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AN ANALYSIS OF WHY CHINA'S GOVERNMENT WILL EVENTUALLY REFORM THE *HUKOU* SYSTEM

JUSTIN CONDIT

INTRODUCTION

If the People's Republic of China's ("China") *hukou* system is not reformed by the year 2020, approximately 600 million citizens will be living in Chinese cities facing economic, social, and political discrimination.¹ China's *hukou* system segregates the citizens of China, based on their mother's family lineage, into two classes: citizens with urban *hukou* and citizens with rural *hukou*.² In 2010, approximately 261 million citizens had already migrated to urban areas in search of better opportunities.³ However, the migrant workers are treated as second class citizens as compared to the local urban *hukou* holders because they are denied basic public services, are only eligible for the worst jobs, and are often discriminated against by the local *hukou* holders in the cities.⁴

In November 2013, a report from the 3rd Plenary Session of the Communist Party's 18th Central Committee ("the Third Plenum"), a noteworthy meeting of China's top leaders in its Communist Party, proposed accelerating the gradual reform of the *hukou* system.⁵ The plan is to

¹ See JASON YOUNG, CHINA'S HUKOU SYSTEM: MARKETS, MIGRANTS AND INSTITUTIONAL CHANGE 3 (Palgrave Macmillan, 2013).

² See, e.g., Kam Wing Chan, *The Household Registration System and Migrant Labor in China: Notes on a Debate*, Population & Dev. Rev., June 2010, at 357, 357 (describing the two classes of citizenship in China caused by the *hukou* system); see also YOUNG, *supra* note 1, at 48 (explaining how *hukou* status is based off the mother's lineage).

³ See, e.g., YOUNG, *supra* note 1, at 3.

⁴ See, e.g., Chan, *supra* note 2, at 357 (describing how rural *hukou* holders are denied the same opportunities as urban *hukou* holders).

⁵ See *China to Accelerate 'Hukou' System Reform*, GLOBALTIMES.CN (Nov. 15, 2013), <http://www.globaltimes.cn/content/825205.shtml#.Uy9bgvldWBL> (detailing the proposed *hukou* reform from the Third Plenum in 2013); see also Jane Golley, *An End to China's 'Apartheid'?*, EASTASIAFORUM.ORG (Jan. 14, 2014), <http://www.eastasiaforum.org/2014/01/14/an-end-to-chinas-apartheid/>; see also *China's New Reform*

fully open towns and small cities⁶ and to relax restrictions on settling in medium-sized cities in an orderly manner.⁷ Additionally, reasonable requirements are to be set for rural residents to obtain *hukou* in large cities, and megacities will continue to be strictly controlled.⁸ Most importantly, the report declared that an “effort should be made to make basic public services available for all permanent residents in cities and include all rural residents into the affordable housing system and the social security network.”⁹

Beginning with the Xia Dynasty in the 21st century BC, China’s government has used a form of *hukou* system as an instrument to advance the government’s self-interests and to control the people of China. Whether it was the Republican government using the *hukou* system to help fend off the communist revolution or the Communist government using the *hukou* system to help implement its planned economy, China’s government has utilized the *hukou* system to advance its self-interests.¹⁰ If China’s government is going to implement the recently proposed *hukou* reform, it must achieve more than protecting the human rights of migrant workers and improving their standards of living; the proposed *hukou* reform must also advance the government’s self-interests.

There are numerous reasons why the *hukou* system should be reformed, including the protection of human rights and equality. However, this Article focuses on the reasons why the *hukou* system will eventually be reformed, not the reasons why it should be reformed. China’s government will only reform the *hukou* system if it advances its self-interests. This Article

Blueprint has Arrived, CHINA REAL TIME (Nov. 15, 2013), <http://blogs.wsj.com/chinarealtime/2013/11/15/china-to-ease-one-child-policy-abolish-labor-camps/> (describing what the 3rd Plenary Session of the Communist Party’s 18th Central Committee is); *infra* Part III.

⁶ See Golley, *supra* note 5 (detailing the plan for hukou reform in small and medium sized cities).

⁷ See *China to Accelerate ‘Hukou’ System Reform*, *supra* note 5.

⁸ See *id.*

⁹ *Id.*

¹⁰ See YOUNG, *supra* note 1, at 34-35.

argues that the Chinese government will eventually reform the *hukou* system because it will advance its self-interests of urbanization, a balanced economy, international legitimacy, and domestic social stability.

Part I demonstrates the historical significance of the *hukou* system in China and how China's governments utilized the *hukou* system to advance its self-interests throughout history. Part II describes the modern *hukou* system in China and focuses on how it affects the lives of migrant workers. Part III discusses the most recent proposed reform to the *hukou* system. Finally, Part IV explores how *hukou* reform will advance the self-interests of the Chinese government, specifically urbanization, a balanced economy, international legitimacy, and domestic social stability.

I

THE HISTORY OF THE *HUKOU* SYSTEM

The history of China's *hukou* system clearly demonstrates that it has regularly been utilized as an instrument to advance the government's self-interests and to control the people of China.¹¹ The Republican government fending off the communist revolution, the Communist government establishing sovereignty along China's borders, and the post-Mao government supplying cheap labor for the new market economy are all great examples of the government utilizing the *hukou* system to advance its self-interests. Why would the recent proposed reform of the *hukou* system be any different? Understanding the history of the *hukou* system and specifically, why China's governments used the system in the past, reveals that for the recent proposed reform to be achieved, it must advance the Chinese government's self-interests.

¹¹ See generally YOUNG, *supra* note 1 (providing a detailed outline of China's *hukou* system throughout history).

The development of the pre-modern *hukou* system,¹² the utilization of the *hukou* system during the Republican and Mao eras, and the reform of the *hukou* system after transforming to a market economy in the late 1970s have all greatly influenced modern China and the current *hukou* system. A form of the *hukou* system has been a part of China since the Xia Dynasty in the 21st century BC.¹³ Since *hukou* systems have been a feature of political, economic, and social life in China for over 4000 years, it has “developed a high degree of historical legitimacy” and is part of Chinese culture and tradition.¹⁴ Reforming a system that has been a part of the way of life in China for so long will be a challenging and monumental feat.

China’s pre-modern *hukou* system was an essential part of “the state building process, the centralisation of power and authority and restrictions on migration and social mobility.”¹⁵ In the 21st century BC, the Xia Dynasty instituted the first form of the pre-modern *hukou* system for social control and taxation purposes.¹⁶ This earliest form of the pre-modern *hukou* system included both a population census and a household registration.¹⁷ As early as 770 BC, some areas of China began to use the pre-modern *hukou* system to block internal migration, limiting people to their registered living place.¹⁸

During the Qin and Han Dynasties, from 221 BC to 220 AD, the pre-modern *hukou* system developed into more of a legal institution, in which people found violating the system were punished.¹⁹ If a person was found illegally migrating, in violation of the pre-modern *hukou*

¹² Although it was not called a *hukou* system in the pre-modern era, the pre-modern Chinese institutions were sufficiently similar, consisting of residence registrations and restrictions on mobility. For the purposes of this Article, these similar pre-modern institutions will be referred to as the “pre-modern *hukou* system.”

¹³ See YOUNG, *supra* note 1, at 29.

¹⁴ See *id.* at 28-29.

¹⁵ *Id.* at 27.

¹⁶ See *id.* at 29.

¹⁷ See *id.*

¹⁸ See *id.* at 30.

¹⁹ See YOUNG, *supra* note 1.

system, he would bring punishment upon himself and his collective, the organized unit where he was registered.²⁰ The Qin Dynasty first began widely imposing harsh punishments for violating the pre-modern *hukou* system, and the Han Dynasty continued developing the system by introducing enforcement officials and identification permits.²¹ A person without a proper identification permit was put in prison.²² The pre-modern *hukou* system, instituted by the Qin and Han Dynasties, predominantly remained the system used throughout the remainder of China's pre-modern era.²³

Although imperialism in China fell in 1911, the *hukou* system continued to be utilized “by the Republican Government, warlords, Japanese forces, and the communist insurrection alike.”²⁴ The Republican Government used the *hukou* system to fend off the communists and to raise funds to pay for the wars through imposing taxes.²⁵ Similarly, after the Communist Party took control, the People's Republic of China continued to use the *hukou* system for its self-interests, despite initially repealing all of the Republic of China's laws.²⁶

During the Mao era, the *hukou* system was used to manage the planned economy, control migration, distribute state resources, and monitor targeted groups of people.²⁷ In the early 1950s, at the beginning of China's communist era, a large number of people from rural areas in China migrated to the cities,²⁸ which proved difficult for the newly formed Communist government to

²⁰ See *id.* at 30-31.

²¹ See *id.* at 31.

²² See *id.*

²³ See *id.*

²⁴ *Id.* at 34.

²⁵ See YOUNG *supra* note 1.

²⁶ See *id.* at 35.

²⁷ See CONG.-EXEC. COMM'N ON CHINA, CHINA'S HOUSEHOLD REGISTRATION SYSTEM: SUSTAINED REFORM NEEDED TO PROTECT CHINA'S RURAL MIGRANTS (2005) (explaining the *hukou* system used by China's Communist government from the 1950s to the 1970s); see also YOUNG, *supra* note 1, at 35.

²⁸ “China's urban population increased from 10.6 per cent of total population in 1949 to 14.6 percent in 1956, with a net gain of 34.6 million. Rural migrants accounted for 19.8 million of the total increase.” Tiejun Cheng

manage while trying to implement its command economy and provide subsidies for the urban population.²⁹ In response, throughout the 1950s, China's government instituted strict *hukou* regulations to stop the rural to urban migration, finally culminating in the adoption of the People's Republic of China *Hukou* Registration Regulation³⁰ in 1958.³¹ The rationale for the *Hukou* Registration Regulation of 1958 was to maintain social order, be of service to the establishment of socialism, and ironically, protect the rights and interests of citizens.³² The primary purpose of the regulation was to decrease rural migration to urban areas³³ by requiring that all internal migration be subject to government approval.³⁴ As a consequence of the 1958 regulation, the citizens of China were divided into two very different classes: people with rural *hukou* and people with urban *hukou*.³⁵ Urban *hukou* holders were entitled to benefits—including employment security, housing, pensions, education, and medical care—while rural *hukou* holders were only entitled to access to farmland and some welfare.³⁶

Throughout the 1960s and 1970s, the government used state planned migrations and *hukou* transfers to advance its self-interests.³⁷ The government commonly used state planned border migration to establish land borders and sovereignty in certain areas, such as Tibet and

& Mark Selden, *The Origins and Social Consequences of China's Hukou System*, THE CHINA QUARTERLY NO. 139, Sep. 1994, at 644, 653. Strong mechanisms, such as the hukou system, were required to prevent a rural exodus. See Chan, *supra* note 2, at 357.

²⁹ See YOUNG, *supra* note 1, at 36; see generally Tiejun Cheng & Mark Selden, *The Origins and Social Consequences of China's Hukou System*, THE CHINA QUARTERLY NO. 139, Sep. 1994, at 644 (detailing the origins of the hukou systems as used by China's Communist government in the 1950s).

³⁰ See YOUNG, *supra* note 1, at 40 (providing a detailed summary of 1958 regulation).

³¹ See Chan, *supra* note 2, at 357-58.

³² See YOUNG, *supra* note 1, at 39.

³³ See *id.*

³⁴ See Chan, *supra* note 2, at 358.

³⁵ See, e.g., *id.* at 357.

³⁶ See Shaohua Zhan, *What Determines Migrant Workers' Life Chances in Contemporary China? Hukou, Social Exclusion, and the Market*, MODERN CHINA, Feb. 14, 2011, at 244, 252.

³⁷ "The Mao era was characterized by political and politico-economic migrations sanctioned or imposed by the state through transfer of hukou, showing a clear pattern of state use of the hukou system as an instrument of political and command economy imperatives." YOUNG, *supra* note 1, at 44-45.

Inner Mongolia.³⁸ For example, the government used a planned migration to the northern frontiers in order to secure the Sino-Soviet border.³⁹ Additionally, the government also used state planned migrations for economic purposes. Highly skilled and educated workers were sent to places that needed their skill set, college students were assigned to places to work after graduation, and laborers were sent to areas in need of factory workers for temporary periods of time.⁴⁰ Furthermore, during the Mao era, the government used the *hukou* system to exile and punish urban *hukou* holders by changing their registration to a rural area.⁴¹

In 1978, after the death of Mao Zedong, China's government began economic reforms to transform its command economy into more of an open market economy.⁴² Since the new market economy needed low skilled laborers to grow,⁴³ the government began to incrementally relax the strictly enforced *hukou* system to allow some rural *hukou* holders to migrate to the cities.⁴⁴ The Chinese government needed cheap labor for its new labor intensive, export oriented growth strategy,⁴⁵ so it targeted specific areas in China to dictate the migration, based on the demand for workers.⁴⁶ Additionally, the new market economy led to the abandonment of the rationing system, eventually allowing rural *hukou* holders the ability to migrate without formal registration and survive without relying on state subsidies.⁴⁷ The reforms of the residence restrictions and the new market economy allowed rural *hukou* holders to freely migrate; however, rural *hukou*

³⁸ See YOUNG, *supra* note 1, at 45.

³⁹ See *id.*

⁴⁰ See *id.*

⁴¹ See *id.* at 46.

⁴² See BARRY NAUGHTON, *THE CHINESE ECONOMY* 85 (The MIT Press, 2007).

⁴³ See YOUNG, *supra* note 1, at 27.

⁴⁴ See Chan, *supra* note 2, at 358-359 (describing the relaxation of the strict *hukou* regulations restricting during China's transformation to a more market economy).

⁴⁵ See *id.* at 357-58.

⁴⁶ See YOUNG, *supra* note 1, at 15.

⁴⁷ Until the emergence of the market economy, a migrant worker without a local urban *hukou* could not purchase food or find a place to live in the cities. The new market economy enabled rural workers to migrate to the cities in search of employment opportunities because they now had access to urban goods and services. See Zhan, *supra* note 36, at 253-53; see also CONG.-EXEC. COMM'N ON CHINA, *supra* note 27, at 3.

holders who migrated were still not able to receive the public services that urban *hukou* holders were afforded.⁴⁸ Since the relaxation of the strict limitations on the ability to migrate, reform efforts have focused on treating the migrant workers equally compared to the local urban *hukou* holders. Although the division between the rights of urban and rural *hukou* holders has been reduced since the Mao era,⁴⁹ the differences that remain still significantly affect the opportunities and quality of life of the migrant workers under the current *hukou* system.⁵⁰

II

THE MODERN *HUKOU* SYSTEM

China's *hukou* system is a household registration system which classifies citizens both by location of permanent residence and status as either agricultural or non-agricultural residents.⁵¹ Chinese citizens' *hukou* status and *hukou* location are determined through their mother's family lineage.⁵² Under this system, the people of China are divided into two vastly different classes of citizenship: citizens with urban *hukou* and citizens with rural *hukou*.⁵³ Approximately 700 to 800 million rural *hukou* holders are treated as second class citizens compared to urban *hukou* holders.⁵⁴ Because of the great disparity between rural and urban China, hundreds of millions of rural migrant workers have migrated to cities in hopes of better opportunities.⁵⁵ In 2010, there

⁴⁸ See CONG.-EXEC. COMM'N ON CHINA, *supra* note 27, at 3.

⁴⁹ See YOUNG, *supra* note 1, at 42 (comparing the rights of urban and rural *hukou* holder during the Mao era).

⁵⁰ See *id.* at 48-50.

⁵¹ See CONG.-EXEC. COMM'N ON CHINA, *supra* note 27, at 2.

⁵² See YOUNG, *supra* note 1, at 48.

⁵³ See, e.g., Chan, *supra* note 2, at 357; see also, e.g., CONG.-EXEC. COMM'N ON CHINA, FREEDOM OF RESIDENCE AND MOVEMENT (2010), available at <http://www.cecc.gov/publications/annual-reports/2010-annual-report#Freedom of Residence and Movement> [hereinafter FREEDOM OF RESIDENCE AND MOVEMENT].

⁵⁴ See Chan, *supra* note 2, at 357.

⁵⁵ See, e.g., YOUNG, *supra* note 1, at 48.

were 261 million non-*hukou* workers⁵⁶ in urban areas of China, and it is predicted that there will be 300 to 400 million more within the next decade.⁵⁷ Although approximately 261 million migrant workers are now residents in the cities, they are still treated as second class citizens compared to the local urban *hukou* holders because they face “*de facto* discrimination . . . in the fields of employment, social security, health service, and education.”⁵⁸

Migrant workers are denied access to the public goods and services that are afforded to the local urban *hukou* holders because of their non-local *hukou* status.⁵⁹ Most of them do not receive health care insurance, pension or retirement benefits, unemployment compensation, minimum living support, housing benefits, and publicly funded education to urban schools for their children.⁶⁰ The children of the migrant workers are often unable to attend the local public schools in the cities where their parents work.⁶¹ China’s law and regulations actually call for equal treatment of children; ⁶² however, in practice, millions of migrant children are still excluded from attending urban public schools.⁶³ Additionally, regulations allow charging additional education fees for migrant children because of their *hukou* status.⁶⁴ Migrant workers are left with three options: (1) pay for their children to attend urban private schools, (2) pay an expensive additional fee to gain access to urban public schools, or (3) send their children back to

⁵⁶ In 2003, approximately eighty percent of China’s floating population was agricultural hukou or rural hukou holders. See YOUNG, *supra* note 1, at 50. The vast majority of the non-local hukou population in urban China is comprised of rural migrant workers.

⁵⁷ See YOUNG, *supra* note 1, at 3 (predicting migration in China for the next decade).

⁵⁸ U.N. Econ. & Soc. Council, Comm. on Econ., Soc. & Cultural Rights, Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant on its 34th Sess., at 3, Apr. 25-May 13, 2005, U.N. Doc. E/C.12/1/Add.107 (May 13, 2005).

⁵⁹ See CONG.-EXEC. COMM’N ON CHINA, *supra* note 27, at 7.

⁶⁰ See Zhan, *supra* note 36, at 255; see also YOUNG, *supra* note 1, at 58-60; see also FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53.

⁶¹ See FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53.

⁶² “A 2003 State Council directive instructed local governments to make efforts toward providing education for migrant children.” CONG.-EXEC. COMM’N ON CHINA, *supra* note 27, at 7.

⁶³ See CONG.-EXEC. COMM’N ON CHINA, *supra* note 27, at 1.

⁶⁴ See *id.* at 8.

live with relatives⁶⁵ and attend a rural school.⁶⁶ The urban private schools, commonly referred to as migrant schools, are relatively affordable for migrant workers, but they are substandard and often unlicensed. These migrant schools “typically have poor teaching facilities, undeveloped curricula, insufficient funding, and less qualified teachers.”⁶⁷ Meanwhile, to gain access to the better urban public schools, migrant workers are required to pay a significant additional fee,⁶⁸ usually several thousand yuan per year.⁶⁹ Most migrant workers cannot afford to pay the additional fee, and even if they could, migrant children are often not treated equally when attending urban public schools.⁷⁰ Furthermore, if migrant children want to attend high school or take the entrance exam for college, they must return to their *hukou* locations.⁷¹

In addition to not receiving basic public goods and services, most rural migrant workers are only able to get the worst jobs in the cities,⁷² which “allow a bare minimum standard of

⁶⁵ Approximately sixty one million Chinese children, one in every five, have not seen one or both of their parents for at least three months because their migrant parents must leave them behind to find work in the cities. Many of the left-behind children are left with the responsibilities of running a household, raising younger siblings, and caring for aging grandparents. Unfortunately, the left-behind children often suffer problems, such as anxiety, depression, and sometimes even death. In 2012, five left-behind boys died from carbon-monoxide poisoning when they lit a fire in a dumpster, attempting to shelter from the cold. See Andrew Browne, *Left-Behind Children of China's Migrant Workers Bear Grown-Up Burdens*, CHINA REAL TIME (Jan.17,2014), <http://online.wsj.com/news/articles/SB10001424052702304173704579260900849637692> (an eye-opening portrayal of children left-behind in China because their parents are migrant workers).

⁶⁶ See FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53; see also YOUNG, *supra* note 1, at 59-60 (explaining the options that migrant workers have to educate their children).

⁶⁷ THE WORLD BANK & DEV. RESEARCH CTR. OF THE STATE COUNCIL, CHINA, URBAN CHINA: TOWARD EFFICIENT, INCLUSIVE, AND SUSTAINABLE URBANIZATION 18 (forthcoming 2014) [hereinafter THE WORLD BANK] (describing the condition of migrant schools in china).

⁶⁸ In Beijing, rural migrant workers must pay an additional fee of 12,000 yuan per year in order for one child to attend urban public schools. See YOUNG, *supra* note 1, at 59-60.

⁶⁹ See CONG.-EXEC. COMM'N ON CHINA, *supra* note 27, at 8.

⁷⁰ In some urban public schools, the migrant children are completely segregated from the other children and have separate teachers and textbooks. See FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53.

⁷¹ See FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53; Depending on the location children take the college entrance exam, different scores are required to be accepted into the best colleges. A rural *hukou* holder must score much higher on the exam than a local urban *hukou* holder to be accepted at the best colleges in the cities. See YOUNG, *supra* note 1, at 60.

⁷² Despite only being eligible for the worst jobs in the cities, most migrant workers can still earn far more in the cities than at home. See *id.* at 51.

living.⁷³ In many of the urban areas, there are local decrees that actually limit migrant workers to obtaining jobs only in the low-end, so called “3-D,” category. Jobs in the so called “3-D” category are dangerous, dirty, and demeaning.⁷⁴ Additionally, migrant workers are easily exploitable,⁷⁵ and it is not uncommon for their working rights to be infringed.⁷⁶ China’s migrant workers are owed billions in delayed salaries from employers, which in many cases they will never receive.⁷⁷ For example, in 2004, fifteen migrant workers were denied rightful wages from their employer, a Jiangsu labor company.⁷⁸ After the fifteen migrant workers finished the construction job they were contracted to complete, their boss refused to pay them for their work and disappeared.⁷⁹ With the help of the Beijing Legal Aid Office for Migrant Workers⁸⁰ (“BLAOMW”) and its founder Tong Lihua,⁸¹ the fifteen migrant workers were able to receive

⁷³ Chan, *supra* note 2, at 359 (describing the types of jobs that are usually available for migrant workers in the Chinese cities).

⁷⁴ *See id.*

⁷⁵ *See id.*

⁷⁶ Some examples of infringements on the working rights of migrant workers are the “denial of labour contracts; forced overtime; denial of holidays; the use of fines by managers; unpaid wages; financial penalties and the obstruction of the rights to leave employment; and grossly inadequate housing arrangements for workers.” YOUNG, *supra* note 1, at 59.

⁷⁷ *See Tony Lihua - Fighting for the Rights of the Vulnerable*, CRIENGLISH.COM (Mar. 2, 2007, 4:04 PM), <http://english.cri.cn/4406/2007/04/29/47@221807.htm> (providing a short biography of Tony Lihua).

⁷⁸ *See Fifteen Migrant Workers Denied Rightful Wages*, BEIJING LEGAL AID OFFICE FOR MIGRANT WORKERS (2009), <https://sites.google.com/a/chinapilaw.org/blaomw/fifteen-migrant-workers-denied-rightful-wages> (describing one of the Beijing Legal Aid Office for Migrant Workers leading cases concerning the rights of fifteen migrant workers).

⁷⁹ *See id.*

⁸⁰ The Beijing Legal Aid Office for Migrant Workers (“BLAOMW”) is a non-profit organization that provides full-time and professional legal aid to Chinese migrant workers. Since 2005, the BLAOMW has provided legal services for more than 95,000 migrant workers and has represented over 5600 migrant workers in court. As of March 2009, it has successfully received awards of over thirty four million yuan for migrant workers. *See About Us*, BEIJING LEGAL AID OFFICE FOR MIGRANT WORKERS (2009), <https://sites.google.com/a/chinapilaw.org/blaomw/about-us>.

⁸¹ Tong Lihua, the 2012 International Bar Association Pro Bono Award winner, was one of the first professional public interest lawyers in China and founded the Beijing Children’s Rights Legal Aid and Research Centre in 1999 and the Beijing Legal Aid Office for Migrant Workers in 2005. He has devoted his legal career to helping the children and migrant workers of China through providing free legal services. *See International Bar Association, Tony Lihua 2012 IBA Pro Bono Award Winner*, IBANET.ORG (Mar. 10, 2012), <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=ff0446c9f-b3dd-4698-a4c7-8fee975e22e7> (honoring the selfless and inspiring legal career of Tony Lihua).

favorable judgments against their employer in court.⁸² Despite the incredible work of the BLAOMW, many of China's migrant workers are exploited by their employers and lack access to legal aid.⁸³ Migrant workers are only eligible for the low-end jobs in the cities and in addition, are often exploited by their employers.

The migrant workers also face discrimination from the local urban *hukou* holders. Since they are not equal under the laws of China, the local urban *hukou* holders often look down upon and sometimes exploit the migrant workers.⁸⁴ A rural migrant worker is discriminated against for being a *waidiren*, a non-local resident, and for being a *nongmin*, a peasant, or a *xiangxiaren*, a rural person.⁸⁵ Even after thirty years of constant migration, many of the migrant workers still face the brunt of stereotyping and discrimination because they are poor and less educated.⁸⁶ During an interview in 2005, Li Min, a migrant worker in Beijing, proclaimed, "People from Beijing think they're the real locals, so no matter what, they're superior to you. They never think about what class they belong to; they only have one way of seeing things: I'm a Beijing local and I'm better than you."⁸⁷ In a 1996 survey,⁸⁸ sixty three percent of migrant workers experienced discrimination from local urban residents.⁸⁹ "[P]rovinciality and rural roots can be an insurmountable barrier to acceptance and equal treatment in the cities by local urbanites."⁹⁰

⁸² See *Fifteen Migrant Workers Denied Rightful Wages*, *supra* note 78.

⁸³ See *Tony Lihua - Fighting for the Rights of the Vulnerable*, *supra* note 77.

⁸⁴ See Zhan, *supra* note 36, at 264; see also YOUNG, *supra* note 1, at 58.

⁸⁵ See Zhan, *supra* note 36, at 261 (describing the discriminatory language used to refer to migrant workers).

⁸⁶ See YOUNG, *supra* note 1, at 58.

⁸⁷ Zhan, *supra* note 36, at 264.

⁸⁸ The survey of migrant workers was conducted in four large cities, including Beijing, Shanghai, Guangzhou, and Wuhan. See Zhan, *supra* note 36, at 260.

⁸⁹ See *id.*

⁹⁰ YOUNG, *supra* note 1, at 58.

The story of Bai Lin, a nineteen year old girl with a rural *hukou*, portrays the daunting reality of life for many of the approximate 261 million migrant workers in China.⁹¹ Bai Lin grew up in a dirt-floored hovel in Two Dragons, a small village in central China.⁹² Her family has struggled to survive as farmers in Two Dragons for the last eight generations.⁹³ At fifteen years old, Bai's father told her that she must leave home to search for work in the city because their family was too poor to survive.⁹⁴ Bai Lin's father was forced to take his fifteen year old daughter to the bus station and send her to Changshu, a city of a million people.⁹⁵ Four years later, Bai Lin is still working as a factory drone at Changshu Medical Instrument, a factory that produces medical supplies.⁹⁶ Bai Lin works twelve hours a day, seven days a week, cutting and stacking pieces of rubber tubes that eventually become IV drips for hospitals in Switzerland and France.⁹⁷ Each day, Bai Lin essentially goes straight from work to the factory dormitory, "a squalid line of concrete rooms that look like connected sheds."⁹⁸ The only time she leaves the factory compound is when she returns home for the Chinese New Year holiday.⁹⁹ Before leaving for the holiday, Bai Lin receives her entire yearly salary in a one lump sum payment of \$500, which she gives entirely to her family.¹⁰⁰ Bai Lin earns approximately \$1.50 a day or around 12 cents an hour. To make matters worse, she is trapped into working for the entire year because if

⁹¹ See Michael A. Lev, *Part 2 of 3: The Factory Nuns of Urban China*, CHICAGOTRIBUNE.COM (Dec. 27, 2004), <http://www.chicagotribune.com/chi-chinapart2-story,0,1439341.story> [hereinafter *Part 2 of 3: The Factory Nuns of Urban China*] (portraying Bai Lin's story of migrating from rural to urban China).

⁹² See Michael A. Lev, *Part 1 of 3: Migration of a Nation*, CHICAGOTRIBUNE.COM (Dec. 26, 2004), <http://www.chicagotribune.com/chi-0412260374dec26,0,5421512.story> [hereinafter *Part 1 of 3: Migration of a Nation*] (describing the Bai family from Two Dragons, China).

⁹³ See *id.*

⁹⁴ See *Part 2 of 3: The Factory Nuns of Urban China*, *supra* note 91.

⁹⁵ See *id.*

⁹⁶ See *id.*

⁹⁷ See *id.*

⁹⁸ *Id.*

⁹⁹ See *id.*

¹⁰⁰ See *id.*

she leaves before the pay-day, she will likely never receive any wages for her work.¹⁰¹ Every year, after the Chinese New Year holiday, Bai Lin desires to stay home, but she knows that she must return to the city to help support her family.¹⁰² This is the life of a migrant worker in China.

III

THE RECENT PROPOSED REFORM OF THE *HUKOU* SYSTEM

Hukou reform has been a polarizing topic of conversation amongst the leaders of China's government, the media, and academics.¹⁰³ In December 2009, China's Central Economic Work Conference suggested initiatives to reform the *hukou* system in small and medium sized cities as a way to increase domestic consumption.¹⁰⁴ Increasing consumption in China will help rebalance its increasingly instable economy.¹⁰⁵ Shortly after the well-publicized Central Economic Work Conference, then Premier Wen Jiabao announced "that China will steadily advance the reform of its decades-long household registration system in order to ensure migrant workers have the same rights as city dwellers."¹⁰⁶ Additionally, in January 2010, the Chinese Communist Party's No. 1 Central Committee Document also proposed *hukou* reform, similar to the initiative that was initially suggested by the Central Economic Work Conference.¹⁰⁷ The Central Committee Document proposed that "rural migrant workers should be allowed to settle

¹⁰¹ *See id.*

¹⁰² *See id.*

¹⁰³ *See, e.g.,* Population Council, *A Call for Reform of China's Household Registration System*, 36 No. 2, POPULATION AND DEV. REV., 405, 405 (2010).

¹⁰⁴ *See* Sherry Tao Kong, *China's Migrant Problem: The Need for Hukou Reform*, EASTASIAFORUM.ORG (Jan. 29, 2010, 10:00 PM), <http://www.eastasiaforum.org/2010/01/29/chinas-migrant-problem-the-need-for-hukou-reform/>; *see also* Chan, *supra* note 2, at 361-62.

¹⁰⁵ *Infra* Part IV: Rebalance the Economy.

¹⁰⁶ Ran Tao, *Achieving Real Progress in China's Hukou Reform*, EASTASIAFORUM.ORG (Feb. 8, 2010), <http://www.eastasiaforum.org/2010/02/08/achieving-real-progress-in-chinas-hukou-reform/>.

¹⁰⁷ *See* Chan, *supra* note 2, at 362; *see also* Tao, *supra* note 106.

permanently in small and medium sized cities and enjoy the same public facilities and services as those with local urban *hukou*.¹⁰⁸

Although China's government was comfortable discussing *hukou* reform in 2010, it was not comfortable with the media demanding *hukou* reform.¹⁰⁹ On March 1, 2010, the day before China's National People's Congress's annual meeting, an identical article appealing "to the authorities to accelerate *hukou* reform and ultimately to abolish the system" appeared in thirteen big-city newspapers from eleven different provinces.¹¹⁰ The article urged for the government "to devise a clear timetable for nationwide *hukou* reform" and that "the rigid *hukou* system should be gradually replaced by a population information registration system, and eventually be eliminated."¹¹¹ Furthermore, the article justified the appeal for abolishing the *hukou* system by declaring that it breeds corruption and violates human rights and personal freedom of China's constitution.¹¹² The moving appeal for reform of the *hukou* system concluded by profoundly encouraging:

We hope that our millions and millions of countrymen, whether from the north or south, [whether they] live in the city or countryside, will all have the same employment opportunities, health care, pension, education, and migration rights. We hope the rigid *hukou* system will end with our generation, and that the next generation will enjoy genuine freedom, democracy, and equality—the sacred rights enshrined in the Constitution!¹¹³

¹⁰⁸ Chan, *supra* note 2, at 362.

¹⁰⁹ See Population Council, *supra* note 103, at 405; see also Chan, *supra* note 2, at 362.

¹¹⁰ Population Council, *supra* note 103, at 405; see also Kam Wing Chan, *Making Real Hukou Reform in China*, EAST ASIAFORUM.ORG (Mar. 3, 2010), <http://www.eastasiaforum.org/2010/03/03/making-real-hukou-reform-in-china/#more-10361> [hereinafter *Making Real Hukou Reform in China*].

¹¹¹ Population Council, *supra* note 103, at 406.

¹¹² See *id.*

¹¹³ *Id.* at 407.

In response, China's government quickly censored the article by removing it from websites and internet portals within a few hours, and Zhang Hong, the main drafter of the article and deputy editor of the Economic Observer, was ousted from his employment position.¹¹⁴

On June 26, 2013, in a report on urbanization, China's National Development and Reform Commission announced that "the government should gradually tear down household registration obstacles to facilitate the orderly migration of people from rural to urban areas."¹¹⁵ Additionally, a report of the Third Plenum reaffirmed China's commitment to accelerating the gradual reform of the *hukou* system by 2020, as part of its urbanization strategy.¹¹⁶ The report categorized cities as either towns and small cities, medium-sized cities, large cities, or megacities.¹¹⁷ It stated that the plan is to fully open towns and small cities¹¹⁸ and to relax restrictions on settling in medium-sized cities in an orderly manner.¹¹⁹ The report is much more conservative with regards to large cities and megacities. Reasonable requirements are to be set for rural residents to obtain *hukou* in large cities, and megacities will continue to be strictly controlled.¹²⁰ Most importantly, the report declared that an "effort should be made to make basic public services available for all permanent residents in cities and include all rural residents into the affordable housing system and the social security network."¹²¹ The goal is to gradually extend these services through both local government and central government funding.¹²²

¹¹⁴ See *id.* at 405.

¹¹⁵ Dexter Roberts, *China Moves on Reforming Hukou?*, BUSINESSWEEK.COM (June 28, 2013), <http://www.businessweek.com/articles/2013-06-28/china-moves-on-reforming-hukou>.

¹¹⁶ See, e.g., *China to Accelerate 'Hukou' System Reform*, *supra* note 5.

¹¹⁷ See, e.g., Golley, *supra* note 5.

¹¹⁸ See *id.*

¹¹⁹ See *China to Accelerate 'Hukou' System Reform*, *supra* note 5.

¹²⁰ See *id.*

¹²¹ *Id.*

¹²² See Dinny McMahon, *Beijing Moves to Break Down the Rural-Urban Divide*, CHINA REAL TIME (Nov. 15, 2013, 11:53 PM), <http://blogs.wsj.com/chinarealtime/2013/11/15/beijing-moves-to-break-down-the-rural-urban-divide/>.

Recently, the Ministry of Public Security and 11 other ministries and commissions drafted guidelines for the *hukou* reform, which would aim to have a new *hukou* system established by 2020.¹²³ If the guidelines for reform are achieved, a person's *hukou* status will be determined by his place of residence and employment, rather than the birthplace of his mother's lineage.¹²⁴ Additionally, Huang Ming, the vice-minister of public security, explained that "the new *hukou* system will gradually extend pension, education and, health care services to qualified residents, both urban and rural."¹²⁵

IV

WHY CHINA'S GOVERNMENT WILL EVENTUALLY REFORM THE *HUKOU* SYSTEM

Despite the encouraging proposed reform, there is no guarantee that China's government will follow through with reforming the *hukou* system. Numerous reasons exist why the *hukou* system should be reformed, such as the human rights and equality of migrant workers; however, *hukou* reform will only occur if it advances the Chinese government's self-interests. China's government will eventually reform the *hukou* system because it will advance its self-interests of urbanization, a balanced economy, international legitimacy, and domestic social stability.

URBANIZATION

For the past three decades, China has experienced exceptional economic growth,¹²⁶ in part, because the "rapid economic development was facilitated by urbanization."¹²⁷ During

¹²³ See An Baijie, *Hukou Reforms Target 2020: Official*, XINUANET.COM (Dec. 18, 2013, 8:41 AM), http://news.xinhuanet.com/english/china/2013-12/18/c_132976523.htm.

¹²⁴ See Baijie, *supra* note 123; see also Golley, *supra* note 5.

¹²⁵ Baijie, *supra* note 123.

¹²⁶ China has averaged growth of ten percent a year over the past three decades. See THE WORLD BANK, *supra* note 67, at xiii.

China's period of rapid economic growth, from 1978 to 2012, the urban population increased from twenty percent to fifty two percent of the total population.¹²⁸ By 2030, China's urban population is expected to increase to seventy percent of the total population, some one billion people.¹²⁹ Although China's urbanization in absolute numbers is massive, "the increase in its urbanization rate has not been exceptional by international comparison."¹³⁰ Barriers to migration, such as the *hukou* system, keep China's urbanization rate too low and consequently, underutilize productivity and exacerbate the urban-rural inequality gap.¹³¹

Urbanization is vital for a developing country, such as China, because it increases productivity and promotes innovation.¹³² This explains why future urbanization is exceptionally important to the Chinese government. Productivity and innovation increase because urbanization provides agglomeration effects, including more efficient labor markets, lower transaction costs, and knowledge spill-over between industries.¹³³ Even smaller cities will experience agglomeration effects from urbanization, as long as there is both "sufficient specialization and transport linkages to larger urban areas."¹³⁴

China's future urbanization is one of the government's top priorities,¹³⁵ as indicated by Premier Li Keqiang when he "promoted urbanization as both the next driver of economic growth and a tool for addressing the gaping divide in income and quality of life between rural Chinese

¹²⁷ Urbanization provided "a supportive environment for growth with abundant labor, cheap land, and good infrastructure." *Id.* at 3.

¹²⁸ *See id.* at 5.

¹²⁹ *See id.* at 3.

¹³⁰ *Id.* at 5 (China's urbanization rate has been lower than the urbanization rates of Japan and the Republic of Korea at similar stages of development).

¹³¹ *See id.* at xiii.

¹³² *See id.* at 8.

¹³³ *See* NAUGHTON, *supra* note 42, at 126; *see also* YASHENG HUANG, *URBANIZATION, HUKOU SYSTEM AND GOVERNMENT LAND OWNERSHIP: EFFECTS ON RURAL MIGRANT WORKERS AND RURAL AND URBAN HUKOU RESIDENTS* 18 (OECD Development Center, 2010); *see also* THE WORLD BANK, *supra* note 67, at 7.

¹³⁴ THE WORLD BANK, *supra* note 67, at 7.

¹³⁵ *See id.* at vii.

and urbanites.”¹³⁶ China’s proposed gradual reform of the *hukou* system is a part of its greater urbanization strategy to encourage more people to migrate to cities where they can earn and spend more money.¹³⁷ Recently, Chinese Premier Li Keqiang also promoted that, “China will wage war against poverty with a stronger resolve.”¹³⁸ In 2012, China’s own officials estimated that 98.99 million¹³⁹ rural poor are living below the national poverty line or \$1.8 a day.¹⁴⁰ China’s economy disproportionately benefits its citizens living in urban areas, while citizens in rural areas suffer, creating a substantial urban-rural divide.¹⁴¹ China plans to fight this “war on poverty” through urbanization, transferring more of its rural population to urban population.¹⁴² The urbanization plan is to increase the income of the rural migrants, narrowing China’s unusually large urban-rural income gap.¹⁴³ Migrant workers’ wages are rising rapidly in China, and many rural workers are able to earn higher incomes if they decide to migrate.¹⁴⁴ Increasing the mobility of workers in China by reforming the *hukou* system will increase their wages.¹⁴⁵ Additionally, an increase in migration will reduce the labor surplus in the rural areas of China, increasing rural wages compared to urban wages.¹⁴⁶ *Hukou* reform will increase the mobility of

¹³⁶ McMahon, *supra* note 122.

¹³⁷ See, e.g., *China to Accelerate ‘Hukou’ System Reform*, *supra* note 5; see also, e.g., Golley, *supra* note 5.

¹³⁸ Shannon Tiezzi, *China’s ‘War Against Poverty’*, THE DIPLOMAT (Jan. 29, 2014), <http://thediplomat.com/2014/01/chinas-war-against-poverty/>.

¹³⁹ The World Bank estimates that China has about 128 million people living below the national poverty line. See *id.*

¹⁴⁰ See *id.*

¹⁴¹ See *id.*

¹⁴² See *id.*

¹⁴³ See HUANG, *supra* note 133, at 8.

¹⁴⁴ See THE WORLD BANK, *supra* note 67, at 10; see also *infra* Part IV Urbanization.

¹⁴⁵ See THE WORLD BANK, *supra* note 67, at xv.

¹⁴⁶ See *id.* at 49.

migrant workers in China and reduce urban-rural inequality by increasing both the wages of migrant workers and rural workers.¹⁴⁷

China's urbanization strategy is to promote urbanization to less populated towns and small cities.¹⁴⁸ "China's urbanization process is a result of a large increase of the number of cities rather than a result of increasing the size of existing cities."¹⁴⁹ China's urban population continues to grow, however the population of Chinese cities has remained constant over time.¹⁵⁰ This type of urbanization attempts to make it more attractive for migrant workers to move to low-density population or developing urban areas, rather than overcrowding the large cities and metropolises.¹⁵¹ China's government "effectively guides rural to urban migration to targeted areas"¹⁵² by reforming the *hukou* system in those specific areas, making it less restrictive.¹⁵³

Reforming the *hukou* system will increase urbanization and migration in China. Rural *hukou* holders in China decide to migrate to the cities in search of better opportunities.¹⁵⁴ The decision to migrate is driven by the income differential between rural and urban China because migrants are searching for higher income.¹⁵⁵ Rural *hukou* holders are more likely to migrate to cities when there is a large gap between the opportunities existing in rural and urban China. China has an unusually large urban-rural inequality gap.¹⁵⁶ In 2005, the per capita income of the

¹⁴⁷ "Evidence from Korea also shows that free rural-urban migration reduced inequality. By 1994, three decades into reform, Korea's urban-rural wage gap had disappeared entirely—indicating that workers had migrated to their optimal locations." *Id.* at 16-17.

¹⁴⁸ See YOUNG, *supra* note 1, at 61.

¹⁴⁹ HUANG, *supra* note 133, at 13.

¹⁵⁰ See *id.*

¹⁵¹ See YOUNG, *supra* note 1, at 61.

¹⁵² *Id.* at 62.

¹⁵³ See *id.* at 61.

¹⁵⁴ See NAUGHTON, *supra* note 42, at 199.

¹⁵⁵ See *id.*

¹⁵⁶ In 2001, China's Gini coefficient, a summary measure of income distribution, increased to 0.447, showing that China is significantly more unequal than most developing Asian countries and about as unequal as the average low-income country. See *id.* at 218.

urban resident was over three times higher than that of a rural resident.¹⁵⁷ Rural migrant workers significantly improve their income from moving to urban areas in China.¹⁵⁸ A survey of rural migrant workers in urban areas of Guangdong¹⁵⁹ showed that their average household income in the cities was 31,195 yuan in 2008, while the average household income in their *hukou* location was only 8277 yuan.¹⁶⁰ The 2008 survey determined that, on average, rural migrant workers increased their household income 22,918 yuan per year by migrating to the cities in Guangdong province.¹⁶¹ There is a considerable amount of economic motivation for rural *hukou* holders to migrate to the cities, and as a result, urbanization will continue in China.¹⁶² However, despite the economic motivation to migrate, China “is still less urbanized than expected at its level of income” because of administrative barriers of mobility, such as the *hukou* system.¹⁶³ Access to the same public goods and services as the local urban *hukou* holders, will provide additional motivation for rural *hukou* holders to migrate. Additionally, since the proposed reform is gradual, it will allow China’s government to continue to guide the migration to targeted areas, such as towns and small cities.

Hukou reform will advance the Chinese government’s self-interest to accelerate urbanization because it will reduce barriers of mobility and provide more motivation to migrate. Accelerating urbanization will increase productivity and promote innovation because of agglomeration effects. Every 1% more of rural to urban migration, would yield a projected 1.2%

¹⁵⁷ See *id.* at 133 (not accounting for the cost of living in the cities and rural areas but still a significant difference).

¹⁵⁸ See HUANG, *supra* note 133, at 21.

¹⁵⁹ The survey was conducted on 1500 rural migrant workers in five cities in Guangdong province, including Guangzhou, Foshan, Shenzhen, Dongguan, and Zhuhai. See *id.* at 19.

¹⁶⁰ See *id.* at 23.

¹⁶¹ See *id.*

¹⁶² See YOUNG, *supra* note 1, at 51.

¹⁶³ See THE WORLD BANK, *supra* note 67, at 10.

more gross domestic product (“GDP”).¹⁶⁴ Additionally, urbanization will narrow the urban-rural inequality gap. Migrant workers will earn higher incomes in the cities, and rural workers will earn higher incomes when the increase in migration reduces the labor surplus in rural areas. *Hukou* reform will advance the Chinese government’s self-interest in increasing urbanization.

REBALANCE THE ECONOMY

Rebalancing the economy by increasing the consumption share of GDP is a great concern of the Chinese government. At a press conference following the annual meeting of the National People’s Conference in March 2007, Premier Wen Jiabao declared, “China’s economic growth is unsteady, imbalanced, uncoordinated, and unsustainable.”¹⁶⁵ Then, in 2011, Premier Wen Jiabao again voiced his concerns about the need to rebalance the economy and increase consumption when he stated, “If businesses go bankrupt, workers become unemployed and rural migrants go home, then what do we have to expand domestic consumption, where will increased consumption come from?”¹⁶⁶ Additionally, on July 1, 2011, similar concerns were expressed by Hu Jintao during his address on the 90th anniversary of the founding of China’s Communist Party. Although China’s economy continues to experience exceptional growth,¹⁶⁷ the economy also continues to become increasingly imbalanced.¹⁶⁸ In order to ensure that China’s economic

¹⁶⁴ *See id.*

¹⁶⁵ NICHOLAS R. LARDY, *SUSTAINING CHINA’S ECONOMIC GROWTH AFTER THE GLOBAL FINANCIAL CRISIS* 44 (Peterson Institute for International Economics, 2012).

¹⁶⁶ Chris Buckley & Ken Wills, *China’s Wen Puts Social Stability at Heart of Economy*, Reuters (Feb. 27, 2011, 3:47 AM), <http://www.reuters.com/article/2011/02/27/us-china-economy-wen-idUSTRE71Q07F20110227> [hereinafter Buckley & Wills].

¹⁶⁷ Even during the recent global economic crisis, China experienced growth of 9.2% in 2009 and 10.4% in 2010. *See* LARDY, *supra* note 165, at 43.

¹⁶⁸ *See id.* at 45.

growth remains sustainable in the long term, China must correct the imbalance by increasing consumption.¹⁶⁹

The three basic components of GDP are consumption, investment, and net exports of goods and services.¹⁷⁰ China's investment and exports have continued to grow while consumption has lagged behind, accounting for a smaller share of GDP.¹⁷¹ From 2003 to 2010, investment "accounted for 53 percent of China's economic growth, an exceptionally high share by international standards."¹⁷² Additionally, the growth of net exports of goods and services became a major source of economic growth for China from 2005 to 2008.¹⁷³ In 2004, China's net exports of goods and services amounted to \$40 billion or 2.5% of GDP.¹⁷⁴ By 2007, China's net exports of goods and services had more than quadrupled, reaching \$235 billion or 8.8% of GDP.¹⁷⁵ While investment and the net exports of goods and services have seen significant growth, China's consumption share of GDP has steadily decreased.¹⁷⁶ Throughout the 1980s, household consumption was, on average, slightly more than half of China's GDP.¹⁷⁷ In the 1990s, household consumption dropped marginally to an average of just under half of China's GDP.¹⁷⁸ However, beginning in 2003, household consumption decreased considerably, accounting for only thirty five percent of GDP in 2008 and 2009.¹⁷⁹ China's household consumption share of only thirty five percent is substantially lower than any other major

¹⁶⁹ *See id.* at 44-45.

¹⁷⁰ *See id.* at 45.

¹⁷¹ *See id.* at 45-46.

¹⁷² *Id.* at 45.

¹⁷³ *See* LARDY, *supra* note 165, at 47.

¹⁷⁴ *See id.*

¹⁷⁵ *See id.*

¹⁷⁶ *See id.*

¹⁷⁷ *See id.*

¹⁷⁸ *See id.*

¹⁷⁹ *See* LARDY, *supra* note 165, at 47.

economy in the world.¹⁸⁰ China's extraordinary low share of household consumption in GDP has caused its economy to become imbalanced, relying too heavily on investments and net exports.¹⁸¹

Despite China experiencing rapid urbanization since the 1990s and migrant workers significantly improving their income,¹⁸² China's consumption share of GDP continues to decrease causing the economy to be increasingly imbalanced.¹⁸³ Migrant workers have a strong precautionary savings motivation because they do not have access to the same basic public services received by local urban *hukou* holders.¹⁸⁴ As a result, migrant workers have a substantially higher savings rate than China's national average.¹⁸⁵ In 2007, local urban *hukou* holders in Guangzhou had an average household savings rate of 15.6 percent, while the average household savings rate for rural migrant workers in Guangzhou was 41 percent.¹⁸⁶ Since migrant workers save at much higher rate than the local urban *hukou* holders, their consumption does not increase with their increase in income from migrating.¹⁸⁷

One option to rebalance China's economy is to increase government consumption expenditures, such as outlays for health, education, welfare and pensions.¹⁸⁸ Increasing government consumption expenditures will increase both government consumption and household consumption.¹⁸⁹ Increasing government outlays for health, education, welfare, and pensions will reduce the migrant workers need for precautionary savings, and as a result, the

¹⁸⁰ “[T]ypical consumption shares in developed and emerging-market economies are reflected in the 63 percent consumption share in the United Kingdom and the 56 percent share in India, both in 2007.” *Id.* at 51.

¹⁸¹ *See id.*

¹⁸² *Supra* Part IV: Urbanization.

¹⁸³ *See* HUANG, *supra* note 133, at 5; *see also* LARDY, *supra* note 165, at 45.

¹⁸⁴ *See* HUANG, *supra* note 133, at 24.

¹⁸⁵ *See id.* at 11.

¹⁸⁶ *See id.* at 24.

¹⁸⁷ *See id.*

¹⁸⁸ *See* LARDY, *supra* note 165, at 68-69.

¹⁸⁹ *See id.* at 69.

migrant workers will have more disposable income and will be able to spend more, increasing household consumption.¹⁹⁰ Reforming the *hukou* system to provide migrant workers with basic public services will increase government consumption expenditures and increase the household consumption of migrant workers by reducing their need for precautionary savings.

There are approximately 261 million migrant workers in China¹⁹¹ who are denied access to basic public services—such as health care insurance, pensions, unemployment benefits, and urban public education—because of the *hukou* system.¹⁹² Since most migrant workers are trapped working low-end jobs and receive no public services from the government, they often face bare minimum living standards.¹⁹³ If they have any money left after purchasing the necessities to live, most migrant workers need to save their money in case they become unemployed, need to pay for any unexpected medical expenses, or have to send their children to school in the city. If China reformed the *hukou* system allowing migrant workers to receive public services, they will not be motivated to save as much and will have more disposable income. *Hukou* reform will reduce precautionary savings for migrant workers, and their household consumption will likely increase. Consequently, *hukou* reform will also increase government consumption because the government will be spending more by providing basic public services to the migrant workers. An increase in both household consumption of the migrant workers and government consumption will increase China's extremely low consumption share of GDP. *Hukou* reform will advance the Chinese government's self-interest of rebalancing the economy, which is imperative for China to sustain long term economic growth.

¹⁹⁰ See *id.* at 69.

¹⁹¹ See, e.g., YOUNG, *supra* note 1, at 3.

¹⁹² See, e.g., Chan, *supra* note 2, at 357

¹⁹³ See *id.* at 359.

INTERNATIONAL LEGITIMACY

China desires to be a “responsible great power” in the international community and to be “accepted as a key global actor that is a force for peace and stability.”¹⁹⁴ In fact, Chinese leaders have not hesitated to declare China as a “responsible great power.”¹⁹⁵ In 2014, China’s foreign minister, Wang Yi, stated that “China will give full play to the country’s role as a responsible world power.”¹⁹⁶ Since the mid-1990s, China has become increasingly involved in the international community by participating more in international organizations¹⁹⁷ and multilateral treaties.¹⁹⁸ As China developed into a global economy, the Chinese government realized that it has a growing interest in global stability because instability abroad affects China.¹⁹⁹ China will continue to increase its role in the international community as a “responsible great power.”²⁰⁰ Before his first visits to Russian and Africa, China’s Premier Xi Jinping declared that “as [China’s] strength increases, it will assume more international responsibilities.”²⁰¹

¹⁹⁴ SHAUN BRESLIN, CHINA’S EMERGING GLOBAL ROLE: DISSATISFIED RESPONSIBLE GREAT POWER, THE UNIVERSITY OF WARWICK (forthcoming) (manuscript at 9-10), available at <http://go.warwick.ac.uk/wrap>.

¹⁹⁵ See TIANG BOON HOO, A RESPONSIBLE GREAT POWER: THE ANATOMY OF CHINA’S PROCLAIMED IDENTITY (University of Oxford, 2013), available at <http://ora.ox.ac.uk/objects/uuid:5db537a8-f62e-430f-a4d6-29baf626f6b0>.

¹⁹⁶ *China Will Fulfill Role of Responsible World Power: Foreign Minister*, WANT CHINA TIMES (Mar. 8, 2014, 5:31 PM), <http://www.wantchinatimes.com/news-subclass-cnt.aspx?id=20140308000099&cid=1101>.

¹⁹⁷ China is a key player in many regional and international initiatives, including the UN, the Shanghai Cooperation Organization, G20, the BRIC and Six-Party Talks aimed at defusing the Korean Peninsula nuclear standoff. *Responsible Power*, CHINA DAILY (June 17, 2010, 7:55 AM), http://www.chinadaily.com.cn/opinion/2010-06/17/content_9981881.htm.

¹⁹⁸ See THE NAT’L INST. FOR DEF. STUDIES, CHINA’S SHIFT: GLOBAL STRATEGY OF THE RISING POWER 12-13 (Masafumi Iida ed., 2009) [hereinafter CHINA’S SHIFT].

¹⁹⁹ See Bernard Yudkin Geoxavier, *China as Peacekeeper: An Updated Perspective on Humanitarian Intervention*, YALE J. INT’L AFFAIRS, Sept. 2012, at 98, 99; see also CHINA’S SHIFT, *supra* note 198, at 16.

²⁰⁰ In 2014, Wang Yi, China’s foreign minister declared, “We will take an active part in international and regional affairs and play a bigger role in solving global and regional issues by offering China’s own solutions.” *China Will Fulfill Role of Responsible World Power: Foreign Minister*, *supra* note 196.

²⁰¹ Yukon Huang, *China’s Route to Responsibility*, FINANCIAL TIMES (Mar. 26, 2013, 7:00 PM), <http://www.ft.com/intl/cms/s/0/3d7d4dac-9626-11e2-b8dd-00144feabdc0.html#axzz2zpx8hhK> [hereinafter Yukon Huang].

If China wants to be considered a “responsible great power,” it must improve its domestic human rights policies and cannot continue to violate international legal standards.²⁰² “Domestic behavior and international credibility cannot be readily separated or neatly quarantined one from the other. It will be difficult for Beijing to be accepted as a responsible stakeholder . . . as long as political and civil freedoms are severely restricted in China.”²⁰³ Reforming the *hukou* system will improve human rights in China and allow China to comply with international legal standards.

China’s *hukou* system violates human rights and international treaties, specifically the International Covenant on Economic, Social and Cultural Rights of 1966 (“ICESCR”), the Universal Declaration of Human Rights,²⁰⁴ and the International Covenant on Civil and Political Rights of 1996 (“ICCPR”).²⁰⁵ As of March 27, 2001, China has both signed and ratified the ICESCR.²⁰⁶ China’s *hukou* system violates article two of the ICESCR—“declaring that the rights enunciated in the present Covenant will be exercised without discrimination of any kind”²⁰⁷—because it discriminates against migrant workers on the basis of their *hukou* status.²⁰⁸ China’s

²⁰² See Bates Gill, *China Becoming a Responsible Stakeholder*, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE 6-7 (June 11, 2007), http://carnegieendowment.org/files/Bates_paper.pdf; see also YOUNG, *supra* note 1, at 58.

²⁰³ Gill, *supra* note 202, at 6-7.

²⁰⁴ The Universal Declaration of Human Rights was adopted by the UN General Assembly in 1948, and Vice-Chairman Peng Chung Chang of China was one of the nine drafters. The United Nations, *History of the Document*, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS, <http://www.un.org/en/documents/udhr/history.shtml> (last visited Apr. 24, 2014) [hereinafter THE UNIVERSAL DECLARATION OF HUMAN RIGHTS].

²⁰⁵ Cf. YOUNG, *supra* note 1, at 58; Cf. FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53.

²⁰⁶ See SONYA SCEATS, CHINA AND THE INTERNATIONAL HUMAN RIGHTS SYSTEM 34 (Chatham House, 2012), available at http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/r1012_sceatsbreslin.pdf.

²⁰⁷ OFFICE OF THE HIGH COMMISSION FOR HUMAN RIGHTS, INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1966), available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx>.

²⁰⁸ See U.N. Econ. & Soc. Council, Comm. on Econ., Soc. & Cultural Rights, *supra* note 58, at 3.

hukou system discriminates against migrant workers' rights to freely choose work,²⁰⁹ social security,²¹⁰ and an adequate standard of living²¹¹ protected under the ICESCR.²¹² The *hukou* system discriminates between migrant workers' and local urban *hukou* holders' rights to freely choose work because migrant workers are often limited to working only the worst jobs in the city, while urban *hukou* holders have access to the higher paying jobs.²¹³ Additionally, since migrant workers are limited to the worst jobs, they often are subjected to bare minimum standards of living because of their *hukou* status.²¹⁴ The *hukou* system also discriminates against migrant workers' right to social security because it denies them access to health care insurance, pension or retirement benefits, unemployment compensation, minimum living support, and housing benefits.²¹⁵

In addition to violating the ICESCR, China's *hukou* system also violates the Universal Declaration of Human Rights and the ICCPR. China is a Security Council member of the United Nations—the international organization responsible for the Universal Declaration of Human Rights—and has signed, but not yet ratified, the ICCPR.²¹⁶ Both the Universal Declaration of Human Rights and the ICCPR protect the rights to freedom of movement and residence within

²⁰⁹ “The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.” OFFICE OF THE HIGH COMMISSION FOR HUMAN RIGHTS, *supra* note 207.

²¹⁰ “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.” *Id.*

²¹¹ “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” *Id.*

²¹² *See id.* (potentially violates more rights protected under the International Covenant on Economic, Social and Cultural Rights).

²¹³ *See* Chan, *supra* note 2, at 359; *see also supra* Part II.

²¹⁴ *See id.*

²¹⁵ *See* Zhan, *supra* note 36, at 255; *see also* YOUNG, *supra* note 1, at 58-60; *see also* FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53; *see also supra* Part II.

²¹⁶ *See* SCEATS, *supra* note 206, at 33.

the territory of each country.²¹⁷ Although China's *hukou* system does not strictly control mobility anymore, it still sufficiently restricts the rights to freedom of movement and residence because of the great discrimination citizens face if they migrate from their *hukou* location.

Hukou reform will further China's goal of being accepted as a "great responsible power" in the international community. China will gain international legitimacy by reforming the *hukou* system because it will improve human rights in China. Furthermore, China will gain international legitimacy because it will no longer violate the ICESCR, the ICCPR, and the Universal Declaration of Human Rights because of the *hukou* system. The Chinese government's self-interests of gaining international legitimacy and becoming a "great responsible power" will be advanced by *hukou* reform.

DOMESTIC SOCIAL STABILITY

China's domestic social stability and the increasing social unrest is a very serious concern of the Chinese government.²¹⁸ China's leaders often candidly publicize their concerns about the importance to maintain domestic social stability.²¹⁹ In 2005, a Chinese government official from the Ministry of Public Security declared that "it should be observed that China's current overall level of stability has been achieved within a high-pressure environment of unceasing, tough

²¹⁷ See THE UNITED NATIONS, THE UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948), available at <http://www.un.org/en/documents/udhr/index.shtml>; see also OFFICE OF THE HIGH COMMISSION FOR HUMAN RIGHTS, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (1966), available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

²¹⁸ See CARL MINZER, SOCIAL INSTABILITY IN CHINA: CAUSES, CONSEQUENCES, AND IMPLICATIONS (Center for Strategic & International Studies, 2005), available at http://csis.org/files/media/csis/events/061205_mizner_abstract.pdf.

²¹⁹ See JOHN KNIGHT, THE ECONOMIC CAUSES AND CONSEQUENCES OF SOCIAL INSTABILITY IN CHINA 2 (University of Oxford, 2012) (claiming that the term "social instability" appeared approximately "700-800 times a year over the previous decade in the *People's Daily*, a Chinese Communist Party (CCP) mouthpiece"); see also Buckley & Wills, *supra* note 166.

public security measures [*yanda*], and that the foundation of social order is relatively fragile.”²²⁰ Also, in 2005, the “Central Party Committee and State Council leaders issued an internal directive that made reducing the level of social unrest a major policy goal.”²²¹ Despite this concern, the number of “mass incidents,”²²² continues to drastically increase in China.²²³ The number of incidents has increased from 87,000 in 2005 to more than 280,000 in 2009.²²⁴ Additionally, according to the Ministry of Finance, China’s local and national governments’ expenses for public security also continue to increase.²²⁵ China’s governments spent approximately 405 billion *yuan* in 2008 and 624 billion *yuan* in 2011 for public security.²²⁶ The yearly increases in “mass incidents” and government expenditure for public security indicate that domestic social stability is a mounting concern of the Chinese government.

Domestic social instability could potentially be a threat to both political order and the economy in China.²²⁷ In order to pose a serious threat, the social instability would need to be better coordinated and more widespread because generally, protests are uncoordinated and involve only local issues.²²⁸ However, social instability could threaten political order and the economy if a protest, similar to the Tiananmen Square incident,²²⁹ occurred. ²³⁰ After the Tiananmen Square incident, China’s GDP slowed considerably to only four percent in 1989 and

²²⁰ MINZER, *supra* note 218.

²²¹ *Id.*

²²² “Mass incidents” are social resistance movements that include riots, strikes, demonstrations, and protests. *See id.*

²²³ He Qinglian, *The Huge Cost of “Stability Maintenance”*, HUMAN RIGHTS IN CHINA (Nov. 30, 2013), <http://www.hrichina.org/en/crf/article/6415>.

²²⁴ *See id.*

²²⁵ *See id.*

²²⁶ *See id.*

²²⁷ *See* KNIGHT, *supra* note 219, at 2.

²²⁸ *See id.* at 20

²²⁹ In 1989, about a million demonstrators gathered in Tiananmen Square to protest against corruption and for democratic reform. The protest lasted for seven weeks, until China’s government launched a military offensive to stop the social unrest. Tragically, many people were killed and injured during the incident. *1989: Massacre in Tiananmen Square*, BBC NEWS, http://news.bbc.co.uk/onthisday/hi/dates/stories/june/4/newsid_2496000/2496277.stm (last visited April 24, 2014).

²³⁰ *See* KNIGHT, *supra* note 219, at 20.

1990, before returning to its normal high rate in 1991.²³¹ Large protests continue to occur in China. For instance, in April 2014, 30,000 factory employees—mostly migrant workers—went on strike outside of their work complex, where Nike and Adidas shoes are manufactured.²³² The protest over unfair pay and benefits has been ongoing for almost two weeks, and in response, Chinese authorities have deployed riot police to maintain order.²³³ Despite social instability increasing in China, there has not been an organized protest as significant as the Tiananmen Square incident.

Domestic social instability in China is caused by the Chinese citizens' discontent with issues concerning "the ongoing economic transitions, weak legal protections for citizen rights, and a limited social security net for the poor and disadvantaged."²³⁴ Income, inequality, and insecurity are some of the economic sources of social instability and are also some of the major problems of migrant workers in China.²³⁵ Additionally, the increasing social discontent of migrant workers is evident by the increase in mass labor disputes concerning low wages, unpaid back wages, and inadequate retirement benefits.²³⁶ In 1994, 52,637 workers were involved in such disputes, compared to the 515,000 workers in 2003.²³⁷ Migrant workers potentially pose a threat to China's domestic social stability.

Chinese citizens earning low incomes with little chance for economic growth are more likely to be unhappy and dissatisfied with life and therefore, also more likely to be socially

²³¹ *See id.*

²³² *See* Jonathan Kaiman, *Strike Spreads at Chinese Supplier to Adidas and Nike*, THE GUARDIAN (April 22, 2014, 7:12 AM), <http://www.theguardian.com/world/2014/apr/22/strike-spreads-chinese-supplier-adidas-nike-yeu-yuen-factory-jiangxi-guangdong>.

²³³ *See id.*

²³⁴ MINZER, *supra* note 218.

²³⁵ *Cf.* KNIGHT, *supra* note 219, at 3.

²³⁶ *Cf.* MINZER, *supra* note 218.

²³⁷ *See id.*

discontent.²³⁸ Migrant workers are usually limited to the lowest paying jobs in the cities and often restrained from upward economic mobility because of discrimination from their *hukou* status. Thus, migrant workers with low incomes are more likely to be socially discontent than the more fortunate local urban *hukou* holders. Migrant workers with more social discontent are more likely to threaten domestic social stability.²³⁹

Inequality is another source of social instability.²⁴⁰ As discussed previously, one of China's main problems is its extremely large urban-rural inequality gap.²⁴¹ Chinese citizens are generally adverse to "inequality based on unfairness in access to opportunities."²⁴² However, economic inequality in regards to social discontent is a more localized issue²⁴³ because people compare their economic situations to local reference groups.²⁴⁴ Chinese citizens, who perceive themselves as economically unequal within their reference groups because of unfair access to opportunities, are more likely to be unhappy and dissatisfied.²⁴⁵ Therefore, these Chinese citizens are also more likely to be socially discontent.²⁴⁶ The *hukou* system limits the migrant workers' access to opportunities, which is the exact type of inequality that upsets Chinese citizens. Additionally, migrant workers are most affected by perceived economic inequality because they face economic and social discrimination from their *hukou* status, and their reference

²³⁸ See KNIGHT, *supra* note 219, at 3.

²³⁹ See MINZER, *supra* note 218.

²⁴⁰ See Lena Ren, *Restructuring China to Promote Social Stability*, EAST ASIA FORUM (Aug. 6, 2011, 10:00 AM), <http://www.eastasiaforum.org/2011/08/06/restructuring-china-to-promote-social-stability/>.

²⁴¹ *Supra* Part IV: Urbanization.

²⁴² KNIGHT, *supra* note 219, at 10.

²⁴³ The Chinese citizens' reference groups might be expanding because of the growing use of the internet and social media and the increase in rural to urban migration. See KNIGHT, *supra* note 215, at 11. "This may make happiness increasingly sensitive to income differences over wider orbits of comparison." *Id.*

²⁴⁴ See KNIGHT, *supra* note 219, at 8.

²⁴⁵ See *id.* at 10.

²⁴⁶ See *id.* at 3.

groups are people living in the cities, including the more fortunate local urban *hukou* holders.²⁴⁷

“[The *hukou*] problem has exacerbated economic inequality, a phenomenon that, if left untreated, threatens China’s social stability.”²⁴⁸

The lack of a social safety net or economic insecurity also threatens domestic social stability in China.²⁴⁹ Chinese citizens’ life satisfaction correlates with their economic security.²⁵⁰ “The low point in life satisfaction matches the high point in unemployment and in people’s sense of insecurity.”²⁵¹ Migrant workers are economically insecure because they lack access to a social safety net. Migrant workers are denied access to receive health care insurance, pension or retirement benefits, unemployment compensation, minimum living support, housing benefits, and publicly funded education to urban schools for their children because of the *hukou* system.²⁵² The lack of a social safety net for migrant workers increases the threat to domestic social stability.

Weak legal protections for citizens’ rights in China cause domestic social instability.²⁵³ Labor disputes, which primarily involve the rights of migrant workers, are becoming “more likely to have an impact on public opinion and social stability.”²⁵⁴ The rise in labor disputes in China can be linked “not only to prevailing low wages, but also to failure of government supervisory institutions to enforce relevant regulations and to the absence of independent unions

²⁴⁷ “The inequality of opportunity due to migrant status is a potent source of social instability.” KNIGHT, *supra* note 219, at 8-9.

²⁴⁸ Matt Schiavenza, *A Chinese President Consolidates His Power*, THE ATLANTIC (2014), <http://www.theatlantic.com/china/archive/2013/11/a-chinese-president-consolidates-his-power/281547/>.

²⁴⁹ See, e.g., Ren, *supra* note 240.

²⁵⁰ See KNIGHT, *supra* note 219, at 11.

²⁵¹ *Id.*

²⁵² See Zhan, *supra* note 36, at 255; see also YOUNG, *supra* note 1, at 58-60; see also FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53; see also *supra* Part II.

²⁵³ See MINZER, *supra* note 218.

²⁵⁴ THE WORLD BANK, *supra* note 67, at 17.

to safeguard worker rights.”²⁵⁵ Migrant workers’ rights are easily exploitable because many of them lack access to legal protection.²⁵⁶ Migrant workers’ rights are extremely under protected and cause domestic social instability.

Reforming the *hukou* system will advance China’s government’s self-interest of domestic social stability. *Hukou* reform will allow migrant workers to receive equal access to opportunities, and as a result, migrant workers’ general perception of inequality will diminish. Also, *hukou* reform will allow migrant workers to receive health care insurance, pension or retirement benefits, unemployment compensation, minimum living support, housing benefits, and publicly funded education to urban schools for their children, so they will be more economically secure and actually have some form of a social safety net.²⁵⁷ Additionally, migrant workers will only become eligible for higher paying jobs and will no longer be as easily exploitable until after the *hukou* system is reformed. *Hukou* reform will lower the threat of domestic social instability because it will reduce the inequality between migrant workers and local urban *hukou* holders, provide migrant workers with a social safety net, and eventually, increase their incomes and legal protections.

CONCLUSION

China’s *hukou* system must be reformed. If it is not reformed by the year 2020, approximately 600 million citizens will be living in Chinese cities facing economic, social, and political discrimination.²⁵⁸ However, China’s government will only reform the *hukou* system if

²⁵⁵ MINZER, *supra* note 218.

²⁵⁶ See Chan, *supra* note 2, at 359; see also Tony Lihua - *Fighting for the Rights of the Vulnerable*, *supra* note 77; see also *supra* Part II.

²⁵⁷ See Zhan, *supra* note 36, at 255; see also YOUNG, *supra* note 1, at 58-60; see also FREEDOM OF RESIDENCE AND MOVEMENT, *supra* note 53; see *supra* Part II.

²⁵⁸ See YOUNG, *supra* note 1, at 3.

it advances its self-interests. The *hukou* system limits urbanization, increases the imbalance in the economy, diminishes international legitimacy, and causes domestic social instability. *Hukou* reform will advance the Chinese government's self-interests of accelerating urbanization, rebalancing the economy, gaining international legitimacy, and securing domestic social stability. China's government will eventually reform the *hukou* system because it will advance these self-interests.