Legal Context of Human Resource Management

COMM 203 Flex at the Sauder School of Business, University of British Columbia
Legal Context of Human Resource Management

The legal regulation of human resource management is quite comprehensive and complex. This applies to all aspects of an employment relationship from recruitment through to when the employee leaves the organization, or even after the employee leaves the organization, for example in the case of pensions.

Our coverage will provide a broad overview of the legal framework in Canada. Other countries have similar laws regulating employment. All employees and all managers should have an understanding of the legal framework so they understand what is legal and what is not legal. You do not need to become an employment lawyer, but you should know if something isn’t right and when and how to get help if you have concerns or questions.

So why is employment so extensively regulated? The purpose is to ensure fair treatment of all employees by protecting certain rights. The nature of employment has an inherent power imbalance between employers and employees. Consider one employee in a large organization with hundreds or thousands of employees. One employee is relatively powerless next to this large organization and on their own may not be able to stop any unfair treatment they are experiencing. The employment regulations help “level the playing field” by giving employees legal rights and protections against unfair treatment. Past abuses by employers provided much of the impetus for the development of this extensive legal regulation.

The legal framework includes two bodies of legislation often referred to as Employment Law and Labour Law. Employment law includes legislation that applies to all employees. That is what is covered in this module. Labour Law includes legislation that is relevant to unionized employees. This will be covered later in the course when we cover unions and collective bargaining. It is also critical to understand the jurisdiction of employment regulations. In Canada this includes a basic distinction between Federal and Provincial jurisdictions. Less than 10 percent of Canadian employees come under the jurisdiction of federal legislation. Who is included in the federal regulations is explained in the readings. All other employees come under the jurisdiction of the province in which they are employed.

A second distinction in jurisdiction is what employment issues are covered by various laws. Employment Standards legislation provides certain minimums that must be provide, such as minimum wages, break periods, holidays, and others. Human rights legislation provides protection against discrimination on the basis of gender, age, national origin and many other protected grounds. Health and safety legislation provides protection against unsafe work conditions and hazards. The basic provisions of these and other statutes are explained in the readings and you should understand what is covered under each.

In addition, each statute has a separate administrative body that is responsible for handling alleged violations of the law. In British Columbia for example, this includes the Employment Standards Branch, the BC Human Rights Tribunal, and WorksafeBC. Enforcement of all of these are complaint driven. The administrative bodies do not go out and monitor places of
employment, but will respond to complaints that may be filed. It is important for employers and employees to be familiar with the provisions of the statutes and go to the appropriate administrative body if they believe the law is being violated.

The readings for this module will provide an overview of this legal framework for employment. We will return to more specific aspects of the regulation of employment throughout the course.