# *Human Resource Management (Canadian) 4th edition Steen Solutions Manual*

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# 2 THE LEGAL CONTEXT FOR HRM AND CREATING SAFE AND HEALTHY WORKPLACES

## CHAPTER LEARNING OBJECTIVES

**What Do I Need to Know***? After reading this chapter, you should be able to:*

1. Discuss the importance of valuing diversity and safety.
2. Describe the legal framework for human resource management in Canada.
3. Explain the importance of human rights and the implications for HRM.
4. Discuss privacy, employment/labour standards, and pay equity and their relevance for HRM.
5. Explain the context for workplace health and safety.
6. Identify the responsibilities of employers, and managers or supervisors, as well as employees' duties and responsibilities related to workplace health and safety.
7. Discuss ways employers promote worker health and safety.

## POWERPOINT® SLIDES

*Human Resource Management, Fourth Canadian Edition* includes a complete set of Microsoft PowerPoint® files for each chapter. In the lecture outline that follows, a thumbnail illustration of each slide for this chapter is placed beside the corresponding lecture material. The slide number helps you to see your location in the slide show sequence and to skip slides that you don't want to show to the class. (To jump ahead or back to a particular slide, just type the slide number and hit the Enter or Return key.)



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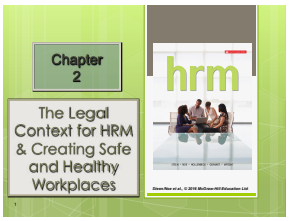
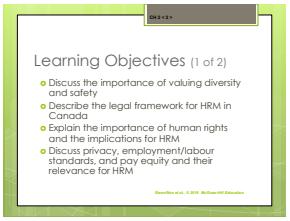
# LECTURE OUTLINE (with PowerPoint® slides)




The Legal Context
Slide 1

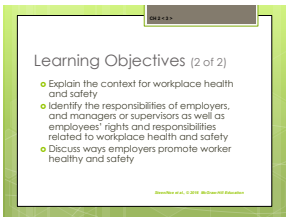
## THE LEGAL CONTEXT FOR HUMAN RESOURCE MANAGEMENT AND CREATING SAFE AND HEALTHY WORKPLACES




Learning Objectives (1 of 2)
Slide 2

## LEARNING OBJECTIVES

LO1: Discuss the importance of valuing diversity and safety.
LO2: Describe the legal framework for human resource management in Canada.
LO3: Explain the importance of human rights and the implications for HRM.
LO4: Discuss privacy, employment/labour standards, and pay equity, and their relevance for HRM.
LO5: Explain the context for workplace health and safety.
LO6: Identify the responsibilities of employers, and managers and supervisors as well as employees' rights and responsibilities related to workplace safety.
LO7: Discuss the ways employees promote worker health and safety.

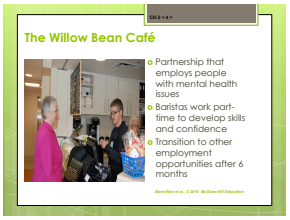



Learning Objectives (2 of 2)
Slide 3

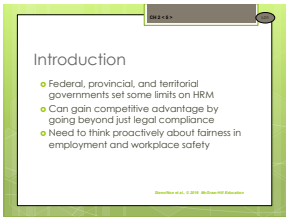
## THE WILLOW BEAN CAFÉ

**The Willow Bean Café in Vancouver General Hospital employs and provides a supportive environment for people with mental health issues**

- The Willow Bean Café is a partnership between Vancouver Coastal Health, the Burnaby branch of the Canadian Mental Health Association and Sodexo Canada, an integrated food and facilities management company recognized as one of Canada's Best Diversity Employers
  - Employees participate in a competitive hiring process; work part-time hours; develop skills, experience, and confidence which is intended to lead to ongoing employment opportunities with Sodexo




The Willow Bean Café
Slide 4




Introduction
Slide 5

## INTRODUCTION

**In Canada, the federal, provincial, and territorial governments have set some limits on how HRM can be practised**

- Requirements intended to foster fairness in hiring and employment practices and protect the health and safety of workers
- Can gain competitive advantage over competitors by linking to business goals and going beyond just legal compliance



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Valuing Diversity & Inclusion

Slide 6

## VALUING DIVERSITY AND INCLUSION

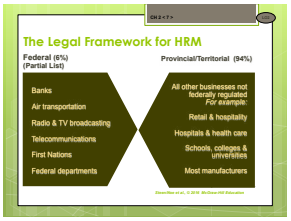
**Canada is a diverse nation, and becoming more so. Also many Canadian companies have customers and operations in more than one country**

- **A diverse workforce provides a competitive advantage that brings a wider pool of talent and greater insight into the needs and behaviours of diverse customers**
  -- Have a policy of valuing diversity and inclusion
  -- Canada's Top 100 Employers recognizes employers that provide the most inclusive workplaces—"Canada's Best Diversity Employers"
- **Objectives for diversity and employment equity may be linked**
  -- May actively work to meet employment equity goals
- **Actions that support diversity**
  -- Intended to ensure every employee is respected
  -- Cultivating an environment where individuals feel valued and able to perform to their potential

## CREATING A CULTURE OF HEALTH & SAFETY

**Organizations are increasingly taking a strategic approach to occupational health and safety**

- **Adopting a values-based commitment to safe operations results in benefits**
  -- e.g. costs savings by reducing worker injuries, fatalities, occupational disease, and property damage; improved employee relations; reliability; and productivity




The Legal Framework for HRM

Slide 7

## THE LEGAL FRAMEWORK FOR HRM

**Federal, provincial, and territorial employment-related laws tend to be similar, however, there are some differences among jurisdictions**

- **Approximately 6% of Canadian workers are covered federally**
  -- e.g. Federal government departments, agencies, and most federal crown corporations; banks; air transportation; marine shipping, ferry, and port services; radio and television broadcasting; telecommunications; railways; many First Nation activities; grain elevators, feed, and seed mills; uranium mining and processing, etc.
- **Approximately 94% of employers/employees are covered by provincial/territorial legislation**
  -- All other businesses e.g. retail and hospitality businesses; hospitals; health care providers; schools, colleges, and universities; and most manufacturers



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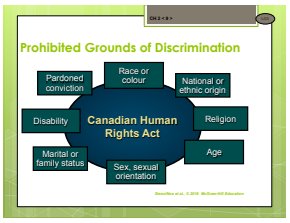
Protecting Human Rights
Slide 8

## PROTECTING HUMAN RIGHTS

**All jurisdictions have human rights legislation—purpose is to remove discrimination**

- **Discrimination**—treating someone differently, negatively, or adversely because of their race, age, religion, sex, or other prohibited ground
- **Direct discrimination**—Policies or practices that clearly make a distinction on the basis of a prohibited ground i.e. race, national or ethnic origin, colour, religion or creed, age, sex, sexual orientation, etc.
- **Indirect discrimination**—Policies or practices that appear to be neutral but have an *adverse effect* on the basis of a prohibited ground
  -- e.g. a company with a policy of not employing part-time employees appears to have a policy that can be equally applied to all applicants and existing employees. However the effect of this policy is not neutral—someone with family responsibilities would be denied employment or denied the opportunity to reduce their work hours

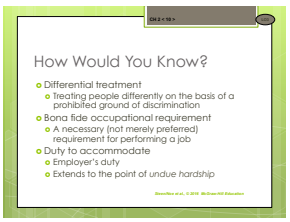



Prohibited Grounds of Discrimination
Slide 9

## PROHIBITED GROUNDS OF DISCRIMINATION

**The Canadian Human Rights Act protects individuals under federal jurisdiction from discrimination based on 11 prohibited grounds:**

- Race; Colour; National or ethnic origin; Religion or creed; Age; Sex (gender, pregnancy, gender identity); Sexual orientation; Marital Status; Family Status; Disability (physical or mental); Pardoned conviction




How Would You Know?
Slide 10

## HOW WOULD YOU KNOW?

**Often management depends on HR expertise to help in identifying how to comply with legal requirements**

- **Differential treatment**—differing treatment of individuals where the differences are based on a prohibited ground
- **Bona fide occupational requirement (BFOR)**
  -- Legal form of differential treatment/discrimination
  -- A necessary (not merely preferred) requirement for performing a job
  -- Employer has the responsibility to prove that a BFOR exists
  -- **Mandatory retirement** has become discriminatory unless a BFOR exists
- **The duty to accommodate**
  -- An employer's duty to consider how an employee's characteristic e.g. disability can be accommodated—extends to the point of *undue hardship*
  -- May involve restructuring jobs, ensuring workplace facilities are accessible, modifying equipment, reassigning employee to a different job



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What About Harassment?
Slide 11

## WHAT ABOUT HARASSMENT?

**Human rights legislation prohibits all forms of harassment**

**Harassment**—a form of discrimination that involves any unwanted physical or verbal behaviour that offends or humiliates

**Sexual harassment**—unwelcome behaviour that is of a sexual nature or is related to a person's sex (gender/gender identity).

--*Quid pro quo* harassment i.e. a person makes a benefit (or punishment) contingent on submitting to (or rejecting) sexual advances

-- *Hostile (or poised) work environment* is more subtle but more common e.g. making sexual jokes, spreading sexual rumours, making offensive or suggestive remarks about members of a specific gender, unnecessary physical contact, even paternalistic behaviour based on gender

Employment Equity Groups
Slide 12

## EMPLOYMENT EQUITY GROUPS

- **Women**
- **Members of visible minorities**—person other than an Aboriginal person who is non-white in colour/race, regardless of place of birth
- **Aboriginal peoples**—an Aboriginal person is a North American Indian or a member of a First Nation, Métis or Inuit
- **Persons with disabilities**—person who has a long-term or recurring physical, mental, sensory, psychiatric, or learning impairment

What Other Protections?
Slide 13

## WHAT OTHER PROTECTIONS?

### Protection of Privacy

- PIPEDA (Personal Information and Electronic Documents Act) is a federal law that sets out ground rules for how private sector organizations may collect, use or disclose personal information.
  -- Establishes standards for privacy that have implications for HRM including responsibility to safeguard employee information

### Employment/Labour Standards

- Federal, provincial, and territorial laws are in place to provide minimum standards for employees
  -- e.g. Minimum wage, overtime pay, hours of work and work scheduling, general holidays, annual vacations, parental leave, etc.

### Pay Equity

- Provides for *equal pay for work of equal value* i.e. men and women doing work of equal value must be paid the same
- Attempts to address the *wage gap*—the difference between the earnings of women working full-time versus the earnings of men working full-time



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How are the laws enforced?

Slide 14

## HOW ARE THE LAWS ENFORCED?

### 1. Human Rights Commissions

- The federal government, provinces, and territories have Human Rights Commissions to provide oversight and enforce laws
- Have the power to receive and address Human Rights complaints
  -- Canadian Human Rights Commission (federal) also ensures compliance with the federal Employment Equity Act and pay equity requirements

### 2. Privacy Commissioners

- Ensures compliance with relevant legislation
- e.g. Office of the Privacy Commissioner of Canada; Office of the Privacy Commissioner of Alberta
  -- Establish guidelines for emerging issues e.g. "Guidelines for Social Media Background Checks"

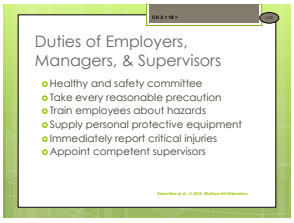
Workplace Health & Safety

Slide 15

## WORKPLACE HEALTH & SAFETY

**Increasingly organizations are approaching occupational health and safety with a values-based commitment to safe operations as a way to protect people**

- **Internal Responsibility System**
  -- Philosophy of occupational health and safety whereby employers and employees share responsibility for creating and maintaining safe and healthy work environments
  -- Create a culture of safety in the organization
- **Workplace Health and Safety Committee**
  -- A key feature of the internal responsibility system
  -- A committee jointly appointed by the employer and employees at large (or union) to address health and safety issues in a workplace
- **Employers, managers, and supervisors have a duty to provide a safe workplace e.g.**
  -- establish and maintain a health and safety committee
  – take every reasonable precaution to ensure the workplace is safe
  -- train employees about any potential hazards; how to deal with hazardous substances, and how to handle emergencies
  -- supply personal protective equipment and ensure worker know how to use the equipment
  – immediately report all critical injuries
  -- appoint competent supervisors who set standards and ensure safe working conditions are observed




Duties of Employers, Managers, & Supervisors

Slide 16



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Employee Rights
Slide 17

## EMPLOYEE RIGHTS AND RESPONSIBILITIES

**Employees have three fundamental rights with respect to health and safety in the workplace:**

- **The right to refuse**—unsafe work
- **The right to participate**—in workplace health and safety activities through a health and safety committee or as a representative
- **The right to know**—or the right to be informed about, actual and potential dangers in the workplace

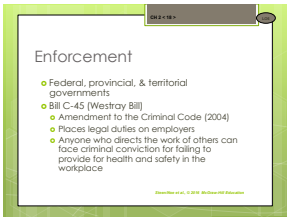
**Employees also have responsibilities:**

- Working in compliance with OH&S acts and regulations
- Using personal protective equipment and clothing as directed by the employer
- Reporting workplace hazards and dangers
- Working in a manner as required by the employer

## WHMIS – WORKPLACE HAZARDOUS MATERIALS INFORMATION SYSTEM

**Canada's national hazard communication program consisting of symbols and warnings—WHMIS 2015 incorporates the Globally Harmonized System of Classification and Labelling of Chemicals**

- **Safety data sheets (SDSs)**--detailed hazard information concerning a controlled (hazardous) product

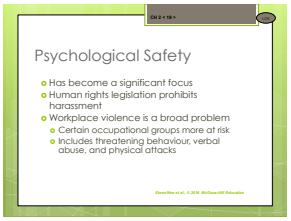



Enforcement
Slide 18

## ENFORCEMENT OF OCCUPATIONAL HEALTH & SAFETY REGULATIONS

**Enforcement responsibilities exist within the federal, provincial, and territorial governments**

- **Occupational Health and Safety Officers/Inspectors**
- **Bill C-45 (Westray Bill)**
  – Amendment to the Criminal Code (named after the Nova Scotia mining disaster) making organizations and anyone who directs the work of others criminally liable for safety offences (maximum conviction includes life imprisonment for failing to provide for workplace health and safety)




Psychological Safety
Slide 19

## PSYCHOLOGICAL SAFETY

**Has more recently become a significant focus**

- **Human rights legislations prohibits harassment**
- **Workplace violence is a broad problem**
  -- Is a particular problem for certain occupational groups e.g. health care workers, correctional officers, social service employees, teachers, retail employees
  -- includes threatening behaviour, verbal or written threats, verbal abuse and physical attacks



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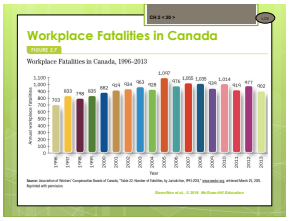
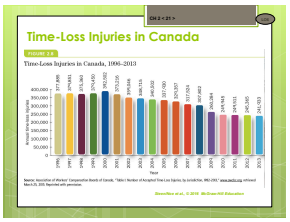


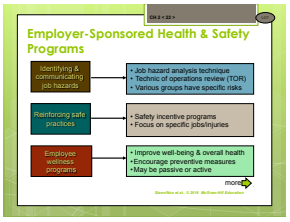

Workplace Fatalities in Canada

Slide 20



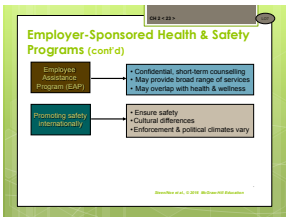

Time-loss injuries in Canada

Slide 21




Employer-Sponsored Health & Safety programs

Slide 22




Employer-Sponsored Health & Safety Programs (cont'd)

Slide 23

## IMPACT OF OCCUPATIONAL HEALTH & SAFETY LEGISLATION

Legislation has been successful in raising awareness, and workplace fatalities have been reduced by almost 18 per cent between 2005 and 2013, however, there were still 902 workplace fatalities in 2013 (Fig. 2.7). There has been a significant reduction in time-loss injuries in recent years. (Fig. 2.8)

## EMPLOYER-SPONSORED HEALTH AND SAFETY PROGRAMS

### 1. Identifying and Communicating Job Hazards

- **Job hazard analysis technique**
  -- Safety promotion technique that breaks down a job into elements, then rates each element for its potential for harm or injury
- **Technic of operations review (TOR)**
  -- Method of promoting safety by determining which specific element of a job lead to a past accident
- **Various groups have risks**
  -- New and younger workers vulnerable to injuries
  -- Shift workers at greater risk for obesity
  -- Experienced workers may become complacent

### 2. Reinforcing Safe Practices

- Safety incentive program to reward workers for supporting safety goals
- May focus on specific jobs or types of injuries

### 3. Employee Health & Wellness Programs

- A set of communications, activities, and facilities designed to change health-related behaviours in ways that reduce health risks
- Aim at specific health risks e.g. high blood pressure, smoking, obesity by encouraging preventive measures such as exercise and good nutrition
  -- **Passive**: provide information and services but no formal support e.g. fitness facilities, health education
  -- **Active**: provide for outreach and follow-up e.g. provide counsellors who tailor programs to individual employees' needs

### 4. Employee Assistance Program (EAP)

- Confidential, short term, counselling service for employees with personal problems that affect their work performance—may overlap with health and wellness programs

### 5. Promoting Safety Internationally

- Organizations need to ensure safety of their employees wherever they are located
- Employees may interpret policies differently because of cultural differences
- Laws, enforcement practices, and political climates vary from country to country—many countries have standards that are far less strict than Canada



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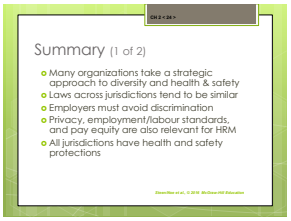
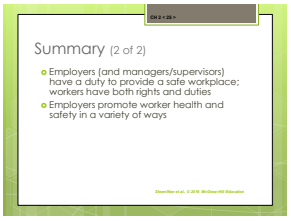



Summary (1 of 2)
Slide 24




Summary (2 of 2)
Slide 25

## SUMMARY

- Many organizations take a strategic approach to diversity and health & safety.
- Laws across jurisdictions tend to be similar.
- Employers must avoid discrimination.
- Privacy, employment/labour standards, and pay equity are also relevant to HRM.
- Employers (and managers/supervisors) have a duty to provide a safe workplace; workers have both rights and duties.
- Employers promote worker health and safety in a variety of ways.

## THINKING ETHICALLY: SIMPLE QUESTIONS CAUSE AWKWARD SITUATIONS

**Case Summary:**
The case examines processes at IBM that go beyond addressing legal requirements to include LGBT issues in the company's diversity program.

**Questions:**

1. Is IBM's policy toward LGBT employees good business? Is it good ethics? Should a company pursue a diversity policy that goes beyond legal requirements? Why or why not?

   IBM's policy toward LGBT employees is certainly good business as well as good ethics. It attracts the respect of not only LGBT customers but also others who appreciate doing business with companies that treat all employees with respect and care. Legal requirements are minimum standards for companies and to do right a company can and should go beyond them.

2. What impact, if any do you think Apple CEO, Tim Cook's announcement will have on creating workplaces where LGBT employees are less likely to feel they need to hide their sexual orientation (gender identity) or endure harassment?

   Student answers will vary, but should stimulate a lively conversation about how societal changes and social values are reflected in individual expectations and organizational approaches to diversity and inclusion.

## EXPERIENCING HR

Divide into groups of about six students. Assign three roles for a role-playing exercise: a human resources manager, an office worker in his or her mid 50's, and the employee's supervisor.

**Background:** The supervisor is concerned about an employee that reports to her. The employee is responsible for shipping and receiving freight at a large privately owned manufacturing company. The employee has been experiencing severe back pain that is making it impossible for him/her to perform his/her job. The employee has just provided the supervisor a medical assessment that states the employee cannot lift more than 10 kg.

Role-play a meeting in which the supervisor discusses the employee's situation with the HR manager. Then, as a group, decide who should meet with the employee and what should be said. Role-play that meeting. Finally, discuss the outcome of the meeting. Was the meeting conducted in a way that will avoid accusations of age (or other) discrimination? Write a paragraph to summarize what you have learned.



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# ANSWERS TO CRITICAL THINKING QUESTIONS

1. "Organizations that value diversity are more likely to meet their employment equity goals." Do you agree or disagree with this statement? Why or why not?

   The responses provided will vary. However, all responses should indicate understanding of the concepts. Organizations recognized as one of "Canada's Best Diversity Employers" may be more likely to attract and retain a diverse workforce. The variety of responses given by students should lead to a lively discussion about the form valuing diversity may take in an inclusive organization.

2. On the basis of your knowledge of diverse religious practices, what types of accommodations might an employer be expected to provide?

   The students responses will vary, however should reflect an understanding of the diversity of religious practices that may require accommodation in the workplace. Some examples include allowing headcoverings such as scarves and kippas to be worn in the workplace; and providing modified breaks, a private area for prayer, and/or flexible hours to accommodate religious observance. Employers may also accommodate employees' religious practices by providing additional leave such as unpaid leave. Encourage students to share their knowledge of diverse religious practices and how an employer could provide accommodation.

3. What is sexual harassment? What are some types of behaviour likely considered to be sexual harassment in a workplace?

   Sexual harassment refers to unwelcome behaviour that is related to a person's sex (gender or gender identity). For example:
   - Sex-specific derogatory names
   - Displaying or circulating pornography, sexual images, or cartoons (including online)
   - Unnecessary physical contact
   - Rough and vulgar humour
   - Paternalistic behaviour based on gender

   Student responses may also provide additional insights about other behaviours that would likely to considered sexual harassment in a workplace.

4. Research minimum wages across various jurisdictions in Canada, for example, Alberta, Ontario, and New Brunswick. Also, conduct online research regarding advertised salaries at traditionally "minimum wage" service-sector jobs such as retail sales and fast-food restaurants in Alberta, Ontario, and New Brunswick. What are your observations and conclusions?

   Answers will vary. Students should also be encouraged to identify employee benefits and other factors that may be part of the employer's total rewards package. For example, some of the employers may be promoting flexible work hours, tuition reimbursement, positive work environment and other aspects that may be particularly appealing to young workers.

5. Do you think that employers violate current or prospective employees' privacy rights when they use social media sites such as Facebook, Twitter, and LinkedIn to conduct background checks? Why or why not?

   The responses given should provide for in-depth discussion among the students about their expectations of privacy when using social media.

6. Have you ever been injured on the job or experienced workplace violence? What types of hazards and hazardous activities might workers experience in these jobs?

   The responses provided by the students will vary contingent upon their personal viewpoints and understanding. The "Did You Know" feature: Top Seven Dangers for Young Workers in the textbook may serve as a helpful starting point for the discussion.

7. What effect does Bill C-45 (Westray Bill) likely have on supervisors' behaviours and attitudes related to workplace safety?

   Bill C-45 may be influential in ensuring focus and concern is placed on safety in the workplace. Bill C-45 should impact attitudes and behaviours of supervisors and managers leading to increased emphasis on creating a culture of safety. Bill C-45 identifies that anyone who directs the work of others can face criminal conviction, even life imprisonment for failing to provide for the health and safety of employees.



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8. Why do you think younger workers are more likely to be injured on the job?

   Student responses will vary but are likely to reflect a variety of potential reasons including inexperience and/or lack of knowledge about hazards associated with the job, and greater willingness to follow a boss's instructions without question. Responses may also reflect positive qualities of younger employees such as eagerness and enthusiasm to complete job requirements in the fastest way possible.

9. Due to demands of your job or expectations of your manager, have you ever felt pressured to text or answer a call while driving (or performing safety-sensitive work)? What were the circumstances? Would you do anything differently in the future? Why or why not?

   Student responses will vary but are likely to reflect a variety of relevant personal insights about the culture of (or lack of) safety in a variety of occupational settings. Responses may also reflect whether or not students know about their fundamental rights protected by occupational health and safety regulations (i.e. right to refuse; right to participate; and right to know).

10. For each of the following occupations, identify at least one possible hazard and at least one action employees could take to minimize the risk of any injury or illness related to that hazard.
    a. Server in a restaurant
    b. House painter
    c. Computer programmer
    d. Worker in a care home for seniors

    The student responses given for this question will vary. However, all answers provided should demonstrate the individual student's understanding of the chapter concepts.



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# CASE STUDY 2.1: AIRPORT SCREENER SUSPENDED FOR ALTERING UNIFORM TO COMPLY WITH HER RELIGIOUS BELIEFS

## Case Summary:

This case explores an organization's duty to accommodate an employee's religious beliefs.

## Answers to Questions:

1. By offering Muse a choice of slacks or a knee-length skirt do you feel CATSA provided a reasonable accommodation to this employee? Justify your answer.

   Although CATSA justified the strict uniform policy as important to keeping a professional image in looking after airport security, this is likely not a reasonable accommodation because neither option was acceptable to Muse's religious beliefs. The long, loose skirt is a form of dress Muse feels is tied to her religious identity which cannot be taken lightly by her employer in providing accommodation. If the employer could prove that there are safety concerns with a long skirt in a security job, this could constitute a bona fide occupational requirement to the uniform standards, but the employer would still be required to accommodate the employee to the point of undue hardship. CATSA did not attempt to accommodate and only gave Muse the choice of following the exact standards or be suspended.

2. Because Muse agreed to wear slacks for several years before telling her employer about her concerns should there be any reduced duty on her employer or CATSA to accommodate? Explain.

   The fact that she wore slacks for years before raising her concern would not lessen the employer's duty to accommodate. It could be argued that Muse felt she couldn't bring forward the concern previously.

3. If you had been Muse's supervisor, how would you have handled her request? Is there anything you would have done differently?

   Answers will vary, but should reflect the perspective that Muse's supervisor at Garda had an obligation to push for her rights with CATSA who set the uniform requirements, especially since Garda allowed the longer skirt for several months until CATSA ruled against it. As Muse's immediate supervisor, you have a duty to do all you can reasonably do to ensure she is accommodated. If you are not familiar with Muse's religious beliefs and associated requirements it would be reasonable for you to ask her for clarification. Some students may suggest that Muse should be responsible to provide documentation to support her request for accommodation, however, this would not be required in most situations where the accommodation relates to religious practices.



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# CASE STUDY 2.2: EMPLOYERS FOUND GUILTY OF CRIMINAL NEGLIGENCE CAUSING DEATH

## Case Summary:

This case discusses worker deaths in Quebec and Ontario that have resulted in criminal proceedings against both organizations and managers since amendments of the Criminal Code were brought in by Bill C-45.

## Answers to Questions:

1. Do you think company managers should be held accountable for a workplace fatality? Why or why not?

   Bill C-45 is quite clear in this regard i.e. that anyone who directs the work of others is criminally liable for safety offences. Discussion may focus on whether or not managers knew or reasonably should have known about the safety shortcomings.

2. Do you think these criminal convictions described in the case will have any lasting effect on improving the safety of workplaces in Canada? Why or why not?

   Student responses will vary but should reflect key concepts. For example, students may be encouraged to consider the few criminal convictions relative to the number of workplace fatalities since Bill C-45 was passed.

# PART 1: VIDEO CASE NOTES

# THE HUMAN RESOURCE ENVIRONMENT

## Video Case: What CEOs Want from HR Professionals (4:11)

### Case Summary:

President and CEO of Ricoh Canada, Glenn Laverty suggests that HR has tended to be positioned functionally rather than strategically in most organizations. Although HR has many regulatory and administrative responsibilities, he wants to see HR thinking outside the box and taking the role of strategic partner to the business. Establishing that role at the executive level provides HR the opportunity to establish credibility and create ability to execute for each and every department.

Laverty suggests that HR needs the CEO's assistance to break through the mindset that still exists in some organizations that HR is just a function and work to open up a true partnership relationship for HR with other departments. He says that should begin with HR being present at strategic planning sessions where HR can put forward their strategies and be highly involved in understanding how they can help leaders in the organization accomplish their strategies. This means that HR needs to be at the executive level, at the strategic planning sessions, and recognize what it takes to partner with the organization to achieve the firm's goals.

### Answers to Questions:

**1. What competencies do you think HR professionals need to fulfill the expectations this CEO has for HR?**

President and CEO of Ricoh Canada discusses the importance of HR being a strategic partner to the business despite the administrative duties that come with the role. The six competencies for the HR professional outlined in Figure 1.4 align with his expectations. For example, the competency, "Operational Executor" would be required to effectively fulfill the administrative duties. The remaining five competences, "Credible Activist," "Cultural and Change Steward," "Talent Manager/Organizational Designer," "Strategic Architect," and "Business Ally" connect directly to Mr. Laverty's desired role for HR to have a true partnership with the business.



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**2. Does this role for HR sound like the kind of career you would like to have? Why of why not?**

Students may respond to this question in a variety of ways.

SOURCE: Based on "What CEOs Want from HR Professionals," *Canadian HR Reporter TV,* November 23, 2011.

# Video Case: Competing Human Rights Claims in the Workplace (3:25)

## Case Summary:

As workplaces become increasingly diverse it becomes inevitable that organizations will face a competing human rights claim. Cherie Robertson, a senior policy analyst at the Ontario Human Rights Commission, explains how creating a competing human rights policy can prevent conflicts from escalating.

The Ontario Human Rights Commission introduced a policy and framework on competing human rights, which is intended to be a useful tool for employers. It is recommended that employers have their own internal competing rights policy so they educate themselves and their staff should a competing human rights issue emerge.

Cherie describes a scenario in which a college professor with a visual disability has a service dog in the classroom to assist with his/her needs, however a student has a severe allergy to dogs and as a result is not able to attend the college professor's lectures. In this case the professor's code-protected right of disability conflicts with the student's code-protected right of disability. She recommends that an organization facing a competing human rights issue educate the parties on each other's rights and see if the parties can work together to brainstorm a solution consistent with legal principles and respects the rights of both parties. If an organization does not a policy on competing rights it becomes vulnerable to having a human rights complaint filed and this can be costly as well as damaging to workplace morale.

## Answers to Questions: (Consider the sample situation of the student and professor described in the video)

**1. Competing rights issues are likely to generate strong emotions. What advice would you have for an HR professional from the college who is prepared to meet with both parties to discuss their rights and possible solutions?**

Student responses will vary but should reflect that the HR professional needs to recognize he/she will be dealing with a potentially difficult issue of competing rights because both persons with disabilities have different and conflicting accommodation needs. Because both rights are of the same type and legal status, these types of conflicts are somewhat unique to disability rights. The HR professional will need to respond with creativity and flexibility to balance the competing needs of the parties. It may also require compromise and flexibility from the student and the professor—who should both be active participants in determining and implementing appropriate accommodations.

**2. What do you think would be a fair and reasonable solution that would respect the rights of both parties?**

Students may respond to this question in a variety of ways but should reflect the college's HR professional exploring possible options to respect the rights of both persons with disabilities. For example, could the students transfer to another class without unduly affecting his or her education? Are there alternative ways of supporting the professor in the classroom in the absence of the service dog e.g. by providing a dedicated person to assist the professor during the class?

Source: Based on "Competing Human Rights Claims in the Workplace," *Canadian HR Reporter TV,* March 31, 2014.
Note: Question responses are based upon "Balancing Competing Human Rights," *Canadian Diversity,* Volume 8:3 Summer 2010, Retrieved: http://www.ohrc.on.ca/sites/default/files/Balancing%20competing%20human%20rights_Diversity%20Magazine_2010.pdf, July 7, 2015.



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# Chapter 2

# The Legal Context for HRM & Creating Safe and Healthy Workplaces

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# Learning Objectives (1 of 2)

- Discuss the importance of valuing diversity and safety
- Describe the legal framework for HRM in Canada
- Explain the importance of human rights and the implications for HRM
- Discuss privacy, employment/labour standards, and pay equity and their relevance for HRM

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# Learning Objectives (2 of 2)

- Explain the context for workplace health and safety
- Identify the responsibilities of employers, and managers or supervisors as well as employees' rights and responsibilities related to workplace health and safety
- Discuss ways employers promote worker healthy and safety

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# The Willow Bean Café

- Partnership that employs people with mental health issues
- Baristas work part-time to develop skills and confidence
- Transition to other employment opportunities after 6 months

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# Introduction

- Federal, provincial, and territorial governments set some limits on HRM
- Can gain competitive advantage by going beyond just legal compliance
- Need to think proactively about fairness in employment and workplace safety

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# Valuing Diversity & Inclusion

- A diverse workforce provides a competitive advantage
- Objectives for diversity and employment equity may be linked
- Create environment where individuals feel valued, respected and able to perform to potential

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# The Legal Framework for HRM

**Federal (6%)**
**(Partial List)**

- Banks
- Air transportation
- Radio & TV broadcasting
- Telecommunications
- First Nations
- Federal departments

**Provincial/Territorial (94%)**

All other businesses not federally regulated
*For example:*

- Retail & hospitality
- Hospitals & health care
- Schools, colleges & universities
- Most manufacturers

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# Protecting Human Rights

- Discrimination
  - Treating someone differently, negatively, or adversely because of a prohibited ground
- Direct discrimination
  - Policies or practices that clearly make a distinction on the basis of a prohibited ground
- Indirect discrimination
  - Policies or practices that appear neutral but have an *adverse effect* based on a prohibited ground

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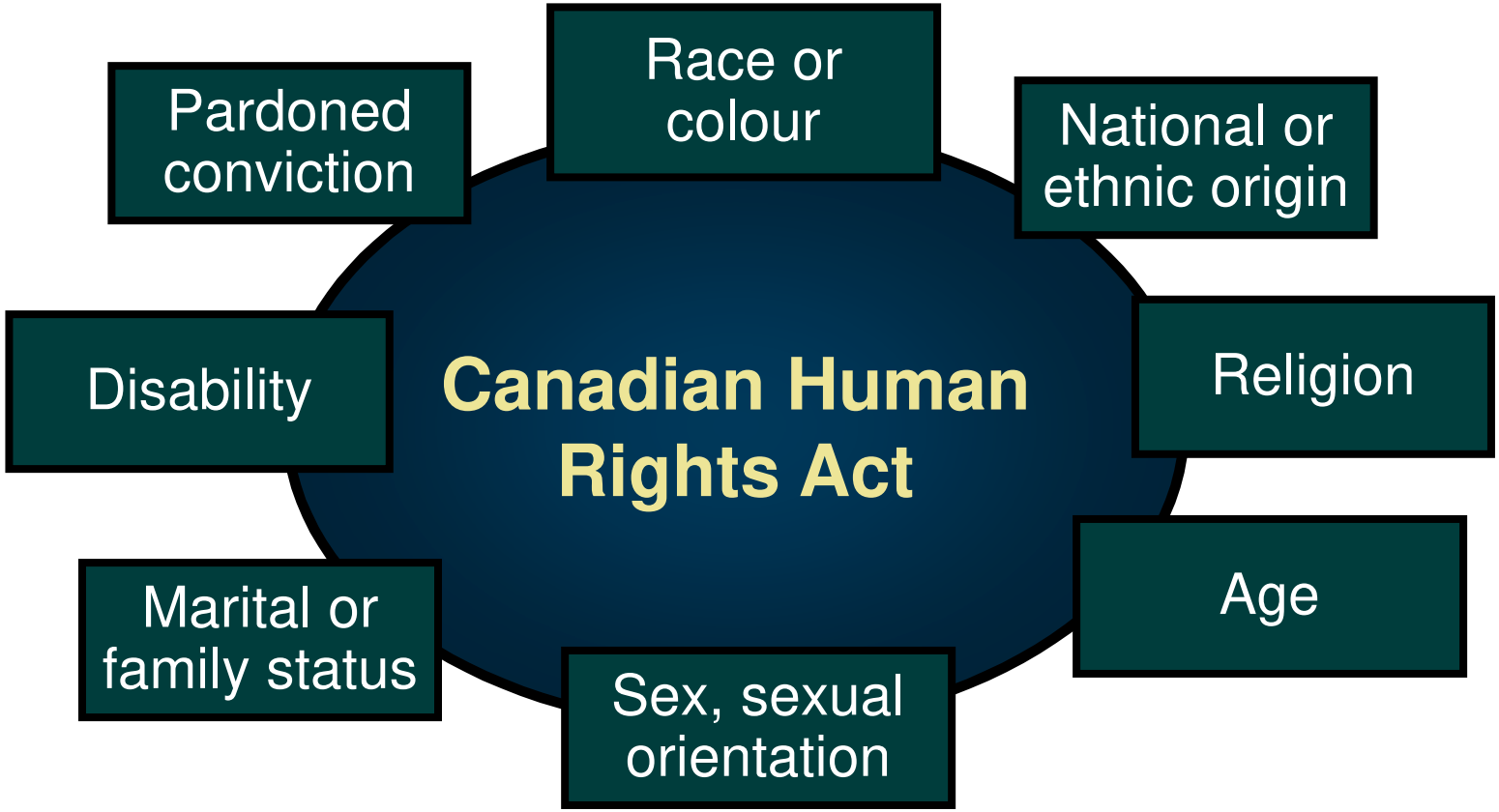
# Prohibited Grounds of Discrimination

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# How Would You Know?

- Differential treatment
  - Treating people differently on the basis of a prohibited ground of discrimination
- Bona fide occupational requirement
  - A necessary (not merely preferred) requirement for performing a job
- Duty to accommodate
  - Employer's duty
  - Extends to the point of *undue hardship*

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# What about Harassment?

- Harassment – a form of discrimination
  - Involves any unwanted physical or verbal behaviour that offends or humiliates
- Sexual harassment
  - Unwelcome behaviour that is of a sexual nature or is related to a person's sex
  - Quid pro quo
  - Hostile (poisoned) work environment

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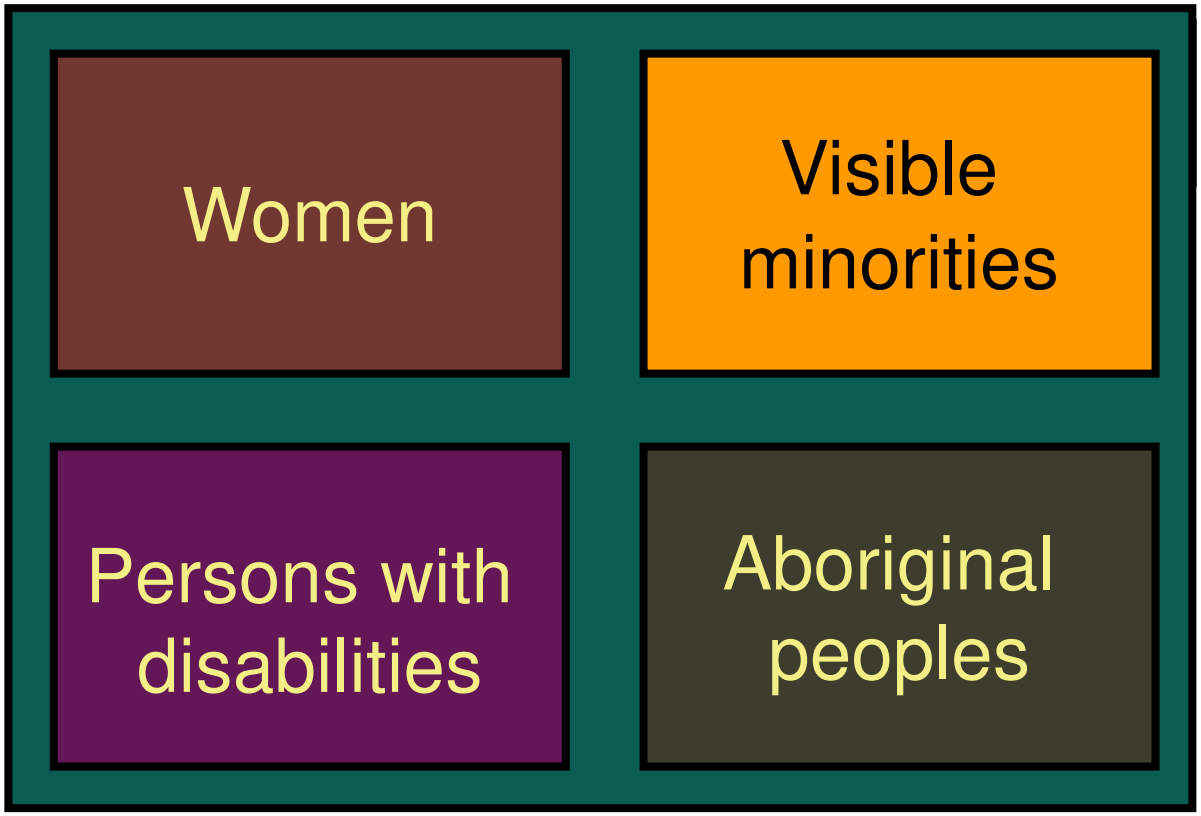
# Employment Equity Groups

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# What Other Protections?

- Protection of Privacy
  - e.g. PIPEDA - federal law for how organizations may collect, use, or disclose personal information
- Employment/Labour Standards
  - Provides minimum standards e.g. minimum wages, overtime pay, hours of work, etc.
- Pay Equity
  - Equal pay for work of equal value

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# How Are the Laws Enforced?

- Human Rights Commissions
  - The federal government, provinces, and territories have Human Rights Commissions to provide oversight and enforce laws
- Privacy Commissioners
  - Ensure compliance with relevant legislation
  - Publish guidelines on emerging issues e.g. "Guidelines for Social Media Background Checks"

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LO5

# Workplace Health & Safety

- Values-based commitment to safe operations
- Internal responsibility system
  - Employers and employees share responsibility for safe and healthy work environments
- Workplace health and safety committee
  - Committee jointly appointed

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# Duties of Employers, Managers, & Supervisors

- Healthy and safety committee
- Take every reasonable precaution
- Train employees about hazards
- Supply personal protective equipment
- Immediately report critical injuries
- Appoint competent supervisors

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# Employee Rights

| The right to refuse | The right to participate | The right to know |
|---|---|---|
| Unsafe work | In workplace health and safety activities | About actual and potential dangers |

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# Enforcement

- Federal, provincial, & territorial governments
- Bill C-45 (Westray Bill)
  - Amendment to the Criminal Code (2004)
  - Places legal duties on employers
  - Anyone who directs the work of others can face criminal conviction for failing to provide for health and safety in the workplace

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# Psychological Safety

- Has become a significant focus
- Human rights legislation prohibits harassment
- Workplace violence is a broad problem
  - Certain occupational groups more at risk
  - Includes threatening behaviour, verbal abuse, and physical attacks

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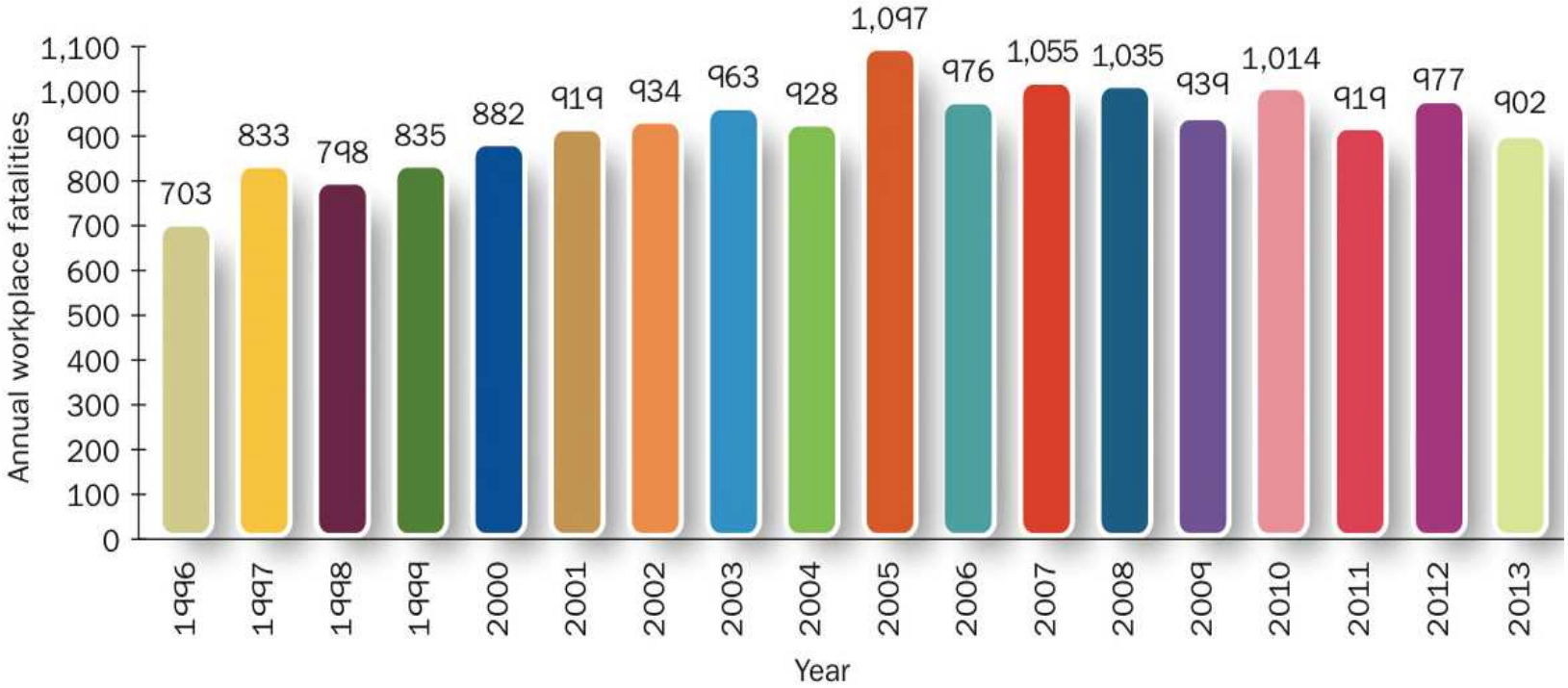
# Workplace Fatalities in Canada

FIGURE 2.7

Workplace Fatalities in Canada, 1996–2013




**Source:** Association of Workers' Compensation Boards of Canada, "Table 22: Number of Fatalities, by Jurisdiction, 1993-2013," www.awcbc.org, retrieved March 25, 2015. Reprinted with permission.

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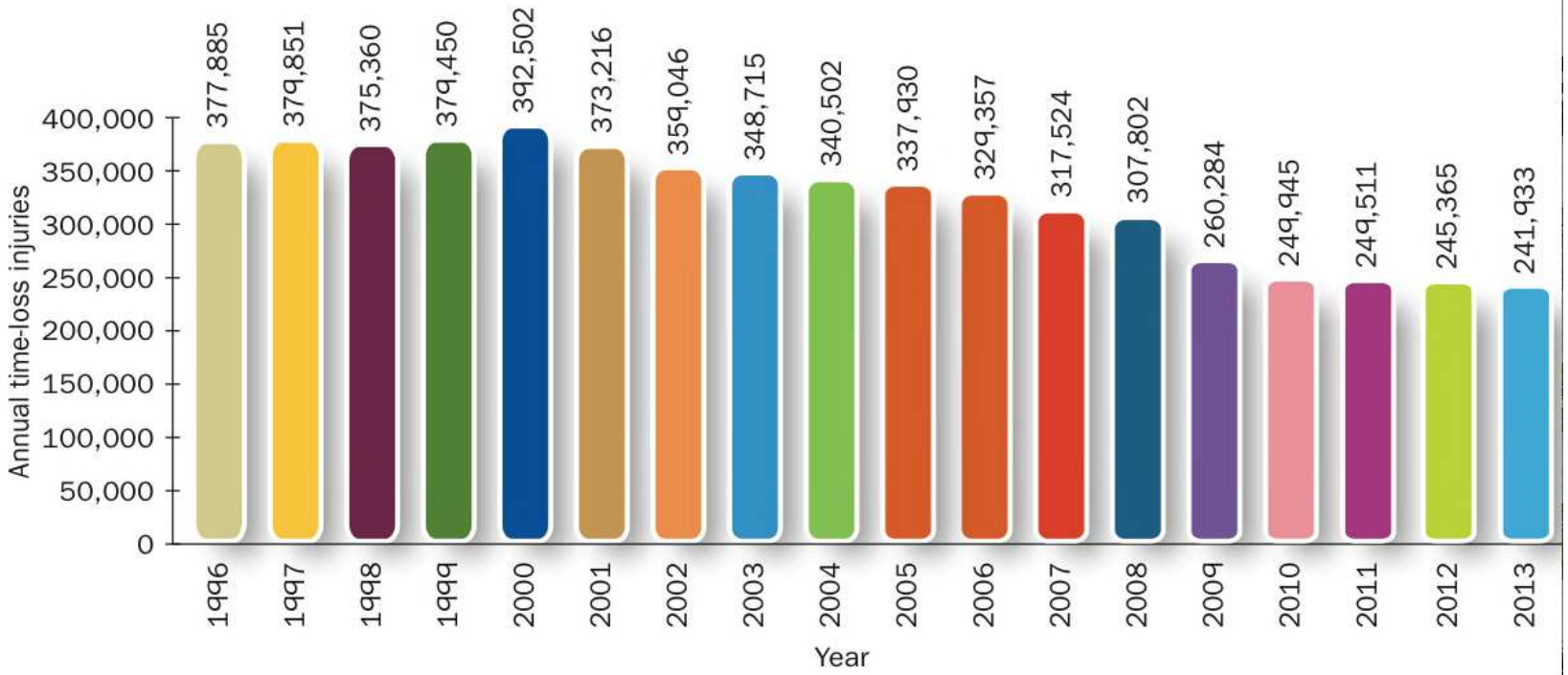
# Time-Loss Injuries in Canada

FIGURE 2.8

Time-Loss Injuries in Canada, 1996–2013




**Source:** Association of Workers' Compensation Boards of Canada, "Table I: Number of Accepted Time-Loss Injuries, by Jurisdiction, 1982–2013," www.awcbc.org, retrieved March 25, 2015. Reprinted with permission.

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# Employer-Sponsored Health & Safety Programs

**Identifying & communicating job hazards** →

- Job hazard analysis technique
- Technic of operations review (TOR)
- Various groups have specific risks

**Reinforcing safe practices** →

- Safety incentive programs
- Focus on specific jobs/injuries

**Employee wellness programs** →

- Improve well-being & overall health
- Encourage preventive measures
- May be passive or active

more

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# Employer-Sponsored Health & Safety Programs (cont'd)

**Employee Assistance Program (EAP)** →

- Confidential, short-term counselling
- May provide broad range of services
- May overlap with health & wellness

**Promoting safety internationally** →

- Ensure safety
- Cultural differences
- Enforcement & political climates vary

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# Summary (1 of 2)

- Many organizations take a strategic approach to diversity and health & safety
- Laws across jurisdictions tend to be similar
- Employers must avoid discrimination
- Privacy, employment/labour standards, and pay equity are also relevant for HRM
- All jurisdictions have health and safety protections

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# Summary (2 of 2)

- Employers (and managers/supervisors) have a duty to provide a safe workplace; workers have both rights and duties
- Employers promote worker health and safety in a variety of ways

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