Performing Restaurant Kitchen Employment: Law, Actor- Networks and Cooking

by

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ABSTRACT

The restaurant kitchen is a hybrid location where multiple actors engage to construct the work space. Drawing on Actor-Network Theory (ANT), employment in the restaurant kitchen is represented as a composition of actions by actors. Employment is the outcome of the actor-networks present in the kitchen; and cooks are the heterogeneous engineers soliciting support from other actants in the restaurant.

Through a study of employment relationships in the restaurant kitchen, the applicability and functionality of employment laws, as a governing system, are scrutinized. Legal understandings of Canadian employment relationships were constructed out of the labour disputes of last century. From these disputes came a legal category of employee which defined benefits, how to fight for them, and who could receive them (and who did not). The capacity of cooks to build their own actor-networks, serves to challenge the presumed role that law has in the formation of restaurant employment relationships.

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INTRODUCTION

“...and burning with curiosity, she ran across the field after it, and fortunately was just in time to see it pop down a large rabbit-hole under the hedge. In another moment down went Alice after it, *never once considering how in the world she was to get out again.* The rabbit-hole went straight on like a tunnel for some way, and then dipped suddenly down, so suddenly that Alice had not a moment to think about stopping herself before she found herself falling down a very deep well. *Either the well was very deep, or she fell very slowly, for she had plenty of time as she went down to look about her and to wonder what was going to happen next.*” [my italics] (Carroll, 1910:3)

My interest in the legal infractions found in the restaurant kitchen began with my own experiences working in Canadian restaurants. I was interested in ‘why’ many of the employment laws were being regularly broken in the restaurant industry. In Canada there is a substantial number of employment laws intended to protect employees from employer abuses, yet it is not uncommon for a worker in a restaurant to be shorted in their pay, receive no over-time remuneration, and/or experience random deductions from their paycheque. Furthermore, restaurant kitchens are physically demanding places to work, with little personal boundaries or free space (due to the close proximity of tasks between co-workers), and workers are often surrounded by outdated or poorly maintained equipment, which could potentially cause bodily harm. This combined with an employment situation comprised of long working hours, few benefits, and low job security could account for a very unattractive employment opportunity. Despite this, there they are – long after the employees and managers of many other occupations have forgotten about their work day and gone out for drinks – working away.

Attempts to regulate the cooking profession have had a marginal effect. The regulation of the culinary occupation has fallen under employment laws which were developed out of the labour movements of the 1940’s. The labour Code of Canada (and subsequent Employment Standards Acts that followed) provided the legislative tools to enforce the (minimum of) rights and responsibilities of employers and employees. The development of legal institutions over the

realm of employment was to ensure that equitable job situations would be sustained throughout the entire Canadian workforce. However, I argue that the relationship between restaurant kitchen workers and employment law poses a dilemma; employment laws have never provided adequate protection for cooks¹. The harsh conditions of the cook have continued despite the legal progress achieved, countering the legislative developments in Canadian law which were designed to aid the employee. Cooks, historically, have been left to their own devices to ensure they sustain their own beneficial employment.

Employment Law

Paid work has always been subject to competing interests which attempt to influence terms and conditions of employment. It is an ongoing process of making and re-making the rules that guide and structure employment relationships, which ultimately, is similar to the processes of labour market regulation. Current government policy makers and academics push for the continued development and elaboration of existing employment laws. The argument suggests that new and revised laws will ensure mutually beneficial employment relations for employers and employees (Arthurs, 2006; Lowe, 2000; Sims 1995).

Canadian employment law, for the purpose of thesis, consists of all the legal doctrine which has developed from various state attempts to curb labour unrest. Several categories of law are addressed, including legislation, court cases, the Canadian Labour Code, provincial employment standards acts, and municipal by-laws. Each category of legal codes and rulings offers insight into aspects of employment relations, as well as the politics and agendas which

¹ The term “cook” is used generally for the purpose of this paper to consolidate all occupational positions involved in the commercial processes of cooking (chef, butcher, pastry chef, short-order, line cook, prep cook, etc...)

play out in Canada's courts and policy organizations. Literature critical of government labour policies have demonstrated that laws are actually reducing a worker's ability to achieve fair benefits from their employment (Jackson, et. al. 2000; Standford & Vosko, 2004; Tucker, 2008; Tufts, 2006).

In this thesis, I am not interested in revising Canadian Labour law I am more interested in 'how' labour law serves as the background or context upon which society has been organized and how the restaurant kitchen has not fit within this paradigm. Instead, we see people negotiating rules and regulations specific to their work scenarios. I am not exploring how labour law does or does not apply specifically to restaurant kitchens. I have to acknowledge and understand the background upon which employment relations have been constructed within law, so that I can look at how it does not apply to restaurant kitchens which, in turn, allows me to understand how employment contracts are actually made in the restaurant.

Why the Kitchen

Since the development of the restaurant kitchen, culinary methods of food production and safety have been regulated to ensure the well-being of the consuming public. The evolutions of laws on sanitization, storage, and work-place hazards have been heavily regulated by the state. Elaborate legal systems have established regulation to ensure safe food production and handling (Spang, 2000). However, the cooks have not seen the same devotion on the part of government towards their occupational surroundings.

Employment laws have traditionally defended/sustained a particular type of worker. The cooks in this sample have chosen to refrain from using employment laws as a means to protect their rights as they do not feel that this type of 'worker' is representative in their occupation.

Instead they prefer the individual benefits obtained within their work situation by their own actions. In the restaurant kitchen, the social ordering is constantly negotiated by the cooks and staff. The hierarchy in the kitchen is rearranged every shift, tasks are distributed, and the performance of one's duties is observed. Through the performance of their jobs, a cook's interests around pay increases, requests for time off, who leaves early, and staff meals are decided. If one cannot cook effectively (by producing a quality product) one will lose the 'perks' of their job. The interactions that occur in the kitchen are not limited to the singular exchange of money for food production, also a myriad of interactions between clientele, employer, employee, and co-workers. The list of actors does not end with human actors; there are multitudes of material objects interact with the humans. The chefs' knives, Hobart mixers, vegetables, raw meat, bacteria, and rodents all take part in the arrangement of the restaurant. The placement of fire extinguishers, mice traps, first aid kits, slip mats, and accident report forms, demonstrate that there is more than just a social interaction occurring in the restaurant. The scores of mishaps that can occur in the kitchen involve a network of interactions which work for the prevention, solution and subsequent reappearance of accidents weaving the legal, technical and social together.

Employment laws as written are not designed to accommodate informalities with regards to these types of working conditions. Currently employment laws are framed towards the more static and fixed occupations, where the tasks and objectives are clearly defined and quantified. In the restaurant industry these terms are not systemic. In contract law, the fundamental purpose is for both parties to understand the terms of the contract. Within the restaurant kitchen, any ambiguities often lead to power vacuums, where the bonus and perks of the job are actually derived from being outside the stringent rules and laws.

Why Actor-Network Theory

Scholars have been distracted by their focus on the trends of work, by trying to predict the direction labour markets are headed, and dividing their perspectives between a fixation on law, labour or the economy. The debates have brought a considerable detail to the elements involved in the shaping and melding of the employment legal system and provide insight in the heterogeneous associations that are responsible for the success of particular networks resolving employment issues. This research pursues the idea that the potential for rule-making may not lie in positions of conventional authority. Though the work place has been conceptualized as a site governed by hierarchical power, this position does not stand up to scrutiny when one focuses on work relations as they occur in the restaurant kitchen. While the legal rules produced by state institutions are accepted by employers and employees as governing bodies, this authority is not absolute and is continually questioned and challenged in the workplace.

Employment laws have not been significantly represented, or implicated in restaurant kitchen employment relations. In response to this situation, I argue against the linear progression of further labour legislation for the restaurant kitchen. The occupation of “cook” does not suit the narrowly defined performer of economic tasks, merely working for income. This position curbs the reality of how jobs are performed by actors (as the work involves more than a single category of interaction). Work involves a multiplicity of interactions weaving the social, economic and legal together. The restaurant is better conceived as arrangements of materials and people who are involved in ordering and sustaining kitchen relationships and the particular employment laws are included as necessary by the participants in employment contracts.

Through the discussion of the restaurant kitchen employment relationships, I intend to explore that which is already known and talked about. The point is to bring to the surface the

instability of order/ordering in relationships, reflecting on the intentions behind actions, the objectives, and the purposes. Actor-Network Theory (ANT) provides the lens to capture interactions in the professional kitchen. It focuses on the set of relations and the outcomes that are produced, providing “theory-laden descriptions of organizations” (Hassard, Law & Lee, 1999:389). As Neyland (2006:38) remarks:

“ANT is not a single strategy; it does not hold a fixed position and cannot be told as a single narrative. ANT can be re-presented as the drawing together of distinct little stories, perhaps without an over-all pattern. As a strategy, it is messy and impure, then. It is a strategy for drawing together a range of different discourses, practices, and organizing principles.”

How cooks pursue meaningful living may involve such ‘little stories’. I intend to draw upon such examples of relationships where employers and employees have negotiated and constructed their own work arrangements to sustain beneficial employment (as defined by the individual cook).

Other vocations possess such messes, however, policy makers, legislators, union representatives and social scientists have already begun the process of stratifying these work arrangements. Cooks remain on the fringe of employment law analysis, often unnoticed and marginalized. Under ANT, I intend to focus my analysis on the structural prescriptions of previous analysis’ to emphasize a ‘processual deconstruction’ (Lee & Hassard, 1999:391), here political-sociological dimensions concerning the boundaries of the ‘we’ and ‘for whom’ are produced and are unwound from ontological jargon for the actor-networks which they actually entail. Laws are embodied in action, as processes. These processes of law involve a medley of entities interacting to create decent employment. Employment law may have stipulated a certain level of work standards for the restaurant kitchen; however, employment relations remain in the hands of actors, and are continuously negotiated throughout the length of the employment ultimately linking restaurant environments and cooks.

Mapping the Trail

To understand the arguments around why Canadian employment laws have been unable to protect kitchen workers, an analysis of the development of Canadian employment law is necessary. Any study of law always involves the “pursuit of a subject that continually retreats into the past” (Hunt, 1978:48), this necessitates the application of a socio-legal lens to illuminate the role that institutions have historically played in the development of employment relations. In the literature review, the employment relations of the nineteenth century are discussed; the emphasis is on the conflict between employers and the rise of organized labour which necessitated a legal framework from the state to be able to mediate labour relations. This framework, referred to as industrial pluralism (Fudge and Tucker, 2001) was expanded upon and applied to all other occupations, generalizing employment relations into one legal concept: ‘labour for wage’. This trend may be traced to current labour market developments that destabilize the established system of regulation (industrial pluralism) questioning the capability of Canadian labour laws to address employment issues. It begins to address the question of ‘who controls the workplace’ through an analysis of the politicization and creation of employment categories in law. Each example of organized labour’s reaction to the solidification of employer hegemony created and/or sustained a new legal category of employee which became regulated in law.

The theories section builds upon this understanding of law by conducting a theoretical analysis of the functioning of legal doctrine, scrutinizing (along with other academic understandings) the shaping of and understanding of employment relations. Through the re-examination of legal processes, Actor Network Theory demonstrates how legal systems consist of associated properties which are located in action. An argument is developed which describes

how law is an amalgamation of human and non-human actors intertwined to regulate employment relations. This is followed by a synopsis of actor-network theory as a method and argues that by allowing actors to identify their relations and roles, a researcher can identify and ‘follow’ actants in their pursuit of said goals.

ANT is a method first and foremost and a theory only secondarily. This attribute is explored in the methods section by analyzing John Law’s work *After Methods* and integrating it with Michel Callon’s material on translation. The section describes my research methods and outlines how this method permits my participants to identify and speak for themselves. Cooks are seen as heterogeneous engineers, builders of networks, in which I follow their accounts through document analysis and interviews.

With the acknowledgement of the world building capabilities of restaurant workers, the findings and analysis section follow the twists and turns of translation within the restaurant. There is a multitude of interests/agendas by actors building networks in the restaurant kitchen that shape each other as well as themselves. In Findings and Analysis section, the cook is identified as the strategist and, the network maker who must work out a method to cope with a myriad of competing interests. The discussion centres on how cooks pursue purposeful employment while meeting the other interests of the actors in their networks through the provision for producing consumable products. From food, to equipment and fellow humans, working the ‘line’ for cooks involves a hybrid of actors, each acting with one another to feed the customer and provide a means for cooks to distinguish themselves.

The final section concludes the analysis of the restaurant, finalizing the restaurant as a hybrid work location, one in which the production and reproduction of heterogeneous actants is continuous. In this environment, power is based on the actors who can get others to align with

their prerogatives and maintain those prerogatives for periods of time (Latour, 1987). In the restaurant, power is never certain, as any one of the networks built by the employer, server, or pest can take the day. The results of a given network are organized into legal relations, where objects and people are enlisted, mobilized, and utilized in an ever-changing network of associations.

LITERATURE REVIEW: A HISTORY OF REGULATING THE LABOUR MARKET

The study of law as an intellectual inquiry has taken multiple forms in academia, employing a variety of different questions and concepts to enrich legal understanding. Each perspective has raised considerable scholarly debate and produced research on the law-society relationship; from which there emerged an analytical debate which attempts to distinguish what it is that is so distinctive about law. From this paradox, aspects of law (the legislative, administrative, and judicial spheres) have been arranged into paradigms legitimizing legal and social ordering.

Canadian employment law encompasses a comprehensive and elaborate system of legal doctrine and mechanisms. Purporting to provide institutions to support business initiatives and protect employer and employee's interests, these legal institutions offer insight into how society has been conceptualized and organized. Suffice it to say, a large body of literature exists that analyses the debates surrounding Canadian employment law. Each category of legal codes and rulings offers another look into aspects of the employment relations.

For Canadian employers and employees the objective has been to control the means of obtaining employment contracts. This agenda has defined the relationships involving multiple actors throughout history. From these relationships there developed a belief that employment requires a social welfare foundation, encapsulated in the understanding that there is a need for the democratic commitment to the freedom of association, human rights statutes, and the liberal commitment to fairness and equality. Persistence alongside this foundation continued the tenets of individual private contracts, wherein individual employees shaped the contours of their work.

Throughout both forms of employment relationships, the legal system has played an integral role in determining employment contracts, and subsequently, who controls the workplace,

Employment Law & Academia

Historically, the courts, administrative decision-makers and legislators focused on employment concerns in order to control the manner in which work relations were contractually achieved. In the conventional legal narrative, employment was contextualized under the master-servant law which enforced contracts agreed upon between the master and servant. In the court system, employment existed as a contract only, not a relationship. Courts (supported by the common law system) took the perspective that employment was a contract which was voluntarily entered into (and terminated). Under jurisprudence employment was just another legal matter which could be solved if specific attention to the rules was applied. Using this logic, specialized lawyers, and other legal practitioners, would master the rules and could systematically and automatically resolve societal complexities brought about by employment through the legal system. Employment, like other legal issues, necessitated mechanisms of control. If social life was to be possible, a logical elaboration of rules was required.

In the legal debate surrounding employment relations, law was argued to be in a constant state of adjustment. Hunt (1978) argues that lawyers, judges, and academics have conceived law as a self-contained system, reinforcing the perception that law is a force, acting autonomously on society. Law legitimized the social imperative for obedience through its claim of representing the masses, and the masses supported this claim by believing that it was truthful in its representation. This adherence to the rules reinforced a perspective of the nonpartisan role of the judiciary, with ‘a rather exaggerated view of the necessary excellence of the common law system’ (Hunt,

1978:13). Aligning with mass political democracies, legal institutions further legitimized its claim of the neutral upholder of the law with the claim that law could solve the infinite interests and claims of the public (Hunt, 1978:135-136). In the instances in which law was unable to reconcile these contentions, legal methods were expanded or contracted to fit the class of persons perceived to need or deserve the benefit of laws protection.

While jurisprudence sought to understand the application of rules (and their institutional boundaries), the social scientists, as Abel (1994:2) states “examine[d] everything else: institutional structures, processes, behaviour, personnel, and culture”. Social scientists undertook to overcome the restraint of jurisprudence moving beyond tracing the independent movement of legal decisions in specific court cases, which reduced law to sets of rules and principles, and to understand these processes as a composite of social and regulatory functioning. The social sciences dealt with things, people, tangibles, and observable relations between definite tangibles, and not with words alone (Ewick, Kegan, & Sarat, 1999:4). Law consisted of interested parties who willingly engage in legal institutions to sort, or play-out, their politics. The rules became the prizes of the political arena, wherein parties organized and entered into temporary alliances (Abel, 1994:2-3). Law also involved the inter-play of symbolic gains alongside material ones, whereby respect and social status (represented by symbols, values, and ethical positions) were obtained through legal processes (Abel, 1994:2-3).

Jurisprudence scholarship remained adamant against socio-legal scholarship, criticizing attempts to delineate a separation between the application and understanding of law, and the law as a subject of study. The judiciary tended to ignore the circumstances of unequal power resulting in employment relationships, and disregard criticisms that employment contract model was exploitative. Employment was perceived by the judiciary as moving beyond the status

relations which existed in the nineteenth century, and that the protective labour regimes (of employment insurance, welfare state, etc) carried the stamp of employment pluralism prevalent in the modern industrial contract. The persistent image of law as an infallible and neutral court system gave way to a new understanding of law as an integral feature of social situations. The objective came to be the identification of 'how' situations were constructed, "to shift away from simply tracking the causal and instrumental relationship between law and society towards tracing the presence of law in society" (Ewick, Kegan, & Sarat, 1999:10). It would be the role of the social sciences to turn employment back into a social relationship.

From the radicalism and political culture of the 1960s, emerged critical legal scholarship. Critical legal theorists based their analysis on the assumption that there was a relationship of subordination in society. Abel (1994:4) states that the centrality of law's authority (and the persistent development of winners and losers among the alliances and groups involved), provided the justification and site of analysis for critical legal studies to comment on legal understanding. Developing an approach focused on "the law as an arena of struggle" (Fitzpatrick & Hunt, 1987:2), critical legal theory pursued the development of radical alternatives to explore and debate the role of law in the creation of social, economic and political relations. Critical legal theorist critique centered on shifting the focus from the hegemonic and independent view of law as above (and influencing) society to one which engages with the connection between law and power.

The central question became why repression took the form of law. Based on a Marxist analysis, society consists of a foundation (base) composed of structures (economic relations) on which the super structures (legal-political and ideological) are conceived, and are an expression

or ‘reflection’ of that base. Law, in these terms, is to be explained and understood as a product of changes in that economic base. As Cain & Hunt (1979:53) state:

“Since the state is the form which the individuals of a ruling class assert their common interests, and in which the whole civil society of an epoch is epitomized, it follows that all common institutions are set up with the help of the state and are given a political form. Hence the illusion that the law is based on the will, and indeed on the will divorced from its real basis-on free will. Similarly, justice is in its turn reduced to statute law.” (Cain & Hunt, 1978:53)

Marc Linder (1989:177-179) remarks similarly on the social policy underlying labour-protective statutes suggesting that these, too, are based on policies that support the protection of particular wards (classes/categories of workers), and which forcibly allow disparate degrees of bargaining power to the parties. This results in specific kinds of acceptable exploitation. The crucial difference is that modern ideas of status presuppose and operate through the medium of the employment relationship. This has occurred, argues Linder (1989:178), due to “the atavistic state of Anglo-American jurisprudence which persisted in the semi-feudal and mercantilist view of a master-servant relationship anachronistically imposed on employer-employee relationships”.

Abel (1992:1-4) has listed three broad categories in which legal analysis has been pursued. The first, involving jurisprudence, views law as the sole practice of judges and lawyers; the second, sociological analysis, focuses on the structures that create and uphold the rules, as well as fostering change; and finally the third, critical legal studies, which emphasizes law as the products of social struggles. Abel’s remarks are examples of options already chosen to describe avenues that the field of law has already taken. Thus, as Mol (1999:75) would argue, legal pluralism can account for the variety of standpoints used to observe a singular fixed phenomenon. Here, the ontological politics intrinsic in the analytical works of jurisprudence, social scientists, and critical legal studies, have juxtaposed their options, and determined what is at stake, thereby implicating reality with the political (and vice versa). The politics in Abel’s

examples, present realities which appear linked, but is not necessarily the way things work in practice. If one looks carefully at the variety of interactions which occur in practice, the complex associations which persist in work arrangements become visible. Work has always been more than a social phenomenon, and this implies that an analysis requires more than a fixed lens to situate the locations of particular actants involved.

Brief History of the Worker & Industrial Relations Development

Before the turn of the twentieth century, labourers possessed substantial control over the workplace. Craftsmen, in particular, held significant control over work operations enabling them to dictate the pace, role distribution and rules in their workplaces. This control was held by skilled labourer's extensive knowledge of their vocations. For the craftsmen, workplace control meant adherence to the commonplace practices which socialized workers into the routines of the trade². From the employers' perspective, workers' control over the shop floor needed to be curbed. Employers were pushing the labour force to enter into the second industrial revolution, requiring labours cooperation for the accommodation of new technologies, market trends, and business practices. Early initiatives by employers to control production were hindered by the employee because 'skill' was a recognised as a valued commodity by the employer. Palmer (1979) states that shop floor output were based on the skill that the workers possessed, and the production of acceptable products depended on the abilities of the worker.

“Control was, essentially, the skilled workers response to the realities of workplace organization within a society transformed by industrial capitalism. Against industrial-

² Apprentice training was a mechanism aimed at connecting the pupil to craftsmen principles and cultivating a proper balance of workmanship and solidarity within the trade. Certain practices of socializing the apprentice consisted of associating Mondays with idleness and unproductiveness. 'Saint Monday' was common practice in Ontario cities (originating and carried over from England). Saint Monday was intended to give an extra day for workers to recover from a weekend of drinking (Palmer, 1979:21).

capitalists work discipline, the skilled worker posed the rules and regulations of his trade.” [sic] (Palmer, 1979:75).

By 1890, however, employers were situated at the top of the hierarchical structure present in industrial relations. Hegemony was solidified by business owners through the adoption of a systematic rationalization of production processes. Palmer (1975:31) outlines two phases in the ‘thrust for efficiency’ sought by business owners to disempower their skilled workforce.

Systematic management was the effective ‘bookkeeping and cost-accountancy’, expenses, stocks, overhead and accumulative capital that were systematically recorded (Palmer, 1975:34). Under the management of an engineer³, the practices of bookkeeping provided uniformity in production schedules.⁴

The second phase came with the mechanization of the factory floor. New developments in technologies and factory floor operations allowed every task of the workforce to be plotted and standardized. Scientific management, a term coined and propagated by Frederick Winslow Taylor (1856-1915), was the stringent rationalization of production processes, whereby worker autonomy was minimized and output increased. It coincided with the expansion of the professionalization of management and stricter cost accountability in business. Additionally, attention was paid to hiring practices, concerned with maintaining a stable workforce, as views of the ‘appropriate labourer’ had changed.⁵ These transformations reduced the prominence of

³ An engineer was 1800’s term for managers that recorded the figures and quotas of workers, and tabulated business expenses. It became the preferred representative of employer’s interests and the middle man between labour and owner.

⁴ Systematic management was most successful in the highly concentrated and advanced sectors of textiles, high-technology manufacturing and new industrial staples of smelting and pulp and paper works. Mines, docks, lumber camps, agriculture, building trades, fisheries or small shops fell largely outside these initiatives to incorporate systematic management (Palmer, 1992:160-161).

⁵ In the 1800’s and early 1900’s, the writings of the advocates for efficient management was marred with the view of labourers as infested with ‘laziness’ and required to become more ‘machine-like’ (Palmer, 1975; 1992). Labour had once held a Victorian imagery of noble men toiling upon the land or in their trade. With industrialization, Palmer (1975:36) notes, employer attitudes towards labour (and in particular skilled labour) became ‘hostile’. Skilled labour’s former prestigious position within the artisans and craftsmen guilds was undermined through the adoption of the managerial perspective that labour was merely an appendage of the production process.

handicraft production for modernized forms of industry. Modernized forms of industry involved the intensification of production, trends of labour skill dilution and the establishment managerial of hegemony.

The efficiency movement remained fractured and divided as numerous scholars of the period published and lectured on what was 'efficiency' and how it should be encouraged. Any unity on the topic of scientific management seemed to come from the leaders of organized labour who collaborated in their opposition to its promotion and adoption. This can be seen through the response of craftsmen and organized labour's activity during this period. Palmer (1992:142-146) remarks that strikes became a display of worker grievances against employer conduct indicating that labour was beginning to see alternatives to merely accommodating business practices. From 1843-1879 sixty one conflicts were recorded in Canada. This expanded to 102 from 1880-1895, and then to 745 strikes involving 120,000 workers from 1899 – 1903.

Unionism

Workers organizations had existed well before the 1900's in the forms of clubs and unrecognized work committees. Utilizing the legal privileges of freedom of association and group action, and the freedom of speech and assembly, early organized labour pushed for a stronger share in shaping working conditions in the rising industrial sectors. Arthurs (1967:791) states that picketing and public demonstrations had been allowed under Canadian law as of 1850, as long as they remained cordial, followed normal civil sanctions in the law, and there was no obstruction or violence towards property or services. These legal 'privileges' however, were not rights, and often these groups were subject to coercive legal punishments if they posed a hindrance to employers or the public.

Although there existed collective action, organized labour was divided. The skilled labourers, dominated by male Anglo-Saxon Canadians found their security in trades and craft unions, relying on their specialized skills to ensure fair treatment and decent wages. The separation of ethnic and racial groups brought a protectionist mentality to craftsmen, as they attempted to secure what benefits they could in their immediate work situation. The trade and craft unions actively pursued policies of restricting foreign membership, and advocated for restriction on immigration from the government⁶ (Fudge & Tucker 2000:253). Unskilled labour (largely represented by women and immigrants) did not possess the specialized skills or work location⁷ which provided the leverage necessary for bargaining for better work conditions. Additionally, their income tended to be considerably less than that of skilled workers which also served to inhibit the necessary resources for worker organization (Fudge & Tucker, 2000:253). The unskilled were confronted with overt racism and sexism by Anglo-Saxon workers. Foreign labourers were thought to take the native workers positions and flooded the labour market with cheap labour which undermined their bargaining position. These biases impeded efforts for the unity of the working class labour organizations comprising of immigrants⁸. The result was a labour market fragmented ethnoculturally, as well as structurally.

⁶ The increased use of machines devalued many skills and increased the need for unskilled labour. This provided the 'pull' required to attract a multitude of immigrants from the fields and farms of Europe (Palmer, 1992:156). Different racial groups were recruited by employers to perform specific types of labour. The new immigrants lacked skills and provided a suitable pool of labour to work the large scale capitalist projects including mining, railway construction and other industrial scale projects. Immigrants also filled the semi-skilled positions of the entirely new economic sectors of smelting, paper and pulp production and mass textile production.

⁷ Work location proved to be important in pushing for better pay and work conditions for workers. Particularly in the case of occupations which had become increasingly pivotal to Canada's industrial development. The rise of British Columbia's mining industry in Rossland, Nanaimo and Vancouver is one case in point, where workers pushed for improved conditions achieving modest gains with the rise of coal prices in 1890, then in 1903 the fall in coal prices, coincided with fall in union activity (Mouat, 1995).

⁸ Drawing social leverage from their numbers, semiskilled and unskilled labour often developed into small pockets of solidarity identified by their particular positions. Not as organized as the craft unions, industrial labourers protested en masse, demanding improved wages, safer and more sanitary work conditions in the rising manufacturing, resource, and industrial sectors (Manely, 2005).

Over time, there was an explosion in the number of workers involved in organized labour and a documented inability of employers to placate these disruptions in production. This brought courts directly into labour disputes (Fudge & Tucker, 2001). Initially, the state used disciplinary measures on labours' drive for more say in the production processes. The courts authorized the use of police and military coercion against strikers, alongside the more subtle forms of intervention such as injunctions and sanctions against labour organizations.

The employer's reliance on state disciplinary institutions to curb worker discontent relied on the targeting of individual union officials and members. Fudge & Tucker (2001) remark that employers utilized criminal law to ensure workers would pay for losses in production. The application of criminal law against striking unions, under the pretence that the picketers were engaged in criminal conduct, became the norm for solving labour disputes. Unions would find their members arrested and prosecuted on charges of inciting public violence, intimidation, assault, and harassment. Judges often applied the criminal code more stringently towards union members, while being careful to distinguish the rights of free speech and assembly from the actions of the strikers (Fudge & Tucker, 2001:30). Often criminal restraints were placed on the employees based on the provisions of the Master Servant Act (1847) which regulated the duties between master and servant contracts (applied in particular to apprentices, labourers and craftsmen). This ensured that workers who abandoned their employer to strike would face legal penalties (as cited in Palmer, 1992:64-65).

Injunctions worked in tandem with criminal arrests, and denoted that individuals were disrupting civil peace and commercial transactions. Bartlett (1981: 338-340) argues that tort law was based on the English model designed to protect employers against the harms a strike could cause, and further, the model acted as a means to warrant state intervention. The courts ruled that

the strike-related tactics of picketing, soliciting, and assembly were to be understood as infractions, causing employers to seek redress. Fudge & Tucker (2001:27) note that some of the most minor infractions by labour were subject to injunction: disorderly conduct, name calling, and cursing. Even the use of the term “scab” resulted in a Toronto magistrate fining “two garment workers, a cabman, a foundry worker, and two cloak makers of [the] criminal offense of intimidation for its use”. Bartlett states that courts went a step further, ruling that inducing a replacement worker to breach contract was also considered a wrongful act. Additionally, the intention of finding replacement workers alternative work, or convincing them to join a union, was a breach of private contract, liable for compensation and prosecution.

These injunctions were effective and became common practices to place unions on the defensive. Civil actions were a threat capable of attacking strike funds, funds which supported striking families. Trade union funds could be accessed through court decisions which required unions to make reparation for damages and losses to production due to union member actions during a strike. To illustrate this, Mouat (1995:133) states that during the Rossland strike in 1901 in British Columbia, the mining company pursued legal redress against union officials and members in the amount of \$12,000. Unable to procure the amount, the company used further legal proceedings to force the union to pay. This caused the eventual loss of the mining hall, and forced the local union into receivership. Attempts were made by union lawyers to curb the injunctions of tort law (which forced damages to be paid to employers for the liability of union members), however, the judiciary sided with the employers; forcing further injunctions on union officials. These civil class action suits for damages were pursued by those employers determined to weaken or break unions. This practice enabled employers, not only to recover damages, but attack the institutions, organizations, and financial structure of unions. Despite the opposition by

and oppression of employees by employers, the legal system and trade unionism was becoming an accepted consequence of industrialization. The objective was to ensure unions functioned within specific lawful boundaries and this required a level of acknowledgment by governments and employers that a union was a legal institution (Palmer, 1992; Tucker, 1990).

The increased frequency of labour disputes across Canada disrupted the commercial and financial development of industry and inhibited the supply of essential consumer goods, leading to public pressure for the resolution of disputes. In a letter written in 1906 to Industry Minister Sir Wilfred Laurier (later to be published in the press), the author documented how a British Columbian Coal miner's labour dispute was affecting the region of Ramsay, Saskatchewan:

“We have neither slabs, edgings, nor cuttings, and though we have inquired we are unable to purchase any cordwood – there is nothing in the city [of Bladworth].

Settlers have been burning lumber at \$30.00 a thousand, willow bramble, twisted hay and grain. These sources are well-nigh exhausted. Dr. J Fyfe reports from observation that no fuel is in the settlers' hands, and that suffering and perhaps death will ensue there from. All public schools are closed for want of fuel. The Saskatchewan hotel, a thirty-roomed house, has but one fire.

A blizzard has been blowing on November 15, 16, and 17, with zero weather. I leave you sir, to imagine what the conditions of your fellow-subjects are in the electoral district of Batoche⁹ – a name not unknown to history. The condition is not local, but general.

I would respectfully ask that you, sir, put an end to a dispute that is intolerable, and the maintenance of which endangers the life and happiness (inalienable rights of all free people) of all settlers.” [Sic]. [As cited in Mackenzie King, 1918(1973):325-326]

Public concern, in conjunction with employer opposition to worker unrest, brought the Canadian state into industrial conflict. For all parties involved to achieve resolution the issue necessitated further involvement by the state. Law would become integrated into the means of establishing and sustaining labour peace.

Organized labour was seen as a necessary cost which needed to change slowly and predictably within each economic sector. Labour costs were assumed to be similar or comparable across the spectrum of business, giving no particular enterprise an advantage. Trading, assumed

⁹ A district in Saskatchewan

that other countries operated within similar levels of regulatory control. Industrial pluralism became the template to deliver a range of social benefits without disadvantaging other business sectors. Standing (1997:9-10) states that there was a ‘social wage’ associated with industrial pluralism which was marked by a steady growth of social benefits (human rights, anti-discrimination laws, equity policies). The intent was to create and sustain full employment, the committing to redistribution of income from economic growth by employers (reducing the socio-economic inequality between employee and employer), and for acceptance of managerial authority in the processes of production by employees.¹⁰

At this time, the state also clarified that the legitimacy of trade unions was dependent on “the ends they pursued and the means of which used” (Tucker, 1990:65). Tucker (1990) argues that a “legal zone” was built up through legislative acts and cases concerning labour issues, and as such, an abstract legal entity could be recognized in law. This is emphasized by the creation of the Department of Labour in 1900 which legally recognized labour organizations as accountable for their member’s actions (Mann, 2009).

Despite the fact that workers were achieving higher levels of solidarity with the rise of union membership and sympathy strikes, employers were reshaping the terrain on which industrial conflicts were conducted. With the application of law, legal texts became paper ‘sticks’ which could divide and suppress class antagonism. It did so through the construction of a legal architecture dictating how labour disputes would play out. The development of state labour regulation in the twentieth century stemmed from those prior court cases between organized labour and employers. From the judicial system there developed a legal zone within which to deal with labour antagonism, derived from precedents documented in criminal (Fudge & Tucker,

¹⁰ The benefits and social security derived from the push for work equality was based on a particular type of worker. The typical union member was a relatively settled, semi-skilled male worker within large industrial corporations. Women were intentionally excluded and considered relatively inactive as a labour force (Fudge 1991; Fudge, 2005).

2001), tort (Bartlett, 1981), and health and safety trials (Tucker, 1990). Often, workers were subject to contradictory interpretations of formal laws by juries and magistrates, and the common law was applied and incurred various combinations of charges on workers. The promotion of this framework through labour discourse created a worker more concerned with working for the ‘carrot’ (money) than achieving industrial equity.

The Depression: Preferring Authority to Idleness

Workers during the Great Depression of the 1930’s did not demonstrate the heightened group cohesion that was seen before the First World War. The means utilized to pursue labour grievances had steadily become less radical, and more conservative in its leanings.¹¹ The onset of the depression challenged the validity of the promises made by the unions, employers and the state. With nearly one quarter of the labour force unemployed, neither trade unions nor minimum standard laws were enough to protect workers from the downward pressure on wages and job security (Fudge & Tucker, 2004:258).

‘The experience of unemployment and job insecurity [during the depression] had a very profound but subtle effect toward work time and wages: this trauma tended to diminish the value of free time while it reinforced the attractions of money and the goods that it could purchase. Unemployment disrupted routines and made free time something more to dread than to long for. It intensified the linkage of status with work, wages, and the goods that money could buy.’ [Cross, 1993:136]

Previous jobholders became consumers at the end of the depression. Families began to experience what it was to have unfunded leisure and rationalized that this leisure and free-time was the compensation for work. Free-time became privatised; money and free-time became

¹¹ The political and ideological realignments of the large union bureaucracies had produced a variety of organizations; the Trades and Labour Congress, Congress of Industrial Organizations, All-Canadian Congress of Labour, and American Federation of Labour, to name just a few, all vying for worker support through their shifting ideological ambivalence (Fudge & Tucker, 2000:258-261).

markers of the status of families and individuals. Cross (1993; 154) argues that the worker chose to actively engage in this consumer society even as they were being manipulated by it.

After the depression, unionism took a militant tone. With the end of the depression came employer resistance and state repression against organized labours initiatives. This combined with working class fragmentation, and the election of a federal government committed to a return to the labour legal regime (based on property rights and worker complacency), inevitability led to worker militancy. Militancy by labourers was a means of bringing the employer to the table and not an actual challenge to the capitalist system (Fudge & Tucker, 2001:227). Collective bargaining was a means to bring trade union leaders in contact with the problems of the industry; making them, in effect, acknowledge organized labour as partners to furthering the prosperity of business during the war years. In exchange, conservative-leaning trade unions were to maintain labour peace and the employers and the state were to accept trade unions. This also meant accepting an enforcement of minimum wage standards and occupational safety standards. According to Fudge & Tucker (2001:305) it meant:

“...that union and its leadership accepted the legitimacy of private property and free enterprise. Politically... a commitment to constitutionalism and electoral change; strikes for political purposes were simply unacceptable. In context of industrial relations it meant that the union accepted the integrity of collective agreement and would make all reasonable efforts to prevent wildcat strikes.”

With the rise of labour legislation after the Second World War, Canadian worker's rights and duties were no longer created by individual contracts, but by a process of public and private legislation. Termed as industrial pluralism, the legal paradigm enshrined fair treatment, unhindered collective rights, and safe conditions in employment relations across Canada. Advocates of industrial pluralism saw its development as a natural process of labour relations wherein competing interests could be combined in the name of a common good.

In 1955 to 1965, 29.7 percent of the Canadian workforce was unionized (Mainville & Olineck, 1999:6). From 1966 to 1995, the number of unions operating in Canada almost tripled, increasing from 173 to 502. At the same time, the share of union membership accounted for by large unions (50,000 or more members) also increased. In 1966, four unions¹² exceeded 50,000 members and accounted for 21.8% of total union membership. By 1995, 18 large unions represented over half (2.2 million) of the 3.9 million union members in Canada (Mainville & Olineck, 1999:8). The course of action taken by government was to address future labour disputes by offering variations of the same solution of industrial pluralism.

The unionism from the 1990's to 2010 involved the expansion of unions beyond its previous conceptual and practical confines (Ross, 2008; Tufts and Savage, 2008, Tufts, 2009). Organized labour from the post war period included unionism that possessed a fairly narrow definition of worker's interests; involving a push for higher wages, shorter hours and better work conditions (Ross, 2008:132). Labelled as 'business unionism' (see Kumar and Murray, 2006), this unionism generally focused on the interests of dues-paying members rather than achieving equality for the general working class. This protectionist mentality is attached to a fairly conservative interpretation of the worker's relationship to the capitalist economy, whereby the union accepts private property and the wage system, while at the same time attempts to improve the economic status of its union members (Ross, 2008:133). Current union trends in Canada see the rise in social unionism for its broader view of both workers interest and the union's role in achieving them. Ross (2008:133) defines social unionism as a combined conceptual image of worker and citizen, where the long-term interests of workers are perceived beyond the workplace and connected to society in general. Social unionists are concerned with influencing public and

12 The four unions were Canadian Union of Public Employees (CUPE), Canadian Auto Workers Association (CWA), National Union of Provincial Government Employees (NUPGE) and the Public Service Alliance of Canada (PSAC).

social policies that structure the distribution of rights, entitlements and responsibilities of economic and social security. As workplace relations are shaped by institutions outside of union controls, and the workers live outside the workplace, unions must also concern themselves with those arenas.

Tufts (2006; 2009) comments on community unionism's as an alternative in forging these links through the formation of coalitions between unions and non-labour groups in order to achieve common goals. A reciprocal exchange of influence, control, direction and organization has occurred wherein unions and community groups have been able to support one another through their cooperation. Unions provided the needed structure and outlets to speak to garner further political and social networking. Community groups provide support, a connection to local populations, and the expansion of the union's agenda to local needs. This lending of power and influence between unions and community groups enables a new direction in the determination of organized labour, one in which social unionists may reconnect with its former routes of community and place (see Tufts and Savage, 2009). Yet, it still remains confined to its ontological underpinnings, limiting its capacity to envelop other forms of work and workers.

The Rise of Contingent Workforce

"No longer does the factory or production system produce the same product or service, hour after hour, day after day. There are still routine assembly jobs out there in towns like Oshawa. But, generally speaking, it is no longer possible to define specific jobs which will require the same set of skills, year after year. The tools will change, the products will be more customized, the processes and materials will evolve. This means that no employer can hire someone to do a specific and well-defined job on an open-ended basis." [sic] (Maxwell, 1995:3)

Beginning in the 1980s, the government used its own workforce as a model to promote new forms of industrial organization, demonstrating the benefits of lean production, attacking

unions and freezing their contractual arrangements. Attacks on the public sector ranged from wage controls, layoffs, back-to-work legislation, and privatization, contracting out, and imposed collective agreements (Ilcan, 2009; Ilcan, O'Connor & Oliver, 2003). The attacks weakened the public workforces' ability to engage in effective collective action to prevent further workforce reduction (Glaskbeek 2004; Fudge & Tucker 2001). This then allowed the government to promote the use of a workforce consisting of part-time, student, contract workers and the leasing of specialists¹³, replacing the larger bureaucracies present in the 1970s. Policies have been oriented towards the promotion of a disempowered worker who is mobile and willing to work under any condition. It creates working class differentiation, wherein the growing pool of non-union employees allows government departments and companies to reap the benefits of a cheaper labour force. These new labour pools allow employers to avoid organized labour, which has the capacity to defend labour conditions (Sears, 1999:100). The rise in contractual temporary employment has led to employees becoming susceptible to fixed terms and conditions of employment, while at the same time, remaining outside the reach of industrial pluralism.

The counter arguments for the benefits of contingent work make reference to the enhanced employee mobility for those employees seeking careers and jobs that cater to diverse fields of interests (Drucker, 2006). Businesses fixate on the need for these knowledge workers. The success of these workers depends on the amount of access they have to company operations and decision making. Their abilities to make contributions are dependent on an open and highly technological work environment. Knowledge workers are highly skilled employees who possess

¹³ In an attempt to be impartial or partisan, Government departments have incorporated the practice of hiring consultants or specialists to provide brief reports on issues affecting particular government problems. The condition works on the basis that a sum of money is offered to specialists to give their opinion on a particular issue and they write a brief report which is incorporated into the government document. This practice is done in order to make the government department appear impartial by seeking outside opinions from the private research sector and not directly concerned with the issue at debate.

extensive knowledge in a particular field. Their primary function in a company is to transform and manipulate information to achieve particular commercial goals. The knowledge workers, unlike previous categories of worker, own their tools (i.e.: their mental capabilities) which materialize through their research¹⁴. These levels of specialized knowledge make it more difficult for the employer or the supervisor to second guess or correct the knowledge worker. This permits an advantageous employment situation within which the knowledge worker has a say over the dynamic projects they are involved in.¹⁵ Through their knowledge workers possess the necessary leverage to allow for enhanced employability from multiple corporations, however there are limits on the benefits derived from projects that they participate in. Endrawis (2004: 37-38) remarks that the “flexibilization of the workforce means economic security for employees is expected to come from the possession, refinement and successful marketing of skills by the individual employee in a constant shifting labour market”. The volatility of the new economy constantly fluctuates, changing the amount of skills and knowledge sufficient for adequate employment. The onus of responsibility remains on the employee to maintain a level of intellectual utility for continued employment.

As work situations become more customized, serving the new economy and lean state policies, work longevity and security becomes “vulnerable”. Referred to as ‘precarious work’ Harry Arthurs defines the characteristics of this type of employment as “...combin[ing] relatively low pay with one or more of the following: an unstable or at risk source of income,

¹⁴ No mention has been made about the patenting of published material and finding of scientific research by scholars that emphasize the necessity for business to deploy knowledge workers. The question becomes, when a project is finished, does a knowledge worker actually own their “knowledge”.

¹⁵ Solomon (2005:1-2) remarks, however, that these employees tend to favour their personal lives and professional development, with a more individualistic attitude, making them less predictable in their level of commitment to a company, resulting in apprehension on the part of employers as to how to properly deploy or sustain this contingent workforce.

few or no benefits, limited or inaccessible legal protection, and uncertain prospects for future advancement, profit or other compensatory opportunities or advantage“ (Arthurs, 2006:27). Typically associated with lower tier service positions, individuals who work these jobs do not possess the leverage to garner better work, and there does not appear to be any incentives to create improved conditions or relations by the employer. Of these precarious work positions, young women working part-time jobs in the private sector are considered most at risk financially, with rises in risk from being parents and/or being self-employed (Chaykowski, 2005:50). Chaykowski speculates that a third of the Canadian workforce in 2005 was performing vulnerable paid work and the trend does not appear to be decreasing. Of this fraction of the labour force, a fair portion of them appear to be self-employed or part-time, including restaurant workers.

The demographics of employment have changed. Canadian jobs are moving towards a divide between knowledge-based occupations, and lower tier precarious positions which support a core administrative sector. Employees do want to have more credentials and skills, and also wish for flexible employers that will accommodate the employee's professional and personal development. Alice de Wolff's research remarks on women's experiences in contract positions and the benefits drawn from engaging in contingent work, citing the benefits of flexible work, specifically the supplementary income it provided, allowing women to keep their skills updated, and not having to get completely involved in office politics. However, these women employees were subject to unpredictable scheduling and re-scheduling, working split shifts, and were constantly on call, impinging on their lives, rather than creating flexibility (see Endrawis, 2004:37). It was the women of the de Wolff study who were being flexible, and not the employment position. Alan Sears (1999:97) states that the more participatory the workplace

culture becomes, does not necessarily mean there is increased control over production by workers, but rather there is a heightened contribution by the worker to “new forms of identification with management goals of quality, productivity and flexibility”.

The objective is for uninterrupted capitalist production in a global market which will provide future benefits for a new knowledge working class. If it is a knowledge society to which we are headed, the essence of this change is the extension of the market place to new commercial opportunities. Business sees that the primary resource for society and economy will depend on innovative technology and the specialized workers to operate them. Anecdotally, this trend is being seen in the highly skilled work involved in many commercial restaurants. Furthermore, it will translate into developments of free market democracies for autonomous and knowledge based organizations which will, in turn, lead to greater economic performance and political and social cohesion.

No matter what the decisions made by the company, the workforce feels the effect. The growing importance of international capital flow fosters increased price competition, and places new pressures on labour costs for companies. Firms have adopted the practice of holding a core workforce for administrative purposes while deploying a contingent workforce to perform other functions (human resources, manufacturing, and public relations). The flexible labour market shifts more and more components of production from the individual firm to a series of suppliers. This occurs in both goods and service production. Through outsourcing there has been an expansion in the use of part-time, agency (contract), and temporary workers. Along with technological innovation in the workplace and an increased reliance upon a highly skilled and knowledgeable workforce, this change, as it is argued, allows companies to maintain competitive edge.

Regulating the Restaurant

Commercial cooking developed from the chefs of aristocratic establishments (private dining facilities) in the late eighteenth century.¹⁶ The rise in popularity, and the expansion of the restaurateur¹⁷, brought a need for regulation of food production processes. At first these included health and sanitization, and then later, work contracts.

Some of the first legal attempts to regulate food establishments were found in Rome, Italy. Inns in the Roman Empire were regulated to ensure food was fit to enter the body (Meriot, 2006:5-7). Roman authorities defined and regulated the price, quality and the amount of beer and wine sold, making significant profits on the taxes collected by the sale of drink. Particular practices (which were carried on to revolutionary Europe) included that of ‘regrats’; wherein the leftovers of meals from mansions and luxury restaurants were, after a summary disinfection, served again in a second commercial circuit intended for popular consumption (Meriot, 2006:11). It was the connection of cookery and medicine as a tool of rhetoric in the post revolutionary Europe which permitted early restaurant owners to distinguish their establishments (and food) as place of health (like a spa), allowing then to avoid the regulations which were placed on other establishments, such as those which carried out the practice of regrat (Kiefer, 2002:61).

Despite the attention paid to food preparation, sanitization and organization, the position of cook in the restaurant kitchen continues to remain a difficult one. Demands and expectations are placed on the cook to perform their job under constrained circumstances. The employment

¹⁶ There exists considerable debate on the origins of the restaurants (Spang, 2000; Mennel, 1985), debating the origins of particular methods of service, menu, style of cuisine, and type of culinary labourer which may be defined as a restaurant. It is safe to assume that the style of restaurant service based on individual service and portions emerged shortly after the French revolution.

¹⁷ The term restaurateur originates from the profession of men whom prepared restorative concoctions which were argued to “restore” the health and vitality of the consumer of the liquid (Spang, 2000).

situation consists of: working outside the regular business day, with long hours, high potential for accidents, few benefits, and little to no job security. Though extensive praise has been given to the cuisine produced by these earlier chefs and entrepreneurs, the relationship between cooks and the formation of their employment contracts has not been extensively regulated or researched.

Regulating the Restaurant Kitchen

While current government policy pushes for a continued elaboration and expansion of existing employment laws, the place of the restaurant employee remains vague and generalized within legal jargon. The laws which govern restaurant employment relations have generalized the vocation as another business sector, among many, in the Canadian labour market. To contextualize this situation, previous sociological paradigms have supported the legal categorization of restaurant work: describing the restaurant as merely another occupational brand, and focusing on the output of production as a form of social and cultural capital.

In employment law, restaurant workers are limited to ‘the performer of economic tasks’- merely working for income. In the law, the restaurant has been shifted from being under the legal jurisdiction of first the Canadian Labour Code to the jurisdiction of the individual provinces. It is a business which is subject to the guidelines of its Employment Standards Act, health and safety legislation, and the Assistance and Recovery Strategy Act (SARS Act). The objective of this move, and various legislative and policy initiatives was to ensure that all Canadian employees were protected by a minimum standard of employment protection covering wages and working conditions. In the case of Ontario, the workplace has been conceptualized as a “safe, fair and healthy workplace that creates productive relationships between employers and employees for a

competitive economy that generates widespread benefits for all Ontarians”.¹⁸ In order for the laws to apply to Ontario restaurants each establishment had to be conceptualized as a commercial location. The restaurant is a business where the necessary equipment and food stuffs are located and employees prepare meals for a consuming clientele. Cooking, for example, is described as involving an employee who “prepares a hot meal; makes suitable for consumption by heating”.¹⁹ By outlining the particular type of workspace where cooks (and the restaurants they work) inhabit, law then can generalize these work situations into particular categories in order to grant them their rights.

*Saskatchewan Example*²⁰

Efforts have been made to improve a legal recognition of exploitive or abusive trends in the restaurant industry, yet the diverse aspects of restaurant work continuously leaves this work and the worker just beyond the reach of legal protection. Many kitchen workers are part-timers and the extent to which their work situations are accounted for in labour standards is sometimes ambiguous. An example of a legal improvement for restaurant workers can be seen in the 1993-94 Saskatchewan amendments to the Employment Standards Act. In 1993, an attempt to revise

¹⁸ <http://www.payequity.gov.on.ca/peo/english/pubs/glossaryverbs.html#index-c>

¹⁹ <http://www.payequity.gov.on.ca/peo/english/pubs/glossaryverbs.html#index-c>

²⁰ A semantic debate has occurred on the level of regulation necessary for government control of the labour market, leading to a belief that there is a necessity for ‘deregulation’. Some proponents insist that the current markets are experiencing a decline in regulatory means. This argument has led to much unnecessary debate, where the market regulations are subjected to a scale of high regulation of the 1960’s & 70’s, and low regulatory regimes of the contemporary period. To absolve this debate, a note can be drawn from Guy Standing (1997) who remarks:

“There is no such entity as ‘deregulated labour market’, since even in the most extreme case of market regulation, policy interventions are used to regulate individual and collective behaviour.” [Authors quotation marks] (Standing, 1997:8)

There is always a form of regulation taking place by government bodies, and it would be correct to insinuate that the regulatory trends of labour market are subject to constant ‘reregulation’ by the state.

the Saskatchewan labour standards act was undertaken to regulate enhanced workers rights and benefits to part-time workers in particular (Broad, et. al. 2004). The government failure to proclaim some key provisions drastically reduced the effectiveness of the amendments. The issue for Board (et. al. 2004) was whether labour standards legislation could benefit part-timers in the context of neoliberal globalization. Bill 32 was constructed to provide more protection for the contingent workforce. It raised minimum labour standards to give part-time workers better work conditions and more control over their work situations. Provisions entailed a one week notice of work schedules, made “on-call” practices illegal, provide that an unpaid 30 minute meal break for six hours work, scheduling was determined by seniority, and legal repercussions for employers who used scheduling for disciplinary practices (Broad, et. al. 2004:272). The points of Bill 32, were attacked by a commercial lobbyist group that changed and reoriented the language of the bill, removing details which made provisions of the bill regulations, and not legislation, meaning that cabinet would decide their extent and content (272-273). The transfer of the Bill 32 to cabinet meant that it would be subject to discussion by interested parties (mainly labour & business groups), and not debated by a legal body with jurisdiction to make the amendments of the act. The cabinet created revised suggestions which were passed February 3rd 1995, severely reworded, with narrow definitions on who applies, and the limits on the amount of hours needed for part-time workers to be eligible for benefits. Broad (et, 2004) argue that the bill lost support due to the neoliberal paradigm change in 1990’s, which adopted a strategy of devaluing labour and promoting economic ‘informalization’ in the labour market (Broad, et. 2004:268).

What the part timers wanted was support when dealing with issues concerning scheduling, breaks, benefits, and additional hours, with the high representation of women, expressing issues for child care and maternity leave (Broad, et. 2004:277). This amendment would have had

positive effects for restaurant kitchen employees as it would have permitted more control over their scheduling. The social economic changes put forward in the amendments to the Saskatchewan Employment Standards Act were refuted by the business and political regime in Canada. Business lobbyist attacks resulted in a new term of employee, creating a new typology in law which sectioned off the range of part-time categories under which work relations fell. The key feature of the Saskatchewan typology has to define who was entitled to benefits (permanent-part-time workers employed with companies which have benefits) and those excluded (full-time students and treaty Indians). The resulting labour standards regulation corresponds reasonably well with social reality expressed by the business community, expanding the scope of Canadian employment laws over the hours of work across the workforce, work allocation across adult populations (including age groups), work sharing, and limitations on eligibility for over-time.

The Cook's Employment Contract

The employment situations of restaurant cooks centred on the immediate employment contract negotiated with the employer. Each employment relationship in Canada is governed by an employment contract which may take the form of a verbal understanding or a lengthy written document. Despite impressions by employees that there may be no written employment contract signed, there still exists a employment contract under Canadian law (Bowal, 2009; Moscardelli, 2004). When written or oral contracts are not recorded, employment contracts for restaurant workers (or any worker) contain the legislative terms found in law. Bowal (2009:40) states that common law decisions developed over time by the judiciary are implied in employment contracts regardless of the verbal or written agreements between employer and employee. The implied duties are divided between the employer and employee. The implied duties of the

employer include: the provision of safe working conditions; adequate supervision and training; regular work as specified by the contract; good faith and fair dealing; reasonable notice of dismissal in the absence of cause; and fiduciary duties in specified circumstances. The implied duties of the employee are: “to serve in good faith; ones qualifications are factual; to exercise loyalty and fidelity (such as respecting confidentiality and avoiding competition with the employer); taking care of the employer's property; indemnify the employer for wrongful acts on the job; and give reasonable notice of resignation” (Bowal, 2009:40). The terms of the employment contract may also entail employees rights, additional duties and obligations, and outline the employees salary/wage, working conditions, commissions, bonuses, stock options, profit sharing, vacation entitlement, vehicle allowances and compensation for overtime (Huhtala, 2004; Myers, 2011). Employees also have a duty of confidentiality in which they cannot disclose trade secrets and other sensitive information. In addition, they are prohibited from using such information after termination of employment (Moscardelli, 2009).

The work situations of restaurant kitchens are often arranged outside of the legal standards of Canadian contract laws. The position of the line cook in the restaurant kitchen is a difficult one. The cook’s position serves to the whims of clientele, and even food stuffs. Demands and expectations are placed on the cook to perform their job under sometimes stressful or constrained circumstances. A cook’s work experience consists of fluctuating schedules, long hours, inconsistent pay, frequent accidents, few or little benefits, and short term employment, all of which are considered commonplace for many restaurant workers. The annual Broad-Base Plan report, published by the Ontario Ministry of Labour (2008-09), compiled a record of the conditions that restaurant (and other food service) employees are exposed to in their

performance of their duties, noting that there is a high rate of “accidents, spills, injuries and violence” present in these occupations.

The contours of employment contract in the commercial kitchen can be pieced together from written fragments flowing between employer and employee. These writing fragments are collected to permit law to legally construct the restaurant kitchen contract. The pieces of information emerge from the advertisement, job description, application letter and resume, and usually, a letter of offer (the letter may simply entail the job title, starting date and salary, and hours of work). Also, emails and faxes can contain the details of the contract, confirming job duties and benefits. The employee handbook and Human Resources policy manual in use in the workplace are also incorporated, providing a more detailed source of employment rights and obligations (ones which would be recognized in a court of law).

The oral representations (the employers’ oral promises) that occur in the interview are also included as part of the contract. The use of oral agreements and negotiations may give rise to issues if their proof is called into question. For example, it may be difficult to objectively prove that the employer promised an increase in salary after the first year as compared to a bonus for reduction in food costs or labour. In terms of oral promises, if the issue goes to court one can only tell the judge what oral promises were made and were relied upon. These are called express terms because they were actually expressed (Bowal, 2009:40).

The onus is on the employee to be aware of their rights and the details of their employment contract. The employee must also possess knowledge of employers’ policies and procedures, as often the employer incorporates these types of policies and procedures into the contract. While such instances can be contested, the extent to which this can occur depends upon the particular circumstances of each case. These all combine to supply the contents of the

employment contract. The extent to which these forms of employment contract are legally binding depends on how it is written. Generally, a written employment contract will be enforceable by both parties if it is fair and properly drafted (excluding language deemed to be ambiguous or unclear). The contract would not be enforceable if it can be shown that the employee signed the contract under duress (Myer, 2011). Contesting these contracts in court may pose considerable problems as a result of the process used to form the employment contract. The nature of the development of the employment contract, in this case, cannot be easily tracked and may appear ambiguous in a court of law.

Legal Mechanism of Detachment

Academic research and governmental policy has traditionally focused their interest on the expansion (and retraction) of legal institutions and their ability to apply legal concepts to employment issues. In paying particular attention to labour legal institutions and their formation, I argue, that a legal framework has developed which channels employment disputes through economic mediums of understanding through legal documentation that emerged out of past labour disputes. The focus is on the reasons for the emergence of legal documentation and its subsequent role in mediating future labour issues. Latour's (2004) contextualizes this process through his analysis which contrasts laboratories to court rooms.²¹ In both scenarios, the

²¹ Latour's (2004) analysis is based on the Romano-Germanic System of France, though the French legal system differs in various forms from the common law system of England {the difference lies in French system is enacted by parliament and Common law is based on prior cases and their findings (Vago & Nelson, 2004:11)}, for my analysis, the inevitable objective is the reduction of facts and the detached legal officials. Pottage & Mundy (2004:20) comment that the French Supreme constitutional court is a composition of legal, political and administrative cultures fused together; the apparent bias of this situation goes unacknowledged, supposedly absent in the 'detached' judges. Glasbeek (2004:54) state a similar situation where federal judges are appointed in labour disputes for their 'national outlook' over local magistrates.

separation of reality occurs, where every effort is made to ensure that the final product is as severed from the outside influences (the realities involved). Legal processes work to remove the other categories of society (political, economic, etc) reducing relationships to legal definitions (torte, family, and criminal) in order to apply law to the situation and aid society to proceed beyond the incident. The results which are left are ones devoid of the realities that lead to up the conflict.

The point is detachment in part by the participants in the legal processes. Legal council are trained to articulate the legal questions, fixating on where the facts of the case intersect with legal doctrine (Latour, 2004:89). In arguing over a particular point of law, particular parties interject their interests into legal accounts of reality. Through the incorporation of evidence or ‘facts’ a legal reality is constructed, acknowledging and then (systematically) removing the evidence in order to move onto to the particular point of law that is of interests; where the judges will be entirely devoted to deliver a legal infraction from that point on. This is evident in courtroom processes (or the legislature for that matter), in that, the further a case goes up the legal hierarchy the more objective (distanced) the judges are from the case; essentially “divorcing emotions from decisions” (Bartlett, 1981:342). Legal reduction seeks to constitute a domain of unquestionable facts as quickly as possible, so that it can then subsume the case facts into a rule of law to produce judgement. This replaces the richness and complexity of the world in all its dimensions. The final decision is made and recorded in a file, and the file becomes the speaker for the legal infraction, those involved, and the judgment made. The case file becomes a map of the world; wherein the map entirely supplants the territory (Mundy & Pottage, 2004:21).

Martha Mundy & Alain Pottage (2004) argues this point in law, that the purpose of law was to create an architecture which would shape future incidents and in effect the actors

involved. Legal institutions divide the various aspects of society (separating man from nature or other material things) and legal rules correspond to natural and social “facts” concerning the division of persons and things. Their position reaffirmed the distinction between the construction of society and its theorized reality: that is “legal procedures invent the traditions which they purport only to continue” (Mundy & Pottage, 2004:6). The legal semantics are as influential as the social acts of individuals (as emphasized by Palmer, 1979) in dictating labour relations and situations of employment in Canada. This argument can be taken further through an analysis of the development of labour Legislation and the implementation of the role of the employment test.

- *The Common-Law System*

Worker opposition to the apathetic judiciary processes of the early twentieth century forced the state to take a stronger role in the mediation of labour conflicts. Collective action had expanded beyond the means of the courts and now required federal involvement. By the 1930s, the conclusions of a labour conflict was reflective and manifest of the legal techniques utilized in the development of Canadian Labour Acts throughout the late 1800’s and early 1900’s. The 1907 Industrial Disputes Investigation Act (IDIA) became the persistent framework with which to regulate labour unrest. In its mountains of paperwork, the legislative framework of the IDIA founded the legal structures for current labour disputes legislations based on nineteenth century court cases. Instances of collective action by unions saw legal verdicts from previous cases transplanted and applied. The legal understanding of picketing was understood as watching and besetting, acts that were defined as illegal within the criminal code. Through these texts, criminal codes were integrated into labour legislation; punishing individual strikers and trade union officials for public disturbances. These statutes were reinforced by laws dating back as far as

Nova Scotia's Combination of Workmen Act in 1864 which stated that violence against person or property could not be used to influence wage negotiations, as well as the Trade Union Act of 1872 that mirrored previous legal tenets and added that individuals who acted collectively could not be prosecuted for conspiracy, but instead identified as potential threats (Palmer, 1992:109). The subsequent Criminal Law Amendment Act spelled out the behaviour of collective action through strikes of watching and besetting as a 'molestation' of persons and property (incorporating in the act the actions of union members of hiding tools, following persons, and hindering production) (Palmer, 1979:77). Workers who engaged in the arbitration processes of the IDIA faced the same legal mechanisms that previously defined labour disputes. Though craft unions learned early on to fight and win concessions from employers, they would have to precisely define their struggles, outline demands and provide explanations for these demands in order to do so (Palmer, 1992:168-169). The building and continuation of the legal labour framework from previous mechanisms (which suppress worker activity) drew from common law cases which sustained the depoliticization of labour disputes. Tucker (1990:46-50) argues that Canadian workers lost their fight for improved work conditions, because Ontario common law courts were bound to decisions of English courts. Bartlett (1981:338) comments similarly on tort law as a body of law that establishes and dictates responsibility specific to the type and level of abuses recognized. In the absence of a statute of responsibility, the assignment of liability is dependent on the body of judicial precedent that has evolved from past decisions. In the case of Canadian workers, previous English cases which did not win, delineated the responsibility of employers for accidents, and provided the legal precedents needed to defeat Canadian cases. The creation of the 'employee' then, serves to construct the identity of the worker in future legal cases and legislation. Glasbeek (2004:68) remarks that the legislative entities that control

employer and employee employment relations are subject to several federal and provincial jurisdictional spheres relying on the same common-law doctrines, forcing unions to act in isolation against a fundamentally similar set of principles and system designs²².

- *The Employment Test*

After the Second World War, Canadian employment law and legislation solidified the notion that there was a standard employment relationship, characterized by continuous, full-time employment, where a worker has one employer and normally works on the employer's property, under their supervision.²³ The result was a greater divergence between the standard employment relationship and other employment relationships which were less likely to benefit from labour-related law, legislation and policy. In legal matters it became imperative to establish the category of 'employee'. In a report for the Ottawa Law Commission, Fudge, Tucker & Vosko (2002:1) state that the label of employee has fixed the boundary between "the economic zone in which business entrepreneurs are expected to compete" and the "economic zone in which workers will be afforded the relatively substantial protections of the labour standards ... and of the common law". The employee 'label', thus, was the gateway term which was used to distinguish the scope of legal protection for employees.

²² Arthurs (1967:59-60) provides an interesting accounts of the role of lawyers, who have ascertained the meaning of language in labour disputes out of previous court accounts in the 1960's. Often these decisions have nothing to do with the labour infraction or employment relation itself, wherein the definitions arise from various cases which distort the terms meaning in labour relations.

²³ This legal understanding splintered as the workforce grew with industrialization, differentiating between 'independent contractors' and employees. Geoffrey England (2002:14) describes the legal understanding of independent contractor and wage labourer as 'a man [that] is employed, under *a contract of service*, and is part of the business where his work is done as an integral part of the business is an employee; whereas under *a contract for services*, his work, although done for the business is not integrated into it, but is only accessory to it is a independent contractor" [sic, my italics]. The divide rested on the degree of control exercised by the purchaser over the labour performing the service. The independent contractor was seen to possess significant control and authority to direct their labour, where as the employee fell under employer direction and control. This legal distinction of the worker became the terms upon which legal concepts were to be applied. The application of the rules was tantamount to the level of exercised control over the work place that an employee or employer possessed. There is considerable debate concerning the status of employee as compared to independent contractor, and the subsequent rise in the employment of independent contractors as a means to undermine and avoid labour laws (Arthurs, 1965; Fudge, Tucker & Vosko, 2002; Ilcan, O'Connor, & Oliver, 2003).

The establishment of ‘who’ employees were and ‘who’ then had access to state legal protection, was conceived as, from the perspective of the government as, the employment test. The employment test²⁴ was a legal tool constituting a series of inquiries into the nature of the relationship between concurring parties. The purpose of legal employment testing was two-fold: first to ascertain who was entitled to legal rights and collective representation; and second, to determine the ability of relevant laws and the applicability of these laws to resolve employment conflict.

The historical legacy of the employment test stemmed from the master and servant laws with an emphasis was placed on the nature of early production processes, wherein which masters could directly supervise workers (Palmer, 1992). After the Second World War, a refinement of the employment test was implemented which went beyond the master-servant understanding. The revised employment test added new factors including: the right to hire or discharge; the obligation to pay other workmen on the job; the chance of profit; ownership of tools and materials; and the permanence of the relationship (Arthurs, 1965:92).²⁵ The development of new legal testing was intended to widen the scope and direct the determination of employee status. The objective being, as England (2000:14) remarks, to establish ‘whose business was it?’

²⁴ English (2000:2) remarks that the employment test is generally understood as excluding the process of negotiating and enforcing terms and conditions found under a collective agreement. Union employment relationships are generally understood as being in the domain of collective labour law, rather than ‘individual employment law’ concerning individual employees.

²⁵ Utilizing this understanding and perspective the fourfold test and organization test were constructed. The four-fold test was formulated in such a way as to require that the employer exercise a significant degree of control over the residual organization of the job (prior understanding stated that employer’s exercise a substantial degree of control over the manner in which employees performed the job). The four-fold test looked at “who” controlled the business planning, the ownership of the tools, chances of profit, and potential risks of loss (English, 2000:14-15). This reflected the reality that employers typically reserved broad powers to manage the overall framework of the labour process, while frequently delegating some discretion to employees (specific to how they do their jobs within that framework). The other approach to conceptualizing employment in legal terms was the organization test, developed by Lord Denning. The organization test focused on the extent to which the work performed was an integral part of the employer’s business. Using the organization (or Business integration) test, a employees status is determined by: who owns the tools and equipment; the risk of economic gains and losses; the regularity of employment; the right to delegate the performance of work; the legal status of the work; public image; and formal contract descriptions of the work relationship (England, 2000:14).

Employment testing was employed singularly, and sometimes in combination, and had gained widespread acceptance in the Canadian court system (Arthus, 2006; Fudge, Tucker, & Vosko, 2002). The belief was that willing parties could engage in meaningful employment relationships through the mechanism of industrial pluralism. Arthurs (1965:93) states that the intent was for employees to collaborate with their employer for the advancement of the enterprise, whereby, under this model the employees were able to freely discuss matters of mutual interest with their employer, settle their difference with their employer by peaceful means, and free to organize and conduct negotiations with their employer.

The problem with identifying employment relationships in this way arises with the deployment of legal methodology in employment testing, and legal understandings behind its use. Often the applications of these tests are not adequately or evenly applied. As disputes arise in the court system, the common law tests were invoked with the intent of determining the status of employees; however, within common law there was no unified conception of employment or a coherent method for distinguishing between employees and other forms of wage earners such as independent contractors (Arthurs, 2006; Fudge, Tucker, & Vosko, 2002). Arthurs' (2006:60, 80) report for the Federal Labour Standards Review, states that the Canadian Labour Code has not adequately defined the terms of employee, employer, or employment in legislation. The language used states that the Canadian Labour Code applies to all individuals who are "employees" or "employers" without any clear indication what this exactly entails. Nor does it specify in any detail the outcomes that it seeks to achieve, except in so far as they must relate to "employment". Furthermore the task of regulation has had more to do with prescribing the terms of the bargain, than ensuring that those terms are clearly understood and agreed upon by the parties as well as provisions to ensure that the agreement, is in fact, carried out.

Instead of providing meaningful definitions of the terms employee and employer, specific statutes, such as collective bargaining legislation for example, simply used terms that were familiar in common law (Fudge, Tucker, & Vosko, 2002:51). Lawyers advising enterprises and workers of their rights, typically try to ascertain the meaning of the key terms by turning to decisions of courts and other tribunals that have grappled with similar problems in the past (Arthurs, 2006:50-61). The definitions of “employment” were often influenced by lawyers own experience or self-interest. Linder (1987:7) concurs, stating that the courts have developed a standardized set of obligations which are implied to all employment contracts across the board, based largely on the judge’s perception of what an ideal employment relationship should resemble.²⁶ The result is a lack of predictability, consistency and clarity in the administration of the statutes.

The employment test attempts to identify the economic feature inherited in employment relations. Previous legal questions attempting to outline ‘who owns the tools and who directs the labour processes’ do not easily define employment. Control (and the power derived from that control) becomes the pivotal concept which needs to be removed from a legal understanding of employment; withdraw employment relations from the political/economic paradigms which have until now frame our legal understanding of employment.

In the paradigms presented by Abel, law has become historically purposed as a ‘why’ question: why has this relationship formed and what is its direction? Employment relations

²⁶ Arthurs (2006:47-48) prescribes a reliance on the ‘decency’ principle - that no one should be permitted to work in conditions that cannot be described as “decent” and that with general principles of fairness people with similar characteristics are to be treated equally. For Arthurs (2006:47) “decency at work should ensure that no matter how limited his or her bargaining power, no worker in the federal jurisdiction is offered, accepts or works under conditions that Canadians would not regard as decent. No worker should therefore receive a wage that is insufficient to live on; be deprived of the payment of wages or benefits to which they are entitled; be subject to coercion, discrimination, indignity or unwarranted danger in the workplace; or be required to work so many hours that he or she is effectively denied a personal or civic life.”

derive their theoretical framework from such paradigms; however, there is a gap between the legal theory of freedom of contract and the real-world experiences of the employment relationship (which is better characterized as dominance on the part of the employer). From previous legal narratives, there is still heteronomy present in the conceptualization of law, marked by a legal system above or outside society, coercing obedience. This power derives from the mechanisms of the court system and employment testing which has positioned law as a source of condensed power (stemming from a hierarchical system) over employment relations. Work relations are reinforced as sites of domination and subordination under this perspective.

Conclusion

The politics behind employment relations have been funnelled through the legal mechanisms and the recognition of organized labour and employee rights after the Second World War came with a cost. The legislation which acknowledged workers rights possessed an inherited disposition from past legal cases upholding employer's rights. Though the court system was failing in its role to suppress collective action in the later part of the nineteenth century, the legal institutions provided a means to depoliticize labour disputes.

Employment relationships through legal institutions remained focused on the subordination of the employee to the authority of the employer, and the contract which is based on a political/economic understanding, ultimately deciding the employee's status. The implied obligations owed by the employee to the employer are considerably more extensive than those owed by the employer to the employee. The courts have provided employers with a comprehensive body of legal rights that the secure employee's compliance with the employer's rule-making power in the work place. England (2000:350) emphasizes that the cornerstone of the

employment relationship, the individual contract of employment and is still “governed by the general principles of contract law that were originally formulated in a commercial context to facilitate the operation of free markets in the production and distribution of goods and services”.

Further issues arise as the problems associated with defining employees are exasperated by new business strategies and structures, the application of new technologies, deployment and/or recruitment of workers from new sources, and catering to the new lifestyle needs or preferences of workers. Also, in order to escape coverage altogether, employers (and occasionally, employees) may exploit the uncertainties created by the absence of an appropriate definition. Coverage under employment law remains too narrow in its definitions of employment and if coverage is too broadly defined, workers and employers alike will be denied the opportunity to work out new and mutually beneficial, work arrangements.

The employment relationship still requires the support of a willing and compliant populace. Legal concepts are not inherently legitimate, rather their legitimacy is obtained through acquiring social meaning, and their embodiment in the social contract (Vinel, 2007A:15). As Vinel (2007A:3) remarks, “the dependence of legal concepts relies on social support”. Linder (1989:157) further articulates that:

“workers promote an ideological view of the state as an agency that can be manipulated to create the modicum of social security and work related protection that, at least for certain sectors of the working class, cannot be gained directly from their capitalist employers. Fostering this view, workers have come to believe in an image of themselves as passive beneficiaries of forces that operate outside of the employer-employee relationship.”

The politics that were involved in current understandings of employment relationships mean that workers were led to believe the achievement of improved working conditions and income security, required confrontation with the employer (through the labour market or within the work place). The focus of this research may be seen as being aligned with that of Fudge, Tuckers &

Vosko's (2002:10) concern over "whether this distinction (of who is an employee and what kind) should continue to be central to determining the scope of labour protection".

The situations of workers constructed through the legal mechanisms of common law, position employment relations under the false pretences that certain ideas and philosophies in society are privileged over others. Reality is constructed with the view that society is only getting more effective at perfecting whatever it is doing. The different emphases that employment relations have had over the years, from control (manner), to economic, or to the recognition of subordination, are seen as part of a forward trend for legal analysis. However, these paradigms constrain the actors' performances, creating perceptions of macro politics beyond the actual practices of actors.

The polity affirms that legal processes are here to help the worker, but in reality they construct the worker without politics, social concerns, or environmental sympathies. They are just a legal identity in which their concerns can be alleviated economically. The processes of personification and reification, for Mundy & Pottage are 'constitutive' (2004:9), an integral part of the whole legal system, firmly established as a key component. How law manufactures and deploys the category of person/thing can define the peculiar nature of institutional legal actions (Mundy & Pottage, 2004:11). If employment law was built around limiting employee access to the direction of production, then future employment issues will be focused on these concerns. This leaves other exterior issues unaddressed and beyond the horizon of the legal institution. As long as we use the employment law system (based on Industrial Pluralism), we cannot move beyond what was promised from it or structurally intertwined with it. The emergence and deployment of the category (the employee) in law produced a particular perspective and established associated technique to understand employment relations.

In tackling employment relations, and how said relations are understood, legal definitions need to be scrutinized for their specific focus on sociological theorems of power, dependence, and subordination. The legal labour regime became too focused and explicitly concerned with economic aspects of employment and it appeared unable to cope with present and persistent issues as a result. As Alan Pottage (1989:690) remarks (on the state of patent law), legal regimes are “tackling social problems from a position too constrained to be adequate for the task”.

THEORIES

Following the Legal 'White Rabbit'

According to Actor-Network Theory (ANT), reality is historically, culturally and materially located. The relationship between restaurant workers and the law are constituted as interactions between actors which enact relationships through the objects produced, and which further the development and interaction between additional actor-networks. In the negotiation of these actor-networks, there are a number of paradigms which actors may utilize to order reality, such options aid in the defining and situating of the objectives of actors and what is at stake when these options are taken (alternatively, what is lost in that decision). In choosing one option over another, the actor is enacting *ontological politics*. Annemarie Mol (1999) describes that 'ontological politics' as a composite term:

If 'ontological' is combined with that of 'politics' then this suggests that the conditions of possibility are not given. That reality does not precede the mundane practices in which we interact with it, but is rather shaped within these practices. So the term *politics* works to underline this active mode, this process of shaping, and the fact that its character is both open and contested. (Mol, 1999:75)

Reality takes on different forms, shaped by a variety of practices. For ANT, reality is multiple, and possesses a number of options for how it is enacted. The interplay of negotiating reality involves more than just people and their politics; there is a medley of materials and relationships that constitute society. Both academic and legal institutions have ordered society through their ontologies, shaping particular societal orders. In the realm of employment law the legal mechanism of the court room demarcates what should be involved in the understanding and shaping of employment relationships.

One can conceptualize this process through Latour's (2004) analysis of courtroom.²⁷ In both the courtroom and laboratory, a separation of reality occurs, wherein every effort is made to ensure that the final product is distanced from outside influences (the realities involved). Legal processes work to remove influencing categories of society (political, economic, etc) by reducing their relationships to legal definitions (tort, family, and criminal). It does so in order to apply law to the situation and aid society beyond the incident in question. The results are those devoid of the realities that lead to up the conflict. This may be seen, case and point, by the distancing of participants in legal processes. Legal councillors are trained to articulate the legal questions, and fixate on where the facts of the case intersect with legal doctrine (Latour, 2004:89). Through the incorporation of evidence or 'facts' a legal reality is constructed, which acknowledges and then (systematically) removes the evidence in order to move onto to the particular point of law that is of interest.

Opening a Space to Breathe!

Legal institutions have provided employers with a comprehensive body of legal rights that secure employee compliance with employer rule-making in the work place. The obstacle to the pursuit of better employment relations is not just the institution of employment law and all its mechanisms, but how they have been conceptualized. There persists a tenet of subordination in

²⁷ Latour's (2004) analysis is based on the Romano-Germanic System of France. Though the French legal system differs in various forms from the common law system of England {the difference lies in French system is enacted by parliament and Common law is based on prior cases and their findings (Vago & Nelson, 2004:11)}, for my analysis, the inevitable objective is the reduction of facts and detachment of legal officials. Mundy and Pottage (2004:20) comment that the French Supreme constitutional court is a composition of legal, political and administrative cultures fused together. The apparent bias in this situation goes unacknowledged, supposedly absent in the 'detached' judges. Glasbeek (2004:54) describes a similar situation in Canada, where federal judges are appointed in labour disputes for their 'national outlook', rather than municipal magistrates and their local perspectives.

employment relations. However, one still can manoeuvre and pursue personal employment objectives. Employment is still based on relationships, even if it has focused primarily on the ownership of business. Remarks from Cotterrell (1992:113-118) add insight to the issue, as his focus on Marxist legal analysis argues that legal analysis has pre-given theoretically functions for legal institutions, on forms of jurisprudence, and socio-legal studies. This has caused a faltering in exploration of the ideas of legality, wherein particular legal and academic perspectives have preferred to analyze legal doctrine under the guise of ideology. For Cotterrell (1992:126):

“Legal theory must be theory that confronts legal form in all its complexities, variety, ambiguities, and contradictions rather than reducing that form to the ‘necessary’ expression or embodiment of particular social relations. It must be theory that does not ossify legal analysis through the presupposition that the characteristics of law in all circumstances and conditions are fixed by its unchanging ‘necessary’ functions, pre-given by social theory. Legal theory requires a different approach from that which has prevailed in Marxist legal theory and which still prevails in the approaches of Capitalism and the Rule of Law.”

The reopening of established concepts (legal or otherwise) is often not an easy endeavour, and habitually requires a return to past understandings of these concepts. The intent is not to completely remove the legal definitions attributed to employment relations, but to re-examine the theoretical foundations on which they were conceptualized. This affirms Fudge and Vosko’s (2001B:332) statement, that “employment standards and collective bargaining must be regarded not as alternatives, but as linked strategies of regulation.” Using this position, I propose that there can be a rethinking of legal definitions and employment relations. I argue that law and legal analysis needs to move beyond the previous confines of jurisprudence, and be refocused in such a way as to allow for a regulatory approach. I agree with the position that Hunt (1993; 1999)

makes on the heightened pervasiveness that regulation has made onto social life²⁸. However, employment relations can benefit from an actor-network approach, where the employment relations are opened to the ‘actuality’ which persists in the work environment.

I wish to break from the narrow focus of both the traditions of jurisprudence and of sociology with this work. Work involves association, not just subordination. The issues associated with who controls how work is done must be debunked of sociological theorems of power, dependence, and subordination and replaced with theories of association and networking. As Hunt (1993:14) remarks, through a critique of the centrality of law, we become sensitive to other modalities which draws our attention to the relative ‘powerlessness’ of law. The employment relations of law are based on material relations, a composition of human and non-human actors, and not on legal/economic/social paradigms which place precedence on the individuals whom own the tools.

A depiction of the type of employment taking place between parties is heterogeneous at the very start. The arrangement of networks in the labour movement, in Canada, may be seen as a significant heterogeneous mixing of human and non-human actants all attempting to organize society into specific orders. No matter what the time period, there is a long list of actors and the relations that they engage to achieve certain means. In the industrial and resource base networks, there are labourers, the owners of industrial companies (factory and resource extraction), politicians, civil servants, as well as the public all coming together with picket signs, flaming oil

²⁸ The regulation of social relations are not only condensed and formed in legal institutions, there are non institutionalized condensation of social relations; and the relational strategy is employed to facilitate the exploration of the connection between ‘legal relations’ and other forms of ‘social relations (Hunt, 1993). According to Hunt (1993) this means that aspects of legal relations may be constitutive of whatever variety of social relationship is being discussed, there will be no claim that all social relations exhibit a constitutive legal dimension, rather significance lies in the search of the legal dimensions of social relations in history and the future ramifications that legal labelling has had (i.e.: science replacing religion/ or regulation replacing the social/humanistic aspects of interaction).

drums, police horses, hand cuffs, jail cells, court rooms, legislation, arbitration rooms, and throngs of other material objects. These objects are equally complicit in the agreement between their societal orders.

ANT is a useful theoretical lens to unravel how interactions are constructed in employment relationships. Intellectual problems are seen through the interconnected relationships of actor-networks. Reality is the construction of human and non-human actors negotiating particular orders, mixing the social, legal, environmental, and economical towards a particular organizational structure or goal. Interaction becomes more than a social or economical phenomenon; it is an intertwined event, a network involving a multitude of interests and outcomes, which is held together by the things that subjects produce. ANT allows for a socio-technical analysis of employment relations that treats entities and materials as relational effects originating from mutually recognized sets of negotiations between actors (Callon, 1986; 1989).

Society is contingent upon an actor's continual engagement in the process of "translation", wherein the actors utilize objects and materials to construct actor-networks, ordering society. Translation is seen as the strategy to establish links with the multiple components involved in society. The act of 'problemization' (Callon & Law, 1989:201), a component of translation, is used as a primary step to locate 'who' is 'where'? Through translation, it is possible to see how reality and society in general is constructed through interactions. Heterogeneous networks promote the view that technology and society are mutually constitutive, and that both are made of the same elements which is networks linking human beings and non-human entities (Bijker, Hughes, & Pinch, 1987).

The function of a translation is to describe of the operation of sociotechnical networks whose construction, stability and mobilization depend upon a series of relatively stabilized investments of form (implicating actions into material forms for strategic purposes) (Callon & Law, 1989:75). Callon's purpose was to permit 'a new study of power relations through translation'.

"Our goal is to show that one can question society at the same time as the actors and explain how they define their respective identities, their mutual margins of manoeuvre and the range of choices which are open to them." (Callon, 1986:201)

Translation avoids the assumptions of pre-existing frameworks which attempt to arrange and solidify society through paradigms. It prohibits analysis based on prior distinction, which allows the investigator/researcher to remain unbiased in their knowledge about the character of society. Translation is a tool in which heterogeneous objects (put together by translation) are followed through their twists and turns of association and as the actors build upon their networks. Translation draws from existing networks in order to organize novel investments of form, combining old and new knowledge for a specific purpose. With the addition of various entities (under the pretence of receiving a return), translation becomes an essential mechanism for production processes as it circulates and generates knowledge which can be inserted back into a pre-existing networks. Or as Callon (1989:72) remarks: "the innovator is thus one who is able to use resources drawn from a series of pre-existing networks to build a novel network which is able to sustain a two-way exchange of resources with these networks". What we find is the local generation of distinctions between context (in the shape of dependable networks) and content (the material strategies put in place to negotiate alliances). Knowledge of the actualized phenomena is found within the performance of the network, as well as previous networks which have contributed to its existence (Callon, 1989:78). In this production of knowledge through

translation, actants create disciplinary boundaries. In the interests of the research attention is paid to how these disciplinary boundaries are the product of network forming, and that the rules are seen as an end result of world building.

The relationship between humans and objects dictates the development of rules as much as behaviours between humans do. Without the objects, however, the network would fall apart. Results are organized into legal relations, where objects and people are enlisted, mobilized, and utilized in an ever-changing network of associations. For legal order to occur there needs to be throngs of entities: from chefs knives, filets of black cod, chairs, table clothes, and chit printers, to the cooks, employers, servers and customers. For example, the interrelationship of actions by cooks, restaurant owners, the bacteria, and customers produce the rules and the formalities with which each interact with one another. The reciprocal flow of previous actor-networks of labour, technology, capital, management and law merge with associations of staff, employers, food stuff and tools. Cuisine, profit, employment contracts, knowledge, and spoilage flow out and are recorded as written rules, health and quality standards and the standards for employment.

Material Strategies

Material strategies are the means by which actors foment power from their surroundings. To understand power, we need to look at social relations that include nonhuman actants as these actants offer insight into how society is held together as a durable whole. In Daniel Neyland's (2006:36-37) analysis of ANT, he implicates material strategy within a theoretical approach that interrogates the notion of power, constituting "the continued performance of social relations" which stabilizes the network through certain strategies that "order these relations and their power effects". Within ANT this is a continuous process which shapes the actor as much as the

materials which he/she/it uses. For Mol & Law (1995:37) strategy both performs distinctions and derives 'place' from it; strategy is about social change, the social shifts with that which it is linked. Strategy is implicated in the material, and strategy resides in material durability, manipulability, and scale. Emphasis is on the juxtaposition between various entities and their role in producing and/or re-representing material distinctions.

Heterogeneous material strategies, then, hold society together by the things they produce. Latour (1986:274-276) remarks that the whole burden of making society firm has shifted from the society itself (as argued by sociology – as society is a consequence/the label given to the durable) to the many material tasks that enforce and reinforce the provisional bonds made by actors. To understand the social and, more particularly, to understand what it is that stabilizes social relations (generating the power effects in place), Law (1991) suggests, is a matter of making sense make sense of the way that the social 'interacts' with and is constituted by these other materials:

“...and, in particular, we have to explore the way in which discursive ordering strategies (in part) shape, and are embedded in a range of different materials.” [authors brackets] (Law, 1991:176)

No strategy could be called purely law; instead, strategies draw upon a range of practices, organizing principles, and discourses. Heterogeneous engineers build messy networks that combine technical, social and economic elements, stressing that the elements are bound together in networks are at the same time, constituted and shaped in those networks. There is no backdrop of legal, social, or economic factors which can easily make assumptions about the nature of the network. The backdrop is built into the course of the network building process itself (Bijker & Law, 1992:12). Employment is the product of heterogeneous contingency, shaping and stabilization of relationships through materials. No single ordering strategy is ever complete. In

practice, several are juxtaposed against one another, and are implicated in the activities of other networks of relations. The authority of an employer is not fixed, and his/her capacity to dictate the employment relation is not absolute. We need to look at the actors, their actions, and the relations between them to try to characterize their strategic mix; including the methods and the extent to which they have the effect of securing a “store of power to and power over” (see Law, 1991), and of course to explore the ways in which these strategies are embodied in, and are simultaneously limited by, relations that are relatively durable in the material. For Latour (1986:169) “power is ubiquitous, an aspect of all relations”. He reverses the long standing convention in social theory which assumes the unequal distribution of power and as a consequence, tends to ignore or conceal the techniques, strategies, or microphysics by which power is created.

With ANT, Are there really Options?

The reality in which we live is one shaped by a variety of practices. According to ANT, realities are multiple, and possess a variety options for explaining how reality is enacted: objects (non humans), actors (humans), and their relationships have various versions. The options have always clashed, versions of reality has always been over-lapping, competing, collaborating and out-right ignoring one another (Mol, 1999). The active choice by actors, then, permits their involvement in the determination of how they can participate in employment relations.

Legal paradigms, which are meshed into employment relations, have worked under the assumption that the employment can be controlled, quantified, and mastered. Employment was a site in which pluralities of observers could critique and analyze a singular location. Law, and all its compositions, were to be the building blocks for a permanent foundation of a hierarchical

ordering of employment (or other work) relationships. Law designed a working individual, one separated from the work reality which shaped that employees' site in the workplace. Law creates a legal situation structuring the employee's capacity to act *in* their job; as a conceptually separated and isolated entity.

There are options which have situated and attempted to guide, infiltrate, and 'justify' the actions of actors; options which permit the acknowledgement of other locations from which to analyze these relations. The location was not so much a theory (or ideology), but could be found in the court room files, legislations, and the cases which carried the potential for new realities (Mundy & Pottage, 2004). Actors have many relationships between them, as well as options and locations where objects maybe produced and new networks forged.

Though the employer has the law on their side, the employee still has the work environment to act through, and this allows the employee the ability to control the means of work and rule-making in their work place. The application of the rules that is characterized by the exercised of control over the work place (based on a principle of possession) can be deflated. The different political tensions need to be accounted for in relationships and the consequences of these tensions must be recognized as they appear everywhere, and elsewhere. Political tensions, Mol (1999) suggests, cause aspects of reality to disappear into the background. The multitude of other silent relations (Lee & Stenner, 1999) affecting employment relations, such as freedom of contract or class relations, have wrought upon actants into a particular position, one marked by absence from legal employment relations.

This inquiry will focus on "who" decides to speak for the actors, "whom" decides what actions are taken, 'between who' will the actions take place and by what mean will actors be

included, acknowledged and accounted for be included, acknowledged and accounted for. As

Latour (2007:142-143) states:

“You should not confuse the network that is drawn by the description and the network that is used to make the description. ANT is more the name of a pencil or a brush than the name of the specific shape to be drawn or painted... you allow the actors to tell you how to draw with the pencil or brush. Ant is a method... it says nothing about the shape of what is being described with it. Really we should say ‘work-net’ instead of ‘network’. It’s the work, and the movement, and the flow, and the changes that should be addressed.”

Actor Network theory, by its very nature, will allow for a contrasting analysis of employment relations in a restaurant kitchen; one that diverges from traditional social and legal theory applications.

METHODS

“Using a slogan from ANT, you have to ‘follow the actors themselves’, that is try to catch up with their often wild innovations in order to learn from them what the collective existences has become in their hands, which methods they have elaborated to make it fit together, which accounts could best define the new associations that they have been forced to establish.” [authors quotation marks] (Latour, 2007:12)

This statement reflects my approach into this thesis; following the actor through the networks for satisfactory employment in the restaurant kitchen. My thesis proposes that in following the actors, I can identify the elements they use to sustain their networks. Through these actions of network building, I am able to trace the relationships between actants and account for the dynamics that contribute to a functional work environment in the restaurant kitchen. I intend to use this thesis to establish the benefits that an ANT analysis could provide to labour studies, and this required adopting a perspective which did not judge the position held by the actors, nor reduce them to a particular sociological interpretation. Instead, this perspective, allowed actors to define and negotiate the roles that cooks’ take and held onto in their work relations.

The Approach

One central challenge that confronted my thesis was accounting for the different perspectives of participants. A plan was necessary to ensure that I followed a methodological structure, yet did not limit/exclude instances of phenomena which lay outside of those already anticipated by this research. This section outlined the specific methods used to perform my documentary analysis and qualitative interviews, as well as the limitations of using this approach to gather data. This study, in essence, used a descriptive/exploratory research design. I adopted a multi-faceted methodology, combining a qualitative content analysis, with that of qualitative semi-structured interviews. The dual methodology of a qualitative content analysis and

qualitative semi-structured interviews provided the tools necessary to collect the information needed to adequately find and describe the networks used by cooks to ensure beneficial employment. The documentary analysis provided basic descriptions and themes and material strategies used by cooks to garner beneficial employment. These descriptions and strategies were then used for the formulation of interview questions. I supported or refuted the preliminary findings gained in the documentary analysis by conducting qualitative interviews. The themes identified served as a framework to organize research chapters into the following areas: the legal institutions governing employment relations; the theoretical approach that redefines and opens up previous notions of law and employment for analysis; and the actualized work relations present in restaurant kitchens.

Actor-Network Theory (ANT) is utilized in this research to contribute to an understanding of employment relations in the restaurant kitchen. ANT is being used due to its application as a methodological approach²⁹, and as a tool to trace chains of actions between actors. These chains of interaction involve a continuous process of constituting and reconstituting' the terms under which actors choose to engage one another. Callon (1986) and Callon and Law (1989) describes this approach as translation, a process wherein sets of relations are brought into being through the decisions of actors to associate in a network.

Using the perspective that actors possess the ability to build the world, I developed a schema of interconnected concepts and phenomena that expose the types of connections line cooks have with their tasks in the restaurant kitchen. Further, I described how these networks provide power in the work space. A number of key sources of information have been published

²⁹ Callon (1999:194) adamantly states that ANT is not a theory, but a method which accounts for the processes which constitute reality. Callon articulates his point by elaborating on the criticisms directed at ANT's for its lack of definition of the actor. The lack of precise definition for the actor allows ANT to absolve the prior distinctions which positions the actor with predetermine intention found in other sociological works. The lack of predetermined account of the actants in ANT permits actors to conceptualize their own position in a network.

to describe working relationships in the restaurant. These documents provided a descriptive background for this research project. Particular attention was paid to culinary tasks, and how human and non-human actors perform their roles and how these roles / tasks were delegated in the restaurant. Through the documentary analysis the cook's actions were analyzed, providing details on the actions and elements involved. Drawing from prior ethnographies, non-fiction works, memoirs, academics works, and journals, I provide a basic outline of the networks used by cooks.

My objective was to find and describe the networks used by cooks to negotiate beneficial employment arrangements from these resources. Utilizing the theoretical concept of the 'heterogeneous engineer' developed by John Law (1987, Law & Hassard, 1999:7-14), individuals are conceived as systems (or network) builders, required to engage with the conditions of their surroundings beyond their social sphere. The line cook is a heterogeneous engineer as his/her creation of cuisine involves the consideration of more than social aspects of employment, but also those of economics, science, politics, and the environment. Interactions pertaining to: whom one cooks for (political), what one uses as ingredients (environmental), whom one cooks with (social), and what tools are used (technical); all affect the final meal and the position of that cook in the restaurant. Using anecdotal examples drawn from the literature, I mapped out how cooks use their material surroundings during the acts of cooking, to negotiate their work benefits. With that, examples of scientific practices, economic, societal, environmental, and cultural factors are seen to be melded into the consequences of a cook's work, resulting in significant pressures on how one conducts one's behaviour.

'Slow Method' & ANT

In conducting documentary research and interviews concerning restaurant kitchens, an overlapping and contrasting narrative was formed. In order to accommodate these stories I utilized John Law's (2004:11) artful approach of *slow method*. Slow method is a concept which refers to a necessity of *pausing* and observing the aspect of translation, and reflecting on the medley of elements involved in an interaction. The point is to stop and take account of the actors present and involved, and not simply jump towards relations of power, issues of gender, or consequences of ordering.

Law (1999) argues that methods do not just describe the means used to analyze social realities, but also helps to create them. The 'research methods' passed down to us after a century of social science tend to work under the assumption that the world is to be properly understood as 'a set of fairly specific, determinate, and more or less identifiable processes' (Law, 2004:5). Slow methodology focuses on an approach which does not automatically naturalize method rules and procedures into research, but allows for the detection of particular patterns of relations in the imbroglia realities actors preside³⁰. According to Law, the world is fluid and ephemeral (lasting and living for a very short time), methods not only describe, but produce the reality they want to understand. Law (2004:1-5) states that messy findings do not necessarily mean poor research, and that following the rules in method is not necessarily needed to properly understand the reality in which actors preside. Much of reality is vague and indefinite, as much of the world's reality is played out in this way (Law, 2004:15). This is also the case for the kitchen. By comprehending, I

³⁰ Though Law is critical of the Euro-American research methods of the eighteenth and nineteenth century, he acknowledges the significance and longevity of these methods. The argument is for a broadened understanding of methods where researchers acknowledge the political implications attached to research methods, and not simply to normalize them into their research (Law, 2004:3-4). Scientific knowledge is constructed in scientific practice, which, for Law, it is wrong to imagine that the research is innocent in its pursuit of knowledge, that it requires to "somehow just set aside their own bias" (2004:149).

am shaping a reality of how cooks construct viable work situations. Learning through slow method, I have eroded the view that we need to take a stance of an over-viewer, to take in society through a single glance of reality. It is not about the types of realities we want to recognise, or the kinds of worlds we want to make. What is needed is to ‘stop’ and account for, record, and shape the realities which we are partaking in our studies (Law, 2004:10-11).

When we assume that the world is no longer a series of set phenomena, with which we can engage, then a cook’s work performance can be recorded as the messy arrangement that it actually is. ‘Slow methods’ allows for me to follow the actors through their network building, allowing them to trace the construction of their worlds and acknowledge my own role in this process. I can remain true to my participants and accurate in my analysis of the line cook’s experience and recapitulate their story.

Documentary Analysis

Before I conducted my interviews, I collected a series of documents that have significantly contributed to our current academic understanding of the restaurant kitchen. Books and articles were chosen based on the emphasis placed on the working experiences of cooks. All of the documents were found through library databases at the Carleton University campus and the University of Ottawa Library. Using the extensive electronic search engines provided by both facilities, I was able to access peer-reviewed journals and archives³¹, connecting general

³¹ Throughout this preliminary research, particular works highlighted the interrelationships present in the restaurant work environment. Restaurants have been the subject area of occupational sociology and/ or historical analysis (historical anthropological works). Each of these fields has situated the restaurant as a cultural epicentre; placing the focus on food, its preparation, and final consumption. This documentation used for this analysis situates many of these relationships within a symbolic interactionist’s perspective wherein cooks, customers, and servers play a role using designated props to further their prestige, profit, and power.

concepts (such as the kitchen, cooks, chefs) to more specific terms (haute cuisine, sautéing, and sanitization codes).

Throughout my research particular works came to the fore which enabled my research to ‘follow’ the cook through their working day. Ethnographies provided detailed accounts of restaurant kitchen life and the immediate work environment. A variety of relationships were described by authors (notably by Gary Alan Fine, Gordon Marshall, David Beriss, & William Foote Whyte), depicting the conflicts, cooperation, and malfunctions between cooks, servers, employers and equipment. I further researched these works to find others that had cited their works and drew from their analysis as well. I focused my search on ethnographic approaches to kitchen research and used the contents of these works (including arguments of contrast). From this secondary search came a wealth of material concerned with various aspects of the restaurant industry which was sorted according to the quality and quantity of the content specific to culinary relationships.

Though the review of particular ethnographic works provided substantial information on the working lives of cooks, additional material was required, concerning the history of cookery as an vocation and the development of culinary techniques. Works contributing to the documentary analysis were documents that emphasized transitions of culinary techniques for preparing food throughout the history of the food industry. Works were chosen based on the degree on detail of culinary techniques and commercial kitchen operations.

Works written by culinary professionals were also consulted. Professional works provided accounts of work relationships, and detailed kitchen organization and structure. Personal anecdotes were also used to contextualize the personal stories of restaurant kitchen workers. I also consulted a variety of fictional works cited frequently by academia which

included autobiographies and annotations written about professional chefs, the food-service industry, and personal accounts of this vocation. Fictional works were chosen for their insight professional cookery and restaurant employees.

*Interviews*³²

Since there is little direct evidentiary literatures analyzing legal relations/employment situations in the restaurant kitchen, interviews were needed to provide subsequent evidence towards any claims or analysis in which I engaged. I used a number of representative case sites consisting of multiple small scale restaurants in the Ottawa area. The interview sample consisted of ten cooks who currently work in the Ottawa area. They were all career cooks, meaning that this was their current and future occupation. The sample consisted of individuals between the ages of 25 to 50, possessing a minimum of 7 years experience working in restaurant kitchens as a line cook³³. I have had previous work experiences with several participants (7) and used these personal connections as a starting point for my interviews. From these individuals, I began a snow-ball sampling method to find additional participants. Interview locations were selected on the basis of the convenience of the participants, and took place at the participants' homes, my own residence, pubs, public spaces³⁴ and local cafes in the Ottawa region.

In each interview, I asked questions to elicit descriptions of individuals work experiences. I had the participants describe 'what' their job entailed, the tasks performed, and responsibilities taken on and alternatively, avoided. In each interview I sought out their opinions on their

³² See appendix #1 for sample questions

³³ The line cook is a position in the restaurant where an individual works directly with the fabrication of food into a meal for a consuming public. This position involves several processes of food manipulation where cooks may be involved in one processes or all stages of cooking. Cooking in a commercial restaurant involves working with a raw un-fabricated ingredient and working it into a prepared (prepped) item for cooking. The use of these prepped items involves combining them with other prepped items and through the processes of applying heat cooking them for clientele's consumption.

³⁴ One interview was conducted on a public bench in the downtown Ottawa.

relationship with current and past employers, as well as the relationships they had had with servers, customers, and co-workers. I also asked them to discuss their experiences with different food styles and ingredients, as well as different equipment that they had used throughout their career. In each interview I sought to find out what was involved in working in a dynamic environment such as a restaurant kitchen; and the activities which made restaurant kitchen employment suitable for cooks.

Each interview followed a casual format and could better be described as a casual conversation rather than a formal interview consisting of questions and answers. The content that was covered was very organic and questions were developed around the participants' responses. The objective was to allow them to speak freely about their workplace without imposing my own perceptions on them. In regards to the participants that I had previously worked with (7), our shared history and work experiences did not directly impact on the interviewees' perceptions, but allowed for a certain level of mutual understanding between myself and the participants. As a former work colleague there was a level of trust and acknowledgement that I held with the participant, as I was seen as being able to relate to the stories they described. I was not a foreign person, a stranger unfamiliar with their work experiences, I was another cook who had worked with them, knew of their stresses, their enjoyment, frustrations and confusions in regards to the work situations which they described. The interviews were then, transcribed and codified according to topic, area, theme, and the parameters established in the analytical grid. All interviews were audio-taped and transcribed in their entirety. Transcriptions were also made available should an interviewee have wished to preview the contents of their interviews or remove their consent.

Analytical Grid

The analytical grid used for this research is based on Callon's (1986) influential work on translation. Using the translation method of studying society involves 'four movements': problemization – the identification of "who" is involved and their relations to one another; interressement – the devices used to keep their involvement; enrolment – the agreement to continue their involvement; and mobilisation – the creation of multiple mobile populations and speaking on their behalf. Translation's four movements are events which overlap and do not represent a finished event (Callon, 1986:196). The grid was used to capture these four movements.

Ottawa Case

<i>Problemization</i> identifying actors and relations	<i>Interessement</i> tools/strategies of enticing cooperation	<i>Enrolment</i> solidifying cooperation	<i>Mobilisation</i> agreeing on the speaker/or representation
1. Cooks			
2. customers			
3. servers			
4. owners			
5. equipment/tools			
6. food stuffs			
7. purveyors			
8. Law			

Speaking for Others

In drawing on the conceptual tools provided by ANT, and the legal institutions consisting of (non-human & human) actors, each contributing to how employment relations played out, but not systematic or all-pervasive. Employees react, shape and modify their employment conditions. It can be theorized that other vocations also include such messes; however, the methodological analysis presented by translation would be needed to elaborate on the details of the operations of that particular vocation and could not be generalized from the cooking experience. As Callon, (1986:224) remarks, ‘translation is a process before it is a result’, and the actions which lead to ‘why’ particular occupations have received high levels of state regulation, while others have not, requires an analysis which does not privilege particular perspectives or actors. Cooks remain along the fringe of employment law analysis, often unnoticed and marginalized. Opening a dialogue of how this has occurred and how this actuality perpetuates itself will allow for the marginal role that cooks hold to be heard, and their realities to be acknowledged.

My references to culinary roles and tasks throughout the thesis have combined with my own personal experiences of working in the restaurant industry. Drawing from these perspectives, there is an argument to be made that a cook’s work requires a new analysis, one based on ‘heterogeneous engineering’ (Law & Hassard, 1991). As my research project developed, my become established as a ‘spokesman’ [sic] (Callon, 1986) for the participants of my research. Through the series of interviews, document research, and prior observations based on my own experience, the actors rendered their identities and relationships to me, the researcher, as credible and indisputable. In doing so, they form an alliance behind me and I am able to say what these entities are and what they want (Callon, 1986:216-217). Through this role, the shape of the network forged by participants (including myself) will allow for a broader

understanding of employment relations in the restaurant kitchen. ANT, as a study of networks, networking and network-outcomes avails the researcher to a more ethnographic approach to research than might be found using other methodologies and theoretical perspectives. While this research is not in and of itself an ethnographic study, the role of myself, the researcher, in the exploration and observation of a particular network, and my interaction with it, may be viewed as quasi-ethnographic in principle.

FINDING & ANALYSIS

The Restaurant

Following a lengthy and possibly trying discussion of legal and academic paradigms, we at long last reach the restaurant kitchen. Far from the well-defined world of the industrial and financial sectors (also well represented and defended by the government and the employed) lies the site of the restaurant. The restaurant appears to stand within a dark corner of the business sector, so unknown and uncontrolled that it leaves one to wonder what it is that makes it so hard to regulate. Why the rules are constantly undermined, disregarded and misrepresented? Like Anthony Bourdain's popular work *Kitchen Confidential*, I would like to describe the restaurant underbelly; "a subculture whose centuries-old militaristic hierarchy and ethos of 'rum, buggery and the lash' make for a mix of unwavering order and nerve-shattering chaos" (2001:3). There is much in the restaurant that makes it an interesting place to study and it is not all about the informal or illicit activities that occur there (although there is a substantial amount that does) that makes it so. There are rules and guidelines present, however, it is important to note that, a 'top down' approach to understanding the restaurant kitchen may not be as well suited as prior works have suggested. The rulemaking which persists in restaurants involves more than passive participants ceding to an authority figure. There is active participation by actors (human and non-human). This is a quality that is not unique to the restaurant setting, but is highly relevant to this discussion.

Before I engage with the cooks of the restaurant world, I must lay-out the links between the cook and their work environment. The restaurant is a hybrid location, a place where multiple elements come together to provide commodities for consumption. In describing these actor-networks, I commence with a documentary analysis which has provided insight from prior

research identifying how cooks interact within the restaurant. From this analysis a mixture of entities emerge which make the restaurant a workspace. As Whyte (1946:124) describes:

“The restaurant deals in a perishable commodity, which can be produced only a little in advance of its consumption, and it must serve customers whose numbers can never be exactly foreseen. If the food estimates prove to be low, then the kitchen runs out of a number of popular items, and there are delays in providing new orders or substitutions. This upsets the customer, who in turn upsets the waiters or waitresses, and so on until the pressure is carried right into the kitchen. On the other hand, if the food estimates proves to be too high, then food is wasted, costs go up, and the restaurant loses money.” (Whyte, 1946:124)

In the above quoted text from Whyte, a range of actors are cited: the perishable commodities, the customers, the servers (waitresses and waiters), and the kitchen staff. The restaurant involves such actors, each contributing to the operation of the restaurant, applying pressure and power on one another. The point here is to list and describe the other entities involved in constructing the restaurant workplace. In describing each actor, and their relations to other actors, their objectives, aims, limitations, dependencies and interdependencies become apparent. What are neglected in Whyte’s annotation are the masses of material objects, fridges, menus, chairs, plates, aprons, printers, pans, tongs, and garbage cans (just to cite a few) that contribute to bonding actors together. From the lighting and music in the entryway to the decorations on the walls, from the language of the menu, to the appearance and flavour of the food and beverages, everything in the restaurant is involved in creating an easily consumable package for customers to willingly partake in (Erickson, 2004).

- *The Owner*

There are a variety of restaurants in Ottawa offering different styles of cuisine (Italian, Cajun, Thai and Korean, etc.) within different types of establishments (bistro’s, cafes, buffets, and take-out). The selection is based on the owners; individuals that have accepted the associated financial risk of operating a restaurant. The owners take particular pride in decisions made on the

restaurants decor, menu items, and other details to attract customers, reflecting their particular visions of what is alluring and what requires change. Owners pay attention to restaurant trends reported in magazines, food shows and seminars, being careful to hire people who can accommodate their visions (and will not violate their view) of what the restaurant should be. In hiring staff, owners look for people whose talents are consistent with their tastes and who are also pleasant and accommodating to customers (Zukin, 1995:176). Restaurant owners often do not like to fire people can be harsh taskmasters and do not necessarily command the respect of the workers (Leschziner, 2007). Often, laws are broken in the restaurant, including employment laws, health and safety, and licensing. Employers rely on these illegal means to operate their restaurant, requiring the employee's complicity in these actions (Marshal, 1986). A balance is necessary, however, as the owner requires a skilled and knowledgeable staff to operate a successful restaurant, as well as one who will not report legal infractions.

- *The Servers*

From the kitchen to dining room table, the 'front of the house' staff moves through the restaurant shuttling food, dirty dishes, bills and receipts. The bodily role centers on the transportation of food, cash, and flatware, but the action of serving provides a means for profit, prestige, self-worth and leisure for the server (Erickson, 2007). The position of "server" involves a multitude of tasks: from welcoming customers; setting and clearing the tables; busking dishes to the dishwasher; taking reservations and orders from customers; and maintaining a groomed image for the clientele.³⁵ Experienced servers develop skills to organize their work, to keep the various customers occupied and to get food from the kitchen to the table. These skills must be continually put to the test and meet the challenging conditions of the dining room and the kitchen

³⁵ The term server will refer to all staff whose position revolves around the dining room's appearance and organization as a workspace; the buskers, waitresses, waiters, hostesses, and other employees whom directly interact with the customer and are involved in the up-keep of the dining area.

staff (Whyte, 1946; Sosteric, 1996). The skilful waitress/waiter maintains an emotional equilibrium, responding to the initiatives of customers, owner and cooks (Erickson, 2004). In obvious and subtle ways they interact with customers and staff, getting them to respond to him/her, and fitting them into the pattern of his/her work day. Though the wait staff are mainly service oriented, and possess a lower public status as compared to that of the higher status cooks, they earn substantially more than cooks as a result of gratuities (Fine, 1996).

- *The Customers*

A restaurant's success depends on attracting (and maintaining) a steady clientele. The point of dining, from the customer's perspective, ranges from the convenience of a restaurant to the entertainment value. The individual customer's age, income, and family size influence the decision of which restaurant to attend (Auty, 1992). A series of judgments are made based on that restaurant's image, atmosphere, location, past experiences and reputation. Customers require a feeling of belonging when dining out, that they are valued, and in return they will become a regular - a patron who is devoted and loyal. For customers dining is an event, an affair in which to be seen and to display oneself (Sosteric, 1996:301). Customers come to be served innovative meals and to consume a cultural experience through dining (Beriss, 2006A, 2006B; Trubeck, 2007). Fischler (1988:284-85) states that cuisine is 'the transformation of the raw ingredients from state of nature to that of culture', that the structure of food becomes a means to acquire status. Cooking nourishes and it also signifies, as Fischler (1988:286) writes, "cooking helps to give food and its eaters a place in the world". Customers associate their lifestyles with the act of dining; the cuisine they consume reflects personal politics and beliefs, providing a means to communicate meaning (Hughner, et. al. 2007). This places additional pressure on the restaurant to meet expectations such as: demanding food that should be done in 15 minutes, and ignoring

the fact that there may be another 30 people ordering food, an additional 20 people waiting to be seated, another 30 already waiting for food and 40 more expected to come at a later time.

Customers seek out these places, associating crowded restaurants with high food quality, and among other things, a good reputation. By comparison a the lack of customers is associated with a poor reputation and poor-quality food (Henson, et. al 2006:278).

- *The Cooks*

Cooks are the preparers of food. The restaurant's profits and prestige rely on the cook's repertoire of knowledge about cooking food that is both presentable and appetizing (Abdel-Shehid, 2002). Their identity revolves around this ability to interpret ingredients and act as an expert in the creation of taste. Their objective is to establish a reputation as a competent and skilled individual. Cooks clean, organize, prepare, cook, and garnish food items, combining ingredients, removing blemishes and seasoning dishes for consumption. Through their work, they are attributed with a sense of value and respect. The expectation is to be original, creative and efficient, while balancing the tension between conformity (preparing comfort foods) and originality (Leschziner, 2007:82-84). Cooks are highly aware of the demand to make a recognizable, yet somewhat different product. The higher status the establishment the more heightened the expectations around performance are from the customers, owners and co-workers. Though some cooks may want to cook with seasonal products, often the product may not fit with the restaurant's profile. The issue may involve ingredients that are too down-market for a high-status restaurant, or alternatively ingredients which are too expensive for a restaurant's food cost (Hugner, et. al. 2007:102-104). In such an arrangement, cooks pursue the occupational goals of increasing their creational decision-making power, and enhancing their professional trajectories,

while working within the boundaries of the restaurant style, and adhering to the expectations of the customers and owners.

- *Food*³⁶

“Food had power. It could inspire, astonish, shock, excite, delight, and impress. It had the power to please me... and others. This was valuable information.” (Bourdain, 2001:17)

Often the food's active role in dining is forgotten by academics, and its treatment becomes that of a mere consumable product. The act of creating cuisine centres on the producer and his/her knowledge, as the sole contributor to the final product; privileging the labour processes involved in food manufacture, transportation, and fabrication in the conceptualization of the food-human relationship (Goodman, 2001: 186). Yet, it is this very relationship between the cook's ability and the characteristics of food items that grant food agency, the power to shape human action. For a restaurants' status to be established and maintained, there needs to be increased emphasis and attention to food (Fine, 1992:1285). Cooks must work with food, keeping in mind that certain items require to be prepared in a particular manner. Through this understanding of food, their contribution to flavour and unique preparation requirements, one cooperates with the food. There are cues from food: the smells of when it is done (the smell of fresh bread or burnt fish), as well as the appearance which communicates the state of food (the colour of a sauce - does it have a glossy shine or is it lumpy requiring more whisking). Cooks are required to touch food (for example: to determine when a steak or fish filet is at its best) and have a knowledge of what technique produces the best result, as well as what means may ruin it (Orwell, 1961:79-81; Fine, 2009:75-77). Food requires a range of methods to produce the conditions demanded by the customer. Harsh cooking methods or over simplifying the food, plus poor technique and poor

³⁶ Does food possess objectives, it does possess the power for agency, but what is its intent. According to Callon (1986) the scallop intent was survival, to avoid extinction through over fishing. In actuality, the researches project was the domestication of the scallop, to create an easily controllable population.

ingredients, can produce poor cuisine (Leitch, 2003; MacDonald, 2008:43-45). Seasonal ingredients bring new ingredient pairing, or a new technique, driving culinary creation in a constant flow of fads and fashions (Leschziner, 2007:82). Consumer tastes are shaped by the characteristics of ingredients, and perceptions of taste and/or nutrition are debated along organic and conventional fare lines (Hughner, et. al. 2007:101). Often it is assumed that the food preparation in a restaurant reflects a culinary tradition. By contrast, what if, as Trubeck (2007:35) argues, it is food that creates one.

Food Agency

To exemplify food agency I will use one of my own recipes for a traditional French dish called ratatouille³⁷. Ratatouille is an elegant dish that consists of several simple ingredients that require being prepared in a particular order to create the succinct blending of flavour that this dish is known for. The history and origins of ratatouille are unknown and much debated (see Davidson & Robinson, 2008; Payne, 2008), as its historical legacy varies in recorded accounts and between traditional practices. Ratatouille has been served in a variety of ways from stews, to sides for meat dishes; however, each variation consists of similar ingredients: eggplant, zucchini, bell peppers, herbs, garlic, onions and tomatoes. The recipe requires several cookery techniques to produce the desired texture, colour, aroma, and flavour. Each aspect of the dish (flavour, aroma, etc...) derives its characteristics from the ingredients. The proper application of technique and tools used are determined by how the ingredients react with one another. For example, the eggplant has a soft spongy flesh which, cooked improperly, will cause it to possess a foam-like texture. The application of salt prevents such an end result by gradually removing the excess liquid and collapsing the air pockets in the flesh. The skin of the bell peppers has a leathery

³⁷ Please see appendix #2 for recipe

texture and with its removal, permits a soft, moist and sweet flesh for consumption. The aroma and flavour of basil, on the other hand, is easily destroyed through lengthy cooking processes and this requires its addition just prior to serving. The onions, by contrast, are fibrous and have a strong flavour, allowing it to be cooked for extended periods of time. Each ingredient adds its own form of resistance to the dish which must be acknowledged and negotiated, in order to produce a quality product. If the aspects of the ingredients are ignored a poor dish is the result, one which will not produce the desired effect of creating a pleasing meal, providing cooks with culinary prestige, gratuities for servers, profits for owners and customer retention.

Legal Agency

Restaurant kitchens operate on a continuous basis to produce meals for clientele, largely unabated by state efforts to regulate the food operations and employment situations. An understanding of legal institutions interacting with the restaurant involves a reduction of laws into material forms. Legal proceedings are reduced into documents, labour codes, health and safety acts, and anti-discrimination legislation, which are transcribed from various legislative and court actions, to certify that a level of physical and fiscal protection is followed in the kitchen. These pieces of legislation are not enough to ensure that certain legal regulations are followed. In order to ensure this, a further reduction of these ideas takes place. In Ontario, the provincial government provides a poster which describes the employment standards for display and posting in restaurants. These posters are easily procured online and are intended to inform employees of laws and legislation that ensure their safety and fair treatment. They are further backed by legal sanctions as a result of investigations by the labour board, and infractions are punishable by fines or further legal action. These posters are more than symbolic. They were designed with the

specific intent to interact within a restaurant kitchen. The poster “acts” as it ensures that the messages from the government are present in each licensed restaurant. Other posters are present, including liquor licences, sanitation posters, exit signs and hazard signs, allowing other government laws to be accessible without impeding on the operations of restaurant kitchens.

The information generating these laws is derived from kitchens (and other workplaces) themselves. The operations of the kitchen involve a fair deal of coordination between entities. The spills, burns, cuts, and mistakes that produce the reports and records of incidents provide data that is measured, examined, and interpreted by government institutions to form said laws. Safety, building, and health codes draw from this type of information within restaurants as well. Various documents are created which make legal recommendations for safer work places: proper labels for chemical products; slip mats for the dishwashing workstations; and temperature regulations for storing food.

In terms of employment contracts, government regulation only ensures a minimum level of benefits. Though protection is offered if employment falls below a particular level, current provincial governments have clauses which permit individual employment contracts to be negotiated if consent is offered by the employee.³⁸ Restaurant employment contracts are negotiated based on the outlook of the potential cook and the criteria of the employer. Written and verbal contracts are arranged, and benefits and terms of employment are solidified through an exchange of guarantees for a reduction in food waste, innovative menu ideas, efficient food costs and other culinary techniques to improve quality and quantity of cuisine by the cook, in exchange for a salary, food bonuses, paid vacation, and other fiscal benefits from the employer.

³⁸ As cited at <http://www.hrsdc.gc.ca>. On the Ontario employment Standards Act poster “What You should Know”, such clauses are not mentioned but the vague language of the poster leaves significant details out and room for...

In kitchen employment contracts new material objects are added to the network, as the forms of enticement to attract and retain employees. Incentives include working with or possessing state-of-the-art equipment, access to proper kitchen knives, the benefits of smoke rooms, chef's offices, clothing, and vehicles all become part of the employment contract and means of enticing kitchen staff (Bourdain, 2001:98-101; Marshall, 1986:39). The objects enlisted into the actor-network depends on the continued cooperation of people, materials and food, as determined in this initial delegation of relationships between employer and employee. These legal contracts are materialized in objects to ensure a suitable working environment is present and sustained by cooks, employers and other objects. If the work environment falls below certain standards: customers are lost; food is wasted; costs increases; government inspections occur; and finally the restaurant may be closed.

*“Others” (the role of silent actors)*³⁹

In the operation of a restaurant, there are a plethora of actor-networks providing an abundance of services and resources that, without their support, would bring the functioning of the restaurant to a standstill. Such entities consist of the electricity and water that a restaurant consumes which is supplied by an exterior actor-network of power lines, transformers, power grids, faucets, pipes and water treatment plants. There are also the purveyors (wine, food, beer, and beverage representatives) who bring products to be sold and tested at restaurants, offering free (or credited) samples, discounts and consumer reports on sales in order to ensure their product is included on the menu.

³⁹ See Latour (1992) “Where are the Missing Masses? The Sociology of a Few Mundane Artefacts” for a comprehensive and articulate proclamation for the need of academia to acknowledge the forgotten contributions of objects.

Then there are the material objects surrounding and penetrating the restaurant, such as transportation networks (public transit, parking, ploughed roads, sidewalks, traffic lights, etc.) and financial markets (i.e.: economic disparity and the general health of the business). In addition, there are also the effects of weather and seasons. These actor-networks are taken for granted and not often recognized for their contribution to the operation of the restaurant. They are “others”, as they are often forgotten, and their impact downplayed until they stop working for (or impinge on) the actor-network.

ANT theorists have remarked on why this has occurred and what happens if these networks stop their contribution. The term *other* is used for its flexibility and neutral meaning, where the incorporation of multiple entities and areas of inquiry are acknowledged as being outside boundaries of a particular ontology (Lee & Brown, 1994:773). According to Lee and Brown (1994:772-774), previous academic ontology's in sociology have followed the notion that all categorizations of things are the result of human activity; where a competing field of ‘wills’ attempt to organize the world's entities into a politized categories. Each categorization is based on human agency, as “to be human is to possess agency” (Lee & Brown, 1994:772). This ontological position places limits on order membership and the requirements for an order to occur. Latour (1992:227) argues that there is need for a social theory that will secure our recognition of the gadgets and the actions/roles that non-humans play in agency. Academic research on restaurants speaks as if nature and society are clear and distinct realms, and are written with this bias. We produce the modern world by mixing natural and cultural things into productive hybrids that are promptly ignored thanks to the purifying tendencies of modern thought (and institutions, such as the court room) (Lee and Stenner, 1999:95). Latour (1993) argues that our modern world began with the exclusion of these hybrids. In speaking and acting

on behalf of these silent others, there were a series of translations which reduced these previous actor-networks (and existing actor-networks that support the emerging and continuing networks) into mobilized populations, where they were able to be generalized/reduced to a single actor which is then spoken for (Callon, 1989:58). For example, Russell's Food Wholesaler is reduced to financial records and receipts that represent the company and the relationship between the chef and restaurant. Single actors are seen as embodying monolithic organizations with particular commitments (in the case of Russell's Food Wholesaler: to provide food items to the restaurant). The restaurant or cook aligns themselves with this solid ally (excluding aspects of the various conflicts, wishes and desires which make up Russell's Food Wholesaler), actively shaping this ally's goals and interests, betraying the actual reality that the Russell's Food Wholesaler is in and of itself a translation of multiple actors. The receipt becomes a mobilized speaker representing food staples, purveyors, trucks, dollies and boxes that enter the restaurant.

“we call this reciprocal influence – support from a network which is however, simultaneously reworked and reshaped as a result of offering that support – the process of performing a network: such allies are mobilized without undue effort, but the fact that they are mobilized in turn leads them to change.” (Callon, 1989:61)

It is in the interest of these “others” that cooks keep their jobs, and the restaurant continues successfully. It is in the interest of the cooks to keep their positions, fostering new knowledge in their culinary career. Support for this endeavour would be more forthcoming if the actors (cooks) kept their part of the bargain (Callon, 1989:62), and the other actors remained silent and become a part of the background (Russell's Food Wholesaler).

Locating the Obligatory Point of Passage in the Restaurant

ANT has been criticized for its preoccupation with processes; in the formation of actor-networks, rather than the end results. The emphasis on strategy has focused too much attention

on obligatory points of passage (OPP), fixing the point of analysis on a center. The emphasis has been on the strategies and not the reproduction of knowledge (Law and Hassard, 1999:2-6). According to Law and Hassard (1999:6), it is about “holding patterns of links stable” and not centering the analysis on them, but allowing them to continue the creation of actor-networks. Law (1999) has commented that even the labelling of ANT has had such an effect of centering an analysis. The labelling of actor-network theory as “ANT” has created distinctions; a division of what is and is not part of actor-networks, that there is a intellectual space which ANT resides and its OPP has been fixed. Within ANT, there are no distinctions or divisions before the method is applied, it is that the distinctions and divisions are effects and outcomes, and there is not “a *given* in the order of things” (Law, 1999:3).

“ANT... is confronted with actants reduced to silence and with the silent masses, because they concentrate on monitoring the obligatory points of passage of networks; they are obsessed with territorialized space.” (Lee & Brown, 1994:787)

Featherstone (2004:702) states that territorialized space refers to a particular area as being in existence where non-humans and technologies are static, fixed goods or resources remain unchanged. The restaurant kitchen is such a place, where the conducts of employment relations are merely played out, with fixed interests that are constituted before engagement in the workday. Order can only occur if the elements that compose that order are organized. Some elements, at least, must belong in a place or in sets of places and they must abide in their place or places for some length of time (Lee & Brown, 1994:798). That said, every actant in a network is in itself a representative of further networks (Callon & Law, 1989:74-75; Lee & Brown, 1994:784). There is a circulation of knowledge, and actions, which changes the make-up of actor-networks. Though similar food, people, technology and customers come into the restaurant, it is far from static, as both good and bad days occur. Purveyors are late, dishwashers break

down, servers do not show up to shifts, cooks are hung-over, etc... “the everyday is a mixture of operations performed or disallowed within obligatory points of passage and fractal activity” (Lee & Brown, 1994:787). This continual reproduction of knowledge, and its reintegration into the actor-network, contributing to the outcome of law, economics, styles of cuisine, and society, generally and is not focused on one restaurant as an example in which law or racism is present.

The cooks are indispensable to this thesis, as their attempts to influence actions of the other actors in actor-networks. The restaurant actors are arranged into actor-networks in which their contributions are acknowledged and represented by a functioning service establishment. From the literature, particular restaurant actors were identified, and included the owner, servers, customers, cooks, and food (along with multiple silent others). I have not just identified a few actors; I also have shown that there are a variety of interests, each of which lies within the aligning of actors who support (or do not support) of the operations of the restaurant. The argument of the cook is constantly repeated: If you want to make good tips, if you want your business to be a success, if you want to enjoy your food, if you want to keep your job on the “line”, if you want to avoid waste: you must aid in the production of a commodity for consumption and recognize that all actors must also be on board to complete this task. The internalization of these ideas is not a given. Certain ideas need to be seen as having value, you must want to work together to obtain them. The cooks must navigate between these entities to “carry the day” (Latour, 1983:144) and achieve the particular result.

From Interview to Employment

“So I got into town and picked up a magazine that had the top ten restaurants in Toronto, wrote down the restaurants addresses, grabbed my tool box and went and knocked on all their doors. I just knocked on their door and they looked at me, I said I was here for a job, they said do you have a resume, I said yes, but why don’t you let me work for a shift or two,

I'll work for free. If you like what you see lets talk, if not, not. Chris was the first door I'd knocked on, because [his restaurant] was number one at the time, so I worked a shift for him doing prep and eventually went up on the line. When the shift was done he said okay lets go talk money. It did not pay well but I loved the job." 10b(4)

The above quote illustrates the experiences that many cooks have while searching for employment. Quite often, the steps involved in job searching and job obtainment involve a particular display of their abilities, in addition to more traditional processes. Achieving an agreement on the terms of employment continues long after the first introduction. For those engaged in professional cooking there is a continuous process of reaffirming and reworking what the job entails; including the responsibilities, the wage, the job position, and length of employment. Each aspect is dependent on the actions of the cooks and others involved within the operations of the restaurant. From these means come the ends; as cooks seek employment and are sought by chefs and restaurant owners, they develop the relationships that detail employment contracts, and adherence to the law is the outcome of this translation of employment relationships in the restaurant kitchen.

In following the transition from the initial interview to the employment contract there exists a continuous set of negotiations between the actors involved. Each cook interviewed illustrated their own cooking experiences, by describing how they came to be employed at a particular location and what their job entailed. Each "story" involved a series of movements in which each actor identified themselves, others, their interests and roles. In these negotiated movements cooks described how they, the owners, chefs, and other staff attempted to impose control over their work relationships. Though this research focuses on the manoeuvring of cooks to secure employment, it needs to be emphasized that obtaining employment was not a one-sided ordeal in which cooks or employers held all the power. Nor could the experience be described as involving passive recipients, those blindly accepting a position in a hierarchal workplace. It

involved active actors placing pressure on others, while at the same time being complicit with one another; aligning themselves with other actors in the functioning of the restaurant.

Securing the employment of cooks involves an exchange between multiple actors. First there is the ‘selling of the restaurant’ as a suitable workspace by an owner. The interests of the cook, to work in a particular restaurant, are captured through the use of devices that potential employers use to engage them. Entering into a preliminary relationship, employers attempt to entice cooks to commit to a particular location. The use of expensive or organic items, learning different styles of cuisine, the restaurant’s reputation, and the owner or chef’s reputation, acts to entice cooks.

“it was like a commercial [laughter], they basically talked about the meat and the quality and the name [of the restaurant] and everything like that. That there was a prime grade. I was sort of attracted to the idea of working with higher grade food. She was really nice, super nice. She talks a lot, well you know.” 5b(5)

While the owners sell the restaurant as a suitable location for employment, cooks must also sell themselves. The employer is given the cook’s resume which lists all of the skills and experiences that the cook possesses. Cooks use the resume as an a personal representation, a display of all relevant information about the cook, in order to entice the employer to hire him/her at the time of this introduction⁴⁰. The employer can then assess whether the individual meets the criteria for the position that they are looking to fill. Cooks elaborate on their past experiences, stating that in previous restaurants they reduced food waste, created innovative menu ideas, were efficient with food ordering and described other culinary techniques which improved the quality and quantity of cuisine.

⁴⁰The resume acts as a final setting for past experiences to be place/recorded which have been decided by the cook, as well as previous employers who have authorized their use (through the reference), as relevant. The resume displays the origins of their abilities which are to be taken in account by the employer in the interview.

“6b: It was my first job taking over as chef right from the beginning, whereas I have always worked my way up. It was fun, I got to make all the decisions as far as the menu and things like that. It was a very small place, like 28 seats and it was tapas’.

Researcher: Do you remember the menu and what you said you’d do?

6b I... [told them] I would keep the food and labour costs at a certain level... and they also wanted me to go and speak to the customers. I was not too comfortable with that at the beginning as I was still just reproducing their menu, but once I got my menu going it was a little easier to go and ask the customers how they felt about the food and that it was my hands only that made it.” 6b(7)

In the introductory phase, the potential employer and cook agree on tentative terms wherein the cooks choose to work for this employer. Often cooks accept jobs at a lower position and wage than what they originally applied for. This is an occupational norm in the cooking profession. Cooks accepted lower positions to enable them to “let your abilities speak for you” (1b:3). In starting off at a lower position, they are able to learn the kitchen, your co-workers; how staff members interact; the conditions of the fridges; storage facilities and organization; and where problems exist. The objective is to find areas in which they can improve your situation by utilizing your abilities to work in such environments.

“1b: Wage wise, he paid me very low, I did not mind, as I said “whatever you are going to pay me I will work it, in two months you will see how I work and that I am worth more”. So I stayed and I was paid more in two months.

Researcher: You say you were worth more; can you give me some examples of how you showed your worth?

1b: Oh, ah the responsibility, the way I work with food, never having to wait to be told what to do. I initiate and always stay ahead of the game. What I mean by that is I think proactively, do not react, so you know, to anticipate, because if you have worked the line you know what the rush will be like. So you never say I cannot do this. Okay, these are kinds of attitudes that people do not need. This is not needed in the restaurant, these characteristics [being proactive] I learned from other places too. If you have these characteristics you will have no problem.” 1b(3)

Though taking lower positions can have its draw backs, for example: lower wages and less prestige, cooks find benefits and motivation through working with particular ingredients,

personnel, and within certain environments. Also, it enables them to let go of the network, to leave before one starts to feel obligations to the restaurant. One cook described the efforts he went through to find employment in one particular establishment, in Ottawa, with a reputable status.

“I was like can you just get me in, I did not mind washing dishes or doing other jobs. His dish washers were sort of on call kind of thing, he had a list of five other people. So he just called me, do you want to be on the list, I said sure and he one day called me. I took these experiences just to get in. I did it for about six months.” 7b(4)

This cook further stated that this is a common and a necessary aspect of getting the proper experiences to work in this profession:

This happens quite a bit, especially in the higher echelons of cooking, people will take these lower paying jobs just to get in there and experience different types of cooking just for a bit.” 7b(4)

Another cook stated similar experiences of ‘working for less’ in order to learn from a particular chef:

“Researcher: Was that minimum wage at that time?

5b: It was a bit above.

Researcher: and they kept just giving you tasks?

5b: Yup, basically, I kept asking for them and asking questions too, as I really, really liked my chef.

Researcher: Do you remember particularly what you liked about him?

5b: Really personable, overly nice, I felt like a bit of a jerk by comparison. Yeah, totally the nicest chef I ever worked with.” 5b(3)

Once a cook decides to take the position in a particular location, new sets of negotiations begin. Where initially there was a negotiation between potential employer and employee, now another diverse set of actors come into play. Starting the new job requires one to familiarize him/herself with additional actor-networks. This requires a previous background with other types

of food knowledge, cooking techniques, and restaurant organization. Skills and know-how must be up-dated or reviewed. Occasionally an individual requires new skills or abilities before entering into this employment situation in order to establish their position as a competent member of the team. Here, one cook describes the necessity of learning to make a menu item from scratch:

“...at [this particular restaurant] I had to make [hollandaise sauce] from scratch, all the other restaurants I worked at I had to use the powdered one, and now no cook has to learn how to do it. I learned it on my own before I went to [work there], as during the interview we talked about food, it was one of things he mentioned, that to make hollandaise sauce and everything else from scratch, so I did not want to feel embarrassed there so I went home and looked it up and practiced at home until I got it right.” 3b(5)

In the restaurant, an individual begins by working to find their position and place. Cooks repeatedly stated that they arrived and often found themselves working various positions in order for their co-workers and owners to ascertain whether or not they were a good fit for the restaurant organization. Restaurants operate under pressures that stems from food shelf life, employee relations, time constraints, and clientele demands (see Fine, 2009:54-80). The cook's arrival into these work situations requires them to be flexible and malleable to unpredictable work experiences.

“5b: They didn't tell me exactly what I'd be doing, but she was like just come in and we'll find something. So the first couple times I just came in and worked in the back and did prep and stuff and in a week or two they had me in the salad station.

Researcher: Was there any reasons for why you started in the back doing prep?

5b: Well, because they did not know me and they did not know what I could do, like if I was totally useless during the rush for example, as it would not be a good idea to have someone you do not know there. So I was put on the salad station. So they were just testing the waters.” 5b (5)

These examples counter the assumed rigid hierarchal system of restaurant cooking. Under a hierarchal organization it is assumed that by accepting a job you are designated into a position

immediately. In the restaurant, the authority structure is present with titles, yet, often cooks stated they found themselves in locations where they lacked a designated position.

“I was hired on as a salad prep cook, so I was in charge of all the salads, and then salad bar training. Then I moved over to the carvery bar...it was usually [operated as] you are going to be the prep cook today and tomorrow you are going to be the head prep cook and have fun!” 2b(1)

These tactics enforce a “sink or swim” strategy by management, where the employees are tested to see how they handle themselves in the various situations that the kitchen offers. These instances appeal to cooks as they seek the types of challenges where they can reaffirm their abilities as a professional.

“I was hired as a Legumier, so I cooked starches and stuff. I was there for three months and I started to go up... I started to take it very seriously. So in four months I was the saucier, so I was responsible for all the meats, sauces the soups, stocks at the Rideau club. I became the saucier quickly, faster than anyone else they had there before. So then I did the line with pans and everything was with pans and el’minute⁴¹ and did the butchery and at that time we dealt mainly with whole fish, so if we had a banquet on for 120 I was cleaning whole fish, whole salmon for a 120, which was really cool. I cleaned meat, prepping veg, making sauces, I had a real good mentor.” 7b(6)

In the first few months of employment, when the cook is situating him/herself, there is an assessment of the restaurant situation. The cook may ask him or herself whether this provides the means for advancement. Is there the possibility to move up the ranks, gain more responsibility, or obtain new skills, and/or are there options to work with different product?

“2b: Yeah, at [this restaurant] the cooks did everything from scratch. The cooks baked, we did not have a bakery so we all baked.

Researcher: So you found when you left [your previous restaurant], though you took a lower position,... at [your current restaurant], did you find you enjoyed cooking more with your own ingredients and ideals then from the box?

2b: I loved it! I really enjoyed it there... Even if I had not moved up the ranks and stayed as a cook, I would have been fine there. Just having that experience with cooking from scratch...” 2b(4-5)

⁴¹ El’ minute is a culinary term which refers to the cooking of that menu item at that particular point in time.

In another example, a cook stated:

“I remember [this one restaurant] doing a lot of fish of the day. The quality and presentation were way better [there]. Well think of a cacciatore on a plate, you have the chicken, tomato sauce and some peppers which you slap on a plate with some pepper [a special at previous location]. Over all I liked the specials [there, as they were] better, and there was that opportunity to create as the chef wanted you to come up with whatever you wanted to.” 5b(7)

The conditions that persuade the actors to involve themselves further in the restaurant depend upon the extent to which the cook’s aims are commensurate with that of the restaurant owner and staff. Under circumstances marked by common aims, the cook continues with enhancing food presentation, cleanliness and produces higher yields from raw ingredients. In other words they assert a level of ‘refinement’ over their work. As one cook describes:

“When I talk about refinement of technique, I guess I am talking about...paying attention to the details. Not letting your stocks burn or... not paying attention to your knife work, or shoddy cutting where things do not look the same, or even things like its okay to throw steak in the deep-fryer. To me it’s about doing things always the right way....and I decided that I would get better.” 7b(2)

To keep productive employees, employers offer state-of-the-art equipment, purchase expensive kitchen knives, provide the benefits of smoke rooms, chef’s offices, bonuses, paid vacations and higher wages. If all parties consent to being involved in this work situation, little discussion between actors is necessary.

“Also as the prep cook I had my own room and basically had my own walk-in as well and people of course would come and take stuff out of my room. So I would turn around and go to debone a leg of lamb and the knives are gone. So instead of having to go and search around for them I just had my own there for me... [in] my own locker.” 2b(9)

Where resistance is met, different means must be found to negotiate compliance within the network. The cooks interviewed stated that they often had work in multiple locations, for various reasons; such as to make more money, work in prestigious locations, learn new abilities, collect

hours for their chef's papers, etc. Working in various locations is often used as leverage to garner more benefits from particular employers with whom they wish to remain employed.

"So what happen was I went to them. See after three or four weeks came around and I went to [the manager] as they told me I would be working at [their main location]. So I was already working three kitchens, plus the Italian place. [not owned by this company]. So the [Italian place] offered me a full time position so I went to [the manger] and told them if they do not match this I am gone." 6b(4)

The employment contract in and of itself becomes an outcome. Cooks accept the jobs offered, sign into unions, accept bargaining agreements, spend the businesses' money, and invest in the company. The employment contract develops from the information generated about the quality of the cook's abilities and the employer's views of the individual's worth. Values, attitudes and behaviours are shaped, and the standards of the individual employment contract are created.

Challenging Authority

"Power is the illusion people get when they are obeyed... they imagine that others behave because of the master's clout without ever suspecting the many different reasons others have for obeying and doing something else... people who are obeyed discover what their power is really made of when they start to lose it. They realise... that it was made of the wills of the others." (Latour, 1986:268)

A series of stories were told in the interviews, describing employment controversies, disagreements or difficulties as experienced by cooks in their careers. The cook's vision of how the work place should operate may run counter to that of the owner (or co-workers) causing arguments over menu items, restaurant layout, and food costs. In charting these disputes, I relied on the cooks to outline the steps that they had taken to identify the issue, what was done to address it, and the activities that were necessary to get others to agree about the problem. Each instance lists the different strategies deployed by those involved in the dispute, including how

disagreements took shape, the resistances formed, the resolutions put forward and when actor-networks fell apart.

To emphasize the difference of opinion encountered in the restaurant I highlighted the common issues of disagreement over food costs. Each cook who participated in this research mentioned conflicts over food costs at one point or another. The dynamic found in working with food as a raw resource, and how it exists as a final product, shapes the restaurant and its ability to sell these perishable commodities (Whyte, 1946:124). Each ingredient exerts pressure on a cook specifying how to maintain its quality and flavour through storage, food preparation and cooking. All food items have a shelf life which can be defined as the length of time it has before it is no longer suitable for consumption. The properties of an ingredient shape the organization of the restaurant. Ingredients determine the menu, storage, line step-up, waste disposal, and other various aspects of commercial cooking. Food is central to a restaurant's operation and the knowledge possessed by cooks about said food provides the means to challenge others.

“I went in there on the first day, and I have been in restaurants a long time, and there are certain things that made absolutely no sense. When you design a menu it is not so much about what tastes good, *but can you expedite it*. Yeah, it has to taste good, but if you cannot make it a beautiful meal quickly, um, if the food is going to be setting long, there are a million things that come together for a menu, so it is not about what tastes good, or what you saw on TV last night. It's gotta work for your restaurant atmosphere...you need to already have those raw materials to put it together. There are just so many different levels. There are a lot of things that just did not work.” [my italics] 8b(9)

Knowing how to utilize equipment, and work with food to maximize its full value, provides cooks with leverage over the owner and other staff.

The restaurant industry functions (similar to most occupations) through a work hierarchy, however, the employment of multiple cooks (and staff) requires each to operate with a certain a level of autonomy in their work place. This autonomy derives from the skill that each cook

possesses. Meriot (2006:81-84) elaborates on skills noting that skill is a connector of knowledge to the work situation:

“the notion of qualification, the idea of skill attempts to designate a worthwhile connection from the subject to the work situation, since it demonstrates the desire to differentiate in the evaluation of individual performances. *Indeed, skills are frequently understood as a simple classification of knowledge, when in fact they are somewhere between knowledge and situation.* Their application is based on a form of arbitration within individuals range of possibilities to linked their own knowledge and the field of representation (of the situation, individuals’ professional or social role, expectation of others, and so on).” [my italics]

The application of knowledge takes on a different meaning for every individual since it integrates cognitive and mental aspects, which are then transformed into expertise (Meriot, 2006:82). Skills can be taken further to include the connection of knowledge to situation and its enactment in association, which includes choosing what to associate with, and defining the expected professional role. Ability in the restaurant is framed through the process of cooking and the knowledge of food. Combined into action which includes the capacity to reduce food waste or combine flavours; skill is the ability to do it well.⁴² In establishing and maintaining a particular culinary arrangement in the work place, there is an acknowledgement of one’s abilities through experience.

“Yes, because of the basic techniques. The reason [the owner] hired him was for his integrity and he was a hard working individual and his experience, as they could use him to incorporate other items into their menu from Italian items into the Indian menu. He was hired to cook Indian menu but he changed it to an Italian menu and they kept him there until they moved to Toronto. It was Indian but he changed it to Italian as he was great at that and he did not know Indian, he stuck with what he knew.” 1b(1)

Cooks may confront owners, chefs and co-workers that have organized the restaurant in a way that may not utilize the equipment and food to their utmost efficiency. Large menus, improper ordering methods (consisting of ordering too much when not necessary or ordering too

⁴² In the interviews the term skill was not directly referred too by the cooks; the cooks remarked on being ‘able’ or ‘capable’ of doing their job successfully, and remarked on others as lacking ‘skill’ or professionalism, the inability to successfully work in certain positions or under certain contexts.

little in times of demand), and not rotating or reducing prepped items to smaller sized containers, all lead to waste.

“Oh meat, fish, vegetables everything. But fish was the biggest cost wise, vegetables by volume but by actual cost it was fish. The menu was too big, the owner absolutely did not want to cut the menu at all. The general manager kept adding more items. So it just made it really hard to manage the food costs.” 3b(7)

Waste is a huge concern for cooks. Food creation is a large part of the identity and self-respect is also derived from this activity. Wasting food reflects inability, inexperience, or an individual incapable of performing their job (which is based on feeding the public something that they want). In the act of confronting the owner, cooks are aware of their position as the proprietor. The owner has the largest stake, assuming all the financial responsibility, as well as providing an income for staff and themselves. Yet, as one cook remarks, there is tension between what the owner’s perception of quality and cuisine is:

“5b: Well it’s that being the proprietor he was more concerned with money and he would jeopardize quality. Cutting down portions, serving a crappy piece of meat, or whatever, serving stuff that should have been thrown out. My biggest issue with him was that he was not a chef and should not have been in the kitchen. From a management perspective, that’s fine, but not for running the kitchen.

Researcher: So what form of actions did he do? What would he sell that you would consider throwing out?

5b: More so small, smaller portions. I know for a fact he would buy stuff seriously on sale. I would just not of eaten it, it was okay, it would not kill anybody.” 5b(3)

The construction of the restaurant kitchen environment provides the means for shaping the power relations between actors. The ability to prolong and maintain a quality product in raw form to the finished plate requires a plethora of material objects. Kitchen equipment is necessary for food creation and the functioning of the restaurant. Foods, and the equipment necessary for its manipulation, are expensive and require care and attention. If equipment is not properly taken care of, or misused, it breaks down. If food is wasted or improperly prepared, (ultimately

creating lower yields) the restaurant loses money. This loss of income as well as the loss of food products creates tension as the owner loses both profits and reputation. Cooks suffer from the effects of this as lower profits leads to a loss of hours, bonuses, prestige, and benefits of cooking.

“Researcher: Could you expand on his reasons for how he stored things.

3b: I think he just did not have the knowledge, and I did not have the knowledge either until I started working at [at another location]. There they do not throw out anything as they manage their food better.

Researcher: What were the practices at [that location] that were improved food shelf life compared to [your previous work location]?

3b: Well say for vegetables that came in... they were always kept in their boxes and bags and stored that way, still in their original packages. So let's say leafy lettuces or spinach or Romaine, it was left in its packages and it would rot in the packages as it wouldn't be able to breathe. I found out at [the other place] that if you take spinach out of the bag and into a bin with a cloth over it, you can have spinach last two weeks. Where [there] it would rot after three days. With fish the problem was we had too much on the menu. And the chef did not want to change how it was stored.

Researcher: can you elaborate on how it was stored.

3b: We stored fish by vacuum sealing it and the problem was with the vacuum sealer. It was not an industrial vacuum sealer that a factory would use, it never sealed a hundred percent, there would always be a little air coming in and moisture would accumulate inside its own bag and it would rot in its own juices. Where in other restaurants you would rotate and change containers so it would not sit in its own juices.

Researcher: Is that what you do at [at the other location], change containers, rotate?

3b: Yes, change containers, wrappings, clothes, just rotation.

Researcher: I imagine that that piece of equipment was quite expensive?

3b: Yes, about 6000 dollars.

Researcher: were they very dependent on that item to save costs?

3b: Very dependent and it was actually a very, well for some things it was good thing. Like steaks, for freezing items. But for others it was not effective at all. Also it was very expensive. Each bag was like 20 cents and ah we would order salmon for the next two

weeks, order it, filet it, portion it, vacuum seal it, freeze it, defrost it and finally cook it over those two weeks. We could of just had fish delivered ever day, we could of order enough fish for a few days, filet it, stored it and served. All without having the labour, as you would spend an hour of his day just vacuum sealing.” 3b(8)

In instances where the owners assert their own direction over food production and presentation, cooks mediate a delicate balance between what the employer wants, what the kitchen can create and their own perception of a quality product. It is the restaurants’ kitchen - with all of the equipment - that provides cooks with this power. The cook works with the restaurant; using equipment, fridges, clothes, containers, knives, and menu specials. In situating the space in which the cook challenges management or the owner, the cook’s attention is on the equipment, the food, and the possible techniques that she\he will have to use to perform their job. The knowledge and expertise of cooks is not typically found within management. Cooks utilize different networks to garner power. Cooks have equipment to draw power from, through their knowledge generated from working with food and equipment, which permits them to question those in positions of authority and control. The focus on food costs permits them to draw the attention of owners, bringing awareness to where the restaurant is loosing money (an area of their interest), and enables them to enhance their position and authority in the restaurant.

2b: Yes, I noticed that he ordered things that we simply didn’t need, he would just order without looking at inventory, he would order without looking at what was coming up... with tourism... Then once that slows down you need to cut back on food costs, waste and ordering and he did not look into that. It became part of my job and when this came to me and I spoke to him about it, he did not appreciate it at all.

Researcher: So the owner came to you and said to look out for the restaurant as he was concerned these things were not being done due to the chef’s abilities, they were questionable?

2b: Yes, he did come to me as the owner knew that I had experience in that I was very organized and analytical and could handle numbers very easily and he came to me and said this is a strength of yours as we can see anyways as I had to handle some ordering in the smaller areas as opposed to the whole kitchen.

E: So there was a 'needs list' for ordering for cooks?

2B: Yeah, so he noticed that and said I could take over." 2b(2)

In these situations, the cooks find themselves taking the lead to resolve matters, or managing staff to rectify it. They rearrange the actor-networks present in that particular restaurant. Change comes from the gradual evolving of cook and staff behaviour, leading to eventual change of the restaurant's style and organization. As one cook states:

"The way things were laid out in the fridges it did not make a lot of sense, it led to an uneasy flow in the kitchen. Um, so we changed that and we did what was called the "stars and dogs report". It is an excel layout and you put in how much you are selling of a product, so you can see the stars are based that you sell a lot and the cost of that actual dish, dogs are the ones that they have high costs and do not sell well. And there is the work horse, which means it does not have a high profit margin but you sell a lot of it. You are able to actually break down your menu, based on what is selling well and what isn't and what is not worth it." 8b(7)

Researcher: Is this is a program or something you made?

8b: No, this is a program, you can make them, but there is actually a program called stars and dogs report. You just take in the actual data and plug it in from your sales and costs from a month or a week and see in a straightforward break down... The restaurant was really suffering... The owners did use a lot of packaged [goods], so I changed a lot of things. I'd started to emphasis a lot of local and fresh thing, we are part of savour Ottawa now, and it is an organization here in Ottawa for local farmers and networking, from farm to kitchen. Really being one on one from farmer to restaurant. We are very much local. It is what I believe in being a chef. I believe in using the local, fresh ingredients whenever you can." 8b(7)

There are no guerrilla tactics to be employed in this environment. Instead, the change is gradual, where too much too soon leads to hostility and staff turnover. Some participants interviewed saw line cooks challenging the role of the chef by imposing their definition of the professional and what is necessary for quality work.

"Oh my god that was one of the restaurants where I work where there was more stuff just being thrown out or lost in the cycle [improper food rotation]. One reason was the menu was way to big [causing waste]and the chef and the sous chef were, I guess you could say, I did not know what the sous chef was paid, but I know the chef was paid well and there was no incentive for him beside his regular pay. Well if you are going to be a chef you should always care about the food and not want it to go to waste." 6b(4)

One cook mentions how he/she had to take a direct managerial role in the restaurant he/she currently works:

“Researcher: when it comes to direction for those cooks [who you work with] what does it consist of - presentation of food, what prep is being done?”

3b: Yes everything, presentation, how the plates look, preparation, and other things needed to be done... I guess if the food is all over the place, if I see that it is slightly burnt, or under cooked, if the plate looks dirty. All those and the sauce would be all over the place. So yes, I find I have to tell them some things for direction. Now, like I said I fell into this, no body ever told me I should tell them, it is just from my experience when I see a plate go out and it does not look good and I see it and you know I have to tell them that I have to correct it. So no one told me that’s what my role is, I just decided that’s what my role is.” 3b(2-3)

The questioning of pre-established hierarchies, by cooks, is permitted by the actor-networks established which support the cook. If people like his/her food presentation, flavour, organization, efficiency with prepping items, and social skills with co-workers; the restaurant works. In challenging an employer, cooks must have the staff support him/her to make changes. Restaurants, depending on the scale, employ multiple cooks. To change the organization of the restaurant, or type of food they wish to serve, cooks require the cooperation of the other cooks they work with. As one cook stated:

“I wanted to make sure that everyone was treated fairly. The [previous] chef was a bit of an anger monger, we sat down and literally my training day, he open up the computer and showed me assessments of this and assessments of that, saying you have to fire this person right away and this person right away, here are the spreads and here is all the other paper work on the computer, then costing stuff. So we went upstairs after, and that was at 11 [am] and that was my training. Not only that, but the guy I was supposed to start the day with was the guy I was supposed to fire, and he was now the guy who was supposed to train me [the dish set-up on the line]. So of course I went to him and said let’s go sit down. So he assumed I was going to fire him right then and there. I sat down with him and said “listen I am a fair and honest person, I am not going to sit here and listen to some other guys bull shit, you’re the one who’s been working the line, I know the other chef had been spending most his time in front of the computer doing paper work instead of doing the work on the line, doing the actual grunt work”. So I wanted to know what the blue collar guy, for lack of a better word, was doing in the kitchen. So we talked for a bit and I told him we are going to work together and see how it goes.” 8b(5)

When it works, and all agree that the cook's objective align with their own, a cook's position, earnings, and career can become stable and successful.

“And [the owner] martyrs me all the time, he's like “before you came along we were ready to pack things up”, I am like “there are seven things that make this restaurant work, and I am only one part”. Yeah, I am proud of what I did, it is one of my crowning achievements as a chef, and um we really did turn it around from a restaurant that was doing nothing and turn it around over night to be a success. It was a lot of work, it was the influx of money from another investor and the new construction to the street, me and the new menu and [the owners] being rejuvenated by all this, it was lot of things which turned it around.” 8b(12)

The end product is that the cook can challenge the owner and can control the direction of the kitchen, its food and staff.

Experiencing Employment Laws

Throughout the interviews, most cooks expressed a negative view of the Ontario Legal system. Their perceptions of the legal process were characterized by ideas of hindrance, or obstacles. It was not a tool that could be utilized by them, nor did its existence reflect on their aims of professional development. Cooks were well aware of their rights and that a body of legislation existed to enforce their fair treatment. However, in their work experiences, the body of law which protects and enforces their safety and welfare is viewed as ineffective.

“Lots of people go to the labour board, but it sometimes takes them a year to two years to get a response. It sometimes seems that it works more for the owner then the employee. I know that they say that it doesn't, but it sure seems that way. I know some people who have been screwed over and didn't get paid, even from restaurants that did stay open [in reference to restaurants that close due to bankruptcy]. Then when it s all said and done and the employee says I am going to the labour board, the employers just snicker at them, go to the labour board, they know that the labour board is so much red tape that it is going to take two, three years before anything gets done. You may not ever even see money by the time it happens because you have given up.” B8(14)

Though there exists a negative view of employment laws, there is recognition that there is a need for a governing body; somewhere to go to report abuses.

“Researcher: When you send it to the labour board what do you think will happen?

2b: They will investigate, there is nothing else I can get from [the owner] as I was given severance, as that is what I should get, but I still want to file a complaint to say there was wrongful dismissal and I think the labour board should investigate.” 2b(4)

The descriptions of employment law abuses by participants lead to a line of inquiry on whether or not the individuals in this vocation were aware of the means to report abuses. In the interviews one participant argued for additional education on part of the employee.

“8b: ...well if you want my advice and you are thinking of ways to avoid this [employment law abuses], I think it is in the education of the employee going into [restaurant work]. I think that if the employer knew that the employee knew there right going into it, it would be a lot of big changes. The employer would respect the rights of the employee if they know that who they are dealing with knows there rights. That they will act on it if they are treated improperly.” 8b(15)

From the perspective of this participant, this required an educated employee and an employer who recognized what an education on this subject entailed in employment relations. Yet, when I mentioned the efforts of the Ontario governments to address work place inequalities, the cooks’ responses were less than enthusiastic:

“Researcher: I know that the Ontario government website there is an employment law poster which can be put up in ever workplace giving a summary of employment laws, and direction on where to find the employment standards act online. But it is on the onus of employer or employee to put it there.

8b: Do you think the employer wants that up, no. They do not want their employees to know that they cannot be fired on a whim... So I think it is about educating the employee about their rights and having the employer recognizing these rights. If the employee knows the rights and the employer knows that, there would be a lot more respect there.” 8b(15)

Cooks know their rights; they know when they are being mistreated and speak frequently to one another about their experiences. That said, it becomes part of the employment relationship to waive your rights. As one cook illustrates:

“Researcher: Was this a common practice [of not paying over-time] for [the restaurant] you were with?

8b: It is common for a lot of restaurants. It's amazing how many things do not get recorded, in regards to employees and over time. A lot of restaurants do not like to pay over time, to the point where the restaurant owner will say "if you want the chance to make extra money then we want you to wave your over time rights". As much as they will give you a piece of paper to sign to wave your over time rights, it still does not mean anything as it is still illegal. Um, it just makes the people who sign the paper not want to challenge them in the end. As long as you can prove the hours, you can go back and claim it, but no one knows these things. No one wants to stir the pot; no one wants to piss the bosses off." 8b(2)

The employment contracts that develop in the working relationships between cooks and employers involve a fair amount of informalities. Ambiguity around aspects of the responsibilities and details of roles (which are left undecided in the immediate employment situation) present the circumstances necessary to challenge and be challenged by actors in the actor-network. Within formal written contracts there are specified roles and responsibilities, as well as points on benefits and annual wage increases. However, there is some resistance by participants on having such clear roles. The security of a salaried position also presents 'costs' to cooks. One cook illustrates his/her experience with contracts that he/she termed as "salary abused":

"Researcher: Could you break down salary abused?

8b: Salary abused, what happens is... you are put in a locked in number [wage]. So a way for a restaurant to bring their labour cost down is to work you more than the ones who are hourly. As if you are one who is already accounted for the only way to save money is to cut their hours. You are the first person who has to stay longer than anyone else, its just salary abuse. It's where you end up with a million hours as it is the only way to cut their costs and make more money." 8b(2)

With formal or informal work contracts there also exists a "grey area", where the employee and employer are unsure of whether the laws are being applied properly. The number of hours allotted before over-time applies, when you have to give notice of termination to the employees, or in the case of the employee that they are quitting, requirements of maternity leave, or deductions from paycheques. Though the law is clear in the Employment Standards Act on these

employment issues, cook are often unsure of when to apply the law or when to ignore it; as one cook illustrates in his/her experiences with scheduling and over-time pay.

“Researcher: My experiences at [this location], I remember a conversation in regards to myself working over 44 hours a week and not receiving over-time, you were in a similar situation, how did you feel about not getting overtime?”

3b: Actually I was okay with that, because I wanted to work over 44 hours a week so it was more convenient for them to give me more hours as a apposed to having to go somewhere else where I would not get overtime as I picked up the hours there. It made it easier because I did not have to travel. I could just stay at the same job.

Researcher: What makes it so socially acceptable to work over 44 hours, why was 44 hours seemed to be an objective for you to work?

3b: I wanted to because wages for cooks right now are just so low that if you want to enjoy a middle class lifestyle you have to work them. If I could work less for more I would, I would say that even if I made more I would work more than an average person because that is just me; there it was average for me to work up to 80 hours a week. Now if income was better I would work 55 hours, but I would still work a lot.” 3b(9)

This grey area of what is law-abiding and what is law breaking continues into other domains of restaurant employment. Bankruptcy is common in the restaurant industry, new and established restaurants can all face potential closure if business wanes. Restaurants have a high rate of failure. In these work situations staff, lose more than their employment; they may also lose personal property.

“Researcher: At [this particular restaurant], with [the owner], since you could not get your stuff back did you consider legal recourse?”

2b: No.

Researcher: were you aware that you could?

2b: Yeah, and some people tried, the shoes, the knives and other stuff, I was not even angry, I did not see it as [the owner’s] fault. Honestly, it should have been the bank that should have let us back in. And there were people trying to get us back in to get our stuff. I signed a petition, but nothing ever came of it.

Researcher: Do you know of everyone trying to engage in illicit activities to get their stuff?

2b: No, we tried legal means, everyone, there were petitions we communicated with the bank. We knew you locked the doors for bankruptcy but there was our personal belonging in there. Our personal belongs were in there.” 2b(2)

In cases of abuse, mistreatment, or bankruptcy, cooks did not state that they would go to the labour board. The reasons cooks stated could be categorized as a commitment to their kitchen actor-network. They viewed the legal repercussions as a possible hindrance to the colleagues left behind. Cooks were aware that the circumstances of the actor-network continue after they are gone, and that other colleagues must endure the situation for their own reasons. This situation places pressure on them not to report abuses, as it will only make things more difficult for those who remain part of that actor-network.

“I do not know necessarily if the labour board is the action, I think a lot of people are afraid to go to the labour board because, one there um they are stirring the pot, that you are causing more trouble then what it is worth, because... Well the employer getting pissed off at them, you are getting screwed. 9 times out of 10 you are leaving anyway and you are stirring the pot for the next people. You are also screwing the people there, you are leaving friends, you make friends where you work, and you are causing them trouble. That and they do not want to go because nothing is going to happen for years.” 8b(14)

In many cook’s experiences leaving a stressful work situation becomes the primary means to improve their situation. With leaving came a general sense of relief from their previous environment/environments:

“Researcher: Did you find that when you left [the previous restaurant] and came to [[your current work place] did you find you were almost rejuvenated as a professional?

3b: Not in a culinary way, I found I was just happy to leave those problems behind me and get to deal with new problems.” 3b(9)

While confronted with these situations on a regular basis the participants did not seem to want to push for unionism as a mean to obtain better work treatment. In their experience a cooking career requires flexibility, and unionism was seen as an obstacle to that; producing undesirable results, a different mentality of co-worker, as well as cooking environment. One

cook talked of the dynamics of the corporation that they worked for, wherein one establishment was unionized and the others were not.

“Researcher: There’s a building that is unionized?

5b: Only one. And there is a building right beside them that is not unionized, so those two buildings get the same pay, even though they do not share a staff, but because one is unionized.

Researcher: Do you want to work at that unionized building?

5b: It does not matter to me, I guess yes on the grounds of that they are getting better pay and I would want to have the same pay as them, but the building right beside them gets that same pay, or off by a few cents, I would just like to get the same pay as them.

Researcher: Have any discussions come up between co-workers about possible unionizing?

5b: Yeah, I usually instigated it, not that I am the only one who is pissed off about it, but yeah.” 5b(10)

Though the perks of unionization are appealing, the dynamics of working in these types of kitchens have their drawback as well:

“It was good hours, it was Monday to Friday, you got weekends off, you got benefits, but it was unionized so there were a lot of lazy arses there, a lot of lazy people. People could call in sick, right, and you had so many sick days people took advantage of it, so you know, they’d rather have someone else do the work for them.” 4b(2)

This cook continues with this line of thought by stating:

“I know at a lot of unionized restaurant people would let things slide. I think they did it on purpose because there were always people there to pick up the slack, so there were lots of people because everything had to be done.

Researcher: Could you give me an example of “letting things slide”?

4b: Mostly prep wise, so people would come and ask if I could do this or that, and I just didn’t have time as I had responsibilities. But they ask for “someone to help me”, they had all day, I do not know why they could not get it done.” 4b(5)

Another cook stated that:

“3b...it was unionized so you got a raise no matter what as there was a automatic one at the end of the year.

Researcher: There was an annual raise, a percentage on your pay?

3b: It was annual and at that time it was four percent, but the contract was negotiated every few years, so sometimes it was less percent and sometimes it was more percent and at that time it was an annual 4 percent pay increase and you never had to ask for it, you just got it.

Researcher: Did you appreciate the annual raise?

3b: In one way I didn't, as I felt if you did more then you, like above and beyond, you didn't get a corresponding pay increase where if you did nothing you got the same. That was one aspect I didn't like, but one aspect I did like contrary to other experience you did not have to beg for it." 3b(4)

The positives of having set schedules, benefits and regular pay raises were definite appeals, yet the same benefits which drew the cooks (the job security, vacation pay, sick days), also hindered their work environment. These benefits permitted cooks to be absent from their job, ignoring responsibilities, be less productive, and rely on others to compensate for there absence. The kitchen environment requires individuals to put in a considerable amount of time in the restaurant, using products, cleaning and maintaining equipment, and building actor-networks (which ultimately creates a "flow" to put out food). One cook reflects on their union experiences stating:

"I feel that it [unionization] does not really work in this industry. It would be lovely if we all worked 8 hours a day and to make a good wage with that. For me though, I want food to be a certain way and willing to work those hours so I can do that, you really cannot grow that in a unionized environment. Sometimes I think it just breeds entitlement issues and what not." 7b(5)

Unionism does not work for every cook. It does provide many incentives to work in an environment with job security and benefits. However, cooks are torn over the other relationships it permits in the restaurant. The contractual agreements provide a structured environment that cooks saw as hindering their work relationships, often leading to their resignation. The restaurant dynamics involving food requires cooks to be much more flexible in their scheduling and task

organization. Food dictates the amount and level of work required before it becomes wasted.

This relationship with food provides the learning experiences that cooks seek, but not the work environment which law can regulate.

They Make it Work/ Working with Silent Others

The continued employment of an individual may be easily explained away through single factors of success. Cooks are attributed with positive attitudes, calculating minds, inspirational food ideas, or team leading capabilities. Yet, success is based on more than personal traits, it also involves an avoidance of many separate possible causes of failure. In the restaurant kitchen, evidence of this dynamic may be found in the experience of cooks who have all had to navigate, at one point or another, the terrain of competing wills and, sometimes, unpredictable actants. For many, the image of a cook continues to be that of a man⁴³ standing in front of a range⁴⁴, sauce pan and whisk in hand, confidently cooking one order after another, presenting a symbol of skill and artistry. This is the image of the cook seen and sought by customers, owners and co-workers (Johns and Menzel, 1999). The image does not include the entire reality of cooking, as the cook position does not operate independently, it is an interdependent position. There are many other kitchen actors. The cook does not serve, nor does he/she independently decide what to cook or how to cook it. The cook also does not grow the food and often does not provide all the equipment. So how does the cook, cook?

⁴³ Cooking, historically has been a male occupation where the intention of keeping women out was practiced and enforced through separating men and women through the roles, institutions, and labels acknowledged in the culinary profession (Banner, 1973; Swinbank, 2002:480-485).

⁴⁴ The Kitchen range is a large scale industrial stove consisting (but not limited to) multiple gas burners, one or two ovens, and shelving units. It is accompanied by a kitchen exhausting cleaning system (or hood), a large metal box positioned above the range to catch all the heat and fumes which occur during cooking.

Cooking involves reading the problems of the restaurant: the issues that arise with equipment, other staff, owners, servers and food. Cooks assess whether or not the location is clean, the size of the prep and cooking stations, as well as whether or not the kitchen is able to handle the food that it produces (i.e.: is there fridge, counter, and shelving space, or the proper equipment). Further, can the equipment handle the prep load? In navigating possible pitfalls, the majority of the participants noticed that the restaurant that they currently work at has an income glass ceiling, where there was no expectation of a significant increase in income after a certain point. Cooks in the industry, often make decisions which may be characterized as a trade off – i.e. waving the legal processes that ensure that they obtain appropriate economic compensation from their employers, for the ability to spend time in the restaurant and obtain opportunities for heightened control and learning.

“I do not want it to be just a money issue, as I really like my co-workers and that is what makes me want to keep my job. I never really left a job because I did not like who I was working with. Out of all the places I worked I never really left because of the people, I never really had a job I was sick of. Like oh this sucks this is boring, I have always enjoyed my job because it was cooking. I am always improving.” 5b (14)

In choosing to be outside of law, through working the erratic hours associated with the cook’s job, the actual wage is just another contributor to employment and is intertwined with the others relationships that they work among.

Different types of cooks seek and achieve different types of actor-networks in the restaurant; influencing how the restaurant operates, as well as reflecting their aims in professional development. As with any cook-cook relationship, there is another motivation: that of ambition. In the negotiation with one another to obtain cooperation, interests may not be met and relations between actors can fall apart. Resistance to an aspiring cook’s actor-networks comes from the very actants that they wish to enrol. The objectives of some cooks serve as

obstacles as well as allies for ambitious cooks. These individuals were referred to as ‘mercenaries’ by some participants, however, participants also highlighted that there was an identifiable difference between these mercenaries and other self-proclaimed professionals. One participant described in detail the relationship between what he considered the different types of cooks, those who worked for money and those who worked for skill:

“7b: Well he always cooked for money. He was happy with just a job, which I never been happy with just a job. He always took position for more money, where I would take lower paying position where I would learn more...I admired a lot of guys who served at [these places], but there was not a lot of technique which separates it from the finer dining establishments. I described a lot of the [Byward] market as not being steeped in the finer techniques. A lot of them [cooks whom work in the market] are just there for the money and they just like the fact that they are off at 1 in the morning and they get loaded and go party and its just cycle they repeat the next day. I definitely learned a lot of organization [from these places]. It was my first time on the line so I learned a lot of organization, and it was a fast pace place so I learned to be fast. I got to work with a wood burning oven and it was the only time I actually got to do that. It was interesting and if I ever owned my own restaurant I would want to have one.

Researcher: What did you like about working with a wood burning oven?

7b: I just liked it [inaudible] it’s out of your control so it takes a little more skill and ability and it adds to it. If you ever had a pizza from a wood burning compared to your regular pizza pizza, the oven allows the dough to absorb some of the smoke and it reacts differently to the oven. I would love to be doing that now. I would get so much more out of it, where now I just shove the pizza in the oven. Um, but a negative experience at the Ritz was the exposure to the other side of cooking. There were a lot of drugs and a lot of alcoholism, a lot of abuse and theft. They would drink booze on line, or sneak off to the walk in. Not only hygiene problems but a lack of respect. Not just for the customer, but towards the food and others. I get upset when there is that. I get upset when servers do not wash their hands after a smoke, I do not like that. I get it, it’s stressful, if you want to go swear and curse, go outside and come back when you’re done.” 7b(2-4)

This suggests that to move up on the line, one must also make more money and leave others behind. That which permits cooks to move, identify and approach the more malleable actors of restaurant kitchen in building relationships, also permits other co-workers to use the same means to supplant them.

“I started there as a cook and was very quickly promoted to the top. But before I was promoted, whenever there was a screw up or something that the chef or kitchen manager needed, I was the first person they came too to solve the problem. But when I was the top of the food chain I noticed that the kitchen manger was going to other people and did not come to me and that created conflict between the people they were going to and me. So those people all of a sudden were all about “well if [the owner] is coming to me for solution, what was the point of having him” so they stop respecting you and that.” 6b(1)

In the experience of the participants interviewed, the sous chef and chef relationship ranged in terms of the level of support and conflict described. Food again was often the means of dispute or cohesion. In regards to food, the production of a poor quality product has consequences; it disrupts the flow of the work, cooks start yelling out of tension, servers get impatient, and customers are left waiting.

“Researcher: Was this your first sous chef job?

7b: No, I was the sous chef at [another location].

Researcher: How was that?

7b: Much different, yeah, we pushed ourselves really hard, we worked a lot, it was really hard, and it was a small crew. I worked with Steve there; it was different working with one of my best friends. He is definitely a yelling chef, he is a curser and swearer, he encourages through negative reinforcement... Steve [uses] very intricate plating, [using] various techniques together. He does things harder just to do things harder. Steve is all about perfection in every aspect... Steve is really demanding. If you made a mistake and he heard about it, even I it is really small and easily fixed, he let you hear about it.” 7b(8)

These circumstances bring to bear the lack of recognition that sometimes occurs on part of employers, cooks, and academics. In ANT, there is a significant amount of research revolving around the role of “silent other” (see Latour, 1992). These silent others concern the actor-networks that perform, generate, and operate for the benefit of society without receiving recognition. Humans are as much a part of these silent operations as non-humans (material objects and nature). In analysing companies, particular jobs and roles are forgotten. In the restaurant, that which makes a chef or an establishment successful, often also overlook these

‘silent others’ involved; the mixture of humans and non-humans whom perform cookery which attracts the customers, and the role of prestige are neglected while the credit is given to particular individuals.

“Researcher: ...did you find that you had a lot of control and authority in the restaurant because of your presence there, because you were there all the time?

3b: ...I did, I had a lot of say in a lot in a lot of things. But I did not have a lot of say to change things, *I could influence things and change things in the back ground*, but it was very frustrating thing to be in. *In the end you are trying to convince a manager to change things because you know its better, but in the end if they decide to implement it they are the ones taking credit.* No one says thank you to you..., nobody says anything.” [my italics]
3b(3)

The relation to the “otherness” as described by ANT, flows from this statement that a cooks’ actions can be taken for granted. That said, the cooks also function in a form of negotiated space in which they enjoy a degree of autonomy at the expense of the silent others. It is a common aspect of the restaurant, that in these negotiated spaces others are transcribed into silence. The actants act quietly while cooks construct their networks. Interestingly, attention is typically only brought to them when something goes wrong (Latour, 1992).

“6b: ...so the knife guys would come and ask if we had a check for them. I would tell him to go speak to the owner or manager. So they warned us that if we do not pay them by this date you are not going to receive our knives. So we paid them off as you cannot run a restaurant without knives.

Researcher: Was this a consistent problem with other purveyors?

6b: yeah there was the food and veggies guy. So we started with Sysco, but then they stop supplying us or they just realized that they were not going to get paid. So we switched to another supplier, S&S, but it then got worst. Now even if we go to ah, I guess it a cash and carry, I guess that is what it is called. They will not even serve us, we have a bad history with them, and they won’t even touch us even if we walk in with cash.” 6b(12)

While cooks attempt to parlay profitable and meaningful employment they must continually maintain the silent actors which support them. For example, if you know an individual who can

provide cheap organic vegetables you must keep up purchasing, and profit, and recognition of their contribution (as in the case of you receiving media attention), as this recognition provides support of their product as well. These instances of support continue may also be found within the restaurant in the role that servers play in the selling of specials:

“9b: well they are the ones who sell the food. Well I mean they help by pushing food. Sometimes food sells itself. If I have a new special that I am really proud of it, I want them to push it.

Researcher: Can you elaborate on what you mean by “pushing it”?

9b: They recommend it to the customer to get them to buy it.” 9b(5)

The participant goes on to state that specials often are a combined item, consisting of ingredients which may need to be sold before they expire, or an ingredient which was purchased at a cheap rate (providing the opportunity for additional profit to be made).

“9b: Some specials are just thing I put together from the fridge. I walk in and take a look around to see what needs to be sold before it is wasted. Other time I will order things in, if I see a good price or if it is in season.” 9b(6)

Each restaurant kitchen offers a medley of associations between cooks, owners, customers, servers, and products and equipment. No single restaurant can be generalized as identical to one another to form some model or standard. In each restaurant various actor-networks are at work. With each actor-network comes a variety of tests which measure the strengths and weaknesses of every time the actors work together. The actors are engaged and cognizant of their own interests. There is a need for flexibility by professional cooks to allow them to work in environments where they can learn and make mistakes. They accept the working situation that they are in for various reasons and the law is merely another actant in the actor-network; something else to be drawn upon to get what they want, or prevent someone else from getting it.

The Kitchen as a Site of Knowledge Production

Restaurants (or any organizations for that matter) should be understood through the alliances of the human and nonhuman actors that comprise the network. The restaurant is a location where multiple entities construct their worlds through actor-networks. Their reality is an outcome of these actor-networks, in which each entity negotiates their identity, purpose and place, as well as delegates a speaker.

Work is a hybrid location (Grint, 1991) it involves more than just one dimensional relationships of employee/employer. The kitchen is more than employee/employer relationships; it is more than co-worker relationships. The document analysis illustrated how employment in the restaurant kitchen consists of hybrid relationships. The hybrid relationships are present between the cooks, the equipment and ingredients used in cooking for a restaurant. The actor-networks which comprise the restaurant kitchen involve an intertwining of different elements, to separate them (as if they could exist independently) misconceives the complexity of restaurant work and misconstrues the significance of the relationships which it embodies. In the identification of restaurant actors there surfaces an endless amount of intentions, interests, objectives and agenda. The decision of picking where to start and stop has consequences for this research, for the participants who contributed, and for the audience who shall read it (Woolgar and Cooper, 1999:441). By virtue of picking individual sites to start and stop analysis, one must be conscience that certain elements will be forgotten and that society does not end where we say it does. An acknowledgement of our role in defining reality, and how actor-networks continue to be defined after the researcher concludes his/her work is necessary. Restaurant kitchen employment is about employer/employee relationships wherein the law has been aligned to enforce this relationship.

On the basis of the participant's interview, I have come to view the kitchen as a *machine for producing information* (Callon, 1989:71). Cooks are the producer of such information, in association with the staff, employers, co-workers, food, and equipment. Restaurant kitchens are sites of knowledge production for the academics who study them, and those involved in the actor-network. Interviews were conducted to tease out this information, and better inform this research. The interviews explored how cooks collaborate with employers, staff, food and equipment, to generate a cordial workplace. Each actor contributed to a particular knowledge of the kitchen work experience. Knowledge was produced in the translation (actor-network) of cooks, food, employers, customers, and servers which was recorded in a finished plate, tips, and the employment contract to be used in further actor-networks. As principle researcher, I also contributed to this knowledge by recording and drawing analyses from it.

A constant flow of learning occurs in a kitchen, as the actors learn the dynamics of individual restaurants, those involved, who speaks for whom, and who resists and deviates from cooperation. A constant reworking of this knowledge occurs in the kitchen, as food preparation, safety, the implementing of laws (and how they function in work settings) are developed, recorded, and in some cases, transferred to other establishments, the government and the community at large. The cook's actions (as seen in the display of their abilities in other restaurants), through the food (flavour, the reaction to heat, texture, etc.), patrons (reviews, customer retention), servers (tips, sales), and through me, developed further knowledge of the restaurant and the restaurant industry. Through this work, attention has been drawn to the restaurant kitchen as a mechanism of knowledge production specifically in the areas of employment, law, economy, and politics. They encounter managers who challenge their abilities and seek their own agendas pertaining to what the restaurant should be. Law supports the

owners; they can rely on the law to enforce their property rights and authority when actor-networks fall apart. Yet cooks can challenge the owners, solicit their support and even undermine their authority. Cooks use the restaurant to generate power, from the food, equipment and co-workers. Yet this actor-network can be used against them; owners have the leverage to remove a cook through the same means. Furthermore, other potential cooks in the kitchen may take the initiative and power. The 'cost' of cooking involves taking the abuse of co-workers and dealing with owners. The rewards, in contrast are the generation and transference of kitchen knowledge and organization, including knowing how equipment and food shape the translation.

CONCLUSION

“You Social scientists! You always baffle me, if you were studying ants, instead of ANT, would you expect ants to *learn* something from your study? Of course not. They are the teachers, you learn from them. You explain what they do to you for your own benefit, or for that of other entomologists, not for them, who don’t care one bit. What makes you think a study is always supposed to teach things to the people being studied?” Latour (2007:151)

The legal system that governs employment relations is a network, possessing objects, criteria, discretions and faults; it was built on a specific framework, a model, in order to meet particular interests. The creation of the Canadian Labour Code was meant to outline the relationship between the state, employers, and employees within a legislative bill. Similar to many multiple modernist institutions, it claims plurality, non-partisan status and equality. In a study of the restaurant kitchen, the role that institutions play in the development of employment relations only illuminate the extent to which the definition of the well-being of the worker has been tied to the state and not its reality. Legal institutions provided employers with a comprehensive body of legal rights to secure employees compliance with the employer’s rule-making power in the work place (within the pretext of maintaining workplace safety). Laws defined benefits, how to fight for them, and who could receive them (and who did not). Employment rights have been associated with the legal framework and not the acts of producing, a concept inherently tied to the rise in knowledge and precarious labour. The laws were about preventing the division of the market, the wealth/profits derived from production in order to sustain and protect the system of production. The continued development and elaboration of existing employment legislation that will shape mutually beneficial employment relations is a false position and does not hold the answers for restaurant employees.

In the case of restaurant kitchens the potential for rule-making in the workplace does not necessarily lie with those in positions of authority. Though the work place has been

conceptualized as a site governed by hierarchical authority, this idiom does not stand up to direct scrutiny when one focuses on work relations as they are carried out in restaurant. While the legal rules produced by state institutions are accepted by employers and employees as governing bodies, this authority is not absolute and is continually questioned and challenged in the workplace. In the restaurant kitchen, the roles specific to whom are the rule makers and rule followers are in a constant state of flux. Employers often break state laws with complicit employees. Often, this rule breaking is detrimental to the salary of employees, yet these actions are accepted and include a refusal on part of the employees to go to the proper legal institutions to report the infraction. The question of ‘why’ abuses are not reported lies in the fact that restaurants are locations of knowledge production for cooks. Cooks require an environment to learn and develop professionally which does not fit within the parameters of employment law protection. The knowledge generated permits cooks with significant clout over the direction of restaurant cuisine, style, and service. The knowledge is a transferable attribute of professional cooks, which does not remain dormant once learned. The knowledge is acted out, relies on others and needs these associations to be of value. The knowledge is not obtained in isolation, nor does it lie solely with the cook. The restaurant kitchen does not just produce knowledge for the cooks, but the employer, servers and customers.

As the primary researcher, I have gained significant knowledge on the restaurant employment relationship. This research poses possible implications for the understanding of laws application to work relationships. Issues arise around the legal utility of the treatment and conduct of employment relationships in law. Law has not consistently worked as a tool for employees in this industry. In the experience of restaurant cooks, employment laws are often waived for additional hours, or when work constraints require longer hours or continuous shifts

without breaks. Though the circumstances that permit this to occur are specific to the restaurant, this form of legal infraction is likely not isolated to the restaurant industry. One might also find these legal violations been skirted around in the Canadian labour market? In finding these locations, what are the actor-networks being parleyed? The details of who is involved, collaborating with who and what, and what the speaker is saying also require recognition in other settings.

Outside interests have encouraged questions regarding whether cooking provides long term stability and economic security for the professionals who devote themselves to it. Is it about why the particular individual tolerates such abuses? Why these conditions are permitted in the first place? And allowed to continue? There is more to the restaurant relationship than just securing a wage from an employer. The restaurant is a location to break down barriers between disciplines and knowledge. The kitchen is no the only a hybrid location, it is a location where multiple interests and actors are weaved together. The point is to bring to the surface the instability of legal ordering in relationships, and to iterate that the law is not a stable thing imprinted in employment relationships, but an outcome.

Throughout this research I was interested in finding actor-networks built by cooks. As each cook detailed their working relationships, I did not know where they would lead; I attempted to remain a recorder of the cooks' actions as they were dictated to me. I avoided drawing conclusions unless they were the cooks own. Through the combined consent and support of others, came the questioning of authority. If we can empty authority and order of its believed innate power behind things, then power can be scrutinized and changed. In tracing actor-networks, new ways of thinking about work may occur.

This research contributes to both the restaurant kitchen and the study of other industries more generally. By acknowledging that employees built actor-networks, a line of questioning can be opened into small business practices. This can also contribute to our understanding of how workers engage with big business, and how actor-networks serve both to up-hold and subvert the law in large organizations. In essence, this study of restaurant kitchens provides an opportunity to discuss a small microcosm of the larger industry and this approach to analysis may be applicable to a discussion of other industries.

Specific to the kitchen, this work contributes to an understanding of the cook's experience, which is largely missing or lacking in context in the current academic literature. It links the reality of a cook's employment situation with the law, and negates the perceived notion that the law serves as a means of resolving workplace abuse. Further research is warranted on the construction of the cook as a "knowledge worker" or "precarious labourer" or both, within a labour law framework; and finding a means of addressing workplace abuses within the current working reality of cook.

APPENDIX # 1

Sample Questions:

What is your experience level in years?

Do you receive a tip out?

Do you receive any benefits?

Have you ever been paid under the table?

Have you ever been clocked out by a manager?

Do you get paid for mandatory holidays?

Upon working on paid holidays do you receive the extra pay, or other compensation?

Do you keep track of your hours?

Is there a machine where you clock-in and out?

Does the machine print out of your hours?

Have you ever used the labour board?

Have you ever had to do other people's work?

Are there signs of health & safety practices in your Restaurant?

APPENDIX # 2

Ratatouille

Ingredients:

Onion (chopped)	x1
Garlic cloves (minced)	x2
Olive oil (x2)	x1 tbsp
Thyme (chopped)	x3 sprigs
Eggplant (chopped)	½
Zucchini (chopped)	x1
Bell peppers (skin removed and chopped)	x2
Vegetable stock	x2 cups
Roma Tomatoes (skinned removed and chopped)	x3
Salt (x2)	¼ tsp
Pepper	½ sp
Basil (chopped)	½ bunch

Directions:

Peel and slice eggplant and in a bowl toss it with one portion of salt and leave to sit for an hour. To remove the skin of the bell peppers, preheat your oven to 350 (or use the BBQ) and in a bowl toss the peppers in olive oil covering the entire peppers and then place them on a baking pan (or on the grill) to brown the sides (rotating to cook evenly). Once all sides are brown, place in a bowl and cover with plastic-wrap (the steam will remove the skins). Allow it to sit and once cooled, peel off skins. To remove the skin of the tomatoes, place a pot of hot water on the stove and bring to a boil. De-core the tomatoes with a knife and cut an X on the opposite end. Place in pot and boil for about a minute. In a separate bowl pour cold water with ice cubes which will be used as a bath for the tomatoes. Remove the tomatoes from the pot of hot water and place in the bath. Remove from the cold water once the skin shows visible signs of peeling away from the tomato, then on a cutting board peel and chop tomatoes. Begin to chop other vegetable ingredients and mince garlic. Take the olive oil and pour it into a pot pour, allowing it to heat for five seconds, then add chopped onions and cook for five minutes or until the onions become translucent. Add garlic and thyme, allowing it to cook for additional three minutes stirring occasionally. Rinse eggplant with cold water to remove excess salt and add it to the pot. Also add chopped bell peppers and zucchini cooking for additional five minutes. Add vegetable stock and tomatoes then cover the pot with a lid and cook until the vegetables are tender. Add the basil and stir, and then serve.

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