

Major Research Paper

Legal Pluralism and the Reconstruction of Legal Consciousness in
Co-ethnic Chinese Restaurants

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August 2020

Introduction

This research paper proposes conceptually framing Chinese ethnic restaurants in Canada as semiautonomous social fields in the context of transnational migration. In this workplace sector activities that do not comply with Canadian state law – i.e., overtime and/or underpaid work – are commonly constructed and justified by both Chinese employers and Chinese international students, working as employees in the restaurant industry.

This research paper consists of a literature review on Chinese international students as workers, ethnic Chinese restaurants as transnational workplaces, and Chinese cultural values that are normative in nature. Next, it takes on the framework of legal pluralism, which can be used to explain the way the reterritorialization of the culture creates other forms of law. So, the research paper explores how migrants might use shared pre-migration cultural values as an algorithm for their actions in the workplace in an unfamiliar environment.

Finally, my analysis proposes three types of legal consciousness informed by the cultural values that in turn might account for the workplace relations of International Chinese students and their employers and reinforce or weaken the cultural values. The value of protecting the harmony and tendency to resort to humanity may lead to a hierarchical legal consciousness, which may create an asymmetrical power relation. On the other hand, an essential focus on reciprocity may make people pursue an ego-centred long-term reciprocal relationship, where the relation between students and employers is likely to be mutually beneficial. Moreover, in addition to the ideal types of hierarchical and reciprocal legal consciousness, it is also worth mentioning that

international Chinese students may see the state as distant leading to the notion that rules, including the law, are always flexible. This form of legal consciousness gives actors discretion to interpret in their own way what to follow as law.

While some studies on Chinese legal consciousness focus on how legal mobilization shapes the legal consciousness of everyday Chinese citizens (such as Gallagher, 2006), this research paper focuses on how the legal culture of the Chinese is built up outside the official legal system. We need to remember the enormous differences in life experiences between different social classes and between urban-rural residents in China. Chinese international students are a group of young urban adults who are largely from the bubble of privileged families, possibly have their lives designed to be successful or with minimal obstacles, and may luckily have relatively limited experience of unpleasant engagement with the state law or undesirable workplace relationships before they have moved abroad. Chinese students with no experience or positive experiences in the legal system tend to feel positive about state law and may not avoid it (Michelson and Read, 2011). Also, people in the most developed parts of the country experience the state law with the most satisfaction (Michelson and Read, 2011). So, this research, instead, focuses on Chinese cultural values in the context of an expanded understanding of the legal system, i.e., beyond formal state law.

Before proceeding to the literature review, I would like to make a comment on my use of certain expressions. Throughout this paper I will use the term the Chinese. By “the Chinese” I am referring to citizens of China that reside in China or travel or immigrate abroad, but also members of the Chinese diaspora that have strong connections with Chinese culture and

practices as well as China, despite being long term residents in Canada. By using the expression “the Chinese” I do not mean to suggest that the Chinese people are a uniform or homogenous group. Equally, I will talk about “Chinese values”. Again, I do not want to suggest that Chinese culture is one homogenous whole. Nonetheless, scholars do identify important differences in patterns of behaviour between Chinese and western “cultures” and the values that underwrite them. These are rooted historical, social, political and economic circumstances. It is not my intention to essentialise Chinese culture, or the Chinese, around these values. Indeed, in my analysis when I suggest different forms of legal consciousness, I am doing so with an eye to seeing culture and values as dynamic and changing. I also stress the importance of individual forms of legal consciousness and the way in which they interact with particular communities and larger structures of state legality.

Literature review

Chinese international students and their role as temporary workers

Scholars have addressed the symbolic connotations of international education in the Asian context. Spatial movement is viewed as producing new conditions and possibilities (Tran, 2016). The growing wealth and size of the middle class in Asian countries and increasing domestic competition are important drivers of the mobility of international students (Tran, 2016; Cebolla-Boado et al., 2018). Waters (2006) suggests that the middle class in China is more reliant on international academic credentials to succeed in professional occupations and is more likely to become a consumer of education than its working-class counterparts. Members of the Chinese

middle-class seek to maximize the cultural capital of the next generation by sending children to western universities (Waters, 2006). In other circumstances, students who fail to secure tertiary places in China use international education as a solution, when it is affordable (Tran, 2016; Waters, 2006).

While Canada's immigration policies are highly skill-oriented, there is a strong relationship between temporary migratory status and precarious employment or 3-D jobs (dirty, dangerous and difficult or demeaning), and this association is also true for international students (Goldring & Joly, 2014). Considerable attention in the scholarship has been paid to the academic and social life of international students. However, little attention has been paid to their role as temporary workers (Nyland et al., 2009; Clibborn, 2018). Research in this area has found that international students, as temporary migrant workers, cluster in low-wage, low-skilled industries. They bear the regular vulnerabilities suffered by temporary residents in the workplace: temporary migration status, a lack of knowledge of the official languages, the unrecognition of their educational credentials and the undervaluation of foreign educational background and work experience, racialization and discrimination, cultural differences, unfamiliarity with local laws and regulations, and deportability if caught working beyond their visa limits (Nyland et al., 2009; Wilkinson et al., 2016; Block & Galabuzi, 2011).

Reluctance to resist exploitation has been an important theme in the literature on migrant workers. However, rather than simply seeing international students as victims, much of the recent research draws attention to the agency exercised by international students in their responses to their working conditions (Clibborn, 2018). Acceptance of exploitation may

represent a lack of agency at first glance, but scholars suggest it is best seen as an active and intentional process, whether strategic or merely tactical (Campbell, et al., 2019). One crucial theory is Piore's dual frame of reference (1979), informing us the reason that migrant, as compared to local workers, tend to be more willing to accept such wages and working conditions in the host country is that they compare their employment situation to the ones of either lower social status or lower pay available in their sending countries.

Yet, this may not entirely account for the choice of international students. More recent studies have identified "downward counterfactual comparisons" where migrant workers compare their current employment with experiences of their fellow migrant workers (Manolchev & Teigen, 2018, p. 292). International students, especially young students from Asia, are more likely to socialize with other international students from the same country of origin than with local students (Marginson et al., 2010). Therefore, Clibborn (2018) extends Piore's framework by considering the reference to peer groups. Such peer groups can include anyone within their social circle, but most likely their fellow international students from the same cultural background. Campbell et al. (2019) also recognize active complicity, time and effort inefficiency, fear of employer reprisals and relative insignificance of low pay as rationales for temporary workers not to take individual action against underpayment, the latter two being frequently mentioned in their interviews. Regarding fear of employer reprisals, researchers find that the main source of the fear is connected to the loss of shifts, concerns that working hours are undercounted, and the need to get documents. One of the conditions researchers also recognize for the last category, i.e., downplaying the implications of low pay, occurs when other job conditions, such as good working-time arrangements, good social relations with co-workers and/or employers, and the

chance to use the worker's first language, are viewed as a sufficient counterbalance. Another condition that can occur is when the financial pressure of the worker is not significant. In this case, the purpose of working is to accumulate local work experience, gain immigration points, a longer stay, or to fund entertainment and leisure activities.

Chinese ethnic business as a workplace

Early literature defines ethnic business as peripheral commercial activities consisting of ethnic employers, their co-ethnic employees, and the existence of a co-ethnic market (Li, 2020; Waldinger et al., 1990). More contemporary research on Chinese ethnic businesses raises doubt against this Blocked Mobility approach and finds the emergence of new forms of Chinese entrepreneurship. These businesses create employment for both Chinese and non-Chinese and have non-Chinese clientele (Volery, 2007; Li, 2010). Many new immigrants go into business with the pre-migration intention of establishing businesses (Volery, 2007; Li, 2010). A Cultural Resources approach is particularly popular to explain why Asian groups are more likely to own ethnic businesses. The reason is that enterprises are highly valued in these cultures, equipping people with skills and resources to engage in entrepreneurship (Barrett, et al., 1996; Volery, 2007). For their part, Light and Gold (2000, p. 3) define "ethnic economy" as a set of businesses with ethnic or immigrant staff, including "ethnic or immigrant's self-employed group, employers, co-ethnic employees, and their unpaid family workers".

While it is acknowledged that ethnic business facilitates the settlement of Chinese migrants and provides employments to non-Chinese as well, it is not surprising that many small business

owners prefer co-ethnic employees, because for many business owners “where people are from” is linked to specific cultural characteristics (Li, 2020, p. 744). Research has identified stereotyping when employers select employees for their perceived hard-working attitude, high work ethics, self-discipline and compliance, which migrant workers are thought to manifest (McDowell et al., 2009; MacKenzie and Forde, 2009). Taking advantage of this, some Chinese employers may not provide good working conditions (Li, 2020; Li, 2015). At the same time, Chinese employees accept these conditions and even anticipate exploitation (Li, 2015). Li (2020) argues that such understandings can be intertwined with asymmetrical power relations where employers can play with the rules while international students, as temporary residents, may lack English proficiency or skills and have temporary visa statuses.

Also, non-regulation on the institutional level, i.e., the workplace, enhances a strong culture of off-the-book activities in the Chinese ethnic economy, and their normality drives more individuals into the cash economy and encourages existing ones (Li, 2015). In an investigation intending to understand the motivations and reasons why people provide or take cash-in-hand work in Australia, Arbes (2012) finds that the benefit of offering or accepting these jobs are weighed against the circumstances. Her worker subjects are on student, holiday or tourist visas and her interview participants are from multiple countries in East, Southeast, and East Asia, holding substantive visas. Substantive visas are visas that allow the visa holder to remain temporarily in Australia, such as a tourist visa, other than a bridging visa or a criminal justice or enforcement visa, according to Department of Home Affairs, Australia (Department of home affairs, 2020). Workers compare wages and working conditions in Australia with their home country to decide if the current working conditions are acceptable. Employers also acknowledge

taking advantage of the migrant workers and perceive little risks of being reported because of the lack of regulations.

Arbes highlights two dimensions that are important to distinguish amongst cash-receiving workers. The first key distinction concerns workers' personal agency. Workers who have the situation under control tend to hold similar opinions towards cash-in-hand work as the general public, but see themselves as exceptions. Those who have lost control, i.e., "those who feel themselves bound to and unable to get free of the illegal work situation they are in" (Arbes, 2012, p. 4), see themselves as victims of the actions of their employers or demands from their families. The second factor has to do with their work intentions. Some cash receivers are intentional, making rational assessments about how they can profit from the situation. Others are more unintentional ("inadvertent" in Arbes' term) (Arbes, 2012, p. 5). They tend to be inexperienced, ill-informed, opportunistic, and financially dependent, which is often true for students. They evaluate their work as "not really illegal" and expect the immigration department to turn their attention to properly "illegal" activities (Arbes, 2012, p. 6). Arbes also distinguishes employers in respect of their level of awareness of and compliance with legal obligations. She finds that most workers are unlikely to change as a result of persuasion and some tend to see the government as the villain if it intervenes.

Employers' non-compliance with employment regulations as such has been identified as a strategy at the bottom of the North American labour market (Bernhardt et al., 2013) and likely elsewhere. Researchers have found that reliance on legal compliance to shape moral actions within an organization may discourage behaviours associated with state laws, rules and

regulations (Sekerka and Zolin, 2007). This is because members in the workplace may justify deviations to accomplish performance goals, or the rules are deemed faulty, or because there is a norm not to follow them (Sekerka and Zolin, 2007). When the rule-bending orientation is normalized, it becomes one of the accepted cultures of the organization. Organizational culture refers to the norms of organizations and the values of persons (Chatman, 1991). It is important because shared values, in an organisation, can be stable and enduring, and they produce patterns of behaviour: "value systems provide an elaborate and generalized justification both for appropriate behaviours of members and for the activities and functions of the system" and "norms are closely related to values in that they make explicit the forms of behaviour which are appropriate for members of that system" (Chatman, 1991, p. 199).

Legal consciousness in transnational social spaces

Legal consciousness is conceptualized as a dynamic way of understanding and relating to legality. According to Merry (1990, p. 5), legal consciousness is "the ways people understand and use the law". "Consciousness" is "the way people conceive of the 'natural' and normal way of doing things, their habitual patterns of talk and action and their commonsense understandings of the world" (Merry, 1990, p. 5). People draw on their understanding of what's legal to understand their experiences and these experiences in turn informs their legal consciousness (Merry, 1990). On the one hand, legal consciousness shapes our taken-for-granted understanding of the social world (Albiston, 2006). For example, while secular law is meant to change the family life of religious people, it cannot unless the legal consciousness of religious people is secularized. Also, people's experience with the official legal system may change their

perspective of state law in other jurisdictions. So, transnational spaces are particularly interesting sites to understand legal consciousness because they often bring together different forms of legal consciousness, and draw attention to how legal consciousness contributes to the generation of “law”.

Despite the expectations of state legal systems, after transnational migration, migrants may not wish to abandon their value systems and customs that are often interwoven with their legal consciousness. As many studies have found, the cultural value system is undoubtedly a regulatory system for the Chinese in their workplaces (Tan and Snell, 2002; Zhai and Cooper, 2012), and “the shifts in societal and legal positions resulting from migration offer the opportunity to examine legal consciousness as a dynamic process.” (Kulk and De Hart, 2013, p. 1061)

“The process of migration and the resulting shifts in a legal and societal position offer an opportunity to try to untangle the relationship between legal consciousness, societal position, and previous experiences” (Kulk and De Hart, 2013, p. 1068). In their article about Dutch-Egyptian transnational families, Kulk and De Hart (2013) find that because of the changes in social and local positions, members of transnational social spaces “have to deal with different constellations of law” (Kulk and De Hart, 2013, p. 1062). “One can be privileged in one social position but disadvantaged in another” (Kulk and De Hart, 2013, p. 1066). Chinese international students in Canada are marginalized not only as minorities but also as temporary residents. However, the Chinese, especially international students, are mostly from relatively well-off families before the

migration. This may have an impact on the way people interpret their interactions with the law and make people actively engage in law-making as is illustrated in the analysis section below.

Non-conforming behaviours, sometimes called informal activities in immigrant businesses, are defined as "activities aimed at producing a positive effect on income (for the person executing the activities and/or for the person receiving the results), for which the terms of legislation and regulations (planning requirements, social security legislation, collective labor agreements, and the like) applicable to the activities are not being met" (Kloosterman and Rath, 2002, p. 27). In a situation where behaviours appear collective and widespread, we should think about the alternative rules that are guiding people's behaviours. Two key questions emerge: What are the values embedded in the non-conforming behaviours? How do workers and employers decide what they are supposed to do in the workplace? These are questions that I address in my analysis.

Statement of the problem and research question

The literature review suggests that international students cluster in low-wage, low-skilled industries such as ethnic restaurants, bearing the regular vulnerabilities suffered by temporary residents in the workplace, including documentation disadvantage, language barriers, unrecognition of educational and working experiences, etc. While early literature had suggested that the choice of establishing small businesses among ethnic entrepreneurs is the result of their exclusion from mainstream business opportunities, more recent research sees engaging in entrepreneurship as an active choice of amongst Chinese immigrants, residents and Canadians

because business and enterprising behaviour is highly valued in Chinese culture. It is certain that culture in the workplace is enduring and provides guidance for appropriate behaviours.

Existing research acknowledges that irregular workplace activities are performed and justified by both employers and employees in ethnic businesses. However, this may not be completely a forced situation. Rather, it can be the result of mutual agreement. Chinese international students generally do not have as much financial pressure to survive as other workers. However, as migrant workers, they resort to their co-ethnics for work opportunities as a result of barriers to successful job-seeking. On the other hand, their bosses facilitate their job-searching process. Therefore, accepting these jobs might, in some cases, be an efficient trade-off.

There is limited research on temporary residents studying as international students and working in part-time employment in co-ethnic businesses during their studies. The Chinese's non-conforming behaviours are carried out in two ways, be it in Chinese restaurants, Chinese-owned Japanese or Korean restaurants, or fast-food chains. First, overtime work, be it moderate or severe, is widespread in Chinese-owned restaurants. In Canada, international students can work off-campus no more than 20 hours per week if eligible (CIC, 2020B). According to my interviews and on-going conversations with International Chinese student workers and online observations in the biggest website of the ethnic Chinese community in the Ottawa-Gatineau region, comefromchina.com. Despite being subject to cancellation of study permit or deportation (CIC, 2020A), international students commonly work longer hours and receive cash for these excess hours. A student worker has told me that her former employer had stated that if inspectors identify suspicious situations, he will evade the inquiry by claiming that the worker is his/her

niece/nephew coming to help over the summer. This attempt is reasonable because, according to IRCC (2017), "unremunerated help by a friend or family member during a visit, such as a mother assisting a daughter with childcare, or an uncle helping his nephew build his own cottage" is not considered "work" and hence helping is not against the law. Other non-conforming arrangements related to weekly hours include communication of schedule informed on short notice, such as 1 hour in advance, and limited hours, around ten hours per week. The second phenomenon is associated with payment. It is not rare that Chinese international students undertake underpaid cash-in-hand work facilitated by unreported hours. Students commonly work without their Social Insurance Number and get paid in cash in many individual restaurants, despite being aware that working without a SIN is illegal. It may not be a deprivation of rights until workers receive 9 or 10 CAD an hour, which happens more frequently than it should be. In some restaurants, tips do not belong to workers; even when customers tip in cash, the tips still go to the employer's pocket. There is a considerable divergence between what's reported to the authority and actual practices. For instance, one employer with whom I have had conversations has stated that in tax seasons, it is the annual total working hours that are reported to CRA, rather than the weekly hours of a worker. In this way, the one who decides which worker is working at a particular time is the employer.

Chinese student workers and their employers have developed an intricate workplace relation. Chinese student-workers are aware of these practices but have rarely challenged their employers or sought redress, whether individually or collectively. On the one hand, there is grievance bred among the workers, although all the members try to maintain an ostensibly harmonious relationship, and workers do not tend to create arguments with the boss or complain in private. On the other hand, both parties can benefit from this relationship. For example, the employment

is facilitated by their networks, whether through personal references or social media postings. They even grow friendships. Consequently, many of the arrangements are negotiated between the employer and the worker and have received mutual consent. Because of this relationship, both workers and employers perceive a low risk of being deported, considering that the state does not track workers' actual work records.

In this paper, I trying to go beyond seeing this situation as a case of pure exploitation. It is not that Chinese students are powerless or blindly submissive nor is it that the Chinese do not care about legality, but that they have a different legal consciousness that informs them to construct legality different from the Canadian one.

So, the research questions that I address in this paper are the following: How can ethnic restaurants as a transnational social space offer a site for exploring the way individuals try to understand multiple forms of legality and the way these legalities affect behaviours? How do shared cultural values provide a detailed account of the way reconstructed norms in Canada operate as unofficial regulating systems between employers and international Chinese student workers within ethnic businesses in Chinese communities?

Theoretical framework

The basic theoretical assumption underlying this research is that culture is seen as having operational characteristics for ethnic groups as active subjects (Ballard, 1992; Shah, 2015). In studies of international migration, a cultural lens - customs, shared values, and ways of doing and

thinking - has been employed in research on migrants' distinctive responses to the new environment of the receiving country (Kubal, 2013).

An approach that explores how culture is employed as it shapes people's cognition through which actors know the ways to act in a particular setting has been developed in the literature on legal pluralism (Kubal, 2013). In the legal pluralist approach, the definition of the legal is broadened to a set of norms (Twining, 2010), like moral or religious norms, made by various social actors, and is continuously interacting with other normative systems and negotiating legal validity in a society (Günther, 2008). Therefore, the legal pluralism literature on migration draws our attention to the self-consciousness of ethnic groups and the very process of legal reconstruction in the form of reterritorializing cultural norms in the diaspora that may pose a challenge to or may simply not be aligned with the prevailing system (Shah, 2005).

Reterritorialization originally means “the reconfiguration and re-scaling of forms of territorial organisation such as cities and states” (Brenner, 1999, p. 431). Scholars use it to talk about the way international migrants start to produce an aspect of legal culture and legal structure themselves (Shah, 2005).

As explained above, this research paper explores how we can understand the choices of Chinese employers and their international Chinese employees when they do things in their own way in the workplace instead of directly following the Canadian state law. In other words, of interest is why they engage in these non-conforming actions. As we have seen in the literature review, things to be considered include relevant shared cultural values, the meaning of rules to the Chinese in these cultural values, and the way the Chinese relate themselves to state law.

This section contains two parts: a) an introduction and broad overview of the theory of legal pluralism and some of its assumptions; and 2) how legal pluralism opens up new ways of understanding how international Chinese students behave in co-ethnic workplaces.

Legal pluralism

Given that recent studies have moved from seeing international migrants as passive individuals needed to be assimilated in countries of destination, to challengers who actively pursue success in the host country, instead of simply discussing the legal-illegal dichotomy, this research paper relies on the basic theoretical propositions of legal pluralism, which does not merely see "a person as a passive recipient of legal regulation but also an active agent for the law by his/her choice of an alternative legal rule among the plural" (Chiba, 1998, p. 239).

Unlike previous positions discussing whether non-state orderings can be seen as having the force of law, building on the basic assumption that the state is not the only actor that generates and enforces legal orders, legal pluralists have advocated that non-state ordering systems should be valued as well. Legal pluralism addresses the plurality of values, norms and laws in society. It encourages us to think about the different ways people operate, understand the normality of social order, and generate and interpret social order in society. A brief introduction to legal pluralism, comprising of three strands, and some concepts and assumptions of the theory follow below.

The three strands of legal pluralism

Initially studying colonial contexts, classical legal pluralism, as Merry (1988) terms it, has identified different modes of legal ordering in colonial societies. Although the colonial systems have been compulsory and predominant, dominating other rules and customs, early legal pluralists have noted that colonial legal orders have been unable to fully permeate existing legal and normative orders that have frequently existed as unwritten customs with authority outside the colonial legal state order (Merry, 1988). Earlier scholarship on the plurality of legal systems in the same social and territorial space reminds us that when addressing legal systems, in a colonial context, we should not only consider the western colonial order as it is interacting with other legal or formal orders, sometimes different in form and content. It challenges the notion that the state is the only source of order and has therefore contributed to expanding the concept of what a legal order is (Merry, 1988).

Later, legal pluralists have started to think critically about this approach, arguing that the plurality of legal orders is not exclusive to colonial societies, but is a fundamental characteristic of all societies. Consequently, they have drawn attention to the need of understanding both state and non-state legal orders. As Merry (1988) notes, legal pluralism destabilizes the belief of state-law-centralism that suggests that all law is generated and enforced by the state. Instead, the assumption is that regulations are generated in both spaces of public and private governance: private legal systems are “the numerous forms of social control that are part of group or organizational life, but that are not formally part of state law” (Henry, 2015, p. 807). They include not only organizations and institutions but also peer-sanctioning practiced by members of

certain groups. For example, according to Henry (2015), at the communal level, norms (such as racial tolerance) and controls (such as rules on housing) are established by communities. At the organizational level, rules on misconduct and norms on levels of acceptable violation are established (Henry, 2015). At the group level, there are also norms, such as teamwork norms at the workplace (Henry, 2015). Private governance asks for conformity to the expectations of the collective normative entity in three ways: coercion (threat or negative sanctions), persuasion or ideological control, or reminders of people's obligations, responsibilities, and duties concerning others (Henry, 2015), much the same as the state law.

A legal pluralist perspective on all societies, beyond colonial societies, moves away from hierarchical relations between the state law and other orderings which assume that the state law unidirectionally determines other forms of orders that are passively influenced by the state law. Rather, it takes a dialectical view and suggests that there are multiple sites and forms of ordering along with the official state ones and that these can be considered law in a general sense. The other forms of ordering are related to what Sally Falk Moore terms as "semiautonomous social fields" and are mutually constructed with the official one (Merry, 1988, p. 878). Social fields that are "semiautonomous" refer to the other forms of order that are capable of self-regulation and rule-making and have their own administrative mechanisms but are dialectically related to the larger official legal system. In this sense, it is unofficial orders that can and do approve of behaviours or norms that state law may prohibit or not consider. Also, legal pluralism draws on the symbols of the law and suggests that both public and private governance use similar symbols and structures. For example, the relationships within communities or organizations are governed by rules and norms that may have the shape of state laws.

While the fact that there is a coexistence of more than one legal system in each social field has been the focus of legal pluralism, more recent legal pluralists, such as Paul Schiff Berman (2009), have started to emphasize that simply de-centring the state law is not enough. They suggest that with the movement of people and legal orders across borders, we should develop frameworks that address legal systems beyond and below national territories.

Berman (2009) suggests that the third strand, global legal pluralism, develops the aforementioned legal pluralism in that the global legal order exists outside national state law (Merry and Canfield, 2015). Different bodies make norms, and "the state is constrained not only by other states and supranational organizations but also by non-state organizations (e.g. NGOs), communities (e.g. religious groups), and powerful private players (e.g. multinational corporations)" (Michaels, 2005, p. 1211).

Berman (2009) also suggests that as legal systems and practices move between states, codes and procedures that are very different from the receiving country are transplanted. So, there are competing normative systems and even conflicts of law. However, as always, legal pluralism insists on the notion that state legal systems that are completely dominant do not exist, and instead, interact dialectically with other systems. For example, in the context of large-scale international migration, individuals and communities are carriers of the systems and laws that are "transplanted by a people from a foreign culture", and, as international migrants reconstruct their legal culture in receiving countries, there is a process of further "hybridisation" (Shah, 2005, p. 4).

Some concepts and assumptions

Legal pluralism emphasizes the interpretive and active becoming nature of the law. Individuals are seen as agents of law-making and carriers of different forms of legal consciousness that interact with normative orders, which reflects interlegality. Their value systems are legal postulates that are the basis of unofficial law. In international migration, individuals can transplant their legal culture into the receiving countries and the way migrants interact with the orders is dynamic. Non-state normative and legal orders have symbolic power and produce compliance through commitment, sanction, and persuasion.

Instead of seeing formal administrative power associated with lawyers, courts and judges as the only actors that interpret and generate orders, legal pluralists stress the active engagement of individuals in interpreting, choosing, and making of the law as an everyday practice. Macdonald (2011) emphasizes the function of the individual legal subject as a site of normative orders. He argues that people are legal agents who actively engage in law-making and that people create and reproduce their normative commitment through interactions (Macdonald, 2011). Also, it is the norm-generating communities to which individuals belong that have more immediate influence and govern everyday life, beliefs, and actions. State power and state law can remain relatively distant (Macdonald, 2011). He explains that "it is through the symbolic and tacit expression of law that people construct their own law, their own regimes of governance" (Macdonald, 2011, p. 324). So, according to Macdonald (2011, p. 324), non-conforming behaviours "may be an attempt to articulate a different image of normativity." People frequently choose unofficial

norms over the official ones, and laws are only effective when people are willing to accept them because the compliance is based on voluntary commitment instead of coercion.

In the same vein, when talking about a learned understanding of obligation, Merry defines the law as “a complex repertoire of meanings and categories understood differently by people depending on their experience with and knowledge of the law” (Merry, 1990, p. 5). People not only create their norms, but also “understand and use law” with “their habitual patterns of talk and action, and their commonsense understanding of the world”, which Merry calls “legal consciousness” (Merry, 1990, p. 5). It means that the meaning, function and legitimacy of the law are up for interpretation, and people address these questions by drawing on certain norms (Kubal, 2013). Rather than seeing legal consciousness as linear and directional (from low to high), legal pluralists focus on how the intersection of different legal orders shape people’s legal consciousness. Merry (1990) argues that consciousness is developed in individuals’ experiences and this experience takes place in the structure in which people live. Not only are people interacting with the state when they express their legal consciousness, but they may also be talking about their rights and entitlements, as they understand them in the context of community norms. So, when people navigate the law, they are also deciding how they perceive or imagine the law. Also, the way people understand the law can change when it is incompatible with their experience.

The literature has noted legal transplantation occurring in the context of large-scale international migration (Shah, 2005, p. 4). And the cohabitation of legal cultures explains migrants’ choice of so-called “semi-legal” or “illegal” behaviours over the legal ones (Kubal, 2013, p. 66). Kubal

(2013) argues that the labour market is an important site for contemporary migrants, and the relationship between employers and employees reflects the transplantation of legal culture. Kubal (2013) also argues that legal consciousness and values are dynamic and changing, resulting in the engagement of migrants with state law.

The way collective legal consciousness is constituted by the interaction between different normative orders can be explained by de Sousa Santos' notion of "interlegality" (de Sousa Santos, 1987, p. 288). De Sousa Santos (1987) emphasizes the notion of how different types of laws shape our socio-legal life. He argues that instead of talking about law and legality, we should consider "interlegality", which is "the conception of different legal spaces superimposed, interpenetrated, and mixed in our minds as much as in our actions, in occasions of qualitative leaps or sweeping crises in our life trajectories as well as in the dull routine of eventless everyday life" (de Sousa Santos, 1987, p. 297), such as the relation between the customary law that is normally used to settle local disputes and the state law.

Chiba (1998) sees the dichotomy of legal rules and legal postulates in law. The former refers to "clearly formulated legal standards", and the latter refers to "ideas or ideology, which base, orient and revise the legal rules" and is useful in alternative laws such as religious law or customary law (Chiba, 1998, p. 241). Therefore, legal postulates include legal ideas in a culture, such as justice, and cultural dimensions, such as collectivism. It is the legal postulates that migrants use for legal reconstruction in their diaspora (Shah, 2005, p. 10).

In sum, legal pluralism suggests the following concepts that I will use in the analyzing section: norm-generating community, interlegality, semiautonomous social field, actors that make up the semiautonomous social field, legal postulates and legal rules, and legal consciousness as the product of cultural values.

Methodology

In this major research paper, I have relied on a literature review on legal pluralism to ground my analysis. I use seven concepts suggested in the literature to explore how Chinese people reconstruct their legal consciousness at work, which reflects the coexistence of individualism and collectivism in the Chinese values, and how the Chinese weigh their cultural values and the official rules when it comes to following the state law.

My analysis is also informed by my past conversations with employers and international students in Chinese-owned restaurants. From April 2019 to March 2020, I worked in a Chinese-owned restaurant where I have had countless informal conversations and on-site observation of my coworkers and boss's interactions. The conversations have also frequently touched on workplace relations in other restaurants. This work experience directly inspired the current paper's research questions as I observed conflicts between the Canadian state law and the little attention paid to this normative ordering system. Although these conversations and observations do not provide scientifically proved evidence for the Chinese's legal consciousness, they have broadened my knowledge as an insider. I have consequently been able to see the relationship between

international students and employers in a heuristic way. Rather than oversimplifying it as exploitative, I introduce the relationship's cultural aspect, such as moral obligations and norms.

The lack of formality in my everyday conversations is compensated by the data I have collected for my qualitative methodology course, for which I conducted participant observation and two semi-structured interviews with a former international student worker and an employer in November and December 2019. I have also conducted online observation using the ethnic Chinese community's biggest website in the Ottawa-Gatineau region, comefromchina.com. I have observed advertisements in the job searching section of this website, specifically the wordings when describing employee treatment, such as wage, and requirements of SIN. Findings from these data inform broader issues. For example, the employer I interviewed mentioned the Chinese idiom “rules are fixed, but people are flexible,” which reminds me that the Chinese are often disobeying the rules and respecting the informal norms regardless of the overarching power of the state or the institution. Undoubtedly, data collected in these two interviews is very limited and only provides ideas for my exploratory analysis.

Analysis

Chinese values seem contradictory. The Chinese are oftentimes seen as collectivistic, pursuing collective interests. However, there are also inherently individualistic features coexisting in the cultural values where “guanxi” (reciprocal interpersonal relations) features in the workplace. Informed by these judgments, I put forward three ideal types of how norms generate people’s legal consciousness in a Chinese-owned business as a norm-generating, semiautonomous social

field of interlegality: 1. the type of legal consciousness guided by the cultural value of hierarchy, 2. the type informed by the cultural value of ego-centred reciprocity, and 3. the type based on the cultural understanding of state distance. The hierarchical legal consciousness refers to the collectivist inclination of respecting the hierarchy between the employer and the worker and keeping the harmony as Chinese culture is mostly seen as collectivists. The reciprocal legal consciousness is informed by the self-centred inclination and flexible respect of the rules.

1. What values are there?

Research suggests that today's relationships between individuals and organizations are changing. Employees are moving away from dependency and pure loyalty, in the old paternalistic model, towards a view of work as an exchange of opportunities (Williams & Ferris, 2000).

Understanding this power, workers are now increasingly seeking to align themselves with organizations committed to similar core values (Williams and Ferris, 2000) or organizational values (Jaakson, 2010). Hofstede's (1980) study shows that the ethics of work and organizational management in different societies are culture-bound. A cultural thesis indicates that migrants bring to the host society their cultural predilection, personal motivations, values, attitudes, aspirations for achievement, and heritage that are often translated to business practices and behaviours (Piperopoulos, 2010).

This is also the case in Chinese organizations, and there are mainly two seemingly contradictory narratives about Chinese cultural values. On the one hand, the Chinese appear to be collectivistic. Research on national cultural dimensions of values and practices and leadership

and organizational behaviours has mostly argued that compared to Canadians, the Chinese in practice prefer harmony in relationships rather than competition and assertiveness (Javidan et al., 2006). They are more encouraged and rewarded for taking care of their peers in an institution or community and are therefore more likely to engage in collectivistic behaviours and to take pride in their organizations. Also, in the workplace, workers are much less involved in decision making and implementation.

However, on the other hand, the Chinese inherently have strong secular-rational, individualistic values, such as reciprocity, versus people from countries such as the US that have strong religious values (Herrmann-Pillath, 2010). Reciprocity is central to the Chinese identity as an intrinsic value in the Chinese culture and it is a universal social norm (Holt, 2011). Often-mentioned concepts such as “*guanxi*” (reciprocal interpersonal relations) in studies on workplace relations reflect different ways that Chinese workers obtain reciprocity in everyday practices. Also, China is still far from the post-materialistic transition and continues with a strong survival value (Herrmann-Pillath, 2010). It has been found that Chinese individuals do not trust individuals whom they meet for the first time very much, but they trust their neighbourhood or community (Herrmann-Pillath, 2010). This mistrust against strangers may be explained by a perception of cultural homogeneity (Herrmann-Pillath, 2010), and it may also explain the reasons that Chinese employees and employers tend to gravitate together. Other important characteristics of Chinese cultural values include their strong belief of individual control in their path to success and their positive attitude towards competition (Herrmann-Pillath, 2010), because competitions are seen as a test and motivation of individual effort, and individual success can be evaluated through competitions.

So, in Chinese organizations, members are much more self-centred in that they are self-protective and face-saving, and they focus on ensuring the safety of the individual. This is because, in contrast to the rules regarding conflict of interest, which are prevalent in Western society, a “transferable” relationship that increases effectiveness is enjoyed by the Chinese. A “transferable” relationship means that there is often clear reciprocity between the private and the business sphere (Von Weltzien Hoivik, 2007, p. 460). Rules are seen as flexible, which echoes the idiom “the top has a policy, but the bottom has a countermeasure” (Altman, 2006, p. 8), and should serve for the aforementioned collectivism that is interest-based and exclusive to the group, and members of the group should be ready to make exchanges for favours (Ruan, 2017). As a result, in the context of international migration, Chinese employers and employees engage in practices that do not conform to the state law and have culturally shared expectations about reciprocity, work ethic, and stereotyping of each other in ethnic businesses (Li, 2020).

When talking about Chinese society, differences between the urban and the rural are inescapable. Herrmann-Pillath (2010) argues that in rural society people act to a value (“renqing”) that emphasizes emotions, moral obligations, and social expectations of proper behaviours, while in the urban setting interpersonal relations are more based on a modern business-like obligation (“jiaoqing”). Personally, I am not convinced by this urban-rural dichotomy because it is not clear that values are so substantially different when it comes to life course or intergenerational responsibilities. For example, filial duty is taken for granted in both urban and rural societies: providing the elderly with physical care, financial support, and housing is the responsibility of immediate family members, normally children, instead of the state. Urban residents, compared to

their rural fellows, feel equal, if not more, moral obligations. While it is partially because of the inefficient caring system, this belief is also firmly rooted in Chinese social norms, not only because of the traditional Confucian value of filial care but also the drastic one-child policy that leaves all the caring responsibilities to the only child (Cheng and Chan, 2006; Chen & López, 2017). This restricted attitude of moral obligations may also be shared by international students when it comes to employment. That being said, I would like to refer to Herrmann-Pillath's (2010) argument that reciprocal interpersonal relations are the foundation of trust and that these relations are conducted by individuals. Thus, we should not ignore the role of individuals in the Chinese constellation of value, which "is overlooked when China is commonly classified as a collective society" (Herrmann-Pillath, 2010, p. 338). The value of "guanxi" mentioned in many articles on Chinese workplace relations is ego-centred and based on long-term reciprocity.

2. How Chinese determine what's right in Chinese enterprises: Legal consciousness in Chinese-owned businesses

Liu (2018) argues that in China plural forms of what's legal have long existed (Liu, 2018).

People act according to their understandings of a broader concept of law, including both official state law and unofficial customary law. She argues that when judging the rightfulness of actions, the Chinese constantly resort to "qing" as their primary criterion, which is a legal postulate as I argue below, instead of the state law (Liu, 2018, p. 8). "Qing" is "loosely translated as a sense of humanity" and focuses on the moral acceptance of a certain behaviour in public contexts (Liu,

2018, p. 8). The focus of “qing”/humanity lies in the type of behaviour morally acceptable to the public.

“Historically, Chinese jurisprudence emphasized that qing, li (reasonableness), and fa (law) should exist in unity, and that all three of these elements formed an indistinguishable whole” (Liu, 2018, p. 8). According to Liu, humanity is considered the “real” law that “respects human nature and people’s desires to protect the interests of themselves and their family members” (2018, p. 8). When judging whether a behaviour is right and whether a person should take legal responsibility, the Chinese first consider if it complies with human nature instead of resorting to the law or rationality, as Liu (2018) argues, drawing on Fan et al.’s work (1992, pp. 26-27). Liu (2018) finds that when the state law is in opposition to humanity, the Chinese will avoid the state law, resist the state law to protect humanity, dismiss the state law, or invoke humanity to mitigate the state law's undesirable results. The Chinese only embrace the state law when it enforces what’s publicly acceptable. “Qing”/humanity and its affiliated notions are thus viewed as a system of values that justify the custom of self-control and discretion of the common people. We can say that for the Chinese, what is more central about the concept of “law” is not formal superior power, but the actual practice of people’s desire.

In terms of Chinese-owned businesses, it has been found that entrepreneurship is crucial in the scheme of life goals in Chinese culture. Not only does Chinese culture highly values entrepreneurship but the Chinese community, it also provides great opportunities and ethnic resources for entrepreneurs (Chand and Ghorbani, 2011). During the process of international

migration, the pursuit of profit may be maintained or even reinforced, because the initial purposes of migration for many Chinese are education or employment and profits are the motives of the migration.

Also, in a study about the role of the legal environments in buyer-supplier exchanges, Zhou and Poppo (2010) suggest that in China, legal enforcement is subject to particular situations and personal accommodation. When markets are limited or when managers perceive the legal system as not credible, the Chinese resort to more informal mechanisms, such as personal relationships or trust to deal with their business to safeguard their exchanges; when markets expand, formal institutions, such as contracts and the state law, supplant informal relations (Zhou and Poppo, 2010). Informal institutions understood as “relational reliability” are defined as “beliefs that the other party involved in the market exchange will act in a non-opportunistic manner, such as not taking advantage of incomplete information, not profiting at the other’s expense, or being even-handed in negotiations” (Zhou and Poppo, 2010, p. 862). It is implied that for Chinese-owned businesses, the way legality is understood is up to interpretation. Whether to draw on the state law depends on managers’ perception of the state law. In small businesses such as ethnic restaurants, informal institutions are likely applied more.

3. Ethnic workplace as a space for plural legalities

In a restaurant that is not Chinese-owned, beside the hierarchy between workers and employers, there is also a hierarchy among workers. More experienced workers may enjoy more freedom and may not need to undertake the most demeaning jobs, such as cleaning. In this sense, one

feature of the Chinese ethnic restaurants that I have concluded from my conversations with both Chinese employers and international student workers is that in some restaurants there is no such hierarchy among student workers but more between the employer and the worker. Generally, international student workers tend to help each other. For example, often, student workers do not reject or even actively conduct cleaning tasks regardless of their seniority or experience.

The second feature of the Chinese ethnic business that I conclude from my previous interviews with Chinese student workers is the norm of reciprocity. International students do not perceive jobs in restaurants as permanent or their career goal, nor do they see these jobs as decent. For example, one of the employers that I have interviewed has acknowledged that it is reasonable that workers choose to move on to more decent jobs after working in her restaurant to gain local experience, and she herself has admitted the demeaning aspects of working as waitresses or waiters. Many international students choose these positions simply as a springboard. As the literature review implies, working in a restaurant provides them with local work experience or space to socialize and expand their networks. The temporality makes it easier for the employees to accept the working arrangements because they sacrifice less to obtain profits through these arrangements. Also, they are not tied to the position permanently or full-time, meaning that their future jobs and their academic and social life will not be negatively impacted.

Furthermore, in the restaurant industry, there are self-regulated arrangements for work. For example, employers negotiate with the students about their shifts. Employers may inform the workers of the schedule on short notice. Very often, the workers are open to this arrangement and they rearrange their plans for the day. Thus, we can say that the restaurant industry has a

characteristic of flexibility and it is relatively easy to enter or leave the industry: only some basic knowledge of English is required to enter. At first glance, the aforementioned arrangement of work shifts seems unfair. However, university students have irregular class schedules: they may have breaks for a few hours between classes, which are incompatible with the settled schedules other entry-level jobs require. So, the flexible work schedule is perceived as fair and even preferable.

Legal pluralism helps suggest possible explanations for the patterns of behaviour of Chinese international students and employers in that, in the restaurants as semiautonomous social fields, there is a sense of alternative legality and perceptions of the law, and that the norms that generate members' ideas about how to deal with the law, i.e. legal consciousness, can be reflected in the workplace.

Following the concepts listed in the theory section, below is how legal pluralism serves to propose possible explanations to explore what is happening in the ethnic businesses under discussion, while bypassing the idea of legality/illegality. What I propose is a model drawing legal pluralism that is plausible and resonates with the findings in the research reviewed above. My hope is that it can be a useful guide to empirical work. The latter is beyond the scope of a major research paper.

Ethnic businesses such as restaurants typically tend to gather people from a homogeneous ethnic background. Internally, people in ethnic businesses develop their own rules. Following the logic of legal pluralism, we can argue that they form norm-generating communities. The fact that jobs

in ethnic restaurants have a high degree of flexibility and personnel mobility has two implications. First, they are in line with the principle of reciprocity, because rules need to be in the making and adapted to the ever-changing circumstances. Second, operations in the restaurants are highly informal and many rules are verbal or tacit due to co-ethnicity and existing rules are always up to interpretation. In this regard, restaurants as a workplace constitute spaces for norms and accordingly where discretion can be applied with respect to norms and laws outside of the semiautonomous space that constitutes the workplace normatively organized and generating community. Consequently, what appears as non-conforming behaviours is actually conforming to another set of norms.

Like other social groups, Chinese students also have their legal consciousness informed by an intersection of various legal orders, i.e. de Sousa Santos' (1987) concept of interlegality. So, it is incomplete to focus exclusively on state law of the receiving or host country when we discuss the legal consciousness of the Chinese. For example, in her study on Chinese women's life course in terms of marriage, Liu (2018, p. 13) finds that the Chinese are still self-identified as "law-abiding" in her term when they are breaking the state law of previously-existing one-child policy. She finds that, as a matter of fact, people dismiss the state law when the state law is inconsistent with their values and subsequently resort to other legal orders that meet their value systems (Liu, 2018). And the state law is only embraced when it is in line with people's values.

By analogy, it seems reasonable to argue that in a restaurant business, the state law is also embraced or dismissed in a context-bounded way according to the interaction between the state law and people's value system. The state law is only deemed relevant and followed when doing

so is profitable or compliant with people's value system; if not, people are likely to agree that discretion should be applied. This suggests that Chinese students or employers may first look at their values systems instead of the state law when they try to make decisions regarding their jobs or make sense of their workplace relations, and even that state law is largely irrelevant.

Sally Moore's concept of "semiautonomous social field" (1988, p. 878) allows us to look at the construction of the law. In order for newcomers to become fully recognised in a restaurant, they are evaluated in terms of whether their ways of action are compatible with the working arrangement of employers and their employees. Conflicts can be frequent but not violent, such as availability to work. And members of workplaces feature actors of the semiautonomous social field that have the discretions to self-regulate or solve conflicts.

An illustration of dispute-resolution mechanisms as a form of law can be found in the "conciliation" practices that I have come across in my observation and interviews. Most restaurants feature courts where "conciliations" regarding working hours are conducted internally and exemptions from the "legal hours" are determined. On the one hand, the employers themselves perform as judges. Typically, they assume the responsibility of deciding which workers should work overtime. Like judges, they also interpret the state law and decide how to adapt the law based on their own needs. Furthermore, if workers are unsatisfied with the verdict, they can appeal it. Workers, on the other hand, also mediate among themselves on shifts. Both parties function as decision-makers that intend to keep the equilibrium by reinforcing a ruling system. In many restaurants, employers and workers also ensure that the ruling system that consists of their cultural values is fully maintained. For example, workers would often not be

found guilty if their requirements, such as study leaves, are in line with the cultural value of humanity.

Moreover, in terms of labour relations, workers also make the judgement if their treatments are worth reporting or can be solved by mediation if they are not satisfied with their jobs. Most of the times, they deem the treatments as acceptable according to the value of reciprocity.

Individual employees accept the verdicts when these verdicts are acceptable in order to continue in their position. Otherwise, they simply leave the restaurant and seek other positions with better treatments. There is an obligation of keeping the harmony, meaning that when they leave they do not tend to make a scene. However, despite of the notion of harmony, small treacheries or claims are sometimes tolerated. For example, in some restaurants, employees can require schedules that comply with the state law; in other restaurants, employees are allowed to have leaves as much as they want or have breaks from work when they wish to spend time on their university tasks.

The notion of semiautonomous social fields allows us to look at the reconstruction of the law because these two groups of actors have moved between locations, and they, therefore, have different social and local positions (Kulk and De Hart, 2013). As mentioned in the literature review, in ethnic workplace relationships, there are expectations of work performances of the employees and stereotyping of each other among workers and employers (Li, 2020). From this depiction, we can suggest three main accounts, or ideal types, of how norms generate people's legal consciousness in an ethnic Chinese restaurant.

Story 1: hierarchy

In the first story, legal consciousness of the Chinese is informed by their commitment to hierarchy. If traditional customs or the culture remain the main principles of behaviour in the social reality of the international Chinese students when they are in another country, i.e. when they endorse traditional hierarchy, they may accept inequalities. In this circumstance, when these students face the dilemma between requesting the money to which Canadian state law gives them a right and maintaining the harmony in their relationships with their fellow Chinese workers and employers, they may believe that keeping quiet and avoiding engaging with the state law are the choice that enforces humanity (i.e. what is morally acceptable) and is therefore desirable. As mentioned in the literature review, Chinese international students, although mostly from urban middle-class families, are still constrained by the traditional respect to moral obligations. Consequently, when it comes to employment, they may spontaneously respect their employer as subordinates without questioning the arrangements. In a traditional mindset, for example, a subordinate ought to be considerate and understand that the employer is optimizing the arrangement. Alternatively, they may think that being inexperienced workers in their first job, they are supposed to be modest and open-minded, bear hardships, and be respectful to the elders. In comparison, challenging their bosses seems unworthy.

Furthermore, in this story, Chinese actors see themselves as "the center of relationships" (Podoshen et al., 2011, p. 18). So, the social status they pursue may also be obtained through interpersonal relations. In this traditional sense, if Chinese students gain their personal achievements through destroying the relationships with others, they may not see themselves as

having made an achievement. In this case, the relationship between students and their bosses is based on morally acceptable behaviours on both sides, despite the power relation being asymmetrical. This may explain why workers tend not to challenge their bosses. The friendship or ostensibly harmonious relationship with their employers may restrain students in that saying no to something that all other workers obey makes them seem unreliable. And they certainly do not want to destroy the relationship with people that they may encounter in real life or on social media by reporting them. In the Chinese community, it can cause a stir.

Story 2: reciprocity

In the second story, the Chinese students and their co-ethnic employers comply with the aforementioned cultural value of ego-centred, long-term reciprocity, meaning that the mutual obligations are between individuals, context-bound, and aiming for long-term benefits (Herrmann-Pillath, 2010). In this sense, the Chinese individualism and collectivism in a way that differs from how individualism is conceptualized in the West are compatible. Herrmann-Pillath (2010, p. 340) calls it "relational collectivism," "evolving networks between individuals, in which the individuals take heed of the interests of others, and in which the individual self is seen as dependent on the relations with others." Indeed, in intra-Asian cultural comparisons, the Chinese lack "abstract group loyalty", contrary to the Japanese (Herrmann-Pillath, 2010, p. 340). This value informs the second type of legal consciousness. At first glance, International Chinese students' acceptance of non-conforming work arrangements may be explained as a consequence of suffering from an asymmetrical power relation and trying to protect other members' emotions or to meet moral obligations and social expectations. However, although as outsiders we might

call the latter an asymmetrical power relation, it is the students themselves who evaluate whether they are exploited or not. As mentioned above, the pursuit of success has been part of the culture, and it is intensified along the course of migration. When making a choice based on ego-centred reciprocity, international students may negotiate the terms, rules, and expectations, weigh the gains and costs, and see accepting the jobs as a trade-off, because the connections with their co-ethnics can help them gain work experience. In this case, their choice is based on the consideration of their own long-term benefits. Although they seemingly prioritize protecting the harmony within the community (personal dignity and good relations with others), they may actually be protecting their own interests, saving face, and consequently getting the status they want, which is possibly a documented history of work after graduation. Also, if the Chinese students are confident that, for example, they are in a higher-than-average social position in Canadian society or if they trust that their community can support their actions, they may act in a non-conforming way.

This reciprocal value also explains how the Chinese navigate the normative orders in the workplace as a semiautonomous field and how they posit themselves in the local system (Kubal, 2013). The values of ethnic groups are often incompatible with the host country's norms and laws and migrants are often seen as passive carriers of their values and are penalized for it. However, it is almost certain that Asian legal cultures bring their own perceptions about the correct modes of behaviour and the relationships between the ruler and the ruled (Shah, 2005). I describe the Chinese as "norm-abiding" in contrast to "rule-abiding" because they do not hesitate to follow the norms of their social groups, informed by their legal consciousness, rather than the formal rules as long as this choice can benefit them. In other words, they are operating in a

context of interlegality. Consequently, in ethnic restaurants, if offering overtime or underpaid work to workers can bring financial benefits to them, the bosses do not hesitate to do so; if the benefit of receiving these jobs surpass the loss, international students will not mind accepting the work.

This inclination is also informed by the context-bound conformity to the state law. As mentioned in the literature review, Liu (2018) argues that the Chinese base their decision of whether to respect the state law on whether the state law is compliant with their values (“qing”/humanity).

In a business setting, as Zhou and Poppo (2010) argue, managers only draw on the state law when they see it as credible. Therefore, the Chinese norm-abiding culture and flexible respect of rules continue to be employed by immigrants and newcomers as an algorithm for their actions of following, avoiding or operating through in an unfamiliar reality.

In this story, the relationship between workers and employers is more bonded to their mutual materialistic interests, because, in a field where social relations cluster around the economic exchange, mutual benefit is the goal.

Story 3: the distance of the state

We can also consider self-regulation in Chinese normative orders. In contrast to the broad Western system, the Chinese value system actually encourages a wide scope for personalized operation. Chinese students likely transplant these values into their workplaces in Canada as a

form of interlegality. And this transplantation can be a more or less intentional process of making the norms that they want to follow and are conducive to their lives.

Consequently, we may also argue that the Chinese's different understanding of the distance of the state plays a key role in their cognitive interaction with the Canadian official law. The distance of the state refers to the extent to which the competitive pressures of the classical state-system (such as the legal enforcement) can actually influence or be sensed by most people in their everyday life. As formally superior as the state is, if Chinese people see the figure of the state (no matter if it is the Canadian or Chinese state) as a relatively distant entity, or if the Canadian state is not perceived as actually dictating their everyday life, they may be encouraged to self-regulate in the semiautonomous field of the co-ethnic workplace. I am reminded of this by the paradigm of "soft state" of the South Asians, where self-regulation is assisted by assumptions that are different from the Western legal-centralist ideology, because "the primary regulating factor is the society and its sub-units, but not the state which allows a larger zone of self-regulation to the units of society" (Shah, 2005, p. 125). Consequently, "the role of the state is based around a norm of non-interference in local and family affairs, thus allowing, and even depending on, self-regulation, although circumstances may in extremity require certain rules of the centre to be enforced." (Shah, 2005, p. 62). In China, customs remain one of the sources of law, and for the Chinese, "rules are fixed, but people are flexible" as the folk expression goes. There is often a gap between state law and the social reality, whereby organizations, families, or individuals form their own regulations. For example, the labour law provides the maximum weekly hours of work and overtime work, while in reality, it is followed at employers' will, prevailing in unskilled or low-skilled work where the state does not easily reach. Now in

Canada, although as holders of temporary resident visas or immigrants they interact with the state upon arrival, the Chinese do not believe that self-regulation is necessarily in conflict with state law. The differences in understanding the place of the state may make them simply neglect what is valued in Western society. Significantly, the Chinese value system appreciates benefits and people decide whether to respect or disrespect the legal systems depending on if doing so can be profitable. So, we may hypothesize that the worker and the employer, with their flexible respect to the law, believe that the Canadian state law does not meet their needs. For example, if the employer decides that the worker should work overtime and the worker is also willing, both parties may see it unnecessary to follow official state law.

Moreover, as mentioned in the literature review, migrants' social position has an impact on their way of interpreting the law. Despite of being minorities, Chinese students may consider themselves able to actively solve issues in their lives. This is particularly true if we think about co-ethnic restaurants as norm-generating communities that make possible alternative negotiation of conflicts and norms specific to its functioning as semiautonomous fields. Also, having financial support from their parents and being without the pressure to integrate into society, the international Chinese students may not see the state as close to their lives as students of from other nationalities with other forms of legal consciousness.

In these three stories, we can see the way that legal postulates in the Chinese culture inform the legal rules that the Chinese construct. And it is argued that legal postulates of ethnic minorities tend to stress the "flexible, situation-specific forms of justice" (Shah, 2005, p. 178). Legal postulates exist "in the form of ideas or ideology" and "base, orient and revise" legal rules that

are the unofficial law (Chiba, 1998, p. 241). So, legal postulates include cultural postulates (Shah, 2005) such as the combination of individualism and collectivist, i.e. “relational collectivism” in Herrmann-Pillath’s (2010, p. 340) term. Legal postulates also include national philosophies (Shah, 2005) such as respecting hierarchy which bases the legal ordering of maintaining harmony. The essential value of reciprocity in interpersonal relations is also a legal postulate that bases the norm of pursuing ego-centred, long-term reciprocity during interactions between employers and workers and the norm-abiding inclination. The value of humanity is another legal postulate that the legal rule of flexible respect of the state law is based on. The cultural understanding of the distance of the state may underlie how people normally see state law.

In sum, using the seven key concepts drawn from the theory of legal pluralism, I suggest that it is possible to research the ethnic restaurant as a semiautonomous field where legality is actively constructed and reconstructed. Through the symbolic and tacit expression of law, co-ethnics generate norms in their communities. Legal consciousness is informed by the interlegality, meaning that various forms of non-state norms are oftentimes drawn on more than the state law. Sally Moore’s semiautonomous social field allows us to look at the construction of the law resulting from international migration. Members of workplaces are actors of semiautonomous social fields who have to deal with different locations and their legal consciousness of three types can be reflected in the workplace. In terms of the actual shared cultural values that they use as algorithms for their actions, some of the Chinese may value hierarchies and therefore try to do things that comply with humanity and keep the harmony of the workplace. Others may value the ego-centred, long-term reciprocity which is essential to Chinese culture. Hence, they

act “individualistically” and make legal choices, in the legal plural sense, that prioritize profit and have flexible conformity to the state law, but do so in the context of reciprocity. Also, when people simply feel distant from the state, they may not feel the obligation to abide by the state law. Finally, relationships between legal postulates and legal rules can help us understand the norms that are related to such values as hierarchy, humanity, and reciprocity and the forms of legal consciousness that they inform.

As noted in the analysis, the workplace conceptualized as a semiautonomous field of interlegality suggests three ideal types of legal consciousness that can be used to guide empirical work.

Two types of legal consciousness are based on the cultural values of hierarchy and reciprocity, and the third type is based on the cultural understanding of state distance. Interviews or ethnographic fieldwork could draw on these ideal types to see what kind of explanatory power they might have. If they do have explanatory power, it would be interesting to explore the extent to which some workplaces are characterized more by one of the types of legal consciousness, and why. Or if specific forms of legal consciousness can be associated with gender and/or generational attributes. For instance, are long term residents of the Chinese diaspora more likely to work within a hierarchical legal consciousness, whereas the younger students draw on the legal consciousness of reciprocity? Equally, what happens when employers and employees draw on different modes of legal consciousness? Another avenue of research would be a temporal one. To what extent does the legal consciousness of international Chinese student change as a result of its dialectical relationship in the new sociolegal environment? Or, how has the legal consciousness of longtime residents of the Chinese diaspora been changed in the Canadian

context? Are there differences between legal consciousness between immigrants of Chinese origin and Canadian born citizens that are part of the Chinese diaspora?

Conclusion

The goal of this major research paper has been to look at seemingly abnormal, or what some would call illegal behaviours in a field that is far from the state, and to suggest that they may in fact may be the product of a high level of normativity associated with forms of legal consciousness organized on the principles of hierarchy, reciprocity, and sometimes humanity. The Chinese restaurant industry is a space that allows newcomers, i.e., international Chinese students, to enter. Economic or social activities in this industry are resilient. However, another reason why they are welcoming is that restaurants might act as semiautonomous fields that reproduce norms associated with Chinese values,

Additionally, ethnic businesses gather people of extremely homogeneous social and ethnic origins that have unwritten or tacit norms. So, ethnicity matters, hence the shared cultural values and resources matter too. International Chinese migrants may be from a privileged background. However, it is not incompatible with the fact that co-ethnicity and shared legal consciousness provides a certain level of social cohesion.

The paper suggests that the following principles, or postulates, that inform people's legal consciousness at the workplace might have explanatory value when explaining non-conforming behaviour. In some cases, the hierarchy between the employer and the worker is followed as the

primary principle and both parties try to maintain a harmonious relationship and draw on humanity.

The second principle is reciprocity. The principle of reciprocity is associated with the fact that international students see their jobs at restaurants temporary and relatively irrelevant.

Temporality and flexibility might make it easier for international students to engage in this industry. In the industry, interpersonal relations are ego-centred, long-term reciprocity, hence the legal choices of flexible adoption, the pursuit of profit, and prioritizing cultural values, resulting in the workplace behaviours.

The third principle has to do with the distance and the imagining of the state, leading to flexible compliance with the state law.

In an ethnic business, the shared cultural values and resources base the way people perceive the law and facilitate the reconstruction of another form of legality that is informed by the shared legal consciousness of workers and employers.

This project has taken the first step in proposing hypotheses and a framework that might explain how norms are reconstructed in the workplace in the Chinese community in Canada and how these norms constrain or enable the choices of International Chinese workers and their employers. Future studies can extend this paper by testing these hypotheses through qualitative research. Interviews with employers, employees who have accepted irregular employments and

who have rejected them, participant observation, and online observation could be useful in triangulating and inspiring new trains of ideas for theoretical research.

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