

CHAPTER 2

THE EMPLOYEE-EMPLOYER RELATIONSHIP

CHAPTER SYNOPSIS

This chapter focuses on the employee-employer relationship and the role of labour in organizations. Legal responsibilities and the definition of an employee is addressed as well as government policy. Four perspectives on the governance of work are also considered such as the neoclassical, managerial, industrial pluralist, and the critical perspective. The chapter also introduces to students the role of unions and diversity opportunities and challenges in the workplace.

LEARNING OBJECTIVES

1. Discuss the meaning and significance of employment and explain how it differs from other forms of work arrangements.
2. Explain the difference between the standard employment and the nonstandard employment relationship.
3. Identify and explain the main perspectives that shape debates about the appropriate role of markets, management, unions, and legislation.
4. Explain how we balance the interests of employers and employees when employment relationships are terminated.
5. Identify and explain the business responsibilities and opportunities within Canada's diverse labour force environment.

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BUSINESS WORLD EXERCISE

1. Refer to the Business World article “Is Working for Free Illegal (page 41).” Explain the pros and cons of unpaid internships for companies, students and the overall economy.

Teaching note:

Students can draw direct examples from the case, as well as make reasonable assumptions or inferences where appropriate.

Companies

Pros	Cons
<ul style="list-style-type: none">• Companies get <i>free labour</i> which helps save money on salary, benefits, and administration costs.• Companies develop an available, <i>trained labour pool</i> to potentially hire from.• Companies may benefit from <i>fresh ideas</i>.	<ul style="list-style-type: none">• Students may not be as committed if no pay is involved.• Companies may incur some administration costs in interviewing and training interns.

Students

Pros	Cons
<ul style="list-style-type: none"> • Students gain work experience to help find a future job. • Students learn about the industry. • Students can get a potential job reference. • Students complete educational requirements. • Students may develop some interpersonal skills (eg. working with people). 	<ul style="list-style-type: none"> • Students have no income to pay rent, food, student loans or other obligations. • Students may have to work a part-time paying job to pay bills on top of internship work. • Unpaid interns are not employees, so they have no employment rights. • There are no labour laws to protect interns. • There is no guarantee of full-time employment.

Economy

Pros	Cons
<ul style="list-style-type: none"> • Companies have lower labour costs, so are more profitable and therefore can use profits for other investment and business growth. • Unpaid internships help students gain work experience to find employment and contribute to the economy. 	<ul style="list-style-type: none"> • Unpaid internships replace real jobs and drive down wages. • Unpaid internships lead to higher unemployment among youth. • Unpaid work can contribute to less consumer spending. • Unpaid work results in no taxable income to pay for government programs and services.

TALKING BUSINESS EXERCISES

1. Refer to the Talking Business 2.1 - “Are Unpaid Interns Employees.” (page 45) What are some of the factors that must be considered in determining whether or not an intern is an employee?

Some of the factors that must be considered are:

- Who performs the work?
- Who supplies the services?
- Who receives training from the employer?

- Is the internship part of a higher education co-op program?
 - Are there any employees that are displaced?
 - Is the training similar to a vocational school?
 - Who mainly benefits from the training: the individual or employer?
 - Does the individual have the right to become an employee?
 - Is the individual advised about receiving no remuneration?
2. Refer to the Talking Business 2.2, “The State of Canadian Unions – Down but Not Out” (page 53) and refer to the Talking Business 2.3, “Are Unions Relevant in Canada Today” (page 55). According to the two articles, what are some of the challenges unions are currently facing?

Some of the challenges are:

Wages not as high - Union wages (compared to non-union wages) are not as high as they once were. The difference in wages is less than 8%.

Less unionized workers – Today, there are less workers covered by a collective agreement. Only about 29-31%. So, there is less union membership and therefore, less union dues.

Many industries not unionized - There is difficulty in organizing certain industries such as agriculture, services and financial sectors.

Limitations of traditional model - There are some limitations with the traditional union model. Some unions want to include students, retirees and the unemployed but they have not yet determined how to do so.

Unions need to adapt - Unions need to adapt to today's realities: slow economic growth, rapid technological change and increasing global competition.

Political change - There are legislative changes restricting union certification processes.

Economic change - There are changes in the economy, such as a reduction (“hollowing out”) of the manufacturing sector.

Societal changes - Demographic changes have affected the perception of the value that unions can bring to the labour force. For instance, many older workers support unions, while many younger workers do not. During their employment, older workers had experienced wage gains, advances for women, racial equality and better working conditions. On the other hand, the younger generation has been the benefactor of these past gains and has not directly seen the before and after results.

3. Refer to the Talking Business 2.2, “The State of Canadian Unions – Down but not Out” (page 53) and Refer to the Talking Business 2.3, “Are Unions Relevant in Canada Today” (page 55). According to the two articles, what have been some of the benefits of unions?

Some of the benefits of unions are:

Increased wage competitiveness - Union wages in collective agreements have served as a benchmark and have influenced non-union wages as they increased wage competitiveness.

Improved equity and working conditions - Unions have increased wages and helped with pay equity for women, racial equality and improved working environments.

Improved public policy - Unions have lobbied the government and achieved public policy improvements in workplace health and safety, pension benefits and literacy.

4. Refer to Talking Business 2.4, “Organizations Seeing the Light about Faith at Work.” (page 61) How can organizations benefit by having policies that support religious diversity?

Benefits of policies that support religious diversity include:

- Attracting and retaining valued employees
- Improving employee morale
- Improving employee loyalty
- Improving efforts towards corporate social responsibility
- Leveraging unique knowledge, talents and backgrounds

5. Refer to Talking Business 2.5, “He Says, She Says: Gender Gap Persists in Attitudes toward Women’s Advancement in the Workplace.” (page 63) What are some factors that affect women’s advancement in the workplace?

Factors that can affect women’s advancement in the workplace include:

- Abilities
- Motivation
- Leadership opportunities
- Attitudes

6. *Refer to Talking Business 2.6, “Aboriginal Workers: Integral to Canada’s ongoing Competitiveness and Performance.” (page 65) According to the Conference Board of Canada article, what factors may help Aboriginal workers contribute to Canada’s ongoing competitiveness and performance?*

Factors that may help Aboriginal workers include:

- Continuing education to advanced degrees
- Additional work experience and skills
- Better transportation and access to jobs
- A reduction in negative stereotypes by society

7. *Refer to Talking Business 2.7, “Ontario Employers Have a New Tool to Improve Accessibility for People with Disabilities.” (page 67) What is the purpose of the Employers’ Toolkit?*

The purpose of the Employer’s Toolkit is:

- To assist employers in understanding and implementing the Employment Standard in regards to the Accessibility for Ontarians with Disabilities Act (AODA).
- To make workplaces more inclusive where everyone has access to work, is treated with respect and is valued.
- To reduce the unemployment rate for people with disabilities.
- To help prepare for looming labour shortages.

8. *Refer to Talking Business 2.8, “Employment Equity Resources.” (page 70) Identify what are three government departments that help employers and workers with labour and equity issues?*

Three government departments that help employers and workers with labour and equity issues:

- Government of Canada Labour Program
- Employment and Social Development Canada
- Human Resources and Skills Development Canada

9. *Refer to Talking Business 2.9, “Immigrants Make Significant Contributions to Innovation.” (page 70) How is immigration contributing to Canada’s economy?*

Immigration is contributing to Canada's economy in the following ways:

Improving trade - Immigration rates can affect trade levels. For example a one percentage point increase in the number of immigrants can translate into an increase in exports by 0.11 per cent.

Improving innovation - Immigrants bring diverse knowledge and experience that can increase innovation. Immigrants are motivated, risk takers and predisposed to be innovative.

Improving foreign direct investment - Foreign direct investment increases when Canada increases immigration from those countries.

SAMPLE CLASS DISCUSSION QUESTIONS

1. *Ask the class a general question: Put up your hand if you have had a part-time, temporary or contract position? Ask what type of job was it; the number of hours per week; the pay range; and what if any benefits it provided?*

Teaching note: Students can discuss this in groups or as a class to get a sense of the different types of precarious jobs that currently exist and how they may vary.

2. *Do you think Canada's employment laws do enough to protect workers from discrimination? Why or why not?*

CHAPTER LEARNING TOOLS

Multiple Choice Answers

(also available in the back of the textbook, page 487)

1. D 2. B 3. A 4. B 5. C 6. D 7. D 8. D 9. B 10. D 11. D 12. C 13. A 14. C 15. D

Discussion Questions

1. *Why does the distinction between employment and other forms of work arrangements matter to businesses in Canada?*

Whether a work arrangement is characterized as employment or as some other form of business arrangement has significant implications in Canada. That is because many *legal rights and entitlements* are tied to the existence of an employment relationship. For example, Canadian governments have enacted a considerable amount of legislation to regulate employment based on the theory that employees require government protection because of their vulnerability to the employer. Employment standards legislation is one example. It entitles employees to a minimum wage, overtime pay, mandatory time off and holiday pay, and notice of termination among other benefits. None of these entitlements apply unless the arrangement is characterized as employment. Similarly, human rights laws prohibit discrimination in employment relationships, and access to unemployment insurance, public pension schemes, and workers' compensation benefits are often contingent upon a worker having been employed for a period of time prior to making their claim for benefits. Tax systems also treat employees and nonemployees differently—nonemployees can deduct business expenses from their taxable income, whereas employees cannot.

2. *What are some potential benefits and disadvantages to businesses of hiring employees rather than retaining independent contractors?*

Benefits	Disadvantages
<ul style="list-style-type: none"> • foster worker commitment • retain knowledge and skills learned by employees • promote loyalty 	<ul style="list-style-type: none"> • must comply with employment standards laws such as minimum wage, overtime pay, mandatory time off, holiday pay • must pay insurance premiums • must provide notice to employees upon termination

3. *Explain the difference between standard and nonstandard employment.*

The *Standard Employment Relationship (or SER)* is characterized by regular, full-time hours at a single employer, often spanning an entire working career. Employees working under an SER receive periodic pay raises and their employers usually provide health benefits and pension plans. The SER functions in the shadow of an extensive array of government regulation that guides the relationship and is underpinned by a strong social security net that provides protection to employees whose employment ends for one reason or another. For example, an employee who is laid off due to lack of work is entitled to unemployment insurance benefits, and an employee injured at work is entitled to workers' compensation benefits. Unemployment and workers' compensation benefits are funded by mandatory employer contributions.

Nonstandard employment (or NSE) is less stable and is characterized by part time, temporary, or variable working hours; lower pay; fewer employer-provided benefits; shorter job tenure; and no access to collective bargaining. A 2009 study of Canadian labour standards found that NSE accounts for about 32% of the Canadian workforce. Many of these workers are young, recent entrants into the labour force. This trend toward NSE means that young people graduating from university today are far less likely to experience the sort of stable, predictable employment patterns that were the norm for earlier generations.

Many other workers are being characterized as independent contractors, sometimes at their own request, but often at the behest of businesses seeking to benefit from the financial savings and legal flexibility associated with eliminating "employees." The shift from standard employment to "self-employment" is a major contributor to growing income inequality in Canada, since self-employed workers tend to be lower paid, have fewer employer-paid benefits, have less job security, and are not entitled to the many social protections (unemployment insurance, workers' compensation) or guarantees (minimum wage, overtime pay, paid holidays) available only to people who are or were "employees."

Workers employed under NSE arrangements and low-income workers who are treated as independent contractors are often described as vulnerable or precarious workers. They live on the cusp of poverty and are unable to save or plan for the future because their source of income is always on the verge of disappearing.

4. *Which of the various perspectives on work and government policy do you most agree with, and why?*

Teaching note: This is open to classroom discussion and debate.

5. *Identify and describe three approaches used in Canada to protecting employees when their employment is terminated.*

Common law of the employment contract - All non-union employees in Canada have an employment contract with their employer. Sometimes the contract is written, but if it is not then the parties have a verbal contract. Disputes about what an employment contract says or how it should apply in a given situation are resolved by judges in courts of laws. Over time, a large body of decisions by judges interpreting employment contracts have been released and recorded in law books and, more recently, on electronic websites. This body of case law is known as the common law of the employment contract.

Reasonable Notice - One rule that judges created and that forms part of the common law of the employment contract is a requirement for employers to provide employees with reasonable notice of the termination of the employment contract. How much notice is “reasonable” is decided by judges and depends on a number of factors, including the length of the employee’s service, the employee’s age, and the type of work the employee performed. For long service employees, the notice period required can be as much as one to two years. The notice can be working notice, or pay in lieu of notice, meaning that the employer can just pay the employee their wages for the period of notice without requiring the employee to actually work. This requirement for employers to give reasonable notice helps employees transition from one job to the next.

Mandatory minimum statutory notice - If an employer fails to provide the employee with reasonable notice, the employee can sue the employer in court to recover it. However, this is costly and takes a lot of time, so most workers do not bother. To provide a less expensive, quicker, and more informal means of ensuring employees receive some notice of their termination, governments have imposed notice requirements. Employment standards statutes in Canada include mandatory minimum statutory notice provisions.

6. *Identify and explain three types of laws used in Canada to address worker diversity.*

The Charter of Rights and Freedoms - The Charter of Rights and Freedoms forms part of Canada’s Constitution. It governs the relationship between governments and citizens by protecting fundamental rights and freedoms of Canadians against state interference, including the following:

- fundamental freedoms of speech, press, assembly, association, and religion
- democratic rights
- mobility rights regarding the right to move freely from province to province for the purposes of residence or employment
- legal rights, which provide standard procedural rights in criminal proceedings
- equality rights, which guarantee no discrimination by law on grounds of race, ethnic
- origin, colour, religion, sex, age, or mental and physical ability

- language rights

The Charter applies only to government action. Governments can act in two ways: as an employer and as lawmakers. Therefore, in the labour context, the Charter is applicable directly to governments as employers and to all laws passed by governments.

Canadian Human Rights Act - The Canadian Human Rights Act, which applies to businesses governed by federal laws (about 10% of Canadian employees are governed by laws made in Ottawa), prohibits discrimination in employment on the following grounds:

- race
- colour
- national or ethnic origin
- religion
- age
- sex (including pregnancy and childbearing)
- marital status
- family status
- physical or mental disability (including dependence on alcohol or drugs)
- pardoned criminal conviction
- sexual orientation

The Canadian Human Rights Act and each of the provincial human rights codes govern human rights issues and provide detailed procedures for investigation and resolution. An employee who feels they employer has discriminated against them on a prohibited ground may file a complaint with the appropriate human rights tribunal and seek a remedy, including lost wages and reinstatement if they have been dismissed for discriminatory reasons. The prohibitions on discrimination in employment apply throughout the life of the employment relationship, including hiring, terms of employment, and dismissal. Provincial human rights legislation, which governs most Canadian businesses, include similar though not identical prohibited grounds. For example, in Manitoba it is unlawful for an employer to discriminate on the basis of political belief, but that prohibited ground is not included in either the Ontario Human Rights Code or the Canadian Human Rights Act. Recently, Ontario added the new ground of gender identity and gender expression to the list of prohibited grounds, making it the first province to do so.

All Canadian human rights legislation prohibits employers from discriminating on the basis of physical and mental disability. When a disabled worker is unable to perform all of the essential duties of a job, these laws impose on employers a duty to accommodate the employee's disability with the aim of enabling the worker to perform the job. This might mean providing the employee with special tools to help with lifting, to build ramps or elevators, or to change schedules to give disabled workers more frequent breaks, among other changes.

Changes need to be made up to the point that they would cause undue hardship , which is an onerous standard for employers to meet. The duty to accommodate applies to other prohibited grounds too, including religion. For example, employers have been ordered to give employees time off work to observe religious holidays that fall on regular work days.

Employment Equity Act - The Employment Equity Act (1986) was introduced to break down barriers for these four designated groups. The Employment Equity Act (EEA) was also designed as an ongoing planning process used by an employer to accomplish a number of objectives:

- eliminating employment barriers for the four designated groups identified in the Employment Equity Act—women, people with disabilities, Aboriginal people, and members of visible minorities
- redressing past discrimination in employment opportunities and preventing future barriers
- improving access for the designated groups and increasing their distribution throughout all occupations and at all levels
- fostering a climate of equity in the organization
- implementing positive policies and practices to ensure the effects of systemic barriers are eliminated.

Note that the EEA only applies to private-sector employers under federal jurisdiction as well as almost all employees of the federal government. This means that it does not apply to the vast majority of private-sector businesses in Canada, which are governed by provincial laws.

7. *What are the four designated groups that are protected in the Employment Equity Act?*

- Women
- Aboriginal peoples
- People with disabilities
- Members of visible minorities

8. *What factors are affecting union density in Canada?*

Perspective shift - A shift in the dominant perspectives away from industrial pluralism and toward the neoclassical and managerialist perspectives.

Revised labour laws - Revised labour laws have weakened unions and discouraged collective bargaining, arguing that collective bargaining discourages businesses from investing in Canada. There are also some laws that prohibit workers from going on strike. This turn against unions and collective bargaining is closely aligned with the neoclassical perspective and the belief that markets operate most efficiently without collective bargaining and with little employment regulation.

9. *Provide arguments both in favour of and against a strong and generous unemployment insurance program.*

For	Against
<ul style="list-style-type: none"> • A measure of security for Canadians that lose their jobs. 	<ul style="list-style-type: none"> • Less than 50% of unemployed people qualify for benefits due to strict qualifying criteria. • Discourages people from working.

10. *In what ways has economic globalization affected the labour market and debates over how best to regulate globalization in Canada?*

Greater mobility of capital & how to organize work - Economic globalization has also influenced the debate about how best to organize work in Canada. Greater mobility of capital and industry has contributed to a shift in the composition of the Canadian economy.

More outsourcing - Many manufacturing workplaces have moved to lower-wage countries, and many of the new jobs being created are in the service sector.

Reduction in laws and regulations over industries - Governments must wrestle with how to balance their desire to create a “business-friendly” climate while also ensuring that good jobs are created. This challenge has been rendered more difficult by the increased ability for businesses to move from one jurisdiction to another. The fear is that if labour costs rise too high, or laws make control of labour too rigid, businesses will avoid Canada or leave. In this way, globalization can be said to create downward pressure on employment-related laws and practices

Conception Application

Case: Immigrants are sometimes unsure about their rights

1. What factors are identified as contributing to the low (and illegal) pay of the workers in this story?

In this story, there are several factors contributing to low or illegal pay:

- *Language barrier* - Many immigrants do not speak English, so there is a language barrier.
- *Lack of knowledge of labour laws* - New immigrants sometimes are not familiar with Canadian labour laws and therefore, do not know their rights, such as the minimum wage, overtime pay, holiday pay and severance pay.
- *Lack of knowledge of supports available* - New immigrants often do not know the social infrastructure and supports available to them.
- *Difficulty finding work* - Another factor is that it is difficult to find full-time work in the mainstream market.
- *Little oversight by the government* – The government is not necessarily tracking new immigrants and their employment status, etc.
- *Increase in precarious employment* – Full-time work is shrinking, and part-time work is increasing. For example, over half of the greater Toronto and Hamilton area belong to part-time, temporary or contract employment.

2. How do you think this story would be explained through the lens of each of the four perspectives discussed in this chapter?

Neoclassical Perspective

- *Competitive markets allow fairest distribution of skills and wealth* - The neoclassical perspective argues that competitive markets are the best means of organizing complex economies and societies. The forces of supply and demand, if left to operate freely with limited state interference, will ensure optimal assignment of skills and expertise throughout the economy as well as the fairest distribution of wealth. This is because people and businesses are motivated by self-interest.
- *People freely make choices where to work* - Therefore, they will make decisions that maximize their personal interests and avoid situations that do not. Provided people have adequate information to recognize what is in their best interests and are free to make

choices, the invisible hand of the market will guide actors toward economic and social prosperity.

- *Low wages are necessary in some jobs* - To see why, consider the example of the minimum wage. Imagine that an employer offers an employee \$4 per hour and that the employee is prepared to accept that wage rate. However, the government passes a minimum wage law prohibiting employers from paying less than the minimum wage. The Neoclassicist position is that this law will have negative effects on the economy that will ultimately harm low-wage workers. By artificially raising the wage rate above the “market rate” (\$4 per hour in our example), the minimum wage law will cause employers to hire fewer workers, to replace workers with machinery, or to pack up and move the work to another location that does not have a minimum wage. If none of these options is available, the employer will pass on the additional costs to consumers in higher product prices, and if that is not possible the company may be forced into bankruptcy or close down altogether. In any case, the economy suffers, and the harm will be felt most by the low-wage workers who the minimum wage laws were intended to help. A business that offers less than the market wage rate will be unable to attract or retain qualified workers, and therefore will either have to raise their offer to attract workers or will be driven out of business. Since workers are assumed by neoclassicists to be knowledgeable about other job possibilities and to be free and mobile—able to move from job to job as better opportunities arise—market forces will ensure that wages and working conditions remain close to that point at which labour supply equals labour demand (the equilibrium market rate).

Managerial Perspective

- *Low to no government intervention since business with look after workers* - Government intervention in the governance of work and employment should be minimal.
- *Employers and employees want business to be successful* - Managerialists argue that employers and employees, businesses and workers, share a common interest: They both want the business to be successful. Managerialists argue that workers who are treated decently and with respect will be the most productive workers, and that the most successful businesses will be those that provide good wages, benefits, and good working conditions. Therefore, businesses will look out for employees’ concerns because it is in their economic interests to do so.

Industrial Pluralist Perspective

- *Imbalance of power in favour of the employer* - Pluralists emphasize the imbalance of power between workers and employers and the value to society and economies of striking a reasonable balance between the efficiency concerns of employers and the equity concerns of workers. For the pluralist, the relationship between a business/employer and a worker/employee involves the bearer of power on the one hand, and subordination on the other hand. In most cases, workers lack the necessary bargaining power to engage in

meaningful bargaining about conditions of employment, with the result being that the business purchasing their labour can set the working terms unilaterally.

- *Minimal employment standards required to protect workers* - Pluralists support an activist government that intervenes in the work relationship to promote decent working conditions and worker “voice” in the determination of those conditions. Pluralists support minimum employment standards to ensure decent working conditions because they reject the neoclassical belief that market forces alone will produce a fair balance between equity and efficiency concerns.
- *Collective bargaining and unionization required for employees to get their fair share* - Pluralists believe that the most effective way to ensure worker voice and to promote a healthy distribution of wealth throughout the economy is to promote collective bargaining and unionization. Collective bargaining, including a legal right to withhold labour (a strike), empowers workers by putting them on a more equal footing as they bargain for the sale of their labour. This ensures that workers receive a reasonable share of the economic pie produced by their labour, a result that benefits the economy (by fuelling consumption) and society (by producing a decent standard of living). Therefore, pluralists support laws that protect the right of workers to join unions, to engage in collective bargaining, and to strike if necessary to apply pressure on their employers to agree to better working conditions
- *Workers' lack information* - Pluralists argue that in the real world, workers usually lack information about new jobs, so they are ill equipped to assess the true value of their labour during the initial bargaining process. Workers also lack information about alternative job opportunities, contrary to the assumptions of the neoclassical model. Even if they have that information, in practice people do not move from job to job with the mobility and ease that the neoclassical model assumes. Workers will often remain at a workplace for years, even if there are better job opportunities elsewhere. Behavioural economists describe this effect as bounded rationality —the recognition that humans often do not make decisions that would maximize their personal utility because they either lack the necessary information to assess the various options or lack the capacity to assess the information they have.

Critical Perspective

- *Managers and workers always in conflict* - The Critical Perspective argues that the interests of labour (workers) and capital (the owners and managers of economic organizations) are irreconcilably in conflict. The objective of capital is to extract from labour maximum effort and control at minimal cost. Since workers depend on capital for their basic needs in a capitalist system, and there are almost always more workers than jobs, labour is inherently disadvantaged and subject to exploitation at the hands of the more powerful capitalists.
- *Employment regulation and collective bargaining required to protect workers* - The critical perspective posits that employment regulation and collective bargaining are at best only marginally useful in protecting workers from this exploitation. In fact, these

measures can actually be harmful to worker interests insofar as they can blind workers to their exploitation and distract them from the more important objective of building class consciousness, which will be necessary to challenge the capitalist model and replace it with a more egalitarian model.

3. What, if anything, should be done to improve the working conditions for these workers?

Some possible improvements may include:

- increasing the minimum wage rate.
- revising basic employment standards to address precarious employment such as part-time, temporary, contract or on-call work.
- revising income security programs.
- regular enforcement of laws.
- revising public policy.

Chapter 2:

The Employee-Employer Relationship

**What Responsibilities Do Bosses Have to Their
Employees?**

Reading:
Karakowsky & Guriel, Chapter 2

Learning Objectives

1. Discuss the meaning and significance of employment and explain how it differs from other forms of work arrangements.
2. Explain the difference between the standard employment and the nonstandard employment relationship.
3. Identify and explain the main perspectives that shape debates about the appropriate role of markets, management, unions, and legislation.
4. Explain how we balance the interests of employers and employees when employment relationships are terminated.
5. Identify and explain the business responsibilities and opportunities within Canada's diverse labour force environment.

Distinguishing Work and Employment

What is an employee?

An “employee” exists when:

- an employment contract exists.
- there is an exchange of labour for compensation.
- the employer has control over:
 - the methods of production
 - how much to produce and
 - the right to direct the employee in how to do his or her job.

What is an “employee” compared to an Independent Contractor?

The four ‘legal’ factors that determine whether or not an “employee” exists include the:

1. Degree of control.
2. Degree of economic risk.
3. Degree to which the worker performs an essential service for an organization.
4. Degree to which the organization provides the necessary tools.

What is an “employee” compared to an Independent Contractor?

1. Degree of control.



What is an “employee” compared to an Independent Contractor?

2. Degree of economic risk.

What is an “employee” compared to an Independent Contractor?

3. Degree to which worker performs an essential service for an organization.

What is an “employee” compared to an Independent Contractor?

4. Degree to which the organization provides the necessary tools.

Other types of people that perform work:

- Independent contractors
- Self-employed persons
- Partners in a business
- Temp workers
- Volunteers or interns



What is standard employment?

- Regular, full-time hours
- A single employer
- A lifetime career/employer
- Periodic pay raises
- Health benefits
- Pension plans
- Guided by government regulation

What is nonstandard employment (NSE)?

- Vulnerable or precarious work
- Less stable
- Part-time, temporary, contract work
- Variable working hours
- Lower pay
- Few employer-benefits
- Less job security
- Not entitled to as many social protections

Perspectives on Work and Government Policy

Workers versus Employers?



Perspectives on Work and Government Policy

Fundamental issues:

- The role and effectiveness of markets.
- The role of bargaining power in the employment relationship.
- The role of management and HR.
- The role of unions and collective bargaining.

Perspectives on Work and Government Policy

- Neoclassical Perspective
- Managerial Perspective
- Industrial Pluralist Perspective
- Critical Perspective

Perspectives on Work and Government Policy

The Neoclassical Perspective assumes:

- Labour markets are perfectly competitive.
- Government and unions should not interfere in business.
- Competitive markets and supply and demand will allow:
 - Optimal assignment of skills.
 - Fairest distribution of wealth.
- People
 - are motivated by self-interests.
 - have adequate information to understand what is in their best interests.



Think Pair Share:

- How would supporters of the Neoclassical Perspective view a “minimum wage” law imposed by the government?



Think Pair Share:

Suggested Answer:

- A government-imposed minimum wage would be viewed as harmful to business and society.

Perspectives on Work and Government Policy

The Managerial Perspective assumes:

- Businesses and workers share a common interest: for the business to be a success.
- Management will treat workers well in order for workers to be productive.
- Governments should have little involvement.
- Unions are not needed because management will look out for employees' concerns.

Perspectives on Work and Government Policy

The Critical Perspective assumes:

- Interests of workers and owners are in conflict.
- Employment regulation (government intervention) is required.
- Collective bargaining is required.

The Labour Context in Canada:

Where are we now?



Dismissing Employees: Notice of Termination

- Common law rules
- Statutory Minimum

Protecting workers in Canada:

- Canadian Charter of Rights and Freedoms
- Human Rights Law
- Employment Equity Legislation

Canadian Charter of Rights and Freedoms

Protects:

- speech, press, assembly, association, and religious rights
- democratic rights
- mobility rights
- legal rights
- equality rights
- language rights

Human Rights Laws:

Prohibits discrimination in employment on the following grounds:

- race
- colour
- national or ethnic origin
- religion
- age
- sex
- marital status
- family status
- physical or mental disability
- pardoned criminal conviction
- sexual orientation

Employment Equity Legislation:

- To break down barriers for four designated groups
 - Women
 - Aboriginal peoples
 - Visible minorities
 - Disabled individuals





Think Pair Share:

- What do you think are some potential benefits and disadvantages to businesses of hiring “employees” rather than retaining “independent contractors?”

Think Pair Share

Suggested answer:

Benefits

- Foster worker commitment.
- Retain knowledge and skills learned by employees.
- Promote loyalty.

Disadvantages

- Must comply with employment standards such as minimum wage, overtime pay, etc.
- Must pay unemployment insurance premiums, CPP, and other deductions.
- Must provide notice to employees.

Concept Application:

Immigrants are sometimes unsure about their labour rights.

Questions:

1. What factors are identified as contributing to the low (and illegal) pay of the workers in this story?
2. How do you think this story would be explained through the lens of each of the four perspectives discussed in this chapter?
3. What, if anything, should be done to improve the working conditions for these workers?



Questions and Answers?

