

Centre for Law in the Contemporary Workplace

Five Year Strategic Plan 2023-2028

Mission

The mission of the Centre is to advance law and policy in the contemporary workplace.

Vision

The Centre will be a leading force for innovation in law, policy and dialogue in the contemporary workplace.

Needs Met by the Centre

Canadian work law is shifting rapidly in response to a range of forces including technological change, globalization, demographic changes, the human rights revolution, economic restructuring, and the constitutional entrenchment of a right to collective bargaining. To these long term changes, recent years have added the urgent pressures of the COVID19 pandemic, which have strained health and legal systems, accelerated technological changes, put many employers under severe economic pressure, and heightened the risks and hazards faced by many already disadvantaged workers.

These developments pose important challenges to policy makers, practitioners and academics in Canada. How well employers, workers, unions and policy makers respond to these challenges will have a profound impact on our social and economic well-being. Sound research and education are needed to ground effective policy debate, administrative reform and community outreach initiatives, and to inform the community of new and established practitioners called upon to respond to emerging legal issues.

However, recent decades have seen a decline in the capacity of universities across the country to meet these needs, and a decline in the number of top students drawn to field as future practitioners, policy makers and teachers.

Purposes and Aims

The Centre seeks to contribute to the intellectual renewal of workplace law. The Centre aims to provide an intellectual home for the labour and employment law community, in Ontario and nationally. It is committed to a diversity of perspectives, to multipartism, and to open and innovative inquiry.

With this in mind, the Centre will, for the next five years, have two overarching aims:

- To advance knowledge, discussion and understanding of key issues facing work law and policy today, their importance to the well-being of Canadians, and potential solutions to them; and
- To attract JD students and graduate students to labour and employment law and other work-related fields of law, by offering intellectually and financially attractive conditions of study, thereby educating the next generation of work law teachers, scholars and leading practitioners.

Strengths, Opportunities, and Challenges

Strengths and Opportunities

No other Canadian law school has a centre dedicated to labour and employment law. Queen's Law has a record of national leadership that leaves it particularly well-placed to address the need for more and better teaching and research in labour and employment law.

The Centre's Director, Kevin Banks, is an established scholar with a deep background in domestic and international work law and policy. The Centre also benefits from the engaged participation of Professor Rick Chaykowski, a nationally and internationally recognized industrial relations researcher based in the Queen's Employment Relations Program. The Faculty of Law has recently hired two full-time tenure track faculty members, Professors Samuel Dahan and Sabine Tsuruda, whose primary research and teaching interests include labour and employment law.

The Centre has an Advisory Committee representing a wide and balanced range of perspectives on workplace law. The Centre can draw upon its Advisory Committee for guidance in its programming, for support, and to facilitate research partnerships and other joint activities with tribunals, community organizations, think tanks and government departments.

The Centre is developing inter-university and inter-disciplinary research partnerships under its New Foundations Project, which is focusing on examining the implications of economic and technological change for the foundational structures of workplace law and policy. These partnerships are positioning the Centre to carry out sophisticated, multi-year collaborative research initiatives addressing fundamental issues that led to its establishment. For this purpose, the Centre will also be able to draw upon its participation in the Institutional Innovations for Better Work Project, and multi-year international partnership led by the University of Montreal.

The acceleration of videolink technology over the course of the pandemic provides new opportunities to host lower cost and wider-reaching knowledge exchange events like panels, workshops and conferences on online and hybrid platforms.

Challenges

The main challenges that the Centre faces are constraints in human and financial resources:

- Despite new hires at Queen's in the work law field, the Centre remains a small organization with a big mandate. Sophisticated and comprehensive research into emerging issues in work law and policy requires inter-disciplinary collaboration in order to mobilize sufficient expertise and research capacity to generate robust and novel insights. Dialogue with professional communities requires supportive networks. For these reasons, the Centre relies on collaboration with researchers at other universities, and on its Advisory Committee to connect with the professional community.
- But such collaboration requires a lot of coordination and management. The Centre now relies mainly on its Director, and on Professor Chaykowski, for the planning, coordination and management of its programs. It has not had a post-doctoral fellow to assist the Director for the past five years, and it does not have the funds to hire one for more than a two year period going forward. Professors Banks and Chaykowski are now less than ten years away from ordinary retirement age.
- Further, intensive research and dialogue reaching across the boundaries of the university requires funds for research assistance, data collection, and travel.
- As is the case for most university research centres today, the Centre will rely upon new externally raised funds. The current economic slowdown will challenge the Centre's ability to meet its fundraising goals.
- Competition for grants available to support the Centre's research programs remains intense. Public grant programs to support conference and other knowledge exchange activities remain modest.
- The size of the Centre's endowment and pool of unrestricted operating funds limits its ability to undertake ambitious research and conference programming in the face of the risk that grant applications may not be fully funded, and its ability to offer post-doctoral fellowships to promising emerging scholars. It also limits the financial support that it can make available to promising graduate students.

Approach and Objectives

To achieve its aims, the Centre will advance a three-point program comprised of: (1) carrying out in-depth and impactful research, (2) fostering dialogue and scholarship on emerging issues, and (3) creating attractive study conditions for students. It will also seek additional resources to support that program.

1. *In-depth and Impactful Research*

Over the past year, the Centre has launched an ambitious, multi-year, inter-disciplinary and inter-university collaborative research project examining whether the foundational structures of work law in Canada remain fit for purpose and, if not, how they might be adapted to work law's new economic, social, political and technological context. A fuller description of this project is attached as Appendix A. Centre researchers will commit their time and energy to advancing this project.

2. *Fostering Dialogue and Scholarship on Emerging Issues*

As the only academic work law centre in Canada, the CLCW is well-situated to foster dialogue between scholars, practitioners and policy makers on emerging issues for work law and policy. It has a track record of successful workshops and conferences on topics such as Charter litigation, law reform reports, Supreme Court decisions, and the pandemic. These have often generated important collections of papers. This part of the Centre's program will continue and extend this type of work, to the extent that resources permit. The following are six potential tracks for this work.

a) *Workshops on hot issues*

The Centre will continue to host workshops, about once a year, to address key court decisions and other hot issues as they emerge.

b) *Workshops and dialogue forums under the New Foundations Project*

The New Foundations Project, when fully funded, will generate a series of academic workshops and dialogue sessions with practitioners and policy makers over the next five years.

c) *Policy Forum*

The Centre can take advantage of its location close to Ottawa and Toronto, and of its close links to the Employment Relations Program at Queen's, to invite government policy makers to speak on current issues and meet with each other at Queen's. These forums can, where appropriate, be opened up to students and an online audience.

d) *Key Sector Roundtables*

The performance of certain key sectors of the Canadian economy, including health care, banking, and transportation, as examples, faces major challenges that have important work law and policy dimensions to them. If the Centre were able to hire a new post-doctoral fellow to provide research, planning and management support, it could leverage its position as a neutral and academic forum to bring interested industry players and researchers together to explore solutions to such challenges.

e) Visiting Speaker Series

Now that pandemic conditions have eased, the Centre will renew its visiting speaker series, made possible by the Douglas Cunningham Visitors Fund.

f) Maintaining an attractive website

The Centre will continue to make papers, presentations, and promotion and video recordings of its events available to the wider public through its website.

3. Creating Attractive Conditions of Study

All of the above initiatives will contribute to creating an intellectually stimulating environment for JD and graduate students. In addition, the Centre will renew and continue the following actions to directly support students at Queen's Law who are interested in labour and employment law.

a) Graduate student fellowships

Thanks to the generosity of various donors, the Centre is in a position to offer modest but still significant financial support to Ph.D and post-doctoral students.

b) Queen's Law Mentorship Program

The Centre has linked many in the labour and employment law bar, most notably members of its Advisory Committee, with the Queen's Law mentorship program. The program connects JD students to mentor practitioners who offer guidance on starting a career in the legal profession.

c) Research assistantships

Each year the Centre hires a summer research assistant who contributes to advancing Centre research projects. The Centre Research Assistant also works as the Summer Editor for the *Canadian Labour and Employment Law Journal*.

d) Canadian Labour and Employment Law Journal student editorships

The CLELJ is based at the Centre. Professor Banks is its Editor-in-Chief. Each year the Journal offers one or two Senior Editorships and about 8 Junior Editorships to Queen's Law students with an interest in labour and employment law. Editors review submissions to the Journal to advise on whether they should be sent to peer review, and copy edit and cite check articles accepted for publication. The Journal also recruits teams of volunteers, usually drawn from the first year class, to assist with cite-checking. These volunteers often move up into editor positions the following year.

e) Support to the Queen's Labour and Employment Law Club

The Centre has over the years supported the student-led Labour and Employment Law Club with organizing labour law moots, career panels, and in making connections for firm tours.

The Centre requires stable funding and human resource planning in order to secure its future. Over the next five years,

- 1) Centre staff and Advisory Committee members will work with the leadership of the Faculty of Law towards raising an endowment sufficient to meet ongoing operating needs:
 - Fundraising will include an active campaign to solicit private donations to cover many of the Centre's future costs.
 - Individuals, law firms, unions, employers, employer organizations, foundations and governments will be approached as appropriate.
- 2) Centre researchers will make applications to granting councils for funds to support research projects and the development of research networks and tools for information sharing and dissemination.
- 3) The Centre will take full advantage of new videolink platform technologies to increase the efficiency and reach of its knowledge exchange and mobilization activities, like panels, workshops, and conferences.
- 4) The Centre will seek to develop plans for the eventual redistribution of duties and succession of the Director.

Annex A

Canadian Workplace Policy & Law: Envisioning New Foundations

A Joint Project of

Centre for Law in the
Contemporary Workplace
Faculty of Law

Co-Lead: Kevin Banks

Employment Relations Programs
Faculty of Arts and Science

Co-Lead: Richard Chaykowski

The growth and concentration of labour market risk of workers, declining access to representation and voice, pressures on privacy and control over time, rising income inequality and declining social mobility within a context of increasing competitive pressure on employers pose fundamental challenges for Canadian workplace law and policy. They compromise its capacity to achieve dignity, access to justice, and equitable distributions of income and opportunity for social mobility. They deepen the inequalities faced by historically disadvantaged groups. They raise basic questions about whether workplace law's foundational structures remain fit for purpose and adapted to constraints, and whether some of its roles should be assigned to social programs instead.

Although the need to adapt Canadian labour policy and law in response to the changing nature of work and employment has been building for several decades, government policy discourse is only beginning to come to terms with the challenges ahead. Work such as that of Ontario's Changing Workplaces Review and that of the Expert Panel on Modern Federal Labour Standards needs to be deepened and extended.

Many of our established policy approaches and institutions continue to reflect old assumptions and methods of providing for employee representation, fair and effective labour standards, economic opportunity, and income security. While there has been considerable ground-breaking research into the nature and implications of some aspects of Canada's changing employment and workplace setting, there remains a need for further research into the full empirical, normative and policy implications of these changes for the foundational structures of Canadian workplace law and policy.

This research program centers on the fundamental question of what are the policy issues that challenge the institutional foundations of Canadian workplace policy and law and how we might best address them. The aim is to provide a basis for charting a new longer-term course for updating Canadian workplace law and policy in order to support equitable and efficient workplace outcomes.

Objective

Our objective is to produce a coherent analysis of the implications of changes in the organization of production, international economic integration, financialization and disruptive technology for the institutional foundations of Canadian workplace law and policy, and of whether alternative foundations would better serve key policy goals.

Outputs

The project will result in several collections of papers presented in workshops or conferences and published in special journal editions, then collated and reconsidered together in a capstone volume. The sets of papers will address each of the following general themes:

First Stage – Issue Specification

1. What are the main transformative economic and technological changes and their broad practical and normative implications for Canadian workplace policy and law and the labour market, social and political contexts which influence and enable their creation and implementation?
2. What normative and policy aims should workplace law and policy seek to advance in coming decades?

Second Stage – Envisioning New Foundations

3. Should workplace rights and responsibilities reach beyond current understandings of employment?
4. Should the common law framework evolve in light of Charter freedoms, or to better enable worker ownership stakeholding?
5. Can the Wagner model be strengthened to better afford employee representation? Does Canada need different and/or more diverse models of employee representation in the private sector and in the public sector?
6. Should employment legislation play a more prominent role in workplace policy and law? If so, how can this be done? Should it address the growth of income inequality in Canada, particularly at the level of organizations?
7. Should Canadian social policy and programs aim to reduce the policy load on employment regulation, and to better enable worker mobility and occupational

opportunity, through measures such as active labour market policies, guaranteed minimum incomes, portable benefits, and accommodation subsidies?

Third Stage - Capstone Volume

8. What policy goals should workplace law pursue? How should it pursue them? Which should be left to social programs? How can the institutional pillars within and around workplace law best function together to deliver on those goals? Do institutions of democracy need to change to enact and support such a new social contract?

Each inquiry will attend to the potential impact of economic, technological, legal and policy change on inclusion of members of disadvantaged groups, and for the decolonization of Canadian society.

The detailed project outline annexed below specifies issues to be considered in relation to each question.

Each stage of the project will generate papers that will, individually or collectively, review the relevant literature and derive implications for policy and law. For each theme, our aim is to produce a collection of comprehensive “thought pieces” deriving implications specific enough to influence and guide policy discourse but broad enough to respond to fundamental changes. The papers related to each theme will be related to a dedicated research workshop/conference and be published in a special issue of a journal.

The project will conclude with an edited volume, including papers that update and synthesize the research across project themes, so as to make a lasting contribution to Canadian policy debates about workplace policy and law.

Research Events

The project will be advanced by panels, workshops and conferences, and associated publications, focused on the major questions.

Activity	Meeting/Workshop Conference	Projected Schedule	Activity Output
Organizing Meeting	Meeting of core research group to settle preliminary agenda and funding strategy	Fall 2020	

Workshops 1 and 2 (online)	<i>Economic and Technological Change and Their Implications for Employment Relations, and Workplace Policy and Law</i>	June 2022	Bound volume
Workshop 3	<i>Rethinking the Reach of Legal Responsibilities and Rights in the Workplace</i>	Fall 2023	Journal Special Issue
Workshop 4	<i>The Common Law and the Workplace: Rethinking the Tort, Contract and Property Law Framework</i>	Winter 2024	Journal Special Issue
Conference 1	<i>Employee Representation: Time to Remodel or Time to Think New?</i>	Fall 2024	Research Volume or Journal Special Issue
Conference 2	<i>Employment Legislation: Time for a Leading Role?</i>	Spring 2025	Journal Special Issue
Workshop 5	<i>A New Role for Social Programs at Work?</i>	Fall 2025	Journal Special Issue
Project Capstone	Canadian Workplace Policy & Law: Envisioning New Foundations	2026	Research Volume; University Press

Research Approach

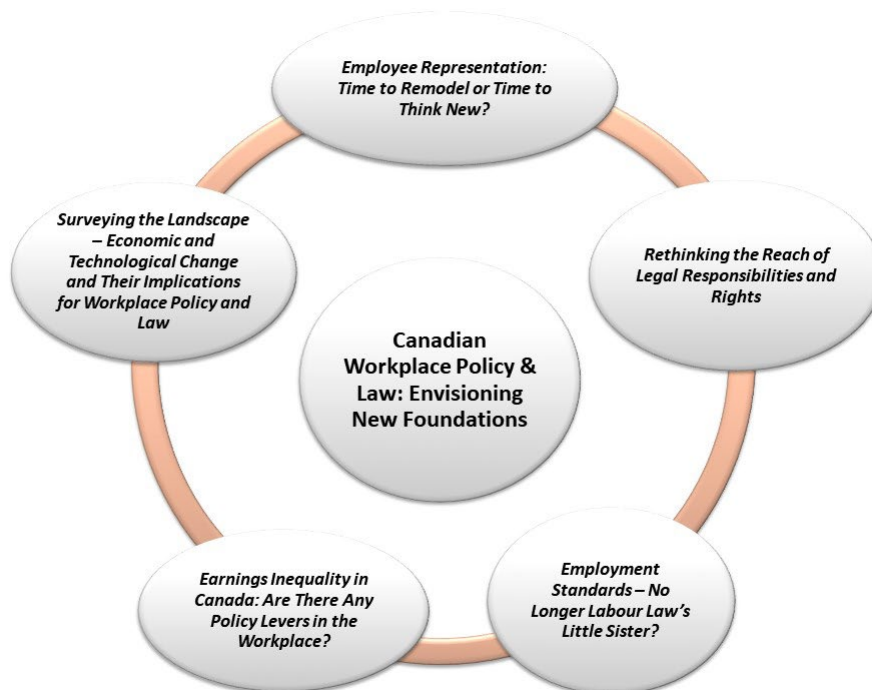
The project will bring together social scientists and legal scholars. Analysis will be based upon comprehensive empirical literature reviews, select research to close gaps in empirical knowledge, robust theorization and discussion of alternative empirical and normative interpretations and implications of data, and careful consideration of alternative policy options. Comparative legal and institutional analysis will inform recommendations where appropriate.

Knowledge Mobilization

The project leaders will leverage the networks of the Centre for Law in the Contemporary Workplace and the Employment Relations Programs at Queen's and of other university and non-academic partners who join the project, to present and test initial conclusions in dialogue with practitioner and policy maker communities. This will be done in at least two ways. First, practitioners and policy makers will be invited to attend and participate in research conferences and workshops. Second, project leaders will organize panels, roundtables, and other forums to make research accessible and directly engage practitioner and policy communities with research as it progresses.

Resources

We plan to seek funding from appropriate sponsors, foundations and granting councils.



Tentative Project/Book Outline

I. First Stage: Issue specification

Part 1: Surveying the Landscape and Framing the Issues – Economic and Technological Change and Their Implications for Workplace Policy and Law

1. What are the dominant and emerging models for production and organization structures (e.g., fissured structures)? What are the implications of the re-organization of production for Canadian workers and employers?
2. What are the implications of regional and international economic integration for Canadian workers and employers?
3. What are the implications of financialization for Canadian workers and employers?
4. What are the implications of AI and other emerging technologies for Canadian workers and employers?
5. What changes in the social and cultural environment influence the capacity of Canadian social actors to respond in an organized and deliberative fashion to the impacts of economic and technological change for workers and employers?
6. What do all of these changes, including their impacts on racial, ethnic and class lines, mean for the capacity of Canadian society, including worker organizations, and Canadian politics to formulate, deliberate upon, negotiate or enact legal or policy responses to their consequences? Does an effective response require changes to institutions of democracy?
7. What is the nature of the policy problems posed by these implications? How do they affect commitments to worker dignity and freedoms, access to justice, and equitable distribution of income and opportunity?

Part 2: Rethinking the Purposes of Workplace Law and Policy

8. What general normative or policy commitments should workplace law and policy advance in the coming decades?
9. In what ways may current institutions of workplace law and policy no longer be fit for purpose?

II. Second Stage: Envisioning New Foundations

Part 3 - Rethinking the Reach of Legal Responsibilities and Rights

1. Where should legal responsibility for employment standards, human rights and contractual violations lie given the emerging characteristics of workplaces, organizations, and industries?
2. Can the reach of labour and employment laws rights be meaningfully extended in the new economy and workplaces (e.g., to gig economy workers)?

Part 4: The Common Law and the Workplace: Rethinking the Contract and Property Law Framework

3. Can and should common law torts and implied contractual terms reflect values embedded in Charter Freedoms?
4. Can and should property and corporate law better enable the formation of worker-ownership interests in enterprises?

Part 5: Employee Representation: Time to Remodel or Time to Think New?

Representation in the Private Sector

5. Can the Wagner model be strengthened to better afford employee representation? What models of worker representation, other than or in addition to the Wagner model, might provide effective employee representation, productive labour relations, and employee access to fundamental rights? What legal reforms would be required to enable such models?

Representation in the Broader Public Sector

6. What are the key pressures and challenges affecting the system of labour relations in the broader public sector, and the main shortcomings and limitations of the current public sector collective bargaining model? Can it be strengthened in response? Are there models of worker representation, in addition to or other than the current model, might help to better address the need for effective employee representation for public sector employees?

Part 6: Employment Legislation – Time for a Leading Role?

7. Should employment legislation become a leading vehicle for workplace policy and law?
 - a. Should employment standards do more to address issues of fairness and predictability affecting precarious workers?
 - b. Can employment law advance intra-organizational equity in compensation?
 - i. Is there a role for compensation standards (e.g., minimum wage, or benefits) in advancing workplace-centered earnings equality objectives?
 - ii. Should executive compensation be regulated? What might be the justifications? What standards might be justified? Should there be a relationship to other pay levels within a firm?
 - iii. Are living wage laws a fair and workable solution to injustices facing the working poor?
 - c. If so, how should employment standards be set? Do we need a new model of sector-specific standard setting?
8. What approaches need to be adopted in order to achieve the desired levels of compliance with employment legislation?
 - a. Can proactive compliance and enforcement systems become effective? How?
 - b. Is co-enforcement a good idea?
 - c. Do proactive approaches to inclusion, like the Accessibility for Ontarians with Disabilities Act, actually work? Could they work better? How?

Part 7: Social Programs at Work: Are New Institutions Needed to Enhance Worker Mobility and Independence, and to Support Equal Opportunity?

9. Faced with accelerating change and economic restructuring, do Canadian workers need a deeper policy and program commitment to income security, and equal opportunity and freedoms to pursue an occupation?
 - a. Should Canadian jurisdictions adopt active labour market programs and/or a guaranteed minimum income?
 - b. Should Canadian governments subsidize the workplace accommodation of persons with disabilities?
 - c. Should they better enable portability of medical and pension benefits? If so, how?

III. Final Stage: Conclusions

Part 8: Canadian Workplace Policy & Law: Envisioning New Foundations

10. The place of workplace policy and law: is a new Canadian social contract required?

- a. What policy goals should workplace law pursue?
- b. Which should be left to social programs?
- c. How can the institutional pillars within and around workplace law best function together to deliver on those goals?
- d. Do institutions of democracy need to change to enact and support such a social contract?