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## The Intermediary Trap: International Labour Recruitment, Transnational Governance and State-Citizen Relations in China

### ABOUT THE AUTHOR

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Delivering the 2012 York Centre for Asian Research (YCAR) Asia Lecture on the occasion of YCAR's 10th anniversary, Dr. XIANG Biao explores the high cost of legal transnational labour migration for unskilled Chinese labourers. Although legal labour migration from China has become more effective, efficient and streamlined, the costs of finding and securing work overseas have been on the rise. In his exploration of the reasons why, Xiang points to intermediaries—commercial labour recruiters—as the key. He argues that intermediaries' dominant position in cultivating, facilitating and controlling legal migration allow them to charge high fees to potential migrants. This results in the “intermediary trap”, where both the state and the migrants depend on intermediaries to manage and facilitate labour migration overseas. In this text based on his lecture, Xiang examines China's hierarchical chains of migration intermediaries, from Beijing to rural villages, arguing that they constitute a transnational labour disciplinary system and point to new state-citizen relations.

**Unskilled workers from China** had to pay an average of USD 8,000 to work abroad in Japan, Singapore and South Korea, their top three choices, in the late 2000s. The exorbitant fees were not charged by human smugglers, but by licensed recruitment companies. In fact, transnational labour migration through legal channels cost significantly more than illegal migration.

To pay to migrate is not unique to China. Researchers, policy makers and international organizations have come up with a number of explanations for the high cost of labour migration from developing countries. The first explanation suggests that migration is expensive because the opportunities are scarce while the demand is high (see, for example, Abella 2004). In China, however, the cost increased at the same time as when outmigration opportunities became more available. More than 850,000 Chinese were working overseas on relatively long-term temporary contracts by the end of 2012, compared to 58,000 in 1990 (Center for International Exchanges 2005; International Contractors' Association 2004; Ministry of Commerce 2013). During the same period, fees almost doubled. The period when outmigration grew the fastest (between the late 1990s and early 2000s) was also the time when the intermediary fee rose the most. Furthermore, it is not at all clear whether demand for outmigration had increased, let alone whether it drove up the price. The average wage level in China rose significantly from the late 1990s onwards, while the incomes of unskilled migrants in the three Asian destinations of Chinese outmigrants remained stagnant (they averaged USD 1,000 a month) from the early 1990s. The fact that some would-be migrants were willing to pay to migrate should by no means be understood as a natural outcome of the demand-supply equilibrium. It is instead a peculiar phenomenon that needs to be explained.

The second usual explanation points to the fact that the transnational labour market requires extra resources to match the demand and the supply across borders, which makes migration expensive. Once the market becomes mature, with more developed information flows and social

networks, it would imply that transaction costs would come down (Elrick and Lewandowska 2008). The Chinese case again suggests the opposite. Take labour migration to Singapore as an example. When two of the earliest Singaporean migrant worker recruiting companies visited Fujian province in south-east China in 1990 to recruit female factory workers, they paid their Fujian counterparts a RMB 800 “labour mobilization fee” (*laowu dongyuan fei*) for every worker recruited and subsequently RMB 200 per month throughout the employment period. Nothing was charged to the migrants. Transnational ties soon developed and recruitment networks spread. As a result, the cost of migration increased. By 1993, a Singapore intermediary charged its China collaborator at least RMB 12,000 for every job opening. The collaborator, in turn, demanded a fee between RMB 20,000 and 30,000 from the migrant.<sup>1</sup>

The third usual explanation attributes the high cost to government red tape. Cumbersome government regulation means that migrants have to invest extra resources either to meet the requirements or to circumvent them. In China, however, what accompanied the rise of fees was the significant liberalization of government regulation over outmigration. A 1986 law allowed ordinary Chinese to apply for private passports, and by 2005 most Chinese could obtain passports simply by presenting their ID cards and criminal clearance. The 2007 Passport Law enshrines it as a citizen’s right to possess a passport. International labour outmigration, which used to be possible only through state projects, was now encouraged as an individual strategy for economic betterment. Policy changes in the receiving countries were more ambiguous, but in general temporary labour migration schemes were expanded and streamlined, though permanent settlement for the low-skilled became more difficult. This was the case in Asia as well as in North America, Europe and Australasia. Then, given this evolution, why did the migrants have to pay so much? The migrants had their own answer. Migration was expensive because intermediaries—commercial labour recruiters—made it so. There were so many intermediaries and they charged so much simply because they were there and they could do so. This banal, seemingly tautological explanation is exactly what I concluded after a four-year field research spanning Japan,

Singapore, South Korea and multiple locations in northeast China from 2004 to 2008, corroborated with documentary research. Intermediaries were the key. There was no single cause for the existence and business activities of the intermediaries. Instead they must be explained through a particular structural condition. I call this structural condition *the intermediary trap*. In this condition intermediaries gained a dominant position in cultivating, facilitating and controlling migration despite their supposedly supplementary role.

By trap, I mean the dependency of the state and the migrants on the intermediaries. Yet, this trapping is unlike the “capture” (for instance, in the cases of “regulatory capture” or “elite capture of the state”) that resulted from interest groups’ intentional manoeuvres that subjugate the interests of the regulators, the competitors or the public to one’s own. The trap, by comparison, emerged from voluntary interactions between migrants, foreign employers, government agencies and intermediaries. As such the internal relations in the trap were unstable and dynamic. For instance, sometimes migrants worked with intermediaries to circumvent state regulations, and at other times migrants worked with the state to counter intermediaries. The actors were trapped not by coercion, but by the lack of alternatives. I also use the term trap to evoke the image of a net. At the core of the intermediary trap were intricate networks that tied different types of intermediaries together. The intermediaries depended on, benefited from and were constrained by each other. In other words, they were trapped themselves. The intermediary trap at the same time linked the intermediaries to other parties and institutions in multiple ways. In sum, intermediaries made money by making themselves indispensable for workers in pursuing their migration projects and indispensable for states in making order from migration.

Migration intermediaries were of course everywhere in the world; intermediaries in general were also common throughout human history, especially in imperial China. What was special about labour migration from China to other Asian countries at the time of my research was the intermediary trap. It was a central part of an emerging configuration governing low-skilled labour migration in East Asia. Despite the media

scars about supposedly uncontrollable illegal migration, China and East Asia have witnessed a simultaneous increase in the level of mobility and in the effectiveness of its regulation.<sup>2</sup> Illegal outmigration from China decreased significantly in the 1990s, and it was estimated that at least 80 per cent of outmigration was legal (though some did overstay and thus became illegal).<sup>3</sup> East Asia was one of most mobile and most tightly regulated regions in the world. The intermediary trap emerged not because the state was too weak, but because it was strong. It should not be read as a historical reversion to the time before the nation-state when the relation between the state and the subjects was mediated by the gentry and merchants.<sup>4</sup> Rather, it signaled a new state-citizen relation in the context of globalization.

In what follows, I will first sketch out the contours of the intermediary trap. I will then trace how the trap emerged in a larger context, namely the “infrastructural turn” in regulating labour migration in Asia, a trend that intensified from the early 2000s. This is followed by an overview of how the trap worked, particularly in relation to legality. Finally, I examine what happened when the intermediary business was seriously disrupted by migrants, states or the failures of other intermediaries. In doing so I demonstrate that the intermediary trap indicates some fundamental challenges that Chinese society faces today.

The street in front of the US consulate in Shenyang, Liaoning province, northeast China. Opposite the consulate are commercial agencies that assist with filling out forms, translating documents, taking photos and interview coaching. The services are advertised on the signposts. (Xiang Biao 2008)



The number of migration intermediaries in China has grown much faster than labour outmigration itself. There were four licensed labour recruitment companies in the beginning of the 1980s. By 2005 the number had risen to more than 3,000, and it has remained stable ever since.<sup>5</sup> Also, many more intermediaries without the special international labour recruitment license worked in association with licensed intermediaries. All the intermediaries were referred to as *zhongjie*. Literally meaning “mediums in the middle”, *zhongjie* was an accurate term as the labour recruiters were neither “agents” who represented identifiable actors (principals) nor brokers who mediated among two or more parties to achieve pre-defined goals. On many occasions, they simply passed on information, filled forms, applied for visas and sought other intermediaries in order to find suitable would-be migrants according to information given by yet another intermediary. “Go-between” is probably the closest English term. Instead of bridging demand and supply, intermediaries mainly worked with other intermediaries.

Chains of intermediaries that were hierarchically connected were the empirical form of the intermediary trap. At the top of the chains were large, licensed companies. The exclusive licenses issued by the Ministry of Commerce and the Ministry of Labour based on strict conditions gave these companies authority to sign international contracts independently and process legal documents for migrants formally. They were thus called “window companies” — “windows” to the world.<sup>6</sup> By specializing in dealing with complex bureaucratic procedures (of both China and the receiving country) and churning out documents, these windows turned migration from amorphous flows into a legible subject of governance.

But staff at the window companies, mostly located in Beijing and provincial capital cities, did not want to trek all the way down to villages to chat with potential migrants. They relied on middle-level intermediaries in the prefectures for recruitment, who in turn worked with sub-intermediaries in local districts, rural townships or even villages to source workers. The grassroots intermediaries can be institutions such as local labour bureaus, vocational schools or individuals, usually

persons who enjoyed public authority such as retired cadres or school teachers. The grassroots institutions were often called “bases” (*jidi*), which was also an official term used in contracts and even government documents. The individuals were colloquially referred to as “the legs”.

The relations between the intermediaries were much more complex than business outsourcing. In everyday conversations among intermediaries, as well as among migrants, intermediaries closer to foreign clients (employers) were referred to as the “upstairs” (*shangxian*, literally meaning “the string above”), and those closer to migrants were the “downstairs” (*xiaxian*, “the string below”). Handed down from the upstairs to the downstairs were orders for labour, which were called *zhibiao* (quotas). They were so called because the orders were seen as analogous to the quotas for resource allocation imposed top-down in China’s pre-reform, centralized command economy. The higher upstairs an intermediary was, the closer it was to the origin of quotas and the more powerful and profitable it became.

Government officials and staff at window companies, however, described the recruitment process differently. They called what were the upstairs the “downstream” (*xiayou*) and the downstairs the “upstream” (*shangyou*). What this narrative foregrounded was migrants who moved from the upstream (villages or districts of origin) to the downstream (destination), like a river. From the point of view of the governments of the receiving country, the place of origin—the upstream—was often a source of problems. Indeed, “root cause” has become a standard keyword in the global discourse of international migration management, where root refers to origin. While the migrants saw quotas from above as determining their migratory projects, the destination countries, sitting on the top floor, regarded themselves as potential victims—the clean downstream vulnerable to pollution from the upstream. The parallel of these two oppositional narratives reveals what intermediary chains were about. The interconnected intermediaries helped migrants navigate through the upstairs-downstairs hierarchy and at the same time assisted the states to channel upstream-downstream flows across states and state boundaries. In other words, they mediated between the fixed



state bureaucracy that attempted to control mobility from above and the migration flows that always potentially transgressed administrative control from below.

The vertical connections between upstairs-downstream and downstairs-upstream were only part of the relations among the intermediaries. Horizontal connections were equally, if not more, important. Window companies may pass on quotas to other windows because this enabled the companies, especially the individual staff who were directly involved, to earn extra profits and evade some regulations. It was estimated in 2008 that as many as 60 percent of window intermediaries in China were doing “second-handed deals” (*ershou danzi*). They dealt in job openings passed on by other intermediaries instead of from foreign recruiters directly. Among the middle-level intermediaries, the second-hand became third-, fourth-, fifth-handed and so on. Those who had job quotas eagerly sought workers who were willing to pay the most, and those who had found aspiring migrants needed suitable jobs quickly before the clients changed their minds. So many intermediaries were involved at the middle-level that sometimes the passports of would-be migrants (*ben'er*, or “books”, as they were called in the business) were lost as they endlessly circulated. As a typical example, an unlicensed, but well-connected middle-level intermediary in Liaoning province in northeast China promised to send a group of workers overseas, but failed to fulfill the commitment; the intermediary passed on the workers’ passports to another intermediary in the same city who boasted having strong overseas networks, only to receive the same “books” in a couple of weeks from an intermediary in Guangdong in south China. The Guangdong intermediary asked him to find jobs for the workers and promised high commission fees! Middle-level intermediaries were dubbed *kongshoudao* players, Chinese for “karate”, literally meaning “the art of empty hands.” They made money not from any tangible assets that they possess, but by pulling strings, passing on information or people.

There was the temptation to cut the chain short by skipping other intermediaries. For instance, a leg approaching a window after getting relevant information from a middle level, was called “digging the tunnel” (*wa digou*) or “scaling



the wall” (*fanqiang*). While digging the tunnel meant that one circumvented other intermediaries secretly, scaling the wall implied a sense of defiance. A powerful window, for example, might scale the wall and land itself on a base directly. Both tactics were fiercely guarded against, and no one would sympathize with you if you were punished by other intermediaries for playing with either the tunnel or the wall.

The intermediary chains did not come from nowhere. The trap had its historical roots in the command economy of the pre-reform era and was a direct product of state-led liberalization. The state bureaucracy and the intermediary chains, both hierarchically organized, intersected with each other at all levels. Most staff in the intermediaries in China had connections with government. Intermediaries sometimes had deeper connections with government agencies at the same level than they did with their business “downstairs” or “upstairs.” In some sense, intermediary chains can be seen as a mirror of the state bureaucracy. Therefore, in order to understand how the intermediary trap emerged at this particular juncture in China, we must examine general changes in state regulation of mobility.



The rather stately exterior of a “window” company in Changchun, Jilin province, northeast China. (Xiang Biao 2006)

### The infrastructural turn and the manufacturing of legality

Wang Youcai, a villager in his thirties, paid nearly 5,000 USD in 2005 to go to Singapore to work. Only after arrival did he find out that he had been given a tourist visa; he went back to China immediately, although the Singapore intermediary had already found a temporary job for him. Wang, usually appearing incoherent, was very sharp in explaining why he returned and demanded a refund: “I can’t take it. I paid 38,000 [RMB]! If it was ‘black’ [to work illegally on a tourist visa], 10,000 would be enough!”<sup>7</sup>

The migrants’ desire for legality may look surprising for some. Illegality has become such a natural topic in migration studies in the West.<sup>8</sup> Dealing with irregularity is seen as second nature for recruitment intermediaries: they circumvent state regulations (Castles and Miller 2003: 114), abuse migrants’ rights (Global Commission of International Migration 2005: 70) and are directly implicated in human trafficking.<sup>9</sup> While analyses of illegality are undoubtedly important, there is also a danger of questioning illegality by naturalizing legality. Migrant legality is utterly unnatural in the sense that it has to be *positively* constituted. While a citizen remains innocent until proved guilty, a migrant is by default illegal, unless one goes through all the procedures set by states. It is entirely in the states’ interest, regardless of the nature of the regime, to constitute migrant legality, simply because this is how they exercise their sovereign power and how they can control migration. Exclusion resulting from illegality is a by-product rather than a principle. Furthermore, how states deal with illegality, including through detention and deportation, is determined by their routinized and institutionalized processes of enforcing legality.<sup>10</sup> We need to examine how legality and order are produced, how legality is made desirable and how legality appears unproblematic.

Legality became desirable not only because it was valuable, but because it was attainable—one can obtain migrant legality by paying more money, finding a proper intermediary, being patient and being lucky. The ways that legality becomes desirable in this sense are indicative of the new ways that the

Chinese and the receiving states in Asia governed international labour mobility. Previously, the Chinese state either prohibited, or directly administered, outmigration. Ordinary citizens either had to be privileged enough to be selected to join government projects or turn to human smugglers. In either case there was no need, nor possibility, for an individual to acquire legality. From the late 1980s, international migration on individual initiative was first allowed and then encouraged, while the state at the same time put in place detailed regulations to set the procedure for outmigration. The institutional and policy infrastructure for migration was simultaneously the infrastructure for migration regulation. Chinese policy makers often referred to this shift as one from a strategy of blocking (*du*) to an emphasis on channelling (*shu*). The hydraulic metaphors evoke the legend that Yu the Great (c. 2200 - 2100 BC) tamed flooding through canals that worked with the flows instead of dams against the river. Channeling is simultaneously facilitating and containing.

Following Michael Mann's seminal essay on "infrastructural power" (Mann 1984), I call this shift *the infrastructural turn*.<sup>11</sup> By "infrastructural power", Mann means "the capacity of the state actually to penetrate civil society, and to implement logistically political decisions throughout the realm" (1981: 113), as opposed to "despotic power". The infrastructural turn refers to the change that transnational migration is increasingly managed through infrastructural development as opposed to the control of bodily movement per se. Instead of controlling migration through the denial of citizens' right to migration as it used to do, the Chinese state manages mobility by conditioning the logistics (e.g. recruitment procedures) that in turn condition citizens' supposedly free choices and rational calculations.<sup>12</sup> The infrastructural governance of labour mobility in East Asia had at least four characteristics: (1) the individualization of the subject, (2) the generalization of the method, (3) the distancing of government and the migrant and (4) a qualified faith in a spontaneous order. The individualization of the subject means that the state took as the main subject of regulation individual migrants, instead of the project-tied teams or collective (primarily work units) to which the individuals belonged. The generalization of the method refers

to the reliance on predicable, generally applicable legislation and regulations, as opposed to case-specific political decisions. The distancing refers to infrastructural governance aimed at regulating from afar rather than through direct intervention in the subject's daily life.<sup>13</sup> This is, in turn, associated with the assumption that migration would become self-correcting and self-regulating if proper channels were in place. Thus, there was a qualified faith in the spontaneous nature of the order, which is central to liberal thinking. The infrastructural turn in China was part of the general, albeit highly uneven and partial, transformation of the state from a despotic polity to a regulatory regime. In this process, the state simultaneously withdrew from certain domains and introduced new regulations, simultaneously freed social life from state control and penetrated social life more deeply and nimbly.

The infrastructural governance of mobility is not entirely new. The migration of indentured Asian labour between the 1830s and the 1910s was probably the first major global experiment of infrastructural governance. As compared to the slave trade, which was primarily a matter of physical capturing and transport, indentured labour migration was managed through regulations and new physical facilities. The regulations included those related to recruitment procedures, employment relations, health monitoring, transport conditions and facilities including depots, detention houses and quarantine centres. The replacement of indentured migration by the so-called free passage led to more sophisticated regulatory infrastructure, especially on the receiving side. As McKeown has brilliantly delineated, most of the immigration regulations in the US during the 19th century focused on the journey of migration—on the ship captains, the passenger brokers and the innkeepers rather than on the migrants themselves. By the 20th century, however, the authorities were almost solely concerned with *whom* the migrant was rather than *how* a migrant had travelled (McKeown 2008). The universalization of passports and the associated documentary regime changed the meaning of migration. How migrants moved spatially mattered much less than how the movement was defined (e.g. "labour migrants" or "family migrants"). The physical journey has become even less relevant today for both the migrants and

the states; very few informants mentioned border crossing as anything significant in their migratory experience. Why should it matter how one embarks on and alights from an airplane if his/her movement and location can be traced through electronic databases?

A good part of the 20th century, however, saw little development in migration infrastructure. Migration was either unregulated (e.g. cross-Atlantic migration), unregulatable (e.g. refugees), administered by the state (e.g. guestworker programmes) or, for the vast majority of the world's population, simply unpermitted.<sup>14</sup> In Asia, migration infrastructure developed again in the 1970s with the increase in labour migration to the Gulf States and then other parts of the world. The Philippines stood out as a typical example, where multiple governmental and non-governmental agencies were set up and regulations put in place specifically aimed at assisting and monitoring labour outmigrants.

The infrastructural governance of Chinese labour migration in Asia experienced a significant leap forward in the early 2000s. There were at least two reasons for this. First, after two decades of rather single-minded market-oriented economic reform, in 2003 the Chinese state introduced new policy thinking that emphasized social welfare and protection.<sup>15</sup> For this purpose, the leadership has since 2004 repeatedly called for strengthening the Party's "governing capacity" (*zhizheng nengli*), which basically meant infrastructural power in Mann's terms. This state needed strong infrastructure in place in order to enable, protect and regulate individuals, including those seeking jobs overseas. In the case of labour outmigration, the state allowed private companies to recruit workers on behalf of overseas employers in order to maximize overseas job opportunities, banned government agencies from commercial recruitment, and standardized and streamlined the procedures for outmigration. These measures opened up many more channels for legal migration than before, while making illegal migration and document forgery nearly impossible. Second, on the receiving side, the infrastructural turn was driven by a tension between the fragmentation of labour management and the continuing centralized regulation of cross-border movements. Far from heading to "global cit-

ies,” most migrant workers in the three destination countries studied took up manual jobs in private, small, low-end enterprises located in remote areas. Each employer needed a very small number of migrants. When the employment of migrant labour was dispersed and fragmented, the management of immigration remained a prerogative of the central government. Unlike managing project-tied, collective labour deployment, the receiving states now had to develop elaborate and nimble infrastructure to channel, follow, monitor and control the movements of particular individuals.

The infrastructural turn brought in new problems. While the individualization of the subject was essential, no individual fit into infrastructural governance unless he/she was molded into a governable legal subject in the first place. Forms needed to be filled out, photos to be taken, certificates to be authorized, qualifications to be demonstrated and guarantees to be secured, all having to be done in the “proper” way. To migrate legally was to transform oneself into a paper migrant. This was particularly true for unskilled labour migrants from China, as they were often subject to extra scrutiny in the receiving country. Furthermore, in order for infrastructural governance to function, apart from establishing relations between migrant bodies and papers, there must be relations between papers and papers. A single paper such as a passport or a visa was certainly important, but what really mattered was the interconnection between the passport, the visa, the education certificate, the skill recognition, the bank statement, the medical record and the criminal background. It is this interconnectedness and systemic nature that distinguished infrastructure from mere facilities, tools and methods (Collier 2011). A seamless system of infrastructure, however, can be a complete mess for a person without expert knowledge.

Therefore, it is not surprising that would-be migrants paid intermediaries for “help”. Nor is it surprising that multiple intermediaries worked together to navigate through the infrastructural grid. For instance, window companies may specialize in applying for work permits, the middle level may have special relations with public notaries to swiftly authenticate documents, and bases and legs may help with criminal clearances and loan applications due to their connections with local

police stations and banks.

The infrastructural turn gave rise to a “migration infrastructure industry” as compared to the better known “migration industry” or “migration business.”<sup>16</sup> While the migration industry made money by getting the clients to the destination country, the migration infrastructure industry provided services that were necessary for migration, but may not be sufficient in and of themselves. In other words, the migration infrastructure industry charged you money even if you could not migrate in the end, just like business consultancies or lawyers charging for unsuccessful business plans or lost legal cases. Migration infrastructure became an industry also in the sense that it was profitable for intermediaries to participate in the development of the infrastructure. For example, they provided transport service, temporary accommodation and training courses to prepare would-be migrants to meet the requirements for language proficiency. Intermediaries could be more efficient in providing infrastructure than government departments because they often operated transnationally, constantly updated the training courses according to the latest requirements on the receiving side and worked with overseas intermediaries to arrange the most cost-effective transport. The migrants were fully aware of such a migration infrastructure industry and well accepted it as a reality. They never regarded their interactions with recruitment intermediaries as simply “buying” opportunities and visas. The cost was referred to as “fees” instead of “price”,<sup>17</sup> and the process was called “*banshouxu*” (going through procedure). The migrants insisted that the papers that one bought without going through proper procedures (like the notion of “migration industry” implies) were suspicious and should be avoided.

The biggest challenge of all for infrastructural governance was the contradiction between its formalist methods and its goal of effective regulation on the ground. Infrastructural governance relied on generally applicable and predictable rules and detailed paperwork, while its ultimate goal was, of course, to affect particular individual’s specific behaviour in constantly changing circumstances; on the one hand, it strove to govern from afar, on the other hand to locate a particular migrant and affect his/her behaviour close-up. As James Scott



(1998) has powerfully demonstrated, modern states often fail when trying to impose administrative fictions on social life. It is a bureaucratic fantasy that infinitely diverse local practices can be simplified into a grid which can be recorded and manipulated from the centre. The bureaucrats whom I interviewed were fully aware that they could not rely on such fantasies. As an official at the Exit and Entry Management Bureau of the Chinese Ministry of Public Security told me, front-line officers won't bother to step in the computer room unless they already had clear clues about what they were looking for in the database. For the bureaucrats who dealt with the real business on a daily basis, making migrants legible on paper was only a starting point. The real thing was to make each and every migrant practically "trackable" at all times. Otherwise, the database is nothing but dead figures.

How did the regulators get the clues, and how did they track down the migrants when needed? Intermediaries served as indispensable points of action, or *bashou* (handles) as the Chinese call it, which the government can put its hands on and thereby act on migration flows. The governments in destination countries also held recruiters on their side responsible if migrants went underground or violated any rules. (Employers could also be the first point of contact, especially in labour disputes, but recruitment intermediaries were still more effective "handles", as employers increasingly relied on intermediaries for everything related to migration regulation). Foreign intermediaries, in turn, used windows in China as their handles. An Osaka-based intermediary, for example, demanded compensation of USD 50,000 from its counterparts in China for each worker who went missing or overstayed. Recruitment intermediaries in Singapore required a security bond of SGD 5,000 per worker from their associated windows in China, refundable only after the worker's timely return to China. The Chinese government adopted the same strategy in a more radical manner. In the case of migrant abuses or confrontations between migrants and employers (for instance, strikes), especially if they were reported in foreign media, the Chinese central government (most commonly the ministries of foreign affairs, commerce and labour) often ordered the window company to sort it out, regardless of whether the window had anything to

do with the problem. In a number of cases the windows were pressured to charter aircraft to bring all the workers back to China, which could bankrupt the companies. In order to avoid this, the windows used their downstairs as handles by demanding financial bonds beforehand and by asking for immediate solutions in emergencies. The middle level, in turn, did the same with the bases and legs.

How, then, did such a chain of responsibility achieve actual control over mobility? More specifically, why could the “downward” allocation of liability—ending in the community of origin—affect migrants in the destination country? In order to understand this, we need to turn to another aspect of the intermediary trap, namely its disciplining function and the resultant “hierarchy of legality”.

Instructions provided by the Japanese authorities explaining how to correctly fill out the application form for an unskilled migrant work permit. A total of 38 forms like this had to be completed. (Xiang Biao 2005)

## Hierarchy of legality

One of the most striking findings from my field research is how intermediary chains constituted a transnational labour disciplinary system. The “downloading” of responsibility worked from the governments’ and intermediaries’ points of view because it converted their regulatory risks into migrants’ liabilities. The most common method for doing so since the early 1990s was to demand *baozhengjin*, “guarantee money”, from migrants before their departure, which was refunded

only after the migrants returned to China without delay and without violating any rules (often including the rule that prohibited migrants from participating in strikes). The bond amounted to about RMB 20,000 for Singapore and Japan, and RMB 30,000 for South Korea in 2006. The bond for South Korea was higher because it was thought that migrants were more likely to go underground there due to a more developed informal economy. In addition to the bond, migrants often had to surrender their housing property certificates as well. However, these measures were still regarded as too weak. From the late 1990s, it became compulsory for the migrant to identify one or two civil servants as guarantors, who would have to compensate the intermediary for the migrant's wrongdoing overseas. They either agreed to pay the money or, more commonly, to have their salaries deducted through an agreement between the civil servants, the employer and the intermediary. Civil servants were usually the most influential figures in an extended family or a friend circle, and pressure from them was more powerful in keeping the migrant in line than was the migrants' own monetary loss. This led to a financialization of migration. Since would-be migrants had to cover all costs upfront plus securities, migration was no longer simply a journey to work overseas, but became a financial project in which migrants had to raise funds to invest. Migrants were much more concerned about the recovery of the investment than about the working conditions or employment relations overseas.

As another preventive measure for disciplining workers, legs often conducted detailed interviews with would-be migrants. Anyone who had relatives or friends overseas, or showed some knowledge about the destination country, was ruled out outright. It was feared that the networks and knowledge may embolden them to step out from the cage of legality. Golden Stage Ltd., an intermediary specializing in recruitment in Hebei province, north China, for example, paid RMB 500 to the village head in exchange for detailed information about each candidate they recruited. On one occasion, Golden Stage had chosen a woman for a job in Japan, but the village head reported that the woman was divorcing, and the name was crossed out immediately. Jin Wan, manager general of Golden Stage, told me proudly: "The woman may be

mentally and psychologically unstable when divorcing and may create problems overseas!”

One of the most draconian methods of discipline was *lianzuo*, or “linked seats”. An invention by Emperor Qin of 200 BC, *lianzuo* put a group of migrants—who may previously not know each other—into a team of collective punishment; if one misbehaved, all had to suffer. For instance, if a member of the team left the designated employer for a better paid informal job, all the rest of the team were threatened with deportation to China at their own cost. Fellow migrants were forced to police each other. This method worked particularly well, I was told, if the migrants were from the same community. In a particular case, after a worker absconded in South Korea, her family was immediately inundated by visits and telephone calls from the families of other linked-seat migrants. The worker swiftly and voluntarily returned to the factory. The linked-seat was commonly carried out by bases under instructions from the upstairs.

These disciplinary measures were legally dubious. The Chinese civil laws explicitly stipulated that one could not be held responsible for another’s behaviour, and that means of livelihood, such as houses, could not be used as security for general service contracts. The enforcement of contracts by confiscating houses and deducting the guarantors’ salaries were also against the law. However, these irregular and even illegal activities in the downstairs were critical for maintaining legality upstairs. Intermediaries manufactured and maintained legality not by stemming illegal activities, but by exporting problems to the sending side.

Thus, a “hierarchy of legality” emerged. Hierarchy of legality here does not denote the ranking of laws so that specific and local laws were subjugated to the general and global. It instead refers to the inequality between physical locations where legality is presented differently, more specifically between the receiving and sending countries, the capital and remote communities, the city and the countryside. Most intermediaries in Beijing were licensed and engaged in legal business only; problematic but necessary activities were outsourced both downward and outward to the countryside. Intermediaries in China often stressed that their counterparts

in Japan and Korea were more law abiding than those in China, without realizing that the good guy appeared good because the bad (themselves!) were made to be bad!

The transnational and trans-regional span of intermediary chains, thus, sustained a geopolitics of hypocrisy. This can be clearly illustrated by a change in Chinese labour migration to the Middle East in the 1990s. Ni An, a veteran in the labour migration business who worked for one of the largest state-owned international trading companies over the last two decades, told me:

In the early nineties, when I talked to the foreigners [recruiters], they told me what workers they wanted, I told them the number of our foreign currency account.<sup>18</sup> The commission must be paid to the account within ten days, otherwise forget it! Or, for some countries, you pay me the commission every month [after the migrant starts working]. But now the international society talks about human rights more and more. Foreign employers and intermediaries are not allowed to deduct workers' wages. They must meet this criteria, that criteria. The employer doesn't want to pay commissions anymore. Nowadays, we have to get our profit from the migrants here. [...] And we have to get the profits *for* the foreigners *here* too!<sup>19</sup>

A hierarchy of legality was central to manufactured migrant legality. Manufactured legality was not at all fake legality. On the contrary, it may be more genuine than the "natural" legality. The socially manufactured and maintained legality profoundly conditioned the migrants' intentions and actions. Various social relations were constantly enacted to ensure the legality. Manufactured legality was not a reflection of the actors' intentions nor the inherent attributes of an action, but was a multifaceted phenomenon with complex internal structure. It is precisely because of this that the multi-level structure of the intermediary trap was particularly important. The hierarchy of legality, in turn, reinforced this multi-level structure, particularly by creating a momentum of stretching the chains of intermediaries further downward. In order to ensure their legality, the upstairs—foreign employers, foreign intermediaries and China-based windows—were eager to source

labour from the remote, poor and vast countryside because workers from there were supposed to be more “innocent” and employers preferred workers with diverse places of origin, as this was seen to impede their self-organization. This drove the constant development of new recruitment bases (*jidi*). The stagnant wage levels, the nature of manual labour and the rather strict age limit set by the employers (most workers needed to be younger than 35) meant that intermediaries had to recruit workers from the relatively poor countryside, as the urban candidates were likely to be the only child of the family, some of whom would rather live off their parents instead of taking up manual jobs. The fragmentation of the employment of migrant labour on the receiving side—small enterprises hired a few workers each—also led to the fragmentation of recruitment—one had to look for a small number of migrant workers for a specific job at a particular moment of time. The proliferation of grassroots legs was almost inevitable.

The downward extension of recruitment chains also significantly compounded the financialization of migration. The poorer one was, the more money one had to invest. This was because the costs were higher for these workers in both relative terms—in relation to their incomes—and in absolute terms—resulting from the involvement of extra intermediaries.<sup>20</sup> It was certainly not an easy job to ask the poor to raise more money. The trick was not so much persuasion; what was more important was to spot the right candidate at the right time. Wu Xingtao, my key informant and a freelance middle-level intermediary based in Shenyang, the capital city of Liaoning province, northeast China, told me how he tried to maximize profit: “If I can find a woman who had just divorced, [who] felt [life in China] meaningless, I can easily charge her [RMB] 40,000 for going to Singapore. [...] Believe it or not.” A divorced and “confused” woman was an ideal client, but finding one obviously required widespread networks comprising multiple intermediaries. A divorced woman can be a desirable candidate, but also a risky one for the intermediaries as mentioned earlier. Only legs with intimate knowledge about the candidate could make a precise assessment.

The financialization of migration made migration a highly risky endeavour, which discouraged the would-be mi-

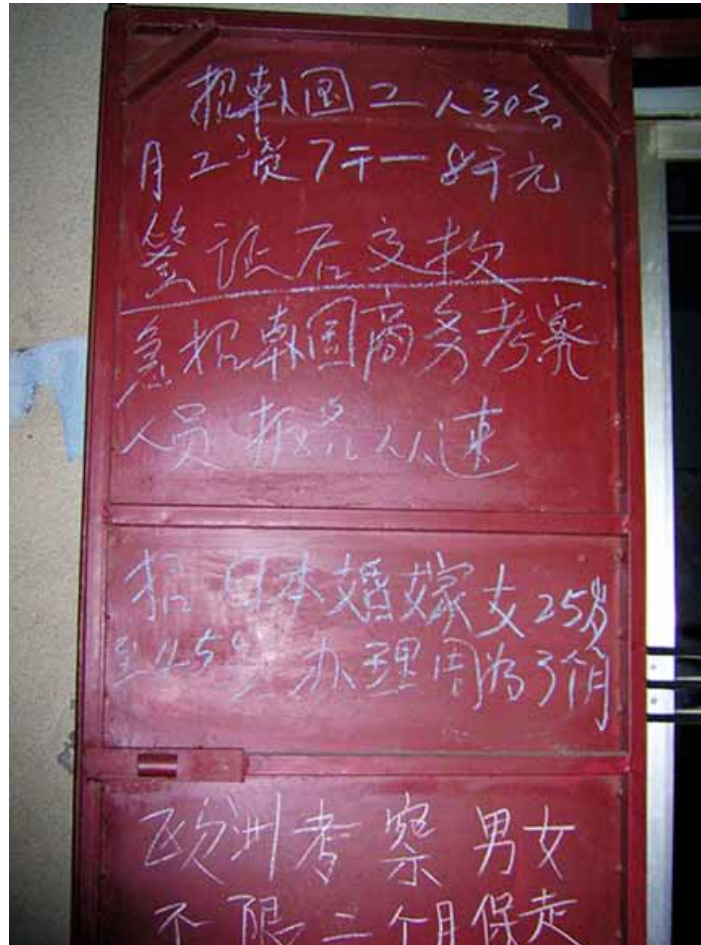
grants from digging the tunnel, thus, reinforcing the multi-level structure. As would-be migrants repeatedly pointed out, if they were cheated once with their migration project, they may never be able to recover the financial loss in their life. Trust towards intermediaries was essential. Migrants stuck to the legs who they “can see every morning when opening the door.” Wu Xingtao told me that he regularly processed documents that reached him through four or five intermediaries. He didn’t like it, but “they can’t trust us! What can you do? I can offer a cheaper price [for those who approached him directly], but they don’t want.” Suspicion about intermediaries was widespread in local communities, so much so that the nature of advertisements for overseas job opportunities changed completely in the 1990s. An advertisement on a local (municipal) newspaper was unlikely to attract would-be migrants in the 2000s because people were simply too wary to contact strangers, and intermediaries bought the advertisements primarily to seek downstairs partners. The legs not only became longer, but were also firmly on the ground and could not be gotten rid of easily.

The infrastructural turn and the hierarchy of legality indicate how the labour recruiters were different from traditional intermediaries. First, the prevalence of traditional intermediaries reflected the incomplete centralization of state power and its weak capacity for penetrating society. Intermediaries were indispensable for imperial China because the bureaucracy was small, while the country was vast.<sup>21</sup> Intermediaries became particularly active under the Qing dynasty, when the state’s capacity further declined, especially after the Taiping rebellion (Kuhn 2002). Second, the more modern intermediaries that emerged in the process of state-building elsewhere, such as political fixers in rural India (Reddy and Haragopal 1985) and local bosses in Mexico (e.g. Wolf 1956), were bridges between a loosely organized society and the newly established, complex bureaucracy (Geertz 1960). By comparison, the labour recruiters in China and East Asia did not act as a bridge between the state and the society. Rather, they were simultaneously *in* the state and *in* society and constituted an integral part of a centralized and integrative system of governance. While intermediaries were normally conceptualized as



something “between”—between supply and demand, between receiving and sending sides, between society and the state, between deterritorializing economic impetus and territorializing powers<sup>22</sup>—the intermediary trap should be understood as being *within* a particular process of order-making.

Advertisements for opportunities for outmigration on the door of a grassroots agency. The notices read “Recruiting 30 workers for Korea, monthly wage [RMB] 7,000-8,000, fee charged after visa issued”; “Urgent: recruiting for business visits to Korea, hurry up to apply!”; “Recruiting women for marriages in Japan, 3-month turn around”; “Business visit to Europe, male or female”. A “business visit” is one of the few channels whereby Chinese workers migrate legally and then work illegally overseas. (Xiang Biao 2008)



### The dis-appearance of intermediaries

The intermediary trap was always self-perpetuating. On the contrary, the trap was inherently unstable. When a particular intermediary failed to fulfil its obligations, the whole chain would be in trouble. A common scenario went like this. A window company expects a number of job quotas from overseas and asks downstairs for workers; the downstairs at multiple levels rushes to mobilize aspiring migrants because the more they recruited, the more profit they could make. In the end, a considerably larger number of people pay the initial instal-

ment than can be accommodated by the quotas that actually materialize. The imagined quotas, moreover, may never actually materialize. The would-be migrants demand refunds, but the money has already been spent by the intermediaries. The would-be migrants then sometimes occupy the intermediaries' offices or even the managers' homes to demand immediate compensation.

Constant disruptions of this kind, however, did not wipe out the intermediary business. The intermediaries who failed in their contractual duties may simply go into hiding and then re-emerge later. "Re-emerging from Mount East" (*dong-shanzaiqi*) was a common experience among middle-level intermediaries. (The phrase originally referred to a preeminent scholar-official in the fourth century AD who returned to office after living as a hermit on the mountain when the state faced a crisis). Wu Xingtao, for instance, hid himself in the countryside for about half a year in 2001 when he failed to refund his downstairs and the would-be migrants because his upstairs didn't deliver what was promised (it was unclear to me whether the money was spent by Wu or taken away by the upstairs). He then moved to Dalian to work as a freelance subagent for a major recruitment company there, before returning to Shenyang in 2003 to work with a number of new partners. In 2006, one of his partners ran away with RMB 800,000, including RMB 300,000 collected by Wu from migrants. Wu repaid most of it from his own pocket. He predicted that the partner would make a comeback in a couple of years. Disappearance and re-appearance were seen as a matter of business cycles. Intermediaries could disappear and reappear like this, firstly because the highly complex inter-intermediary relations rendered straightforward legal verdicts difficult. It was often unclear who should be responsible for what. Government corruption was another important reason. Intermediaries were well-connected; they often hid in places where they had "protection umbrellas" (*baohusan*). Then, why didn't other intermediaries, including Wu Xingtao in the case mentioned above, track down the intermediaries who caused their loss? Wu had a simple explanation: "I can easily use my connection to get [him]. But what's the benefit for me to send him to jail? [...] Let him lay low when the wind is strong. Wait until he comes

back and makes money. It won't be too late for me by then to settle the account."

Most surprisingly, however, would-be migrants did not always seek to punish intermediaries even when the financial loss was devastating. The victims sometimes instead made the local government their primary target in demanding compensation. In a particular case that I followed in detail, the victims held the prefectural government responsible for issuing the intermediary the business license; the victims also listed all the connections that the intermediary had with government officials, especially family connections, suggesting that government corruption had emboldened the intermediary into behaving improperly. The government encouraged the victims to bring the intermediaries to court and suggested that they could sue the government by evoking administrative law. The victims refused. They instead staged dramatic public protests and solicited support from public media to pressure the local government to come up with swift administrative solutions to readdress their financial losses. Their most important leverage was to petition to the upstairs government agencies, especially the central state. Numerous letters were sent to any provincial and central government departments that could be remotely relevant, and group visits were made to various ministries in Beijing.

The migrants' thinking was straightforward. The legal procedure would be long, complex and unpredictable in its outcome, and the court was untrustworthy as it was subject to government influence. Just like Wu, the migrants had no interest in jailing the intermediary. All they wanted was to have the money back. The migrants, thus, translated a dispute about commercial transactions subject to legal arbitration into an issue of the welfare concerns of the disadvantaged that demanded relief from the state. While the government intended to define its relations to citizens in formalist legal terms, the migrants insisted on making claims in terms of substantive welfare and moral responsibility. Their petition letters were full of highly moralist and ideological language and presented themselves as powerless folks crying out for protection from the benevolent state.

The migrants expected this strategy to work—and to some extent it did—because the central state actively projected itself as a morally responsible agent. The central leadership led by President Hu Jintao and Premier Wen Jiabao identified it as among the government's new priorities when coming to power in 2003, to “place the people in the centre”, protect “disadvantaged groups” and ensure “citizen rights”. These buzzwords dominated official media and were actively deployed by people in demanding government actions. In international labour migration, the central state encouraged the infrastructural turn precisely to make migrants controllable and protectable at the same time. The government put in place stringent regulations on the financial and professional qualifications of intermediaries, while allowing private companies to apply for the special licence on par with state-owned enterprises. They also set up national hearing centres and hotlines to process migrants' complaints. The government regularly cracked down on “black intermediaries” (*hei zhongjie*). Officially “black intermediaries” meant those unlicensed, but the definition could be much broader in practice. Zhou Chaohui, formerly a senior manager of a state-owned window company and now the owner of a new window, commented: “If there is no problem, everything is fine and everyone is legal; if you make any trouble, then nothing is right and you are a black intermediary.” Stories were regularly reported about how intermediaries violated migrants' rights by violating state regulations and how, in return, they were punished by the government. Blaming intermediaries was indispensable for the state to maintain its legitimacy and moral authority. Such a game of blaming was common across all the destination countries.

Thus, the intermediaries disappeared from would-be migrants' agendas, and then reappeared as elusive evils by the state's account. The disappearance is *dis-appearance*.<sup>23</sup> The disappearance was not at all real disappearance in the sense that intermediaries were out of sight and out of mind. Rather, they loomed large in migrants' consciousness all the time, but were deliberately made to disappear and then appear as something else. The hierarchy of legality can also be seen as about the dis-appearance of illegality that is a natural status of the migrants—illegality was made to disappear at the upstairs

and re-appear as disciplinary arrangements at the downstairs.

The migrants “dis-appeared” the intermediaries in order to speak to the state for direct relief. For them, problems with the intermediary trap had to be solved *outside* of the trap, i.e., outside of market rationality and legal procedures. The central state “re-appeared” the intermediaries as baddies in order to maintain its moral authority, even though only a minority of the baddies could be brought to justice. There were obvious gaps between the agenda of dis-appearance and the strategy of re-appearance. They nevertheless forged a common ground—the morally imagined and expressed relations between citizens and the central state.

This moralized citizen-state relation that was evoked when market transactions broke down stood in sharp contrast to the daily interactions that were dominated by pragmatism and even opportunism. The would-be migrants were highly instrumentalist in dealing with both intermediaries and local government. They constantly stressed the importance of law, but took laws and the language of justice as tools to create pressure for gaining immediate benefits when interacting with local government. (When interacting with the central state, the would-be migrants saw laws as created and imposed by the state to be used as tools for fulfilling its moral duties and, thus, used laws as leverage for demanding direct solutions.) The instrumentalism in everyday practices and the moralism of the total political imagination reinforced each other. On the one hand, the market economy and the infrastructural turn introduced by the authoritarian state were devoid of moral meanings in everyday life. On the other hand, the central state increasingly resorted to moral gestures in order to maintain its power in a time of economic liberalization and administrative decentralization. This particular structure of political imagination also explains why China maintained relative stability as a whole despite serious instability at local levels, and why the central state enjoyed a relatively high level of legitimacy while conflicts between citizens and local government agencies ran deep and endemic.

Migration intermediaries made money by capitalizing on would-be migrants’ instrumentalist agendas and their faith in the central state as the ultimate security. The cost for the in-

intermediaries was to experience blame and punishment, rightly or wrongly, whenever the state regarded it as necessary. Nevertheless, the interlinked instrumentalization and moralization sustained the intermediary trap. At the same time, this structure may not be sustainable in itself. Will the morally construed relation between citizens and the central state also become instrumentalized one day? What will happen if the central state fails to satisfy the populace demanding that it discipline the intermediaries and pressure local governments? The future of the intermediary trap is contingent on the development of the general sociopolitical situation in China.

## ENDNOTES

<sup>1</sup> These were the going rates in Liaoning province, northeast China, at that time. The fees were significantly higher in the southeast.

<sup>2</sup> Between 2002 and 2004, a number of Asian countries including South Korea, Taiwan, Japan and Malaysia passed legislation to govern immigration more systematically and effectively. On South Korea, see Seol and Skrentny (2009). On Taiwan, see Chia-Wen (2009).

<sup>3</sup> An estimate of my informants. Chu (2010) also noted a clear decline of illegality and increased desirability of legal channels in Fujian province, the most prominent place for illegal outmigration in China.

<sup>4</sup> On the role of gentry in the countryside, see Wu and Fei (1948). On urban merchants as social and political intermediaries, see Rowe (1987).

<sup>5</sup> Interviews with officials at the Ministries of Commerce and Labour; various ministry documents.

<sup>6</sup> The term “window” has its origin in China’s strict “single-window” policy in international relations that required all matters related to foreign countries to be handled by the Ministry of Foreign Affairs and its local branches.

<sup>7</sup> During my fieldwork, RMB 5,000 was the lowest price that I found for traveling to Singapore on a tourist visa and then overstaying.

<sup>8</sup> Among the recent powerful accounts of illegal migration, see de Genova (2002); Lucht (2012); Inda (2006); Vigh (2009).

<sup>9</sup> This is a common assumption adopted by national governments and especially by NGOs. For examples related to Indonesia, see Coordinating Ministry for People’s Welfare, Republic of Indonesia (2005); Department of State, USA (2009). For critical analyses of this conflation, see Anderson and Andrijasevic (2008: 138); Tigno (2012: 23-40).

<sup>10</sup> As an important recent trend, national governments and international organizations across the world have invested heavily in increasing state capacity in regulating mobility (see also Global Commission of International Migration 2005).

<sup>11</sup> I thank Johan Lindquist for his help in developing this thought.



<sup>12</sup> The similarity between the infrastructural turn and the notion of governmentality, or the “conduct of conduct” as Foucault (1982; 1991) put it so succinctly, is obvious. But unlike Foucault—who stressed that power is diffusive, all-embracing, un-locatable, capillary-like and “reaches into the very grain of individuals, touches their bodies and inserts itself into their actions and attitudes, their discourses, learning processes and everyday lives” (Foucault 1980: 30)—I aim to map out specific institutional logics and structural effects of the infrastructural turn. I seek to locate power and responsibilities, which I see as an indispensable precondition for developing engaged critiques.

<sup>13</sup> These characteristics are also part of the general social transformation of China today (see Zhang and Ong 2008). For phenomena associated with distancing and for individualization, see Yan (2010).

<sup>14</sup> This is not to say that states effectively managed migration or that supposedly unpermitted migration did not happen. However, this dominant governmental rationality prevents the development of migration infrastructure.

<sup>15</sup> This agenda is likely to remain or even strengthen with the new leadership that came to power in late 2012.

<sup>16</sup> For general discussions on the “migration industry” and “migration business”, see Harris (1995); Salt (1997).

<sup>17</sup> For an illuminating discussion of how problematic it is from the migrants’ view to refer to private intermediaries charging “prices” and embassies demanding “fees”, see Alpes (2011).

<sup>18</sup> Foreign currency was tightly controlled in China, and only state-owned companies were allowed to possess foreign currencies in special bank accounts.

<sup>19</sup> Interview, 16 April 2006, Beijing, Office of Ni.

<sup>20</sup> A rural resident may have had to pay up to RMB 5,000-8,000 more (out of the RMB 50,000 total) for going to Singapore in the mid-2000s than did those in big cities such as Shenyang or Dalian in Liaoning province.

<sup>21</sup> In Southeast Asia, tax farming fluctuated largely as a function of the strength of colonial authorities, see (Butcher and Dick 1993).

<sup>22</sup> For a classical definition of intermediaries from such an “in-between” perspective, see Boissevain (1974); Bailey (1969).

<sup>23</sup> This formulation is inspired by Abbas' (1997) discussion on the "disappearance" of Hong Kong.

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