

**Incongruent migration categorisations and competing citizenship claims:  
'Return' and hypermigration in transnational migration circuits**

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**Abstract:** Recent scholarly interventions propose that the principle of *jus nexi* (effective connections) or *jus domicile* (domicile) should replace birthright or birthplace considerations when assigning citizenship status and political membership. Nonetheless, both views privilege notions of territorial presence and the ideal of political community. This paper focuses on Mainland Chinese return migration from Canada to metropolitan cities in China. The dual citizenship restriction enforced by China means those that naturalised in Canada have relinquished their right to Chinese citizenship. Should they be considered returnees, immigrants or transnational sojourners in their ancestral homeland? It is this incongruence in migration categorisations compared to migrant life-worlds that this paper aims to examine. The paper also highlights the interface of competing claims to citizenship in the context of Chinese internal migration and new (African) immigration in China, as well as the returnees' own transnational migration across the lifecourse. It argues that the ordering mechanisms that characterise normative conceptions of citizenship focus on isolated types of migration trends whereas what confronts us more urgently are intersecting migration configurations that underline the incongruence of migration categorisations and the complexity of competing citizenship claims spatially and temporally.

**Keywords:** Citizenship, return migration, birthright, domicile, territory, transnationalism

*Introduction*

Transmission of citizenship status in most countries is usually based on the *jus soli* (territorial right by birth) or *jus sanguinis* (descent-based) rule. But recent scholarly interventions suggest that the birth circumstances common to both should be critically interrogated. While one camp proposes the principle of *jus nexi* (effective connections to a country) for allotting membership to a state, another camp considers the principle of *jus domicile* sufficient (e.g. Kostakoupoulou 2008; Shachar 2009; Bauder 2014). Regardless, both camps privilege residency, or territorial presence in a place across time, as a deciding factor for assigning citizenship status and political membership. When these views are set against critiques that challenge static framings of territorial presence or the very ideal of a political community as the premise for citizenship recognition and rights (e.g. Bauböck 2009 and 2011; Isin 2012; Closs Stephen and Squire 2012), what comes to the fore are competing claims to citizenship that belie

the ordering mechanisms tied to citizenship status (Agnew and Corbridge 1995; Staeheli et al 2012; Ferbrache and Yarwood 2015).

Compared to the citizenship rights of immigrants, much less discussion has been given to the right of emigrants to return because of assumptions over birthright or cultural affinity privileges, What if they are returnees who have naturalised elsewhere or lived abroad for a prolonged period of time? This paper considers Mainland Chinese 'return' migration (from Canada to metropolitan cities in China) and analyses it in relation to the competing stakeholder claims of other migrants (i.e. internal and international migrants) that are co-present in those cities; the paper also takes into account intentions to re-migrate later in the lifecourse. Mainland Chinese migrants qualify for entry and permanent residency in Canada through its points-based skilled or investor migration schemes. Many naturalise in Canada subsequently but China restricts dual citizenship, thus by acquiring Canadian citizenship they automatically relinquish the right to Chinese citizenship. This means they have to apply for temporary immigrant visas to return and live in China. Yet their 'return' to China is only temporary as many intend to re-migrate to Canada eventually. Should they be considered returnees, immigrants or transnational sojourners in their ancestral homeland? It is this incongruence in migration categorisations compared to migrant life-worlds that this paper explores.

Without Chinese citizenship, not only has the right of such Mainland Chinese migrants to return been retracted, but it also impacts their rights to work and benefit from social rights tied to urban membership as defined by the Chinese *hukou* (household registration) system. Faced with this change, the Mainland Chinese returnees assert their birthright to advance claims to citizenship, but their assertions can be usefully juxtaposed against competing accounts of recognition and rights such as those made by rural-urban migrants and new immigrant populations now converging in China. One way of determining political membership and rights is by assessing a migrant's period of residency, such as advocated by urban citizenship scholars (Purcell 2003; Kostakopoulou 2008; Zhang and Wang 2010; Bauder 2014). In this reading, political membership can be delinked from the nation-state to more immediate sites of residency such as at the city level. But when deployed to assess recognition and rights trans-territorially and across the life-course, static framings of territorial residency prove inadequate for assessing the citizenship contestations found in transnational migration circuits.

Transnational migration circuits actively shape and reshape migrants' societies of origin and destination, as well as the life-worlds of migrants. Transnational sojourning (Ley and Kobayashi 2005) in the Asia Pacific has already become a prominent trend that connects sending and receiving contexts within a transnational migration circuit. Yet legal frameworks governing migration and citizenship set up barriers to return migration. Most Asian countries continue to restrict dual citizenship<sup>1</sup> and even if some form of dual nationality is recognised there remains restrictions (e.g. India's 'Overseas Citizenship of India' scheme). This makes the case of return migration in Asia different from, for example, European transnational migration circuits where return is organised around the right to free mobility within the European Union. Further, return is unlikely to mark the end of the migration trajectory for transnational

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<sup>1</sup> Exceptions include countries such as the Philippines, South Korea, Sri Lanka, Taiwan and Thailand.

sojourners (Ley and Kobayashi, 2005). The Mainland Chinese returnees discussed in this paper, for example, intend to re-migrate to Canada later in their lifecourse. Meanwhile they engage in circular migration to maintain their ties in both countries. As ‘hypermigration’ becomes more commonplace, Bauböck (2011) argues that the challenges posed to normative ideals of civic solidarity found in the social compact of citizenship cannot be discounted. Although ‘hyper’ might exaggerate the speed and frequency of migration, it usefully draws attention to the temporal dimension and multi-directional characteristics of migration trends, as well as their impact on the ordering mechanisms that underlie the social compact of citizenship.

This paper connects the findings from three research projects addressing international and internal migration trends in Mainland China. The intention is not to provide in-depth empirical treatment of particular migrant groups, but to juxtapose the three cases so as to set into sharp relief their competing claims to citizenship recognition and rights within Chinese cities, and across transnational migration circuits in the Asia-Pacific. The paper takes as its starting point the first project (2008-2010) on Mainland Chinese migrants who obtained permanent residency status in Canada through the points-based skilled migration scheme. Many applied for Canadian citizenship then re-migrated to China. This research was done in Vancouver, Beijing, Guangzhou and Shanghai. The second project studied internal migration in China as part of wider research on the international ‘return’ of Chinese diasporic descendants that subsequently transitioned into internal migration trends (2010-2013). This research was carried out in Guangdong province and Hainan Island. The third project concerns African student migration to Chinese cities. The research was conducted in Guangzhou and Wuhan (2013-2015). Though seemingly distinct types of migrations, their convergence in Chinese cities precipitates competing citizenship claims. Bringing them under the same analytical framework reveals the incongruence of migration categorisations and the interface of competing citizenship claims.

To reiterate, this paper examines competing claims to citizenship to assess the principles on which such claims are premised, including the significance of territorial presence at the city or national level. The paper highlights that enforcing such principles becomes less straightforward when deployed in a trans-territorial setting where they have to be assessed holding not only both immigration and emigration contexts in view, but also across the lifecourse (i.e. temporally) as migrants engage in transnational sojourning. The paper argues that the ordering mechanisms that characterise normative conceptions of citizenship focus on isolated types of migration trends whereas what confronts us more urgently are intersecting migration configurations that underline the incongruence of migration categorisations and the complexity of competing citizenship claims. Informing the analysis in this paper is Çağlar’s (2016: 960) argument that ‘we need a framework, which will allow us to capture the social structuring of sociabilities, migrant subjectivities and daily life in their places of settlement within the power contingencies of a particular place and time without denying the contemporaneity of those designated as migrants with the “natives”/non-migrants’.

The next section examines the routes found within transnational migration circuits and their impact on the ordering mechanisms associated with citizenship. This discussion considers the sites of political membership, not only at the national level but also at the city level. The section after that juxtaposes the right to return

associated with birthright citizenship against citizenship claims that are premised on *jus domicile* (domicile) or *jus nexi* (stakeholdership). This is examined through the case of Mainland Chinese return migration as set against the co-presence of other migrant groups that inhabit the same Chinese cities. While the paper is developed through the migration experiences of the Mainland Chinese (which some observers consider an ethnic or national group), it recognises that their identities are constantly reconfigured *through* the migration process and situationally adjusted to the dynamics of who else co-inhabits the city with them. The penultimate section examines competing citizenship claims in the context of hypermigration and transnational sojourning across the life-course. The concluding section draws together these arguments to propose that inasmuch as the *jus domicile* or *jus nexi* principles seek to clarify the right to and rights of citizenship, qualitative assessments of the right to have rights can precipitate new citizenship contestations, particularly when we take into account transnational sojourning across the lifecourse.

*Transnational migration circuits and sites of political membership*

Transnational migration circuits linking emigration and immigration countries have captured the attention of political leaders, policymakers and academics alike because of the economic and social-cultural relationships characterising such spatial networks<sup>2</sup>. Return migration is no longer expected to be permanent; return can be temporary and cyclical as long as obligations of loyalty and contributions to the country of origin are fulfilled (Mohan 2006; Saxenian 2006). However, the formation of these circuits is shaped by the extent to which migrants have the right to return to their origin or destination country. The right to return impacts migrants' willingness and ability to engage in circular journeys, yet it has received less scholarly attention thus far compared to immigration rights.

During return migration, conventional migrant-sending/migrant-receiving categories are reversed within the transnational migration circuit. Former immigration countries become the source of human outflows as immigrants depart while previous emigration countries experiencing inflows are faced with challenges of re-integrating returnees into the labour force and society. Migrants engaged in transnational sojourning are also subjected to countervailing pressures in the receiving contexts where they are still considered immigrant subjects, raising questions about their commitment to the adopted homeland. The transnational migration circuit 'as a whole, rather than any single locality, is the principal setting from which these circular migrants form understandings of their individual and collective projects' Smith (2003: 20).

The 'territorial trap', or 'the privileging of a national-territorial conception of the state', which was described by Agnew back in 1994 persists in shaping the ontology of return and guiding our study towards migration and citizenship (Agnew 1994: 92). In a critique of the enduring distinction drawn between 'immigrant' and 'repatriate', Smith (2003: 18-19) contends that:

Heuristically useful typologies have evolved into fixed dichotomies that now shape both theory and research, dividing migratory experiences and scholarship alike into distinct, mutually exclusive, camps. They call for our reconsideration

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<sup>2</sup> Transnational migration analyses hold in view the ties that migrants sustain in their sending and receiving countries. In comparison, international migration theories tend to assume linear migration pathways and focus attention on the citizenship politics in either the sending or receiving country only.

of several of such dichotomies... At first glance, the distinction between 'immigrant' and 'repatriate' seems obvious and unchallengeable. Common usage of these terms would have us view immigrants as foreigners and repatriates as nationals returning home. However, to accept such distinction uncritically is to reproduce discursive traditions forged by and for the maintenance of territorial nation-states. This is a language that promotes the nationalist aim of assigning every individual to one and only one nation, and which would have us distinguish absolutely citizens from non-citizens, those who belong from those who do not.

Smith (2003: 18-19) made the above observation in the context of the postcolonial migrations triggered by European decolonisation. Migration classifications such as 'immigrant' and 'repatriate' (or returnee) situated persons with mixed identities in rigid citizenship categories that sought to provide a sense of social order. Far from a natural process, return is shaped by geopolitical and politicised circumstances that determine migrants' right to return and the way returnees are regarded by the society of return. Scholarship on return migration and citizenship tends to consider return from the perspective of whether migrants have the right to remain in their host countries (Binaiisa 2011; Vathi and King 2011). Underpinning this is the assumption that migrants are more likely to return if they face exclusion in host countries due to restrictions on residency or social exclusion. However, the possibility for reverse movement should also be read as a function of migrants' legal right to return.

Migrants that retain citizenship status in their countries of return, whether because they have not naturalised abroad or are entitled to dual citizenship, have unencumbered freedom to enter, leave and enjoy other rights in the country of return. Countries of origin may provide legal mechanisms allowing those with foreign citizenships but with proof of ancestral ties to enjoy preferential rights to return (e.g. the Overseas Citizenship of India). In other cases, returnees operate under legal frameworks of immigration and citizenship policies that provide a sense of order but which may not commensurate with their life-worlds. Drawing from Bosniak's (2006) analysis of citizenship as a legal category, Staeheli et al. (2012: 5) observe that 'there can be confusion as to whether rules about how citizens are to be treated apply to immigrants who are not officially members'. Likewise, return migrants are not exempt from such slippages in the way they are regarded legally by their countries of return, compared to their own subjectivities towards return. Delinking ideologies of return from the national territory and troubling the migration classifications that condition the right to return allow us to bring into view the other geographical sites and scales in which return migration and citizenship politics are situated.

Cities are often regarded as the site where modern citizenship emerged as co-fraternity amongst occupational, religious and merchant guilds gradually undermined the power of monarchs and set the foundations of modern capitalism (Holston and Appadurai 1999: 1). Isin (2002: 51) suggests that citizenship should be studied as expressions of alterity instead, focusing on the 'internal differentiations of the city and how in different moments it was a locus of being political'. For Cresswell (2009), inclusion as a citizen is gained through the exclusion of subjects who embody mobility, such as the vagabond or immigrant. He observes that the category of the 'denizen' highlights the coming together of 'geographical imaginations of fixity and flow' (page 264). Denizens are foreign citizens who are considered 'permanently

resident in a country and given legal recognition along with selective rights. This status is meant to recognise the multiple criss-crossing relationships that people have to different governmental domains (Shearing and Woods 2003), but its current manifestation through the practice of 'permanent residency' emphasises in-situ territorial presence rather than the multiplicity of belonging. The legal status of 'permanent resident' has increasingly become a misnomer as more nation-states impose restrictive time limits on the validity of the identity card and stringent criteria for retaining such status. In Canada, permanent residency status is valid for five years and for renewal there is a minimum residency period of two out of five years.

The globalisation of labour brings together highly skilled and lowly skilled migrants as well as already-present urban inhabitants (also see Collins, this issue; Robertson, this issue; Williamson, this issue). Marginalization of certain social groups, their urban segregation and disenfranchisement has triggered calls to promote their rights by advancing urban citizenship. Underpinning urban citizenship are arguments for urban self-government, participatory governance, the right to appropriate space and access to municipal services. For immigrant populations in particular, barriers to formal and substantive citizenship form the basis of claims for rights to the city. In earlier writing, Bauböck (2003: 142) suggested the city can be seen 'as a political space inside the territorial nation-state [where] new forms of urban citizenship might promote a cosmopolitan transformation of nation conceptions of membership from *below and from within*' (emphasis mine). Such views of urban citizenship are premised on a nested or hierarchical view of belonging, membership and rights. Isin (2007: 224), on the other hand, perceives cities as actual and virtual spaces through which other spaces are assembled. He contends that urban citizenship functions as a building block of national citizenship rather than existing as a separate scale of analysis. In both readings, cities and citizenship are integral to one another.

However, in later writing that draws on Derrida's *Politics of Friendship*, Isin (2012) questions the political scope and range of fraternity affiliations demanded by citizenship when ties to clan and family are transferred to a political community that is conflated with the nation-state. Extrapolating from this view, while urban citizenship and the domicile principle detaches community from the nation and state, it uncritically reproduces the idea of fraternity and community at the city level or other spatial units considered more 'proximate' to inhabitants. Associating citizenship with cities still binds it to 'trappings of community, since such rights and obligations are often tied to a designated legal and political space and/or to a preconstituted concept of the political subject' (Closs Stephen and Squire 2012: 554)<sup>3</sup>.

Chinese cities retain a special significance for how citizenship is understood in China because of the hukou system where urban hukou registrants receive better privileges than rural hukou registrants. Chinese cities are also sites where diverse types of international and internal migrants meet, resulting in dynamic manifestations of fraternity and alterity. This paper seeks not to privilege the urban setting, but to use it as a platform to trouble assumptions tied to framings of citizenship whether situated at the urban or national scales. Examining the attendant citizenship politics of return migration and transnational sojourning as situated in cities and trans-territorially

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<sup>3</sup> These ideas interrogating the ideal of political community are drawn from Etienne Balibar's (2004) earlier writing on 'citizenship without community', but in a subsequent article, Balibar (2012) moderates this argument to focus on critiquing the nationalism assumed in community.

allows this paper to interrogate the different framings of citizenship that function as ordering mechanisms to differentiate and manage populations. Following Agnew and Corbridge's (1995: 15) concept of 'order', this paper views citizenship as a series of 'routinised rules, institutions, activities and strategies' that operationalise and regulate political and social life. These ordering mechanisms are premised on certain logics of how populations, including migrants, should be managed. The ordering mechanisms of citizenship are geographically situated, such as in cities and nation-states, but migration trajectories charting emigration, immigration and return routes across international borders generate an untidy terrain of citizenship claims.

*The right to return as set against competing citizenship claims*

The right to return is considered a privilege of citizenship obtained either by birthright (through *jus soli* or *jus sanguini*) or naturalisation. This view conflates citizenship (membership to a polity) with nationality (membership to a nation) (Isin 2007: 224). Mainland Chinese return migration and transnational sojourning pries apart the seemingly watertight relationship between the right to return and citizenship as nationality. In recent years, substantive numbers of Mainland Chinese migrants in Canada opted for return migration after facing sustained integration difficulties abroad, or in order to reunite with left-behind family members. Many naturalised in Canada before moving back to China. Their situation is similar to an earlier wave of Chinese migrants that had naturalised in Canada and subsequently returned to Hong Kong, except return is less restrictive for the latter if they retained their Hong Kong residency status (permitted under the pact of the 1997 British handover to China).

The Mainland Chinese returnees usually resettle in Chinese metropolitan cities they had lived in previously. These metropolitan cities offers better economic opportunities for the lead migrant and, for their young children, options for education. Those that retained Chinese citizenship are able to resume access to the privileges of citizenship even if they have spent a number of years abroad. However, my research suggests that Mainland Chinese migrants are likely to move back to China only after naturalising as Canadian citizens. Since China enforces a dual citizenship restriction this means they are no longer considered Chinese citizens and excluded from an automatic right to return as well as *hukou* status. Many end up applying for business or employment visas. If their spouse retained Chinese citizenship status, they can apply for spousal visas but these restrict residency, employment and social rights. Business and employment visa holders are also subject to visa renewal requirements and limited social rights in the areas of healthcare, educational subsidies and pensions. Without Chinese citizenship and urban *hukou* status, they are treated as foreigners in the country they consider their homeland. Although retaining *hukou* status covertly is possible, the identity card associated with *hukou* status is valid for ten years only. Proof of citizenship is necessary for renewal. Their legal status identifies them as foreigners in China, which is incongruent with their assertions of birthright, cultural affinity, ancestry, family ties or intergenerational relationships, and stakeholderhood (also see Ho, 2011).

However, the legitimacy of birthright claims advanced by the Mainland Chinese returnees is questionable when juxtaposed against competing claims made by other types of urban dwellers, such as the rural-urban migrants. The *hukou* system was established in the early 1950s to restrict internal migration and facilitate industrial

production while ensuring socialist redistribution of food resources from agricultural to urban areas. Even though internal migration restrictions have been lifted, the hukou system limits the extent of rights a person can claim outside of the place where his or her *hukou* registration is based. Transfer of hukou registration requires official approval and is especially difficult if the transfer is from rural to urban parts of China since urban hukou, especially in metropolitan cities like Beijing, Shanghai and Guangzhou, offer better social rights because of the wealth concentrated in such cities. Rural-urban migrants are disenfranchised from rights to decent living conditions, fair employment practices and access to social welfare protection if they do not have hukou status in the Chinese cities where they work (Zhang 2002).

As part of another research project related to internal migration (2010-2013), I conducted interviews with young male migrants in their home villages and then again in cities where they introduced me to their fellow migrants. They told me that the village social networks they tap into for employment opportunities in cities limit them to menial and low waged occupations such as in factory assembly line work or in restaurants as cleaners and kitchen help. They experienced stigma in cities because their appearance (e.g. attire, darker skin colour from doing menial work under the sun, accent or comportment) connotes rural backgrounds and low educational levels compared to the urbanised Chinese (see Ho, 2014a). Such arbitrary variables of social exclusion, as Honig (1992) explains, can be understood in terms of how the place of origin is conflated with ‘ethnicity’ and through which ‘modernity’ is defined against a despised ‘other’ identity. The internal migrants I studied engage in circular migration characterised by short-term casual employment in the cities followed by a temporary return to the villages once they have earned enough to support their expenses for a few months. When their earnings are depleted they re-migrate to work in the cities again. They explained that they found life in the cities difficult and alienating so returning home is a respite. But back in the villages they become targets of gossip for failing to achieve longer-term financial security and to escape that suffocating environment they re-migrate to the cities once more.

Discourses of *suzhi* (i.e. translated as ‘quality’) differentiate the social mobility of different class groups on the basis of corporeal features and geographical origin (Yan 2003; Sun 2009), marking the migrant body as a figure of subalternity. Han (2010) argues that such disadvantageous social relations result in extra-legal policing and systemic discrimination towards rural-urban migrants that can be likened to racism. Urban citizenship arguments are popularly used by liberal academics to advance the rights of rural-urban migrants in the city. Even though urban citizenship reforms have been implemented in certain metropolitan cities like Shanghai, the criteria for qualifying for urban hukou status is determined by skills, education and income levels (similar to immigration points-based systems abroad) (Zhang and Wang 2010). This still excludes working class rural-urban migrants. Nonetheless, Jakimow (2012) rightly questions whether it is inclusion as urban citizenry that the rural migrants desire. Instead she argues that rural migrant identities are equally deserving of recognition and social rights without having to become part of the city.

Meanwhile, immigration is becoming a significant phenomenon in China too (Pieke 2012). Immigrants in China span the spectrum from highly skilled professionals and business entrepreneurs, to students and traders, as well as foreign spouses. While many enter through formal immigration channels, irregular migration also happens

because of restrictive visas in China (e.g. visa eligibility and duration of residency allowed). As an example, a growing population of African migrants can now be found in Chinese metropolitan cities such as Guangzhou, Beijing and Shanghai. They engage in place-making practices and create 'structures of belonging' in Chinese cities (Castillo 2014: 243). The emerging literature on African migrants in China tends to focus on traders but there are a significant number of student migrants too (see Ho, 2016). In fact, the identity of trader or student oftentimes overlaps. The African student migrants in the study I conducted in Guangzhou and Wuhan (2013-2015) expressed a desire to remain in China to be employed in professions in which they were trained (e.g. medicine, law, engineering, computing). Nevertheless, they recognised the challenges of finding Chinese employers willing to sponsor work permits for foreigners given the tight domestic labour market. African migrants tend to be directed into jobs to do with China-Africa trade relations (e.g. as interpreters or brokers), rather than the professional categories in which they aspire to find employment.

In their everyday lives, the African migrants are subjected to different forms of discrimination, including harassment by law enforcers who suspect them of crime or for overstaying in China (see Haugen 2012; Matthews et al. 2014). By extending student visas, business visas or remaining illegally, some of them have remained for an extended time in China or they aspired to stay longer if the immigration policy in China allows it. Bauböck (2003) has previously argued that immigrants should be allowed to become full members of the city as a polity and enjoy rights after a period of residency proving their stake in the city (without having to naturalise). Also supporting the domicile principle is Bauder (2014) who contends that domicile should be the decisive criterion for assessing immigrant rights. But my research suggests that similar to the Mainland Chinese returnees, the African migrants are transnational sojourners too. Their stay in China is part of a life-course trajectory bridging African and Chinese cities across the Indian Ocean.

The above discussion examined the return migration motivations and experiences of the Mainland Chinese returnees. It further contextualised their return in the wider migration milieu where different types of migrant populations also co-reside in Chinese cities. The next section signals how the territorial presence of these migrant groups has a bearing on the distinctive claims to residency and citizenship rights asserted by the Mainland Chinese returnees. It underlines the ambiguity of competing claims to citizenship within Chinese cities and suggests that the proliferation of mobility trans-territorially (both in terms of frequency and directionality) renders it more difficult to allocate rights than as premised on the *jus domicile* or *jus nexi* principle.

#### *Hypermigration, trans-territorial urban spaces and citizenship*

Trans-territorial journeys of immigration, temporary return and anticipated re-migration raise questions about the status of the Mainland Chinese migrants while they are back in China. Should they be seen as returnees, immigrants or transnational sojourners? According to them, their return stint in China is likely to be temporary as they seek a recovery period from the professional and financial setbacks they had endured in Canada. Others moved back to reunite with family members after a period of transnational family separation, or to provide care for ageing parents (see Ho, 2011). During this period of temporary return, those that retained their Chinese

citizenship (holding Canadian permanent residency status) or urban hukou status secretly (after naturalising in Canada) are able to work and receive other social entitlements in China because these are considered their birthright privilege even if they have spent a sustained period of time abroad.

However, returnees that no longer have Chinese citizenship or urban hukou status also invoke the birthright principle (e.g. 'because we are born in and grew up in China'). Premising their right to return, work and live in Chinese cities on the basis of birthright sets them apart from immigrant populations, such as the African migrants, who originate from a different cultural and ethnic background. On the other hand, the Mainland Chinese returnees also see themselves as 'urbanites' with a natural right to the city that differentiates them from the 'caste-like' internal migrants of lower *suzhi* (quality). The politics of the right to return and the right to the city intersect with power hierarchies of ethnicity, class and place of origin.

Another view might argue that the Mainland Chinese returnees who chose to naturalise abroad have lost their birthright citizenship and they are sojourners rather than permanent inhabitants of the city. However, this view is premised on the domicile principle and a narrow framing of territory that is contrary to the stretching of urban space across national borders and the way migrants chart their life-course journeys temporally. Purcell (2003:105) signalled the difficulty of defining the territorial limits of urban space by arguing:

Clearly 'Los Angeles' would involve more than just the municipal jurisdiction. The limits to the city would likely extend to the urbanised area of the city. But how extensive would these limits be? Would residents of Tijuana be considered residents of Los Angeles? According to what criteria? [...] Also important would be the issue of what we might call 'transurban' inhabitants. Can one inhabit more than one city?

In probing the territorial limits of urban space and highlighting the significance of transnational migration circuits, one might also ask whether connectedness or stakeholderhood can be reduced to physical presence in a territory.

While living in Canada, the Mainland Chinese migrants maintained an active interest in developments in China by surfing Internet news websites and forums, or communicating regularly with left-behind family and friends. They feel vested in the cities where they have spent a considerable time or in which their loved ones remain, and they continued to exhibit patriotism towards China. During the Occupy Central (pro-democracy) movement at Hong Kong in 2014, the Internet forums used by Mainland Chinese migrants in Canada were populated with posts expressing solidarity with the communist leadership in China. Materially, they claim stakeholderhood there because of the property or business interests they retain in Chinese cities even after migrating to Canada. It is also not uncommon for them to alternate between staying in China and Canada every few months.

The way migrants chart their journeys across the life-course triggers questions of what counts as a reasonable period of time to qualify for domicile-based citizenship, and more substantively, should territorial presence be privileged as a criterion for rights? For Bauber (2014: 3), 'domicile-based citizenship is granted to people independently of the place and community of birth, and applies to migrants after they

entered a territory and established residence in this territory'. Citizenship should be extended to immigrants on the premise that they intend to live there 'indefinitely' and if this intention changes then their citizenship expires (Bauder 2014: 5). In Shachar's (2009) provocative thesis arguing against birthright and in support of the *jus nexi* principle, we find an implicit privileging of territorial presence too. Under this framework, 'actual, real, everyday, and meaningful web of relations and human interactions' qualify a person for social membership to a polity (Shachar, 2009: 167). She suggests that this resolves the automatic transmission of citizenship to persons who have birthright but never lived in the country, while recognising the actual attachments of settled immigrants and their children with the polity.

The binary framing of absence and presence found in the above arguments is arguably misplaced if one considers how transnationalism produces shifting geographies where relations are measured less by distance and more by the quality of the social exchanges (see Allen 2012; Amin 2007). Two issues are raised from arguments advancing *jus domicile* or *jus nexi* readings of citizenship that privilege territorial presence. First, what is considered a reasonable residency period for 'indefinitely' to be determined? This is a qualitative assessment and migrants' intentions about their length of stay may change over time and conflict with expectations of the immigration society (Bauböck 2011). Migrants also practise agency to circumvent the territorial fixity required of them in order to qualify for the residency period. Existing research has documented how Mainland Chinese migrants endure 'immigration jail' (*yiminjian*) to fulfil the residency requirements for renewing their permanent residency status or to qualify for citizenship (e.g. Teo 2007). 'Immigration jail' exacerbates migrant vulnerability, such as through deskilling or unemployment, as well as self-esteem issues and family separation. The enforced residency period troubles assumptions of choice and consent associated with the domicile principle.

Second, this view of residency obscures how immigrants are simultaneously emigrants driving development in their home countries. Going by the domicile principle, Filipino temporary foreign workers in Canada may indeed qualify for domicile-based citizenship there, but should the principle be applied to their rights in the Philippines it would disqualify them in other respects. Filipinos abroad contribute significantly to the national revenue and social reproduction of their country, but if marked as absent citizens it might mean they will no longer be entitled to the provision of social services set up by the Philippines government abroad for labour emigrants. In the Philippines, government agencies have been established to extend help for emigrants in distress, support skills training, and cultivate support networks (but see Guevarra 2007 for a critical analysis of these programs). In sum, citizenship recognition and rights should be assessed with both the immigration and emigration contexts in view. The trans-territorial journeys charted by migrants across time trouble the conventional transience/permanence divide (Latham et al. 2014) associated with absence/presence found in migration and citizenship studies.

#### *Troubling fraternity demands of political community*

Having established the need to critically examine citizenship claims that are premised on territorial presence, this section considers how migrants' transnational sojourning over the lifecourse complicates qualitative assessments of rights in relation to contributions. For Kostakoupoulou (2008: 114), domicile-based citizenship would be compatible with the circumstances of migrants that 'live in one country and work in

another or spend certain months in the home country and the remaining months of the year in another country, if they furnish sufficiently strong connections with a community, concern for and an engagement with its affairs'. However, this view of domicile is concerned with representations of stakeholdership (equated with the intention to reside<sup>4</sup>) and evades the tensions arising when the issue of long-term contributions (meriting rights) is raised.

Taking a different approach, Bauböck (2014: 480) invokes the principle of stakeholdership to assess external citizenship rights. In his reading, stakeholdership is not limited to territorial presence and can arise out of 'biographical subjection' when a person has lived under a specific authority for a period long enough to indicate a stake in the polity's future even if his or her residency was in the past. This view of stakeholdership approaches territorial presence in a longitudinal manner and is open towards how it can vary across territorial jurisdictions at different periods of a migrant's lifecourse. However, his arguments prioritise the political community, compared to counter-arguments that critically probe the fraternity affiliations demanded by citizenship as a political community (Isin 2012; Closs Stephen and Squire 2012).

Hypermigration and transnational sojourning trends (Ley and Kobayashi 2005; Bauböck 2014) suggest that arguments premised on territorial presence and intentions to settle 'permanently' is only a partial answer to more complex negotiations that lead to qualitative assessments of the right to have rights. Static readings of territorial presence and territorially fixed readings of stakeholdership function as useful but insufficient criteria for assessing the type and extent of rights that correspond with hypermigration trends and transnational sojourning over the lifecourse. As Smith and Guarnizo (2009:619) observe:

The RTTC [rights to the city] approach is a strong and progressive response to contest the marginalization [of] immigrants... or even poor, racialised rural minorities... However, this approach, at least as presently theorised, seems to flatten the actual heterogeneity of the new inhabitants from abroad... Most fundamentally, the RTTC perspective has a large blind spot that prevents it from detecting and incorporating migrants' persistent transnational interests and engagements that are embodied in complex global sociopolitical, communicative and multifaceted microstructures extending well beyond the city limits.

Along with Smith and Guarnizo (2009), other urban theorists argue as well for the importance of recognising the changing spatiality of cities as sites in wider geographies of exteriority and extraterritoriality (Amin 2007; Roy 2009). By extrapolation, this means that migrant rights are constituted by citizenship norms and policies in both sites of origin and settlement (Bauböck 2009: 477). Despite returning to China, the Mainland Chinese migrants intend to relocate to Canada again later in their lifecourse upon (early) retirement or when their children are of school-going age. As naturalised citizens they retain the right to return to Canada. But critical Canadian observers question the extent to which they have contributed sufficiently to the

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<sup>4</sup> The 'indicators' of intention to reside indefinitely as mentioned by Kostakoupolou (2008: 115) include: longstanding and uninterrupted residence in a polity, family ties and the existence of a matrimonial home; social ties; acquisition of property; a professional career; schooling; participation in local politics; the purchase of a burial ground; and membership in associations, churches and clubs.

Canadian economy<sup>5</sup> and merit the right to social services upon their return, especially if they are returning as aged migrants that are no longer economically productive yet have a greater need for geriatric care.

Already, conservative observers in Canada are arguing that the social costs of the skilled and investor immigration programs in Canada outweigh the economic benefits since a number of such migrants experience deskilling and pay less tax (e.g. *The Globe and Mail*, 2012). Such critics argue it costs more to set up federal-funded immigrant services to help them re-skill, learn English, access counselling and support their family members (see Ho, 2014b). Periodical tightening of criteria and regulations for the skilled immigration program and the temporary suspension of the investor migrant program (CIC 12 February 2014) signal growing discontent over the rights allocation that are viewed as incommensurate with their contributions. The return of aged immigrants with naturalised citizenship status who can access social rights, despite prolonged absence from the political community, is likely to create new controversies later on.

What remains unanswered in normative framings of the *jus nexi* or *jus domicile* principle is a more fundamental issue raised by Isin (2012) who troubles the notion of a political community and the fraternity affiliations demanded by citizenship. Following Isin (also see Smith and Guarnizo, 2009), it means that when we assess citizenship claims we have to take into account the actual heterogeneity in cities, nations or other spatial units of analyses, as well as the contestations triggered by transnational sojourning across space and across time.

### *Conclusion*

This paper has underlined the citizenship tensions that arise when the competing claims of ‘returnees’, internal migrants and immigrants are juxtaposed against one another. Ideologies that naturalise return migration to a purported homeland obscure competing citizenship claims triggered by the politics of return (Smith 2003). Transnational migration over the lifecourse complicates such framings of return migration since migrants may ‘return’ to more than one site as they journey through the transnational migration circuit. Transnational migration circuits, such as in the Asia-Pacific, reveal in particular the slippages that arise when the opportunities to naturalised citizenship allowed by neoliberal immigration regimes are met by restrictive citizenship laws imposed by countries of origin in Asia. Even in those countries that recognize dual citizenship, the legal rights of returnees are still subject to recognition or contestations by established residents.

Since cities function as key sites within transnational migration circuits, there is a pressing need to consider the implications of co-presence for urban management and citizenship (Amin 2007). This paper argues that when return is sited in cities the birthright claims made by returnees rub against other urban citizenship claims by internal migrants and immigrants. Framings of citizenship premised on birthright, domicile or social connections to a polity act as ordering mechanisms, but the contradictions are apparent when we examine actual subject positions. Immigration countries that are starting to backtrack or tighten their neoliberal programs regard the

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<sup>5</sup> For example, Canadians abroad who are deemed non-resident (i.e. stayed in Canada for less than 183 days in a year) may be exempted from tax for income earned abroad or the full tax amount may not be payable to Canada under bilateral tax treaties.

earlier decision of migrants to return to their countries of origin as a sign that they lack commitment and see their naturalised citizenship as one of convenience.

While the domicile or *jux nexi* principle is an appealing way to frame the rights to the city and wider citizenship claims for internal migrants and immigrant groups, this is limited to residency being geographically situated in a certain territory (even if not at the national level) during a particular snapshot of time. Yet hypermigration and transnational sojourning over the lifecourse trigger tricky questions over what counts as a reasonable period of residency and whether intentions to reside ‘permanently’ match up to reality (Bauböck 2011). Privileging territorial presence implicit in the domicile or *jux nexi* principles accounts inadequately for more qualitative assessments of rights weighted against contributions, which matter in the social compact of citizenship and fraternity affiliations demanded of a political community (Isin 2012).

This paper has focused on Mainland Chinese transnational sojourning within the Asia Pacific, but it also signals the links with other transnational migration circuits established by new immigrant populations in China, such as the African traders and students whose own migration trajectories raise questions about their citizenship recognition rights in destination and origin sites. Likewise, the internal migrants engage in circular domestic migration circuits over the lifecourse. To comprehend migration and citizenship in all its complexity, it is necessary to analyse these different migration patterns not as standalone cases, but to take in view the competing claims advanced by different social groups and anticipate their needs across the lifecourse as they negotiate different migration contexts. The institutional solutions we arrive at may be imperfect, but citizenship is necessarily a political process that demands constant recalibration as demanded by the nature of its embeddedness in a web of interconnected social relations.

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