disparities in this field are narrowed down. Obviously, consolidating and enhancing 9-year compulsory education is the main strategic goal for the current education development. School-age children must receive compulsory education according to Chinese law. Compulsory education in China is legal-binding, free, universal, and the most critical part of all phases of education. By 2020, compulsory education shall be universalized at a higher level, while teaching quality should be improved comprehensively. The development of preschool education shall be basically balanced among different regions, and all school-age children and adolescents should be guaranteed access to high-quality compulsory education. The principle of coordinated development of compulsory education was confirmed by, for instance, the *Program of China's Children of Development (2010-2020)* (中国儿童发展纲要), and the *State Council's Opinion on Further Expanding Coordinated Development of Compulsory Education 2012* (关于深入推进义务教育均衡发展的意见).

Against the backdrop of coordinated development of compulsory education, the *Outline* specifically emphasized that the equal opportunity of compulsory education for rural-urban migrant children should be provided in a down-to-earth way. The task of ensuring equal compulsory education for children living with migrant worker parents in cities shall be ensured primarily by local governments and allotted mainly to public primary and middle schools. Apart from that, rules and regulations shall be studied and formulated to accommodate these children to take entrance examinations for higher schools upon finishing compulsory education without going back to their home villages.

This *Outline* indicated that the right to education for rural-urban migrant children has extended from the problem of equal access to compulsory education to other fields. For example, the *State Council's Opinions on Current Development of Preschool Education* (关于当前发展学前教育的若干意见) was issued in 2010, which pointed out that the construction of kindergarten must take account of the educational needs of rural-urban migrant children.

In 2014, China's National New-Type Urbanization Plan (2014-2020) (国家新型城镇化规划) was published, which marked the first national strategy on urbanization (Li, Chen, and Hu 2016). This *Plan* also paid attention to the equal right of rural-urban migrant children to education. In addition to reemphasizing the “two mains” policy, the *Plan* explicitly required to include compulsory education of rural-urban migrant children in the education development planning and financial security of governments at all levels²⁶¹. Unlike the “two mains” policy, the “two inclusions” (两纳入) policy further reflects the governments' determination to proactively resolve the educational problems of rural-urban migrant children. This policy was resonated by the *State Council's Opinion on Further Improving Service for Migrant Workers* 2014 (国务院关于进一步做好农民工服务工作的意见).

Thus, so far, China has already established a policy framework which mainly encompasses the “two mains” and “two inclusions” policies, aiming to protect the right to compulsory education of rural-urban migrant children (Yang 2017).

5. Concluding remarks

By concretely revisiting the legal and policy dimensions of the right to education (of rural-urban migrant children) in China, a more-than-clear message should be dispatched: the educational life and wellbeing of *every* Chinese citizen shall be legally protected

²⁶¹ However, this *Plan* also aims to control the urban population especially in megacities like Beijing and Shanghai, for which many migrant workers, including their children, have had to leave cities. Under such circumstances, the policy concerning the equal right to education that is emerged from the *Plan* is, probably, no more than an illusion. See (Chen et al. 2017)

and promoted by the government. Although the Chinese government has continuously promulgated new policies for dealing with the educational problems faced by migrant children in the host cities, these efforts need to be reviewed together with China's international obligations in this regard and its practical interactions with the human rights mechanisms. Indeed, educational problems facing rural-urban migrant children have become one of the indispensable topics in the annual "Two Sessions" (the annual meetings of the national legislature and the top political advisory body). Most of the concluding observations of the UN human rights treaty bodies on China's reports have more or less touched upon the issue of the *hukou* system. The unanimous attitude is to require the Chinese government to take adequate measures to abolish the *hukou* system whereby all rural-to-urban migrants can 'enjoy the work opportunities, as well as social security, housing, health, and education benefits, enjoyed by residents in urban areas'²⁶². In 2014, the Chinese government finally decided to reform its *hukou* system, planning to replace it with the resident registration system. Accordingly, many local governments have begun to launch, for instance, the so-called points-based hukou system (*jifen luohu*). However, these policies have not truly solved the problems of migrant children's education, as there are still many preconditional requirements for those migrants who are eager to benefit from the new *hukou* system. For instance, a stable job is almost impossible for those migrants who are less well-educated. In this sense, the rural-urban dichotomy of Chinese society would still be the root cause of discrimination and inequality.

²⁶² CESCR, *Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China*, 13 June 2014, E/C.12/CHN/CO/2, para. 15.

Chapter 4 Treating Networks Seriously in the Human Rights Context

1. Introduction

‘[N]etwork means different things to different people (disciplines) because network research is at different stages among the disciplines and domains’ (Hwang 2008: 8). Thus, to some extent, the notion of network could be considered as a “Transformer”²⁶³. Heterogeneous understandings of networks have, indeed, prevailed among different disciplines and academics (see, e.g., Kapucu et al. 2014; Lecy et al. 2014). Although some scholars may worry about this remarkable divergence of conception, others like Borgatti and Foster (2003) realize the difficulty of formulating a unified definition of network and deny its necessity as well. Even if so, it is vital to be aware of a bottom-line consensus as to the definition of network:

‘A network is a set of actors connected by a set of ties. The actors (often called “nodes”) can be persons, teams, organizations, concepts, etc. Ties connect pairs of actors and can be directed (i.e. potentially one-directional, as in giving advice to someone) or undirected (as in being physically proximate) and can be dichotomous (present or absent, as in whether two people are friends or not) or valued (measured on a scale, as in strength of friendship).’ (Borgatti and Foster 2003: 992. emphasis in original)

This consensus is the skeleton of the transformer, upon which the variations of the conception of network become possible. Although the cohabitation of the prototype and variants could be one of the sources of conceptual ambiguity, it also indicates the underlying nature of network as a “traveling concept” (Friedrich 2012: 122; for traveling concept in general, see Bal 2002). By adapting the notion of network, knowledge can be circulated, in the form of transferring, borrowing, adjusting, and so forth, from one discipline to another in the course of an

²⁶³ Historically, the notion of network was promoted in the 1950s since English anthropologists were not able to explain social aspects in the structural-functional program. See (Hily, Berthomiere, and Mihaylova 2005).

interdisciplinary process (Darbellay 2012). Tracing the traveling trajectory of network in the interdisciplinary process is significant, as ‘what travels is actually a term connecting a heterogeneous constellation of ideas, concepts, and imaginations rather than a particular, identical concept’ (Friedrich 2012: 138). Thus, rather than wasting too much time on the semantic entanglements, it is more worthwhile to garner a better understanding of the different *perspectives* on network, in which network functions as ‘a powerful way of rephrasing basic issues of social theory, epistemology and philosophy’ (Latour 2011: 2). In other words, academics should jump out of the definition of network itself and pay serious attention to the metatheoretical (or paradigmatic) dimension of network-related research. Only by so doing can the fundamental and decisive questions concerning the application of the notion of network in various settings, such as the assumptions on human motivations, research methods, and critical research questions, be addressed adequately (Berry et al. 2004: 543-545).

The notion of network travels to the human rights field by facilitating the analysis of human rights issues with new theoretical and methodological angles. The expansion of literature in this interdisciplinary area takes various forms and engages with human rights networks from different perspectives. Against this general backdrop, it is vital for human rights scholars to treat network seriously (Hwang and Moon 2009; O’Toole 1997; Robinson 2006). This is where this chapter comes from and strives to arrive at. By reviewing the major, not all, literature, this chapter mainly intends to pierce the “network veil” in the human rights context, which could, therefore, contribute to a more comprehensive landscape of this interdisciplinary area. In a broader sense, this chapter aims to serve the dissertation by providing, among others, a critical reflection on the shortcomings of network research in human rights scholarship.

2. Perspectives on the notion of network

The notion of network has been understood from various perspectives in the existing literature. For instance, Hwang (2008) realizes that, in his empirical study on how academics from different disciplines or traditions have perceived network (analysis), network has been differently employed as a metaphor, method, theory, or paradigm. Likewise, Wellman (1988) highlights the importance of transforming the understanding of network from method and metaphor to theory and substance in the structural analytic paradigm. Knox, Savage, and Harvey (2006) distinguish network between metaphor, method, and form. Yet, Friedrich (2012: 120) recognizes the wide-ranging implication of networks and claims that there are three principal aspects of the notion of network for cultural studies: ‘first, ‘network’ as a concept; second, ‘network’ as a vision; and third, ‘networking’ as a code of practice’.

It is worth noting at the outset that the intention of this section is neither to propose a better definition of network, nor to undertake a comparison between the existing conceptions through value judgment. Instead, it tries to uncover the perspectives applied to understand the notion of network in human rights scholarship by analogy. As with the diversity of perspectives within other disciplines or fields of study, there are at least four ways through which human rights scholars have approached the notion of network, namely network as a metaphor, a method, an actor, and a theory²⁶⁵.

2.1 Network as a metaphor

In detail, firstly, network is referred to as a metaphor, or roughly ‘as a synonym for “connected actors”’ in Murdie and Polizzi’s (2015: 715) expression, in some human rights literature, which usually posits a map of the web of relationships. This is not

²⁶⁵ The four perspectives are derived from an analogy with the ways by which other disciplines and fields of research have understood and studied the notion of network. It is noteworthy that although metaphor, method, actor, and theory are used in the singular form, it does not indicate, for instance, there is only one understanding of the network metaphor. The details are in the respective texts.

surprising since the network metaphor has already permeated almost every facet of our lives (e.g., Robinson 2006; Watts 2004). Meanwhile, the network metaphor has been in the center of many theoretical elaborations and debates (e.g., Chatti, Jarke, and Quix 2010; Kilgore 2013; Knox and Davies 2013; Nas and Houweling 1998; Saad 2015; Wing, McConville, and Chui 2007). Nevertheless, the network metaphor is felt and embodied in different ways. It is inconsistently applied to examine even the same phenomenon (Erickson 2012: 912). Under such circumstances, a common denominator, which presented as an ‘agreed notion that network is about different types of relationship’, is imperative (Keast and Brown 2005: 2).

Indeed, based on this common denominator, human rights scholars have already drawn various images of connections and relationships, ranging from, for instance, legal instruments, judicial institutions, litigations and adjudications to rights discourses and human rights data. These images animated by the network metaphor actually pose a challenge for the ways of thinking of human rights, i.e., perceiving especially international human rights ‘as a network of government officials, legislators, and judges; as a deterritorialized “system of rule” that has transformed the state; or as a horizontal structure of production of legitimacy spread throughout world space’ (Simma and Pulkowski 2006: 484). In terms of human rights law, the network metaphor questions the conventional hierarchical idea of the legal system of human rights, and leads to special characteristics of human rights network:

‘Firstly, they are *fluid*. As Lepka rightly points out, the network is the “*antithèse de la frontière*”. Networks do not have fixed boundaries. Their flexibility and indeterminacy give them a possibility of endless-expansion, which comes about through a haphazard and spontaneous development. Second, networks are *polycentric*. At the opposite of a tree-like or pyramidal structure, networks consist of a multiplicity of “dots”, “foci”, “nodes” or “neurons”, and do not therefore revolve around a single gravity center. No dot is irreplaceable. The elimination of one of its segments does not jeopardize the existence and further expansion of the network. Third, networks are based on the *interdependence* of their cells, which are both distinct from and related

to each other. This dependency is mutual in the sense that networks do not work according to a unilateral and top-down logic with emitting dots endlessly transmitting a one-way flow of information to receiving nodes. Each dot both receives and sends of messages from and to other dots and is therefore embedded in two-sided relationships.’ (Bailleux 2014: 296)

Due to these characteristics, the network metaphor is recognized as conducive to the description and interpretation of the evolution of human rights law and the strategies and tactics adopted by its major actors (Ibid: 325). However, while an increasing number of human rights scholars and international lawyers are already convinced of the benefits of referring to network as a metaphor, there are drawbacks implied in its applications. For instance, Destrooper (2016) suspects the usefulness of the network metaphor in her actor-oriented perspectives on reverse standard-setting in the field of human rights. She criticizes the lack of concern for the issues of power dynamics and inequalities in the application of the network metaphor. Thus, in her opinion, the network metaphor ‘is simply not representative of reality as long as we do not explicitly factor in which relations – or under which circumstances relations – are still hierarchical in nature, and how these not only affect the access to but also influence on norm-setting that rights users can have’ (Ibid: 7-8). In this sense, the network metaphor, which is so accustomed to reducing everything into network, is suggested to be used cautiously in human rights research, as it often ‘makes us think we have been precise when we have been vague’ (Erickson 2012: 920).

2.2 Network as a method

While the “network as a metaphor” perspective, most of the time qualitatively and descriptively, focuses on the symbolic meanings embedded in network narratives and languages (Keast and Brown 2005: 5), a group of academics inclines to view network as a methodological tool, or an analytical technique, to measure relational structures in the context of human rights. Taking account of the history of network research, this inclination in human rights literature is compatible with the brass tacks that ‘network analysis began as a method’ (Knox et al. 2006: 114). In fact, network analysis is often

interchangeably used as a substitution or an abbreviation for Social Network Analysis (SNA)²⁶⁶, by which social structures of relationships between various (human rights) actors can be quantitatively, empirically, and visually analyzed.

For example, to deepen the understanding of judicial behaviors of judges in international courts, Lupu and Voeten (2012) quantitatively examine 2222 cases and 16863 citations of the European Court of Human Rights (ECtHR) by applying network analysis methods. Besides, by realizing the growing influence of SNA in legal scholarship, Dothan (2017) carries out an empirical investigation of the advantages of NGOs in transmitting information on the state's noncompliance with international human rights law. As with other works adopting the "network as a method" perspective, SNA and its implications for international human rights legal scholarship attract equal attention in Dothan's research (see especially, *Ibid*: 5-8).

In addition to the advantages and opportunities associated with network methods, it is of significance as well to know how to exactly conduct a network analysis in the field of human rights. In this regard, Chané and Sharma's "Social Network Analysis in Human Rights Research" (2017) deserves particular attention, as it is the first time that network analysis is explicitly categorized as a human rights research method²⁶⁷. Substantially, it elaborates on the entire stages of the application of network methods to human rights research, including research design, boundary setting, data collection, data storage and preparation, network data representation, and so forth (*Ibid*: 358-371). However, some crucial topics, such as the ethical issues of human rights network research and a quantitative-qualitative mixed-method design, are not addressed.

²⁶⁶ It is noteworthy that this dissertation distinguishes the Social Network Analysis with social network analysis in the text. While the former represents the quantitative approach to network research, the latter is more general in the sense that the qualitative or mixed-method approaches to network research is also included.

²⁶⁷ Although Bender-deMoll's report of the "Potential Human Rights Uses of Network Analysis and Mapping" (2008) discusses some methodological issues concerning human rights network research, it is superficial and does not seriously treat network methods as human rights research methods.

2.3 Network as an actor

Another perspective of the notion of network in human rights scholarship is “network as an actor”. While Latour (1993) denies the newness of the network as form of social organization, the “network as an actor” perspective denotes that networks should be perceived as a variety of forms of social and political organization ‘which are more than the sum of the actors and their links and which deserve to be studied in their own right’ (Provan and Kenis 2008: 233; also see O’Toole 1997). In this vein, various networks, as independent actors, can participate in international, regional, and domestic activities with their own identities, interests, and approaches.

A large number of scholars, especially international studies scholars, have started to assess the relationship between the relevant networks and human rights (laws) over the past years. It is not hard to recognize that the most outstanding stream of research is associated with the transnational advocacy networks (TANs) (for literature reviews on TANs, see Murdie and Polizzi 2017; Schmitz 2010; Tang 2009). Keck and Sikkink’s seminal monograph “*Activists beyond Borders: Advocacy Networks in International Politics*” (1998) is a landmark spotlighting the critical roles of TANs in human rights governance. Largely due to the efforts made by them and other like-minded scholars, the notion of TANs, which is clarified to include ‘those relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services’ (Ibid: 2), has become one of the “human rights vernaculars” (Murdie and Polizzi 2017).

2.4 Network as a theory

Apart from the three perspectives mentioned above, there is a tendency within the field of human rights in which the network is regarded as a theory. In contrast to Barnes who is the first scholar introducing the notion of Social Network but only positioning it as a ‘basic idea and nothing more’ (1972: 282), the widespread emergence of network theories has had an enormous influence on how human rights scholars understand

human rights(-related) issues. For example, Stohl and Stohl (2005) explore the dynamic development within the global human rights regime by adapting Burt's 1992 network theory of structural holes. Furthermore, Schneider (2000) applies social capital theory to an analysis of the leading human rights NGO Amnesty International. Goodman, Jinks, and Woods (2012a: 7) also envision the possibilities of network theories, such as small world and weak ties, to shed new light on 'the ability to produce sweeping normative changes' in the field of human rights. However, it is noteworthy that the division of these perspectives is not clear-cut due to the blurring boundary between, as well as the overlapping utilization of, these perspectives on the network concept. Therefore, the distinction listed above merely provides, in a descriptive manner, a general outline of the diverse understandings of the notion of network in human rights research.

3. Forms of networks in human rights scholarship: reviewing the contents

As with the diversity in terms of the perception of the notion of network, the substantial contents engaging with the combination of human rights and network in the existing human rights literature have involved different forms of networks. More precisely, the different forms of networks, which encompass a variety of human rights users and their concomitant relationships, have already been tackled in different manners and degrees. As to the form or genre of network, there are distinctive ways in which the categorizations differ from one another. To name but very few, the vertical and horizontal networks (Slaughter 2004), the resilience, task and scale networks (Slaughter 2017), and the (principled-)issue networks (Keck and Sikkink 1998). Although these types of networks have been prevalent and disseminated among academics of different disciplines, it seems inadequate for them to completely and accurately cover all of the networks that have been involved in human rights research²⁶⁸. Thus, connecting with

²⁶⁸ Taking the vertical and horizontal networks as an example. Slaughter distinguishes horizontal networks among national government officials from vertical networks that include a specialized higher, supranational organization. Both the vertical and horizontal networks are constituted by the professional actors (including both individual and organization). This type of division may not cover those networks that are composed of nonprofessional (ordinary) actors, legal documents and discourse, and so forth.

the reality of the research on human rights and networks, this section divides networks into five types, namely legal networks, discourse networks, networks of claimants, and supportive networks²⁶⁹.

3.1 Legal networks

The legal approach to human rights has indeed played a dominant role in both the intellectual evolution and effective protection of human rights in the last decades. Thus, law has become the predominant human rights discipline. The legal understandings of human rights, according to Goodale (2007: 6), ‘are the different variations of the view that “human rights” refers to the body of international law that emerged in the wake of the 1948 Universal Declaration of Human Rights and follow-on instruments’. It means that these international legal instruments are regarded as the point of departure for human rights research (De Feyter 2011).

Treating human rights as law leads to a plausible priority on the normative investigation, which maintains ‘a strong focus on the elaboration and interpretation of human rights standards, and on building new international human rights institutions to monitor and enforce those standards’ (Andreassen, Sano, and McInerney-Lankford 2017: 3). Under such circumstances, the logical compatibility between the existing normative frameworks and their proceeding arguments is referred to as the primary concern of human rights legal scholars and practitioners (Coomans, Grünfeld, and Kamminga 2010: 181). In other words, the legal approach intends to reveal an *inside* landscape of the normative validity of human rights on which the legal positivism, in a broader sense, is preferentially relied (see, for example, Harris 2005; Invernizzi-Accetti 2018). Despite a growing number of critics, particularly those socio-legal scholars, have

²⁶⁹ The networks of claimants, and supportive networks are adapted from the notion of “human rights users” which aims to take account of ‘all individuals and entities that engage with human rights in one way or another’ (Desmet 2014a: 133). As a shift in analytical focus of human right research from ‘a specific legal instrument, topic or enforcement mechanism’ to ‘those who engage with (use) human rights’ (Ibid: 121), Desmet divides human rights users into rights claimants, rights realizers, supportive users and judicial users, who invoke, give effect, support and impose human rights respectively.

proven the shortcomings and harms of the over-legalization of human rights (see, e.g., Meckled-García and Cali 2005), human rights scholarship is still treated as ‘the exclusive province of lawyers’ (Coomans, Grünfeld, and Kamminga 2010: 181).

In comparison with other disciplines or fields of study, the dominant position of legal scholars in human rights scholarship somehow slackens the pace of incorporating network theories and methodologies. This situation is pertinent to the relatively disappointing performance of the network research in legal scholarship (Jiang 2019). By and large, legal scholars are the latecomer of the network research, partially due to their conservative persistence on the typical legal methods upon which they can guarantee the legitimacy of defending law as an independent science. Only in recent years have legal scholars embarked on acknowledging the importance of ‘this network approach and apply[ing] network analytic techniques to questions about the law, legal system, and the social system that the law seeks to regulate’ (Whalen 2016: 540).

In contrast to the relative prosperity in terms of the literature on the historical evolution and development of network science (e.g., Lewis 2009), the integration of legal science with network science, however, has remained silent in this regard. So far, there has been no literature introducing its intellectual history explicitly. As to the possible reasons, it might firstly relate to the fact that the network research in (socio-)legal context is still at its early stage in which the existing literature itself is witnessing a process of creating the history or even prehistory. Furthermore, scholars who have paid attention to both law and networks might be unaware of the underlying collective nature of their research as an independent research orientation or field²⁷⁰. However, by taking the evolving timeline of the general network studies as a reference point (Freeman 2011), it is possible to provide the network research on law with a rough historical clue.

²⁷⁰ I specially claim that the concern on network analysis in law is not the law of horse in Lessig’s discourse. See (Lessig 1999). For the reasons why legal scholars should pay attention to the network science, see (Strandburg et al. 2006).

The most primitive form of network studies can find its roots as far back as 1736 when Leonhard Euler applied graph theory to solve the problem of how best to circumnavigate the Bridges of Königsberg. After more than 200 years, network thinking was finally conferred new life by social scientists. Even though *sociometry*, the first incarnation of the modern network studies, was generated in the 1930s, some network scientists believe that it was not until the contributions of Harrison White and his students in 1970s, network studies were settled down, embraced a standard paradigm and became widely recognized as a field of research (Ibid). Based on this brief retrospect, it is safe to say that scholars who pay attention to the topics of both law and networks have followed the main steps of the general intellectual movement in network studies.

For instance, *Social Networks*²⁷¹, the premier and also leading journal for the study of social networks, published Peter Harris (1982)'s paper, which diachronically discusses the structural change in the communication of precedent among state supreme courts in the United States in 1982. This kind of precedent studies is actually in line with the popularity of legal citation studies that can be traced back to at least the 1950s. However, as Ryan Whalen (2016: 548) states, 'early works in this vein paid limited attention to the network structure created by case law citations, but focused instead on how citations accrued over time, and how judges decided which cases to cite.' Considering all, the network research on law, therefore, has not entered the period of rapid development until the late 1990s. After 2000, relevant research outcomes, including various topics and themes, have increased exponentially.

Among others, it is noteworthy that the rise of socio-legal scholarship could be considered as the most illuminative factor of influencing the spread of network thinking in law. Niklas Luhmann articulated his sociological theory of law in the late 1980s,

²⁷¹ *Social Networks* was initiated by Linton Freeman and the first issue was published in August of 1978. It is one of the three professional journals established and managed by the International Network for Social Network Analysis (INSNA). The others are *Connections* and *Journal of Social Structure*. See more from INSNA's website: <http://insna.org/>.

which applies systems theory to structures, processes, and development of legal systems. The systems theory of law, similar to the Gunther Teubner's autopoietic theory of law (1990), is one of the most influential theories to generate a particular call for a structural perspective on law. Karl-Heinz Ladeur (Ladeur 1997, 2007) further developed Luhmann's systems theory of law as a postmodern legal theory, which refers to the network concept as a fundamental concept (also see Augsberg, Viellechner, and Zumbansen 2009; Kjaer 2009). In addition, Bruno Latour's Actor-Network Theory (ANT) 'treats law as a network of people and of things in which legality is not a field to be studied independently, but is instead a way in which the world is assembled, an attribute that is attached to events, people, documents, and other objects' (Levi and Valverde 2008: 38). Besides, Roger Cotterrell (2008: 12) argues for a "law-and-community approach", which positions social relations as the unit of study and claims that 'complex networks of community may present a picture of moral confusion or contradiction, reflected in the law relating to these networks' (Cotterrell 2008: 12).

The growing interest in incorporating network theories and methods is further reflected by the appearance of review articles and special issues. Whalen's "Legal Networks: The Promises and Challenges of Legal Network Analysis" (2016), as a comprehensive literature review, looks back upon the intellectual trajectory of legal network analysis from its four research strands, namely the legal citation network, statutory and regulatory network, legal social networks and criminology network. While admitting the progress that has been made by legal scholars, he also realizes that 'there are still comparatively few legal network studies' (Ibid: 541). Contrary to Whalen's underlying optimism of the usefulness of network analysis for legal science, Petersen and Towfigh (2017) unfold, in a broader context of empirical legal scholarship, the potential opposition to the usage of network analysis as a methodological tool of legal scholarship. Although their research only briefly touches upon the existing literature, its function as a springboard to the collective concern with network analysis and comparative law methods is more precious. As a result, the collective concern in

question constitutes a special issue in the German Law Journal. Likewise, it is also in the German Law Journal that a special issue on the law of the network society was published. The contributors to this special issue respectively elaborate on the notion of “thinking in networks”, coined by Karl-Heinz Ladeur, within legal scholarship (see details in Augsberg, Viellechner, and Zumbansen 2009). Moreover, a special issue in the Journal of International Economic Law, entitled “*New Frontiers in Empirical Legal Research: Text-as-Data and Network Analysis of International Economic Law*”, is another example in this regard (for a general understanding, see Alschner, Pauwelyn, and Puig 2017).

By conceiving of human rights as law, legal scholars’ commitments to engage in the interrogation of human rights networks are essentially in accordance with the mainstream of legal research on networks as illustrated above. For a better understanding, in a nutshell, the notion of network refers to the relational structure formulated by human rights laws and institutions, i.e. human rights laws and institutions are regarded as nodes, while the interactions, especially cross-references, between, for instance, statutes, cases, adjudications, courts, and judges, are ties in human rights networks. To put it differently, according to Bailleux, ‘human rights operate in a network-like environment’ (2014: 325). In his research on “Human Rights in Network”, Bailleux ingeniously draws on Ost and van de Kerchove’s “law as a network” theory to conceptualize the human rights network, which is characterized by its fluidity, polycentricity, and interdependence.

3.2 Discourse networks

Lena Khor, who is an English professor, innovatively proposes a new notion called “human rights discourse networks” in her series of publications (see, Khor 2009, 2011, 2016). Of course, the discursive dimension of human rights and discourse networks, respectively, are not new for academics and practitioners in the related disciplines. But, Khor aims to combine them and unravel the impacts of this peculiar discourse networks

on ‘the identities and agency of the acts of discourse that constitutes it, and the individuals and groups that interact with it’ (2016: 4). By drawing on Norman Fairclough’s discourse theory (2003), Khor formulates her own understanding of human rights discourse, which is comprised of texts, i.e., ‘a particular set of vocabulary, phrases, and textual products (legal document, novels, films oriented around human rights issues) based on the philosophy of human rights inscribed in the UDHR’; discursive practices, namely ‘a particular set of ways in which individuals and group use the language of human rights when they speak or write about human rights issues’; and social practices, referring to ‘a particular set of ways in which individuals and groups embody the philosophy of human rights when they act in the name of human rights’ (Khor 2009: 107-108).

In light of the understanding of human rights discourse, and also by acknowledging the networked nature of human rights²⁷⁴, Khor refers to the human rights discourse network as ‘sets of texts, discursive conventions, and social practices, which are linked by their use of human rights language, ideology, and ethics’ (Ibid: 19). Meanwhile, she distinguishes her global discourse network perspective from other network perspectives on human rights (Keck and Sikkink’s TANs, for instance), indicating the key difference is that ‘acts of discourse are understood to have agency, the capacity to act’ (Ibid). It implies that these discourse actors *per se*, such as texts, can play a role as nodes in the global human rights discourse networks. Accordingly, Khor sums up the principal traits of the human rights discourse networks:

‘(1) that is premised on moral values; (2) that holds diverse human rights languages which cooperate and contest with each other; (3) that comprises multiple users, form, and creators; (4) that exerts moral power; (5) that generates its discourse and power; (6) that globalizes itself and its power as a network; and (7) that globalizes itself and its power through its intersections with other networks.’ (Khor 2009: 94)

²⁷⁴ From Khor’s conception, the networked nature of human rights refers to the fact that human rights essentially ‘functions in networks of individuals, organizations, and institutions at a global level’. see (Khor 2016: 4)

Given these characteristics, the paradigm of a global discourse network of human rights proposed by Khor (2016) also with the assistance of some essential concepts, such as network identity, network power and network conventions, can contribute to our perception of the worldwide impact of the globalization of human rights on people and their societies. Nevertheless, Khor also recognizes the pitfalls associated with global human rights discourse networks (Bachman 2015: 393-394). For instance, as a result of the power asymmetry and imbalance embedded in the discourse network, discourse actors who do not have adequate power and influence 'are generally less able to directly counter a global human rights discourse network that exerts its own power as empire.' (cited from Bachman 2015: 393; see more comments on Khor's global human rights discourse networks in Klemm 2014)

Besides, the process of formulating a paradigm of global human rights discourse networks is benefited from three case studies, namely the case studies of Rwandan Paul Rusesagina, *Médecins Sans Frontières* (MSF) and Michael Ondaatje's *Anil's Ghost*. Within these cases, Khor's theoretical ambition and the adapted concepts are tested and refined. Taking the case of Rwandan Paul Rusesabagina as an example, it addresses the transformation process caused by the application of the network identity and power within a global discourse network of human rights, through which Rusesabagina is converted from a victim (an object of human rights without power) to a hero (an agent of human rights with power). (Khor 2016: 47-94; also see Khor 2011)

Although not many scholars have joined Khor to delve into the discursive connections and interactions of human rights, there are a few research projects, more or less, aligning with the paradigm of a global discourse network of human rights from a broader perspective of linguistics. These sporadic research efforts convergently attend to semantic networks in the field of human rights. Kwon, Barnett, and Chen (2009) apply semantic network analysis to assess the translation equivalence of the seven linguistic versions of the UDHR. The semantic network research shows that while the translations of the UDHR are roughly equivalent, which could guarantee a universal

perception of ‘the basic tenet of the document across different cultures’ (Ibid: 131), the nuanced differences across languages connote the potential leverage of ‘cultural values embedded in the languages’ (Ibid: 132).

Bender-deMoll (2008) introduces semantic network analysis to human rights scholars as one of the significant methodological options in his systematic report on the potential human rights uses of network analysis and mapping. What is more important is that, according to Bender-deMoll, semantic networks can also be constructed through text mining, i.e. ‘linkages of terms and concepts found within collections of documents that summarize some of the most important relationships’ (Ibid: 12). This point is resonated by Aletras and his colleagues (2016) in their research on a natural language processing perspective of predicting the judicial decision of the ECtHR. Solely based on textual content extracted from published judgments of the ECtHR, they recognize that the formal facts of a case are the most important predictive factor for the judgments of the ECtHR (Ibid: 1). If careful enough, it is not difficult to identify that the notion of network is absent from the entire text of their article. However, the absence itself is not problematic as data/text mining ‘in general need not involve any network concepts’ (Bender-deMoll 2008: 12).

3.3 Networks of rights claimants

Rights claimants refer to ‘those individuals, groups of individuals and legal persons who invoke human rights in relation to their own situation’ (Desmet 2014a: 129). They are human right-holders in typical human rights language. Ideally speaking, it is their interpersonal relationships and interactive dynamics that result in a networked context of human rights. Current (human rights) scholarship on interpersonal networks, by and large, revolves around these professional legal actors, especially the networks of judges. Nonetheless, specific attention to the relationships or ties among ordinary people, who are the most direct stakeholders of human rights protection and violation, is extremely scarce. In a broader scholarly context, this asymmetric situation between professional

legal actors and ordinary people is what the cultural turn in socio-legal studies has attempted to ameliorate since the 1980s.

One example of research on networks of rights claimants refers to Chen, Desmet, and De Feyter's (2016) socio-legal study on the right to education of rural-urban migrant children in Chongqing (China)²⁷⁶. It construes and underlines how both the migrant children's enjoyment of the right to education in the urban areas of Chongqing and their empirical human rights research *per se* were affected to varying degrees by personal networks. In connection with the Chinese context, the most prevailing Chinese notion of *guanxi* is applied to account for a set of personal connections possessed by each individual, although the conceptual distinctions are simultaneously made between the notion of *guanxi* and *network*. By borrowing from Nana Zhang (2011), they specifically clarify that,

‘*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 network in *guanxi*, its instrumentality and its emphasis on reciprocity, indebtedness, moral obligation, gratitude and trust” (Zhang, 2011, p. 582)’. (Chen et al. 2016: 96)

Conforming to this very notion of *guanxi*, its actual performance in migrant families' intricacy and ambivalence of accessing “good” schools in China's compulsory education system, as well as it impacts, both positive and passive, on the transformation process from ‘an unperceived injurious experience to a human rights claim’ are subsequently unveiled for achieving an in-depth cognition of the local relevance of international human right to education. Concretely, empirical data collected from Chongqing uncovers that *guanxi* is of noteworthiness because it ‘may help in raising of the injurious character of a particular situation’ in the phase of “naming”; it ‘may act as a mediating factor’ to help migrant families to know whom to blame; it may be

²⁷⁶ This research project has already been discussed more extensively in Chapter 2 of this dissertation.

mobilized as one of the self-help methods, either legal or illegal, for migrant families to deal with the pitfalls regarding their children's access to "public" and/or "good" schools (98). Furthermore, as an autocephalous shape of immediate self-help, possessing *guanxi* could be a premise as well to articulate other forms of self-help (103).

To conclude, all in all, whether having and mobilizing *guanxi* or not makes sense of the real practices of international human rights in the Chinese socio-economic context. Apart from the insights about the substantial influences of *guanxi* networks to migrant children's enjoyment of the right to education in Chongqing, Chen and her collaborators also propound the potential methodological implication that is stemmed from accounting and mobilizing *guanxi*. The implication, which is concerned with how gaining access to the field site is possible through mobilizing *guanxi*, may shed light on human rights research in general. In detail, Chen and her collaborators tactically use *guanxi* to find interviewees so that

'[v]arious entry points can be identified, which all start from the personal networks of the Chinese senior researcher and, in some cases, of the junior researcher. These ways of access can be summarized as follows: (i) via governmental institutions; (ii) via school personnel and activities; (iii) via direct personal relations.' (52)

3.4 Supportive networks

Indeed, a wide variety of stakeholders in the field of human rights, regardless big or small, dominant or peripheral, individual or collective, are using human rights in supportive ways, such as:

'awareness raising, advocacy, lobbying, assisting and monitoring the implementation of human rights, documenting and denouncing human rights violations suffered by other persons or groups representing rights claimants, (strategically) litigating human rights cases, carrying out human rights research and engaging in standard setting' (Desmet 2014a: 128).

Out of the question, these rights supporters have formed the largest group of human rights users. They encompass, for instance, NGOs at all levels, activists, lawyers, national and sub-national human rights institutions. To some extent, this situation is easy to understand due to a general climate of the upsurge of non-state actors active in the global governance of human rights and the growing vitality of human rights soft law (see, e.g., Lagoutte, Gammeltoft-Hansen, and Cerone 2016). Following this vein, it seems more natural to accept the dominant position possessed by the supportive networks, i.e. a vast number of networks that are composed of distinctive human rights supporters, in the existing literature. This is not a deductive conclusion, but an inductive implication based on the approximate quantity of academic research on human rights supportive networks. In the midst of them, the absolute majority of research has been performed in line with the scholarly strand of TANs.

To a large extent, TANs can be roughly regarded as a synonym for human rights supportive networks, as most of the human rights supporters are intensively involved. The nuanced distinction is that TANs, theoretically speaking, do not constrain the possibilities of participation for state actors (which, according to Desmet (2014a), act as rights realizers to give effect to human rights) and right-holders, although this scenario rarely occurred in reality. In this case, it is observed that a set of human rights international non-governmental organizations (INGOs), together with a part of brisk local non-governmental organizations (NGOs), are the principal human rights users in supportive networks.

Given the special status of NGOs (or civil society in a broader sense), new research has emerged focusing on the functions of the NGO-dominated human rights networks in information politics (Pruce and Budabin 2016), norms diffusion (Greenhill 2015; Nah 2016; Steinhilper 2015), states' behaviors (Goodman and Jinks 2004), and so forth. Besides, some scholarly attempts at the internal structure of human rights INGOs are also the frequent visitors to this line of studies, aiming at exploring the potential

relationships between the structural characteristics of INGOs and their performance in the transformation process of human rights (Wong 2012).

It is accurate that the importance of TANs in both human rights research and practice is undoubted, which provides added value for a deeper understanding of the dynamics of international human rights. However, this subsection intentionally prefers not to iterate the political science tradition of research on TANs. Firstly, it is quite challenging to involve all the numerous literature in this regard partially due to space limitation. Moreover, serious literature reviews (especially, Murdie and Polizzi 2017) have already elaborated on the origin, development, and prospect of this field of inquiry. Therefore, to fulfill the loophole of political science research on TANs, it is also necessary to approach other attempts paying attention to the human rights supportive networks from different perspectives²⁷⁷.

Among others, the anthropological approach to human rights networks opens another window, endowing us with a (mundane) picture of the global-local human rights interaction in a transnational context of legal pluralism. In this regard, Goodale (2017: 23) defends the topic of human rights networks as one of the ‘far-researching contributions’ that have been made by anthropologists of human rights ‘to the broader understanding of human rights’. Despite the consensus between political scientists and anthropologists regarding the dominant position of NGOs in the constitution of human rights networks, the latter have differently strived to ‘derive the details and, as important meanings, of transnational networks from the thick descriptions of finely grained ethnographic observations’ (Goodale 2009). This kind of anthropological endeavor could be refined as, building on Riles’s seminal work *The Network Inside Out* (2001), “the inside out” accounts of transnational human rights networks.

As with the most important status occupied by Keck and Sikkink (1998) in political science research on TANs, Riles’s experimental ethnography of the role of Fijian-based

²⁷⁷ For instance, see geographical research on this issue in (Beauguitte 2015; Bosco 2006, 2007; Jiang 2016; Laliberté 2015; Philippopoulos-Mihalopoulos 2010).

human rights NGOs in the 1995 United Nations Beijing Conference on Women is one of the most influential contributions to the anthropological study of human rights networks. By uniquely conceiving of the (human rights) network as ‘a set of institutions, knowledge practices, and artifacts thereof that internally generate the effects of their own reality by reflecting on themselves’ (Riles 2001: 3), she primarily demonstrates that both the artifacts of institutional life and the legal practice of human rights are the powerful engines to create and improve the very idea of women’s rights as human rights (see Ibid; also see Goodale 2017: 103).

Following Riles’s early attempt, the momentum of increasing interest in human rights networks has existed among the like-minded anthropologists of human rights and the ethnography-inclined legal scholars. Most of them have spontaneously assembled within the research line of examining the practice of human rights. Destrooper instead prefers to categorize this line of research, which ‘have mostly sought to visualize the day-to-day struggles of rights users and to examine how human rights norms become meaningful in concrete social settings when rights users invoke them in their struggles’ (2016: 2), as actor-oriented perspectives on human rights. It is in this regard that the related studies on the contextualization, venularization, localization of human rights could be intellectually connected. Meanwhile, the established human rights scholars, such as Mark Goodale, Sally Engle Merry, Koen De Feyter, can intensively engage with the crucial discussions about the global/local dichotomy, bottom-up approach, and local relevance of human right in a common but differentiated manner.

Not surprisingly, human rights networks are a common concern shared by these scholars. By recognizing the rapid emergence of transnational human rights for which the nearly stalemated spatial metaphor, i.e., the global/local dichotomy in human rights, should be abandoned, Goodale highlights network analysis as an alternative option. Adopting this alternative option means that ‘space is emptied by its usual ontological significance’ and ‘the “binary machine logic” that dominates much social theory’ should be subverted (Goodale 2007: 18). Thus, according to him, the network can be

prevalent due to its attributes of being ‘a ubiquitous social, political, and legal category within which ordinary social actors pursue human rights’ (Ibid: 19). Moreover, by looking inside the curious grapevine, Goodale endows the transnational NGOs with a special status of initiating networks through which the attenuation of the hegemony of state actors becomes possible, and ‘eventually, forg[ing] a transnational system in which the Universal Declaration.....could be politically and legally effective’(Goodale 2009:).

In order to track the effectiveness of UDHR and the ensuing concrete human rights in local settings, a localization human rights framework has been frequently applied to particular cases (also see Chapter 1). When De Feyter articulated this particular commitment to the local relevance of human rights, he did identify the importance of human rights networks and emphasized that

‘a bottom-up approach to human rights is dependent on the existence of a network consisting of four partners: community based organizations, local human rights NGOs, international human rights NGOs and allies in governmental and intergovernmental institutions.’ (Feyter 2006: 18)

Indeed, it is based on the existence of networks that the process of localization can be proceeded (see below Figure 1), through which the local human rights needs are possible to be transmitted to the further improvement of international human rights law. However, it is also essential to be conscious of the difference between the process of localizing human rights and the “boomerang” process articulated by Keck and Sikkink (1998) in their research on TANs. Although the resemblance remains identifiable, the process of localization underscores the agenda-setting role of the human rights experiences of communities in the entire network, rather than exclusively relying on the creation of network itself. In this case, a bottom-up approach to human rights can be warranted. Apart from its theoretical implications, it is worth noting that human rights networks have also become a methodological consideration in the process of selecting cases for localizing human rights research (Aguilar 2011: 116).

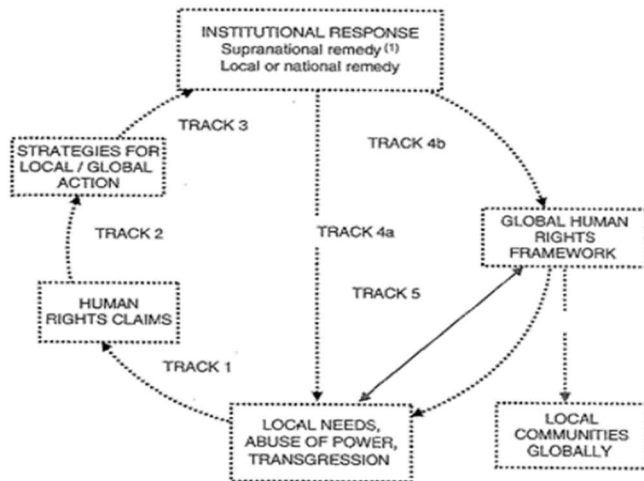


Figure 1 The process of localising human rights
 (1) Regional court, UN monitoring body, decisions by international organisations, universal jurisdiction judgments.

Figure 1: The process of localizing human rights

(Aguilar 2011: 131)

It seems unambiguous that NGOs (at all levels) have succeeded in attracting the attention of anthropologists and almost monopolizing the market of human rights supportive networks. However, the existing literature also shows that the supportive network is more than a web of NGOs, and sporadically informs us of other emerging rights supporters and their relationships. Studies on networks of National and Sub-National Human Rights Institutions are good examples in this regard.

While National Human Rights Institutions (NHRIs) have attracted much attention from human rights researchers and practitioners (e.g., Murray 2007; Wouters and Meuwissen 2013), concerns about the recent growth of the networks of NHRIs are somewhat in a sporadic form in academia. This is incompatible with the real situation of the spring up of diverse connections among NHRIs located in different geographical areas throughout the world. For instance, The European Network of National Human Rights Institutions, The Network of African National Human Rights Institutions, The Asian NGOs Network on National Human Rights Institutions, The Arab Network for National Human Rights Institutions. Nevertheless, Shawki (2009: 41) challenges this

academic stagnancy by arguing that ‘networks of NHRIs are potentially an important actor in human rights politics and transition processes and need to be given more scholarly attention’. Drawing on the previous research on transgovernmental networks, especially the research conducted by Anne-Marie Slaughter (2004, 2017), Shawki (2009: 41-42) supports the appeal for stronger research on networks of NHRIs by subsuming these networks into the ‘global political trends and processes’. By doing so, it would be more convenient to evaluate the impacts of the networks of NHRIs on human rights governance.

In line with the particular concentration on this kind of transgovernmental networks, Renshaw (2011) assesses the role played by networks in the implementation of human rights in the Asia Pacific region. From her point of view, in comparison with the formal institution-based approaches which prefer to a top-down logic of implementing human rights, networks are an alternative form of transforming human rights standards into practical actions. Accordingly, Renshaw focuses on the Asia Pacific Forum of National Human Rights Institutions (APF) with an argument that the APF

‘has promoted the establishment of domestic bodies dedicated to the promotion and protection of human rights, set standards of independence and effective for its members, disseminated information and ideas amongst its members about international human rights norms, and then catalyzed action in relation to the domestic implementation of these norms.’ (2011: 187)

Meanwhile, she also realizes the coherence, in terms of the functions of networks of NHRIs, between the Asia Pacific region and other regions. In respect to other regions, the networks of NHRIs in Europe is tackled by De Beco (2008). Rather than merely adopting an inward perspective to anatomize the endogenous natures and mechanisms of the networks of European NHRIs, De Beco also outwardly disentangles their cooperative interactions with other international and regional organizations, such as the United Nations, The European Union and the Council of Europe (Ibid: 861). Unlike Renshaw’s comprehensive concern about the roles played by the APF, the benefits of

sharing best practices through the networks of European NHRIs takes a central position in De Beco's research. Sharing best practices, according to De Beco,

‘enables them to repeat successful experiences in their own jurisdictions and improve their individual performance. By comparing mutual achievements, they also control their peers' compliance with behavioral standards. Regarding NHRIs, this peer review is peculiar in that it primarily holds governments accountable, since compliance with the Paris Principles mainly depends on them.’ (Ibid: 876)

Besides, De Beco also believes that the cooperation between European NHRIs and other international and regional institutions is reciprocal in the sense that while European NHRIs can provide the counterpart institutions with national information concerning human rights implementation, ‘an institutional base for their networking’ can be furnished by these institutions as a return (Ibid). Taking account of these benefits subsequently induces De Beco to conclude his research on Networks of European NHRIs by further weighting European NHRIs' capacity of networking in the international and regional platforms.

Looking back, the abovementioned studies consistently refer to these networks as transgovernmental networks. In this regard, Slaughter's transgovernmentalism has become an inevitable point of departure in their theoretical constructions and analysis. Wolman (2015) is one of them. Yet, the subject of his research, which makes him different from others, is the networks of Sub-National Human Rights Institutions (SNHRIs). SNHRIs, in Wolman's definition, ‘are independent non-judicial governmental institutions that possess a sub-national mandate, and whose mission includes the implementation of human rights norms’ (Wolman 2015: 11; see more about the definition and typology of SNHRIs in Wolman 2017). Human rights ombudsman institutions and human rights commissions are typical examples of SNHRIs. Wolman (2015: 111) contends the importance of transgovernmental networking for SNHRIs and bemoans the absence of adequate attention to the networks of SNHRIs against a general backdrop of downplaying sub-national human rights actors in both academic and

practical circles. SNHRIs' participation in governmental networks is considerably deficient in practice, gaining less access to the benefits derived from these networks. Therefore, Wolman, on the one hand, proposes to implement a membership reform in the International Coordinating Committee for National Institutions for the Protection and Promoting of Human Rights (ICCNI) and its affiliated networks, in order to create better accessibility for SNHRIs. On the other hand, Wolman suggests adopting new principles that 'can effectively provide guidance for SNHRIs' to join in ICCNI 'while remaining true to the spirit of the Paris Principles' (Ibid: 131).

As to the ICCNI, Tom Pegram has made a series of scholarly attempts to assess this UN-affiliated independent network of NHRIs in the context of global governance of human rights (see Linos and Pegram 2016; Pegram 2015a, 2015b, 2017). Unlike others, however, Pegram imports the concept of orchestration, which means that an international governmental organization (IGO) 'enlists and supports intermediary actors to address target actors in pursuit of IGO governance goal' (see Abbott et al. 2015; Abbott and Snidal 2009; cited from Pegram 2015a: 597), and formulates a nuanced analytical framework to address the topic of human rights governance accordingly. In detail, Pegram chooses both NHRIs and the ICCNI network as the intermediary and the Office of the High Commissioner for Human Rights (OHCHR) as an orchestrator to draw a sketch map of the indirect human rights governance through orchestration (see Figure 2). Zooming in the networked intermediaries, the ICCNI is deemed as a 'novel collective intermediary structure' which is 'central to the growing integration of NHRIs within UN procedure' (Pegram 2015a: 605), partially due to its gatekeeper function to decide whether NHRIs can access to the UN human rights system or not. Besides, Pegram also acknowledges the contributions made by ICCNI, acting as a transgovernmental advocacy organization, to guarantee and promote NHRIs' interests within UN architectures. In addition to these merits contained in the networked intermediaries, Pegram also recognizes the 'capacity deficits of the intermediary in terms of focality, authority and resources' (Ibid: 614).

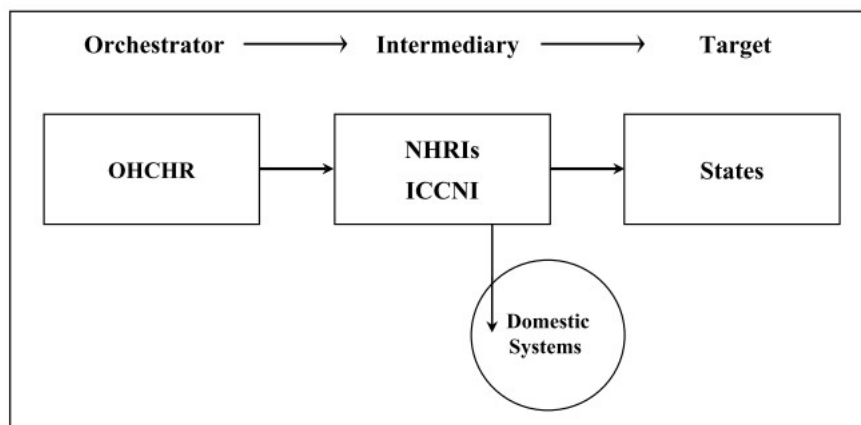


Figure 2: Indirect human rights governance through orchestration

(Pegram 2015a: 602)

4. Reflections upon the state of research on networks in the field of human rights: shortcomings and opportunities

4.1 Structural determinism

Through reviewing the existing literature, it is fair to conclude, in a complimentary manner, that current scholarship on networks in the field of human rights is in a preliminary prosperous shape. Different forms of networks concerning human rights, as well as some crucial network methods, have been deliberately addressed by human rights scholars coming from diverse disciplines. However, while we should certainly acknowledge and celebrate the achievements that have been made by these pioneer scholars, it is also necessary (and even urgent) to take a critical stance with respect to what they have done, in order to on the one hand chart where exactly we human rights scholars are at this historical moment of an “age of network” and, more importantly, to illuminate the promising paths for us to move forward on the other. If we can loose our concentration of human rights-related networks for a moment and turn to the general network research (in social sciences), it seems easy to identify ‘a corresponding increase in confusions, criticisms, and controversies’ that are stemmed from the rapid growth of network research in different fields of studies (Borgatti, Brass, and Halgin

2014: 2). Even the network thinking itself has been put a question mark in some specific settings (Coward 2017).

Among others, the biggest downside of the current research on networks in the field of human rights refers to the inadequacy in elaborating on the reasons why human rights should be studied as such. Most of the existing literature has circumvented this fundamental question and taken the compatibility of human rights and the notion of network and its methods for granted. One of the foundations of this taken-for-granted could be associated with their primacy of the structural dimensions of networks over the actors and contents and meanings of relations involved. Among the extant literature, one of the shared assumptions is that SNA, as a method, can enable the sufficient explanation of the impacts of network structure on, for instance, whether and how statutes and cases are invoked or cited; whether a human rights NGO is influential in certain topics or movements. Besides, the structural determinism also has implications for research methodology. Except for those scholars who focus on the power issues within social networks, most network-oriented scholars choose to design their research quantitatively. Based on numerical metrics, they can visualize networks and analyze the structural traits usually in software programs. No doubt, the quantitative approaches to network analysis are of importance in many cases, the qualitative meanings embedded in networks are difficult to be unraveled, however.

Keeping this primary downside in mind, the remaining subsections intend to conduct a “vetting process” to merely filtrate the technical shortcomings of the scholarly attempts at human rights-related networks. Some recommendations for future research are presented correspondingly. The ensuing subsections are about to coalesce the two tasks in order to deliver a more coherent and integrated message.

4.2 Lack of coherence

In general, although network research has been absorbed by a large variety of academic disciplines in past decades, it is still very challenging for these disciplines to make this

emerging field of study or scholarly orientation coherent. Taking network research in public administration as an example, the upsurge of enthusiasm for network theories and methods is genuine, whereas ‘various scholars have expressed their dissatisfaction with a lack of definitional clarity and coherence of the research program (Lecy, Mergel, and Schmitz 2014: 645). Although public administration scholars have already spent more than 20 years to try to establish ‘a coherent body of scholarship on networks’ (Wachhaus 2009: 60), this goal has not been achieved yet. Likewise, the literature review conducted in this chapter can illustrate that coherence is also a problem for human rights-related network research. What is worse than the problem *per se* is the unawareness of this problem in human rights academia. Otherwise, in order to solve this problem, there ought to have regular ‘efforts to organize this literature either by offering analytical frameworks or by extensive literature reviews’ (Lecy, Mergel, and Schmitz 2014: 646). Nonetheless, the reality is that no literature systematically reviews the status quo of research on human rights networks beyond the established disciplinary enclosures.

Concretely speaking, the different perspectives on the notion of network, as well as the conceptual disunities, are the typical representatives of the incoherence problems in question. In respect of the conceptual and terminological employment, it is observed that only a small portion of scholars was authentically adherent to the orthodox concepts, vocabularies, and discourses that have been prevalent for years in network science. Most of them came from political science, especially international studies. The vast majority of scholars in this field merely adored the functionality of the notion of network and neglected to appreciate its metatheoretical implications presented in the form of a peculiar discursive system. As to this point, it is also associated with another drawback of the current scholarship on human rights networks regarding the inadequate invocation of network theories and methods.

The incoherent feature in question is also a representation of the asymmetrical cross-references between distinctive disciplines and approaches. Given the pioneering

position owned by Keck and Sikkink, as analyzed above, the notion of TANs and its attendant theories have been inevitably applied to every ensuing research that involves networks in human rights field. Yet, existing literature shows that very few outcomes produced by lawyers, anthropologists, linguists and alike have been absorbed into the development of the political science tradition of research on human rights networks. While the frequent reference to Keck and Sikkink's TANs seems to provide us with a coherent cornerstone, the asymmetrical cross-reference crushes this illusion only thanks to a practical rationale: bidirectional dynamic creates coherence.

Therefore, it is argued that an integrated approach to human rights network needs to be appropriately adopted in the future. The first and foremost purpose is to address the existing problem of incoherence in this regard. However, adopting an integrated approach does not mean to literally impose a unification of utilizing network terminologies, concept, and so forth, or accepting a singular perspective on network, because to a large extent the differences on these issues are merely a set of superficial symbols of a return to the essential interdisciplinary nature embedded in research on human rights networks. As an eclectic way to make scientific progress, this interdisciplinarity leaves space for the coexistence of different perspectives. Instead, the proposed integrated approach is determined to create an academic consensus that would require transcending the dominant political science tradition of research on human rights networks and appeal to a more comprehensive cognition that research on human rights networks encompasses many disciplines.

4.3 Unbalanced units of analysis

As reiterated elsewhere, most of the current research on networks in the field of human rights prefer to choose organizations as their units of analysis. Human rights INGOs like Amnesty International have occupied the most abundant intellectual space of this area, which could be partially explained by the pioneering status of the political science tradition of research on TANs. In addition to NGOs, a handful of organizations, such

as judicial institutions, National and Sub-National Human Rights Institutions, intergovernmental organizations (The UN Human Rights Council (UNHRC), in particular), have been referred to as the units of analysis in the wake of legal scholars' awareness of the importance of network and network analysis.

In comparison with organizations, individuals have garnered much less attention from scholars in this area. More or less, a similar situation has been faced by human rights statutes, regulations, and discourses. None of them is the acknowledged protagonist in this network-oriented human rights studies. It is hereby worth noting that precedents and judiciaries have exempted from this "marginalization", as they have been often interrogated together with courts in judicial networks. In connection with the analytical notion of human rights users, current scholarship tells us a story of the evolution of networks in the field of human rights, in which rights supporters are regarded as the main storyline. Both networks of rights claimants and realizers are merely the side dishes, however. Rights realizers, in particular, have not been seriously taken into account by network-oriented human rights scholars, partially due to their radical "transnational" orientation of human rights that has extremely accentuated the significant role of non-state actors in global human rights governance.

The deficient presence of rights claimants, i.e., the ordinary people who are invoking human rights and who are actually the original author of human rights, in current scholarship has already formed an intellectual vacuum regarding the importance of how individuals' relationships and interactions affect the effectiveness of international human rights in local settings and their daily lives. Furthermore, downplaying the significance of these ordinary individuals in the context of human rights networks would be another accelerator for the ongoing professionalization of human rights, through which decision-making eventually 'becomes "off-limits" for ordinary individuals who lack the [human rights] expertise' (Land 2009: 207).

Acknowledging these shortcomings is the first step to move forward, and the balanced development of the unit of analysis is what network-oriented human rights scholars aim to achieve in the future. In other words, more attention should be paid to other types of human rights users. Based on this, some newcomers should also be promptly taken into account. For example, human rights cities, ‘in which local authorities explicitly base their policies, or some of them, on international human rights’, have already been incorporated into the group of human rights users. By treating human rights cities as rights realizers, research questions concerning, for instance, ‘the added value of reference to rights’ and ‘how human rights are integrated at the very practical level of urban politics’, can be addressed. Choosing human rights cities as a unit of analysis, therefore, would be a plausible complement to the inattention of current research on networks of rights realizers²⁷⁸. Additionally, for especially those human rights lawyers who tend to exploit the doctrinal or jurisprudential resources embedded in a wide variety of legal texts of human rights, it is more than wise to devote to widen the scope of research on human rights statutes and regulations under the banner of legal networks. Last but not least, this chapter believes that a focus on ordinary individuals in future network-oriented human rights research is as important as what the cultural turn has contributed to the revitalization of socio-legal studies, because, to a large extent, positioning ordinary individuals (or rights claimants) as the unit of analysis implies a paradigmatic shift from the structural dimension to the meaning dimension of a network (Fuhse 2009).

5. Concluding remarks

This chapter treated networks seriously in the human rights context by comprehensively and rigorously reviewing the existing literature concerning this topic. It intentionally transcended the disciplinary fiefdoms and positioned network as an interdisciplinary object of study through which the interdisciplinary nature of human rights research

²⁷⁸ Not only human rights cities but also cities in general ‘have turned into crucial actors in shaping and promoting’ human rights (Fraundorfer 2017: 23).

could also be (re)confirmed. Based on this, a distinction was made in terms of the perception of the notion of network, and at least four distinctive perspectives were recognized in this regard, i.e., the notion of network was perceived as a metaphor, a method, an actor, and a theory. In addition, as regards the substantial contents of the network-oriented human rights research, this chapter found that different forms of networks, namely the legal networks, discourse networks, networks of rights claimants, and supportive networks, were involved but with the unequal degree of popularity.

By taking account of both the different perspectives on the notion of network and the different forms of human rights networks, it was realized that previous research into this topic as a whole failed to endow the intellectual efforts with coherence on the one hand and balance the unit of analysis on the other. More importantly, this chapter uncovered the possible deadlock of the network-oriented human rights research caused by the absolute dominance of the structural determinism. In response to these shortcomings, some recommendations for future research were made. Among others, it especially suggested that more attention should be paid to networks of human rights claimants, investigating the impacts of these networks on the effectiveness of human rights in the local sites. Furthermore, future research should truly incorporate more network theories and methods into their analysis, rather than merely referring to the notion of network itself and its analytical implications. Last but not least, network-oriented human rights scholars should try to balance the weight between the structural and meaning dimensions of networks, which, roughly speaking, requires more qualitative research approaches.

This chapter, to a large extent, has already accomplished the missions designated by the research strategy of this dissertation. It provided a big picture of the emerging scholarly field of human rights-related networks upon which this dissertation is intellectually based. More concretely, it capitalized on the existence of the vast literature as a way of proving the necessity and rationality of assessing the effectiveness and local relevance of human rights (the right to education) in China from a network perspective.

In this sense, this chapter also contributed a “factual basis” to this dissertation.

Part 2 Empirical Research

Chapter 5 Empirical Research Methodology and Process

1. Introduction

As described in Chapter 2 (Section 6), the research for this dissertation comprises two main components. While the first component has involved mainly desk-based research, the second component is an empirical case study that draws on social sciences methods. This chapter gives a detailed introduction to the research methodology and research process of the case study. It first sketches the general research process and strategy in Section 2. This is followed in Section 3 by a discussion of the data collection techniques used in the fieldwork. Section 4 describes the demographic characteristics of the participants involved in the research. In Section 5, linguistic issues and translational strategies are clarified. Lastly, Section 6 explains the strategies adopted for data analysis.

2. Overview of the research process and strategy

This empirical case study is, by nature, a qualitative network analysis. Moreover, in Hollstein's typology of the qualitative approaches to network research, this study should be mainly localized in the area of network effects, i.e., how migrants' relations affect the local relevance of human rights. However, it is also worth noting that other areas such as network practices and orientations are also touched upon in various degrees²⁸⁰. Thus, this empirical case study adopts an egocentric network approach, which requires a more in-depth analysis of, for instance, the evolution, meaning, and culture of a network. Rather than aiming at attending to the relationships between all actors (nodes) that are subsumed into a defined system, this study is interested in each actor's personal network, examining all the ties between this *ego* and other actors. As briefly mentioned above, the actors, or nodes, in this empirical study are identified by

²⁸⁰ According to Betina (2011), there are essentially six areas most suitable for qualitative research, namely exploration of networks, network practices, network orientations and assessments, network effects, network dynamics, and the validation of network data.

a loose *event-based* boundary line, i.e., any individual and entity engaged in the rural-urban migrant children's education could be an eligible actor. To name but a few, eligible actors thus include migrant children and parents, migrant schools and teachers, educational authorities, governments, NGOs, foundations, human rights activists, media, celebrities, and so forth. However, from a practical perspective, and in view of the migrant children's immature relational interactions, migrant parents are treated as the entry point and the major research units. Starting from migrant parents' social networks, other actors are traceable among the ego-alter ties and alter-alter ties.

Choosing Beijing as the fieldsite, the fieldwork of this study was mainly conducted during December 2018 and February 2019. During the period of fieldwork, an urban-village, located in the Chaoyang District of Beijing, was selected as the primary entry point. A single room was rented in the village in order to facilitate ethnographic observation. Besides, this study also utilized other means (see Annex 1), such as mobilizing *guanxi* resources, recruiting (with payment), and online searching, so as to gain access to the field (especially to gain contact with interviewees). This study relied on qualitative network map interviews, i.e., combining semi-structured interviews with network visualization, with a total of 17 participants ($n=17$) by the author. All the interviews were audio-taped and transcribed verbatim. Notes were recorded regarding the interviewees and other persons and events involved in the participant observation. To analyze the interview transcripts, network maps, observational notes, and other relevant documents, this study relied on a basic data analysis strategy adapted from the Qualitative Structural Analysis (Herz, Peters, and Truschkat 2015).

3. Data collection techniques

The quality of social network-related research depends on the quality of the social network data obtained (Rice et al. 2014). For this reason, the data in this study are based on triangulation of qualitative network map interviews, participatory and direct observation, and document analysis. Given that this empirical case study was designed

to also serve as a “how-to” example for the overall arguments of the dissertation, these data collection methods were also adopted as its “resonation”.

3.1 Qualitative network map interview

The primary method for data collection in this empirical study was a qualitative network map interview. Although there has been no unified name for this type of method, the basic idea, as explained by proponents of this methodical development and application (e.g., Ahrens 2018; Altissimo 2016; Betina 2011; Dobbie, Reith, and Mcconville 2018; Herz, Peters, and Truschkat 2015; Hogan, Carrasco, and Wellman 2007; Jaspersen and Stein 2019; Kolleck 2013; Tubaro, Ryan, and D’Angelo 2016), is that combining network maps and interview narratives will contribute to a more sophisticated perception ‘of the content of different kinds of *relationships*, of their structural configuration in *networks*, and of the *meanings* attached to both relationships and networks’ (Jaspersen and Stein 2019: 2). Consequently, the problems of structural determinism (in standardized network analysis) and subjectivism (in some qualitative approaches to network analysis) are simultaneously confronted. In this sense, the exponential rising of the utilization of network map interviews for qualitative network analysis can be understood as a methodical ramification of the “cultural turn” in network science (e.g., Emirbayer 1997; Fuhse 2015, 2009; Mützel 2009). This emphasizes that networks are not just structural configuration to be measured and visualized, but also have cultural meanings with narratives that need to be discovered and understood.

Network-oriented researchers are not unfamiliar with interviewing methods in the data collection phase, irrespective of which theoretical positions are taken. Using interviews to collect network data can be traced back to at least 1922 (Freeman 2004: 20). As a well-established method, both the content and the format of an interview may benefit from the application of visual methods of mapping social networks. For instance, network map creation provides an opportunity to collect additional and more detailed

data on what networks might look like, which could be difficult in the form of only recording 'how networks are spoken about in interviews' (Ryan, Mulholland, and Agoston 2014: 2).

Given the merits and considerations mentioned above, the present empirical study has embedded the network map creation technique into the semi-structured interview (with 17 participants in total, see demographics of interview participants). Both the flexible and in-depth characteristics of the semi-structural interview informed this choice (e.g., "The semi-structured depth interview", see Wengraf 2001). Flexibility was important in a qualitative interview, as it enabled me to adjust both the procedure and content when necessary. In addition to flexibility, semi-structured interviews also guaranteed a particular discretionary space to ensure the focus on specific topics. For example, before the data collection process, a topic guide for interviews with the parent participants (see Annex 2) had been prepared based on the theoretical and analytical logic of the Chongqing project (i.e., the localizing human rights approach). However, it was rarely used in a completed manner, as adjustments had to be made when I noticed (the possibility of) more important and relevant information, such as stories about the demolition of migrant schools, in the course of the interview. Also, for different reasons, the interview procedure was correspondingly altered. Among others, it is worth noting that the prepared research information sheet (see Annex 3) was not presented to the interviewees, because a previous experience with a neighbor who declined my request for an interview taught me that paper documents as such might be a source of concern or mistrust (overformality) in the migrant community context²⁸¹. Thus, when the very

²⁸¹ I met this neighbor in the small grocery store located inside the apartment building where we were living in the urban-village *Picun*. While I was chatting with the owner of this grocery store and complaining about the coldness of my room in such winter times, this neighbor was also in the grocery and agreed to let me use his spared plastic fabric to cover the window, so that the cold wind could be prevented from entering my room. Against this backdrop, I got chances to enter his room and go to know that he has a school-age daughter who was in studying in Tianjin. During our conversation, he explained to me why his daughter was in Tianjin, rather than in Beijing or his hometown Wuxi (Jiangsu province), to receive compulsory education. Based on this interesting story, I immediately explained the reason why I stayed in this village and invited him to be my research participant. The pleasant and relaxed atmosphere of our conversation was not changed until the research information sheet was presented to him. He rejected me by saying: "I don't like

first interview was conducted, I presented the project information and consent request orally. All parts of the oral presentation, including the participant's explicit confirmation of consent, were audiotaped.

In this empirical study, the network map creation was allocated to the later phase of each interview. At present, there is no consensus about the timing and placement of the network map creation in interviews. As such, the question has not even been seriously discussed in the existing literature. Ahrens (2018: 4) treated it as a crucial issue and avoided allocating the network map creation in the beginning *or* at the end of the interview, because 'in the beginning, interviewees needed to become familiar with the interview situation; at the end, interviewees might have been too tired'. By asking her interviewees to draw network maps in the middle of interviews, she expected the network map exercise to 'function as a "break" during an interview of often 1 to 2 hours' (Ibid). On the contrary, for instance, Altissimo (2016: 5) presented the network map to the interviewee at the beginning of his interviews. Altissimo also pointed out that the network map became 'the golden thread of the narration' if it was presented at the start of the interview, 'creating a situation in which the role of the interviewer's questions was to keep the respondent interacting with the map, more than with the interviewer'.

Indeed, there is no right or wrong choice. Approaches to the placement of the network map vary depending on the role envisaged for it in the overall data collection process. In contrast to the authors mentioned above, I included the network map creation exercise in the later stage of the interview, mainly for two reasons: to avoid the hollowness and to maximize the interviewee's reflections. Placing the map creation in either the beginning or middle might raise the questions of what it was, especially for these rural-urban migrants who had received little education. Thus, I used the open-ended questions prepared in the interview guide to formulating a concrete (discursive) context for the network map creation. More importantly, this specific placement aimed

to involve myself with too formal an event, being a *laobaixing* (ordinary person) is enough".
[Fieldnote, 2018/12/19]

to provoke these participants to reflect upon the ties, structures, and meanings of their personal network (unconsciously) mentioned in their answers in the constructive process of drawing participants' personal networks. By doing so, a reflective connection was constructed between "talking ties" and "mapping ties".

When the time arrived for creating a network map, respondents were provided with an A4 sheet with four concentric circles (as to the concentric circle, see Kahn and Antonucci 1980. Also, see Annex 4). In other words, the approach adopted in this study for creating network maps (or sociograms) was a pen-and-paper method. In fact, both concentric circles as a tool for network visualization and pen-and-paper as a *medium* (or technique) have been utilized and refined by many network-oriented researchers (e.g., Ahrens 2018; Djomba and Zaletel-kragelj 2016; Dobbie et al. 2018; Jaspersen and Stein 2019; Kolleck 2013; Perry, Pescosolido, and Borgatti 2018; Tubaro et al. 2016). Building on these contributions, the design and implementation of the network map creation exercise in this study was as follows:

- The study used the "method of concentric circles". In addition to its easy accessibility and participant dominance, the main reason for adopting this method was because of its ability to 'promote subjective validations of interview narratives as well as to highlight subjective perceptions, reasons, motivations, and network dynamics' (Kolleck 2013: 6). This characteristic matched well with the methodical requirements of a qualitative network analysis designed by the present empirical study, aiming to, together with narratives collected, investigate the meaning structure of, mainly, migrant parent's ego network and its effects on how human rights were perceived, uttered, and used in the context of compulsory education in Beijing.
- Participants were asked to write the names of people or any other entities whom they felt were important (or relevant) in their children's compulsory education in Beijing. In other words, the name generation question (or name generator,

see, e.g., Bidart and Charbonneau 2011; McCarty et al. 2019; Perry et al. 2018) was formulated as follows: *which person and/or entities are important for your child(ren)'s compulsory education in Beijing?* The presentation of this name generation question *itself* was the practical implementation of a strategic “trick” endorsed by the entire empirical case study, trying to circumvent the sensitivity issues of conducting empirical human rights fieldwork in China.

‘In China many, or maybe all, research topics dealing with social and political issues can be regarded as sensitive, depending on the timing and framing of the research’ (Svensson 2006: 263). Human rights research undoubtedly belongs to these politically sensitive topics in authoritarian China. It is therefore important for researchers to immerse themselves in the contexts and bypass the potential or existing constraints by invoking creative ways of collecting research data (Reny 2016). When Chen and her research assistants (2016) undertook the empirical fieldwork in Chongqing, the project was tactically presented to the interviewees as an investigation of the educational situations of rural-urban migrant children, rather than directly informing them that they involved in a human rights research. In addition to the security consideration, this strategic omission was necessary for gaining access and eliciting authentic and reliable data from Chinese interviewees who were not mentally and psychologically tied by political pressure.

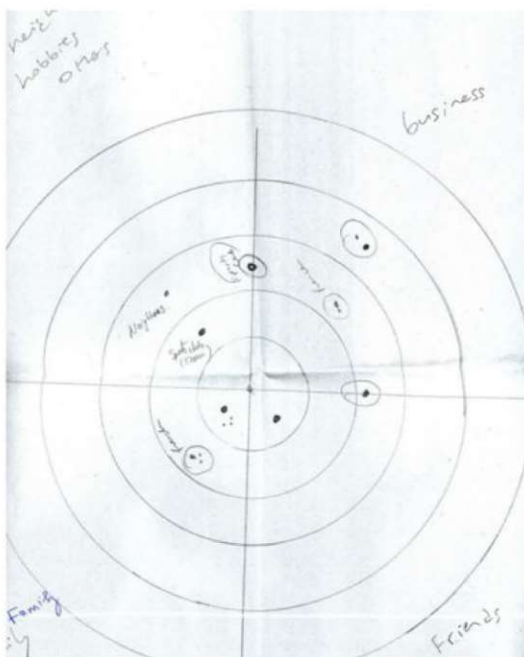
The success of this strategy also inspired the empirical fieldwork of this study in Beijing. Identically, the research was presented as an academic endeavor of examining the educational situation of rural-urban migrant children in Beijing. This “polished” representation was, however, not substantively or ethically at odds with the original research aims and design. From a practical perspective, the right to education is completely penetrated into every aspect of education. Therefore, talking about education by and large equals talking about the right to education itself. The distinction merely stems from different angles such as legal, pedagogical, and sociological. Nevertheless, an emphasis should be made that, unlike the Chongqing project, some

participants were informed of the full context of this study, i.e., focusing on the right to education, either in the course of the interview or in the post-interview conversation. Fortunately, the facts proved that the strategy in question was understandable for these participants. To conclude, in line with the general strategy of avoiding mentioning too much human rights, the name-generator question was intentionally not framed as (for instance): *which person and/or entities are important for your child(ren)'s enjoyment of the right to education in Beijing?*

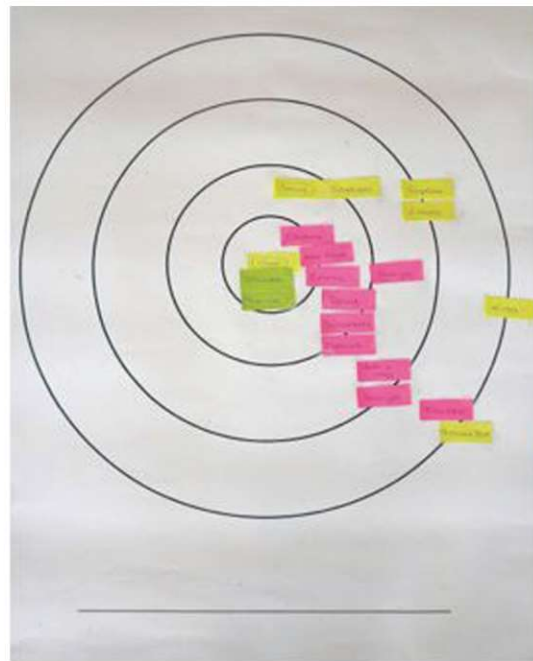
- After raising the name-generator question, the spatial logic of the concentric circles, as well as the way of locating the alters in them, was explained in detail. Instead of an unstructured map, interviewees were provided with a structured yet nonstandardized map in which four concentric circles were included. As such, the meaning of the circles was not predefined (see examples in Figure 3). Although employing a structured nonstandardized network map might reduce the feasibility of making a comparison between sociograms, it does increase the possibility of observing interviewees' making and understanding of the ties and meanings (Ahrens 2018: 4). The interviewees were told that the innermost circle represented themselves. Next, they were asked to position those alters (both person and entities) they felt most important in the circle nearest to the innermost circle, and position those they felt less important further away from the center. However, even if this spatial logic was repeatedly explained, some interviewees had problems in processing this (see more details below).
- As long as one alter was named and positioned by interviewees, a set of complementary name-interpreter questions were raised synchronously to encourage interviewees to elaborate on the attributes of this alter, types of relationships, contents of interactions, reasons of importance, and so forth. Both stickers and pens, with different colors, were supplied for this purpose (Ahrens 2018; Dobbie et al. 2018). The interviewees were asked to use different colors

to differentiate between ties or anything necessary. Yet, most of the interviewees completed the sociogram by using only one pen.

- The process of creating network maps was always concluded by asking for confirmation from the interviewees if they would like to add or correct anything. Besides, as the epilogue of the interview, interviewees were asked whether they wanted to add anything else and whether they were uncomfortable during the interview. The interview was designed to last approximately one to one and a half hours. The participants were free to choose the place and time for the interview (see Annex 5).



Standardized version of concentric circles



Nonstandardized version of concentric circles

Figure 3: Standardized and nonstandardized versions of concentric circles
Compiled from Altissimo 2016 and Ryan et al. 2014

3.2 Observations

In addition to conducting qualitative network map interviews with the migrant parent

participants, this study also utilized various observation techniques to gather additional data during the fieldwork. More specifically, the direct observations, participant observations, and online observations were carried out comprehensively to facilitate a “thick” understanding of the interactive dynamics and meaning-making mechanism of rural-urban migrant communities against the backdrop of the localization process of the right to education in Beijing.

Undoubtedly, both in general qualitative research and social network research (e.g., Clark and Trousdale 2013; Desmond 2014, 2016; Perry et al. 2018) observation plays an essential role in the data collection phase, mostly due to the naturalness of the elicited data. Among other approaches to observation, participant observation has won special attention and preference among qualitative researchers and has even been referred to as a “synonym” for fieldwork (Clark 2011: 19). Even though this equation would be somewhat exaggerated in the present context, the participant observation did contribute to the richness and depth of data. In order to immerse into the context of the life of rural-urban migrant community in Beijing and transform myself into an “instrument” of data collection (Creswell 1998), an urban-village was selected as an entry point for the fieldwork from which a sketch of rural-urban migrant communities emerged and the connections among the village insiders, outsiders, and myself were created. In other words, the selected urban-village was not awarded a mandate to specify the boundary line of this fieldwork. The frequent visits to another urban-village, which was far away from the one where I was living, were the potent evidence.

I rented a typical single room in the urban-village called *Picun* (皮村, located in Chaoyang District of Beijing). There were two main reasons for choosing this village. Firstly, there were two privately-run migrant schools in this village. One of them was well-known and frequently exposed to the media. More importantly, this migrant school had been the target of several demolition orders issued by the local government, but nevertheless still in existence. Secondly, the village itself was a survivor from the large-scale demolition of rural-urban migrant communities on the outskirts of Beijing. These

features dovetail well with the research interests of this project. After moving into the village, I became a member of this migrant community through which I was able to unobtrusively engage with the landlords, neighbors, restaurant and shop owners, migrant parents, migrant school teachers, and so on so forth.

Additionally, the participant observation that happened in another urban-village *langfa* (狼堡, located in the Daxing District of Beijing) was particularly important for data collection. Rapport with relevant community members was built by participating in the campus tours together with both migrant children and parents who were looking for new schools after the sudden closure of the current one. As with the previous cases, this migrant school had also received a notification of forced shutdown from local government authorities. By posing as a migrant parent, I went to some (migrant) schools together with them, joined their discussions, and deliberated preliminary decisions with them. This whole observational process generated extensive data.

The fieldwork in Beijing also included direct observation and online observation, albeit both were treated as complementary. While the direct observation focused on the interviewees' non-verbal behaviors, living conditions (if applicable), and others, the online observation rather attended to their posts on the Chinese social media platform WeChat. Except for a few interviewees, we added each other as friends on WeChat either before or after the interviews. I took screenshots of their relevant posts (texts and/or photos) and treated them as observational data²⁸².

3.3 Document analysis

This empirical study also generated complementary data from relevant documents, including academic literature, newspaper articles, NGOs' reports, internet resources, and legislation and policy documents. A variety of documents provided by the NGO

²⁸² It is important to clarify that this kind of observation and materials (data) produced from it were cautiously in order to protect the privacy of the participants. Based on the principle of anonymity, no information appeared in this dissertation revealed the specific information of the interviewees

participants of this study were analyzed and used with their explicit permission.

4. Demographics of interview participants

4.1 Sample methods and size

Primarily relying on a non-probability sample design (with regard to the sampling methods for ego network research, see Perry, Pescosolido, and Borgatti 2018: 37-67) that guided the selection procedure of research participants (*egos*), a total of 17 persons were selected in this empirical case study as participants in the qualitative network map interview (14 migrant parents, 2 NGO leaders, and 1 migrant school teacher. See Annex 6). In a nutshell, this was the result of a combination of a set of purposive sampling techniques which mainly consist of the snowball sampling method, criterion sampling method, and purposeful random sampling method. At the research design stage, I had set up two essential criteria by which the sampling process could be both facilitated and regulated. These criteria were: (1) having a rural-urban migrant status in Beijing; and (2) having (a) child(ren) receiving compulsory education in Beijing. However, in practice, these criteria were flexibly applied. Given that the transitional movements caused by, for instance, the closure of the school, residential relocation, and returning to hometown for further education, are also a critical point of the investigation, migrant parents whose children had previously received compulsory education in Beijing were also considered eligible research participants. Based on these sample methods, this study confirmed the sample size by data saturation (Mason 2010).

4.2 Migrant parents

In total, interviews were conducted with 14 migrant parents. However, it should be noted that this number is slightly below the actual number of migrant parents involved in the interviews, as in some cases (P6, P7, P11) both the father and mother from the same migrant family jointly appeared for the interview. Rather than merely witnessing the proceeding of the conversations with their partners, all of them broke their silence

in the later part of the interviews and made their contributions by either complementing the views presented by their partners or independently expressing their own points of view on specific topics. Yet, the purpose of their fortuitous involvement or interruption should not be understood in an absolutely positive manner. In especially the case of the interview with P7, the husband of this participant, drawing on his working experience in the educational sector, provided me with some interesting facts and opinions on the general educational situation of migrant children in Beijing. However, it also became evident that the genuine intention of his interference, which was disguised as a form of his volubility and hospitality, was to prevent his wife from elaborating on the details of their protesting activities against the closing down of a privately-run primary school where their daughter has been receiving compulsory education. It seems more appropriate to immediately showcase the most sparkling characteristic of the research participants, i.e., the existence of the experience of formulating claims and taking (collective) actions to change and improve the child(ren)'s educational situation, in order "to make hay while the sun shines."

Precisely, of the migrant parents interviewed, six of them, namely P3, P7, P8, P12, P13, and P14, had the prior experience of participating in collective actions aimed at compensating their children's education-related injuries caused by the shutdown and demolition of (migrant) schools. Their presence in the sample *per se*, signifies a core difference or breakthrough from the abovementioned Chongqing project, regardless whether or not, at this stage, their claims and subsequent actions were framed and guided by employing human rights language or international human rights law principles (Oré Aguilar 2011: 115). Because, at the very least, it broadens the factual premise for the ensuing analysis of the possible connection between participants' social networks and the relevance of human rights in their concrete problems. Returning to this demographic feature, these 6 participants were involved in two different cases (schools). While their children's schooling problems had been comparatively properly handled by certain means when the interviews with P3, P7, and P8 were conducted,

another case consisted of P12, P13, P14 was still labeled as a present progressive tense. As we will see in the analysis chapter later, this division can be regarded as an underlying point of departure for the distinctive narratives and perceptions of their claims and actions upon which a more insightful comparison between the two cases and between this type of participants and the remaining others might be drawn.

Moving back, it should be clarified how the simultaneous presence of father and mother in the same interview was counted. Unless otherwise specified, these instances were counted as one participant in the sampling pool and a single identification was used to refer to the person who accepted the interview request. However, the interruptions of partners, if applicable, were verbatim recorded in the corresponding transcripts and observation notes for data analysis. Partners accompanying the formal interviewees have not been included in the demographic information that I compiled. Among the 14 formal participants, a rough gender balance was reached by 8 women and 6 men, representing 57.14% and 42.86% respectively (Table 5). Among the 6 male participants, both P1 and P2 explicitly confessed (even emphasized) their unfamiliarity with their children's educational situation as they conventionally stuck to the practice that Chinese mothers take primary parental responsibility for their children's education, allowing the mothers to act as their children's education "agents" (Yang 2018). This principle was naturally implemented when P1 and P2's families decided on letting their mothers take children back to their hometowns for further schooling. Incidentally, P1 and P2 were the only two participants living in Beijing by renting without the companion of their family members when the present empirical study was conducted there. On the contrary, all of the remaining participants were accompanied by their spouses and children. Moreover, the parents of P4, P5, P11 were also living with them, whose partial responsibility, according to these participants' description, was to send and pick their grandchildren from school as well as to share some housework like cooking and cleaning. This phenomenon, pervasive throughout the absolute majority of participants, might echo the emerging general trend of familization of rural-urban

migration and the typical household structure in China (see again, Fan and Li 2018; Yang and Chen 2013).

Table 5: Demographics of research participants (migrant parents): Gender

Variable	N	%
Male	6	42.86%
Female	8	57.14%

Note: N = 14

Further examination of the group of participants living with their parents in Beijing, shows distinct characteristics concerning their housing condition, level of education, and occupation. Broadly speaking, except for P11, both P4 and P5 received college education, had decent jobs, and owned their own houses in Beijing. In this regard, P10 should also be included although she chose to be a full-time housewife. These characteristics suggest a social stratification among the participants which has specific implications on the substantial and procedural dimensions of the present empirical case study. Starting with the level of education (Table 6), 4 participants (P1, P2, P3, P6) did not finish the compulsory education, 2 participants (P9, P11) finished junior middle school, 4 participants (P7, P12, P13, P14) finished senior middle school, and 3 participants (P4, P5, P10) received college education. For undisclosed reasons, P8 did not provide me with her educational background and occupation. In addition to the probable correlations between participants' educational level and their level of concrete knowledge about the questions that were asked in the interview (which will be discussed below), the empirical research process was also visibly or invisibly affected by this demographic characteristic. Among others, one of the most remarkable effects was associated with their difficulties in understanding and completing the network map.

Table 6: Demographics of research participants (migrant parents): Level of education

Variable	N	%
Primary school	2	15.38%
Junior middle school	2	15.38%
Senior middle school	4	30.77%
College	3	23.08%
Junior middle school (uncompleted)	2	15.38%

Note: N = 13; P8 did not provide; Senior middle school includes the vocational high school

Although I always needed to explain and repeat, especially, what network mapping is and how it works to every single participant, those who were less educated as a whole had more difficulties in this regard than, especially those who had a learning experience in university settings. For example, they often could not remember how to spell some (simple) words and got confused by the spatial variations of, as well as the logic of placing their alters in the concentric circles. Even for these standards, P6, who only received primary education, was an extreme case. When the interview moved to the stage of mapping his social network as stipulated by the research design, both the participant and his wife (who had come back home from work and had casually joined us), were completely confused about this request and apologetically reiterated their illiteracy. Even with the assistance of their daughter, who was sitting up in the bed with her younger brother watching television in the room while the interview was going on, this interview procedure could not proceed any further in an anticipated manner. In order to solve this problem, I decided to help them to complete the network map by strictly referring to their answers to my questions. As a result, they not once took hold of the prepared A4 paper containing the concentric circles.

The very occasion where I met P6 and his family members can to some extent give rise to a concern as to rural-urban migrant's housing and living conditions. We met and then interviewed in their small and messy (honestly) rented room in which two beds

(one for parent and another for their 16-year-old daughter and 8-year-old son) occupied large areas. They had to pay 400 RMB per month for this room which was very cold in Beijing's winter as there was no heating system. However, there is no need here to detail the poor living conditions and plight of migrants living in Chinese cities, as the existing literature has already done this from various perspectives (see, e.g., Kochan 2016; Li, Wang, and Chang 2018; Yu and Cai 2013). Gradually, I also got used to these kinds of living conditions since 11 interviewees – 78.57% of migrant parents in the sample – did not (and could not afford to) own a house in Beijing. Instead, they made different decisions on the issue of housing (Table 7). While most of them had to rent a single room in which the whole family lived, two participants lived in the loft of their stores with other family members. Based on the interviews and post-interview conversations, both the living costs and job opportunities were their primary considerations when choosing a place to live. It is also in line with the existing literature statistically revealing that '75% of rural-urban migrants in Beijing worked and lived in the same street (*jie-dao*) or town (*zhen*), and about 87% in total had worked and lived in the same administrative district' (Yu and Cai 2013: 272). Due to the high rent in the city center, all of them were living in the urban-villages located on the fringes of Chaoyang District, Fengtai District, and Daxing District (Figure 4), where the requirements for enrollment in public schools are (slightly) different from the city center. However, no matter whether they bought or rented the house in Beijing, all the participants in the sample had refrained from transferring their *hukou*, including their spouses and children's *hukou*, to Beijing. The difference is that those who had bought their own houses in Beijing were intent on obtaining a local urban *hukou* in accordance with the new point-based household registration system, although in our interviews they were pessimistic about the outcome. Otherwise, for instance, P5 might be less interested in buying a *hukou* for her husband in Tianjin in order to ensure the opportunity for their son to receive better compulsory education in a better city close to Beijing.

Table 7: Demographics of research participants (migrant parents): Housing solutions

Variable	N	%
Renting a single room	7	50.00%
Renting an apartment	1	7.14%
Purchasing house	3	21.43%
Living in the workplace/store	2	14.29%
Sharing a single rented room with others	1	7.14%

Note: N = 14

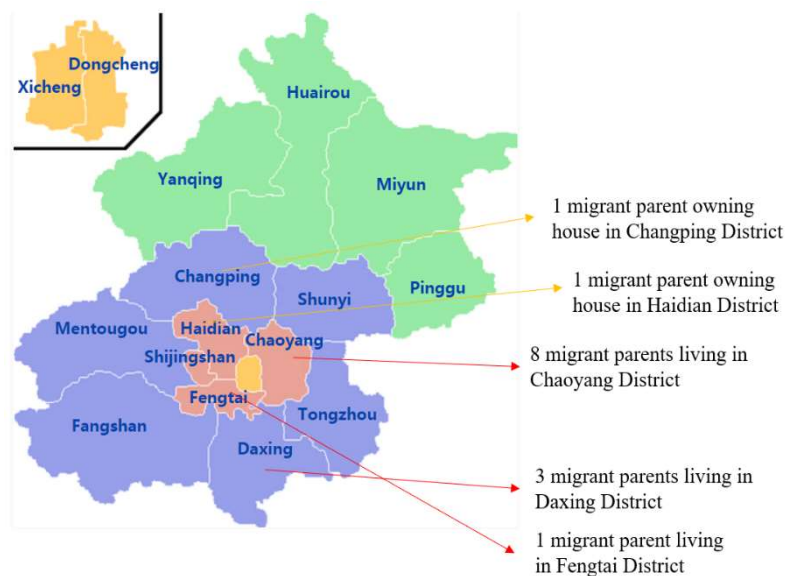


Figure 4: Demographics of research participants (migrant parents): Geographic locations

As mentioned above, the housing solutions, as well as the geographic locations, of migrant parents were also related to their professional occupations. In this regard, migrant parents interviewed for this study may be divided in the following categories: employment in the state-owned or high-tech companies (P4, P5), employment in the individually-own business (P1, P2, P11, P13, P14), self-employment in small business (P3, P9, P12), temporary employment (P6), and unemployment (housewife: P7, P10). Their jobs spanned a variety of sectors, including energy, IT, service, construction, retail, and so forth. However, it is also worth noting that most of them, except for P4 and P5,

had had the experience of changing their jobs once or several times before our interviews. This is not surprising as they had been staying in Beijing for, on average, 14 years by the time our interviews took place. The longest sojourner was a mother (P8) who had been in Beijing for 25 years. However, even if so, she was planning to leave and return to her hometown for her little daughter's further schooling. This plan was their reluctant compromise for the educational hurdles of migrant children in Beijing, which virtually constituted an irony for both the mother who made her contributions to this city as a rural-urban migrant and her daughter who was originally born and raised in Beijing. This daughter was not an isolated case among the migrant children indirectly studied through the proxy of their parents (see Annex 7). Instead, there were 15 out of 28 participants' children who were born in Beijing. The high ratio of the "second generation"²⁸³ could be counted as one of the significant traits of parent participants concerning their child(ren). The remaining traits in this regard were as following:

- The vast majority of parent participants had more than one child. Furthermore, 9 out of 14 parent participants had two children.
- There were 17 female children and 11 male children. Besides, 7 out of 14 parent participants had one son and one daughter.
- By the time of our interviews, 17 children were receiving compulsory education in Beijing (15 in primary school and 2 in junior middle school), whereas others were either older or younger than the compulsory school ages (2 in senior middle school, 3 in kindergarten, and other situations like an infant).
- All children did not obtain urban *hukou* in Beijing and, except for P7 and P10's children, all the rest children had rural *hukou* in their parents' place of origin.

4.3 Other participants

In addition to the abovementioned parent participants, two interviews were conducted with the Director-General (NGO1) and Deputy Director-General (NGO2) of an NGO

²⁸³ Based on Ming (2014: 52), migrant children of the "second generation" include those born in the cities or who came before their formal schooling started, and the "1.5 generation", who came later in their teenage years.

called, with their explicit permission, New Citizen Program (新公民计划). Another one was conducted with a teacher in a migrants' school. The New Citizen Program (NCP hereinafter) is a Beijing-based NGO that was originally initiated by the Narada Foundation in 2007 and dedicated itself, to borrow their own words, to 'research and advocacy for fair and quality education for migrant children, and improving the environment for their growth'²⁸⁴. To that end, NCP concentrates on migrant children's education on three horizontal and interdependent levels, namely research advocacy, action advocacy, and communication advocacy. In research advocacy, the NCP team, which consists of 11 core members, mainly published a series of research reports on migrant children's education both substantially and statistically setting out the various problems and possible policy solutions (New Citizen Program 2014, 2015; Yang, Qin, and Wei 2017). These publications have already attracted increasing attention from the scientific communities and media²⁸⁵.

Furthermore, in order to formulate a necessary platform for those publics who are keen to engage in the educational issues confronting migrant children by taking concrete actions, the orientation of action advocacy launched some projects in which volunteers were invited to participate in different ways. One of the ongoing projects under the banner of action advocacy is called Wave Library (微澜图书馆), which is committed to establish and operate small public libraries for migrant children in migrant schools or urban-village communities. At present, there are approximately 20 Wave Libraries distributed over different districts across Beijing.²⁸⁶ In addition, NCP's communication advocacy has tried to draw more attention from society and the publics by tracing the returnee migrant children and collecting and sorting out the history of

²⁸⁴ See, for instance, the self-introduction of its social media profile, which is also reiterated in its official website <http://www.xingongmin.org.cn/> (last visited in March 2019).

²⁸⁵ Academics from different disciplines have increasingly referred to NCP's reports when they touched upon the topics related to migrant children's education. E.g., (L. Chen et al. 2019; Chen et al. 2017).

²⁸⁶ Not only in Beijing, Wave libraries have already been established in both Guangzhou and Changsha. See http://blog.xingongmin.org.cn/?page_id=3922 (last visited in March 2019).

migrant schools²⁸⁷.

With its persistent concentration on migrant children's education, NCP has become one of the most active and authoritative NGOs in this field. For this reason, it seemed sensible to assign more weight to NCP when determining an 'appropriate seed location from which to draw ego respondents' (Perry et al. 2018: 40). More importantly, the rights discourses displayed in NCP's public persona (e.g., official annual reports, project booklets, website, and social media accounts) were another stimulus for further research. After all, NCP's fundamental advocating slogan was articulated as follows: "every child shall enjoy the equal right to compulsory education in parent's place of residence"²⁸⁸. One last reason to focus on this specific organization was that NCP had previously run or sponsored several non-profit migrant schools in Beijing, called "New Citizen Schools" (新公民学校). At least as relevant was that one of these New Citizen Schools had been ordered by the government mandate to close in 2012, despite various actions taken by the school to justify its existence and defend its interests²⁸⁹.

There were two expectations in the original correspondences with the Director-General of NCP. The first of these was to gain access to the field (see 6.4.4); the second was to acquire a deeper understanding of the organization *per se*. Although the Director-General did not directly roll the snowball for sampling, choosing him as the very first interviewee in the fieldwork turned out to be a good strategy. Not only did he supply a valuable overview picture of the topic in question, but he also provided extensive details on the interactions between NCP and migrant children, parents, volunteers, migrant schools, and other actors at the frontline of fighting for equal, quality, and apt education for all migrant children.

²⁸⁷ In order to trace the returnee migrant children, NCP staffs and volunteers <http://www.xingongmin.org.cn/?cat=139> (last visited in March 2019).

²⁸⁸ The original expression in Chinese is "每一个儿童都能在父母的居住地平等享有义务教育的权利". See http://www.xingongmin.org.cn/?page_id=702 (last visited in March 2019).

²⁸⁹ See, e.g., a media report on this in http://www.gongyishibao.com/newdzb/html/2012-08/14/content_3178.htm?div=-1 (last visited in March 2019).

The purpose of the interview with Deputy Director-General was different from that with the Director-General. Instead of a simple repetition, it was a focused attempt to obtain in-depth information about the shutdown and demolition of schools for migrant children in Beijing. This attempt was triggered by a web article previously written by the Deputy Director-General in which she had documented, allegedly as a witness, a “fresh” closure of a migrant school in Daxing District of Beijing²⁹⁰. After establishing contact with her on WeChat, she provided, among others, a set of suggestions for following up on the Daxing case. Besides, she even shared more stories about the closure of migrant schools she had experienced or witnessed in the interview. These stories, as well as her interpretations, are important qualitative data collected from this fieldwork.

5. Linguistic issues and strategy

5.1 Researching multilingually

Given the qualitative nature of this study, it is important to pay particular attention to the (socio)linguistic issues embedded in its research process. After all, qualitative research is inherently ‘reliant on the interpretation of words – language is central in the research process, from collecting data that capture the richness of participants’ experiences, through to the dissemination of finding’ (Esfehani and Walters 2018: 3160). The issue has become even more salient as a result of the rise in international comparative research in recent years. Indeed, the increasing number of multijurisdictional (and multicultural) research teams and related multilingual research practices have placed language issues and strategies into the center of methodological and ethical considerations (e.g., Chidlow, Plakoyiannaki, and Welch 2014; Holmes 2017; Holmes et al. 2013, 2016; Linares 2019; Temple and Koterba 2009). Although

²⁹⁰ Yue, Yihua. 24 December 2018. “北京大兴打工子弟学校拆迁风波 (The Demolition of Migrant School in Daxing District of Beijing).” Retrieved <http://www.xingongmin.org.cn/?p=4603> (last visited in March 2019).

most of these considerations directly or indirectly pertain to the issues concerning the translation and interpretation from source language to target language (e.g., Al-amer et al. 2014; Al-Amer et al. 2016; Chapple and Ziebland 2018; Esfehiani and Walters 2018; Inhetveen 2012; Nurjannah et al. 2014), there is an increasing awareness about the links between language choice, as well as language tactic, and a set of broader concerns in the entire research process, ranging from the formulation of the research design to the dissemination.

One important concern regards the positionality of the researcher, i.e., the reflexive relationship between the researcher and the environment in which the research takes place. In this case, as an international student returning to his home country to conduct field research, the researcher ‘might be seen as an “expert” in terms of linguistic ability and cultural interpretation’ (Robinson-Pant and Wolf 2016: 108). During my research trips to Beijing, rather than speaking English in the field site, I paid special attention to the mobilization of linguistic resources and competences, i.e., the ability to speak not only the Standard Mandarin Chinese but also the Chengdu-Chongqing and Henan dialects, so as to facilitate access to the field, build trust with research participants, and enhance understanding and interpretation of the qualitative data. As a result, my positionality in the field site ‘shifted depending on with whom I was speaking’ (Tanu and Dales 2015: 5).

Living in an urban village was, by nature, a multilingual experience, albeit that Standard Mandarin was used as *lingua franca* for most occasions among the rural-urban migrants and locals. Under such circumstances, accents and dialects were instructive for identifying and approaching the potential research participants. I had the chance to put this in practice on the very first day of my visit to the migrant school located in the urban village where I was staying. As I joined some parents waiting for their children in front of the school gate at around 4 pm, I looked for opportunities to chat with (one of) them. The opportunity came when I heard a 60-year-old man making a phone call in Mandarin with the unmistakable accent of southwest China. I immediately

approached him and initiated a conversation in the Chengdu-Chongqing dialect, asking him whether he came from the southwest regions of China. As I expected, he originally came from Sichuan province but had been in Beijing for more than 30 years working as a migrant worker. Capitalizing on our common language, the conversation proceeded smoothly and he provided a great amount of relevant information about, for instance, his dissatisfaction with the quality of this migrant school and the conflicts between the locals and migrants within this village. Although he later retracted his words and refused my request for an interview with his son (who had two school-age children receiving compulsory education in Beijing's migrant schools), I did benefit from this interaction. His repeated emphasis on our common identity as *laoxiang* (fellow native) confirmed my strategy²⁹¹ on the use of language.

Following this clue, I then made full use of this identity approach in the fieldwork, as the *laoxiang* identity could form 'the basis of mutual support for the migrant workers in the city' (Hsing 1998: 104). Posing as a migrant worker myself, I sought out the latent supports from migrants originating from Chongqing and Sichuan province, especially when I had encountered a dead-end in accessing the field at the early stage of the fieldwork. Thus, I decided to start with the Sichuan restaurants in this village²⁹². I went to their restaurants as a consumer later than the normal eating time, for example, around 1:30 pm for lunch and 7:30 pm for dinner, as there were little customers in their restaurants during these periods and there were more opportunities to chat with owners and/or waiters. To reveal my *laoxiang* identity, I greeted them and ordered my foods by speaking the Chengdu-Chongqing dialect. By using this language "hook", I gradually got familiar with them and their communities, as well as with their stories concerning their children's education in Beijing or their hometowns.

²⁹¹ It is important to pay attention to the *laoxiang* tie in Chinese context as it constitutes more than 60% of social ties in migrant networks. See (Liu, Li, and Breitung 2012).

²⁹² As an urban-village in Chaoyang District of Beijing, there are various kinds of restaurants that provide foods from almost all areas of China. However, apart from few decent ones, the majority of these restaurants are small and migrant family run. See e.g., (Zheng et al. 2009).

Through this form of interaction, I also got in touch with a very important interviewee (P3). She (P3) was the only one who participated in the interview in her native dialect, i.e., the Chengdu-Chongqing dialect. This was not a coincidence, nor based on an active request from the interviewee, but the result from a regular procedure to ask participants from Chongqing, Sichuan, and Henan about their language (dialect) preferences for the interview. This question was raised either in the explanatory stage of the interview invitation or before the formal beginning of an interview. The aim was not only to position me into the *laoxiang tie* but also to formulate a possible space of observing how, if applicable, the language preference reflects their perceptions of their own identities in Beijing. After all, research has already shown that migrant's language choice and attitude in the city are referred to as a significant parameter of identity formation (as to the issues concerning the rural-urban migrants, language life and identity, see (Dong 2011)). Just as Dong (2015: 116) stated, 'Putonghua was able to establish an urban identity and compared to hometown identity, the urban identity was more fashionable, providing them with more opportunities and confidence for their survival and development in the metropolis'. Comparing P3 with P10, for instance, while both are originally from Sichuan province and speak the Chengdu-Chongqing dialect, the former who spoke in her own dialect expressed more complaints on the difference between migrant schools and public schools in particular and between migrants and locals in general than the latter who refused my invitation to conduct the interview in this dialect. Connecting this with the concrete content of their interviews, it is more evident that P10 had a stronger sense of belonging and identity to Beijing than P3 and had a long-term plan to live in Beijing even if her son was not allowed to take the college entrance examination there based on the current policies.

One final point concerning the impact of language on my positionality throughout the research process in the fieldwork concerns the differentiation between, to borrow Thøgersen's (2006) terminology, the "Ganbunese" and "Baixingese". Reflecting on the socio-political dimensions of Chinese language use, this differentiation, or dichotomy,

has to do with how Chinese people ‘express themselves in different language codes depending on their socio-political position and the specific speech situation’ (Ibid, 110). As such, “Ganbunese” may be understood as the more formal language used by government officials and senior staff, whereas “Baixingese” refers to the varieties of the languages used by ordinary Chinese people²⁹³. As I am fluent in both, I adopted a differentiated approach to language use in the research interviews, although some kinds of the mixture were unavoidable in some instances. More concretely, while I used more formal words and expressions, i.e., the Ganbunese, in these interviews with NGO leaders and well-educated migrant parents (P4, P5, P10, P13, P14, NGO1, NGO2), I intended to talk with the remaining migrant parents by avoiding using jargons. For instance, the English phrase “human rights action” was expressed as “人权行动” or “行动”, and “做点什么” or “争取一下”²⁹⁴, respectively in various contexts. Another example is that the English word “claim” was translated either as “诉求” in Ganbunese or “提出的要求” in Baixingese²⁹⁵. Nevertheless, it is necessary to repeat that sometimes the formal and informal languages were concurrently employed in one interview mainly for the smoothness of the conversation.

5.2 Translation: timing and execution

This brings us to the crucial issue of translation. The importance and challenges of translation, especially in qualitative research, have attracted substantial academic attention from different disciplines (e.g., Al-amer et al. 2014; Al-Amer et al. 2016; Chapple and Ziebland 2018; Chidlow et al. 2014; Esfehiani and Walters 2018; Gibb and Iglesias 2017; Helmich et al. 2017; Inhetveen 2012; Nes et al. 2010). These academic

²⁹³ Based on Thøgersen’s (2006: 112) dichotomy, Ganbunese is found ‘in documents, public announcements, and newspapers, and it is transmitted in written form from the central leadership down through the administrative hierarchy’. Instead, Baixingese ‘comes in many varieties, from the local dialect of peasants in a remote village to an intellectual’s comments sprinkled with classical quotations, and it can therefore only be analyzed in its particular manifestations’.

²⁹⁴ “人权行动”: human rights actions; “行动”: actions; “做点什么”: do something; “争取一下” is difficult to translate, it is similar with “fighting for”, but actually it is much weaker than the term “fight”.

²⁹⁵ “诉求”: claim; “提出的要求”: request.

considerations have touched upon various kinds and aspects of translational issues which could be roughly categorized into four types, namely “single non-English speaking country”, “single country, multilingual population”, “multiple countries, multiple languages”, and “multiple countries, *lingua franca*” (Chidlow et al. 2014). Given that my empirical study mainly involved Chinese (Mandarin and local dialects) and English, the obvious type for this study was the second. In such a cross-language context, i.e., Chinese as the source language and English as the target (dissemination) language, there were at least two fundamental decisions, concerning when and who, to consider for the research design.

Translation timing does affect the trustworthiness and validity of qualitative data. As Santos, Black, and Sandelowski (2015: 134) have stated, ‘differences in translation timeframes raise methodological issues related to the material to be translated, as well as for the process of data analysis and interpretation’. Based on their comprehensive review of the available literature and prevalent research practices, there are five points at which language transformation processes could be applied in especially qualitative research, namely “prior to data collection”, “at data collection”, “during data preparation”, “during data analysis”, and “at dissemination of findings” (Table 8).

Timing of Translation	Objects of Translation
Prior to data collection	When the objects of translation are instruments of data collection (here primarily interview guides, but also questionnaires and surveys), usually designed to be free of colloquialisms
At data collection	When interpreters translate questions in the data collection instrument into the language of participants to obtain information from them (including the use of simultaneous interpretation to conduct interviews), and the object of translation is a real-time conversation between researcher and participant
During data preparation	When data collected in a source language is translated to

	a target language, with verbatim transcriptions of interviews as the object of translation
During data analysis	When the categories and concepts generated through analysis of the data in the source language are the objects of translation into the target language
At dissemination of findings	When one or more research reports as end product from a study conducted in the source language are the object of translation for publication in journals in the target language

Table 8: Timing of translation in cross-language qualitative research

Adapted from Santos et al. 2015: 135.

Given the advantages and disadvantages of each of these timing options, it would be erratic to exclusively and absolutely either opt for one type of over another. Considering my flexible and multilingual capacity in the context of Beijing, as well as in view of practical constraints (e.g., budget), this study did not use the translator or interpreter in the whole process of empirical research. Thus, translation from Chinese to English was conducted by myself. Concerning the timing, I have opted for doing translations during the data analysis. According to Esfehiani and Walters's (2018: 10) comparative research on different translation timing models, the significant benefit of translating the source language to the target language at the stage of data analysis is that "the researcher is able to move back and forth ... to ensure the credibility of the translation, by checking and rechecking the accuracy of the translated codes (and themes) against the original record in the resource language". Following their suggestions, this study regarded the codes, themes, and other cited materials as the objects of translation. The translation was based on the outright familiarity of the research context, language, and transcripts.

6. Data analysis strategy

Generating data is merely one step in the long march of academic research, although it has already become one of the primary focuses of the vast majority of research design

methodology. Serious concern with the way in which the generated data should be analyzed is of critical importance, especially in the case of qualitative research that confronts researchers with the ‘tricky task of narrowing down their inquiry to avoid the resulting analysis being little more than an extensive list of instances and observations’ (Simons, Lathlean, and Squire 2008: 120). However, this concern, as well as its implementing process, has often been absent from written research reports, probably because of space limitations or style requirements. This kind of practically motivated omissions should not be allowed to obscure the actual problems revolving around the methods and procedures of qualitative network analysis.

As also mentioned in Chapter four, since the 1990s, there has been an expanding body of literature that criticizes the dominance of structuralist determinism in social network research and hence calls for more qualitative network analysis approaches. Ever since, a range of qualitative methods have already appeared in especially mix-method designs of Social Network Analysis. Yet, one of the most salient problems in this regard is the lack of an authentic qualitative analysis procedure that does not fall into the trap of a quantifying logic. In a nutshell, the qualitative methods applied in a typical procedure of qualitative or mix-method network analysis ‘often come to a halt at the issue of data collection’ (Herz et al. 2015). In other words, the network data generated by qualitative methods such as interviewing, observation, and archival review are often transformed into numerical data and organized in metrics at the data analysis stage.

The present empirical case study was designed with this methodological concern in mind and sought to adhere to the original research aim by qualitatively analyzing data. It was particularly crucial for the present study because of the combination of semi-structural interview and egocentric network mapping used. Altissimo (2016: 1) has already warned us that, ‘due to a lack of an elaborated method in network research to qualitatively analyze the visualizations of personal networks, visualizations themselves are seldom analyzed as such, or are looked into only to verify the analysis of the

narrative’. Therefore, the real challenge of the combination of network maps and narratives in this study was to unify the two types of data through a qualitative logic, without reducing it to a numerical analysis.

Nevertheless, it is not easy to ‘prescribe a set of dedicated procedures for the analysis of network maps’, as what network map can or cannot represent is simultaneously determined by personal research interest and paradigmatic position (Jaspersen and Stein 2019: 12). Given the focus in this study on the possible connection between social networks and the effectiveness and local relevance of international human rights law, as well as the relational aspect of network research, this case study adopted a data analysis strategy that was mainly inspired by the Qualitative Structural Analysis (QSA) (Herz et al. 2015), the hardcore of which is to combine the structural analytical perspectives of Social Network Analysis and analytical standards taken from qualitative social research.

The data analysis in the present study took place in three steps: analyzing individual network maps, comparing them with other network maps, and combining network maps and narrative data. For the first two steps, the analysis was structured in accordance with a set of questions designed by QSA (Table 9). Through answering these questions, narrative descriptions were constituted which were then used as the materials for comparison. Further questions and assumptions emerged from analyzing these descriptions were applied to the interview analysis. Codes were made both inductively and deductively with the assistance of NVIVO (as to the codebook, see Annex 8).

Structure-focused questions

- Are there regions in the network which have more ties than others?
- Does the network fall into different subcomponents or clusters?
- Are there connections between these clusters?
- Are there structural holes?

-
- Are there ties between clusters which "work" without the tie to ego?
 - How do individual clusters differ with regard to the alters' attributes?
 - Where can triads be seen (including those involving ego) which need further observation?
 - What actors take up a similar position in the network based on their ties?
 - Are there, for example, alters with ties both to ego and to other (comparable) alters?

Actor-focused questions

- Which actors connect to all other actors?
- Which actors connect to other actors who would otherwise be unconnected?
- Which actors connect isolated network segments or bridge so-called "structural holes"?

Tie-focused questions

- What types of tie are listed?
- What ties predominate? Are the ties directed? •
- In what direction do the ties go?
- Do individual ties depicted on the map take multiple contents, i.e., is this a multiplex relation?
- Are there ties which stabilize the network, or destabilize it when they are gone (as in a relational hole)?

Table 9: Questions for analyzing network maps qualitatively (Qualitative Structural Analysis)

Compiled from Herz et al. 2015

Chapter 6 Research Findings and Discussion: The Predicament of Making Human Rights Locally Relevant in Passive Networks

1. *“Don’t think too much...”*: human rights conception and awareness

This section aims to respond to a component of the second subquestions, namely human rights awareness and conception. One of my interviewees interrupted me and reminded me that “you were thinking too much”³³⁰ about the right to education when I tried to invisibly excavate the possible connections between this particular human right and his personal encounter with the compulsory education system. Actually, he was correct in the sense that most of the interviewees were either not able to or not willing to put an equal mark between the right to education and the concrete problems they and their children had experienced while living in Beijing as rural-urban migrants. While some of them were unable to do it because they (P2 and P11) were completely illiterate about the concept of the right to education, others did not have the competence to define it although they had heard about it before through the internet and news. For those who were willing to try to formulate a definition, the right to education is, for example, that:

“we can attend school here from the first grade to the completion of primary school. But we must receive education in this area. Another one is how to say, my comprehension ability is low, and my level of education – primary school – is low too”.³³¹

“I am telling you that I did not attend schools, I do not have any understandings..... It should be pertinent to children, it means this? It probably means that children should be educated by the same methods, right?”³³²

³³⁰ Interview with NGO1, 2018/12/20.

³³¹ Interview with P3, 2018/12/26.

³³² Interview with P8, 2018/12/31.

“Children should have a normal education when they are at the stage of compulsory education. Yes, another one is that children should receive normal education at the place where their parents are living”.³³³

It is apparent that the understanding of the right to education varies from person to person. However, the variations *per se* are not a source of surprise since there is no such thing as *the* definition. On the contrary, it seems more meaningful to tease out the common features that underlie their unconfident and ambiguous interpretations. First of all, the right to education was confined by the literal interpretation, in which other actors, except for children, were completely overlooked. Notably, the role of parents in freely choosing schools for their children was not included in their understandings. Secondly, the right to education was limited to elementary education or compulsory education. Thirdly, almost none of the parent participants associated their perceptions of the right to education with any laws and statues. These three common features are enough to demonstrate how unfamiliar many rural-urban migrants are with the internationally and nationally recognized right to education. Similarly, the unfamiliarity also extends to the notion of human rights in general. When the parent participants were asked “Do you know about human rights (*Renquan* 人权) and how do you perceive it?”, most of them either gave unelaborated ‘no’ or interpreted it literally. In comparison with these direct yet wizened answers, there were few migrant parents rather providing the present study with more interesting explanations. Given the difficulty of defining the term, they preferred to expound their understandings of human rights by taking examples from their daily life.

A migrant father took an example, “now there are many online platforms on the internet reporting that the city inspectors beat people. From my point of view, that is the violation of rights. This is my understanding. I do not know what the concrete meaning is”³³⁴. Besides, P5 shared her own story when the term “human rights” was put forward. “In 2016, the company I then worked for was bankrupted and I was owed

³³³ Interview with P10, 2019/1/8.

³³⁴ Interview with P1, 2018/12/23.

my salary for four months. We also went through the arbitration process. However, there has been no result so far”³³⁵. Another example is also compelling as it exhibits the blurring area between right (*quanli* 权利) and power (*quanli* 权力) in the Chinese context. P6 finally envisaged the question concerning the meaning of human rights and said:

“the power (*quanli* 权力), how to say? Looking at the rural areas, for example, many people mobilizing all means to *squeeze* in the election of the village cadres. They all want to be village cadres because of the huge profits embedded in this position....., the power you just asked, any human rights, you want to know something, but you are not able to know. If you want to claim that this is your right, you must know that you will discomfort the village cadres.”³³⁶

These examples, including these concerning the right to education, are the exact fountainhead of the pessimism depicted in the opening sentences of this section. It is the rural-urban migrants’ rights conception and awareness, which are closely associated with the assessment of the local relevance of human rights in China. Unfortunately, the qualitative empirical data inform that Chinese rural-urban migrants mostly lack human rights awareness. This general statement can be confirmed by the Chongqing project mentioned in Chapter 2, which similarly realizes that ‘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’ (Chen et al. 2016: 110). It is, however, noteworthy that this general statement does not ruin its compatibility with the emerging claims defending the existence of “China’s rising rights consciousness” (Lorentzen and Scoggins 2015). Unlike these claims that induce “China’s rising rights consciousness” from ‘a variety of related changes in the behavior of ordinary Chinese people, including an increased propensity to strike, to engage in public protest, or to take legal action against more politically or economically powerful bodies’ (Ibid: 638),

³³⁵ Interview with P5, 2018/12/29.

³³⁶ Interview with P6, 2018/12/31.

the pessimistic statement made here rather lies in the special devotion to “*human*” rights and human rights language that are based on international human rights treaties (and domestic laws). As with what a migrant mother answered, “we China do not often use human rights, foreign countries have it”³³⁷, what Chinese rural-urban migrants, even Chinese people in general, genuinely lack is the foreign-countries-style of human rights awareness which is oriented on liberal values.

Analyzing in this vein, it seems very difficult to identify even a single complete “human rights claim” in this empirical case study, which prioritizes the utilization of human rights language or international human rights law principles (Oré Aguilar 2011: 115). More dispiritedly, there is no readiness of the research participants to make relevance between international human rights norms and their grievances even when the concept and content of human rights are provided to them. However, a few feeble lights of the predefined human rights claim could be dimly seen especially in collective actions fighting against the forcible closure of migrant schools. Since six interviewees were directly involved in such collective actions, their stories can indicate that some terms that are pertinent with the right to education, such as equal education (*Pingdeng jiaoyu* 平等教育), were used as slogans in their petitions and open letters; and they sporadically accused the government, especially the local governments, of not providing equal opportunity for migrant children in education for which the government needs to provide a solution (*Geige jiaodai* 给个交代 or *geige shuofa* 给个说法). Indeed, all the abovementioned very much resemble those components, i.e. naming, blaming, and claiming (Chen et al. 2016), that together formulate a human rights claim at first glance.

³³⁷ Interview with P14, 2019/2/15.

2. The right to education of rural-urban migrant children: identifying human rights violations and strategies of migrant households

It is worth noting at the outset that this section serves to respond to the first research subquestion, i.e., “what are the educational situation and social context of rural-urban migrant children in Beijing?”. It intends to achieve this by identifying human rights violations and strategies of migrant households. Under international law (see more in Chapter 3), the right to education gives rise to a legal obligation on states to ensure that education is available, accessible, acceptable, and adaptable for all. Continuing in this vein, an assessment of the availability, accessibility, acceptability, and adaptability of education for Chinese rural-urban migrant children is an effective approach to testifying whether the Chinese government has fulfilled or violated its international legal obligations to guarantee the basic human right to education. In light of the “4 As” framework (Section 2.3 of Chapter 3), as well as the empirical data, this study tries to analytically generalize two aspects of the violation of the right to education of rural-urban migrant children in the context of Beijing’s compulsory education, namely the discrimination and inequality in public school admission, and deprivation of educational opportunity in migrant schools and low quality of education.

2.1 The discrimination and inequality in public school admission

Literature in different fields has already proven that the rural and urban division artificially caused by the *hukou* system (the household registration system) is the crime culprit for social problems of all kinds in Chinese society (e.g., Afridi, Li, and Ren 2015; Chan and Zhang 1999; Cheng and Selden 1994; Wu and Treiman 2005). The field of compulsory education is not an exception. Contrasting with the international legal vision of treating all children the same in education, the admission process of public schools, both in policy and in practice, differentiates between urban children and migrant children. A straightforward disparity is that while the school-age pupils who have Beijing urban *hukou* can enroll themselves in the geographically nearest school

without submitting any additional paperwork, migrant children and their parents rather have to deal with “The Five Certificates” in order to win a precious position in the public school.

For some migrant households in Beijing, the five certificates, which are actually composed of more than 20 certificates in total in practice, can be collected by extra endeavors. These extra endeavors are not easy at all, however. Two rural-urban migrant households, P5 and P10, bought their own apartments in Beijing with mortgage loans. The only motivation for them was to “make well preparation for children’s education here”³³⁸, even if their financial situation could not afford the super-high housing price. A migrant mother (P3) clarified that the primary reason why both she and her husband bought social insurance (*shebao*, 社保) was directly related to her children’s education in Beijing. And the following is her complaint:

“..... what is the difficulty? The social insurance was paid by myself each month. However, it is different from those who are working in the work unit (*danwei* 单位). In their cases, the work unit will help to pay a large portion of fees, and they just need to pay 200-300 yuan per month. However, I need to pay more than 1000 yuan, approximately 1500 yuan.”³³⁹

Besides, in order to obtain the certified proof of address, this mother also had to pay special attention to her relationship with her landlord. After all, as some participants also mentioned, their landlords have become more reluctant to provide this certificate in recent years.

Yet, successfully submitting these certificates is not an epilogue but a prologue for other differentiated treatments in Beijing’s compulsory education system. Migrant households may still feel the impacts of *hukou* in a variety of settings. The policy of enrolment areas (*huapian ruxue* 划片入学) and the Nearby Principle (*jiujin ruxue*

³³⁸ Interview with P5, 2018/12/29. Apart from the mortgage loan, P5 also had to borrow money from her senior middle school’s classmate to buy the apartment in Beijing.

³³⁹ Interview with P3, 2018/12/26.

就近入学) or the Neighborhood School Principle in Beijing (Yu 2014) are practically implemented in the form that the school-age children are selected by a certain rule of sequence, which devised for guaranteeing the priority position of the local urban children. Taking the Dongcheng District of Beijing as an example, the selection sequence of primary school in 2018 was as follows³⁴⁰:

- (1) the school-age children and parent's *hukou* are in the enrolment area and the actual residence (owner of the house property should be the school-age children themselves or their parents);
- (2) the school-age children whose *hukou* are not in the enrolment area, but the actual residence is in the enrolment area (owner of the house property should be the school-age children themselves or their parents);
- (3) the school-age children whose *hukou* are in the enrolment area, the actual residence (owner of the house property is the school-age children's grandparents) is in the enrolment area;
- (4) the school-age children whose collective *hukou* are in the enrolment area, the actual residence (owner of the house property should be the school-age children themselves or their parents) is in the enrolment area;
- (5) the school-age children who are treated as the Beijing *hukou*, the actual residence (owner of the house property should be the school-age children themselves or their parents) is in the school service area;
- (6) the school-age children whose *hukou* are in the enrolment area – military nature;
- (7) the school-age children whose *hukou* are in the enrolment area, the actual residence (owner of house property is the school-age children's great-grandparents), and the school-age children have been living in the enrolment area for a long period.

As shown above, migrant pupils are not granted the same status and same rights as their local urban peers, even if their families own private house property in Beijing. Both P4 and P5 in the present study were affected by this sequence, so their children were not able to enroll in *good* neighborhood schools. In addition, P5 also pointed out

³⁴⁰ The Acceptance Sequence and the Methods of the School-age Children's Enrollment 2018, issued by the Educational Examinations and Enrollment Center of Dongcheng District in June 2018, see <http://www.dcks.org.cn/Column.aspx?ID=1> (last visited in March 2019).

another disadvantage of enrolling in the public school as a migrant *hukou* status, i.e., the differentiated treatment in terms of medical insurance. As a migrant student in Beijing, “it is not possible to have the medical insurance arranged by the school. Under such circumstances, you have to buy this insurance at the place of origin every year. Even though this insurance will cover the critical illnesses (*dabing* 大病), you have to pay for those small ones by yourself”³⁴¹.

These rural-urban migrant households are still concerned about their children’s education in the future, albeit now they are conditionally enjoying free compulsory education in public schools. Among others, the biggest concern is related to the non-compulsory education stages, especially the transition from senior middle school to college. The current *hukou* system, again, is still a primary barrier for allowing the migrant children to take the college entrance exam in Beijing, although some reforms have already been implemented especially since the abovementioned United Citizen Action for Education Equality (see more in Zhang 2016). Yet, for those migrant parents who have higher expectations on the ranking and reputation of their children’s future college, the discrimination and inequality they are facing in China’s urban cities like Beijing instead exist in a chronically systematic form. Their logic is quite simple: the possibility of entering a renowned university in China like Beijing or Tsinghua University will be decreased if their children are not assigned to the excellent primary and junior middle schools. P4 elaborated this logic as follows:

“Good primary schools, like the Affiliated Elementary Schools of Renmin University, Beijing Normal University, and Tsinghua University, are the premise of enrolling in the good junior middle schools, right? Enrolling in such good junior middle schools can guarantee the possibility of taking the good senior middle schools. Finally, the doors of good universities will be opening soon. Think about, 98% of students graduating from these good senior middle schools will get admission into the so-called key universities (*yiliu daxue* 一流大学)”³⁴².

³⁴¹ Interview with P4, 2018/12/28.

³⁴² Ibid.

It is against this backdrop that a group of active migrant parents has either considered or implemented the alternative solutions, intending to circumvent the discrimination and inequality by self-help measures. The first choice is to envisage the *hukou* system and try to apply for registration as permanent urban residents of Beijing in light of the newly-launched point-based *hukou* system³⁴³, in which non-Beijingers who are in the process of applying for Beijing *hukou* are quantified by, for instance, the level of education, professional certificates, local housing ownership, and honor and awards. Besides, the second choice refers to choosing the elite private schools via which pupils can receive high-quality and international education. According to the latest version of China Education Development Report 2019, in some metropolises, 30% to 40% of education is private education and ‘private elementary and middle schools have become the main target within the competition of choosing the school (*zexiao*). Public schools that were treated as good-quality education have been the “second-class schools” (Yang 2019). Against this backdrop, the rural-urban migrant households that are economically nonmarginalized prefer to choose the good-quality private school, regarding it as a springboard for overseas study in the future. The third choice is to enroll their children in public schools in other cities, which are located close to Beijing. Some cities of Hebei Province and Tianjin Municipality have become the main dishes in the menu due to their geographical competitiveness and comparatively good-quality education. By so doing, these families can achieve win-win outcomes. On the one hand, at least one parent of the child can still work in Beijing, and another can be available to accompany the child due to the relatively short distance. On the other hand, receiving education in these cities allows them to remain the hope of returning to Beijing when the time or policy atmosphere is ripe. The national incentive of the Beijing-Tianjin-Hebei urban agglomeration may underpin their choice.

The three choices mentioned above are not exclusive to each other. Instead, like the

³⁴³ The Beijing government launched the point-based *hukou* system on 16 April 2018. It is one of pilot cities in terms of the proposed national reform of *hukou* system in China. see more in (Chan 2019)

research participant P5, a set of migrant households has concurrently applied these methods to practically escaping from the policy and administrative barriers that are not compatible with the internationally and domestically recognized right to education. The case of P5 is very typical in the sense that (1) her family has been carefully preparing the application for Beijing local *hukou* by for instance purchasing a local house and supporting her husband to complete an MBA degree; (2) her family has already bought a *hukou* in Tianjin through agent as Plan B. Her family has already met a variety of challenges in the process of preparation and application. Even though they failed again to apply for the Work Residence Permit of Beijing in the year 2019 (Figure 5), their endeavors will continue. After all, as P5 said, “the only thing we have lacked in Beijing is a *hukou*”³⁴⁴.

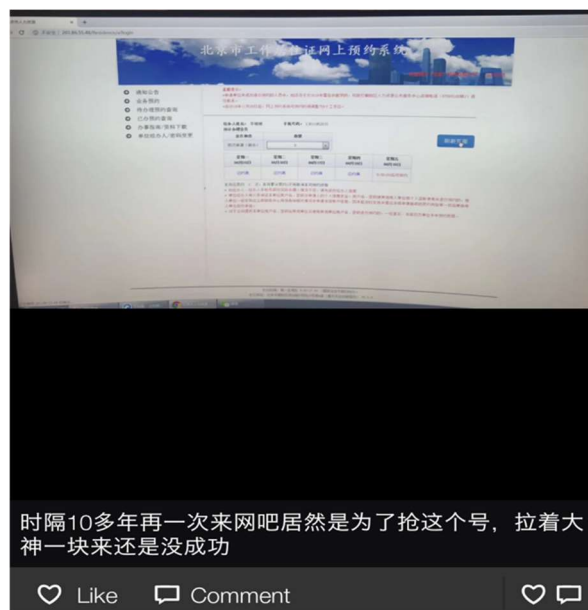


Figure 5: A social media post indicating that a participant failed again to apply for the Work Residence Permit of Beijing

Note: this is a screenshot of the webpage of the online application system of the Work Residence Permit of Beijing, 2019. P4 and her husband went to an internet café for this online application, because they wanted to take advantage of the fast speed of the internet there. They failed again, however. They had not gone to an internet café for ten years.

³⁴⁴ Interview with P5, 2018/12/29.

2.2 “One more school, one prison less”: The deprivation of educational opportunity in migrant schools and the low quality of education

The abovementioned type of rural-urban migrant households is lucky in comparison with the remaining migrant peers, as their children at least have a public school to attend in Beijing. For those migrant pupils whose parents are ruthlessly categorized as the “low-end population”, i.e., ‘people working in low-paid industries in China’ (Peng 2019: 1), their human right to free compulsory education in the host urban areas of China has been snatched from them by, at least, a variety of entry barriers of public education system, poor quality of private education, and acute shortage of educational facilities. What is worse, a series of arbitrary closures of migrant schools have already constituted a serious challenge to the *de facto* educational opportunity of migrant children. In fact, it is also undeniable that the Chinese government has already given heavy weight to the educational problems of rural-urban migrant children over the past three decades. In addition to the legislation, there are numerous policies in place to commit to safeguarding this vulnerable group of children (see Chapter 3). However, the empirical data collected from the fieldwork in Beijing (probably just) reiterate the cliché of a gross human rights violation in this regard. It is still necessary, as a crucial connector to the next sections, to present here the educational experience of this type of rural-urban migrant children in Beijing. Especially, thanks to the opportunities of joining some migrant parents to choose migrant schools in Beijing, this section may enhance the understanding of an array of realistic problems facing these rural-urban migrant households and the corresponding solutions.

The first and foremost challenge confronting this group of rural-urban migrant households is the five certificates. In particular, due to the temporary or self-employed nature of their occupations, the administrative requirement of submitting the certificate of social insurance in the admission process of public elementary schools has become

an insurmountable furrow for their children to access free compulsory education. The participants of this study strongly felt this challenge within the comparison between their first and second child. As illustrated in Chapter 5, the vast majority of parent participants have more than one child, and 9 out of 14 parent participants have two children. The similarity among these families in terms of their children's education in Beijing is that one of their children is or was studying in public schools while another one is or was studying in private migrant schools. The reason for this similarity is that the previous policies on these certificates were not as strict as they are today and especially social insurance was not an obligatory requirement. Although none of them could really expound why the policy has changed in such a way, the parent participants, as well as other rural-urban migrant parents involved in the observation process, reached an everyday discourse that the policy has become more and more strict. Also, within this everyday discourse, they attributed a phenomenon that less school-age pupils are in the urban-villages to the increasingly strict policies³⁴⁵.

In fact, their personal feelings on policy changes and other daily-life phenomena that emerged in rural-urban migrant communities are the micro implications of the national macro strategy of developing the new-type urbanization, in which controlling population size in megacities like Beijing and Shanghai is a primary task. Against this macro backdrop, the educational policies regarding these migrant children, which have been tightened considerably in Beijing since 2014, are merely serving the general goal (Chen, Wang, and Zhou 2017).

Since they all realize the difficulty and impossibility of collecting the required certificates, the so-called low-end migrant households even never try to enroll their

³⁴⁵ In a Sichuan restaurant located in *Picun*, the owner told me that her daughter, who is now a college student in a university close to their hometown, used to attend public elementary and junior middle schools in Beijing. When I showed my intention to take a formal interview with her, she always mentioned that she was unable to provide useful information to my research since the policies had already changed in the past years. Meanwhile, she also mentioned that there has been less school-age children in this village and what we could see is either the little kids or youths working in Beijing. [Fieldnote, 2019/1/14]

children in public schools. What they are looking for while their children are just on board of the Beijing floating ship of migration is spontaneously migrant schools. When they were asked if they had tried to enter into a public school, all participants of this type answered no, and they always emphasized their migrant status, “*women shi waidi de* (we are migrants, 我们是外地的)”. This specific self-identification of migrant workers results in a narrow understanding that migrant schools are the only choice for them. Furthermore, the migrant status not only decreases their motivations to inquire about information on Beijing’s compulsory education school system but also on the laws and policies that have been adopted for facilitating their children’s education in Beijing. As a migrant father who was working as a travel agent in Beijing stated, “we did not try to know more about other schools, because we had already known that the local *hukou* is required for public schools..... we also did not want to know more about the related policies for the same reason”³⁴⁶. This father’s way of thinking in this regard was by no means a standalone case, given that most of the migrant households I engaged with showed unfamiliarity with the concrete requirements of admission to public schools.

What is even more ironic is that some migrant parents of this type are unclear about the school’s nature their children attend. For instance, in my sample of participants, P1 and P2 did not know what migrant school is, and P6 often confusedly stated his children’s school nature. Of course, many reasons could explain such a situation. However, these parents should not be blamed for their uncertainty, because the root cause of this situation is actually associated with the messy management of private migrant school system (see more details in Pong 2015; Schulte 2017). In the interviews, one of the most frequent phrases used by some participants to explain the school type was the “half public, half private (*bangong bansi* 半公半私)”, but none of them could explain the meaning of this phrase. P3 answered: “the *bangong bansi* school has a limitation on its school fee. For example, the school fee for this semester is 1000 yuan,

³⁴⁶ Interview with P13, 2019/2/14.

then it should always be 1000 yuan, until the graduation term”³⁴⁷. However, P5 confessed that he was not sure about it, and added that “this type of school should not be regarded as a private school. Anyway, as long as they ask you to pay, then you just pay”³⁴⁸.

Actually, this phrase, i.e., the “half public, half private”, has not been used by the educational authorities in Beijing for many years. In retrospect, Beijing started to explore the ways of incorporating the social resources (*shehui lilian* 社会力量) into its educational system in 1989 by issuing the Provisional Opinions of Beijing on Encouraging and Facilitating Social Resources to Run Elementary and Secondary Schools. Since then, private schools have gradually become a legally recognized component of the national educational system. In order to maximize the advantages and minimize the disadvantages of both public and private schools, Beijing government began to launch a new type of school called *minban gongzhu* school (literally translated as the school run by private entities with government’s support 民办公助) in the mid-1990s. The idea behind this type of school is, roughly speaking, that the government remains the ownership but transfers the operational authority of the public school to the eligible private entities (see more in Li 2009). Although this type of school was gradually abolished in the late 2000s, its legacy was inherited by private migrant schools. Immediately after the SARS period, migrant schools were largely “cleaned” by the Beijing government in 2003. Yet, some migrant schools were rather selected by the local governments to take the responsibility of taking over these migrant students whose former schools were closed. These lucky migrant schools were awarded licenses and subsidized by governments, because of which they started to name themselves as the “half public, half private” schools. As a matter of fact, legally speaking, this type of school obtains the “Non-State Run School Operation Permit (*minban xuexiao banxue xukezheng* 民办学校办学许可证)”. They are also shortly called the licensed school,

³⁴⁷ Interview with P3, 2018/12/26.

³⁴⁸ Interview with P5, 2018/12/31.

whereas the vast remaining migrant schools in Beijing are labeled as the unlicensed school (Pong 2015).

Under such circumstances, what they really need to decide is which migrant school will be the best in terms of the school fees and school-to-home distance, although the final decision is oftentimes a product of compromise. In respect of the school fees, there is no uniform standard in terms of the component, amount, payment scheme, and even discount. In practice, the school fees usually vary from school to school, year to year, and situation to situation. It is just due to the frequency and randomness of variation, migrant parents are especially wary of it in the process of making a choice. Their special wariness is not redundant because they have all realized that:

“schools that are completely established and run by private entities are not under the jurisdiction of educational authorities. Therefore, they are fond of taking arbitrary charges (*luan shoufei* 乱收费). It is their exclusive discretion to decide how much you will have to pay”³⁴⁹.

Taking two private schools in Beijing as an example (Figure 6), even though they are located in the same district, the Fangshan District of Beijing, the school fees they charged for 2019 are discrepant with each other and with themselves. While school A (the left picture) more generally (yet also vaguely) announced the total amount of the school fee, school B (the right picture) rather elaborated that the school fee of each semester is composed by tuition fee, meal fee, transportation fee, textbook fee, and accommodation fee. Moreover, the payment method was also different between them. While school A required to make the prepayment, school B asked parents to pay in one time. Nevertheless, in order to dispel the wariness in terms of the arbitrary charges, both of them made a promise that no additional fees will be charged in the middle of the semester. Averagely speaking, migrant households need to pay 4000-6000 yuan each semester for their children’s compulsory education which should be completely free in

³⁴⁹ Interview with P3, 2018/12/26.

light of the legal requirement of the right to education³⁵⁰.

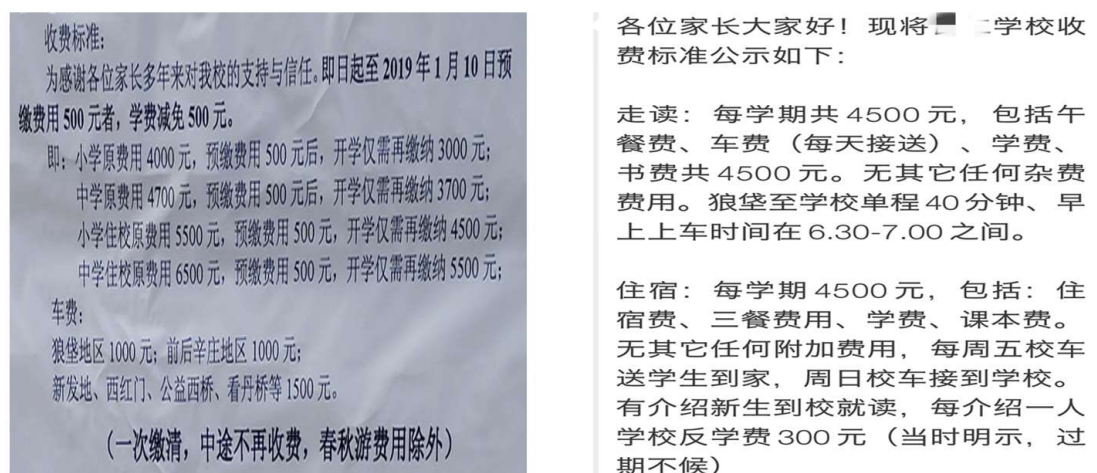


Figure 6: A comparative example of the school fee charged by migrant schools in Beijing

Note: this figure is composed of two original items collected in the fieldwork. Schools' names have been erased for ethical reasons.

The school fee is a burden to these so-called low-ended migrant households, and it has been remaining the tendency to increase (Dang, Huang, and Selod 2016). The empirical data generated from the fieldwork also confirm this in the form of the accumulation of parents' complaints. Especially during the campus tours, it was pronounced that school fee was the first factor that was taken into account by most of the migrant parents. Moreover, the next factor was school distance from the children's homes, which according to both the international and domestic law should be physically reachable. Since the door of public schools has been closed for some migrant children whose families are not able to provide the required certificates, they are rather ironically allowed to attend the neighborhood school. Typically speaking, these school-aged pupils are thus enrolled in the migrant schools, which are just located inside their urban-villages or in the neighbor villages. There are two reasons for that: First, it is easier for

³⁵⁰ For example, Article 2 of the Compulsory Education Law. It reads '[n]o tuition or miscellaneous fees shall be charged for provision of compulsory education'.

parents to send and pick up children. Even in some cases, children can safely go to school and return by themselves; second, following the same logic, it is an effective way for parents not to be distracted too much from the onerous workload. However, if there is no migrant school in or close to their village, or on the occasion of mass demolition, they have to choose a school far away from their residence, or the entire family moves to an area where the migrant schools are still operating. For instance, among the parent participants, there are at least five of them (P2, 3, 5, 6, 7, 9, 11) relocating their families for children's education.

When choosing a school which is far away from their living areas, migrant schools may provide two options for the enrollment: being boarding students (*zhuxiaosheng* 住校生) or non-boarding students (*zoudusheng* 走读生). Taking the real cases of choosing schools I witnessed in Beijing as an example, since the two migrant schools in the village were all demolished, migrant parents had to consider others outside the village. The business radar of migrant schools was also very sensitive, and they quickly started to advertise in this village. Admission leaflets were made and distributed, and vehicles were arranged for campus tours. All schools participating in this competition were located in other districts of Beijing, even schools of Hebei province were also presenting. The average time spent on transportation from the village to these schools in Beijing was around one hour and a half. It means that, as non-boarding students, these migrant children will have to spend three hours every day on transportation if their parents choose to enroll them in these schools. Even if they are willing to sacrifice their time for transportation, they will have to deal with another issue firstly regarding the way of transportation.

To this point, the issues, as well as the tricks, of the school bus are worth noting. As a component of the accessibility in the framework of the right to education, transportation is required to provide to students to ensure ways to school are convenient and safe. In order to protect the safety of students in transportation, the central government of China adopted the Regulation on School Bus Safety Management

(*xiaoche anquan guanli tiaoli* 校车安全管理条例) in 2012, upon which the Provisional Rules of Beijing on School Bus Safety Management (*beijingshi xiaoche anquan guanli zanxing guiding* 北京市校车安全管理暂行规定) was officially introduced in 2014. Nevertheless, the adoption and implementation of these safety regulations were not even news for some migrant schools. Since 2009, as Pong (2015: 94-95) stated, the utilization of school bus in migrant schools has already been limited by local educational authorities, in order to ‘ensure the safety of the students, prevent migrant schools from enrolling students from neighboring districts, and ensure that students attend schools close to their homes’. The regulations mentioned above just legally enhance this limitation, to some extent. Yet, in practice, the school bus has still been used as a major competitiveness factor in migrant schools’ advertisement and marketing. Especially for those licensed migrant schools, having a school bus is a thing of pride.

Even when they organized the campus tour, a school bus was deliberately used to serve parents and their children. Of course, both parents and children were more satisfied with this standard school bus than the typical bus rented by the migrant school. In this case, the migrant school that does not have its own school bus rather provide a solution to parents: renting a bus by parents themselves for their children’s transportation. Under such circumstances, the school would like to introduce a partner company to these parents. However, parents have to promise to keep it as a secret and take responsibility for the consequences by themselves. Although this solution is by nature risky and unsafe for children, some migrant households have already accepted it due to the shortage of options under their respective situations.

Otherwise, being a boarding student is another choice that can solve the distance issue. As a typical routine, the boarding students are arranged to stay on the campus for more than one week, normally for two weeks, in one time and then go home for a four-day break. Living on the campus, the ideal design is that these elementary school-age migrant children share dormitory rooms with roommates, use common bathrooms, and

with the poor educational environment of Chinese migrant schools. A typical narrative like the following:

‘Most migrant schools have substandard buildings, crowded classrooms, and inadequate lighting. Drinking water and sanitation facilities are poor, so students are at risk of catching diseases that might affect their study and physical and mental development. Also these schools have a lack of school facilities such as playgrounds, teaching equipment, and books’ (Qu and Wang 2011).

Although nothing has radically been improved in terms of the facilities in comparison with the public schools, it is possible to discern certain changes between different migrant schools. For example, as intuitively shown in Figure 8, the construction difference between a migrant school and public school is very forthright, but the straight-line distance between them is less than 500 meters. The changes that can be recognized mainly emerge in licensed migrant schools. After all, they have to somewhat improve the infrastructural facilities in order to reach the minimum standard regulated by the Standards of the Conditions of Running Elementary and Secondary Schools in Beijing (Construction Parts) (*beijingshi zhongxiaoxue banxue tiaojian biao zhun (jianshe bufen)* 北京市中小学办学条件标准 (建设部分)), which was adopted in 2005 and amended in 2018. The Standards comprehensively stipulates the school location, scale of educational buildings, sports areas, green areas, and other infrastructures. The vast majority of migrant schools are not able to obtain the license mainly because of their incapability to reach these infrastructural standards. Some migrant school principals denounced that these standards are too high to attain since the cost constraint and resource shortage of the migrant school (Zhao and Wei 2017: 118).



Gate of a migrant school



Gate of a public school (kindergarten)

Figure 8: Comparison of the facilities between migrant school and public school in the same urban-village, Beijing

Description: Although the two schools are very close to each other, they are quite different. The gate of the migrant school on the left is very simple. When you enter the gate, it is a field that has not been cemented. It can be considered as a playground. The school on the right is a public school. Although it is kindergarten, its facilities are very modern. The gates are electric and the teaching building is painted colorful.

Apart from these “hardware” facilities, the inadequate and unstable condition of the “software” facilities are another decisive reason for the unlicensed status of some migrant schools. In this regard, migrant parents involved in this study were quite ambivalent. While most of them recognized that the quality of education is another overt downside of the migrant schools, questions concerning the quality of education were rarely raised in the process of selecting schools. In the interviews, migrant school teachers’ qualifications, competence, and stability gave rise to many concerns. However, migrant parents visiting schools seldom inquired about the necessary information about the teacher composition of the school. Of course, against the general backdrop of the realization that migrant school teachers are low quality in teaching and easy to leave or be replaced (Friedman 2017), it was redundant, probably in their minds, to concentrate on such issues. Instead, these migrant parents did care about what textbook version the migrant schools used. Even, some migrant schools emphasized in their leaflets that they are using the textbooks that are also used in their hometown. Migrant parents’ concern about textbook choice is related to the reality that their children will have to return to

their hometown for education in the future. Thus, they have to consider the continuity of education.

3. The local relevance of human rights in passive networks

The core message that the two previous sections have tried to convey about the empirical findings is that Chinese rural-urban migrant households in Beijing have not been able to (or preferred to, in few cases) associate the internationally and domestically recognized human right to (compulsory) education with the various difficulties and challenges encountered by themselves in the process of their children's education. More generally, the relevance of international human rights languages, tools, and mechanisms that are rooted in treaties and conventions is feeble at best in their encounters and contexts. This stagnant performance of the international human rights project in the tremendous market of the Chinese grassroots population may have been navigating a path to the *twilight* of human rights law (Posner 2014). A variety of interpretations and explanations could be applied to the irrelevance of human rights among Chinese rural-urban migrants. Individual attributes such as education level, age, economic status, occupation, and political leanings are pertinent variables in this regard, of course. Structural factors like the authoritarian political system, traditional cultures, and the state-dominated human rights education are of relevance as well. However, by drawing upon the empirical qualitative data on research participants' egocentric network, the present section rather aims to provide a relational elaboration of the predicament of making human rights locally relevant among Chinese rural-urban migrant households. To that end, this section attempts to use a metaphorical notion of "passive human rights network", which is backed up by both the first-hand empirical data and the existing literature, to complete this relational elaboration.

The so-called passive human rights network is referred to as a type of social network that does not contain an active source of human rights. Based on the assumption that the knowledge, information, and activities of human rights (law) would be actively

engaged in flows and transactions in an active network, the passive human rights network reversely embodies a web of social relations that disables the anticipated flows and transactions by which the relevance of human rights is blocked from this network. Thinking in this vein, this notion is used to metaphorically denote the configuration and content of relational ties in a network that together function as a means of expounding the negative effects of social networks on international human rights enterprise. Connecting with the empirical case study, the passive human rights network is characterized by the “excessive concentration of kinship relations” and the “slippery weak ties”. The following subsections are going to discuss each characteristic in more details.

3.1 The excessive concentration of kinship relations

Indeed, ‘the Chinese family has been a microcosm, the state in miniature’ (Fairbank 1983: 21). For rural-urban migrants, this microcosm is always floating with them tangibly or intangibly, which constitutes the primary ties in their personal network of relationships (Zhang and Feng 2015). In light of the social network typology, most of the rural-urban migrants’ social networks should be subsumed into the “family network”, which is featured by ‘frequent contact with family members, but little contact with friends and social activities’ (Ye and Zhang 2019: 2). This family network type is confirmed by the migrant workers monitoring reports of the National Bureau of Statistics of China, in which migrant workers’ social interaction activities were often delineated as family-based and overall scarce³⁵². As the strongest ties in their social networks (strong ties in Granovetter’s (1973) sense), the members of the nuclear family (Hu and Peng 2015) and relatives play the most important roles in migrant children’s education (Jin, Liu, and Liu 2017). The majority of the parent participants of this study located their family members and relatives to the central place of their sociograms.

³⁵² See, e.g., the Migrant Workers Monitoring Report of 2017 and 2016, http://www.stats.gov.cn/tjsj/zxfb/201804/t20180427_1596389.html; http://www.stats.gov.cn/tjsj/zxfb/201704/t20170428_1489334.html. (last visited in March 2019).

Alternatively, in a few cases, the participants chose not to put them in the maps because these participants thought that they were equal to the family. Some participants put the family in the same circle with themselves (e.g., Figure 9). Similarly, relatives were also located close to the participants, although most of the relatives they referred to were not in Beijing. In terms of the content, their psychological contributions, such as love, care, and mental supports, were more than anything else. As P1 described, “family, my parents, and wife are also included, is the most important for life. They all support, albeit not directly related to my daughters’ education *per se*”³⁵³. Unlike the members of the nuclear family, migrant households’ relatives are crucial social capitals at certain stages of their children’s schooling (Ruan 2017a; Wu 2013; Xie and Postiglione 2016). The parent participants confessed that kinship relations were mobilized when they had to prepare the certificates for children’s enrollment in public schools; and when they had to send their children to hometown schools.

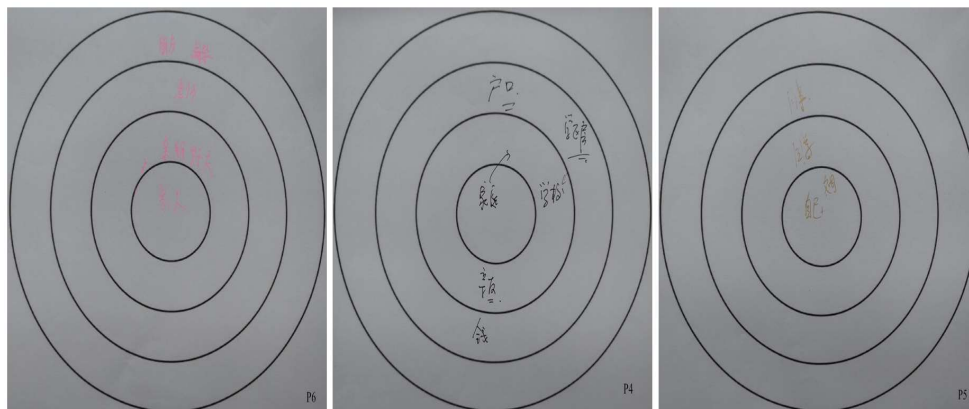


Figure 9: The central position of family ties among rural-urban migrant households (network maps of P4, P5, P6)

However, the strong ties with the members of the nuclear family and other relatives result in the reduction of the relevance of human rights in the Chinese context. This negative effect is first and foremost associated with the authoritative nature of the Chinese family and kinship which may radically devastate the essential environment of

³⁵³ Interview with P1, 2018/12/23.

fostering human rights awareness. Chinese traditional culture accentuates family hierarchy and seeks for harmonious family relations (Fuligni 1998). Obeying and respecting seniors and others who enjoy high status in the family are the fundamental norm in their interactions, in which the individual will needs to be subjugated, and freedom of choice needs to be sacrificed. As a result, this authoritarian orientation goes beyond the family and kinship ties and constitutes a national character (Chien 2016). The authoritarian orientation, together with other products of Confucianism, is not compatible with the notion of (human) rights which requires the ‘role-independent obligations and entitlements’ (Tiwald 2012). Just like P1’s second daughter, she had to obey his father’s decision of leaving Beijing, even if she might have a chance to enroll in a public school there according to the then policy. Her father praised her, “my daughter was very *xiaoshun* (full of filial piety) she did not disagree with the decision. However, I also realized that she did not want to leave”³⁵⁴.

Apart from the general environment of limiting human rights awareness, authoritative parenting in Chinese families could also be one of the primary sources of children’s rights violations, through which their children are possible to distort the conception of human rights. In Chinese authoritative parenting style, the notion of “*guan*”, which is ‘a culture-specific concept that has a double meaning of to take care and to control, govern, monitor, and interfere’ (Xu 2016: 140), is an essential content of the family and kinship relations. One of the underlying logics for migrant parents to complain about the administrative barriers of accessing public education in the host cities is associated with their concern that they are not able to “*guan*” their children if they attend hometown schools. However, just as a migrant child expressed in his painting on the theme of “Children’s Rights” (Figure 10), it seems that migrant children often merely recognize the harsh side of the authoritative parenting or “*guan*”, which reflects in their shallow perceptions of (children’s) human rights.

³⁵⁴ Interview with P1, 2018/12/23. By the way, this point made here does not intend to deny parent’s right to freely choose their children’s educational institutions.



Figure 10: A painting, titled “Children's Rights”, completed by a migrant child in Beijing

Note: The participant NGO2 showed me all paintings submitted by migrant children who were studying in migrant schools. It was a competition held by this NGO on the occasion of the 2018 Universal Children Day. Migrant children were invited to paint to express their understandings of children’s human rights. Figure 10 was selected because of its representativeness in terms of how authoritative parenting influenced children’s perceptions of human rights. In this painting, a boy is studying in a “jail”, while his mother is shouting at him, “watching TV is not allowed, coming out is not allowed even if you complete the 78 pieces of exam paper”. Another side of this painting is a child who is watching TV; the screen indicates that “do not take children’s rights away”.

Besides, the family and kinship relations can have more visible impacts on the relevance of human rights in the Chinese context. Especially when some actions are, or going to be, taken for rights defense, the governments of China, or other (human) rights abusers, are very proficient at mobilizing family members, relatives, and other social ties to repress these actions softly. Deng and O’Brien (2013) refer to it as “relational repression”, in which family members and relatives are either selected as team members to conduct thought work actively by their relational influence or are pressured by other social ties or bureaucratic measures (also see O’Brien and Deng 2015). The relational repression also occurred among the participants involved in this empirical study. A migrant worker, whom I met in P3’s hardware and later introduced P6 to me, finally had to retreat from the collective actions organized by his fellow migrant workers for

recovering unpaid wages. Because his wife forced him to stop participating, even with the threat of divorce, soon after the members of the village committee had visited her. The influence of mobilizing kinship relations on quelling social unrest or possible human rights actions can also surpass distance. P13's brother, who was working in a local public institution (*shiye danwei*) in their hometown of Henan province, called him several times to persuade him to "adapt" the irresponsible closure of the migrant school his son attended (as to the "adapt" option in the protest, see Su and Feng 2013). P13 explained further, "my brother's leader talked with him and asked him to take care of my situation (*guanxin guanxin*)"³⁵⁵. This type of relational repression, i.e., mobilizing migrant workers' kinship ties in their hometown, does benefit from the migrant population monitoring system in which the landlords (*fangdong*) in the urban-villages act as brokers between the State and migrant population. They are the ones that are requested to register the demographic information of migrant households, through which it is then feasible for the local governments of Beijing to keep contact with their peers of other provinces to execute the relational repression.

3.2 The slippery weak ties

The strength of weak ties has been at the bedrock of a variety of distinctive network theories and research since Granovetter's (1973) seminal work. This notion has also been largely incorporated into the human rights scholarly research (see Chapter 4), demonstrating the significant role played by weak ties in information politics of human rights campaigns, human rights activists, and actions. Is this a truism in the case of rural-urban migrant households struggling with their children's access to education in Beijing? Chinese social network theorists firstly deny the question concerning the strength of weak ties. In the same context of job searches, Bian (1997) calls for bringing strong ties back as he empirically finds that Chinese people employ strong ties more frequently than weak ties in this regard. The emphasis on the strength of strong ties in

³⁵⁵ Interview with P13, 2019/2/14.

the Chinese context has also been made by many other scholars (Tian and Lin 2018). In such an acquaintance society (*shuren shehui*), weak ties are often perceived as a non-essential element of social networks for which these ties are even difficult to be elicited by a “name generator” in academic research.

Basically speaking, there are two different perspectives to measure weak ties in a network: one is structural, and another is relational. While the former is ‘a bridge that spans otherwise disconnected, or distally connected subgroups’, the latter is ‘from individual reports of frequency of interaction or emotional/affective closeness’ (Valente 2010: 182). From both perspectives, the parent participants of this empirical study placed more weak ties than strong ties in their sociograms. Based on the comparison among these sociograms, five types of alters can be identified and subsumed into the category of weak ties, namely parents of migrant students, migrant school teachers, migrant schools, landlords, and NGOs. In light of the generator question: *which person and/or entities are important for your child(ren)’s compulsory education in Beijing?*, structurally speaking, these alters were placed in the farther locations in the concentric circles. Commonly, NGOs were either not in the maps or placed in the farthest circle. However, the relational perspectives, which were presented as participants’ descriptions, have the final saying in the study.

The relations between the participants and the abovementioned alters are identified as weak ties mainly due to facts that the frequency of their interactions was very low, and the participants’ subjective perception of the intimate distance was far. For example, parent participants rarely contacted their children’s teachers. Just like P3 described, “if it is not necessary, we do not prefer to interrupt my children’s teachers. In general, teachers will contact us if there is anything that happened to my children at school”³⁵⁶. In addition, another characteristic in terms of the relations between the parent participants and their alters in question refers to the singularity of relational type. The

³⁵⁶ Interview with P3, 2018/12/26.

parents of migrant students were not friends or colleagues in participants' social life, for example. Finally, from a structural perspective, there is no region and cluster found in their social networks, as the majority of the participants did not indicate the relational directions and the alter-alter ties in their network maps.

Among these weak ties, the parents of migrant students were the most potential candidates to make human rights locally relevant in the context of protecting their children's education in Beijing. As weak ties, even though they did not contact each other in ordinary life, they did unite when their children's school was in danger of demolition and closure. Under such circumstances, weak ties were employed as an effective measure to mobilize collective actions. Becker's (2012) research on Chinese migrant labor protests also confirms the critical role of ties among migrants themselves. He refers to this type of weak ties as the urban ties and argues that 'workers with access to urban ties are both more likely to engage in protest and more likely to engage in nonviolent protest through informal bargaining or the legal system' (1379).

In nature, the ties between parents of migrant students are urban ties, which is defined as the ties between workers with no connections before migrating by Becker. Indeed, in this empirical study, parents benefited from urban ties which were, however, not activated by certain formal occasions. Although every class had its own WeChat group (for facilitating communication between teachers and parents), most of the parents did not know each other in this group. Seeing the notices of demolition in the process of sending or picking up their children to and from schools was the very moment for them to create Becker's type of urban ties. Based on a common interest, i.e., children's education, migrant parents began to make their plans for collective actions by creating a new WeChat group. They discussed their overall strategies, concrete claims, and operating procedure. Within the process of discussion, activists, who wanted to be the representatives of their ensuing collective actions, were requested to write sample letters to express their core claims. After this "election" process, petition letters were drafted and sent to the local educational commissions. Then, parents were

organized, but they claimed themselves as the “volunteers”, to protest in front of the administrative buildings of local educational commissions³⁵⁷.

Although ties among migrant parents were instrumentally useful in the early stage of collective actions, the slippery or fragile dimension of this type of relation emerged when governmental officials were involved, and solutions were put forward. In the solutions, migrant students were divided into two groups. Those who had obtained the official registered status (*xueji*) were assigned to another licensed migrant school for the remaining years of compulsory education, whereas for those migrant students who had not registered, they had to make their own plans. The solution was accepted by the former but rejected by the latter. Then this collective action had no basis to continue, i.e., the common interest.

The argument, which relies on the empirical data, is that weak ties among rural-urban migrant households could be useful for the relevance of human rights (human rights actions especially) only when a common interest, rather than the notion of human rights *per se*, exists. This slippery nature of weak ties can then explain why NGOs, migrant schools, and migrant schools’ teachers did not appear in the abovementioned collective actions.

Taking Chinese NGOs as an example, their primary interest is survival³⁵⁸. Putting the strict new law on NGOs in China aside for a while, NGOs themselves do not have the motivation and commitment to engage in human rights issues or topics because of the survival problems confronted by themselves. They have to choose to adjust their intervention strategies, providing substantial services to, for instance, migrant children (Zhou and Yan 2019).

In summary, from the relational perspective, the irrelevance of human rights in the context of rural-urban migrant children’s education in Beijing could be understood, at

³⁵⁷ Interviews with P3, P7, and P8.

³⁵⁸ Interview with NGO1, 2018/12/20.

least partially, as a product of migrant households' social networks, the characteristics of which are the excessive concentration of family and kinship ties and the slippery, interest-oriented weak ties with other actors. Since there is no active human rights knowledge, information, and actions flowing in and out of this network type, it is referred to as a passive human rights network. The negative influence of this passive network may even be bigger than the authoritarian regime itself.

Chapter 7 Conclusion

From a macro perspective, this study embraced three trends that may have a positive impact on the innovation of international legal scholarship, namely being interdisciplinary, empirical, and theoretical. This study positioned itself at the intersection of international human rights law and network analysis. It sought to investigate the relationship between social networks and the relevance of human rights in the context of Chinese rural-urban migrant children's compulsory education. Under the guidance of the localizing human rights approach and social network analysis methods, this study was roughly divided into two interrelated phases. The first phase was to review and analyze the relevant literature, legal, and policy documents, and to design the empirical research for the second phase. After the desk study, this study went to the field and conducted interviews and observations in Beijing from which empirical data were elicited.

From a legal perspective³⁵⁹, this study recognized that although China has ratified most of the core international human rights treaties concerning the right to education, its domestic legal system does not truly comply with international human rights law and/or the spirit of international human rights. For example, although its Constitution provides for citizens' right to education, it also stipulates education as an obligation, which would lead to many legal ambiguities. Whose obligation is it? International human rights law clearly states that the state is referred to as the duty bearer to all of the corresponding individual rights holders. Of course, China's domestic laws also stipulate the state's obligations in this regard, but at the same time, they additionally treat parents and other individuals or organizations as the duty bearers of the right to education. The right of parents to choose their children's education is not included in Chinese laws, including the Constitution, which is clearly inconsistent with the provisions of international human rights law. Besides, the right to education in the

³⁵⁹ Referring to Chapter 3.

Chinese Constitution is limited to Chinese citizens. This makes it very uncertain if not impossible for foreigners or stateless persons to receive compulsory education in China³⁶⁰. In addition, the applicability and justiciability of the right to education have also been affected due to the reality that the Constitution and Legislative Law have not clarified the status of international human rights treaties in the domestic judicial system.

This could be linked to another finding of the study, i.e., China's performance in the international human rights system. Although China has ostensibly complied with its reporting obligations under the UN human rights monitoring mechanisms, issues such as selective reporting and the authenticity of data should not be ignored. Thus, this study instead believes that China has deliberately designed vague spaces on specific issues, such as the status of the international human rights treaties and the nature of the right to education in its Constitution, the unforeseeable postponement of its ratification of the ICCPR, in order to gain more political leverage from the international human rights system. In this sense, the voices criticizing China's mockery of the UN human rights system are not entirely untenable. Also, from the perspective of domestic law, this study found that although most of the laws related to education have stipulations on the right to education, there is an evident lack of regulation on the right to education of rural-urban migrant children. For example, the Compulsory Education Law provides for this, but the provisions are too general. These laws rarely stipulate the subjects of obligations, supervision subjects and methods, and legal responsibilities of the right to education of rural-urban migrant children.

As far as policies are concerned, this study realized that the current Chinese policies on compulsory education for rural-urban migrant children in urban areas are mainly the "two-mains" policy and "two-inclusions" policy. The "two mains" policy mainly emphasizes the administrative and financial responsibility of the local government of the destination and the education responsibility of local public schools. The "two

³⁶⁰ In practice, the vast majority of children of foreigners are studying in international schools, rather than in Chinese public schools.

inclusions” policy encourages the integration of compulsory education for rural-urban migrant children into the fiscal and educational planning of destination governments. Although the two policies reflect the shift of administrative ideology from passive acceptance to active integration, both are limited to the policy paradigm of decentralization of education, which may facilitate the distortion of policy implementation. Besides, within the policy framework of the new-type urbanization, both policies may have endogenous conflicts with the population control policy. Under such circumstances, the implementation of the “two mains” and “two inclusions” policies still requires that migrant workers and their children meet particular prerequisites.

In addition, this study brought us closer to a more outright understanding of the social network analysis in human rights research³⁶¹. Firstly, as to the reason why human rights researchers should be engaged with social network analysis, this study has reminded the network-oriented human rights scholars of the relational accounts of human rights. As a philosophical supplement to the interdisciplinary integration of human rights research and network analysis, the notion of human rights should be understood relationally and analyzed as such. As this study has pointed out, the very idea of human rights, especially the Western liberal conception of human rights, has long been reduced into a singular analytical focus: the individual as a pre-given entity. However, the emergence of the relational turn in social sciences sheds an alternative light, espousing the call made by this study to human rights scholars to pay attention to the potential benefits of transforming the basic unit of analysis into social relations. Accordingly, the rational approaches to human rights, which rest on the primacy of individual’s subjective initiatives navigated by the fixed attributes, should be complemented by the relational ways of thinking in which, for instance, under what conditions human rights law ought to be invoked are rather a result of the dynamics of relationship involved. This should be the entry, argued by this study, where the social

³⁶¹ Mainly referring to Chapter 4.

network analysis slips into the human rights field. Therefore, a reminder, rather than a critique, was sent to these network-oriented human rights scholars, inviting them to transcend the instrumentalist employment of the notion of network and the social network analysis methods. This study linked this invitation to the existing literature on human rights and network analysis. And it revealed that although an increasing number of the network-oriented researchers, especially political scientists and international studies scholars, have attended to human rights topics from network perspectives, this relatively new interdisciplinary field has still been in a “preliminarily prosperous shape”. Shortcomings like lack of coherence, structural determinism, and unbalanced units of analysis need to be addressed. These findings were, again, linked to the methodological design of empirical research to be done in Beijing.

As to the methodology³⁶², this empirical case study was, by nature, a qualitative network analysis, which adopted an egocentric network approach. This study recognized that the methodological design and methods applied in the fieldwork have both advantages and disadvantages. Indeed, this study found that applying qualitative network analysis can indeed reveal more in-depth knowledge about the interaction between social relations and human rights, which is beyond the structural framework. However, there are many challenges in using these methods, some of which are due to the methods themselves, while others are related to China's specific social context. Most importantly, this study realized that qualitative network map interviews put higher demands on respondents' level of literacy, education, and understanding. Since most of the respondents in this study were not well educated, they showed difficulty when asked to draw the network map. It found that the most challenging part for them to understand was associated with the logic of the concentric circles. In this regard, the study suggests that more straightforward mapping methods can be considered in future research, such as an unstructured and non-standardized map. Furthermore, it found that qualitative network map interviews require a better interview environment and longer interview

³⁶² Referring to Chapter 5.

time. It is suggested that, if possible, future research can take multiple interviews with the same interviewee to make the network map more detailed and precise.

In addition, this study found and/or reconfirmed that the particularity of Chinese society also affects empirical social network research or network-oriented human rights research. As mentioned earlier in this dissertation, *guanxi* is a special social relationship in China. However, from a linguistic perspective, "*guanxi*" and "*social relations*" are both expressed as "关系/社会关系" in Chinese, which led to misunderstandings among respondents. In general, it is impolite to ask about "stranger's" *guanxi*. Therefore, this study suggests that if future research is conducted in China, other expressions can be considered. The sensitivity of empirical research on human rights in Chinese society has already been mentioned in the dissertation. This study reconfirmed the relative effectiveness of using strategies such as weakening human rights terms in the profile of the project. However, the risks of violating research ethics must be recognized. In fact, this study also hopes that the academic community can further consider how to conduct effective human rights research in authoritarian states.

As to the educational situation and social context of rural-urban migrant children in Beijing³⁶³, this study has already provided the following answers (in Chapter 2 (generally) and Chapter 6). (1) Due to Beijing's "Five Certificates" policy, many rural-urban migrant households who were unable to provide all five certificates had to send their children to private migrant schools. Some migrant parents bought social insurance in order to enroll their children in public schools. (2) The "Five Certificates" policy has not been static, and the specific requirements of each District are different. In recent years, policies have become more stringent. (3) Most migrant schools were located in urban-villages. The students enrolled in these schools were all rural-urban migrant children. Parents often choose to move to an urban-village closer to the workplace, and their children transferred to a migrant school in or near the urban-village. On the other

³⁶³ The first subquestion: *What are the educational situation and social context of rural-urban migrant children in Beijing?*

way around, some parents also moved to an urban-village to enroll their children in a particular migrant school. In any case, rural-urban migrant households prioritized their own “nearby principle”; (4) Migrant school fees are different and changed every academic year. Tuition fees were important criteria when choosing a migrant school. If rural-urban migrant households were not able to enroll in the nearest migrant school, they preferred a cheaper migrant school. In the selection process, transportation time and school buses are also their criteria. Therefore, some migrant schools deliberately emphasized their “new” school buses. (5) Most migrant schools had inadequate campus facilities. Some schools rented the buildings of private universities or alike and shared university facilities. However, priority was given to university students. (6) Teachers in migrant schools were basically composed of local retired teachers and teachers who were also migrants. In the process of choosing a migrant school, the teachers’ quality was not regarded as an important indicator. Besides, teachers in migrant schools were changed more frequently. (7) Many migrant schools used different textbooks from what was used by public schools in Beijing. (8) In recent years, many migrant schools have been demolished. They either choose to run another one in different urban-village or merge with other migrant schools. (9) Overall, there were fewer rural-urban migrant children in Beijing. Due to current policies, many parents were considering going back home for children’s education. In summary, rural-urban migrant children’s education situations are inconsistent with the right to education under international human rights law and Chinese domestic law. The right to education of rural-urban migrant children was at stake in the sense that a series of administrative requirements of enrollment imposed by the Chinese government has constituted the practical barriers to access public education in Beijing. What is worse, problems revolving around the private migrant schools, such as the poor-quality education, forcible demolition, arbitrary fees, and inadequate infrastructures, deteriorated the human rights situation of migrant children in Beijing.

As to the effects of different actors’ social networks in the context of rural-urban

migrant children's education on their rights awareness and the local conceptions of human rights³⁶⁴, this study found that: (1) the human rights awareness of rural-urban migrant households in Beijing was averagely low; (2) Kinship relations had a negative effect on human rights awareness. Most importantly, for rural-urban migrant children, authoritative parenting not only impeded the formulation of an environment of rights awareness but could also be one of the primary sources of children's rights violations, through which their children are possible to distort the conception of human rights. (3) The weak ties between NGOs and other actors might become a channel for the promotion of human rights awareness. For instance, the NGO involved in this study has been hosting Children's Rights Day events in recent years. However, this study did not identify the local conception of human rights.

As to the role of social networks in formulating human rights claims and in taking human rights actions on the purpose of changing rural-urban migrant children's educational situation³⁶⁵, this study found that: (1) If we strictly refer to de Feyter's definition of human rights claim³⁶⁶, this study did not find human rights claim in the fieldwork that meets the definition criteria. The primary missing condition is that they did not use human rights language in their claims. However, in their claims and the ensuing actions, migrant parents did use language similar to human rights, especially the right to education, such as equal education (*Pingdeng jiaoyu* 平等教育). Thus, if human rights claim can be understood more broadly, then it can be found in this study; (2) Based on this broad understanding, migrant parents' social networks played both positive and negative roles in formulating human rights claims and taking actions, depending on which connection in the network was more deeply involved. When

³⁶⁴ Subquestion 2: *What are the effects of different actors' network of relationships in the context of rural-urban migrant children's education on their rights awareness and the local conceptions of human rights?*

³⁶⁵ Subquestion 3: *What are the roles of social networks in formulating human rights claims and in taking human rights actions on the purpose of changing rural-urban migrant children's educational situation?*

³⁶⁶ (1) the claim uses human rights language; (2) it identifies a duty-holder; (3) it insists on accountability from the duty-holder. See (De Feyter 2011: 18, 2016).

kinship relations involved deeper, they usually had a negative effect. Because these relationships were used by the government to suppress claims and actions, that is “relational repression”. However, when the weak ties between, especially, the parents of migrant students were involved deeper, the positive effect of migrant parents’ social networks emerged. Based on the common interest, these connections and interactions were activated through the social media platform, as well as the brief meeting at their children’s school gate. These connections were gradually institutionalized by selecting the representatives of their collective actions for changing their children’s educational conditions.

As to the most significant network actors in the education-related human rights claims and actions³⁶⁷, this study found that: (1) the parents of migrant students were the most potential candidates to make human rights locally relevant in the context of protecting their children’s education in Beijing. As weak ties, even though they did not contact each other in ordinary life, they did unite when their children’s school was in danger of demolition and closure. Under such circumstances, weak ties were employed as an effective measure to mobilize collective actions; (2) What is more important are those elected representatives, i.e., parents-activists who claimed themselves as “volunteers” in front of the government. Although it is impossible to know whom these weak ties were connected to, these representatives possessed some common characteristics: relatively high education, stable jobs, and even some have bought the house³⁶⁸.

As to the responses given to these actions and claims³⁶⁹, this study found that: (1) Local governments responded with both emergency and “soft” measures. When parents of migrant students gathered at the school, the police came “to maintain order”. When parents of migrant students gathered in front of the government agencies, the

³⁶⁷ Subquestion 4: *Who are the most significant network actors in the education-related human rights claims and actions, and what are their positions within the network?*

³⁶⁸ Interviews with P3 and P7.

³⁶⁹ Subquestion 5: *What are the responses given to these actions and claims?*

government asked to speak with the representatives, and the police came again “to maintain order”. These are all government emergency response mechanisms. At the same time, local governments will take "soft" measures such as relational repression to respond to these claims and actions; (2) Local governments were not as effective as municipal government and its agencies. Migrant parents had to “visit” the municipal government since their desired results did not happen in the negotiations with local governments; (3) Solving problems, not the policy. The governments, especially the municipal government, responded to these claims and actions by arranging other migrant schools to enroll the involved migrant students or moving the involved schools to other campuses, which were borrowed from either public schools or migrant schools. All measures taken to respond to the claim or action focused on the event itself.

Based on the abovementioned findings that have answered the sub-research questions, this study finally asserted that international human rights were not relevant in the context of migrant children’s education in Beijing. From a relational perspective, the irrelevance of human rights was associated with the characteristics of rural-urban migrant households’ social networks. The empirical study found that that the excessive concentration of the family and kinship relations and the slippery weak ties in urban cities, which together constitute a passive human rights network, were the relational barriers to the process of localizing human rights in the Chinese context.

This research has implications for the international human rights law community. It shows that there is such a special group in China, whose fundamental right to education has not been effectively protected. And it claims that the Chinese government should work harder to fulfill its international obligations and take more effective measures to protect the right to education of rural-urban migrant children. This requires us, as researchers of international human rights law, to observe, study, and criticize China’s attitudes in the international human rights system. In this regard, this study recommends that China should seriously reconsider the nature of the right to education and make it clearer in the Constitution. In addition, it is recommended that China should consider

the need for special legislation on the education of children of rural-urban migrant children. More importantly, at the policy level, the reform of the *hukou* system should be speeded up in good faith, rather than continuing the existing differential treatment with alternatives. The abovementioned recommendations are of course important. But more importantly, this study reminds the international human rights law community that human rights are related to social relations, which needs to be taken seriously. If no one in your social networks is aware of human rights, no longer uses human rights, or even hates human rights, what is the use of international human rights treaties?

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Annexes

1. Overview of the ways of gaining access to the field

Identification	Way to access	Payment	Notes
P1	via a friend's introduction	no	<p>1. I tried to pay, but he refused.</p> <p>2. He introduced a potential interviewee to me after the interview. But this potential interviewee never replied to me.</p>
P2	via a friend's introduction	no	<p>1. I tried to pay, but he refused.</p> <p>2. He introduced a potential interviewee to me after the interview. This potential interviewee refused my invitation.</p>
P3	via my observation in the urban-village	yes	
P4	via a friend's introduction	no	<p>1. He even invited me to have a quick dinner before the interview at his company's canteen.</p> <p>2. He suggested me to pay more attention to those "friend groups" in social media like QQ and WeChat.</p>
P5	via a friend's introduction	no	
P6	via a friend's introduction	yes	I met this friend in the urban-village where I chose to live during the fieldwork.

P7	via a former interviewee's introduction	no	She showed some videos and photos of their "collective actions" to me.
P8	via a former interviewee's introduction	yes	
P9	via my observation in the urban-village	yes	
P10	via a friend's introduction	no	A new friend in the urban-village
P11	via a friend's introduction	no	The same friend who introduced P No.10 to me.
P12	via participating in a campus tour	no	
P13	via participating in a campus tour	yes	
P14	via a former interviewee's introduction	no	
NGO1	via sending an email	no	1. I prepared a gift to him instead. 2. Gaining his contact from online public information.
NGO2	via a former interviewee's introduction	no	
T1	via a visit to the migrant school where he was working	no	

2. Interview guide parents

Structure	Questions	Notes
<p>1. Greeting and Introduction</p> <ul style="list-style-type: none"> - Greeting - Explaining the way how the interview is reached - Brief introduction of the purpose and process of interview 	<p>E.g.</p> <p>Hello, thank you very much for your participation in this interview. My name is Shisong Jiang and I am writing my Ph.D. thesis...</p> <p>(If it is applicable),</p> <p>Your child's teacher recommended you ...</p> <p>1. This interview is for academic purposes only.</p> <p>2. This empirical study aims to understand the situation of rural-urban migrant children's education in Beijing and its relationship to social networks (from a perspective of the right to education).</p> <p>3. Basically speaking, I will ask you questions one by one. Besides, for some questions, please reply to me by drawing</p>	<p>Showing a brief introduction of the empirical study (in Chinese) to the interviewee</p>

<p>- Asking for consent to record the interview</p>	<p>a simple sociogram with my help.</p> <p>4. This interview will take around 40 minutes (up to one hour).</p> <p>5. This interview is anonymous, including all kinds of personal information. The information in question will be replaced by certain codes.</p> <p>6. The whole process of this interview will be tapped, and the records will be used for this study only. They will be destroyed after this study. Or you have the right to prevent me from using them at any time.</p> <p>1. Do you agree to participate in this interview?</p> <p>2. Do you agree that this interview will be tapped? (If not, I will only take notes)</p>	<p>Providing the interviewee with an informed consent sheet</p>
<p>2. Background</p> <p>- Personal</p>	<p>1. Age, ethnicity, education, hometown?</p> <p>2. When did you come to</p>	

<p>- About the child(ren)</p>	<p>Beijing?</p> <p>3. Where had you stayed before came to Beijing?</p> <p>4. What is your occupation?</p> <p>5. Where are you living now in Beijing?</p> <p>1. How many children do you have? Gender? Age?</p> <p>2. When did your child(ren) come to Beijing and why?</p> <p>3. Which school is your child currently attending in Beijing and which grade?</p>	
<p>3. School admission</p> <p>- Naming</p>	<p>1. Why did you choose this school?</p> <p>2. Did you know the nature of this school when you made the decision (or did you know this is a migrant school?)</p> <p>3. How did/do you perceive the migrant school?</p> <p>4. What is the difference between migrant school and local public school?</p> <p>5. Did you try to enroll in the local public schools or other migrant schools?</p> <p>- if yes:</p> <p>(1) What actions did you take?</p> <p>(2) Who did take part in your actions?</p>	<p>1. Paying attention to the awareness of injurious experience.</p> <p>2. The practical barriers to entering local public schools.</p>

<p>- Blaming claiming</p> <p>and</p> <p>- Human rights</p>	<p>(3) The results?</p> <p>1. Have you satisfied with this school? Why or why not?</p> <p>- if not satisfied:</p> <p>(1) Any actions?</p> <p>(2) To whom? (discuss, complain...)</p> <p>2. Who should be responsible for this situation? And why?</p> <p>1. Do you know the right to education?</p> <p>- if yes:</p> <p>(1) Who let you know?</p> <p>(2) What is the meaning of the right to education?</p> <p>- if no:</p> <p>(1) Do you know human rights in general? (who let you know, if yes)</p> <p>(2) What is your own understanding concerning the right to education?</p> <p>2. Do you think there is a relation between the right to education (human rights) and the difficulty (or impossibility) of enrolling in the local public school? And why?</p> <p>3. (If the interviewee took actions before), did you ever use this expression or</p>	<p>If necessary, the <i>name generator</i> is employed.</p> <p>Should briefly explain the meaning of the right</p>
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	<p>6. What are the purpose and general process of the actions in question?</p> <p>7. Who did participate in the actions and what roles did these participants play?</p> <p>8. Was the human rights language (the right to education) used?</p> <p>9. What was the result?</p> <p>10. were you satisfied with the result?</p>	
5. Future	<p>1. What is your plan for your child's further education? (transition from primary school to junior middle school, from junior middle school to high school)</p> <p>2. What challenges can you envision?</p> <p>3. Will and how will you conquer the envisioned challenges?</p>	
<p>6. Relation and Network</p> <p>- Name generator question</p>	<p>Who are the relevant and important actors in relation to your child(ren)'s education in Beijing?</p> <p>1. What is the type of relation,</p>	<p>1. Explaining how to generate names, even making a simple example.</p> <p>2. Providing paper and pens (with different colors).</p> <p>3. Monitoring and guiding the process.</p> <p>4. Helping to recall names.</p>

3. Project information sheet

Title of research: The educational situation of migrant children in Beijing

Researcher: Shisong Jiang

Institution: Institute of Politics, Law and Development, Scuola Superiore Sant'Anna (Italy), and Faculty of Law, University of Antwerp (Belgium)

Dear Participants,

My name is Shisong Jiang, a Ph.D. candidate at both the Scuola Superiore Sant'Anna and the University of Antwerp. In order to complete my dissertation, I am now conducting empirical research on the educational situation of migrant children in Beijing. Thank you very much for your participation, which will make a valuable contribution to a better and deeper understanding of the situation and problems of migrant children in this city. 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 empirical study constitutes a part of my Ph.D. dissertation which aims to investigate the status quo and problems of rural-urban migrant children's compulsory education in Beijing.

Why do you choose me?

The empirical study is looking for research participants who are remaining rural *hukou*

status and living/working in Beijing with their school-age child(ren). You are this type of parent, so I would like to invite you to share your experiences and views about this topic.

Do I have to do this?

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

Interview procedure

The interview will be taped for transcription purposes only and it will proceed as follows: you will be asked some questions regarding the related subject matters and you are expected to answer these questions one by one. Although certain questions will be raised, you are free to choose to answer or to answer. Meanwhile, you are free to talk about anything you want to. If you do not know the answer or how to answer a question, please directly point it out and please do not answer by guessing.

How long does the interview take?

The interview will last for about one to one-and-a-half hours.

Confidentiality

The interview will be completely anonymous. All data will be used for research purpose only.

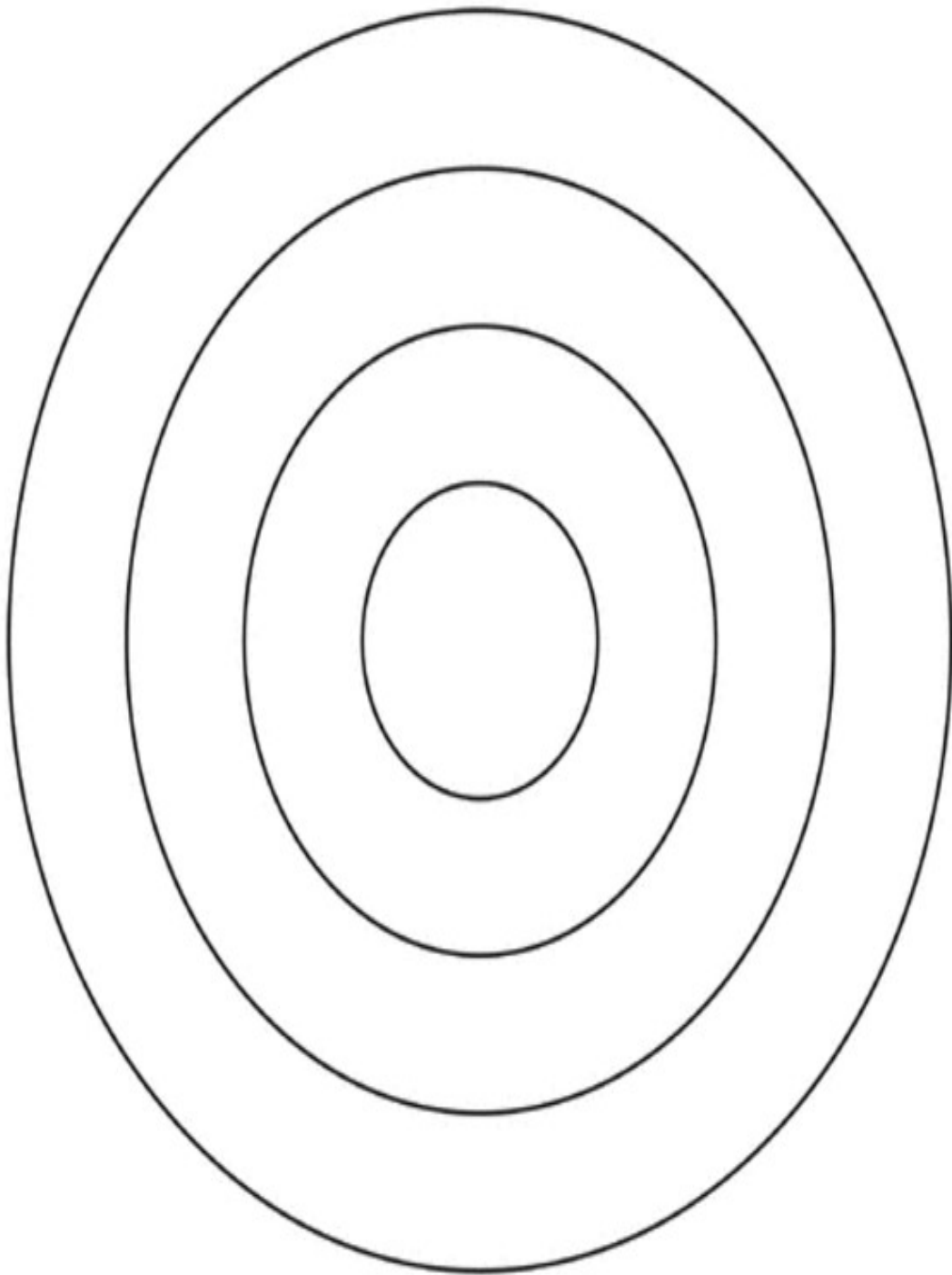
Right to refuse or withdraw

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

Whom to Contact

If you have any questions after the interview, please contact me via cellphone (...) or WeChat (...).

4. Network map used in the data collection process



5. Overview of the interview process and place

Identification	Time	Location	Duration
P1	23 December 2018 10.00 am to 11.45 am	A coffee restaurant nearby the Dongzhimen Subway Station of Beijing	1.45 hours
P2	25 December 2018 4.40 pm to 5.39 pm	A KFC restaurant nearby the Beijing North Railway Station	58.32 mins
P3	26 December 2018 3.00 pm to 4.20 pm	Interviewee's hardware store	1.20 hours
P4	28 December 2018 5.30 pm to 7.02 pm	A meeting room of interviewee's company	1.32 hours
P5	29 December 2018 3.30 pm to 4.24 pm	A KFC restaurant nearby interviewee's company	54.33 mins
P6	31 December 2018 11.30 am to 12.27 pm	Interviewee's rental house	56.52 mins
P7	31 December 2018 3.00 pm to 4.26 pm	Interviewee's rental house	1.26 hours
P8	31 December 2018 9.00 pm to 9,50	Interviewee's rental house	49.54 mins

	pm		
P9	2 January 2019 6.00 pm to 6.52 pm	Interviewee's own printing shop	52.08 mins
P10	8 January 2019 11.00 am to 11.48 am	A KFC restaurant nearby interviewee's living area	48.05 mins
P11	9 January 2019 11.40 am to 12.26 pm	Interviewee's rental house	46.41 mins
P12	14 February 2019 9 am to 9.48 am	Interviewee's rental house	48.52 mins
P13	14 February 2019 9.00 pm to 9.43 pm	Interviewee's rental house	43.36 mins
P14	15 February 2019 8.00 pm to 8.55 pm	Interviewee's rental house	55.12 mins
NGO1	20 December 2019 12.30 pm to 2.01 pm	A coffee restaurant near Beijing University	1.31 hours
NGO2	10 January 2019 12.30 pm to 2.08 pm	Interviewee's office	1.58 hours
T1	26 December 2019 1.00 pm to 2.08 pm	A milk tea shop nearby interviewee's school	1.08 hours

6. Overview of research participants

Identificat ion	Role	Ge nde r	Age	Job	Educational level	Origin al place	Ethnic backgrou nd	Current District in Beijing	Status of housin g in Beijin g
P1	parent	mal e	38	maintena nce worker for family clients	junior middle school (incompleti on)	Henan	Han	Chaoya ng	rent
P2	parent	mal e	49	porter	junior middle school (uncompleti on)	Henan	Han	Fengtai	rent
P3	parent	fem ale	34	owner of a hardware store	primary school	Sichua n	Han	Chaoya ng	rent
P4	parent	mal e	37	energy engineer	higher education	Inner Mongol ia	Man	Haidian	buy
P5	parent	fem ale	33	IT Energy in a company	higher education	Inner Mongol ia	Han	Chaoya ng	buy
P6	parent	mal e	47	temporar y jobs	primary school	Henan	Han	Chaoya ng	rent
P7	parent	fem ale	41	housewif e	vocational high school	Northe ast	Han	Chaoya ng	rent
P8	parent	fem ale	45	untold	untold	Sichua n	Han	Chaoya ng	rent
P9	parent	fem ale	35	owner of a printing shop	junior middle school	Shando ng	Han	Chaoya ng	rent

P10	parent	female	39	housewife	higher education	Sichuan	Han	Changping	buy
P11	parent	male	35	construction worker	junior middle school	Henan	Han	Chaoyang	rent
P12	parent	female	untold	owner of a grocery	high school	Jiangxi	Han	Daxing	rent
P13	parent	male	38	staff in a travel agency	high school	Henan	Han	Daxing	rent
P14	parent	female	36	seller in a pharmacy	high school (medical school)	Hubei	Han	Daxing	rent
NGO1	NGO	male						Chaoyang	
NGO2	NGO	female						Chaoyang	
T1	teacher	male	25			Henan		Chaoyang	

7. Overview of research participants' children

Identification	Number of children	Gender			Age			Status			The current stage of education			Education in Beijing			Nature of school, compulsory education phase		
P1	3	female	female	female	13	7	1	migrant	migrant, born in Beijing	rural	junior middle	primary	none	primary school	kindergarten, primary school	none	public	public	none
P2	2	female	female		19	12		migrant	migrant, but born in Beijing		high school	junior middle school		kindergarten, primary school, junior middle school	kindergarten, primary school		public		public
P3	2	female	male		10	8		migrant, but born in Beijing	migrant, but born in Beijing		primary school	primary school		kindergarten, primary school	kindergarten, primary school		private (with license)		public
P4	2	female	male		11	5		migrant, but born in Beijing	migrant, but born in Beijing		primary school	kindergarten		kindergarten, primary school	kindergarten		public		private
P5	1		male			5			migrant			kindergarten		kindergarten					private

P6	2	female	male	16	8	migrant	migrant, but born in Beijing	vocational high school	primary school	primary school, junior middle school, vocational high school	kindergarten, primary school	private (with license) and public	private										
P7	2	female	female	11	infant	migrant	migrant, but born in Beijing	primary school	none	kindergarten, primary school	none	private (with license)	none										
P8	2	male	female	21	11	migrant, but born in Beijing	migrant, but born in Beijing	graduated	primary school	kindergarten, primary school, junior middle school	kindergarten, primary school	public and public	private (with license)										
P9	2	male	female	9	6	migrant	migrant	primary school	kindergarten	kindergarten, primary school	kindergarten	private	private										
P10	1	male			10			migrant		primary school			kindergarten, primary school			public							
P11	4	female	female	female	male	12	10	8	3	all are migrants, but all born in Beijing				primary	primary	primary	none	kindergarten, primary	kindergarten, primary	none	public	private	private

8. Codebook

Name	Description
Coming to Beijing	Mobility
Arrival time and place	Stability
Future plan	Population controlling?
Motivation	Why came, and why left or will leave?
Moving around other cities before coming to Beijing	
Moving inside Beijing	Demolition of migrant school
Place of origin	
Whose influence	Network effects
Connection with hometown	Ties with difference/ kinship/helping the left-behinds
Dealing with locals (waidi ren vs. bendi ren)	Migrant identity/ local ties

Name	Description
Education as a public topic	Who are talking about children's education?/information flows in network
Education difference between Beijing and other places	Why do migrant children choose to leave Beijing at certain moment? (teaching materials such as textbooks)
Education is the biggest difference between local hukou and rural hukou	Sense of the hukou system
Educational policies	
Reform proposal	
Feeling the changes concerning education	Policy changes
Guanxi or network	The guanxi network in the Chinese context
The scarcity or abundance of Guanxi	
Understandings of Guanxi	
Housing solutions and experience	Housing as a strategy of accessing public education
Human Rights	Localizing human rights

Name	Description
Human rights actions or other actions	
Human rights claim	
Blaming	
Claiming	
Naming	
Rights conception	Local conceptions of human rights?
Interpersonal ties and information dissemination	Weak and strong ties in urban cities
Kinship ties	
Urban ties	Lack of urban ties
Leaving Beijing	Population controlling/educational barriers
Reasons for leaving Beijing	
Professional occupations	

Name	Description
Residence card	New policy solving hukou problems?
Resources for protest/rights defense/“ <i>weiquan</i> ”	Whether human rights are relevant in these protests?
Information	Network effects
Material resources	
From government	
From informal ties	
Schooling in Beijing	The dynamic process of receiving education in Beijing
After the compulsory education in Beijing	
Difference between local and migrant children	
Difficulties of schooling in Beijing	
Difficulties of tutoring education	
Demolition of schools	

Name	Description
Expectation in education	
Experience of changing school	
How to know the school	
Nearest school principle	
Private school	
Public school	
School quality	
School satisfaction	
Schooling in hometown	
Understanding of school's nature	
Sensitivity	Whether the topic of human rights is sensitive?
Actors in social network maps	

Name	Description
Business resources	
Classmates	
Colleagues	
Friends	
Government	
House	
Kinship ties	
Laoxiang/native fellows	
Neighbors	
NGOs	
Schools	
Teachers	

Name	Description
Try to solve problems	Practical ways to deal with the educational problems in Beijing/Whether human rights actions are taken.
Whom to ask for help	