

CHINA'S NATIONAL RESIDENT IDENTITY CARD: IDENTITY AND POPULATION MANAGEMENT IN TRANSITION

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INTRODUCTION

On June 28, 2003, the Standing Committee of the National People's Congress, China's highest legislative body, promulgated the Resident Identity Card Law (hereinafter, the "2003 ID Card Law"). The 2003 ID Card Law represents another step in the reform of China's *hukou* (household registration) system. China's modern *hukou* system, by which the citizenry is registered with the government according to "household," has deep roots in China's tradition of social governance extending back over two thousand years.¹ The *hukou* system is a powerful method of defining an individual's status in Chinese society, associating a person with a certain place and group of people (e.g., family), and conferring benefits and restrictions on citizens according to *hukou* status.² Unlike the ancient system, which was developed to implement taxation and conscription, the modern *hukou* system is used to effect control over internal migration and management of certain classes of "targeted people,"³ and more recently, to provide Chinese citizens with convenient means of proving their identity.⁴

* UCLA School of Law, Juris Doctor Candidate (May 2006). Many thanks to Lynn LoPucki, Randall Peerenboom, Nancy Tomasko, and Wang Bin for their helpful comments and guidance.

1. FEI-LING WANG, ORGANIZING THROUGH DIVISION AND EXCLUSION: CHINA'S HUKOU SYSTEM 34-35 (2005).

2. Tiejun Cheng & Mark Seldon, *The Origins and Social Consequences of China's Hukou System*, 139 CHINA Q. 644, 644 (1994) (describing how urban *hukou* holders have access to certain government-provided benefits that rural *hukou* holders do not).

3. WANG, *supra* note 1, at 35, 49. The "targeted people" classification will be discussed in more detail below.

4. Zhonghua Renmin Gongheguo jumin shenfenzheng tiaoli [Resident Identity Card Regulations] (promulgated by the Standing Comm. Nat'l People's Cong., Sept. 6, 1985, effective Sept. 6, 1985) (P.R.C.) (hereinafter, the "1985 ID Regulations") (One of the goals of the identity card, as set forth in Article 1 of the 1985 ID Regulations, is to "prove the identity of residents."). Prior to the enactment of the

As China modernizes and its population becomes more mobile, the *hukou* system is gradually transforming from a collective-based system that registers and manages citizens in groups, to a system oriented around the individual. The resident identity card system, first implemented in 1985 and modified by the 2003 ID Card Law, is the basis for this transformation.⁵ While the *hukou* system, especially as it relates to migration control, has been extensively explored in recent scholarship,⁶ the function of the resident identity card within this system has been largely glossed over. I hope to show that, with the enactment of the 2003 ID Card Law, identity cards are no longer “of marginal importance in Chinese life,”⁷ and to elaborate on Michael Dutton’s claim that identity cards “augment the household registration system by offering a convenient means by which to carry out many of the non-territorially based policing functions of the [*hukou* system].”⁸

1985 ID Regulations, Chinese citizens traveling away from their homes used a variety of non-standardized methods to prove identity, including letters of introduction and work unit identity cards. MICHAEL R. DUTTON, *POLICING AND PUNISHMENT IN CHINA: FROM PATRIARCHY TO “THE PEOPLE”* 334-35 (1992).

5. See, e.g., Tingting Zhang, *Guest Editor’s Introduction*, CHINESE L. AND GOV’T, May-June 2001, at 8 (“[The identity card’s] use has changed the unit of administration of registration. In the prereform period, the unit was one book per household in cities and towns, and one book per village in the countryside. Today every person has an ID card regardless of his *hukou* status.”).

6. WANG, *supra* note 1; Hayden Windrow & Anik Guha, *The Hukou System, Migrant Workers, and State Power in the People’s Republic of China*, 3 NW. U. J. INT’L HUM. RTS. 3 (2005); Fei-Ling Wang, *Research Report: Reformed Migration Control and New Targeted People: China’s Hukou System in the 2000s*, 177 CHINA Q. 115 (2004); Zhu Lijiang, *The Hukou System of the People’s Republic of China: A Critical Appraisal under International Standards of Internal Movement and Residence*, 2 CHINESE J. INT’L L. 519 (2003); Xin Frank He, *Regulating Rural-Urban Migrants in Beijing: Institutional Conflict and Ineffective Campaigns*, 39 STAN. J. INT’L L. 177 (2003); Xin Frank He, *Sporadic Law Enforcement Campaigns as a Means of Social Control: A Case Study from a Rural-Urban Migrant Enclave in Beijing*, 17 COLUM. J. ASIAN L. 121 (2003); CHINESE L. & GOV’T, May-June 2001; Ling Li, *Note: Towards a More Civil Society: Mingong and Expanding Social Space in Reform-Era China*, 33 COLUM. HUM. RTS. L. REV. 149 (2001); JIANHONG LIU, LENDING ZHANG & STEVEN F. MESSNER, *CRIME AND SOCIAL CONTROL IN A CHANGING CHINA* (2001); Kam Wing Chan & Li Zhang, *The Hukou System and Rural-Urban Migration in China: Processes and Changes*, 160 CHINA Q. 818 (1999); DELIA DAVIN, *INTERNAL MIGRATION IN CONTEMPORARY CHINA* (1999); DOROTHY SOLINGER, *CONTESTING CITIZENSHIP IN URBAN CHINA: PEASANT MIGRANTS, THE STATE, AND THE LOGIC OF THE MARKET* (1999); Linda Wong & Huen Wai-Po, *Reforming the Household Registration System: A Preliminary Glimpse of the Blue Chop Household Registration System in Shanghai and Shenzhen*, 32 INT’L MIGRATION REV. 974 (1998); BØRGE BAKKEN, *MIGRATION IN CHINA* (1998); Cheng & Seldon, *supra* note 2; MICHAEL R. DUTTON, *POLICING AND PUNISHMENT IN CHINA: FROM PATRIARCHY TO “THE PEOPLE”* (1992).

7. DAVIN, *supra* note 6, at 46.

8. DUTTON, *supra* note 6, at 334.

The recent changes in the resident identity card regime have two primary functions, each stemming from the identity card's role in the greater *hukou* system, and both of which are important to China's continued stability. First, the new identity card offers a standardized and more reliable method for citizens to prove their identity, which will benefit individuals, businesses, and, ultimately, the Chinese economy. Second, the new identity card represents another step away from the use of the *hukou* system to regulate internal migration and toward the use of *hukou* information primarily for public safety policing purposes. However, without adequate safeguards against arbitrary police use of identity information, the new identity card system could lead to police abuses.

Part I of this paper provides an overview of the *hukou* system of identity information, examining how an identity is established within the system and what personal information is ultimately stored there. Part II explores the new resident identity card regime and how it facilitates determination of identity in a society rife with identity fraud. Part III focuses on the public security functions of the *hukou* system and discusses how the new identity card regime represents further progression toward the use of *hukou* information for policing purposes. From this analysis, I conclude that the resident identity card's use in confirming identities can help businesses and individuals in China more confidently undertake daily economic activities. Furthermore, while the new identity card regime may consolidate control and facilitate police access to identity information, its attempts to curb police discretion may be effective. It is too soon to tell whether the new identity cards will exacerbate police abuses.

I. THE *HUKOU* SYSTEM OF IDENTITY REGISTRATION: PERSONAL INFORMATION COLLECTION AND OVERSIGHT

The modern *hukou* system is embodied in the 1958 *Hukou* Registration Regulations and the 2003 ID Card Law. It is overseen by the Ministry of Public Security and implemented by local public security organs (generally police stations, or *paichusuo*) across the country.⁹ Since its introduction, the *hukou* system has

9. Guo Wu Yuan guanyu huanfa di'er dai jumin shenfenzheng youguan wenti de pifu [Official Response by the State Council on Problems Associated with Changing Over to Second Generation Resident Identity Cards] (promulgated by the State Council, June 13, 2001, effective June 13, 2001) (P.R.C.) ("The Ministry of Public Security must strengthen leadership, strictly oversee, and formulate specific implementation plans. . . . [and] make timely reports. . . to the State Council"); Zhonghua Renmin Gongheguo hukou dengji tiaoli [Regulations on *Hukou* Regis-

been the Chinese government's primary means of collecting and managing identity information.¹⁰ Two other purposes of the *hukou* system, which are discussed *infra* in Part III, are to control internal migration and to manage "targeted people," a classification that includes people suspected of endangering national security or engaging in criminal activity, violent individuals, ex-convicts, and narcotics users.¹¹ Although the system is governed predominantly by internal directives unavailable to the public,¹² recent scholarship provides a great deal of insight into its inner workings.¹³

Under the *hukou* system, every Chinese citizen is required to register for a permanent *hukou*¹⁴ and a resident identity card.¹⁵ Essentially, a permanent *hukou* is "where one officially has residence" in the eyes of the Chinese government.¹⁶ A person's place of permanent *hukou* registration is not necessarily the place in which he or she actually resides.¹⁷ For example, a person who works for a state-owned work unit will have a *hukou* that is located at the address of the work unit, even though he or she may not live at that address. Unlike the resident identity card, which is issued on an individual basis, the *hukou* registers people together by "household." A "household" can be a family (related by blood and living together), an individual (living alone), or a collective unit (such as a work unit, dorm, military unit, or religious entity such as a temple).¹⁸ In the example above, the "household" would be the person's work unit, and everyone em-

tration (P.R.C.)] (promulgated by Standing Comm. Nat'l People's Cong., Jan. 9, 1958, effective Jan. 9, 1958) (P.R.C.), art. 3 ("The public security organs shall be responsible for the work of hukou registration."); Zhonghua Renmin Gongheguo jumin shenfenzheng fa [Resident Identity Card Law (P.R.C.)] (promulgated by the Standing Comm. Nat'l People's Cong., June 28, 2003, effective Jan. 1, 2004) (P.R.C.) (hereinafter, "2003 ID Card Law"), art. 6 ("Resident identity cards shall be produced and issued by public security organs in a unified manner.").

10. Wang, *supra* note 6, at 117. The *hukou* system is also utilized by the government to manage internal migration and "targeted people," as discussed *infra* Part III. *Id.*

11. WANG, *supra* note 1, at 49.

12. Wang, *supra* note 6, at 117.

13. WANG, *supra* note 1, provides an excellent overview of the *hukou* system and its functions.

14. Zhonghua Renmin Gongheguo hukou dengji tiaoli [Regulations on *Hukou* Registration (P.R.C.)] (promulgated by Standing Comm. Nat'l People's Cong., Jan. 9, 1958, effective Jan. 9, 1958) (P.R.C.), art. 2 ("All Chinese citizens must undertake *hukou* registration in accordance with these regulations.").

15. 2003 ID Card Law, *supra* note 9, art. 2 ("All Chinese citizens over the age of 16 who are living within the People's Republic of China must apply for a resident identity card in accordance with this law."). The resident identity card is discussed in greater detail *infra* Part II.

16. Zhu, *supra* note 6, at 542.

17. WANG, *supra* note 1, at 70.

18. *Id.* at 65.

ployed at the work unit would be registered together under that “household.”

A person’s permanent *hukou* is obtained within a month after birth.¹⁹ It is issued upon presentation of a *hukou* registration application, the baby’s birth certificate (or a certificate by residents corroborating the circumstances of the baby’s birth), and the parents’ certificate of permission to give birth (*zhunshengzheng*).²⁰ The location of either parent’s place of permanent *hukou* registration determines the baby’s *hukou* location.²¹ The birth registration is an individual’s first registration within China’s *hukou* system, and the primary items of information registered with the police at that time are name, birth date, and ethnicity (*minzu*).²² Additionally, a citizen identity number, the unique numeric identifier for each Chinese citizen,²³ is issued to each person at the time of birth registration.²⁴ When a person’s permanent *hukou* is registered with the police, the police create a *hukou* file that is kept in the police station.²⁵

Over the course of a citizen’s life, the *hukou* file expands to include additional information, such as personal data, family relations, migration, and changes or corrections.²⁶ In addition to the basic information on the permanent *hukou* registration form,²⁷ information is also collected on “current behavior includ-

19. Regulations on *Hukou* Registration, *supra* note 14, art. 7 (“Within a month after a baby is born, the head of the household, relatives, guardians, or neighbors shall register the birth with the *hukou* registration organ in the place of the baby’s permanent residence.”).

20. The Residence Registration System, CHINESE L. & GOV’T, May-June 2001, at 34.

21. 8 yue 31 ri shi Renkou Jisheng Wei guanyuan jiedu “Beijing shi renkou yu jihua shengyu tiaoli” [Aug. 31 Local Population and Family Planning Commissioner Explains “Beijing’s Population and Family Planning Regulations”], Interview with Zhou Xinru, Beijing’s Justice Bureau website, http://www.bjsf.gov.cn/bjpf/zjsf/t20050902_120339.htm. The certificate of permission to give birth, which is issued by the public security organ of the mother’s or father’s place of permanent *hukou* registration, is the document providing the basis for the baby’s *hukou* location. *Id.*

22. The Residence Registration System, *supra* note 20, at 35-36.

23. Guo Wu Yuan guanyu shixing gongmin shenfen haoma zhidu de jue ding [State Council Decision on Implementing a Citizen Identity Number System] (promulgated by the St. Council, Aug. 26, 1999, effective Oct. 1, 1999), ¶ 2 (hereinafter “CIN Decision”). The citizen identity number is very similar to the social security number in the United States.

24. Guanyu jumin shenfenzheng de zhengce he guiding [Regarding Resident Identity Card Policies and Rules] (posted by the Ministry of Public Security, Sept. 16, 2005), ¶ 8, <http://www.mps.gov.cn/webPage/showfagui.asp?ID=1027>, also available at <http://bwc.cqit.edu.cn/showcontent.php?id=16&&classid=2>.

25. WANG, *supra* note 1, at 69.

26. *Id.*

27. “Basic information” includes: “type of household, family name and given name of the head of household, relationship to the head of household, family name and given name, gender, previously used names, ethnicity, date of birth, custodian(s), custodial relationships, place of birth, date of issuance of citizen’s birth cer-

ing political attitude and activities, family and personal financial status and standard of living, personal friends and relations including love relations, physical features including body size and shape, accent and slang use, personal character and hobbies, daily associations, and other consequential past activities.”²⁸ Thus, depending on how complete a *hukou* file is, access may provide its reader with detailed and revealing personal information.

Over 300,000 specialized *hukou* police officers patrol assigned neighborhoods (*hukou* zones) collecting, updating, and verifying *hukou* information for a certain number of households.²⁹ Generally, there should be one *hukou* officer for every 500-700 households, but many officers are in charge of over 1,000 households, with some officers responsible for as many as 2,500 people.³⁰ Although *hukou* officers are supposed to collect detailed information on every resident in their zone, limited resources restrict police ability to monitor the general population and cause them to focus primarily on “targeted people.”³¹ This means that the average citizen’s *hukou* file may include only a copy of his or her *hukou* registration application,³² while those suspected of criminal activity, violence, or drug use, or who are otherwise targeted by the government, might have expansive profiles.

Since 1986, the Ministry of Public Security has been working to computerize China’s *hukou* information, which includes information associated with both *hukou* and resident identity cards.³³ An electronic *hukou* information database was initiated in major cities in 1992.³⁴ By 2001, more than 30,000 police stations maintained computerized, rather than paper, *hukou* files; approximately 1,180 cities and counties were linked by regional computer networks that shared 1.07 billion people’s *hukou* files;

tificate, address, other addresses in the city (county) or residence, place of family origin (*ji guan*), religious belief, serial number of citizen’s identification card, date of issuance of citizen’s identification card, level of education, marital status, military service status, height, blood type, occupation, place of work, time and reason for inbound transfer to present city (county) and from which location, time and reason for inbound transfer to the present address and from which location, time and reason for outbound transfer to which location, time and reason for cancellation of residence registration, signature or seal of applicant, signature or seal of registrant, date of registration, record of changes and revisions to items of registration, and notes.” The Residence Registration System, *supra* note 20, at 10.

28. WANG, *supra* note 1, at 101.

29. Wang, *supra* note 6, at 124.

30. WANG, *supra* note 1, at 69.

31. *Id.* at 103.

32. *Id.* at 69.

33. Wang, *supra* note 6, at 117; Chan & Zhang, *supra* note 6, at 833.

34. WANG, *supra* note 1, at 83;

and 250 cities had instantaneous shared access to 650 million people's *hukou* information for verification.³⁵ The computerization of *hukou* information is important because it facilitates access to and sorting of citizens' identity information, thereby improving both private citizens' ability to prove their own identity in everyday transactions and police ability to categorize and monitor the population. The new resident identity cards, which can be electronically scanned, link easily to computerized information. The next section of this paper explores the resident identity card system and how identity information from the *hukou* system is currently being used to establish citizens' identities in routine transactions.

II. PROVING IDENTITY IN MODERN CHINA: UNIQUE ID NUMBERS AND HIGH TECH CARDS

Under the pre-1985 *hukou* system, citizens who traveled outside the area of their permanent *hukou* registration relied on a variety of non-standardized documents, such as letters of introduction and work unit identification cards, to prove their identities.³⁶ The Chinese government, recognizing that a system of identification based on such easily forged items was untenable as population movement increased during the economic reforms of the 1980s, added resident identity cards to the *hukou* system in 1985.³⁷ Although the cards introduced pursuant to the 1985 Resident Identity Card Regulations (hereinafter, the "1985 ID Regulations") were more counterfeit-proof than prior methods of identification,³⁸ they did not pose much of a barrier to enterprising criminals, and fake resident identity cards were soon widely available.³⁹ While the purposes of the 1985 ID Regulations were "to prove residents' identities, facilitate citizens' social activities, protect social order, and guarantee citizens' lawful rights and interests,"⁴⁰ the cards issued under the 1985 ID Regulations proved ineffective in achieving these goals.

Responding to the need for more trustworthy and uniform means of establishing identity, the government issued the Deci-

35. *Id.*

36. DUTTON, *supra* note 6, at 334.

37. See Zhang, *supra* note 5, at 8 (stating that, "[The identity card], better suited to the new circumstance of population mobility, reflects the state's de facto recognition of millions of peasant migrants and the failure of the *hukou* system.").

38. Chan & Zhang, *supra* note 6, at 833.

39. Fei-Ling Wang cites an example of rampant fake ID use where police in Shenzhen Airport caught approximately 1000 individuals attempting to board airplanes with fake IDs over a ten-month period in 1993. WANG, *supra* note 1, at 223 n.41.

40. 1985 ID Regulations, *supra* note 4, art. 1.

sion on Implementing a Citizen Identity Number System (hereinafter, the "CIN Decision"), established the National Citizen Identify Information Center (NCIIC) under the Ministry of Public Security in 2001, and promulgated the 2003 ID Card Law. Together, these provide the foundation for China's new regime of identity verification.

A. CITIZEN IDENTITY NUMBERS

In 1999, the State Council, China's highest executive body, issued the CIN Decision.⁴¹ The stated purposes of the CIN Decision were to facilitate the change toward information-based administration of society, further socialist economic reform, and protect citizens' legal rights and interests.⁴² The CIN Decision states that each citizen of the People's Republic of China will have a single, unchanging, life-long representative citizen identity number ("CIN"), much like a U.S. Social Security number.⁴³ The CIN Decision is significant because it appears to mandate that all organizations accessing and storing personal information utilize CINs for all citizens.⁴⁴

The new CIN does not differ greatly from the fifteen-digit identity card number that appeared on cards issued under the 1985 ID Regulations. The new eighteen-digit CIN consists of four number groupings.⁴⁵ The first through sixth digits represent the code for the administrative region of the citizen's place of

41. CIN Decision, *supra* note 23.

42. *Id.* at introduction (setting forth that the ID number system will be "an important method for realizing society's change toward information-based administration and will have an important effect on furthering China's work modernizing socialism and undertaking economic reform, easing the lives of the masses and protecting citizens' legal rights and interests.").

43. *Id.* at ¶ 2 ("Citizen ID numbers are the country's sole, unchanging, life-long representative numbers of identity compiled at the date of every citizen's birth. . . .").

44. *Id.* at conclusion (calling for bureaus and industries that use the CIN, ranging from sanitation to tax and insurance, to work with public security organs to develop and promote the citizen identity number). Although there is no explicit mandate that everyone use the CIN as an identifier, independent actions by other governmental bodies seem to confirm that the CIN will be the standard method of identification. Anticipating the promulgation of the CIN Decision by three months, the Ministry of Labor and Social Security General Office issued a notice calling for the end of "social security numbers" and "resident identity card numbers" as personal identifiers and for adoption of the CIN. See Laodong He Shehui Baozhang Bu Bangongting guanyu zai laodong he shehui baoxian guanli xinxi xitong zhong shiyong gongmin shenfen haoma de tongzhi [Notice by the Ministry of Labor and Social Security General Office on Using Citizen Identity Numbers in the Labor and Social Security Information Management System] (promulgated by the Ministry of Labor and Social Security General Office, June 24, 1999, effective June 24, 1999) (P.R.C.), ¶ 1.

45. CIN Decision, *supra* note 23, at ¶ 1.

permanent *hukou*.⁴⁶ This code may represent anything from a small neighborhood in a large city to an entire town in a more rural part of the country. For example, the generic code for Beijing (110000) varies according to the specific district of Beijing in which the citizen resides.⁴⁷ The seventh through fourteenth digits represent the citizen's birth date according to the Gregorian calendar, and are listed with the four-digit year first, then the two-digit month, then the two-digit day.⁴⁸ The "sequence number" comprises digits fifteen through seventeen.⁴⁹ Sequence numbers are assigned according to the number of people born in the same administrative region code area on the same date (year, month, and day).⁵⁰ Sequence numbers end with odd numbers for males and even numbers for females.⁵¹ Finally, the eighteenth digit is a verification number, randomly generated by a computer for the purpose of checking the validity of the identity number and card.⁵² Verification numbers range from 0 through 10, with 10 represented as an "X" so that the card number does not surpass eighteen digits.⁵³ The addition of the verification number is the only significant difference between the CIN and the old resident identity card number.⁵⁴

The change in the identity number format alone does not mean much. However, the CIN Decision is significant because its apparent mandate that the CIN be used to identify individuals in databases overseen by other governmental organizations. The

46. "Shenfen xinxi fuwu" changjian wenti jieda [Explanations and Answers to Frequently Asked Questions About "Identity Information Services"], National Citizen Identify Information Center website, <http://www.nciic.com.cn/kefu-wt.htm>.

47. See Quanguo xingzhengqu huadaima [National Administrative Region Codes] (posted by the Statistical Bureau of Hainan Province, Feb. 11, 2004), <http://www.statistic.hainan.gov.cn/ReadNews.asp?NewsID=102> for a list of generic administrative region codes conforming to the national administrative region code standards. For an example of various local administrative region codes, see Hainan sheng xingzhengqu huadaima [Administrative Region Codes for Hainan Province] (posted by the Statistical Bureau of Hainan Province, Apr. 28, 2004), <http://www.statistic.hainan.gov.cn/ReadNews.asp?NewsID=361> and <http://www.statistic.hainan.gov.cn/ReadNews.asp?NewsID=360> for Hainan's local district codes.

48. CIN Decision, *supra* note 23, at ¶ 1; Explanations and Answers to Frequently Asked Questions About "Identity Information Services," *supra* note 46.

49. CIN Decision, *supra* note 23, at ¶ 1.

50. Explanations and Answers to Frequently Asked Questions About "Identity Information Services," *supra* note 46.

51. *Id.*

52. *Id.*; Huzheng zhishi wenda [Questions and Answers on *Hukou* Administration Knowledge], Xuzhou School of Engineering Public Security Desk, <http://www.xzit.edu.cn/pcc/gljg/bwc/hz.htm>.

53. *Shenfenzheng weihao "X" biaoshi shenme yisi?* [What Meaning Is the Last Number "X" on Identity Cards?], BEIJING YOUTH DAILY, Nov. 27, 2001, available at <http://www.china.org.cn/chinese/2001/Nov/79994.htm>.

54. Questions and Answers on *Hukou* Administration Knowledge, *supra* note 52.

old identity card number was not used as a citizen's sole method of identification; various governmental bodies developed their own identification number systems for citizens whose information they stored.⁵⁵ As will become clear in the next two sections, by encouraging widespread use of the CIN, the CIN Decision provides a foundation for China's new system of identity verification.

B. THE 2003 ID CARD LAW

The 2003 ID Card Law went into effect on January 1, 2004. Since then, some cities, including Beijing and Shanghai, have begun switching over to new "second-generation" resident identity cards.⁵⁶ Nationwide issuance of these new cards began in 2005, with the goal of a complete transition by 2008.⁵⁷

The 2003 ID Card Law was enacted to "prove the identity of citizens residing within the People's Republic of China,"⁵⁸ a change from the purpose of the 1985 ID Regulations, which was to "prove residents' identities."⁵⁹ Because of the *hukou* system's traditional association with residence and emphasis on the collective over the individual, some view any change from "resident" to "citizen" as a move toward protection of fundamental rights.⁶⁰ However, the change more likely reflects the fact that the identity card regime is not focused as much on residence as on identity, and "citizens" is simply more accurate than "residents" as a

55. See Notice by the Ministry of Labor and Social Security General Office on Using Citizen Identity Numbers in the Labor and Social Security Information Management System, *supra* note 44, at ¶ 1.

56. Huanfa di'erdai jumin shenfenzheng guocheng zhong changjian wenti wenda [Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards] (posted by the Nat'l Population and Family Planning Comm'n, Apr. 22, 2004), http://www.chinapop.gov.cn/fwzn2/bmwd/qybh/t20040423_51191.htm. Beijing has already substantially completed the transition to the new cards. As of October 18, 2005, 9.2 million applications for cards had been submitted, and 9 million cards had been issued, for an 87% change-over rate. Beijing shuaixian wancheng jizhong huanfa "erdaizheng" gongzuo huanzhenglü chaoguo 87% [Beijing Takes the Lead in Finishing the Work of Exchanging "Second-Generation Cards" with an 87% Rate of Card Exchange] (posted by Beijing Public Security Bureau, Oct. 18, 2005), http://www.bjgaj.gov.cn/info_publish/police_report/info_detail.jsp?column_info_id=2&article_out_id=7986&column_name=-.

57. Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards, *supra* note 56. During the transition period, both old and new cards will be valid. *Id.*

58. 2003 ID Card Law, *supra* note 9, art. 1.

59. 1985 ID Regulations, *supra* note 4, art. 1.

60. New ID Card Stresses Constitutional Rights, CHINA YOUTH DAILY, posted on China Daily, Nov. 11, 2002, <http://www.china.org.cn/english/2002/Nov/48422.htm> ("Residence is not a constitutional concept, as it refers only to a person who resides in a certain area, while citizenship is a person who has full-fledged constitutional rights.").

description of who may obtain resident identity cards. Furthermore, the card itself is still referred to as a resident identity card, showing that the government is not yet willing to entirely abandon the card's connection with the *hukou* system of migration control. While the 2003 ID Card Law differs from the 1985 ID Regulations in this one respect, its other purposes remain the same: guaranteeing citizens' lawful rights and interests, facilitating social activities, and maintaining the public order.⁶¹ To achieve these goals, the 2003 ID Card Law makes a number of important changes to the identity card regime.

1. *The Old Resident Identity Card Regime*

The legal framework of the old resident identity card regime consisted of the 1985 ID Regulations and the 1999 Resident Identity Card Detailed Implementing Rules (hereinafter, the "1999 Implementing Rules").⁶² The 1985 ID Regulations established general provisions as to card issuance and use, and the 1999 Implementing Rules fleshed out areas that needed elaboration. Under the 1985 ID Regulations, certain classes of people could not obtain resident identity cards.⁶³ Specifically, the 1985 ID Regulations did not allow citizens younger than sixteen, active soldiers and armed police, or citizens serving criminal sentences to hold resident identity cards.⁶⁴ If a citizen already held a resident identity card at the time of criminal sentencing, the authorities would confiscate the card and return it only upon the citizen's release.⁶⁵ The old regime also required that a new identity card be obtained every time a citizen moved outside his or her place of permanent *hukou* registration.⁶⁶

As to identifying information, the 1985 ID Regulations provided only that a citizen's name, sex, ethnicity, birth date, and address of permanent *hukou* registration be registered with the

61. 2003 ID Card Law, *supra* note 9, art. 1.

62. Zhonghua Renmin Gongheguo jumin shenfenzheng tiaoli shishi xize [Resident Identity Card Detailed Implementing Rules (P.R.C.)] (promulgated by the Ministry of Public Security, July 29, 1999, State Council approved revision effective Oct. 1, 1999) (P.R.C.) (hereinafter "1999 Implementing Rules").

63. 1985 ID Regulations, *supra* note 4, arts. 2, 9, 10.

64. *Id.* arts. 2, 9, 10 (Article 2 provides that citizens over the age of sixteen must obtain identity cards; Article 9 provides that citizens enlisted in active military service must relinquish their identity cards during active duty; and Article 10 provides that citizens sentenced to criminal detention or imprisonment be divested of their identity cards until release.).

65. 1999 Implementing Rules, *supra* note 62, art. 14.

66. *Id.* art. 11 (providing that "citizens who leave the areas of their city of original permanent residence or county of *hukou* registration must exchange resident identity cards at the same time they apply for new *hukou* registration").

police and associated with the card.⁶⁷ As part of his or her resident identity card application, a citizen was required to submit two recent standard photos, which could be (and generally were) black and white.⁶⁸ To obtain a card, a citizen had to fill out a Permanent Resident Registration Form.⁶⁹ While only name, sex, ethnicity, birth date and address were officially “registered,”⁷⁰ the Permanent Resident Registration Form additionally requested information on the registrant’s place of birth, place of family origin, previously used names, religious belief, identity card number and date of issuance, level of education, marital status, height, blood type, occupation, work unit, two family relations (including name, relationship, and address), dossier number, and telephone number (see fig. 1 below).⁷¹ By collecting information that was not officially associated with the identity card, the identity card regime under the 1985 ID Regulations and 1999 Implementing Rules appears to have additionally served as a method of updating *hukou* files.

Prior to the enactment of the 2003 ID Card Law, resident identity cards were simple laminated paper cards (see fig. 3 below).⁷² These were written and registered with the police using standard simplified Chinese characters,⁷³ although some regions typed information onto the cards while others filled them out by hand. The front of the card stated the cardholder’s name, sex, ethnicity, birth date, and address and the card’s issue date and period of validity. Cards issued before the enactment of the 1999 Implementing Rules listed the cardholder’s fifteen-digit resident identity card number; cards issued after the enactment of those

67. 1985 ID Regulations, *supra* note 4, art. 3. Although the 1985 ID Regulations only specify that “address” must be registered, police handbooks interpreted “address” to mean “address of permanent *hukou* registration.” The Residence Registration System, *supra* note 20, at 21.

68. 1999 Implementing Rules, *supra* note 62, art. 10 (“Citizens applying for resident identity cards must fill out the Permanent Population Registration Form and hand over their resident *hukou* booklet and two recent standard photographs.”); Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards, *supra* note 56, at § 5 (stating that black and white photos were fine for first-generation resident identity cards).

69. 1999 Implementing Rules, *supra* note 62, art. 10 (requiring that a Permanent Resident Registration Form be filled out when applying for a resident identity card).

70. See 1985 ID Regulations, *supra* note 4, art. 3 (“The items to be registered for a resident identity card shall be name, sex, ethnicity, birth date, and address.”).

71. For another example of a Permanent Residence Registration Form, see The Residence Registration System, *supra* note 20, at 13.

72. 1999 Implementing Rules, *supra* note 62, art. 3 (“Resident identity cards use polyurethane film seal, single page card style.”).

73. 1985 ID Regulations, *supra* note 4, art. 3 (“The registered items shall be filled out using standardized language.”). Standard Chinese is required for all cards and registrations, but autonomous areas may also adopt the commonly used local language depending on local conditions. *Id.*

Permanent Resident Registration Form					
Name*				Sex*	
Previously used names*				Ethnicity*	
Date of birth*	Year	Month	Day	Place of birth*	
Place of family origin*				Religious belief	
Citizen identity card number*				Date of issuance of resident identity card*	
Level of education*	Marital status*			Military service status	
Height*	Blood type			Occupation	
Name of work unit*					
Family relations*	Name	Relationship	Home address or work unit		
Dossier number of registrant*	Phone number of registrant*				
Application date <input type="checkbox"/> Year Month Day Notice on filling out the form: Items marked with "*" are required, please be sure to fill them in accurately; two relatives with different home addresses must be provided for the "family relations" item					

Figure 1: Example Permanent Resident Registration Form used under the 1985 ID Regulations, as posted by the Beijing Foreign Enterprise Human Resources Service Co., Ltd. at <http://www.fesco.com.cn/download/12259-1.doc>. Although there may be some variety as to format (e.g., some forms do not differentiate the "required" items) the general content of the forms is the same.

rules listed the cardholder's eighteen-digit CIN.⁷⁴ Cards were stamped with the official mark of the issuing public security bureau (e.g., Jiandu City Public Security Bureau) and contained the PRC country seal, the country name written out in characters, and the words "resident identity card."

74. 1999 Implementing Rules, *supra* note 62, art. 2 ("Resident identity card numbers shall become citizen identity numbers.").



Front (typed card)

Front
(handwritten card)

Back

Figure 3: Old identity card. The front of the card states the cardholder's name, sex, ethnicity, birth date, and address the card's issue date and period of validity, and the resident identity card number; the red stamp is the official mark of the issuing public security bureau. The back of the card shows the country seal, with writing that reads: "People's Republic of China" and "resident identity card." Images obtained from <http://www.wsqj.com/shenfenzheng.jpg>, <http://library.minghui.org/victim/i91.htm>, <http://www.newgx.com.cn/staticpages/20050725/newgx42e3c8a0-412354.html>.

2. The New Resident Identity Card Regime

The new resident identity card regime is based on the 2003 ID Card Law, which is much more detailed than the 1985 ID Regulations, and on a number of other governmental directives

regarding the change over to new identity cards.⁷⁵ Unlike the old regime, which excluded certain citizens from obtaining identity cards, the 2003 ID Card Law provides that every Chinese citizen may obtain a resident identity card.⁷⁶ Under the 2003 ID Card Law, all citizens age sixteen and older, including active soldiers and military police, must get resident identity cards, and citizens younger than sixteen may apply for and obtain cards if desired.⁷⁷ Although the new law is silent on prisoners and other convicted persons, it is likely that at least those persons being reformed through labor and reeducation will be issued new cards.⁷⁸ The 2003 ID Card Law also does not speak directly to the situation of a person sentenced after obtaining an identity card, but the situation will probably be handled as formerly provided by the 1999 Implementing Rules.⁷⁹

The 2003 ID Card Law provides that all Chinese citizens shall obtain resident identity cards within three months after their sixteenth birthday.⁸⁰ Citizens younger than sixteen must have a guardian apply for a card on their behalf.⁸¹ While card applications are made to the public security organ (generally the local police station) at the place of the citizen's permanent *hukou* registration, county-level public security departments associated with the government at the place of permanent *hukou* registration actually issue the cards.⁸² This provides for greater standardization of cards, which should help reduce the prevalence of counterfeit identity cards.

75. For example, the Official Response by the State Council on Problems Associated with Changing Over to Second Generation Resident Identity Cards, *supra* note 9, elaborates on the format of the card and future goals for card use (one goal being to make possible the use of cards as both identification and credit cards).

76. 2003 ID Card Law, *supra* note 9, art. 2 ("Chinese citizens over age sixteen that reside in the PRC shall apply for and obtain resident identity cards in accordance with the provisions of this law; citizens who are younger than sixteen may apply for resident identity cards in accordance with the provisions of this law.")

77. *Id.*, arts. 2, 21. However, soldiers and military police are subject to specific rules for obtaining cards provided by the State Council and the Central Military Commission. *Id.* art. 22.

78. The Standing Committee of the National People's Congress suggested as much in its 2002 Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)," which implied that the language requiring all citizens over age sixteen to obtain resident identity cards included criminals being reformed through labor and reeducation. Guanyu "Zhonghua renmin gongheguo gongmin shenfenzheng fa (cao'an)" de shuoming [Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)"] (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 25, 2002, effective Oct. 25, 2002) (P.R.C.), § 1.

79. 1999 Implementing Rules, *supra* note 62, art. 14.

80. 2003 ID Card Law, *supra* note 9, art. 7.

81. *Id.*

82. *Id.* arts. 7, 8.

New items of personal information are registered under the 2003 ID Card Law. In addition to the cardholder's name, sex, ethnicity, birth date, CIN, and photo, the card's dates of validity and the government organ that issued the card are also registered with police.⁸³ The ability to register citizens' photos is an important change and a byproduct of the computerization of China's *hukou* identification system. Accessibility of citizens' photos through the *hukou* information database allows those who can access the database to verify whether the person presenting the card is actually the person registered under the card. This function is discussed in greater detail *infra*. Although the 2003 ID Card Law requires registration of a photo, it does not explicitly require citizens to submit photos with their identity card applications. However, other government guidance documents mandate that resident identity cards have color digital photos.⁸⁴ How citizens acquire the photos varies from one jurisdiction to another. In some places, pictures are taken by the police at the time of identity card registration; in others, the registrant must obtain the photos in advance from a state-approved photo shop.⁸⁵ The photo, along with the six other registered items on the new identity cards, is not only printed on the surface of the card, but also

83. 2003 ID Card Law, *supra* note 9, art. 3.

84. Response to Common Problems Encountered During the Process of Changing Over to Second Generation Resident Identity Cards, *supra* note 56, at § 5 (stating that color photos are required for the new resident identity cards). See, e.g., Shengdong Li & Lianghong Ji, Huanfa di'er dai shenfenzheng: cong duo hua 25 yuan dao youqian banbucheng [Changing Over to Second Generation Identity Cards: From Overpaying 25 Yuan to Having Money and Not Being Able to Get a New Card], XINHUA WEB HAINAN STATION, Apr. 30, 2005, http://news.xinhuanet.com/focus/2005-04/30/content_2894754.htm (discussing how to obtain a government-approved resident identity card photo).

85. See, e.g., Beijing Takes the Lead, *supra* note 57 (discussing an especially busy local police station where the process of issuing second generation cards involved taking the cardholders' pictures); Guangdong: Shantou shi 10 ri qi quanmian qidong huanfa di'er dai jumin shenfenzheng [Guangdong [Province]: From the Tenth Shantou City Begins Full Efforts for Changing Over to Second-Generation Resident Identity Cards] (posted by Ministry of Public Security, Shantou Public Security Bureau, Aug. 12, 2005) <http://www.mps.gov.cn/webpage/shownews.asp?id=9277&biaoshi=bitLocalNews> (alerting Shantou residents who will be obtaining new resident identity cards that they must get digital photos from a state-approved photo shop to submit with their card application).

Where photos are obtained from private photo shops, scams that provide photos that do not meet national standards are common. Li & Ji, *supra* note 84. To combat the practice, some regions have set up online resources through which citizens may authenticate a photo before going to the police station. For example, the PRC Card Photo Digital Picture Quality Testing Center (at <http://www.rzzx.com.cn/>) can check photos for citizens whose permanent *hukou* are registered in the cities of Shenzhen and Zhuhai.

stored on an electronically scannable IC (integrated circuit) card located in the center of the card (discussed further *infra*).⁸⁶

Like the old resident identity card regime, the 2003 ID Card Law requires that every citizen fill out a registration form when applying for a card.⁸⁷ Interestingly, the new Resident Identity Card Application Registration Form gathers far less information than did the old Permanent Resident Registration Form. Beyond the items registered with police under the 2003 ID Card Law,⁸⁸ the new form includes only administrative information, such as the reason for the application, the time the card was received by the processing organ, the receipt number, the person in charge of the application, the applicant's phone number and signature, the time for picking up the new card, a delivery address in case the applicant prefers that the card be sent by express delivery, and a signature upon pick-up (see fig. 2 below). The form also includes a receipt given to the applicant to bring back for in-person pick-up of the card. Resident identity cards can only be obtained by presenting a valid *hukou*.⁸⁹

The Resident Identity Card Application Registration Form is submitted not only when applying for a new resident identity card, but also when exchanging or replacing a card.⁹⁰ When a card has expired, been lost, or undergone serious damage, the cardholder's name has changed, or there are errors in the registered items on the card, the card must be replaced.⁹¹ Unlike the old regime, under which a new resident identity card had to be obtained when one moved away from one's place of permanent *hukou* registration,⁹² under the 2003 ID Card Law, any change in permanent *hukou* registration, such as a transfer of *hukou* registration from one city to another, is simply recorded on the card's

86. Di'er dai jumin shenfenzheng de xin mianmao [The New Look of Second Generation Resident Identity Cards], XINHUANET, Mar. 30, 2005, <http://www.china.net.cn/chinese/zhuanti/sfz/529271.htm>.

87. 2003 ID Card Law, *supra* note 9, art. 10 (stating that a Resident Identity Card Application Registration Form shall be filled out and turned in when applying for a resident identity card).

88. See 2003 ID Card Law, *supra* note 9, art. 3 (registered items include name, gender, ethnicity, birth date, address, citizen identity number, photo, valid dates, and issuing agency).

89. *Id.* art. 10 ("When applying for a resident identity card, fill out [a form] and present your *hukou* booklet for inspection."). Interestingly, while resident identity cards are obtained and validated by presentation of a citizen's *hukou*, they later become the verifying document for *hukou*, and are produced to verify identity when changes to items on permanent *hukou* registration are made. *Id.* art. 14.

90. *Id.* art. 12.

91. *Id.* art. 11.

92. 1999 Implementing Rules, *supra* note 62, art. 11.

internal IC card (discussed further *infra*).⁹³ When a citizen submits his or her Resident Identity Card Application Registration Form, the public security organ has sixty days within which to issue a card.⁹⁴ A temporary resident identity card is issued upon application by a citizen waiting for a new, exchange, or replacement card.⁹⁵

Even though the law requires that all Chinese citizens obtain a resident identity card,⁹⁶ the card is not free.⁹⁷ Getting a new card costs twenty Chinese yuan (approximately \$2.50 in U.S. dollars), a replacement card costs forty yuan (about \$5.00 in U.S. dollars), and a temporary card costs ten yuan (about \$1.25 in U.S. dollars).⁹⁸ Many citizens cannot afford these fees.⁹⁹ In the interest of wide, uniform distribution of the cards across the population, fees can be waived or reduced for urban and rural poor.¹⁰⁰ For the card to truly be effective in preventing counter-

93. 2003 ID Card Law, *supra* note 9, art. 11 (providing that when citizens change residence, the public security organ shall record the change in *hukou* address on the "machine-readable" portion of the card).

94. *Id.* at art. 12. Under the 1985 ID Regulations, three months was allotted within which to issue the card. 1985 ID Regulations, *supra* note 4, art. 15.

95. 2003 ID Card Law, *supra* note 9, art. 12. Rules on temporary resident identity cards were issued in 2005. Zhonghua Renmin Gongheguo linshi jumin shenfenzhen guanli banfa [Rules on Management of Temporary Resident Identity Cards (P.R.C.)] (promulgated by the Ministry of Public Security, June 7, 2005, effective Oct. 1, 2005).

96. 2003 ID Card Law, *supra* note 9, art. 1 (requiring that all Chinese citizens over age 16 obtain a resident identity card).

97. *Id.* art. 20 (requiring citizens to pay card production costs).

98. Guojia Fazhan Gaige Wei, Caizheng Bu guanyu jumin shenfenzheng shoufei biao zhun ji youguan wenti de tongzhi [Notice by the National Development and Reform Commission and the Ministry of Finance on Standard Fees and Related Questions for Resident Identity Cards] (promulgated by the Nat'l Development and Reform Comm., Dec. 30, 2003, effective Dec. 30, 2003) (P.R.C.) § 1. The central government is working hard to keep local police from charging citizens fees beyond these standards, such as photo fees, and the National Dev. and Reform Commission, in conjunction with the Ministries of Finance and Public Security, issued a notice, which has been rebroadcast by local governments, demanding that the standards be followed. Guojia Fazhan Gaige Wei Caizheng Bu Gongan Bu guanyu guifan jumin shenfenzheng shengbenfei biao zhun deng youguan wenti de tongzhi [Notice by the National Development and Reform Commission, Ministry of Finance, and Ministry of Public Security on Problems Associated With Standardizing the Production Costs Standards] (promulgated by the Nat'l Development and Reform Comm., Ministry of Finance, and Ministry of Public Security, Feb. 18, 2005, effective Feb. 18, 2005) (P.R.C.), <http://www.yzp.gov.cn/fgwjview1.asp?id=3062>.

99. The Embassy of the People's Republic of China in the United States touted that per capita income for Chinese farmers was up 16.1% during the first half of 2004. However, that placed farmers at 1,345 yuan per year (about \$162.50 in U.S. dollars). With incomes so low, 20 yuan is a major burden on an enormous part of the population. Farmers' per capita income up 16.1% Jan-June, Embassy of the People's Republic of China in the United States, Sept. 20, 2004, <http://www.china-embassy.org/eng/gyzg/t159432.htm>.

100. 2003 ID Card Law, *supra* note 9, art. 20.

feiting and allowing citizens across the country equal access to services that require identity verification, the government must ensure that even the poorest members of society can obtain an official resident identity card.

Like the old cards, the new cards use standard Chinese characters and standard numerals.¹⁰¹ Unlike the 1985 ID Regulations, however, the 2003 ID Card Law places the State Council's public security department in charge of the cards' format and mandates centralized production of the cards.¹⁰² This will avoid inconsistencies among cards (such as handwritten and typed cards) and may make cards more difficult to replicate. Except for the PRC country seal, the country name written out in characters, and the words "resident identity card," which appear on the back of the cards, all of the information on the new resident identity cards is officially registered information: cardholder name, sex, ethnicity, birth date, address, citizen identity number, and photo, and the card's period of validity and issuing agency (see fig. 4 below).¹⁰³ The cards are no longer stamped by the issuing police bureau, making it less apparent on the face of a card where its holder is from. The unified card system may therefore help reduce division and discrimination among citizens based on residence.¹⁰⁴

One of the most important provisions of the 2003 ID Card Law states that the registered information on the new resident identity cards is to be both printed on the surface of the card and stored electronically on its internal IC card.¹⁰⁵ An IC card is essentially a microchip that can store a limited amount of information, and it can be electronically scanned to retrieve the

101. 2003 ID Card Law, *supra* note 9, art. 4 ("Resident identity cards shall be filled in with standard Chinese characters and national standard numeric symbols."). Similarly, like the 1985 ID Regulations, the new law provides that local language may additionally be utilized on the card in autonomous regions. *Id.*

102. *Id.* art. 6. Although the format of the old cards was similar generally, different areas used different fonts and spacing, and some even handwrote the card information. Furthermore, the 1985 ID Regulations never explicitly required uniformity in the cards, simply stating that "public security organs shall be responsible for printing, issuance, and control of resident identity cards." 1985 ID Regulations, *supra* note 4, art. 5.

103. 2003 ID Card Law, *supra* note 9, art. 3.

104. Chan & Zhang, *supra* note 6, at 834 (noting that the stamps placed on resident identity cards by local police bureaus can aid in the immediate identification of outsiders).

105. 2003 ID Card Law, *supra* note 9, art. 6. Once again, registered items include name, gender, ethnicity, birth date, address as registered on the cardholder's permanent *hukou*, citizen identity number, photo, period of validity of the card, and issuing agency. *Id.* art. 3.

Resident Identity Card Application Registration Form											
Receiving unit (stamp):						No.:					
Name	Sex	Ethnicity				Photo					
Birth Date	Year Month Day										
Address as registered on permanent hukou registration											
Citizen identity number											
Valid dates				Issuing agency							
Reason for application											
Time of receipt [of card]				Receipt number							
Person undertaking [application]				Signature of director of receiving unit							
Applicant (guardian) signature				Applicant (guardian) phone number							
Signature of person picking up card				Time of card pick up							
Do you want to receive your second generation identity card via express mail delivery? <input type="checkbox"/> Yes <input type="checkbox"/> No If you select "Yes" please fill out the items below											
Delivery address						Receiving person					
Postal code				Remarks							
Prepared by Ministry of Public Security Bureau of Security Administration											
----- Resident Identity Card Receipt for Pick Up											
Receiving unit (stamp):											
Name											
Citizen identity number											
Person undertaking [application]				Phone number							
Time of receipt [of card]				Time of card pick up							

Figure 2: Example Resident Identity Card Application Registration Form utilized under the 2003 ID Card Law, as posted by the South China University of Technology at www2.scut.edu.cn/security/security/table/slform.doc.

information.¹⁰⁶ Prior to the promulgation of the 2003 ID Card Law, the State Council issued a document discussing “second generation” identity cards and suggesting that the IC card would store the cardholder’s fingerprints and record of card application,

106. Feijiechushi IC ka jianjie [Synopsis of Non-Contact Style IC Cards] (posted by the Ministry of Communications of the People’s Republic of China) http://www.moc.gov.cn/05zhishi/zhinengys/t20050318_17326.htm.

exchange, and replacement, the chip manufacturer's number, and other information to protect against forgery.¹⁰⁷ Currently, fingerprints are not stored on the card,¹⁰⁸ but it may be simply a matter of time before they are required to be registered along with the other card information.



front



back

Figure 4: New identity card. The front of the card includes the cardholder's name, sex, ethnicity, birth date, address, citizen identity number, and photo. The back of the card shows the country symbol with characters to the right reading "People's Republic of China" and "resident identity card." At the bottom are listed the issuing agency and the validity dates for the card. Images obtained from <http://www.china.org.cn/chinese/zhuanti/sfz/528649.htm>.

The 2003 ID Card Law includes a number of provisions intended to help combat identity fraud. First, it expands legal liability for forging or falsely obtaining a resident identity card. Using false information to get a card, renting, loaning, or trans-

107. Official Response by the State Council on Problems Associated with Changing Over to Second Generation Resident Identity Cards, *supra* note 9, § 2 ("[M]achine-readable information refers to [the registered information appearing on the front of the card], the cardholder's fingerprints, a record of the card's application, exchange, or replacement, the chip's manufacturer's number and information on digital protection against faking.").

108. ID Card Project News: China Will Issue Over 100 Million of 2nd Generation Of National ID Cards in 2005, CHINA LATEST NEWS: SMART CARD & RFID, Mar. 2005, http://www.strategistm.com/conferences/china/05/sc_news-0305.htm.

ferring one's own card, or illegally confiscating someone else's card is punishable by a fine of 200 yuan (about \$25 in U.S. dollars) plus any illegal profits.¹⁰⁹ Falsely using another person's card, using a card obtained by deceit, or buying, selling, or using a falsified card is punishable by a fines between 200 yuan and 1000 yuan (around \$125 in U.S. dollars) plus illegal profits, or up to ten days' detention.¹¹⁰ Any of these activities will be investigated for criminal liability, as will forging or falsifying documents.¹¹¹

The 2003 ID Card Law also extends liability to the police, who are in charge of issuing resident identity cards. Police are now liable for corruption stemming from the production, issuance, and oversight of cards. The 1985 ID Regulations merely stated that public security personnel who abused their authority by carrying out the regulations for the benefit of their friends, or in such a way as to infringe on a citizen's lawful rights and interests, would be criminally investigated.¹¹² The 2003 ID Card Law lists specific examples of abuse, including: using production, issuance, or examination of cards to get money or property or to pursue other interests; illegally altering a citizen identity number, registering information beyond the information legally required to be registered, or intentionally registering false information; failing, without proper reason, to issue a resident identity card within the legally stipulated period; or examining or detaining a resident identity card in violation of the rules.¹¹³ If these new provisions expanding liability for identity fraud can deter such behavior, they will go a long way toward making the resident identity card a more reliable method of identity verification.

The 2003 ID Card Law also states that public security organs and police shall keep confidential any personal information obtained from the production, issuance, examination, or detention of a citizen's resident identity card.¹¹⁴ It provides that disclosing

109. 2003 ID Card Law, *supra* note 9, art. 16.

110. *Id.* art. 17.

111. *Id.* art. 18. A recent case from Shanghai suggests that forging documents is not a strict liability crime. The defendant, a divorcée who moved from her original place of permanent *hukou* registration and then lost her resident identity card, hired someone to forge an identity card for her when she was unable to obtain a new *hukou* or identity card. The court found that the defendant, who used her true name, picture, address, and identity card number on the forged document, lacked intent, and was therefore innocent of any crime. Shanghai Jing An Qu Renmin Jianchayuan su Zhang Meihua weizao jumin shenfenzheng an [Shanghai Jing An District People's Procuratorate Case Against Zhang Meihua for Forging a Resident Identity Card], CHINALAWINFO (find at <http://chinalawinfo.com>) (Shanghai Second Interim. People's Ct., July 22, 2004).

112. 1985 ID Regulations, *supra* note 4, art. 17.

113. 2003 ID Card Law, *supra* note 9, art. 19.

114. *Id.* art. 6.

personal information obtained through any of these means is a violation of the citizen's lawful rights and interests and may be criminally investigated.¹¹⁵ The old legal framework had no such provision. The new stipulation on confidentiality is interesting in that it shows a tendency toward recognition of personal privacy rights and may imply that China will ultimately adopt identity information controls similar to those in the United States, where identity information is protected from disclosure. However, as discussed further below, China's approach to storing and accessing identity information for the purpose of proving identity in everyday transactions (such as obtaining a loan or credit card) is still developing. Thus, the restriction on police disclosure of identity information may not be indicative of what the future will bring.

C. USING THE RESIDENT IDENTITY CARD TO PROVE IDENTITY

As discussed above, one of the goals of both the 1985 ID Regulations and the 2003 ID Card Law is to allow individuals in the PRC to prove their identity. While there are only a few differences between the 1985 ID Regulations and 2003 ID Card Law, these innovations may prove important. Most important is the foundation of the National Citizen Identify Information Center (NCIIC or "Center"), established on March 27, 2001 under the Ministry of Public Security.¹¹⁶ This section discusses the differences between the 1985 ID Regulations and the 2003 ID Card Law, then examines the role of the NCIIC in facilitating identity verification.

Under the old resident identity card regime, the 1985 ID Regulations provided that the identity card could be used in situations affecting rights and interests related to the citizen's political, economic, and social life; nowhere did it require acceptance of the card as proof of identity.¹¹⁷ The 1999 Implementing Rules provided a list of specific situations in which a resident identity card could be used to establish identity, including: voter registra-

115. *Id.* art. 19.

116. "Quanguo Gongmin Shenfen Haoma Chaxun Fuwu Zhongxin" jieshao [About NCIIC], <http://www.nciic.com.cn/gaokuang-js.htm>; Quanguo Gongmin Shenfen Haoma Chaxun Fuwu Zhongxin Gao Haimin zhuren de fayan [Speech by Director Gao Haimin of the NCIIC], Nov. 9, 2004, http://www.govonline.cn/frontmanger/project_cen ter.jsp?newscode=28180.

117. 1985 ID Regulations, *supra* note 4, art. 14 ("When undertaking matters related to rights and interests associate with political, economic and social life, the resident identity card may be presented to certify identity."). The 1985 ID Regulations only provided that a unit could not confiscate a person's identity card but did not require that the card be accepted as identification. *Id.*

tion, *hukou* registration, military registration, school enrollment, work application, and "other activities."¹¹⁸

The 2003 ID Card Law unequivocally establishes the resident identity card's status as the national identity verification mechanism. Since the enactment of the 2003 ID Card Law, Chinese citizens may use their resident identity card to prove their identity for any purpose, and the card cannot be refused as proof of identity.¹¹⁹ Although the National People's Congress anticipated recodifying the 1999 Implementing Rules' list of specific situations in which to use the resident identity card,¹²⁰ it ultimately opted for the general proviso that the identity card must be accepted as proof of identity and a list of five specific situations in which the resident identity card is required.¹²¹ The five situations in which an identity card must be presented to the public security authorities (i.e., the police) are: when changing items on a permanent *hukou* registration, when registering for military service, when registering for marriage or adoption, when applying to leave the country, and in other situations as required by law.¹²² In other words, the 2003 ID Card Law only codifies specific times when the card *must* be presented to the police and provides that in other situations it must be accepted as identification if presented.¹²³

Even where the resident identity card was accepted to verify identity, until the establishment of the NCIIC, there was generally no publicly available means of confirming whether the individual presenting a card was who he claimed to be (short of going to the police station where the individual's *hukou* information was registered). The NCIIC was established in response to de-

118. 1999 Implementing Rules, *supra* note 62, art. 20. Other listed activities include: notarization, departure from a border administrative area, application to leave the country, litigation, driver's license application, business license application hotel registration, and social assistance enrollment. *Id.*

119. 2003 ID Card Law, *supra* note 9, art. 13 ("When citizens are undertaking relevant activities and need to prove identity, they have a right to use their resident identity card, and the card cannot be refused by any unit or person as proof of identity.").

120. Explanation of the "Law on Citizen Identity Cards (P.R.C.) (Draft)," *supra* note 78, § 2.

121. 2003 ID Card Law, *supra* note 9, arts. 13, 14. The law also provides that those citizens who have not obtained identity cards may use other means of proving identity. *Id.* art. 14.

122. *Id.* art. 14.

123. The Ministry of Public Security elaborates on other activities and transactions for which the card may be used, such as registering for school entrance exams, undertaking banking and insurance activities, completing forms for family planning/taxes/employment/customs, signing up for cultural/athletic competitions, registering private household property rights, undertaking printing activities, and identifying and picking up a lost child or lost property. Regarding the Policies and Rules on Resident Identity Cards, *supra* note 24, ¶ 15.

mands by the increasingly frustrated banking and information industries, which needed to quickly and accurately verify customers' identities and experienced a great deal of fraud in day-to-day operations.¹²⁴ Charged with developing, managing, and maintaining a "national citizen identity information system" that stores Chinese citizens' identity information for access by businesses and individuals across the country, the NCIIC began to develop a national program of identity verification immediately upon its establishment in 2001.¹²⁵

By 2003, the NCIIC's software development process was substantially complete, and public security *hukou* administration organs began sending identity data to the NCIIC for storage.¹²⁶ The NCIIC's system is separate from the *hukou* system, which is directly managed by the police, but because the *hukou* system is the basis for managing identity in China, it is the source from which the NCIIC system must obtain its information. As the NCIIC system progressed, the NCIIC partnered with a number of telecommunications companies, such as China Mobile, to develop online and mobile access to the system.¹²⁷ By the end of 2003, the NCIIC system included data for 210 million people in forty-two cities, and by March 2005, the system held data for 320 million people in seventy cities.¹²⁸ While these numbers represent impressive achievements, the NCIIC system's usefulness is limited because its database is still far from complete, lacking identity information for hundreds of millions of citizens. The timeline for completion of the NCIIC database will likely depend upon the timeline for implementation of the new identity card, since the NCIIC database relies on information associated with the new card, such as the cardholder's photograph and CIN.

The NCIIC system allows three types of identity information searches: verification, inquiry, and statistical analysis.¹²⁹ For ordinary citizens' purposes, the most important function is verification.

To perform a verification, one sends the citizen's name and CIN to the NCIIC via the Internet or a mobile phone. The

124. About NCIIC, *supra* note 116; Speech by Director Gao Haimin of the NCIIC, *supra* note 116.

125. NCIIC timeline, 2001, <http://www.nciic.com.cn/gaokuang-ds.htm>.

126. Speech by Director Gao Haimin of the NCIIC, *supra* note 116; NCIIC timeline, 2003, http://www.nciic.com.cn/gaokuang-ds_02.htm.

127. See NCIIC timeline, 2003, *supra* note 125; NCIIC timeline, 2004, http://www.nciic.com.cn/gaokuang-ds_03.htm.

128. NCIIC timeline, 2003, *supra* note 127; NCIIC timeline, 2005, http://www.nciic.com.cn/gaokuang-ds_04.htm.

129. About NCIIC, *supra* note 116.

NCIIC checks its database for a match.¹³⁰ If the name and CIN are an exact match with a coupled name and CIN in the NCIIC system,¹³¹ the NCIIC returns a message that says “match” and shows the requested individual’s name, CIN, and photograph.¹³² The photo allows the person making the verification to ascertain whether the person standing in front of him or her is actually the person associated with the card.¹³³ If the submitted CIN is in the NCIIC database, but the name provided does not match that associated with the CIN in the database, the user will receive a message that says “no match.”¹³⁴ In this case, the NCIIC recommends that the user seeking the verification further research the person’s identity by going to the police station at the place of the person’s permanent *hukou* registration.¹³⁵ If the submitted CIN is not in the NCIIC database, the user will receive a message that says “please go to the place of the *hukou* to investigate further.”¹³⁶

The verification function is the NCIIC’s response to the complaints of companies and organizations losing money because of their inability to confirm the identities of customers and employees. The service is aimed at the areas of telecommunications, employment services, rental services, financial services, travel services, and education (hiring someone else to take one’s college entrance exam is one of the most prevalent forms of identity fraud).¹³⁷ The Center has entered into a number of agreements with banks and car financing companies (including Volkswagen and Toyota) to allow these companies to perform

130. Shenfen xinxi hecha [Identity Information Verification], <http://www.nciic.com.cn/yewufanwei.htm>.

131. While English names might be difficult to match in this kind of system because of a nickname or the use or omission of a middle name, Chinese names do not present these problems. Chinese characters are monosyllabic and do not lend themselves to shortening. Chinese surnames are generally one (sometimes two) characters, and given names are one or two characters that cannot be shortened into different spellings. Nicknames are generally not used except among family and friends.

132. Explanations and Answers to Frequently Asked Questions about “Identity Information Services,” *supra* note 46; “Shenfen xinxi hecha” biaoshi [What an “Identity Information Verification” Shows], <http://www.nciic.com.cn/yewufanwei-1.htm>. Presumably, the picture is the photo registered with the citizen’s resident identity card.

133. Explanations and Answers to Frequently Asked Questions About “Identity Information Services,” *supra* note 46.

134. *Id.*

135. *Id.*

136. *Id.*

137. *See, e.g.*, <http://id5.cn>, which is the official access website for verification searches and advertises that these industries can save money by verifying the identities of their users.

verification searches to check customers' identities for credit card and financing services.¹³⁸

It appears that identity verification will also be available to average citizens. According to the NCIIC website, ordinary citizens who have China Mobile cellular service have been able to perform identity verifications since February 2005 via text messaging.¹³⁹ If an individual is unable to access the system via cell phone, the NCIIC has verification website (<http://id5.cn>) where one can set up an account to check identity. This could be an enormously important way for businesses to attain a higher level of security in their everyday transactions, and it will be especially important for financial institutions. The credit card industry is beginning to take hold in China,¹⁴⁰ and, if the industry adopts the practice of in-person credit card applications, the ability to verify identity from a reliable central database that offers photo identification could stem credit card fraud. Depending on how widespread it becomes, the verification function could be important for individuals, as well, and may help them avoid the rampant identity theft experienced in the United States and Europe.

The other two services provided by the NCIIC are identity inquiries and statistical analysis. Unlike the verification function, inquiries, which are only available to public security organs and other authorized users, allow the user to access information on more than one citizen.¹⁴¹ To perform a search, the user simply enters a name.¹⁴² A screen pops up showing information on a number of citizens with that name, and the user can access a fairly complete information dossier on each individual.¹⁴³ It appears that, at least at this point in time, the inquiry function will not be made accessible to the public. Similar access to identity information was made publicly available in Jilin province, draw-

138. NCIIC timeline, 2004, *supra* note 128; NCIIC timeline, 2005, *supra* note 129.

139. NCIIC timeline, 2005, *supra* note 129.

140. *Fraud on the Rise as Credit Use Grows*, CHINA DAILY, Mar. 29, 2004 ("By the middle of last year, China had issued about 570 million bank cards. The 25 million cards in use are effectively only debit cards with an overdraft facility. The number of genuine credit cards is about 2 million, less than 0.4 percent of all bank cards.").

141. Shenfen xinxi chaxun [Inquiries on Identity Information], <http://www.nciic.com.cn/yewufanwei-cx.htm>.

142. *Id.*; "Shenfen xinxi chaxun" biaoshi [What an "Identity Information Inquiry" Shows], <http://www.nciic.com.cn/yewufanwei-2.htm>.

143. *Id.* A version of this search accessible to the masses is the "Tong Ming Tong Xing" ("Same Name Same Surname/Gender" – "surname" and "gender" are homonyms in Chinese), where mobile phone users can look up how many people in the country or a certain region have their same name or same name and same gender. The search does not provide any details regarding the identities of the people with the shared names, rather it simply shows a total number of matches. Tong ming tong xing chaxun [Same Name Same Gender Search], <http://wap.id5.cn/vnet/same.jsp#>.

ing criticism from proponents of privacy rights.¹⁴⁴ However, the Jilin program does show a willingness to make such information public, and given that the NCIIC system is so new, it will be interesting to see if inquiries, or any information beyond the limited information available via verifications, will be made publicly accessible.

The statistical analysis function, which is not currently available, can provide the user with a number of different kinds of population statistics.¹⁴⁵ The information available through this function is general census-type information. Based upon the example posted on the NCIIC website, it appears that users will be able to access statistics such as male/female ratios, age statistics, and population growth statistics, for areas ranging in size from provinces to local police stations.¹⁴⁶ Statistical analysis is meant for users who are attempting to understand population demographics and seems to be aimed at organizations looking for a good location to do business.¹⁴⁷

III. THE IDENTITY CARD AND POLICE POWER: EASED ACCESS TO IDENTITY INFORMATION AND POTENTIAL POLICE ABUSE

As mentioned above, in addition to its identity-proving function, the modern *hukou* system is used to control internal migration and manage certain classes of “targeted people,” including those suspected of endangering national security or engaging in criminal activity, violent individuals, ex-convicts, and narcotics users.¹⁴⁸ The *hukou* system’s identity verification function has become stronger with the advent of the resident identity card and recent changes allowing greater standardization and accessibility of identity information. Because the *hukou* system’s strict controls over internal migration, which are beyond the scope of this paper, have resulted in deep inequities between urban and rural Chinese and a floating population of over 110 million,¹⁴⁹ the general consensus seems to be that this function will inevitably be

144. *Access to ID Details Arouses Controversy*, CHINA DAILY, July 3, 2004.

145. Renkou shuju tongji [Population Data Statistics], <http://www.nciic.com.cn/yewufanwei-rk.htm>.

146. “Renkou shuju tongji” biaoshi [What “Population Data Statistics” Show], <http://www.nciic.com.cn/yewufanwei-3.htm>.

147. Tongji hangye yingyong [Statistical Industry Uses], <http://www.nciic.com.cn/yingyong-8.htm>.

148. WANG, *supra* note 1, at 35, 49, 108.

149. Youjun Li & Xiaolin Liu, *Tebie baodao: huji gaigelu zai hefang?* [Special Report: What Direction is the Hukou Reform Taking?], PEOPLE’S DAILY OVERSEAS EDITION, Oct. 8, 2004, <http://www.people.com.cn/GB/shizheng/1026/2901995.html>.

abolished.¹⁵⁰ However, the system's other function, managing "targeted people" and facilitating the policing of the population, will likely be enhanced by the identity card even as the *hukou* system loses its power to restrict residence.

With its new high-tech functions, the identity card will allow police more access to individuals' information. For example, when people travel in China, they must register with their hotel by providing an accepted form of identification.¹⁵¹ Currently, "all hotels, inns, and guesthouses with more than fifty beds must have scanners and computers directly linked to local police stations to instantaneously scan and transmit the photos of all guests who have completed the check-in registration."¹⁵² Now that identity cards can be scanned electronically, police will be able to track each person's whereabouts and activities more quickly and efficiently than they could under the old system. In this way, the identity card "augments the household registration system by offering a convenient means by which to carry out many of the non-territorially based policing functions of the [*hukou* system]."¹⁵³ With easy access to information about where people are located or traveling, police can profile people based upon actions that may be innocuous. This could lead to police abuse and arbitrary detentions of citizens who have done nothing wrong.

Although the speed with which police can gather information and profile individuals using the new identity cards may be a concern, ultimately, it may not have much effect on ordinary citizens who are not among the "targeted people." Because the police force is generally stretched very thin, unless a citizen is already on its watch list, it seems unlikely that this use of the identity card will greatly affect the liberty of the general public.¹⁵⁴ Furthermore, "there is much popular support for tough policing in China,"¹⁵⁵ and individuals simply may not perceive that these sorts of uses of the identity card infringe on their personal rights.

150. Recent reports cite plans by the Chinese government to abolish certain migration restrictions in eleven provinces. See Joseph Kahn, *China to Drop Urbanite-Peasant Legal Differences*, N.Y. TIMES, Nov. 3, 2005, at A8. See also Wong & Huen, *supra* note 6, at 992 (1998) (discussing the effects of *hukou*-based migration policies as generally placing the best, brightest, and wealthiest in the major cities, while leaving rural residents no access to the benefits of urban life).

151. Lüguanye zhi'an guanli banfa [Hotel Industry Public Safety Oversight Rules] (promulgated by the Ministry of Public Security, Nov. 10, 1987) (P.R.C.) art. 6 ("When hotels receive guests, they must register them and review their identification.").

152. WANG, *supra* note 1, at 201.

153. DUTTON, *supra* note 6, at 334.

154. See Wang, *supra* note 6, at 124-26.

155. Børge Bakken, *Introduction: Crime, Control, and Modernity in China*, in CRIME, PUNISHMENT AND POLICING IN CHINA 1, 16 (Børge Bakken ed., 2005).

A far greater concern associated with identity cards is the random exercise of police discretion to check cards and detain citizens based on such checks. For example, in 2003, a young man from Hubei Province named Sun Zhigang was arrested in Guangzhou Province because he did not present identification to the police.¹⁵⁶ He was later beaten to death while in custody.¹⁵⁷ Sun's case caused a public outcry in China,¹⁵⁸ and the 2003 ID Card Law contains provisions responding to concerns arising from his death. In particular, the 2003 ID Card Law specifies four circumstances in which the police may examine a citizen's resident identity card: where someone is suspected of criminal activity, where the police are lawfully taking control of a scene, where an incident severely threatens societal order, and other situations according to the law where identity must be established.¹⁵⁹ These restrictions are an enormous change from the 1985 ID Regulations, which gave police vast power to examine identification, providing that "a public security organ has the right to examine citizens' resident identity cards when performing its duties, and citizens may not refuse to be examined."¹⁶⁰

The enactment of more restrictive provisions limiting the right of the police to examine citizens' identification may imply that, under the 2003 ID Card Law, citizens have a right to be left alone if they can show that none of the four situations apply to them. However, the provision allowing examination of identification in "other situations according to the law" is broad and seems prone to creative police interpretation; depending on actual oversight of police, the provision could simply result in the continuation of the status quo. It remains to be seen whether these provisions will actually affect police behavior.

CONCLUSION

The resident identity card is now the most common and accepted method of establishing identity in China and will only gain prominence in the lives of Chinese citizens in years to come. The card's new format and ability to store identity information in

156. Fei-Ling Wang, China's Household Registration (Hukou) System: Discrimination and Reform, Statement to the Congressional Executive Committee on China, Sept. 2, 2005, <http://www.cecc.gov/pages/roundtables/090205/Wang.php>.

157. *Id.*

158. Chinese Protest Online: the Case of Sun Zhigang, Human Rights Watch, <http://www.hrw.org/campaigns/china/beijing08/voices.htm>.

159. 2003 ID Card Law, *supra* note 9, art. 15. Both the old and new identity card regimes require that police present their police identification before examining citizens' identification. 1985 ID Regulations, *supra* note 4, art. 13; 1999 Implementing Rules, *supra* note 63, art. 36; 2003 ID Card Law, *supra* note 9, art. 15.

160. 1985 ID Regulations, *supra* note 4, art. 13.

an electronically-readable chip provides better safeguards against forgery than were previously available. Furthermore, the NCIIC system of identity verification provides a generally-accessible means for individuals and businesses to verify identity, which will assist in the further growth of China's economy by preventing fraud in areas such as banking and financing.

Besides promoting standardized identity verification, the resident identity card represents one more step in the *hukou* system's transformation from a system primarily concerned with controlling migration to a system that aids in policing the population. While the resident identity card gives police greater access to identity information and may ultimately lead to abuses of police discretion, the 2003 ID Card Law does adopt some checks on police power. However, in the current climate of mass support for tough measures against crime, these provisions may be meaningless as far as actually changing police behavior.