The Employer–Union Relationship

As an industrial relations instructor and experienced union-side labour lawyer in Alberta, Brenda Kuzio has had the rewarding experience of helping her students see past their initial assumptions about unions.

"I had a student who was a business owner, and had a number of companies," Kuzio said. "My class made him realize that he never understood unions. He said, 'I saw them to be the enemy, and I spent so much time and resources fighting them.'"

Unions are not there to destroy companies, Kuzio said. Instead, they're there to make working conditions better for the workers they represent. In her experience, that fundamental understanding is often overlooked by employers, leading to especially hostile employer–union relationships. Kuzio said education could help to remedy those misunderstandings.

"I honestly believe that industrial relations courses should be taught in high school," Kuzio said. "Sometimes people are resentful to things they don't know about. Not only would it create an understanding towards unions—it would prevent a lot of exploitation. Almost everybody is going to work for a living. Why wouldn't people need to know what their rights are before they hit the workforce?"

Stephen McArthur, a management-side labour lawyer in Ontario, agreed that understanding on both sides is essential to maintaining a productive relationship.

"It's about integrity and fairness," McArthur said. "Fairness through making an effort to understand that there is another point of view across the table, even though you won't always agree, and integrity to be honest about your objectives by being transparent about what you're really after. Because masking your intentions can only be successful in the short term."

In the late 1980s, McArthur saw the closure of many of the workplaces he had advised, when American-based employers left Canada after the establishment of the Canada-United States Free Trade Agreement (which later became the North American Free Trade Agreement [NAFTA]). McArthur said he worked to help employers navigate the situation with transparency and understanding.

"From a personal point of view, I recognized there was pain being inflicted on people who were victims of a larger political decision that was made in Washington and

only_kim / Adobe Stock Photos

Ottawa," McArthur said. "Sometimes that meant trying to persuade my clients to be a little more generous if they could. That's not a question of my character. That's an attribute of a good labour relations practitioner, period. Both sides have to understand each other—it's a fundamental element of fairness."

Both McArthur and Kuzio also touched on the importance of foregrounding relationship-building and human connection. For Kuzio, that means the union must keep in mind the core purpose of serving the workers while navigating the employer–union relationship. Though union-side lawyers might work under different conditions than those they represent, they must remain grounded and in touch with the workers' experiences in order to best serve them.

"The employer and the union are parties to the agreement, but ultimately the outcome of grievances impacts the workers," Kuzio said. "It would do a lot of good to get back to those basics—if it all becomes academic, you lose."

McArthur said he will often go out of his way to get to know the union representatives he is negotiating with, whether that be through phone conversations, at dinners, or at milestone events like retirement parties.

"There's that old expression that it's easier to get things with honey than it is with vinegar," McArthur said. "When you have an existing relationship and know the other side well, you're building the capacity to shoot down a lot of problems before they become major obstacles. You have a successful relationship in general, and you're going to have a successful relationship in bargaining."

COPYRIGHTED MATERIAL

chapter 1

An Introduction to Industrial Relations in Canada

objectives

In this chapter, we will introduce the subject of industrial relations, describe the legislative framework of Canadian industrial relations, give a brief overview of various Canadian industrial relations facts, and provide an overview of the structure and content of this book. By the end of the chapter, you should be able to:

- identify the various terms used to describe union–management relationships
- describe how other academic subjects might address industrial relations issues
- identify the major pieces of legislation that regulate Canadian industrial relations and explain the common elements among these laws
- understand how other kinds of Canadian legislation affect industrial relations
- identify some of the major demographic and statistical features of Canadian union membership

Industrial Relations in Canada, Fifth Edition. Jason Foster and Fiona A.E. McQuarrie.
© 2026 John Wiley & Sons Canada, Ltd. Published 2026 by John Wiley & Sons Canada, Ltd.
Companion Website: www.wiley.com/go/mcquarrieircanada5

INTRODUCTION

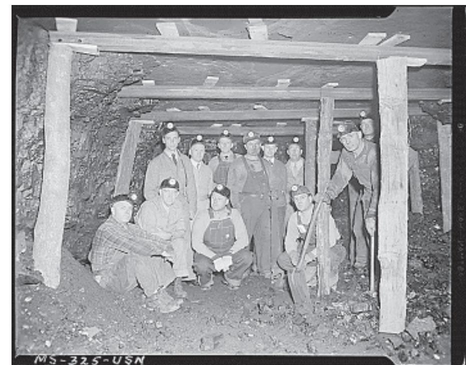
Many people believe that unions protect job characteristics such as fair pay rates and decent working conditions. However, others believe that unions only preserve outdated privileges for an elite few. These conflicting views arise from both internal elements, such as job classification and worker training, and external elements, such as competitive product markets and labour markets, that affect both the individual and the organization. Gaining a better understanding of these elements and the effects of their interaction is one of the major aims of the study of industrial relations. The two news stories later in this chapter illustrate these differing perspectives which make industrial relations such an interesting topic of study.

The term "industrial relations" generally conjures up an image of greedy union members continually on strike for excessive salaries. Throughout this text, we will show that industrial relations encompasses much more than that. As a topic of study, industrial relations includes fundamental issues of work control, the structure of work, the value of work, and the balance between the conflicting goals of workers and management. Understanding how industrial relations works is very important to anyone who participates in a workplace, whether as a worker or manager, or whether the workplace is unionized or non-unionized.

WHAT DOES THE TERM "INDUSTRIAL RELATIONS" MEAN?

The term "industrial relations" is generally used to refer to the relationship between a **union** (an organization run by and for workers) and the **employer** (the organization or organizations the workers in the union work for). The employer is also referred to as "management," the "company," or the "organization," although "employer" is the most commonly used term, since it reflects the employer–employee relationship that is the basis of the connection between the union and the company. As we will see in subsequent chapters, the union's primary role in the workplace is to represent the workers or employees in interactions with the employer. The union is able to carry out this role because Canadian provincial and federal law gives it the formal power to negotiate mutually acceptable workplace rules and working conditions with the employer.

Bloomberg / Getty Images



U.S. National Archives and Records Administration (NARA) / Wikimedia Commons / Public Domain

Airline pilots and miners both belong to unions, though "blue collar" workers like miners were the first ones to seek union representation, in the 19th century. Today many different types of workers are unionized.

The term "labour relations" is sometimes used to describe the union–employer relationship. This term is derived from the definition of unions as organized labour—that is, as workers who have formally joined together to advocate for work-related issues. Legislation governing industrial relations is usually referred to as labour law or labour legislation. Many people believe "industrial relations" conjures up images of factories and coal mines and doesn't reflect modern workplaces. Some people and governments prefer to use the term "labour relations." However, "industrial relations" has been the preferred term for union–employer interactions in the Canadian context; it has been used by the Canadian federal government since 1919, when the Royal Commission to Enquire into Industrial Relations in Canada issued its report. In our opinion, "industrial relations" is a more appropriate descriptor of the union–employer relationship than "labour relations," since it emphasizes that there are two parties in the relationship and does not focus only on "labour." It also indicates that the relationship exists within the context of an industry or workplace. Hence, we have chosen to use "industrial relations" as the primary descriptive term in this book. In practice, you may see the terms used interchangeably.

One part of the debate over the appropriate usage of the term "industrial relations" questions whether the term should also be used to describe workplace relationships between employers and non-unionized workers. According to one widely used definition, "industrial relations" is "a broad, interdisciplinary field of study and practice that encompasses all aspects of the employment relationship."[1] This definition clearly implies that the study of industrial relations includes both non-unionized and unionized workplaces, and in recent years, the scope of industrial relations research has expanded to include studies of non-unionized workplaces. We believe, however, that the term "industrial relations" is more appropriate as a descriptor of union–employer relationships than of employer–employee relationships in non-unionized workplaces. We offer three reasons for this position:

1. The term "industrial relations" is generally used to refer to interactions in unionized rather than non-unionized workplaces.
2. The field of study of non-unionized workplaces is already clearly defined as "employment relations" or "human resource management" (although the study of human resource management can, and does, include overviews of the main characteristics of unionized workplaces).
3. Much of the research into non-unionized workplaces can be identified under the term "labour studies," which is a more recently recognized discipline examining work issues more broadly. Furthermore, a considerable amount of industrial relations research on non-unionized workplaces focuses on how non-unionized organizations replicate or adopt structures found in unionized workplaces.

Throughout this book, the focus will be on union–employer relationships, although, where appropriate, reference will be made to how employer–worker relationships are conducted in non-unionized workplaces.

Before proceeding, we should take a moment to examine how industrial relations differs from human resource management. This is an important issue because many post-secondary institutions do not have courses devoted solely to the study of industrial relations, and instead address the subject only in the context of human resource management courses, or in courses dealing with employment relationships. The simplest way to explain the difference between the terms "human resource management" and "industrial relations" is to say that human resource management has a broader range and includes employment-related issues of importance to all organizations. One Canadian human resource management textbook defines human resource management as "the policies, practices and systems that influence an employee's behavior, attitude and performance in the attainment of organizational goals."[2] This definition is applicable to both unionized and non-unionized workplaces, since human resource policies, practices, and systems occur in any organization with employees, regardless of whether those employees are unionized. This definition could even be applied to organizations whose "workers" may not be in an employment relationship with the organization (e.g., volunteers donating their time or labour to not-for-profit organizations).

Thus, the distinction between human resource management and industrial relations can be summed up as follows: "industrial relations," as we have defined the term, deals primarily with employee–employer relationships in unionized organizations, while "human resource management" deals with employer–employee or organization–worker relationships in all types of organizations. The two fields certainly have issues in common, but the focus of industrial relations is more specific than that of human resource management.

INDUSTRIAL RELATIONS AS AN ACADEMIC SUBJECT

In most academic settings, as elsewhere, "industrial relations" is the term used to refer to the study of union–employer relationships. As an academic subject, industrial relations draws on a number of different academic fields,[3] because many of the topics of interest to industrial relations researchers have also been addressed in the context of other academic disciplines. Union–management relationships and, more broadly, conflicts between workers and employers are not new topics of interest. A quick examination of any database of academic publications will show that industrial relations topics are addressed in many other academic fields. Here are some examples of how researchers in other academic areas might be interested in industrial relations issues:

- A historian might be interested in the events that led to the formation of a union or to a particular industrial relations conflict.
- A psychologist might be interested in how individual attitudes toward unions or employers develop or change.
- An economist might be interested in how negotiated wage rates in a unionized organization affect wage rates in non-unionized organizations, or affect the cost of living in a particular geographic area.
- A political scientist might be interested in how or why a governing political party changes labour legislation.

- A lawyer might be interested in how the wording of labour legislation affects unions' ability to represent their membership effectively.
- A sociologist might be interested in how group or cultural dynamics affect the actions of a union or an employer.

It is clear from this list that the field of industrial relations draws its ideas and theories from a broad spectrum of subjects. While industrial relations courses at colleges and universities are most commonly found in economics or business programs, this list demonstrates why they might also be found in several other academic areas.

It can be frustrating for new students of industrial relations to find that there is no single unifying theory or perspective underlying this field of study. How do we know what is "right" when various disciplines offer multiple and sometimes conflicting theories to explain a single event? But as in many other areas of study, it is unrealistic to expect one theory of industrial relations that explains everything. Union–employer relationships involve complex human interactions, and these occur within many different types of work, work structures, and workplaces.[4] Therefore, no single theory or solution could explain every possible situation. A more realistic approach is to recognize that many different perspectives contribute toward a better understanding of the union–employer relationship, and provide a broader, rather than narrower, understanding of that relationship.

WHY STUDY INDUSTRIAL RELATIONS?

As we have mentioned, many post-secondary institutions in Canada do not offer courses devoted specifically to industrial relations, but instead address industrial relations as a secondary topic in another course, such as one on human resource management. Students enrolled in industrial relations courses or in broader courses that touch on the subject sometimes argue that the study of industrial relations is irrelevant. This argument can take a number of different forms:

- "Unions have achieved everything they set out to do because workers are now treated fairly, so there is no reason for unions to exist and no reason to study them."
- "Only part of the workforce in Canada is unionized, so I can go through my entire career working in non-unionized firms. There's no point in learning about unions if I'm never going to join one."
- "I personally don't believe in unions and would never vote to join one. I'm not interested in learning about them because I'm never going to be a union member."

Many instructors of industrial relations have encountered these arguments from students of all ages and backgrounds. There is some validity to each of these arguments. As we show in Chapter 2, unions emerged in response to working conditions that are almost unknown today, at least in most industrialized First World countries. In several chapters, we address the fact that only about 30% of the Canadian workforce is unionized, and much of that unionization is concentrated in a few sectors of the labour market. And we certainly would not argue against an individual's right to hold the beliefs or attitudes

they personally consider meaningful. However, let us present our arguments in favour of industrial relations as a relevant topic worthy of in-depth study.

First, in many unionized workplaces or occupations, union membership is a prerequisite to employment. Therefore, taking a desired job or career may require joining a union, regardless of one's own feelings about unions. If one has to belong to an organization, it is better to be informed about the organization's purpose and operations rather than to risk making mistakes out of ignorance or misunderstanding.

Second, even if only part of the Canadian workforce is unionized, people who are not union members may often interact with a unionized organization or with unionized workers. For example, when mechanics for WestJet Airlines went on strike in the summer of 2024, the direct conflict was between the unionized workers and their employer. However, the impact of that conflict was felt by many other parties, including almost 100,000 passengers whose flights were cancelled, and hundreds of other businesses whose products or supplies were delayed.[5] Because of the likelihood of this sort of interaction, it is important to have some understanding of unions and the activities unions might undertake, even if one is never personally involved in a union.

Third, in every jurisdiction in Canada, legislation makes unionization an option for workers who are dissatisfied with their treatment and want their employer to formally address their concerns. The horrific working conditions described in Chapter 2 that motivated the formation of the first unions are relatively uncommon in modern Canada, but not every workplace in Canada is a model of perfect employer–employee relationships. There are still too many examples of employers mistreating their employees. It is important to know about unions because Canadian law makes unionization an option for nearly every kind of worker, and because unions have the potential to influence employee satisfaction and working conditions.

Fourth, learning about the history of unionization in Canada helps one understand how the modern Canadian workplace, both unionized and non-unionized, has reached its current form. The influence of unions is apparent in the existence of legislation that affects every Canadian worker and workplace. Minimum wage legislation, occupational health and safety regulations, and the Labour Day statutory holiday are some obvious examples.

Fifth, for anyone considering human resource management as a career, a working knowledge of industrial relations is a definite asset. Human resource managers who are familiar with industrial relations issues are much more employable than those whose experience is only in non-unionized workplaces. Also, in many organizations, human resource management functions are no longer the sole responsibility of the human resource management department. Managers of all kinds and at all organizational levels may be expected to participate in human resource management activities such as disciplining workers, determining wage levels, appraising performance, and interviewing job candidates.[6] Anyone considering managerial work of any sort should be familiar with how human resource management activities are conducted in both unionized and non-unionized firms.

By writing this textbook, we are not attempting to change the attitudes of individuals who are fundamentally opposed to unions. We also do not intend to try to convince people to join or support unions. And we do not want to present unions as perfect organizations that act appropriately in every situation. A union, like any organization, is the

product of the individuals who belong to it—and individuals in unions, as in any organization, can make poor decisions or act unfairly. Unions are no more perfect and no less flawed than other organizations. They do, however, influence the lives of most Canadians, directly or indirectly, and Canadian legislation, including the *Charter of Rights and Freedoms*, enshrines the right of unions to exist and the right of employees to join unions if they so desire. Thus, we believe it is important to learn about union–employer relationships to be a better-informed worker or manager and, more generally, a better-informed member of Canadian society.

Lars Hagberg / The Canadian Press

Members of CUPE Ontario School Boards Council of Unions rally against government legislation that prohibited a legal strike by educational assistants and support staff.

Things Looking Up for Canadian Unions

British Columbia's unions expanded at a rate not seen in almost two decades in 2023, as rising costs and government policy supported workers' bargaining rights. The BC Labour Relations Board said trade unions submitted 301 applications to organize new workplaces as of October 31 this year, more than double the 143 applications the board received in all of 2022.

Sussanne Skidmore, president of the BC Federation of Labour, attributes the gains to a law passed last year that made it easier for workers to unionize. But Skidmore said the resurgent numbers also show workers are frustrated by rising costs and stagnant wages. Pardeep Thandi and her colleagues have spent two years on strike at a Richmond hotel. "The cost of living, housing, affordability, all of those things, I think, are playing into people seeing the need to collectively organize together and bargain together in a work site," Skidmore said.

In Kamloops, workers at an A&W voted to join the International Brotherhood of Electrical Workers, making it the first of those fast-food locations to join a union in Canada. And in Vancouver, animators at WildBrain voted to join the International Alliance of Theatrical Stage Employees, part of a growing drive to organize workers in that sector. William Gladman, an international organizer with IATSE, believes a volatile labour market and rising costs helped set the stage for the surge in unionizations. "Something has to give, and people are taking it into their own hands," Gladman said.

But economics alone don't explain the gains made by B.C. unions. Labour boards in other provinces don't report comparable increases in unionization applications. The secret ingredient in B.C. seems to have been "card check," a law the BC NDP government introduced last year that allows workers to join a union if 55% of members sign union cards. Previously, unions had to persuade at least 45% of workers at a given site to sign cards, and then win majority support in a second vote supervised by the labour board.

Gladman said that removing the extra step has made organizing more straightforward, especially in big work sites like WildBrain where the union says there are at least 500 employees in the bargaining unit. "It's one thing to reconnect with 20, 30 people," Gladman said. "But when you have to go back and speak to 500 people again and shore up those votes, that's a huge undertaking."

Those gains have not come without a fight. The increase in certifications has been accompanied by a surge of unions complaining employers are trying to stop workers from organizing in violation of the province's labour laws. "You have employers whose instincts are to resist unions. And if you're in that mindset, it's very easy to fall into an unfair labour practice," said University of British Columbia Professor Emeritus Mark Thompson.

It wasn't just newly unionized workers who had a fight on their hands. This year, strikes were everywhere, from sugar refinery workers in Vancouver to bus drivers in the Fraser Valley and hotel workers in Richmond. Many of those disputes have revolved around wages. The costs of rent, food and fuel soared in 2022. The Bank of Canada responded to that inflation by raising interest rates, which in turn increased the costs of variable-rate mortgages and borrowing money. And a tight labour market has made it harder to replace workers, giving them the edge in negotiations.

All of that, Skidmore said, had motivated workers to seek bigger wage packages with better protections and benefits. "Inflation is very disruptive. Union people look to catch up," Thompson said. "If they signed long-term agreements, they didn't anticipate the inflation that we saw in the past year. They wanted to catch up, and they want protection for the future."

Thompson said the biggest test for B.C. unions may have shifted to whether they can reach initial collective agreements with employers. But overall, he said, the momentum has shifted. "The tides have turned in labour's favour, and they're going to take advantage of it," Thompson said.

Source: Vescera, Zack. "How 2023 Became the Year of Unions". *The Tyee*, December 22, 2023.

Unions Are Dividing Canada and Wrecking the Economy

In an era of constrained budgets and competitive challenges, Canada's beleaguered economy has become beset with strikes called by unions demanding double-digit wage hikes. The cost to our economy and society is becoming unsustainable, and powerful unions are increasingly dividing Canada into a nation of "haves"—overpaid unionized workers—and "have nots"—everyone else.

Nowhere is this divide more evident than in the recent strike by Canada Post workers—a 55,000-strong union demanding a 24% wage increase over four years. A stunning 10 million parcels went undelivered in just the first week of the strike, leaving individuals and thousands of Canadian small businesses scrambling to make alternative arrangements. Service Canada had to hold off mailing out 85,000 passports, forcing many Canadians to cancel travel plans they had already paid for. Pension and financial assistance cheques have been affected, and charities have felt the drop in incoming cheques and pledge forms. Such damage is on top of the business losses that will be incurred by Canada's already-struggling retail sector—and the potential tears from missing gifts on Christmas Day. This strike shows Canada's unions at their worst: heartless, greedy, selfish and plain awful.

But this isn't just about one strike. According to Statistics Canada, the nation is in the midst of a huge multi-year wave of strikes and lockouts, with the key metric of "person days not worked" more than quadrupling from 1,451,556 in 2020 to 6,584,618 last year. This year is shaping up to be another bad one, with over 700 work stoppages and over 400,000 workers off the job through the end of October. That includes workers at the nation's two largest railroads, Canadian Pacific and Canadian National, which represent the only economically viable shipping option for tens of thousands of farms,

commercial enterprises and major industrial facilities. And the country's two biggest ports, Vancouver and Montreal, saw labour disputes in November that disrupted $1.2 billion in shipments per day.

While unions claim to advocate for fairness, their wage demands and disruption tactics create a stark divide between the "haves" in unionized jobs and the "have-nots" who are left to shoulder the economic burden. The average unionized worker in Canada earns $10,000 more annually than their non-union counterparts, according to the United Food and Commercial Workers (UFCW) union. The disparity might be justified in competitive industries where employers can afford it. It should come as no surprise that the unionized workers wreaking the greatest havoc are employed by huge, federally regulated monopolies like railways and ports—and Canada Post, a government-owned monopoly that's particularly important to average Canadians and small businesses.

Even when their employees are on the job, everyone else pays more for the goods and services they provide in order to enrich those workers. Such arrangements make victims out of virtually all non-union businesses and their customers—the have-nots. Canada's unionized monopolies are both dividing and slowly destroying our country.

We urgently need our elected representatives to declare Canada's railways, ports and mail service to be essential services prohibited from striking, perhaps even from unionizing altogether. This list should also include health-care workers, police, firefighters and electricity supply workers.

Source: Morgan, Gwyn. "How Unions Are Dividing Canada and Wrecking the Economy". *Sask Today*, January 1, 2025.

INDUSTRIAL RELATIONS LEGISLATION IN CANADA

To begin our introduction to the topic of industrial relations in Canada, we will review the legal framework that regulates the union–employer relationship. We will introduce the legal framework first to give students a general understanding of the laws in Canada that affect industrial relations, and to provide some context for our subsequent discussions of the activities that these laws regulate. At this point, we will provide a general overview of the relevant legislation. The details of many of these pieces of legislation will be discussed in subsequent chapters, in relation to particular topics.

The Question of Jurisdiction

In Canada, there is legislation relating to labour relations in every province and territory, as well as at the federal level. The conflict over the division of **jurisdiction**, or legal responsibility for an issue, between federal and provincial legislatures has been ongoing throughout Canadian history. The question of jurisdiction over industrial relations arises because of the question of whether a union–employer relationship should be governed by federal or provincial labour relations legislation.

As Chapter 3 describes, up until the mid-1920s, all Canadian industrial relations issues fell under federal labour relations legislation, and industrial relations was considered to be solely within the federal jurisdiction. Labour legislation being under federal jurisdiction reflected the strong federal focus of other Canadian legislation at the time. The concentration of Canadian legislative power at the federal level was a deliberate choice of the authors of the 1867 *British North America Act* (the act that established the first federal Canadian government); they had seen how the United States' system of decentralized "states'

Copyright of the Canadian National Railway Company

CN's business activities, such as transportation by rail, cross provincial boundaries, so its union–employer relationships are federally regulated.

rights" had contributed to the American Civil War.[7] However, the outcome of a 1925 legal case, *Snider v. Toronto Electrical Commission*, established that industrial relations in Canada was mostly, but not completely, a provincial responsibility. As a result of this ruling, each province eventually developed its own labour relations legislation. However, there is still a federal labour relations act which governs employer–union relationships that are deemed to be under federal jurisdiction.

How, then, do we know whether a union–employer relationship is regulated by federal or provincial law? The answer is quite simple. If an employer's business has an **interprovincial component**—that is, if the employer's activities regularly cross provincial boundaries—then the union–employer relationship is federally regulated. This means that industries such as banking, telecommunications, broadcasting, and interprovincial transport, which all involve business transactions across provincial boundaries, are governed by federal labour relations legislation. Federal labour relations legislation also applies to employees of the federal government and some Crown corporations. But if most of an employer's activities take place within the boundaries of a single province or territory, the union–employer relationship is governed by the labour relations legislation of that province or territory. In practice, this means that approximately 90% of union–employer relationships in Canada are under provincial jurisdiction and approximately 10% are under federal jurisdiction.

In both federal and provincial jurisdictions, there are a number of pieces of legislation that affect industrial relations. The most obvious are the labour relations laws, but other laws also affect the union–employer relationship. We will outline each of these types of legislation in turn.

Labour Relations Laws

Table 1-1 lists the names of the major provincial and federal labour relations acts. These are the primary pieces of legislation that govern industrial relations in each Canadian jurisdiction. As we will see, there are variations in the terms and conditions of these different acts, they although also have common characteristics.[8]

Every one of these pieces of legislation includes:

- The establishment of a procedure to legally recognize the union as the workplace representative for the employees. This procedure is called **certification** and is discussed in detail in Chapter 5.
- A requirement that collective agreements between the union and the employer have a minimum term during which the collective agreement is in effect. In most Canadian jurisdictions, this term is one year.

TABLE 1-1: Labour Relations Laws in Canadian Jurisdictions[i]

Jurisdiction	Name of Primary Labour Relations Law
Federal	*Canada Labour Code*
Alberta	*Labour Relations Code*
British Columbia	*Labour Relations Code*
Manitoba	*Labour Relations Act*
Ontario	*Labour Relations Act*
New Brunswick	*Industrial Relations Act*
Newfoundland and Labrador	*Labour Relations Act*
Nova Scotia	*Trade Union Act*
Prince Edward Island	*Labour Act*
Quebec	*Labour Code/Code du travail*
Saskatchewan	*Saskatchewan Employment Act*

[i] The Northwest Territories, Yukon, and Nunavut do not yet have their own laws governing industrial relations in the private sector. The federal *Canada Labour Code* is considered the applicable private sector labour relations law in these jurisdictions.

- The establishment of procedures that must be followed for a legal strike or lockout to take place. Most jurisdictions also have some regulations governing activity that might take place during a strike or lockout, such as picketing or the use of replacement workers. These procedures are discussed in detail in Chapter 9.
- The establishment of procedures to resolve disputes while the collective agreement is in effect. These procedures are usually called grievance resolution procedures. Some jurisdictions simply require that collective agreements contain a grievance resolution procedure, while others detail the terms that must be contained in these procedures. These procedures are discussed in detail in Chapter 11.
- The definition of legal behaviour by union and management in situations such as a campaign for certification. Usually, these definitions take the form of identifying so-called unfair labour practices. These practices are discussed in more detail in Chapter 6.
- The establishment of a **labour relations board** to administer and enforce labour relations legislation. The specific name of the board varies by jurisdiction, but its purpose is similar in all jurisdictions. It resolves disputes relating to the application of the labour relations legislation, and also provides specific services such as assistance in resolving grievances. The labour relations board has a **quasi-judicial** status; like a civil or criminal court, it rules on cases brought before it and issues interpretations of the law. Like a civil or criminal court, the government funds the costs of running a labour relations board, but the board operates independent of government influence or control. However, a labour relations board does not have the same legal status as a civil or criminal court, since it has the option of suggesting remedies as well as imposing solutions. It also has slightly broader guidelines than civil or criminal courts regarding the evidence that can be submitted when a case is heard.

In most jurisdictions, the labour relations board is composed of an equal number of union and employer representatives. These appointed representatives are then selected for panels that make decisions on specific cases. Usually, a panel consists of one union representative, one employer representative, and a third party who acts as chair, although in most jurisdictions a panel can also consist of a single member. Most labour relations boards have a chair and several vice-chairs who are appointed by the government, as well as staff members who assist the board members in their work and provide other services to unions, employers, and the public.

Public Sector Labour Relations Legislation

Most Canadian jurisdictions have separate labour relations acts to govern **public sector** employees—employees of the government itself or of organizations affiliated with the government, such as Crown corporations. Some jurisdictions also have separate labour legislation for **para-public** or **quasi-public sector** employees—employees who work for organizations funded by the government but who are not directly employed by the government. Examples of para-public sector employees are court workers, health care workers, and employees of colleges, technical institutes, and universities.

There are several reasons for having separate labour legislation for these types of employees. One is that the government and its employees have a unique employment relationship. The government is the employer, but it is also the body that sets the rules under which all employees and employers operate. Separate public sector labour legislation is intended to recognize that the government holds considerably more power than an ordinary employer. Another reason for this separate labour legislation is that public and para-public sector employees often provide services that are needed for communities and provinces to function effectively, such as fire protection, social services, and health care. Public sector labour legislation recognizes this reality by, for example, stipulating specific conditions under which public sector employees may go on strike or withdraw their services, or by implementing dispute-resolution procedures that minimize or avoid service disruptions.

In some Canadian jurisdictions, disputes over the interpretation or application of public sector labour relations legislation are taken to the labour relations board that administers all labour legislation. In other Canadian jurisdictions, the public sector labour relations legislation establishes a public sector labour relations board. While this board is similar in structure and function to the "regular" labour relations board, its mandate is limited to the administration and enforcement of public sector labour laws.

Occupation-Specific Labour Relations Legislation

Some Canadian jurisdictions have additional labour relations legislation that applies only to particular occupations or industries. This type of legislation usually exists to address specific conditions in an occupation or industry that would not be adequately covered under the regular labour relations legislation. Table 1-2 provides examples of public sector, para-public sector, and occupation-specific labour relations legislation in Canada.

The types of legislation that will be discussed next are not usually identified as labour relations legislation, but are included in this section because their contents can directly or indirectly affect workplace conditions or the relationship between unions and employers.

TABLE 1-2: Examples of Public Sector, Para-Public Sector, and Occupation-Specific Labour Relations Laws in Canadian Jurisdictions

Jurisdiction	Names of Laws
Federal	*Public Sector Labour Relations Act*
Alberta	*Public Service Employee Relations Act, Police Officers Collective Bargaining Act*
British Columbia	*Public Sector Labour Relations Act, Fire and Police Services Collective Bargaining Act*
Manitoba	*Public Service Act, Firefighters and Paramedics Arbitration Act*
Ontario	*Crown Employees Collective Bargaining Act, Hospital Labour Disputes Arbitration Act, Colleges Collective Bargaining Act*
New Brunswick	*Public Service Labour Relations Act*
Newfoundland and Labrador	*Public Service Collective Bargaining Act, Fishing Industry Collective Bargaining Act, Teachers' Collective Bargaining Act*
Northwest Territories	*Public Service Act*
Nova Scotia	*Public Service Act, Teachers' Collective Bargaining Act, Highway Workers Collective Bargaining Act*
Nunavut	*Public Service Act*
Prince Edward Island	*Civil Service Act*
Quebec	*Public Service Act, The Act respecting the process of negotiation of the collective agreements in the public and para-public sectors, The Act Respecting Labour Relations, Vocational Training, and Workforce Management in the Construction Industry*
Saskatchewan	*Public Service Act, Construction Industry Labour Relations Act*
Yukon	*Public Services Labour Relations Act*

Employment Standards Legislation

Every Canadian jurisdiction has an employment standards act or code that establishes minimum standards for working conditions in all workplaces. Employment standards legislation usually covers such matters as working hours, minimum wage rates, holiday time, and the minimum time needed for a notice of termination or layoff to be legal.

Employment standards legislation applies to all workplaces, unionized or non-unionized. Its terms and conditions are important to unions and management because their mutually negotiated collective agreements must not contain conditions that are less than those outlined in employment standards legislation. For example, it would usually be illegal for a collective agreement to set wage rates that are lower than the rates set by the relevant employment standards law, even if the union and the employer had agreed to those rates.

Human Rights Legislation

Every Canadian jurisdiction has some form of human rights legislation that forbids discrimination against individuals on the basis of personal characteristics such as gender identity, ethnic origin, or race. Discrimination in the context of these laws is defined as the refusal to grant someone access to accommodation, contracts, goods and services, or

employment opportunities because they possess one of the identified personal characteristics (called **protected grounds** or **prohibited grounds** in the legislation).[9] It would be illegal, for example, for a landlord to refuse to rent an apartment to anyone who is Indigenous, or for an employer to deny a woman a job promotion because the employer believes that all women eventually quit work to take care of their children. However, if an important or essential part of a job requires the exclusion of members of a particular group, refusing to hire members of that group would not be considered discrimination. For example, it might be inappropriate to hire male correctional officers for a women's correctional institution, if officers have to conduct full-body searches of the inmates. Thus, it would likely be considered acceptable for a job advertisement or hiring committee to recruit only female candidates for correctional officer jobs in prisons with female inmates.

It is important to note that Canadian human rights legislation identifies two kinds of discrimination. One is **intentional discrimination**; this type of discrimination involves direct and deliberate refusal based on the prohibited grounds. The other is **systemic discrimination** (also called unintentional, constructive, implicit, or adverse impact discrimination); this type of discrimination occurs when an organization or individual uses policies or practices that have the effect of discriminating against groups of individuals. Systemic discrimination can occur even if the individual or organization, when adopting the policy or practices, did not intend to discriminate. An example of systemic discrimination would be a policy that required applicants for a job to meet a minimum height requirement—say, five feet, eight inches (or 173 centimetres) tall. If it were not essential for the individual to be that height or taller to perform the job successfully, this requirement would be considered systemic discrimination, because it would exclude many women and also individuals from demographic groups with shorter average heights.

Human rights legislation has two major implications for unions and employers. The first is that collective agreements must not contain any terms that intentionally or systematically discriminate—unless, as noted above, certain restrictions are imposed because of legitimate job requirements. The second is that unions and employers, as organizations in and of themselves, must not act in a discriminatory fashion. A union, for example, could not refuse to support an employee in a complaint against the employer simply because the employee was Black.

If an individual feels that they have been discriminated against on the basis of one or more of the protected grounds, they can file a complaint with the relevant human rights commission. A human rights commission is similar to a labour relations board in structure and function; however, its mandate is to administer and enforce only human rights legislation. The human rights commission will investigate the complaint and suggest or impose a remedy if it finds that the complaint is substantiated. In addition, employees who feel their union has discriminated against them can file a complaint with a labour relations board, alleging that the union has breached its "duty of fair representation." The concept of duty of fair representation is discussed in more detail in Chapter 11.

The Charter of Rights and Freedoms

The *Charter of Rights and Freedoms* is contained in the federal *Constitution Act*, which became law in 1982. It guarantees certain basic rights and freedoms to all Canadians, and is considered to take precedence over all other laws, with two exceptions. The first exception

is laws that "can be demonstrably justified as reasonable limits in a 'free and democratic society.'"[10] An example of the use of these limits is when the Supreme Court of Canada decided to uphold mandatory retirement laws in several provinces. The reasoning behind the court's decision was that, while mandatory retirement was clearly discrimination on the basis of age (individuals were forced to retire when they reached a certain age, regardless of whether they were still capable of performing their job satisfactorily), the objectives of mandatory retirement were of sufficient significance to justify such discrimination.[11] The second exception is laws that provincial legislatures pass by invoking the so-called "notwithstanding" provision. This provision prevents a law passed by a provincial legislature from being challenged if the basis for the challenge is the law's perceived infringement of Charter rights. The purpose of this provision is to permit individual provinces some flexibility in applying the Charter to conditions in their particular jurisdiction.

The *Charter of Rights and Freedoms* defines a number of fundamental rights. Because these rights are broadly defined, without much specific guidance on their practical application, numerous court cases have tested the applicability of these rights in certain situations. To date, the following rights have been the subject of major cases involving industrial relations issues:

- freedom of association
- freedom of peaceful assembly
- freedom of thought, belief, opinion, and expression

Three early "Charter cases" involving these issues have important implications for industrial relations, and each will be briefly described here.[12] In the first, the 1982 *Dolphin Delivery case*,[13] employees involved in a dispute with their employer wanted to set up a picket line at a company that did business with the employer but was not directly involved in the dispute—a practice called **secondary picketing**. The company successfully applied for a court injunction to stop the picket line, and the union appealed the injunction on the grounds that the inability to picket restricted the union members' freedoms of expression, association, and assembly. The Supreme Court of Canada ruled in this case that a court order like an injunction could not be considered "the type of government action that would attract the application of the *Charter*."[14] In other words, the Charter provisions were not considered applicable to court orders resolving common-law-based disputes between private parties.

The second set of cases occurred in 1987 and is referred to as the "labour trilogy."[15] A decision in a subsequent case in 1990 reinforced the general direction of the judgements in this set of cases.[16] The basic question in each of these cases was whether the Charter provisions outlining the rights to freedom of association also protected the right to bargain collectively and strike. The Supreme Court of Canada ruled in these cases that the rights to establish, belong to, and maintain an association, along with the right to participate in the association's lawful activities, were protected under the Charter. However, the rights to strike and to participate in collective bargaining were, in the court's view, rights created by law, and were not fundamental freedoms protected by the Charter.

The third Charter case is the 1991 *Lavigne* case.[17] A college instructor claimed that the mandatory union dues he had to pay as part of his employment contract violated his freedom

of association. His complaint was not primarily about the mandatory dues payment, but more about his union spending part of his dues to support organizations that he personally objected to and would not voluntarily donate money to. The question in this case, then, was whether freedom of association also implied the freedom *not* to associate. The Supreme Court of Canada narrowly ruled that mandatory dues payment did not violate the provisions of the Charter, since all individuals in the workplace benefited from the union's representation of their interests and that unions had the right to spend dues in support of political and social causes. The reasoning behind this decision was that distribution of funding raised through dues payment would be determined by the wishes of the union's membership, and that each member of the union had the opportunity to influence the distribution of those funds through voting or other participation in union activities.

In the last 20 years, the courts have shifted their position regarding union rights and the Charter. Three cases are of particular importance. In many Canadian jurisdictions, specific groups of workers are not permitted to unionize for a variety of reasons. In 1995, Ontario's provincial government repealed a law that permitted agricultural workers to unionize. The government excluded farm workers from the jurisdiction of labour law by arguing that unionization of these workers would cause excessive labour costs for small family farms, many of which were already experiencing financial difficulty. This decision was appealed in a series of court cases, and the issue eventually reached the Supreme Court of Canada in the case of *Dunmore v. Ontario (Attorney-General)*.[18] The Supreme Court ruled that the right to freedom of association was violated if an entire class of workers was excluded from protection under labour legislation. Steven Barrett, a lawyer who represented labour organizations in the case, predicted that this ruling would encourage other groups then also excluded from collective bargaining (such as domestic workers, professionals, and some classifications of public servants) to undertake similar challenges to the laws excluding them from participating in this activity.[19] The Ontario government responded to the *Dunmore* decision by passing a law that allowed agricultural workers to unionize but not to engage in collective bargaining. This subsequent law was the subject of another legal challenge that reached the Supreme Court; in that case (*Ontario* (*Attorney General*) *v. Fraser*), the court ruled that the Ontario law was constitutional, and dismissed the challenge.[20]

AP Images / Canadian Press / Ron Poling

Prime Minister Pierre Elliott Trudeau watches Queen Elizabeth II sign the *Constitution Act* in Ottawa in 1982. The *Constitution Act* contains the *Charter of Rights and Freedoms*.

The second significant Supreme Court decision resulted from the 2007 case *of Health Services and Support—Facilities Subsector Bargaining Assn. v. British Columbia* (referred to as *Health Services*). In this case, several British Columbia health care unions challenged the legality of a British Columbia law which unilaterally removed parts of their collective agreements prohibiting employers from assigning work done by union members to non-unionized subcontractors. The legislation also declared those conditions as non-negotiable in the future. The unions argued that collective agreements could not be changed by one party without consulting the other party. The government argued that the changes were necessary to improve the delivery

of health care services. The Supreme Court ruled that the bill was unconstitutional, on the basis that the right to collective bargaining was part of the freedom of association guaranteed by the Charter. The court gave the British Columbia government and the unions one year to renegotiate their collective agreements, which eventually resulted in the government agreeing to pay $85 million to retrain employees who had lost their jobs as a result of the legislation.[21] This case is considered by legal scholars to have extended *Charter* protection to collective bargaining. One commentator on this decision explained that it was important because "labour's hard-won collective bargaining rights are now considered worthy of constitutional protection … [which] provides a halo of much needed legitimacy to one of organized labour's core activities."[22]

The third recent ruling is *Saskatchewan Federation of Labour v. Saskatchewan* (referred to as *SFL*), which revolved around legislation passed by the provincial government restricting public sector workers' right to strike. The legislation gave the government the power to unilaterally declare public sector workers "essential" and deny the right to go on strike to anyone declared essential. It provided no meaningful alternative mechanism for resolving bargaining impasses. The Supreme Court ruled that this legislation violated workers' freedom of association, stating that "the right to strike is an essential part of a meaningful collective bargaining process in our system of labour relations"[23] and thus, consistent with the *Health Services* decision, essential to the freedom to associate. The court ruled that governments could not unduly restrict workers' right to strike. What restrictions are considered reasonable continue to be the subject of legal proceedings.

The three recent rulings effectively overturned the Supreme Court's decisions in the "labour trilogy" and have extended Charter protection to certain aspects of union activity. However, the period since these decisions has been one of uncertainty. The identified fundamental freedoms have the potential for very broad application, but the extent of many practical applications of those freedoms will not be clarified until cases involving particular situations are addressed by the courts. There will be many more court challenges before these matters are fully resolved.

THE UNIONIZED WORKPLACE IN CANADA

To conclude our introductory overview of Canadian industrial relations, we will provide statistics in Tables 1-3, 1-4, and 1-5 that outline the characteristics of the unionized workplace in Canada. From these statistics, we can observe a number of distinctive characteristics of unionized workplaces in Canada. Unionized workplaces are more likely to be in the public sector and to be relatively large in size. The rates of unionization are quite similar across broad industrial categories, but there are wide variations in unionization rates across different occupations. Certain demographic characteristics also distinguish Canadian union members. Union membership is slightly higher among women than among men, and higher among older workers than among younger workers. Union members are relatively well educated, and they usually hold full-time rather than part-time jobs.

We will revisit these statistics throughout the book and discuss in more depth some of the reasons behind these characteristics of Canadian unionization. In Chapter 13, we will assess what these statistics indicate for future workplace trends in Canada.

TABLE 1-3: Unionization Rates by Province, 2023

Province	Number of Unionized Workers (in thousands)	Number of Workers Covered by a Collective Agreement as Percentage of Total Provincial Workforce[i]
CANADA	*5,324*	*30.4*
Alberta	526	24.9
British Columbia	706	30.1
Manitoba	213	34.2
New Brunswick	104	29.9
Newfoundland and Labrador	86	39.6
Nova Scotia	129	29.2
Ontario	1,800	26.3
Prince Edward Island	27	34.5
Quebec	1,558	38.9
Saskatchewan	174	33.9

[i]This figure includes union members and workers who are not union members but who are covered by the terms of a collective agreement.

Source: Adapted from Statistics Canada Table 14-10-0129-01.

TABLE 1-4: Demographic Indicators of Union Membership in Canada, 2023

Gender	Total Number of Union Members (in thousands)	Union Coverage as a Percentage of Total National Workforce in This Category*
Male	2,527	28.4
Female	2,797	32.5
Work Status	**Total Number of Union Members (in thousands)**	**Union Coverage as a Percentage of Total National Workforce in This Category***
Full time	4,653	31.9
Part time	671	22.8
Age	**Total Number of Union Members (in thousands)**	**Union Coverage as a Percentage of Total National Workforce in This Category***
15 to 24	424	16.2
25 to 34	1,253	30.0
35 to 44	1,316	33.6
45 to 54	1,237	36.2
55 and over	1,094	32.2

TABLE 1-4: Continued

Education	Total Number of Union Members (in thousands)	Union Coverage as a Percentage of Total National Workforce in This Category*
No degree, certificate or diploma	245	19.3
High school graduation, some post-secondary education	912	22.8
Post-secondary certificate or diploma	2,144	35.1
University degree	2,023	33.0

*These percentages include workers who are not union members but who are covered by the terms of a collective agreement.

Source: Adapted from Statistics Canada Tables 14-10-0129-01, 14-10-0133-01 and 14-10-0130-01.

TABLE 1-5: Sectoral, Industrial, Occupational, and Workplace Union Coverage in Canada, 2023

Sector	Number of Union Members (in thousands)	Union Coverage as a Percentage of Total National Workforce in This Category*
Public	3,266	76.7
Private	2,058	15.5
Industry	**Number of Union Members (in thousands)**	**Union Coverage as a Percentage of Total National Workforce in This Category***
Goods producing	941	26.7
Service producing	4,383	31.3
Occupation	**Number of Union Members (in thousands)**	**Union Coverage as a Percentage of Total National Workforce in This Category***
Management	135	9.9
Business, finance, and administrative	712	23.6
Natural and applied sciences	317	19.9
Health	833	62.4
Education, law and social, community and government services	1,291	61.1
Art, culture, sport, and recreation	88	22.1
Sales and service	662	16.5
Trades, transport, and equipment operators	971	37.5
Natural resources and agriculture	44	14.9
Manufacturing and utilities	271	33.6

TABLE 1-5: Continued

Workplace Size	Number of Union Members (in thousands)	Union Coverage as a Percentage of Total National Workforce in This Category*
Under 20 employees	701	13.4
20 to 99 employees	1,668	29.3
100 to 500 employees	1,485	39.8
Over 500 employees	1,470	51.2

*These percentages include union members as well as workers who are not union members but who are covered by a collective agreement.

Source: Adapted from Statistics Canada Tables 14-10-0415-01, 14-10-0133-01, and 14-10-0132-01.

AN OVERVIEW OF THE BOOK

After surveying the legislation that forms the framework for Canadian industrial relations and presenting some of the statistics that describe unionization in Canada, we now turn to a description of the framework of this book. We have sequenced the book's content in an order that replicates as closely as possible the process that a union and employer would go through in starting a relationship, carrying out their mandated duties and roles once the relationship is established, and altering that relationship in response to internal or external forces.

In this first chapter, we have introduced some theoretical and historical background to explain how modern Canadian workplaces and legislation have evolved into their present form. We also reviewed the legislation that provides a framework for union–employer relations in Canada, and presented some current data on unionized workers and workplaces in Canada. In Chapter 2, we explain the reasons for the creation of unions, and how unions' purposes have changed over time. The emergence of craft guilds, the significant shifts in work and production that occurred with the Industrial Revolution, and the development of the first modern trade unions are described. We then examine the origins of the modern trade union, the functions of unions, and the future challenges unions may face. We also offer three contemporary perspectives on industrial relations.

In Chapter 3, we focus on the events and forces that have created the unique circumstances of Canadian labour relations. We begin with an overview of some of the characteristics of Canada that have affected the history of unions. We then discuss the early years of the Canadian union movement in the 1800s, the industrial age in the early 1900s, and the advent of the First World War. We describe the forces that led to increased unionization before and during the Second World War and the start of modern-day federal and provincial labour legislation. We outline the growth of unionization in the public sector, the effects of unemployment and inflation in the 1970s, and more recent events such as changes in labour legislation and the effects of globalization and new technologies on Canadian work and workplaces.

In Chapter 4, we describe the structure of Canadian unions, which roughly parallels the three levels of government in Canada. At the federal level, the Canadian Labour Congress (CLC) and several other bodies represent organized labour nationally. In each of the provinces and territories, the federations of labour are the coordinating bodies for the

labour movement. At the municipal level, the labour movement operates through labour councils. Finally, the local union is the base level for the regional, national, or international unions. We describe the structure of local unions and the activities that they engage in.

After examining the structure of unions, we turn in Chapter 5 to a discussion of why employees may or may not wish to join a union. After looking at the personal, workplace, economic, and societal factors that explain why employees do or do not support a union, we consider the dynamics of an organizing campaign itself. To succeed, an organizing campaign requires the support of a specific number of employees. We explore the definitions of "employee," "trade union," and "employer," and describe the criteria that are used to determine the bargaining unit that the union wishes to represent. The outcome of a successful organizing campaign is the establishment of the union's status as the employee's exclusive bargaining agent.

In Chapter 6, we explain how a labour relations board assesses a certification application. This explanation includes a description of a representation vote and the circumstances under which a labour relations board may hold a hearing into a certification application. We also explore special circumstances of certification, such as a certification application for a previously unionized workplace. As a final consideration in the certification process, we discuss various "bars" to certification. These bars determine when and under what circumstances an application for certification may be filed. We then outline unfair labour practices and the legislative provisions used to balance the rights of the various parties involved in the certification process. We end this chapter with a description of the remedies for unfair labour practices.

Once a certification order is issued, the union and the employer are compelled to commence collective bargaining. In Chapter 7, we discuss the effects of a certification order. As well as directing the parties to start bargaining, the certification order also implements provisions requiring all union members to pay union dues and provisions for union dues check-off. We also examine the concept of a "union shop." We then discuss the actual structure of collective bargaining. The most common bargaining structure in Canada is a single union negotiating with a single employer. We also review more complex structures, including structures in which groups of unions or groups of employers bargain as a single unit. Next, we discuss the individuals who participate in collective bargaining on behalf of the union and of the employer. We conclude by outlining what the parties can bargain for and what is implied by the expectation of bargaining in good faith.

In Chapter 8, we outline the stages in union–management negotiations, subprocesses, strategies, and tactics in collective bargaining. We discuss the four stages that can be observed in the bargaining process and identify the subprocesses within each stage that influence the parties' behaviour. We also outline the strategies and tactics used in each subprocess and discuss the factors that affect how much power each side might hold or be perceived to hold at different times. Finally, we explore two alternative models of union–management negotiations.

If the parties are unable to reach a collective agreement, or if collective bargaining breaks down, a strike or lockout may occur. In Chapter 9, we define strikes and lockouts and describe their use as part of the collective bargaining process. We also review some of the factors and motivations that would lead unions or employers to consider striking or locking out. Canadian labour legislation specifies several conditions that must exist before a strike or lockout can be considered legal, and we examine these preconditions

in this chapter. If a strike or lockout occurs, two major factors affect how it will proceed: picketing and the use of replacement workers. We explore the major functions of picketing and whether the employer should be permitted to use or hire replacement workers. Finally, we examine the ways a lockout or strike can end, the process of ratification for a collective agreement. We conclude Chapter 9 with a comparison of Canada's strike record to that of other industrialized countries.

In Chapter 10, we examine the use of third-party intervention in collective bargaining. These interventions can help the parties to resolve their differences without having to resort to a strike or lockout. The main types of third-party intervention are conciliation, mediation, and arbitration. To conclude Chapter 10, we discuss the advantages and disadvantages of using mediation/arbitration as a form of third-party dispute resolution, differences between disputes in the private sector and public sector, and other methods of resolving bargaining disputes.

Once a collective agreement is achieved, Canadian labour legislation provides for a method of settling disputes between the employer and the union during the time that a collective agreement is in effect. In Chapter 11, we discuss the grievance arbitration process. The term "grievance" is defined and the various types of grievances are explained. We describe the steps in the grievance procedure as well as procedural issues such as timelines, and we also provide an explanation of who is involved at the various steps in the procedure. A union's duty of fair representation is defined and explained.

The remainder of Chapter 11 focuses on the arbitration process. We begin by discussing the appointment of an arbitrator and how an arbitration hearing is arranged. We then discuss the arbitration procedure itself, including issues such as preliminary steps, procedural onus, standard of proof, order of proceeding, and issuing of the award. We then turn to alternatives to the traditional arbitration process, first examining the complaints about the arbitration process and then exploring the processes of expedited arbitration, grievance mediation, and mediation/arbitration.

In Chapter 12, we discuss the changes that may take place during the life of the collective agreement and that can affect the status of the union–employer relationship. Successorship usually involves some form of change of employer, while raiding and union mergers may change the union that represents the employees. Decertification significantly changes the union–employer relationship by removing the union from the workplace. Finally, both technological change and workplace restructuring may cause changes to work structure or content that need to be addressed by the union, the employer, or both.

In Chapter 13, we address some recent trends that are changing the Canadian workplace and look at their implications for unions and employers. Changes in workplace demographics have caused unions to examine their certification and representation strategies in order to maintain membership levels. Changes in work arrangements, such as telecommuting, involve new structures of work that do not always lend themselves to the standard model of union–employer relationships; the same issue arises with changes to organizational structures that are characterized by flatter hierarchies and fewer distinctions between workers and employers. We discuss some of the actions that unions and employers have taken in response to these trends. We also outline some of the recent Canadian industrial relations trends and discuss their implications for the future of union–employer relationships.

SUMMARY

In this chapter, we have presented some reasons why industrial relations is an exciting and relevant subject. Understanding industrial relations is essential to understanding how the Canadian workplace has evolved and how it currently operates. To begin that process of understanding, we have outlined the major components of Canadian labour legislation and presented some statistics on Canadian unionization rates. Finally, we have presented an overview of the rest of the textbook to convey some sense of the discussion that is yet to come.

Key Terms for Chapter 1

employer (p. 4)
intentional discrimination (p. 16)
interprovincial component (p. 12)
jurisdiction (p. 11)
labour relations board (p. 13)
para-public/quasi-public sector (p. 14)
protected/prohibited grounds (p. 16)
public sector (p. 14)
quasi-judicial (p. 13)
secondary picketing (p. 17)
systemic discrimination (p. 16)
union (p. 4)

Discussion Questions for Chapter 1

1. What are some of the arguments for and against using the term “industrial relations” to describe union–management relationships?
2. Why could the field of industrial relations be characterized as multidisciplinary? Do you see this characterization as a positive or a negative attribute?
3. Distinguish between industrial relations and human resource management.
4. Outline the common features of the different pieces of Canadian labour legislation.
5. What is the importance of the “interprovincial component” in Canadian labour law?
6. What have the courts said about the *Charter of Rights and Freedoms* as it applies to union-related activity such as collective bargaining and the right to strike?
7. Describe some of the characteristics of Canadian union members and unionized workplaces. Choose at least one of these characteristics and explain what you think are the reasons for this characteristic (e.g., why more women than men are union members).

Exercises for Chapter 1

1. Describe your experiences with unions, either as a member or as a non-member. Have your experiences been positive or negative? Have your experiences affected your attitudes toward unions or your attitudes toward industrial relations in general? Compare your experiences and attitudes with those of other students in your class to see if there are similarities or differences. If differences exist, try to identify the reasons why.
2. Explain what you, at this point in the course, see as the benefits and drawbacks of a unionized workplace, both for the workers and for the employer. As in the previous exercise, compare your explanation with those of other students in the class to see if there are similarities or differences. If differences exist, try to identify the reasons why.

REFERENCES

1. Kochan, T., and Katz, H. (1988). *Collective bargaining and industrial relations: from theory to policy and practice* (2nd edition). New Homewood, IL: Richard D. Irwin.
2. Zinni, D.M., Mathis, R.L., and Jackson, J.H. (2011). *Human resource management* (2nd Canadian edition). Toronto: Nelson.
3. Dunlop, J. (1958). *Industrial relations systems*. New York: Holt.
4. Dabscheck, B. (1989). A survey of theories of industrial relations. In Barbash, J., and Barbash, K. (Eds.), *Theories and concepts in comparative industrial relations*. Columbia, SC: University of South Carolina Press.
5. Canadian Press. (2024). More WestJet flight cancellations as strike hits tens of thousands of travellers. CP24 News, June 30. https://www.cp24.com/news/more-westjet-flight-cancellations-as-strike-hits-tens-of-thousands-of-travellers-1.6946730
6. Barnetson, B., and Foster, J. (2024). *The practice of human resource management in Canada*. Edmonton, AB: Athabasca University Press.
7. Creighton, D. (1970). *Canada's first century, 1867–1967*. Toronto: Macmillan.
8. This summary is based on the discussion in Doorey, D. (2024). *The Law of Work*, 3rd Edition. Toronto, ON: Emond Publishing.
9. Doorey, *op. cit*.
10. Doorey, *op. cit*.
11. Doorey, *op. cit*.
12. The summaries of these cases are based on Alter, S. (1993). *The courts, the Charter, and labour relations*. Ottawa, ON: Research Branch, Library of Parliament. (Background paper BP-305E.)
13. *Retail, Wholesale and Department Store Union, Local 580 v. Dolphin Delivery Ltd*. [1986] 2 S.C.R. 573 at 583.
14. Alter, *op. cit*., 6.
15. *Reference Re Public Service Employee Relations Act* [Alberta] [1987] 1 S.C.R. 313; *Public Service Alliance of Canada v. R*. [1987] 1 S.C.R. 424; *Government of Saskatchewan v. Retail, Wholesale and Department Store Union, Local 544 et al*. [1987] 1 S.C.R. 460.
16. *Professional Institute of the Public Service of Canada v. Northwest Territories* [1990] 2 S.C.R. 367.
17. *Lavigne v. Ontario Public Service Employees Union* [1991] 2 S.C.R. 211.
18. Makin, K. (2001). Farm workers win right to unionize. *The Globe and Mail*, December 21, A6.
19. Quoted in Makin, *op. cit*.
20. *Fraser v. Ontario (Attorney General)* [2008] ONCA 760; National Union of Public and General Employees (December 17, 2009), Epic fight for farm workers reaches Supreme Court, www.nupge.ca/node/2832; Schmitz, C. (2011), SCC reins in labour rights protection, *Lawyers Weekly* (May 11), www.lawyersweekly.ca/index.php?section=article&articleid=1412.
21. *Health Services and Support—Facilities Subsector Bargaining Assn. v. British Columbia* [2007] SCC 27; Sandborn, T. (2007), Campbell government violated Charter rights: Supreme Court, *The Tyee* (June 8 <http://thetyee.ca/news/2007/06/08/Bill29Dies>; B.C. and health care unions settle 6-year dispute), <http://www.cbc.ca/canada/british-columbia/story/2008/01/28/bc-bill29dealreached.html>.
22. Fudge, J. (2008). The Supreme Court of Canada and the right to bargain collectively: The implications of the *Health Services and Support* case in Canada and beyond. *Industrial Law Journal*, *37*(1), 25–48.
23. *Saskatchewan Federation of Labour v. Saskatchewan* [2015] SCC 4 at para. 3.