

McMaster University Winter 2017/8
Labour Studies 3C03
Labour Law and Policy

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Winter Term 2017/8
Lecture: Thursday 2:30
Room – T13 107

1. Course Description

This course explores the role of legislation and policy in shaping labour relations and the experience of the working class. It will highlight the importance of the state in the workplace and the economy, and sketch the history of workers' struggles to reform laws affecting them. Students will learn about many of the key aspects of labour law and the law's conceptual and philosophical underpinnings. As the main textbook for the course is a law guide, students will also gain an introduction to legal discourse.

The course will consist of weekly lectures and discussions. Some class time will also be set aside for discussions of both specific parts of the law and broader conceptual questions. Students will be expected to come prepared to make informed comments on the readings and lectures. The participation grade will be determined by students' contributions to discussions and the class in general. There is also an important written component to the course, as students will write an essay exploring a key legal/policy question. The final exam will cover all course material.

2. Readings

Courseware: *Labour Law 3C3 coursepack*

In addition to the courseware, many readings are available online – websites noted in the outline.

Recommended Text: Donald Carter, Geoffrey England and Brian Etherington, *Labour Law in Canada*, 5th Edition. (Copies available at the bookstore).

3. Evaluation Breakdown

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|---------------|-------------|-----|
| Mid-Term Test | February 15 | 15% |
| Major Essay | March 15 | 35% |
| Participation | | 10% |
| Final Exam | Exam period | 40% |

Important Notes About Assignments and Grades:

- **Late Penalties:**
 - **First 2 days:** 1% per working day. (This means 1% out of 100 on that assignment, not 1% from the final course grade.)
 - **After first 2 days:** per working day. (This means 2% out of 100 on that assignment, not 2% from the final course grade.)
- **MSAF Forms:** if you fill out one of these, the system simply notifies us that you have used the form. SO you need to contact the instructor about what accommodations you want to request. The standard accommodation is an extension of 5 working days – or one week.
- **Grade Adjustments:** redistributions of grade values (for example, moving the weight for an assignment to the final exam) are extremely rare and given only in truly extraordinary circumstances.

Emailing the Instructor or TA: We try to reply to emails within 48 hours. But please note that we receive a very high volume of emails at certain times of year, especially around deadlines.

NOTE ALSO – if your email is about something that has already been covered in this outline, course handouts, lectures or tutorials, we may not respond – so please check this material before emailing us!

4. Learning Objectives

This course addresses a number of University Undergraduate Degree Expectations. First, the course aims to develop knowledge of key concepts and theories related to labour and employment law and policy. Second, the course will help students develop critical thinking and effective communication skills. The course will do this by facilitating critical discussions of the central claims raised in the readings and lecture. Lastly, the course asks students to apply key concepts and develop and compare arguments.

5. Outline of Topics and Readings

Introduction

Lecture – January 4

The Early Legal Regime

Lecture: January 11

Reading: Bryan Palmer, “What's Law Got to Do with It? Historical Considerations on Class Struggle, Boundaries of Constraint, and Capitalist Authority,” *Osgoode Hall Law Journal*, 41, Summer/Fall 2003: 466-490.

Google it!

Optional Reading: Jeremy Webber, “Compelling Compromise: Canada Chooses Conciliation over Arbitration, 1900-07,” *Labour/Le Travail*, 28 (1991): 15-57.

Individual Employment Relationship I – Mutual Duties

Lecture: January 18

Reading:

Ontario Labour Relations Board Guide to Employment Standards Act,
<http://www.labour.gov.on.ca/english/es/pubs/guide/index.php>

Recommended Text: Part I, pp.113-174.

Individual Employment Relationship II – Breaking Up

Lecture: January 25

Reading: Courseware:

1. Damages for Employer Conduct in Termination, pp.1-6;

2. Excerpt from Termination of Employment, pp.73-84.

Recommended Text, Part I, pp.174-201.

The Right to Organize, Rights During Organizing

Lecture: February 1

Reading: Courseware: BC Health Services, pp.39-49 (mistitled ‘Duty of Fair Representation’ in Courseware TOC – ignore title)

Sara Slinn, “Captive Audience Meetings and Forced Listening: Lessons for Canada from the American Experience,”

http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=2367&context=scholarly_works

Recommended Text, Part 2, Chapter 2, pp.235-249.

Recognition

Lecture: February 8

Reading: Courseware:

1. Delineation of a Bargaining Unit by the Labour Relations Board, pp.7-10

2. Bargaining Unit Delineation, pp.27-32

Recommended Text, Part 2, Chapter 3, pp.250-285.

Mid-Term Test – February 15

Post Test Class – Legal Research

Reading Week – No Class – February 22

Collective Bargaining

Lecture: March 1

Reading: Brian Langille, “Equal Partnership in Canadian Labour Law”

<http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1959&context=ohlj>

Recommended Text, Part 2, Chapter 4, pp.286-307.

Strikes and Lockouts

Lecture: March 8

Reading: Courseware: Secondary Picketing, pp.11-14

Eric Tucker, “Hersees of Woodstock Ltd. v. Goldstein: How a Small-Town Case Made it Big”

http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1282&context=scholarly_works

Recommended Text, Part 2, Chapter 5, pp.308-362.

Human Rights, the Charter and Labour Law

Lecture: March 15

Reading: Micheal Dunn, “Many Questions and a Few Answers: Freedom of Association after Saskatchewan Federation of Labour, Mounted Police Association of Ontario and Meredith.”

http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=2367&context=scholarly_works

Grievances & Arbitration

Lecture: March 22

Reading: Courseware:

1. Management Rights, pp.15-21;

2. Negotiation History (mistitled as “Secondary Picketing” in Courseware TOC – ignore title), pp.33-37;

3. Social Media and Employee Discipline: Privacy and Defining Spaces, pp.51-66

Recommended Text, Part 2, Chapter 6, pp.363-399

Labour, Equity & the Law

Lecture: March 29

Reading: Courseware: F. Faraday, Working Towards Equality: Putting Vision into Practice, pp.67-72

Recommended Text, Part I, pp.102-113

Wrap Up and Exam Preparation

Lecture: April 5