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Embedding Chinese Atypical Workers in the Indigenous 'Unequal Pay for Equal Work': Introduction and Implications

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Abstract:

The employment relationships in the Chinese context have attracted increasing scholarly attention, especially after the last amendment of its labour law in 2008. Despite the growing scholarship studying various aspects of Chinese employment and practices, many indigenous employment phenomena remain veiled in the English literature. In this paper, we aim to make a preliminary attempt to bring to the fore an indigenous feature of the atypical workers in China, i.e., embedding these workers in the 'unequal pay for equal work' phenomenon. The opportunities and challenges brought on to management scholars interested in doing future research in the Chinese context are discussed.

Keywords: Atypical workers, inequality, china, employment relationships, unequal pay for equal work

1. Introduction

The employment relationships in the Chinese context have attracted growing scholarly interests and research efforts. The efforts to understand the complexity of the Chinese employment and Chinese employees' experiences at work have led to several recent special issues in some privileged journals in the field of management and organization behaviour (e.g., Human Relations, 2015; Journal of Organizational Behavior, 2015). In this paper, we introduce an indigenous definition of atypical workers in China, inspired by an overlooked Chinese employment phenomenon, recently brought into the English literature by Ma (2018), wherein workplace inequality is implicit in the employment relationship.

Unfair workplace practices in China are often referred to as 'unequal pay for equal work' (同工不同酬) between certain groups of workers involving particularly non-permanent workers by Chinese scholars (e.g., Wang, 2012; Xu, Zeng & Ji, 2013; Zhang, 2013). It is an upshot of unequal social life resulting from structural implications (for overviews, see Peng, 2009; also see Burns, 1977). For the purpose of this paper, we will focus on an organizational manifestation of this social inequality at workplace between workers in a single organisation. It began by a brief history of transformations in the Chinese labour laws and industrial relations and moved on to compare and contrast the use of alternative employment arrangements in the West and China, leading to an analysis of the inevitable workplace unfairness between certain groups of Chinese workers and the nature of the injustice. We conclude with discussion of the implications for the theories and research.

2. Chinese Labour Law and the Employment Transformation

Before 1978, labour policies were under a command system (see Zhou, 1955). Lifetime employment was mandatory (Si, Wei & Li, 2008) thus 'contract-free', i.e., the 'Iron Rice Bowl' (Wang, 2008). Under the 'Iron Rice Bowl' system, workers were employed by state-owned enterprises (SOEs) and collectively owned enterprises with guaranteed permanent employments and the cradle-to-grave benefit system, including wage, welfare provision, and job security. Under this socialism employment relationship started from 1950s, 'companies' (公司) rarely existed, in whose place has been 'unit' (单位) whereby employees have been administered by centrally planned wages ('Iron Wage') and state-controlled job appointments and promotions ('Iron Chair') (i.e., the 'Old Three Iron', see Bray, 2005).

The idea of 'dual-system' (双轨制), i.e., a duality of centralised planning supplemented by contracts, was proposed and trialed by the then Vice-President Liu Shaoqi in 1956 (see Chong, 1958); but it was only promoted by the Ministry of Labour in 1983 (Notice on Actively Promoting Labour Contracts, 1983). By then, only 650,000 workers were on employment contracts; a year later, the number increased to 40 million (Liu & Lu, 1996). In 1986, the Temporary Regulations on the Labour Contract was trialed and, in 1994, passed as the National Labour Law.

A year later, this first national labour law took effect with three-fifth 'contract' related content, heralding the end of the 'Iron Rice Bowl' period and indicating the start of a new page on Chinese industrial relations. The labour contract system was legislated into law as the basic mode of employment, intending to suit a market economy with well-protected labour rights. It spelt out employment standards, such as daily and weekly working hours, overtime restrictions, and social

insurances for retirement, illness, maternity leave and unemployment. However, its clauses were vague and legal penalties for non-compliance were lacking, leading to significantly reduced bargaining power of workers and increased employment insecurity (Xu, 2007).

By then, contract workers, largely on fixed-term contracts, were terminated freely at the expiration of contracts with no severance compensation. During the same period, common contract terms went down from three to five years in the 1990s to one year or less by the early 2000s (Gallagher & Dong, 2011). Gallagher, Lee and Kuruvilla (2011) reason that the dramatic increase of contract workers, begun in the late 1990s, was the result of SOE workers being laid off by 'using the language of the law' (p5). Gallagher (2005) estimated 30 million re-employed workers who were poorly covered by legislations, being employed under a diversity of employment arrangements. The poorly regulated employment practices are underscored by Friedman and Lee (2010), who draw on a report to demonstrate that only about half of companies signed contracts with their contract workers. These workers had at best limited job security or access to social protections and/or benefits tied up to employment contracts, if any.

To rein the rampant use of non-permanent workers, who worked as if they were permanent but without appropriate contracts due to the lack of legislative protections, the second national labour law took effect in 2008. In redressing the inequalities between workers with different modes of employment, 'equal pay for equal work' (同工同酬) requirements were for the first time set into the national law. Employers' legal obligations were more detailed, wherein protections for fixed-term contract workers were tightened. It further categorised and explained contract types, emphasizing that the mandatory contract-signing practice must be according to the work content and nature. Meanwhile, the government seemed more determined to transform the Chinese employment to a contract-based structure, writ large in its renaming the National Labour Law to the Labour Contract Law. By 1990, about 90 percent of employees working in SOEs were still under the 'Iron Rice Bowl' system (Wang, 2008); two decades later, Yin (2010) estimates 97 percent of nationwide enterprises, including SOEs, were 'out of the system'.

The new law (2008) has a far-reaching effect on the Chinese employment structure (see Friedman & Kuruvilla, 2015). Because fixed-term contract workers became less convenient and more expensive to use, there was a sharp increase of agency workers, resulting from employers continued searching for alternative strategies to evade labour legislations (e.g., Zhang, 2011; Swider, 2011). Wong (2009) opines more than 75 million agency workers, accounting for about 15 percent of workers in the industry and service sectors in China. A recent estimate found nine percent of the total Chinese labour force in 2011 was agency workers (Dong & Wang, 2012). These workers, many of whom were transferred from or recruited to replace the fixed-term contracts, face similar social benefits limitations and employment inequalities.

To improve employment security and alleviate employment inequalities, the latest amendments of the Labour Contract Law took effect on 1 July 2013, with the most visible change regarding agency workers. Under the amended law, the use of agency workers is restricted to temporary vacancies (shorter than six months), substitutive vacancies (replacements for on-leave employees), and/or supplementary works (not involving 'core businesses'). It explains that employers are not allowed to divide contract periods into shorter vacancies to use agency workers, for whom 'equal pay for equal work' practices were for the first time explicitly emphasized. In addition, labour agencies, who previously tended to hire workers according to the lengths of their respective client contracts, are now required to sign at least two-year-fixed-term contracts with their workers; company set-up requirements for such agencies are also increased and more specified.

Another substantial amendment was the extended clause on fixed-term contracts, whereby employers are required to sign permanent contracts with employees who have worked for either 10 consecutive years or two consecutive (fixed) terms. However, legal specifications have been deliberately exploited by Chinese employers and poorly reinforced by local governments. For example, the Agriculture Bank of China has recently recruited on eight years fixed-term contracts; within the contract period, these 'temporary' workers will 'voluntarily' work as window-tellers without any form of career advancements.

While the real regulatory effects of the labour law seem still yet to be seen, its latest definitions (2013) of Chinese contract categorisations are summarised below (in the same order by law):

2.1. Fixed-Term Contract

This refers to contracts with finite time frames.

2.2. Permanent Contract

This refers to contracts with infinite time frames. Note, again, these contracts are not equal to the "Iron Rice Bowl" - the former reflects capitalism whereas the latter is under the "socialism" umbrella.

2.3. Specific Contract

This refers to contracts that mature upon the completion of specified job/project contents.

2.4. Collective Contract

This refers to contracts that are collectively negotiated by employees with the employer that are mainly union contracts.

2.5. Agency Contract

Agency contracts, literally translated as “dispatched contracts” and commonly known as “third-party contracts” (see Bi & Yan, 2007), are not defined by the law. It is implied, though, that agency workers refer to those that provide services to client organizations that have contracts with labour agencies with whom the workers sign fixed-term contracts.

2.6. Non-Fulltime Contract

This applies to workers paid on an hourly basis and work for an employer for no more than four hours per day and 24 hours per week.

Despite that the above appear highly similar to the west, the Chinese employment is rather distinct in its own right. I will discuss this in light of the Western literature on the nonstandard employment.

3. Nonstandard Employment in the Contemporary World

The rise of nonstandard employment, a broad term to describe alternative work arrangements without guaranteed job/career securities compared to the traditional permanent (Kalleberg, 2000), began about a decade earlier in the Anglo-American world. The use of “new patterns” of contractual relationships were driven by market forces (Atkinson, 1984, p318) which also influenced the Chinese labour reform in 1992 when the term “labour market” was for the first time politically recognised¹.

Initial waves of organizational behaviour (OB) research on nonstandard employment were primarily descriptive (for an overview, see Ashford, George & Blatt, 2007). Evidence indicates considerable heterogeneity in nonstandard employment relationships (for an overview, see de Cuyper et al., 2008). In general, scholars agree that nonstandard workers distinguish themselves by: 1) employment duration; 2) premise of work and supervision; and, 3) legal provisions (see de Cuyper et al., 2008). In addition, in the US, the self-employed fall under nonstandard employment (e.g., Connelly & Gallagher, 2006) whereas in Australia seasonal workers represent an extreme case of precariousness (see Campbell, 2004).

These in-group differences lead to unavailability of a universal definition and more than a dozen names under which they have been studied (see Kalleberg, 2000). This heterogeneity has also become the foremost factor to implicate work, especially psychological outcomes (de Cuyper et al, 2008).

As a result, recent research has been increasingly looking into the theoretical issues of nonstandard workers (e.g., Guest, 2004a; de Cuyper et al., 2008; Diedericks et al., 2013). The implication of this shift is threefold. First, Ashford, George and Blatt (2007) argue that there have been no pertinent mid-range theories for nonstandard employment relationships despite its persistence and growing significance (e.g., see BLS, 2013; SBJ, 2007). Furthermore, they suggest that nonstandard workers may provide an ideal sample for micro-OB research (ibid). In addition, their unique context can also be useful in testing (the boundaries of) existing theories (ibid). Chinese atypical workers present just such an opportunity.

4. Introducing an Indigenous Definition of Chinese Atypical Workers

An overview on the international understanding of nonstandard employment reveals two important criteria: legal provisions and departures from the traditional permanent work arrangements. However, these encounter conflicting complexity in the Chinese context.

To start with, fixed-term contracts are both legally and practically “standard” in China (see Wu, 2013). Similarly, collective contracts may factually be “infinite in timeframe” for certain workers who are legally defined as “nonstandard”. Furthermore, it is problematic to draw meaningful distinctions merely based on contract types. For example, “in-system” (socialism) workers would be effectually muted in Chinese employment studies. Hence, it would be overwhelmingly difficult and specious in the Chinese context to draw boundaries between the standard and nonstandard according to international conventions.

Following the above, it is arguably more sensible to classify workers according to the Chinese employment “atypicality”, i.e., the embedded employment injustice whose very nature resides in the widely observed phenomenon of “unequal pay for equal work” in its bare sense that workers perform identical work to receive differential treatments. It is rooted in the Chinese employment transformation and results from organizational manipulations to elude increasingly stricter legal restrictions. Albeit seemingly differences, atypical employment relationships in China and elsewhere can be broadly very similar: they all are resulted from organizations strive for cost advantages and flexibility in order to cope with market pressures (cf. Atkinson, 1984; Bi & Yan, 2007).

Therefore, it is proposed that the Chinese atypical workers are defined as workers who are subject to “unequal pay for equal work” within a single organization. The next section discusses the implications of this definition.

5. Discussion and Implications

All in all, Chinese atypical employment involves an inequality that “has always been the norm”: it is not just “pay” being endangered – concerned agency and fixed-term employees in general also suffer from longer working hours, reduced/minimal employee benefits and marginal career inducements (Zeng, 2007, p37).

Industry-wise, Chinese atypical workers are usually found in public sectors such as telecommunication, media, banking and finance, healthcare, construction and certain national bureaus (e.g., Qi, 2011; Wang, Li & Zhang, 2013). They are also not uncommon in manufacturing and IT sectors (see Wang, 2008; Peng, 2009) where cost benefits (including workplace accidents) can be realised. For example, in 1998, conservative estimate of agency workers in these industries

¹See <The Central Committee of China Communist Party's Resolution on Several Issues about establishing the Socialist Market Economy System> (1992).

exceeded 25 million (Wang, 2008). In 2011, they were estimated at 9% (60 million) of the total Chinese labour force (Dong & Wang, 2012).

A primary implication rests on the fact that there has insofar there have been no systematic research on these workers due to political, practical and other reasons, although a few Chinese scholars have studied on several fragments of the phenomenon (e.g., Chen, 2011; Qi, 2011; Zhang, 2013). These studies and research on the more general phenomenon of Chinese employment inequality suggest that Chinese atypical workers are commonly found and set to stay (e.g., Peng, 2009; Zeng et al., 2011; see Wang, 2011; Yu, 2010). Chinese employment relationships have been experiencing several rapid and significant transitions in the past three decades. Yet, the impact on Chinese employees has not been systematically investigated. Given this void of systematic research on atypical workers in China, future research may look at the various aspects of this indigenous phenomenon of employment arrangements. For example, how can atypical employment relationships be conceptualised in China? How would the atypical employments in China and West compare with regard to social, organisational and individual implications? How to systematically study the diversified employment practices in the Chinese context to effectively identify atypical workers in China and let their voices be heard? etc. We put forward that, in particular, the employment experiences of Chinese atypical workers may provide both opportunities and challenges to OB and HRM scholars.

The inequality structurally implied in some of the employment relationships in China, in particular involving the atypical workers, may be particularly of interest to OB concepts and constructs related to social exchange theories which implicitly assume (expected) fairness in social relationships (e.g., Blau, 1964). Not only does it provide a context whereby the theoretical thresholds of such concepts, such as leader-member exchange (e.g., Liden & Graen, 1980), team-member exchange (e.g., Seers, 1989), perceived organisational support (e.g., Eisenberger et al., 2001) and psychological contract (e.g., Rousseau, 1989) may be tested, but also opens a window for furthering our understanding of some micro-OB concepts such as emotion and coping (e.g., Lazarus & Folkman, 1984), self and identity (e.g., Kelly, 1955) and sense-making (e.g., Weick, 1996).

On this other hand, unlike studies conducted in the West where scholars are usually aware of the issue of atypical workers and their implications to theory and practice, existing research on labour and management issues in the Chinese context seems to have assumed readily comparable employment contexts between China and the West. This is in part indicated in the research on the Chinese employment and studies using Chinese workers as research samples mainly using theories and concepts derived in the Western contexts. The introduction of Chinese atypical workers in this paper, and diversified alternative employment arrangements in general, suggests a caveat against using Western theories in the Chinese contexts unreflexively. To begin with, it ignores the diversity of Chinese employment arrangements. Chinese workers with different employment arrangements, resulting from the employment informalization, may have very different employment experiences among themselves (cf., Gallagher, Lee & Kuruvilla, 2011). The negligence of the contextual complexity of Chinese employment relationships may result in some simplistic understanding of Chinese workers, leading to the understudied employment phenomena in China and the underrepresented employment experiences of Chinese workers (Ma, 2018). In Hornung and Rousseau's (2012, p326) words, the 'understanding of Chinese workers regarding traditional and emerging employment arrangements' have been insofar 'taken-for-granted'. Consequently, there seems to be a tendency of assuming cultural invariance when conducting research in China (Huang & Bond, 2012). The theoretical implications of cultural complexity in the Chinese context are beyond the current scope. What is of interest here is that while 'culture' and cultural contexts seem to gain more scholarly attention when conducting research internationally, this increasing recognition of cultural differences in regard to work and employment arrangements and experiences may have overshadowed the importance of other (indigenously) contextual factors. The phenomenon of 'unequal pay for equal work' in the Chinese employment context is a salient example in this light.

6. Conclusion

This paper has discussed an often-overlooked issue of 'atypical employment' in China and introduced an indigenous definition of atypical workers. In particular, it highlights a unique Chinese employment phenomenon of 'unequal pay for equal work', a term used by Chinese scholars usually referring to unfair normative workplace practices between capitalism and socialism workers in China.

The significance of this paper is threefold. First, while there has been an increasing recognition of the significance of management research in China, there is comparatively limited (English) literature which systematically reviews the current Chinese employment contexts. This paper presents important insights in this light. Second, it is one of few papers comparing the use of nonstandard workforce in the West and China, highlighting the differences in their alternative employment arrangements. Third, the paper introduces a unique Chinese employment phenomenon wherein injustice is implicit within the employment relationship and opens a window for new lines of research on many management topics and concepts.

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