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The Emergence of Informal Institutions among Internal Migrants in Urban China

Rumin LUO

Abstract: China's dramatic economic development and urbanisation have led to an increase in its number of internal migrants. As of 2013, this group accounted for more than 20 per cent of the country's population, and approximately 70 per cent of people in this group are working in the informal economy. This paper pays special attention to migrant-traders in the informal sector and the strategies they use in Shanghai. Migrants are doubly marginalised by the *bukou* (户口) and *danwei* (单位) systems in the megacity and have only limited access to social welfare. It is argued that the informal strategies of these marginalised actors develop in related patterns of social relationships and institutional constraints. Such strategies create new forms of informal institutions that are justified and gain legitimacy when countering unequal and hierarchical formal institutions and social arrangements. This paper empirically explores how informal institutions can act in parallel with or diverge from formal institutions, and how they might influence formal institutions in the long term.

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Keywords: China, migrants in China, hierarchical social welfare, divergent informal institutions, *bukou* system

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Introduction

China's National Bureau of Statistics (NBS) reported that the share of internal migrants (289 million) in 2013 exceeded 20 per cent of the country's 1.36 billion inhabitants. The total number of migrant workers reached 269 million by the end of 2013, which accounted for almost 35 per cent of all employed people in China (NBS 2014). This was the largest internal migration in the world, comprising almost 39 per cent of the world's total internal migrants (740 million) in 2013 and even surpassing the number of international migrants (232 million) (IOM 2014). For these internal migrants, due to their disadvantaged status and lack of both human capital and social networks, getting into the formal sector in urban areas is difficult. In China and most other developing countries, most migrants end up in the informal sector, in small production units or service industries in the private sector, or working as street vendors, domestic workers, or small-business employees (ILO 2002). In 2005 approximately 70 per cent of rural-to-urban migrant workers undertook informal jobs (Wu 2009; Xue and Gao 2012), and rural-to-urban migrant workers accounted for 66.2 per cent of the total urban informal employment in China in 2002 (Yao 2006). This data is set against a backdrop of the first decade of the twenty-first century, in which 40 to 60 per cent of all urban employment was informal (Huang 2009; Yao 2006); in 2013 the corresponding figure was 33 per cent (ILO 2013). The proportion of informal employment relative to total employment among urban local residents increased from 19 per cent in 2001 to 33 per cent (or 52.78 per cent, according to Xue and Gao [2012]) in 2005, and the share of informal migrant workers rose from 73 per cent to 84 per cent in the same timeframe (Du, Cai, and Wang 2006).

Workers involved in informal economies worldwide who lack access to social security mechanisms – such as pensions, healthcare, medical insurance, and income protection due to irregular work – are drawing increasing academic attention (ILO 2014a, 2014b). In China, this special group of migrants – migrating from rural to urban areas, working in the informal sector – are in a more marginalised position than those in the informal sector who are not migrants, because they lack a safety net and social welfare protections that are tied to *danwei* (单位, work unit) systems and/or *hukou* (户口, household registration) systems.

Since 1949, the *danwei* system has been seen as a socio-spatial unit where the livelihood and domestic and social activities of its members are carried out in the urban areas (Bjorklund 1986). Its function in a planned economy is far beyond that of production organisation and extends to the distribution of daily household items, as well as all forms of welfare, including housing, pensions, education, and healthcare. In the meantime, unequal resource allocation between rural and urban spaces has been governed through the *hukou* system since 1958, which has been compared to the Indian caste system by Whyte (2010), and to the passport system for transnational migrants (Wang 2005), with regard to the ways in which welfare benefits and public resources were unequally distributed in rural/urban segregated society and space (Davis 1989; Cheng and Selden 1994; Christiansen 1990; Chan and Zhang 1999). The passport system controls the entry and access to welfare of transnational migrants in foreign countries, while internal migrants in China face similar restrictions when they enter cities other than the place where their *hukou* is registered. The segregation of welfare provision between rural and urban spaces is a burden borne largely by migrants. Those migrants are not legitimatised by the *hukou* and *danwei* systems and are therefore marginalised by the social welfare system in urban China.

Given the large numbers of internal migrant workers who have been absorbed by the informal economy, surprisingly few studies have undertaken an in-depth empirical examination of exactly how actors develop strategies to create informal institutions and thus act against the hierarchical or unequal formal institutions. This paper focuses on this group of people and how they cope with the structural limitations in order to survive and succeed in the cities. This article¹ intends to use empirical evidence to understand these actors, their behaviours under the constraints of formal institutions, and how their

1 The data for this paper was collected while I was working at the Max Planck Institute for the Study of Religious and Ethnic Diversity in Göttingen and at the Institute of East Asian Studies, University of Duisburg-Essen, from 2012 to 2014. A draft of this paper was first presented for the panel “Extending the boundaries of the welfare domain – the margins and the marginalized in China’s new social policy” at the 2013 conference of the AAS, 21–24 March 2013, in San Diego, United States. I would like to thank Dr. Tao Liu and Dr. Armin Müller for their helpful comments on an earlier version of this paper. Further assistance provided by Mr. Connor Malloy is also highly appreciated. I would also like to thank two anonymous referees for their valuable suggestions.

strategies not only create new forms of informal institutions, which are divergent to those of formal institutions, but also bring about institutional changes.

I argue that individuals' actions create new forms of informal institutions that involve a characteristic social structure and related patterns of social relationships. By informal institutions, I mean norms, beliefs, social/community rules, codes of conduct, and social practice: behavioural regularities based on socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels (North 1990, 1991; Helmke and Levitsky 2003; Pejovich 1999). This distinction of informal institutions is legitimised and justified given the efforts of migrants located in urban spaces to counter marginalising formal institutions.

This paper consists of five sections. In the following section, I briefly introduce the theory of formal and informal institutions. In the section thereafter, I explain the methods. Then, by using the ethnographic data in Shanghai, I introduce in the next section three types of informal institutions created by migrants' strategies – *bukou* transfer as a code of conduct, justified artificiality as a new norm, and the legitimacy of *guanxi* as an informal practice – which reflect the emergence of new informal institutions that act divergently to the formal institutions, especially the *bukou* and *danwei* systems. In the last section, I draw conclusions and discuss why the emergence of informal institutions might bring about formal institutional changes.

Theoretical Context

Sociologist Anthony Giddens (1984: 24) sees institutions as “the more enduring features of social life” and goes on to list them as institutional orders, modes of discourse, political institutions, economic institutions, and legal institutions (Giddens 1984: 31). Rom Harre follows the theoretical sociologists:

An institution was defined as an interlocking double-structure of persons-as-role-holders or office-bearers and the like, and of social practices involving both expressive and practical aims and outcomes. (Harre 1979: 98)

Economist Douglass North (1990, 1991) further defines institutions as “rules of the game” and as constraints that structure political, economic, and social interaction, which include formal institutions (rules,

constitutions, laws, and property rights) and informal institutions (constraints, sanctions, taboos, customs, traditions, and codes of conduct). In this paper specifically, “formal institutions” refers to the welfare policies, welfare system, *bukou* system, and *danwei* system, which all serve to regulate and offer social protections to citizens and migrants. “Informal institutions” refers to norms, beliefs, social/community rules, codes of conduct, and social practices like *guanxi* (关系, connection) networks, which all provide informal protection for migrants. Formal institutions are readily recognised as the official rules, those written down in law and typically enforced by a state. Meanwhile, informal institutions are a behavioural regularity based on socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels (Helmke and Levitsky 2003; Pejovich 1999).

The conventional theories of formal and informal institutions speak to the dichotomy between these two types of institutions as well their systematic and dynamic relationship (Ostrom 2009). North points to the fact that informal institutions are actually the origin of formal institutions, and that the latter are constrained by the former. In other words, North (1990, 2005) argues that the process of institutional change is caused by actors and individuals reacting to perceived risk according to their beliefs, which can be influenced by cultural elements, and then creating new institutions which might be useful in mitigating this risk and/or improving economic development. Greif (2006: 379) suggests that institutions are the “engine of history” in that they are responsible for the incentives that drive actions and the further development of new institutions. This has been shown in different countries, but mostly in contexts of economics and political science. Japanese economist Aoki has a similar view; he developed the comparative institutional analysis (CIA) model (2001: 12), in which the institution is seen as a circulating loop of shared beliefs that are formed “as summary representations of an equilibrium.” Using Chinese cases of private entrepreneurs, Nee and Oppen (2012: 20) show a multilevel model of institutional change to explain how informal norms change formal rules through actors in China. Political scientist Tsai (2006: 117, 2007) explores the idea that entrepreneurs have created a range of adaptive informal institutions, which, in turn, have fundamentally altered China’s political and regulatory landscape and “serve a vital intermediate role in explaining the process of en-

dogenuous institutional change.” Christiansen (1989: 80–81) has explored the examples of how Document 1 (中央一号文件, *Zhongyong yibao wenjian*) in 1983 tacitly accepted the existence of rural private enterprises with more than seven employees before the legalisation of private enterprises in 1988; this showed that some informal rules are actually created in the loop of formal institutions, hence informal institutions are situational and are the rational responses of actors.

Pejovich (1999) argues that the relationship between formal and informal institutions is exceptionally important inasmuch as there will be economic loss if the formal institutions are in conflict with informal institutions, or vice versa. According to Pejovich (1999), the state must take care to construct formal institutions either that are in line with informal institutions or that actively work to bring informal institutions in line with the formal institutions. According to different outcomes of convergence or divergence, there are four types of relationship between formal and informal institutions (Helmke and Levitsky 2006: 14). Table 1 describes the relationship between formal and informal institutions, essentially stating that informal institutions may be complementary, substitutive, accommodating, or competitive vis-à-vis formal institutions, depending on the effectiveness of formal institutions. “Effectiveness” examines whether the rules on paper are enforced in practice. Therefore, formal and informal institutions might converge or diverge, depending on whether their outcomes are “substantially different” (Helmke and Levitsky 2006: 14). Moreover, de Soysa and Jütting (2007) suggests that converging formal and informal institutions can either support each other or create a situation in which the informal may undermine the formal, even though they are striving towards a similar end. In addition, even if formal and informal institutions are divergent, one may accommodate the other in a way that will not violate the law of the formal institution and the spirit of the informal institution. However, it can be ineffective when accommodation is not possible, competition arises, and both formal and informal institutions present alternatives that contradict the other.

Table 1. Typology of Informal Institutions

| Outcomes | Effective formal institutions | Ineffective formal institutions |
|------------|-------------------------------|---------------------------------|
| Convergent | Complementary | Substitutive |
| Divergent | Accommodating | Competing |

Source: Helmke and Levitsky 2006: 14.

As North (2005: 7) points out, actors facing risk have the rationality to change institutions, mostly based on their “beliefs,” which are influenced by rules, norms, and cultures in a society. This paper intends to use ethnographic data to empirically examine how the actors bring about the emergence of divergent informal institutions when they are facing unequal and hierarchical institutions which offer citizens hierarchical welfare. There are three steps to identifying informal institutions, according to Helmke and Levitsky (2003):

- specify shared expectations,
- specify the community, and
- identify the mechanism.

In this paper, I specify the special groups of migrants working in the informal economy and try both to specify their new expectations, new norms, codes of conduct and to identify the working mechanism. I argue that divergent informal institutions have worked in parallel with formal institutions, but may eventually lead to accommodation as long as the formal rules (the *bukou* and *danwei* systems, in the Chinese case), are acting effectively, meaning that those rules and procedures are enforced or complied with strictly (Helmke and Levitsky 2006).

Research Methods and Key Definitions

This paper is based on a part of the empirical material collected in the course of several fieldwork phases, mainly in June and July of both 2012 and 2013, and also in September of 2014 as part of a larger study on migrants’ formal and informal social protection in Chinese megacities. The ethnographic and qualitative data in this paper stems from the materials collected in a speculative market in the megacity Shanghai.

Three methods are adopted for data collection. First, the megacities and the market were selected through purposeful sampling based on the availability and the research purposes (Patton 1990). Megacities (in this case, Shanghai, Guangzhou, and Beijing) were selected because of the extent to which they are major destinations for internal migrants. The speculation market itself is one new type of informal sector. Due to the continuing economic boom especially since 1990s, these markets have attracted migrants who are looking

for informal employment and who have “urban aspirations”: they want to resettle in the cities. Second, after I entered the market, I encountered and interviewed more migrant entrepreneurs through the “snowball method” (Goodman 1961). From 2012 to 2014, in-depth interviews with 20 key interviewees were conducted, developing from their business, kinship, religious, and social networks. Every interview took approximately one week’s time, including interviews during participant observation in the market, and in coffee shops and restaurants. I also collected other information from key informants in the market – for instance, the administrators. Third, as this research intends to reveal the informal strategies of migrants, I decided to use participant observation in order to increase my opportunities to access the working and living environment of migrants. I met the Chen sisters, two migrants working in the market, in a house church through a religious network. This network provided a good basis of trust upon which to conduct the observation in the market and the interviews.

The megacity of Shanghai is known as a global financial centre with an enormous migrant population; as of 2013, 40.69 per cent of the city’s 24.15 million residents were from outside of Shanghai. The term “megacity” has been defined by United Nations as a metropolitan area with a total population of more than 10 million people. In 2005 megacities accounted for approximately 9.3 per cent (UN 2006) of the world’s urban population while in 2015 the figure dropped to 7.9 per cent (Demographia 2015). The stamp–card–banknote (邮卡币, *you ka bi*) market is an important organisation in the informal economy and is located in Z District of Shanghai, where approximately 1,000 traders sell stamps, telephone cards, Chinese banknotes, and ancient coins in a 4,000-square-metre, two-story building. It is one of the two biggest stamp–card–banknote collections and speculation markets in China; the other is located in Beijing. Each of these 1,000 self-employed employers have one or two informal employees. Therefore, in sum, this market has approximately 2,500 informal employees.

This stamp–card–banknote market is neither “state-owned” nor a “collective” *danwei* that offers “formal employment,” though it is an organisation for “cultural exchange on stamps,” as it is registered with and supervised under the government of Z District. In this regard, it can offer neither *bukou* registration in Shanghai nor so-called

“dossier management” (档案管理, *dang'an guanli*) in the Chinese personnel system. It offers informal employment only. ILO guidelines state that the informal sector is composed of businesses with a small number of employees, and businesses whose employees are not registered. If an employee has no formal employment contract with her/his employer or if s/he has such a contract but cannot participate in pension insurance and medical insurance, then the status of her/his job meets the definition of informal employment (ILO 1993, 2003). According to Schneider, Buehn, and Montenegro's most recent work (2010), the informal sector is comprised of market-oriented production activities that are hidden from state authority to avoid

- paying income, value-added, or other taxes;
- making social security contributions;
- having to meet certain legal labour-market standards, such as minimum wages, maximum working hours, safety standards, and so on; and
- complying with certain administrative procedures, such as completing statistical questionnaires or other administrative forms.

Since the Maoist era, “personnel dossiers” – which include one's employment history, criminal history, party membership, and so on – have been referred to by work unit officials to decide whether an employee should be promoted. Also, they provide evidence of how and whether one could take part in a typical kind of welfare system. The activity in the market is still considered a kind of “stall trading” even if the trading takes place in a flashy market building in the city centre. Each cubicle owner signs contracts with the market administrators to rent the spaces, but the market has no other relationship with the owners of the office cubicles. As long as there are no employment records or working contracts with official “employers,” these traders cannot access the local welfare or security system officially if they are not originally registered in Shanghai. In other words, they are doubly marginalised by the *danwei* and the *bukou* systems while employed in this informal economy (Xue, Gao, and Guo 2014).

My interviewees working in this market are all non-*bukou* migrants coming from different provinces. One group of migrant-traders are “employers,” as most of them started their businesses in the 1990s or early 2000s. They have accumulated millions of yuan in wealth, though they also experienced economic crisis at the end of

1990s when the government started to control speculation. They are employers because they are creating their own development model, accumulating capital, and in charge of the success or failure of their business. In this paper, Brother Cao, Brother Li, Brother Tu, and Aunt Chen (pseudonyms) are the migrants I label entrepreneurs, the group which comprises 40 per cent of the market. By contrast, some of the most successful entrepreneurs are no longer sitting in the market but rather hiring “employees” to run the daily business. These employees, comprising the other 60 per cent of the market, are often members of their employers’ families: mostly cousins, nephews, and nieces. The Chen sisters, with whom I spent a considerable amount of time, are the nieces and “employees” of Aunt Chen.

In the Chinese context, “migrants” are defined by the *hukou* system. According to the NBS, individuals who live in another location other than the place of their permanent *hukou* residence and are registered there as temporary residents for more than six months a year are called “non-*hukou* migrants,” while those who have migrated and re-registered their *hukou* at the new destination are called “*hukou* migrants” (Luo 2014). Chan, Wing, and Zhang (1999) were the first researchers to point out that there are big differences between these two important groups of migrants. *Hukou* migrants tend to originate in urban areas and are much more likely to have a college education and be employed in more skilled jobs, while non-*hukou* migrants are mostly from rural areas and have a much lower level of educational attainment. *Hukou* labour migrants tend to move through governmental and formal channels, while non-*hukou* migrants rely on their own, often informal, sources for jobs.

Migrants Traders in the Informal Sector: Doubly Marginalised by Formal Institutions in Shanghai

Many researchers point out the unequal influences of the *hukou* system on economic, employment, and other forms of welfare (Liu 2005; Afridi, Li, and Ren 2012). Employment in government offices and state-owned enterprises in cities continues to be unavailable to rural migrant workers unless they convert to an urban *hukou*. The rule that only residents with a local *hukou* shall have access to jobs in “good” *danwei* is strictly enforced. For instance, working as a civil

servant for government is considered preferable due to the high-quality welfare schemes attached to it. In 2011 the Beijing municipal government required that the applicants

have Beijing permanent *bukou*; [that] their human and administrative relations (人事行政关系, *renshi xingzheng guanxi*) be located in Beijing; [and that they] be over 18 but below 35 years old (BMHRSSB 2011).

Moreover, it is clearly stated that “those 2011 graduates who are not originally from Beijing and those who graduated before 2011 whose *bukou* dossiers are only temporarily kept in the universities” would not be taken into consideration for civil servant positions (BMHRSSB 2011). The *bukou* restriction might not be written directly into the key requirements, but having a Beijing *bukou* is often a sub-requirement for listed positions, even today (Beijing 2015). Other research shows that migrants with a rural *bukou* have many disadvantages in terms of their ability to enter job markets in cities (MyCos Research 2009; Liu and Chan 1999).

Being disadvantaged in the job market is the key reason why migrants largely end up in the informal sector. Both Chen Jie and Chen Mei have been working in the market since 2007. The Chen sisters are in charge of a small cubicle that belongs to their aunt, who owns the business. According to them, “We had not yet got enough money to start our own business, and every boss needs reliable employees so that’s why we were hired by our aunt” (Anonymous 1 2012). There are no working contracts between the Chen sisters and their aunt; and there is no subordinated welfare. As Chen Jie (33 years old) explained,

I have insurance in my hometown, [X] Village, [Y] County, Anhui Province, in the rural area where I pay a monthly fee for medical insurance. I enrolled in that programme because my mother-in-law told me to do it, but I don’t really know what it is. In these years, I just hope I don’t get sick in Shanghai; otherwise, it’s difficult to get anything reimbursed. According to the Anhui Rural Healthcare Regulation, there is little which can be reimbursed if I see doctors in big cities, while maybe in the local rural areas, yes, I can get some money back. So normally, I just go to a local pharmacy to get some medicines if I am sick. I have never thought of what will happen if I am seriously sick. Maybe I have to go back to my county to cure myself so that I can be reimbursed. [...] I also never think of old-age pensions. I have no idea and I think as

long as we earn enough money, then we will support ourselves when we are old. I don't want to pay more money to the government. (Anonymous 2 2012)

According to Cai (2011), since 2008, various local governments have supported the development of some forms of social security. Measures include the following: First, the Employment Contract Law came into effect in 2008, which requires enterprises to sign labour contracts with all employees, regardless of their *bukou* status, and to include them in basic social insurance programmes. Second, local governments have increased the frequency and scale of minimum wage adjustments. After 2003, when the new labour shortage took place, the central government requested that local governments adjust the level of minimum wages every year. Third, the coverage of migrant workers in basic social insurance programmes through the issuance of the Interim Measures on the Transfer of Continuation of Basic Pension for Urban Enterprise Employees was required by the central government in 2010. The “Interim Measures” stipulate that all workers must participate in a basic pension programme; moreover, if a worker migrates across provincial boundaries, they guarantee continuation of his or her pension in both individual and pooling accounts in the new workplace. This new regulation, according to Cai, “provides institutionally guaranteed portability of migrant workers’ pension entitlements” (Cai 2011: 41).

Nevertheless, none of these rules have been applied to any of the migrants working in this market. I interviewed Brother Cao (38 years old, from Henan Province) and Brother Tu (32 years old, from Shandong Province). Brother Cao rationalises why they are not in the social welfare system this way:

You know, we don't pay tax [...]. In foreign countries, people pay tax because the governments there offer good social welfare but in China we don't have anything. Here, I only pay a 1,100 yuan administration fee for the market every month, and that's our only relationship with the market. (Anonymous 8 2013)

Being outside of the tax system and social welfare system are two important symbols of defining the informal economy. First, those migrant-traders are working for themselves rather than for certain “enterprises” or *danwei*. This status does not entitle them to any benefits from the welfare system, as there are no “employers” who are responsible for them. Second, the relationship between these mi-

grants and the market is like a normal “owner–renter” relationship, which means migrant-traders pay a monthly rental and administration fee for a specific space measuring anywhere from two to six square metres as an office cubicle in the market, while the market offers space and administration services for entrepreneurs.

In the case of direct social security, migrants have much lower participation rates than those of local workers in social insurance programmes (see Table 2), and they are not entitled to the guaranteed minimum living allowance, which is only offered to urban employees.

Table 2. Comparison of Social Insurance Programmes for Migrants and Local Workers, 2009 (%)

| | Basic pension | Basic healthcare | Unemployment insurance | Work injury insurance | Maternity insurance |
|-----------------|---------------|------------------|------------------------|-----------------------|---------------------|
| Urban workers | 57.0 | 52.7 | 40.9 | 47.9 | 34.9 |
| Migrant workers | 9.8 | 13.1 | 3.7 | 24.1 | 2.0 |

Source: Cai 2011.

Hukou Transfer as a Code of Conduct

Social settings are informal to varying extents, and individuals adapt to different expectations within different social contexts. Informal institutions provide another conduit for trust and cooperation through which social change can be achieved, sometimes even more efficiently than through formal institutional channels. The prevalence of informal institutions, and the diverse private patterns of action that run parallel to the formal system in the developing world, such as in China, are partially due to the existence of “ornamental institutions,” which conceal an anarchic and irregular underground world and have led to the emergence of informal institutions since 1979 (Sun and Liu 2014: 3; Hu 1982: 21).

The hierarchical welfare provision between rural and urban spaces, also between citizens, is a burden borne largely by migrants. Conversion of *hukou* status is difficult to attain, especially from a position lower in the hierarchy to a higher one. The most desirable *hukou* are the autonomous city *hukou* (e.g. Beijing and Shanghai), the second-

most popular are capital city *hukou* (e.g. Guangzhou), followed by prefecture *hukou*, county *hukou*, township *hukou*, and village *hukou*, the last of which is completely undesirable (Luo 2012: 124).

Facing the problem of being marginalised in the city, the migrants have formed a new code of conduct to obtain an official urban *hukou* to realise the formal transition of passage (Luo 2012; Solinger 1995), although this is still very difficult. By “code of conduct,” I mean a set of rules outlining the social norms and responsibilities of, and proper practices for, an individual. When groups of migrants form this kind of code of conduct, the action sets up rules for the community. According to North (1990, 1991), a code of conduct together with other constraints, sanctions, taboos, customs, and traditions form the informal institutions that might compete with or accommodate formal institutions (rules, constitutions, laws, and property rights) in a specific social structure. In 1992 a Beijing *hukou* cost CNY 20,000 and a Harbin one cost CNY 3,000, in addition to a solid personal connection (*guanxi*) (Solinger 1995). “Those with power use power; those with money buy it, those with neither write, [and] run back and forth,” as Solinger (1995: 127) stated. Anyone with proper power or connections would like prefer an urban *hukou* over a rural one. Also based on the hierarchy of *hukou*, people would like to obtain a *hukou* at a higher level of hierarchy rather than a lower one (Luo 2012).

Hans Steinmüller points out there are some activities that both local people and officials recognise as inappropriate but that fly in the face of national pronouncements. He argues,

the boundaries between state and society are made by exposing and hiding spaces of cultural intimacy; and this everyday practice reproduces both local sociality and the state itself. (Steinmüller 2010: 548)

I see the activities of buying *hukou* and falsely obtaining *hukou* as “inappropriate activities”; the latter is, in fact, an illegal activity rather than simply “inappropriate.” Nevertheless, migrants see this as a code of conduct, which could be legitimised by them, as the *hukou* system itself is an unequal institution.

There are also other approaches to registering under a new *hukou* – for instance, through the “points system” in Shanghai, which is described below (Luo 2012). Purchasing real estate is another possible method by which to attain an urban *hukou* in Shanghai. Aunty Chen,

who had accumulated more than 10 million CNY in capital since the 1990s, obtained a Shanghai *bukou* by buying a house there in 2001, as at that time the policy still allowed migrants to do that. Her son obtained a *bukou* there as well, as a consequence of his mother's *bukou*. The whole family settled down in Shanghai, becoming members of the "new Shanghainese." Her grandson is now five years old and attends school in Shanghai. But this family is an exception; 95 per cent of traders in the market can be defined as "non-*bukou*" migrants whose registrations are still in their original hometowns – approximately half in rural areas, but some in townships, counties, or even other big cities (Fieldwork note, 3 July 2013). Thus, most traders are not able to realise the transfer of their *bukou* statuses even if most are trying out the possibilities.

Justified Artificiality as a New Norm

Informal institutions are strengthened by the collective act of establishing new norms for the behaviours of marginalised actors. Although the "points system" in Shanghai seems as if it offers access to a residence card, it prioritises *bukou* transfers for those with higher human and financial capital, very similar to the US green card system. For migrant-traders who have limited education, it is still very difficult to enrol in the system. The new regulations of the "points system" starting from July 2013 have increased the standard to 120 points. Paying for social security in Shanghai counts for three points every year. But having a university diploma contributes 60 points. Brother Li, from Liangshan County in Shandong Province, is 33 years old and dropped out of primary school during the fifth grade. He earned 3 million CNY in the years from 2006 to 2012 by speculating in circulating banknotes and commemorative notes (纪念币, *jiniانبì*). He is now trying to obtain a *bukou* through the educational passage. To do so, he first went back to his hometown to obtain an "artificial" high school diploma through personal connections. He used that diploma to register at an online university. Basically, he pays somewhere around 5,000 CNY every year, and the university has promised that he will receive his degree in five years despite him having taken no classes. He will then be able to use this "real" university diploma to apply for local residency. Brother Li believes that paying thousands of yuan a year is worth it in the long run, in order to get his son into

the local education system and provide an equal opportunity for his family in Shanghai.

Another significant collective artificiality in employment status concerns children's education and home ownership. Since 2013, if migrants' children are to be allowed to attend school in Shanghai, one of their parents must have an insurance account in Shanghai (Anonymous 9 2013; Anonymous 11 2014). Since 2010, the government has restricted the migrants in Shanghai from purchasing houses, requiring migrants to have made social security payments for at least 13 months in order to be qualified to purchase a house.

Housing has only been open to the market since the 1980s. Nevertheless, all of the housing supplies are allocated according to *hukou* status. In 1994 the state council issued the "Decisions on Deepening the Urban Housing Reform"; one of the measures was to push forward the Economic and Comfortable Housing Project, which aims to assist lower-income families in urban areas. In 2004 the criteria were subsequently clarified further in the "Measures for Managing Economic and Comfortable Housing" (Ministry of Construction et al. 2004) along these lines:

- Applicants must be registered in urban households.
- Either applicants must be homeless or the size of their living space must be smaller than the county government's housing line (measured by square metres per person).
- Applicants' income should not exceed the levels set by the relevant county government.

Welfare housing is restricted to local residents, and free-market housing favoured local residents, too – especially after 2011, when the housing market continued to see prices increase. Beijing mandates that migrants can purchase houses only if they have paid taxes and social security for more than five years in the city.

Both Brother Li and Brother Cao obtained artificial employment status by joining a local *danwei* in Shanghai through their own connections. Fake dossiers were made in order to buy a local house and get their children into the local education system. For example, the minimum wage in Shanghai in 2014 was 1,820 CNY, and in Li's registered *danwei*, the lowest wage was 2,000 CNY. In this case, an individual pays 17.5 per cent of his gross income towards insurance. The employer pays an amount equivalent to 42.5 per cent of the employ-

ee's gross income as well. Altogether, it comes to 60 per cent of the employee's gross income. But because it is false employment, Brother Li had to pay the entire 60 per cent of the lowest wages (1,200 CNY) himself (Anonymous 11 2014).

For Brother Cao, 41 years old, who came from Kaifeng in Henan Province and now runs a business in the market with around 2 million CNY in capital, the situation is the same. He pays 1,700 CNY every month for “five insurances and one fund” (五险一金, *wu xian yi jin*), which means “medical insurance, pension, unemployment insurance, maternity insurance, injury insurance, and housing fund.” Brother Cao has been registered for insurance in the artificial *danwei* for ten years. Earlier, he had registered himself in Kaifeng City in his father-in-law's real-estate company, where he needed to pay only 200–300 CNY per month. But in Shanghai, the amount is much higher. Nevertheless, he must do it, lest his son not be allowed to finish school in Shanghai, which would be the case unless one of the parents has an insurance account in Shanghai, according to the new regulation issued by Shanghai Bureau of Education (2013). His son is now finishing his first year in junior high school and the boy still has two years to go before he enters senior high school. He expects that the policy in Shanghai will change one day and that his son, who has a *bukou* in Kaifeng like his parents, will be allowed to participate in university entrance exams in Shanghai after finishing senior high school. Due to the consistency system just initiated by the state council, he is not allowed to have one insurance in Kaifeng and one in Shanghai. As Shanghai is always initiating the reform of social policy in China, Brother Cao was directly impacted after the new regulation was announced in February 2014, and now he must cancel the insurance in Kaifeng and attain a new one in Shanghai. He expects that the housing fund can also be used if he wants to purchase a house in Shanghai; he could also get the money back if he does not purchase a house (Anonymous 3 2012, Anonymous 10 2013, Anonymous 12 2014). He has this concern about the housing fund because at present in China there is no nationwide comprehensive insurance system which one could transfer between cities. Rural migrant workers can only withdraw accumulated funds from their individual accounts if they leave the city where they made contributions. In 2009 the State Council initiated the “Measures on How to Extend or Transfer Pensions for Urban Employees” (城市职工基本养老保险关系接续和转

移办法, *Chengshi zhibigong jiben yanglao boxian guanxi jieshu be zhuan yi banfa*), supporting the transfer of pension rights and benefits across provinces for the urban worker pension scheme in order to improve portability, but its implementation has been limited so far (World Bank 2014: 208).

Gua kao danwei (挂靠单位) is a very special phenomenon inherited as a legacy of the socialist system after 1958, and it relates to the *bukou* system. It literally means to be “attached” or “affiliated” to a “work unit” – for instance, a collectively owned company or enterprise. There are two categories of artificial affiliations. The first category is located in the business trade. Enterprises (units), social groups, or individuals in the preliminary phase of the development process obtain an artificial affiliation under the name of some other enterprises for certain purposes. For this kind of affiliation, generally two sides sign an agreement, which indicates how much in management fees the affiliated person should pay. The artificial employers have no investment, operating conditions, or credit/debit relationship with the artificial employee, and are responsible only for applying for a business licence and the other various types of licences and tax registrations. The second category refers especially to household registration dossiers. For instance, graduates who cannot find a job in the city in which they attended university face the problem that all their registration dossiers that were temporarily stored in the universities will be repatriated to where they were originally registered at birth. Therefore, the graduates must look for temporary *danwei* to keep their dossiers. Normally, some kind of “tripartite agreement” is signed that allows the graduates to put their personal dossiers into the files of the *danwei* archive, but there is no actual employment relationship. As mentioned earlier, Beijing *bukou* are becoming more and more costly, and they can be directly valued in yuan on the black market. Few state-owned and collective enterprises can obtain most quotas (指标, *zhibiao*) every year, which define how many employees annually can transfer their *bukou* to Beijing; few private enterprises like high-tech companies also get some access. Unused quotas from the *danwei* can be sold on the black market and to people with whom the managers of the *danwei* have good connections. This category of artificial employment usually takes place in this fashion.

Brother Cao and Brother Li entered the second category of artificial employment in order to enable their children to attend schools

in Shanghai and because both welfare housing and free-market housing are strictly constrained not only by the *hukou* system but also by the social security system, the latter of which is still fundamentally defined by the former. Brother Li had started to purchase a house in 2012 by allocating his social security payment, which he had obtained through artificial *danwei* employment since 2010. In 2013, when I went back to the market, Brother Li had already completed purchasing his new house, providing evidence for the fact that artificial *danwei* employment can work effectively.

The Legitimacy of *Guanxi* as an Informal Practice

I argue that the rise of informal institutions is caused by the emergence of new norms and collective behaviours. Justified artificiality as a new norm works through *guanxi*. When faced with the formal constraints of the *hukou* and the *danwei* systems, which do not support proper social welfare, more than 80 per cent of non-*hukou* migrant-traders have managed to create artificial employment with *danwei* that they obtain through *guanxi*. I follow Yang (1994: 10) and Guthrie (1998) who define *guanxi* as “the cultivation of personal relationships and networks of mutual dependence, and the manufacturing of obligation and indebtedness.” *Guanxi* was seen in socialist China as a persistent resistance to the authoritarian party-state power.

In the case of attaining access to local schools, *guanxi* is used by almost every interviewee who has a child attending a local school in Shanghai, for several reasons. One reason is that before 2010 school selection fees in cities were customary. Public schools with good reputations always charged students miscellaneous fees on top of their regular education costs. A conservative estimate indicated that annual school selection fees (a fee charged to students without a registered residential status in the district where the school is located) in Beijing amounted to over 1 billion CNY in 2002 (Yang 2004). In Beijing, the school selection fees of some key secondary schools reached CNY 40,000 or even 70,000 per student, far more than the officially permitted limit (Chak, Ngok, and Phillips 2008). Given this, it is even more difficult for the migrants to get their kids into the education system.

Citizens with different *hukou* statuses have different levels of access to educational resources, from kindergarten all the way to university (CECC 2005). Researchers argue that the same barrier to education occurs when students seek to participate in the university enrolment examination (Mok, Wong, and Zhang 2009). Normally, children cannot apply or participate in the exam in a given city if their *hukou* is not from that city. Meanwhile, children with *hukou* in big cities such as Beijing or Shanghai can access top universities with much lower scores than those registered in rural areas or even other small cities.

In June 2006 the newly revised Compulsory Education Law stipulates that the hosted city governments should deal with the education of children of migrant workers by providing equal access to compulsory education, which has become a legal obligation of the government. In 2010 the government issued the “National Long-Term Education Reform and Development Programme (2010–2020)”:

Local government should offer basic full-time public schools to ensure that migrant workers’ children receive equal access to compulsory education; it should study and formulate a way to help them participate in entrance examinations in the local hosted cities.

Nevertheless, when it comes to the reality, it is still difficult to implement these measures due to limited resources.

Brother Cao’s son is 11 years old and studying in the fourth grade:

Now migrant kids can go to school but of course not the good ones. The quota is given to urban kids first. My son therefore has to go to another, worse and smaller school. (Anonymous 4 2012)

Brother Li, who, as we have seen, has better connections, sends his son to school as well:

My son, seven years old, goes to primary school. I came to know a neighbour who has *guanxi* with the leader of the school. So I just sent some gift so my son gets into a good school in the compulsory stage. (Anonymous 5 2012)

Sister Wu (34 years old, from Hunan) agrees:

I just got my daughter (5 years old) into a summer class to teach her how to tell stories. I pay 3,300 yuan for half a semester. She is now in kindergarten. You know it is difficult to go into public school but if you have connections then it works. We just made a gift of several thousand yuan and got her into the public kindergarten. In China, as long as you have money and *guanxi*, then it works. (Anonymous 6 2012)

Brother Hou (33 years old, from Shandong) could not agree more:

I got a connection with the Baoshan District Bureau of Education to get my son into the Shanghai University Subordinate Primary School. It costs me ancient coins and top-quality “Longjing tea” worth more than 2,800 yuan. You know, even for local Shanghaiese, it is difficult to enrol in that school. And now my son is performing very well, which I am very proud of. (Anonymous 7 2012)

Guanxi as an informal practice is prevalent in explaining migrants’ actions and strategies in Shanghai. On the one hand, the formalisation, normalisation, and institutionalisation of social relations have been seen as characteristics of modernity, as face-to-face interactions are replaced by impersonal bureaucracy and finance (Morand 1995). On the other hand, informal institutions can emerge from the constraints of unequal formal institutions; *guanxi* practice has been informally adopted and internalised by the marginalised actors.

Conclusion and Discussion: Nature of Divergent Informal Institutions and Their Development

This paper has revealed how migrants’ agency, actions, and strategies create new forms of informal institutions in the megacity of Shanghai when they face institutional constraints from the *danwei* and *bukou* systems, which marginalise them in terms of their access to social welfare. Since the founding of the People’s Republic of China in 1949, China has tried to construct an egalitarian society, in particular by implementing the *danwei* system in urban areas. The *danwei* system offered daily household items, as well as all forms of welfare, including housing, pensions, education, healthcare, and so on, to urban employees and residents. The *bukou* system has helped to distribute all these welfare protections and has defined citizens’ hierarchical access to them. By paying special attention to how these formal insti-

tutions influence the distribution of social welfare in megacities, this paper explores the close relationship between social welfare and the hierarchical access for migrants in urban settings.

By using ethnographic data collected in the informal sector, a speculative market in Shanghai consisting of 95 per cent “non-*bukou*” migrants and 5 per cent local Shanghainese or “*bukou* migrants,” I explore how these “non-*bukou*” migrants face risk and uncertainty, hope and despair while they are doubly marginalised by the *bukou* and *danwei* systems and thus rarely have access to the welfare provisions covered by social policies in this megacity. Informal institutions are used to explore a social situation and social pattern in which migrants activate their strategies and tactics to skirt the restrictions of social policies.

Three forms of informal institutions that are created by the migrants’ daily practice in the megacity of Shanghai are observed in this paper. These three types of informal institutions are *bukou* transfer as a code of conduct, justified artificiality as a new norm, and the legitimacy of *guanxi* as an informal practice, all of which reflect the emergence of new informal institutions that act divergently to and in parallel with the formal institutions, especially the *bukou* and *danwei* systems. First, a code of conduct, as a set of rules, forms the informal institutions that might compete with or accommodate formal institutions (rules, constitutions, laws, and property rights) in a specific social structure, and allows migrants to transfer their *bukou* status and re-register themselves in the city. This code of conduct has been generally internalised and accepted by the actors. Second, justified artificiality, as a new norm through which migrants legitimise their actions by registering in artificial working units, helps migrants get into the local social security, education, and housing systems. Third, mobilising *guanxi* as a legitimised institution becomes a common practice driven by the rationalities of migrants in a social context in which migrants positively and partially integrate themselves into urban settings.

These forms of informal institutions are created against the backdrop of effective formal institutions. “Effectiveness” entails that, for the most part, formal rules and procedures are enforced or complied with in practice in a relatively strict manner. The purpose of both formal institutions discussed here, *bukou* and *danwei*, is to offer the citizens hierarchical access to social welfare, through which the

Chinese government can achieve imbalanced development among regions and people. Since the Mao Zedong era in 1950s, this mechanism has been seen as one of the most important measures supporting urban development while retaining welfare in rural areas, as well as subsidising urban development with rural-to-urban migrant labour. In the 1980s, Deng Xiaoping advocated “allowing some people to become rich first” (让一部分人先富起来, *rang yibufen ren xian fuqilai*), which was established on a similar ideology that perpetuated the idea that citizens and their welfare statuses should be and are hierarchical and unequal.

In this social situation, the emergence of divergent informal institutions accommodates the unequal outcomes of formal institutions. As Helmke and Levitsky (2006) point out, the existence of divergent informal rules could alter the substantive effect of formal institutions, while not directly violating them. Accommodating informal institutions are mostly created by the marginalised actors who do not like the outcome of formal rules, but at the same time are “not able to change or openly violate these rules” (Helmke and Levitsky 2006: 14). Accommodation takes place when the direct outcomes of formal and informal institutions substantially differ from each other.

In the end, this paper seeks to draw attention to the consequences of these informal institutions for formal institutions. These forms of informal institutions might be further manipulated by the actors to influence the formal institutions and lead to endogenous institutional change (Tsai 2006, 2007). Here, informal institutions are seen by the actors as justified and legitimised, as the formal institution itself is hierarchical and unequal. These informal institutions are working divergently to and in parallel with the formal institutions, but it remains to be seen whether they will eventually accommodate or compete with the formal institutions, depending on whether the formal institutions are effective or ineffective (Helmke and Levitsky 2006: 14).

Although the Xi Jinping government initiated a new reform of the *hukou* system on 24 July 2014 (国务院关于进一步推进户籍制度改革的意见, *Guowuyuan guanyu jinyibu tuijin huji zhidu gaige de yijian*) that calls for a steady relaxation of *hukou* transfer in small and medium-sized cities and a reasonable relaxation in big cities with populations of three to five million to achieve 100 million rural-to-urban *hukou* transfers by 2020, at the same time the government has dramatically

tightened the control of *hukou* transfers in megacities with populations of more than five million. Similar to the case in Shanghai, in Beijing the institutions controlling migration through purchasing a house and through employment have been bolstered and vested with the power to also control through educational access. Since April 2014, migrants in Beijing need to submit more than five dossiers and certificates in order to get their kids into primary and junior high schools – namely, employment contracts, house ownership or leasing contracts, residence permits, the original *hukou* booklets, the certificates offered by local government to show absence of supervision for children in the original *hukou* registration region, and different certificates that prove that one's social security is legally registered in Beijing for two to five years, depending on the different regulations under the different local district governments of Beijing. Facing more and more diversified institutional constraints fostered by multiple levels of the Chinese government, migrants have to respond accordingly with varied strategies. Although the reforms to the *hukou* system are not that drastic, the question remains as to what degree these informal institutions and migrants' accumulative action will influence the *hukou* system, especially in megacities.

As observed, those migrants working in the speculation market possess business talents and strong homeland connections, and have great abilities to develop local *guanxi* networks. As a whole, most of those migrants in the market enjoy an average yearly income of CNY 50,000, although in an economic crisis the loss might also be substantial, like what happened to Brother Cao in the Asian financial crisis of 1997. It would be interesting for future research to compare these groups of migrants with others who are working in the service sectors – for example, street vendors – as occupational characteristics and economic status might differentiate their strategies and actions and, thus, might lead to different informal institutions.

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