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EMPLOYMENT RELATIONS IN THE INFORMAL SECTOR: A NEED FOR REDEFINITION



¹²Universiti Malaysia Sabah, Malaysia. ¹Email: norhidayah_hasbullah@yahoo.com Tel: +60138424522 ²Email: idzuri@ums.edu.my Tel: +60107600645



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ABSTRACT

The International Labor Organization (ILO) in the 'Report of the Committee on Employment Relationship' states that current employment relationships are increasingly complex and there is no acceptable definition to define 'employment relationships'. Thus, this paper aims to investigate whether employment relations exist in the informal sector. By using Goss' framework, this can be understood by two related dimensions. First, the extent to which employers are dependent on his or her employees, and vice versa, and second, the extent to which employees have the capacity, individually or collectively, to challenge the power of their employer. Based on these two dimensions, four distinct categories have been identified that reveal the complexity and diversity of the nature of employment relationships in the informal sector: fraternalism, paternalism, benevolent autocracy, and passive acquiescence. In-depth interviews with four employers and four workers in the informal sector in Lawas, Malaysia were conducted. The findings indicate that the nature of employment relations in the informal sector is benevolent autocracy as employers are less dependent on their employees, resulting in limited labor capacity to challenge the employer's power. A characteristic of the informal sector (such as a family-based business and not legally registered) is the lack of protection for workers, which is the main reason for shaping employment relations in this sector. It is recommended, therefore, to have policy reforms to protect the rights of workers in the informal sector.

Contribution/Originality: This study is one of very few that has investigated the nature of employment relations in the informal sector by using Goss' framework. The findings contribute to the redefinition of employment relations that can be used in the informal sector.

1. INTRODUCTION

This paper is based on research on the nature of employment relations in the informal sector in Lawas, a district in Sarawak, Malaysia. Previous studies have shown that although the term employment relationship is widely used, employment relations have not been universally defined to date (Zakaria & Hashim, 2015). In addition, research on employment relations practices in the context of the informal sector has received little attention as studies on employment relations practices have largely focused on large and formal firms (Razouk, 2011; Sheehan, 2013). As the informal sector plays a significant role in helping to improve a country's economy (Department of Statistic Malaysia (DoSM), 2017), studies on employment relations in the informal sector should be emphasized.

This paper focuses on the informal sector in Lawas because most of the rural informal sector remains an unexplored area of research, especially in developing countries (Khoo, Nor, Zahri, Parthiban, & Aiman, 2016).

Previous studies have found that discussions regarding employment relations in the informal sector are still limited, leading to questions about whether employment relations exist in the informal sector (Chen, 2012). For example, hawkers who rely on a single supplier to distribute or sell goods, have made the nature of employment relations in the informal sector unclear. According to Chen (2012), it is unclear who the employer is and who the workers are. Some of the factors that make the employment relationship unclear are due to the ambiguity of the position of employers and workers, the uncertainty of workers' rights, and who is responsible for the workers and the lack of compliance and enforcement of the law.

However, Scase (1995) argues that there is a clearer employment relationship among small firm employers. Employers in small firms usually work with their employees while performing regular administrative and management tasks. According to the ILO (2003), employment relations is a legal relationship that exists between employer and employee. It exists when a person performs work or a service under certain conditions in return for a reward. However, some employers prefer to employ an informal employee in order to avoid taxes and contributions to social security or employee pensions (Chen, 2012). So, to what extent are workers in the informal sector in Lawas bound by law? How the ILO (2003) itself described employment relations, historically, is represented by a legal basis.

Based on these concerns, the purpose of this paper is to investigate whether employment relations exist in the informal sector, since definitions and meanings of employment relations defined by past researchers are at odds with the actual scenario in the informal sector. Accordingly, the concept of employment relations requires a specific definition or redefinition in view of the complex nature of the informal sector itself resulting in discrepancies and contradictions regarding the meaning of employment relations based on previous studies.

Accordingly, this paper suggests that the nature of employment relations in the informal sector can be understood by considering two dimensions: First, the extent to which employers depend on their employees and vice versa. Second, to what extent workers could individually or collectively challenge their employer. Based on these two dimensions, four traits were identified to look at the nature of employment relations in the informal sector namely fraternalism, paternalism, benevolent autocracy, and passive acquiescence (William & Adam-Smith, 2010).

2. LITERATURE REVIEW

2.1. Characteristics of the Informal Sector

a. Family Orientation

The International Conference on Labour Statisticians (ICLS) states that labor relations in the informal sector are largely based on casual employment, family or personal relationships, and the living environment rather than on contractual agreements with formal security (Baharudin, Othman, Pah, Chellamuthu, & Musa, 2011). In addition, employers generally employ family members and other workers based on trust. According to Matlay (2002), about 70 to 80 percent of small firms are family companies. Therefore, it is important to explore the relationships between family relationships, roles, and small business organizations. In Africa, however, most family businesses have fewer than five employees, are unregistered, unlicensed, and generally do not pay taxes (Matlay, 2002).

b. No Social Protection

The next feature of the informal sector is the lack of social protection. The ILO (2003) also argues that workers fail to enjoy the social protection in their employment relationships due to unclear laws. In the informal sector, laws to protect workers are virtually non-existent and this has led employers to exploit their workers.

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According to Akorsu (2013), social protection is not taken seriously in the informal sector. His study in Ghana shows that in almost all cases studied, the working conditions remained poor. His research also confirms that basic safety and health needs for workers, such as toilets, drinking water, first-aid kits and protective clothing are non-existent. The most common dangers include heat and fire. This is supported by Manning and Effendi (in Nugroho (2010), who stated that the informal sector was marked as an unprotected labor market.

c. Registration Avoidance

Avoidance of registration is also a characteristic of the informal sector. Some of those involved in this sector chose or volunteered to work informally to avoid registration and taxes. Employers often chose to take on employees informally to avoid paying employer taxes and contributions to social security or pensions (Chen, 2012).

d. Irregular and Illegal

Another characteristic of the informal sector is irregular and illegal. The informal sector production unit is also characterized by household entrepreneurship. Expenses for production is usually not distinguished from household expenditure. For example, capital for the purchase of goods such as buildings and vehicles for a business is not distinguished from the use for a household. Moreover, the operation of the informal sector is often seen in developing countries as illegal and hidden. Illegal activities are prohibited by law or become illegal when carried out by entrepreneurs who do not comply with the law, whereas hidden or underground production refers to legitimate production activities that are carried out in compliance with regulations, but are deliberately concealed from the authorities (Chen, 2012).

e. Temporary Working Hours

One of the key features that distinguish between the informal and formal sectors is often influenced by irregular working hours over a period of time (Nugroho, 2010), and longer working hours or overtime are not paid (Francis, 2012). In developed countries, many people prefer to be involved in the informal sector as they gain more autonomy, flexibility, and freedom than in the formal sector. In other words, they have the freedom to run their own businesses, have the flexibility to set working hours or days of operation, and they can use and develop their creativity (Gerxhani, 2004).

f. Low and Unpaid Wages

Most studies also show that those involved in the informal sector have low incomes. In fact, a study by Akorsu (2013) revealed that real pay is much lower than the minimum wage. This is supported by Cully in Wilkinson (1999) who found that many small firms pay wages below the minimum wage level. According to Rainnie (1985), employers justify their actions by referring to the competitive forces of the market economy. In other words, they will admit to their employees that the pay they offer is low, but it is beyond their control.

g. Low Level of Education

Low level of education is another characteristic of the informal sector. Usually those who are involved in the informal sector have a low level of education as this sector is seen as inferior. This has caused them to become involved in the informal sector as the formal sector will not accept poorly educated or illiterate workers. According to Hart (1973), informal sector workers are generally poor, have a low level of education, and require little capital.

Based on the characteristics of the informal sector in the study context, it is important to understand how the informal sector environment ultimately influences the nature of the employment relationship between employers and employees.

2.2. Goss Framework of Employment Relations in the Informal Sector in Lawas, Sarawak

Goss' framework is able to reveal the employment relations of small firms and will be used to understand employment relations in the informal sector in Lawas. Figure 1 illustrates that there are four dimensions in Goss' framework that reveal the nature of employment relations in small firms: fraternalism, paternalism, benevolent autocracy, and passive acquiescence.

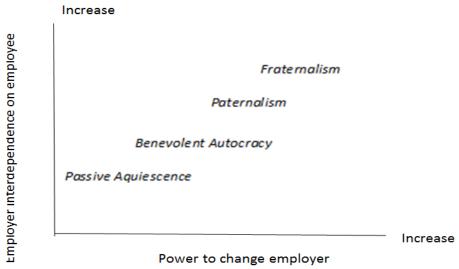


Figure 1. Goss' framework of employment relations.

Source: William and Adam-Smith (2010).

2.3. Fraternalism

According to Stokes and Wilson (2006), fraternalism is a type of management practiced in a small organization where the owner or manager relies on the skills provided by the worker for the work to be done. This not only creates a harmonious relationship between employer and employee but is also egalitarian in nature, and workers will generally enjoy the terms and conditions of employment. Usually, these workers are not dependent on small businesses because their skills are in high demand elsewhere, however, the type of work carried out is based on a mutual agreement between the people managing the small firms and the skilled workers.

2.4. Paternalism

Paternalism has a significant difference from fraternalism. Under paternalism, employers have a lower reliance on their workers. The difference between employer and employee is at the heart of paternalism, but at the same time, employers try to establish a working relationship with employees through work and shared responsibilities. However, alternatives for workers are more limited because employers are less dependent on them (Stokes and Wilson, 2006).

As paternalism is the opposite of fraternalism, the differences between owners and employees can, and should, be clearly seen. However, employers acknowledge that businesses require commitment from their employees and therefore tend to establish a bond with employees to motivate and encourage them. Examples of paternalism can be found in small organizations that use employment agencies to fill roles that are created on a temporary basis. However, the agency recognizes the importance of temporary workers even though employers do not depend on these employees.

2.5. Benevolent Autocracy

Third is benevolent autocracy. These employment relations exist in situations where employers are less dependent on their employees. This directly affects the workforce's relatively limited capacity. This is a very

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common situation in a small firm where managers or owners are less dependent on employees and can exploit their position as employers. Benevolent autocracy is also found in many small firms in the modern world of business where employers or managers are less dependent on workers and tend to display their power over workers. Workers are said to be less dependent on small firms' economies, but they tend to have a closer and more friendly relationship with their employers. However, the relationship does not extend beyond working hours. Smaller IT companies tend to treat their employees in the form of benevolent autocracy due to technological developments and labor supply compared to existing jobs (Stokes & Wilson, 2006).

2.6. Passive Acquiescence

Fourth is passive acquiescence in which workers are emphasized as a cost, and are employed and fired according to market conditions with no obligation for employers to establish employment relations (William & Adam-Smith, 2010). Workers who are often affected by these types of work relationships are women in minority groups who depend heavily on their employers for paid work. According to Stokes and Wilson (2006), workers are exploited by owners or managers to ensure low operating costs and flexible service. For example, students and immigrants are hired as temporary workers to reduce operating costs. They are flexible and only work when they are needed and are paid for their time. Lack of skills has made workers in this category vulnerable to exploitation.

3. METHODOLOGY

This study employs a qualitative method due to its suitability for exploring areas that have been underresearched, and can provide a detailed understanding of the phenomena studied (Creswell, 2009). This study also uses a case study on Lawas to explore and make findings and interpretations rather than test hypotheses.

Purposive sampling methods and in-depth interviews with four employers and four employees involved in the informal sector at the two markets, namely Pasar Tamu Lawas and Pasar Tami Lawas were conducted. For researchers to identify, analyze and report on themes in the data, a reflexive thematic analysis technique was used (Braun & Clarke, 2019; Ibrahim, 2015).

4. RESULTS

4.1. Characteristics of the Informal Sector in Lawas

This study found that informal sector characteristics in Lawas, and previous studies have similarities and differences. In the context of this study, the researchers concluded that the characteristics of the informal sector in Lawas were family-oriented, unprotected, did not avoid registering businesses, were more organized, complied with the laws set by the Lawas District Council, offered regular working hours, low salaries and level of education. Table 1 illustrates the comparison between previous studies and the informal sector characteristics in Lawas.

Table 1. Comparison of empirical study and past studies.

Past studies	Findings from empirical study
Family-oriented	Family-oriented
No social protection	No social protection
Registration avoidance	No registration avoidance
Unorganized	Organized
Inconsistent working hours	Consistent working hours
Inconsistent and low wages	Low wages but consistent
Low level of education	Some level of education

Source: Baharudin et al. (2011); Matlay (2002); ILO (2003); Akorsu (2013); Chen (2012); Nugroho (2010); Hart (1973).

Table 1 shows that out of the seven characteristics identified in the informal sector, the study found only two characteristics that were consistent with previous studies: family-oriented and no social protection. The findings

show that the informal sector characteristics in Lawas are family-oriented, whereby employers and employers have family ties such as aunts, siblings, and cousins. Employers prefer to employ family members to provide easy, reliable, and more flexible work arrangements. Whereas for the workers, the purpose of working with employers who are family members is to earn money as they have no other source of income. In addition, workers are more comfortable working with employers who are family members as they find it less stressful and can be more independent. This means that workers are never forced to work and are not penalized when they do not come to work. In terms of social protection, employers do not provide this for their employees. All employers acknowledge that they do not provide any social protection as their business is small-scale, non-burdensome and unregistered with any authority. However, all employers acknowledged that social protection should be provided for employees. Employees also acknowledged their willingness to work for their employer even though they are not covered by any social protection, such as the Employees Provident Fund (EPF) or Social Security Organization (SOCSO), because they feel that social protection is unnecessary as their work is not burdensome.

Businesses in the case studies are not registered with any statutory body. Employers only deal with Lawas District Council (LDC) and only have to pay for the business site. This means that all of these employers do business at LDC's designated locations and refrain from registering because the employers only pay for the sites and it is not mandatory to register the business as its status is in the informal sector.

The study also found that employers conduct businesses more efficiently by doing business at the two markets sites provided by LDC. The business is organized and is not considered illegal as employers have been given LDC's permission prior to their business operation.

Additionally, all these businesses operate at a set time. This means that working hours are also fixed; employers and employees do business based on the hours set by LDC. For businesses operating at Pasar Tamu, employers can operate from 6.00 am to 7.00 pm on Fridays, and from 6.00 am to 2.00 pm on Saturdays. From Monday to Thursday, business hours are dependent on the employer, but should be between 6.00 am and 5.00 pm.

For businesses that operate at Pasar Tani, employers are allowed to do business from 2.00pm to 10.00pm daily. The findings show that employers are operating according to the hours set by LDC, which means that the working hours are regular and organized. In addition to regular working hours, all businesses operate on the same day and the same week. In short, all businesses run on a regular basis.

The study also found that workers' salaries are worth the minimum wage. Each worker receives the same salary from their employer, which is fixed and unchanged. Workers' salaries vary according to their working hours whereby employees will receive more pay if they work longer hours, so the longer they work, the higher the salary will be.

Also, salaries paid to employees are not calculated based on experience or level of education but are paid as reward. For employers, all their employees are paid for their services. Thus, the experience and level of education are not a priority for employers when recruiting staff. Subsequently, workers' salaries are paid on a daily basis, with each employee receiving a paycheck as soon as the hours are up. In addition, all salaries are also determined by the employer.

In terms of education, the study found that there are two employers with the Sijil Pelajaran Malaysia (SPM – Malaysian Education Certificate) education level; Penilaian Menengah Rendah (PMR – Lower Middle Assessment) and Ujian Peperiksaan Sekolah Rendah (UPSR – Primary School Examination Test). This means that all employers have their own level of education and know how to read, write, and count. However, all employees involved in this study have SPM education level and started working after completing their SPM (high school).

However, there are also employers who would work in the informal sector if given the opportunity but do not because of their interest in the business they currently operate. Compared to workers involved in this study, all workers would leave their current jobs if they were given the opportunity to work in the formal sector for better job security, and employees admit that they actively seek more secure job roles.

4.2. The Nature of Employment Relations in the Informal Sector

The findings of the study found that benevolent autocracy of employment relations is more prominent in the informal sector in Lawas. There are four characteristics of work relations that are identified in benevolent autocracy: employers are less dependent on their employees; there are differences and demarcation roles between employers and employees; employers firmly admonish their employees; and employers firmly make decisions.

a. Employers Less Dependent on Employees in Business

The empirical results show that employers can do business even when employees cannot come to work, which indicates that employers are less dependent on their employees. Previous employers' experience of running a business without employees has made employers less dependent on their employees. Employees are only needed to help employers run their businesses.

b. Differences and Demarcation Roles between Employers and Subordinates

The findings also show that there are clear differences and demarcation roles between employers and employees as the terms and conditions of employment are determined by the employer and agreed by the employee. As employers are less dependent on workers, this has led to limited employee power, especially in terms of pay and leave. For the employers, although they were originally responsible for the delegation of tasks, the workers would eventually learn what to do without being told. Although workers have the autonomy and freedom to do their work, it does not mean that workers have the power to oppose their employer. In the context of this study, employers maintain the power to determine salaries, leave and distribution of work to employees, which demonstrates a divide between the employer and the employee even though the employer is less dependent on the employee.

c. Employers Strictly Reprove Employees

The employment relationship of benevolent autocracy is also firm in controlling business operations, especially when reprimanding employees. Employers admonish employees face-to-face so that they do not continue to make the same mistakes.

d. Firm Decision Making

The study found that all decisions are made by the employer because employers pay workers' wages. However, this study found that employers will accept workers' opinions if a decision cannot be made by the employer himself. If a useful opinion is offered, then the employer will use this to make the decision.

5. DISCUSSION

The informal sector features that exist in Lawas are the basis for determining the nature of the employment relationship between employer and employee. The characteristics of the informal sector identified in this study are family-oriented, no social protection, no business registration, more organized and lawful, regular working hours, low wages and have some level of education.

In the context of this study, the family-based characteristic shows how the employment relationship in the informal sector is. As the employer-employee relationship is on a family basis, employers are less dependent on their employees. Employers employ family members just to help them in the business. In addition, employers also enjoy working with their employees who are members of their own family, which may cause employers to neglect their employees because of their own family trust. In addition, employees are also accepting and follow reasonable instructions from their employer. However, in the context of this study, any decision is made by the employer himself while still accepting the opinions of the workers who are family members.

Furthermore, informal sector features such as lack of social protection have left workers powerless to challenge employers' authority. In the context of family business, employers comprising family members will tend to control their employees. This has resulted in personal liberty and workers' rights being restricted primarily from social protection. In addition, companies with family members are also seen to avoid paying taxes and registering their businesses. The informal sector's features of low and fixed salaries have also forced workers to comply with employers' decisions despite being family members. This is because only the employer generates capital and profits himself, and no wage increase occurred in the context of this study. In addition, workers' power to demand pay increases is limited as employers can run their businesses without employees.

This study also found that there is a continuous relationship between employers and workers marked by wages. However, workers only receive wages without other benefits. This shows that the employment relationship is an ongoing relationship between the employer and the employee where the contract of employment is open-ended and wages may be agreed beforehand, but not explicitly or accurately (Blyton & Turnbull, 1998).

The ILO (2003) found that employment relations were historically represented by legal principles. However, in the context of the informal sector in this study, employment relations are not bound by any laws or regulations. In fact, workers are not aware of their rights and this has left them unprotected by any law. This is supported by Henley, Reza, and Francisco (2006) who stated that it is impossible for some workers in small establishments to have employment contracts that comply with labor market regulations and contribute to social insurance schemes. This is because in order to determine the nature of the employment relationship, various factors affecting structural aspects need to be considered. These include factors such as duration and continuity of duties, operations, payrelated expenditure, facilities, provision of tools and materials, responsibilities and risks, relationships between parties involved in bargaining, organizations, types of remuneration, sick leave, salary, leave, tax pay, supervision and working hours. However, the Sarawak Labor Ordinance (Chapter 76) does not specifically provide for workers in the informal sector. This is because the Sarawak Labor Ordinance only regulates minimum standards of terms and conditions of employment for workers in the private sector, whether unionized or non-unionized. Hence, workers in the informal sector are not completely protected under this ordinance.

The Sarawak Labor Ordinance was established in 1959 and amended in 2005 to bring it in line with the provisions of the Employment Act 1955. It protects workers regarding matters such as payroll, working hours, sick leave, annual leave, and maternity benefits. All employers must adhere to the rules set out however, the Sarawak Labor Ordinance does not cover all workers. This ordinance only applies to employees who have a contract of service with their employer and earn less than RM2,500 a month. The same applies to co-workers irrespective of their monthly pay including drivers and mechanics. However, maids are not covered under the Sarawak Labor Ordinance.

In this regard, workers outside the scope of the Sarawak Labor Ordinance must rely on their employment contracts or join trade unions to make offers on their behalf. This raises a question regarding the extent to which workers involved in the informal sector are able to exercise their rights, as they are also entitled to the same benefits as other workers. Hence, the need for legislation to protect workers' rights in the informal sector, as Akorsu (2013) explains, is due to absence of clear employer-employee relations and is one of the reasons for the existence of non-standard labor. Therefore, reformation of the policy will make the employer-employee relationship clearer.

Furthermore, although previous studies provide different perspectives and definitions of employment relations, more comprehensive definitions of employment relations in the informal sector have not been found. According to Henley et al. (2006), an employment relationship depends on the extent to which both employers and employees can adjust the terms and conditions of employment to their advantage.

Therefore, this study concludes that the definition of employment relations in the informal sector in Lawas is 'a low dependence relationship between employer and employee that is marked with wage, family status and no protection'. In the context of this study, wage is a major factor in establishing employment relations between employers and workers. Characteristics of the informal sector in Lawas that are family-based and unregistered have resulted in a lack of protection for workers that has shaped employment relations. Therefore, the definition of employment relations offered by Ram, Edwards, Gilman, and Arrowsmith (2001) does not simply refer to the continuous informal employment relationship between employer and employee; it is interdependent, creates verbal and non-verbal conflict, and is a cooperation in which there is an implied understanding arising from the interaction of the parties at work, but it should also consider family factors.

When employers and employees are family members, most employers do not see the need to pay attention to other legal standards and provisions because family members will not complain or object to any actions and decisions they make. Family members also do not need to insist on creating better working conditions. After all, in most cases in the context of this study, those who are not fortunate enough to have a job, will view the opportunity to work with family members as a form of assistance. Therefore, legal reform is essential to protect workers in the informal sector.

6. CONCLUSION

In conclusion, the informal sector characteristics in this study are important in determining the nature of employment relations. The characteristic of family-oriented business reflects the pattern of employment relations in the informal sector, particularly in the study context. Employers will tend to control their employees who are family members. This has caused workers' rights to be restricted, primarily in providing social protection. From this perspective, employing family can be a form of exploitation.

It is expected that employers and workers involved in the informal sector are aware of the issues related to employer responsibilities and workers' rights and, as such, policy reforms or policy formulation are essential to protecting workers' rights. This is important as workers involved in the informal sector are affected and their rights are not protected.

It has also been stated by the ILO (2003) that employment relations have historically been represented by legal principles, namely labor laws and collective agreements to protect workers' rights, yet in the context of the informal sector in Lawas, are still absent. Therefore, in order to protect the rights of workers in the informal sector, it is time to revise and redefine employment relations accordingly.

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