

**THE UNIVERSITY OF HONG KONG  
FACULTY OF BUSINESS AND ECONOMICS**

**School of Business  
BUSI0026A - Employment and Labour Relations  
2008-2009 Second Semester**

**I. Information on Instructor**

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Consultation times: 4:00pm – 6:00pm; other times by appointment only

**II. Course Description and Objectives**

**Course Description:**

This course proposes to identify and introduce students to some of the current issues in Hong Kong about employment and labour relations, especially at the workplace level. Particular attention is focused upon the way in which employment has been affected by the changing domain of business and work due to factors like the rise of new technology, market globalisation and organizational re-structuring.

**Objectives:**

1. This course aims to equip the students with a basic knowledge on the following current issues about employment and labour relations which affect Hong Kong and other industrial societies.

Labour market reform, the growing importance of human resources and freer international movement of capital and labour have also given rise to a new approach to the notion of employment and hiring of people by organizations. The theme of flexibility in place of job security, and an emphasis upon measured performance in managing the workforce now prevail as the pivotal norms in modern business enterprises. These new trends have reshaped employment relationships between the manager and the managed, the employer and the employed, which have become less collectivised and more individually oriented. Another important aspect of this syndrome is the phenomenon of re-causalisation, that is, the reversion back to part-time employment and temporary short-term hiring, which once reigned in the earlier days of industrialization. The notion and applicability of ‘continuity’ in prescribing a contract of employment and its terms have been swiftly and significantly modified as a result.

Labour law and its development in the global-wide context of labour market de-regulation also need examining as the regulatory framework constituting the normative and ethical infrastructure governing the practice and behaviour of employment and labour relations at the workplace level.

2. The course also intends to enhance the competency of the students of applying the above knowledge to the performance of specialist jobs like human resource management, employment and labour relations consultancy. It will especially be resourceful in instructing the handling of labour-management relations at the workplace level.

**Basic Texts Recommended:**

1. Keith Sisson and John Storey, *The Realities of Human Resource Management, Managing the Employment Relationship*, Buckingham: Open University Press, 2000.
2. Philip Lewis, Adrian Thornhill and Mark Saunders, *Employee Relations: Understanding the Employment Relationship*, Prentice Hall/Financial Times, 2003.

**Additional References:**

1. Greg J. Bamber, Russell D. Lansbury and Nick Wailes, *International and Comparative Employment Relations*, 4<sup>th</sup> edition, London: Sage, 2004.
2. Edwin Rose, *Employment Relations*, 2<sup>nd</sup> edition, Prentice Hall/ Financial Times, 2004.
3. John Storey (ed.), *Human Resource Management: A Critical Text*, 3<sup>rd</sup> edition, London, Thomson Learning, 2007.
4. Ng Sek Hong, "Hong Kong", in the series Rodger Blanpain (ed.), *International Encyclopedia of Labour Law*, The Hague, Netherlands: Kluwer, 1997, ELL Supplement 190.
5. Ng Sek Hong and Carolyn Y.W, Poon, *Business Restructuring in Hong Kong: Strengths and Limits of Post-industrial Capitalism*, Hong Kong: Oxford University Press, 2004.

### III. Learning Outcomes

1. Students are expected to acquire a basic understanding on the key issues benchmarking the subject-area of employment and labour relations as outlined in the course objectives given above.
2. In order to have a basic conceptual background for understanding and examining the above issues, students in the course will also be provided with a broad overview of the key concepts which have evolved in benchmarking the field of labour and employment relations. The major theories to be introduced pertain essentially to trade unionism, labour market, collective bargaining; employee participation and empowerment and industrial conflict. Student should have a basic knowledge about these notions and theories.
3. The course structure is designed to cover altogether ten topics, the listing and description of which are appended to this course outline. Students should therefore be able to demonstrate to have appreciated the main vein of discussions pertaining to each of these ten topics.
4. Students should be able to apply what have been learnt in this course to the professional practice as human resource managers, employment and industrial relations officers / consultants, employers' association and trade union officers and labour officials in the public service.
5. The course lays the theoretical groundwork for postgraduate studies and enables these students to pursue research work in the field of labour and employment studies.

### IV. Teaching and Learning Activities

1. Two-hour lecture per week – All students are required to attend the two-hour lecture.
2. One-hour group presentation per week – Topic Questions and Cases will be discussed and each group will make a presentation of their case analyses.

### V. Assessment

Assessment	Points
<b>Continuous Assessments</b>	
<b><u>Group Work</u></b>	
1. Case Analysis and Presentation	15%
2. Presentation Group Report	15%
<b><u>Individual Work</u></b>	
1. Attendance & In-class Participation in Lecture	10%
2. Individual Essay	30%
<b>Comprehensive Final Examination</b>	30%
<b>TOTAL POINTS</b>	<b>100%</b>

## **VI. Standards for assessment**

1. Presentation will develop students' ability to summarise major case issues, prepare for case discussion, evaluate and apply the concepts learned and present their case analysis.
2. Individual assignments will enable student to further develop their problem solving skills.
3. Final examination will test students' understanding of basic concepts and their ability to evaluate, integrate and apply knowledge learned in the course.

## **VII. Academic Conduct**

**Respect your instructors and your fellow students. Be considerate to others.**

Students are required to attend all classes (Lecture, Small Group Discussion and Tutorial Sessions) **on time** and should not enter the classroom 15 minutes after the class' scheduled starting time. If you have to leave the class early, please inform the instructor before the class begins. Please sit near the door and exit quietly. If you fail to inform the instructor before you leave, no credit will be given for your class attendance.

Please observe the following class rules when the class is in session:

1. Do not talk to your fellow students
2. Do not read newspaper or magazine
3. Do not use your hand phone (please turn off your hand phone and beeper)
4. Do not eat or drink in class
5. Do not leave the class without permission

Any violation of these class rules will be subject to point reduction (e.g., 10 points for each violation) and possible dismissal from the class.

## VIII. Course Schedule

Week	Date	Topic
1	Jan 13	Course Introduction
	Jan 15	Topic 1: Introduction and Overview
2	Jan 20	Topic 1: Introduction and Overview
	Jan 22	Topic 2: Labour Law and Employment
3	Feb 03	Topic 2: Labour Law and Employment
	Feb 05	Topic 2: Labour Law and Employment
4	Feb 10	Topic 3: Hong Kong Labour Law and Enforcement
	Feb 12	Topic 3: Hong Kong Labour Law and Enforcement
5	Feb 17	Topic 4: Changing Patterns of Employment and Implications for Workplace Labour Relations
	Feb 19	Topic 4: Changing Patterns of Employment and Implications for Workplace Labour Relations
6	Feb 24	Topic 5: The New Horizon of the Workplace (I): The Rise of Human Resource Management and Implications for Workplace Labour Relations
	Feb 26	Topic 5: The New Horizon of the Workplace (I): The Rise of Human Resource Management and Implications for Workplace Labour Relations
7	Mar 10	Topic 6: The New Horizon of the Workplace (II): Globalisation and Transnational Movement of Capital and Labour
	Mar 12	Topic 6: The New Horizon of the Workplace (II): Globalisation and Transnational Movement of Capital and Labour
8	Mar 17	Topic 7: Workplace Communication and Collective Bargaining
	Mar 19	Topic 7: Workplace Communication and Collective Bargaining
9	Mar 24	Topic 8: Industrial Conflict and Workplace Labour Relations
	Mar 26	Topic 8: Industrial Conflict and Workplace Labour Relations
10	Mar 31	Topic 8: Industrial Conflict and Workplace Labour Relations
	Apr 02	Topic 9: Trade Unionism and Hong Kong's Labour Movement
11	Apr 07	Topic 9: Trade Unionism and Hong Kong's Labour Movement
	Apr 09	Topic 9: Trade Unionism and Hong Kong's Labour Movement
12	Apr 14	Topic 10: Labour Market Reforms and Employment Relations : PRC and Hong Kong Experiences
	Apr 16	Topic 10: Labour Market Reforms and Employment Relations : PRC and Hong Kong Experiences
13	Apr 21	Topic 10: Labour Market Reforms and Employment Relations : PRC and Hong Kong Experiences
	Apr 23	Course Review

**\* The information in this syllabus is subject to change and any changes made to this syllabus will be announced in the class.**

## **Appendix**

### ***Topic one: Introduction and Overview***

The first topic gives a brief introduction on the notion and scope of employment and labour relations in the present context of business and work organisation. The concept is always embracing and generic in scope. It covers aspects like the formal labour contract, employment and labour law, work group and employee participation, pay and wage negotiation, collective bargaining and staff consultation, grievances and discipline, labour-management disputes, strikes and lockouts, staff communication and workplace dialogue, disclosure of information, industrial democracy and joint labour-management regulation of workplace rules (i.e. industrial governance). All these issues are primarily focused at the micro level of an enterprise and are hence labelled widely as workplace employment relations. The nature of these workplace relations can be either individual or collective. These activities often interface with the management of human resources, or the management of people at the workplace level, as both deal with and address more or less the same subject-matter – i.e. the two parties to employment on the shopfloor.

There is also a macro dimension to the study of employment and labour relations. Sometimes, this is also described as the ‘institutional’ perspective. The institutions involved at the wider level of an economy and society are the government, the employers and their associations, and the workers and their union organisations. The importance of these three types of institutions is that they are representative of three kinds of collective interests in society: business (employers), labour (workers) and public (government). These agencies are also the key participants in the formulating of employment and labour legislation, as well as associated public policies governing employment and labour matters conducted at the workplace level. These processes involve three representative parties and are hence labelled as a system of ‘tripartitism’, which is practised in Hong Kong by the Labour Advisory Board or, at the worldwide level, by the International Labour Organisation (ILO) as an international agency.

### ***Topic Two: Labour Law and Employment***

This topic reviews briefly the role of law in governing employment and labour relations at the workplace level. First, labour law has the basic function of protecting the employees’ rights and interests at the place of work where they are subordinated to the employers’ authority. Such authority, which legitimates the exercise of managerial prerogative, control and command is derived from and buttressed by the labour contract. The role of (labour) law at employment can hence be perceived to set and prescribe a body of minimum standards limiting the employers’ power, governing the conditions of the employed and shelter him/her from the risk of being exploited. Any purported reductions or deprivations of these statutory entitlements, like holidays and annual leave, sickness and maternity pay, are not legal.

Second, labour law has a ‘peace-keeping’ significance by defining the mutual relationship between the two parties, the employer and employed, and the rights and duties belonging to either party. It therefore helps reduce ambiguities and conflicts between these actors at the workplace level. Labour law is hence regulatory from this perspective and can be embracing both aspects of individual as well as collective relations. An example is employment law governing the labour contract which is individualistic in the workplace context. The common law of the English tradition always assumes equal status and power between the employer and employed. However, such an assumption has now been considered as a legal ‘fiction’.

Collective labour law, by contrast, does not govern directly the conditions for the buying and selling of labour, as a labour contract and an employment standards law do. However, such law normally helps to regulate the collective organisations of the employees and the employers, as unions and employers’ associations, respectively as well as their mutual relationship. A benchmark principle of human rights commonly used for developing the law in this domain is that of ‘freedom of association’. Collective labour law also covers the law of conflict, given the nature of opposing interests between the employers and employed in a ‘marketised’ economy. These legal provisions always enable the government and its public agencies to intervene into individual workplace grievances, collective labour disputes, strikes and work stoppages, often with a view of assisting the parties to resolve and settle their conflicts.

### ***Topic Three: Hong Kong Labour Law and Enforcement***

This topic examines and appraises the Hong Kong system of labour and employment law, alongside the enforcement agencies.

In Hong Kong, the legal infrastructure of employment and workplace labour relations is constituted at its core of the Employment Ordinance, which protects wage payment and prescribes a statutory floor of employment standards. This topic introduces the students to the main body of these provisions and explains briefly why they have been viewed as increasingly burdensome by employers and conversely, still inadequate by employees and their trade union organisations.

Another piece of labour legislation which regulates the rights and freedom of trade unions and employers’ associations is the Trade Unions Ordinance. This Ordinance, alongside the Labour Relations Ordinance, also defines the legal perimeters for the conduct of industrial actions like ‘picketing’, work stoppages and strike. The Labour Relations Ordinance also empowers the government and its public agencies to intervene in a collective labour dispute in line with a body of prescribed procedures.

By virtue of an enactment in the mid 1980s, moreover, employees who are owed wages from their insolvent employers are able to recover their pay by applying to a statutory board which administers the 'Protection of Wages on Insolvency Fund'. This 'safety-valve' arrangement has proved its ample hedging effects during the recent recession.

The topic also looks at the two principal agencies which are responsible for settling industrial conflict in Hong Kong. The first is the Labour Department, which organises both i) a voluntary conciliation service to assist the disputing parties to arrive at an amicable settlement and ii) a Minor Employment Claims Adjudication Board, which has authority to decide on claims and determine awards pertaining to grievance disputes. The second agency is a judicial institution which acts like a quasi industrial court. This is the Labour Tribunal, established since 1972 by the Labour Tribunal Ordinance. The Tribunal is presided by a career judge and is competent to hear labour disputes of rights involving claims for the recovery of breached entitlements and awards of compensation.

This topic also reviews other functions of the Labour Department as the executive arm of the SAR government in the field of labour administration. In this capacity, the Department is the authority enforcing labour legislation and deals with the implementation of public policy on labour and employment affairs.

#### ***Topic Four: Changing Patterns of Employment and Implications for Workplace Labour Relations***

This and the next topics propose to examine a pervasive agenda, both local and worldwide, of re-writing the assumptions and key issues of workplace labour relations among enterprises as business and employing units.

Some of the strategic factors in industry, economy and society which give rise to these shifts in yielding a new 'paradigm' for the workplace are traced and discussed. These include: i) the hectic advance of technology leading to a new frontier of information industry; ii) automation and electronics networking; iii) globalisation of trade, business and economic activities; iv) business re-organisation and cost rationalisation to improve competitiveness and enhance performance; and v) re-structuring of industrial societies and their economies as they enter the era of 'post-industrialism' and highly urbanised 'modernity'.

An almost universal theme of these industrial shifts is hence the uplift of the economy from the 'primary' and 'secondary' realm into the 'tertiary' realm. The resulting decline of the manufacturing production activities, which gives way to the rise and expansion of technology and knowledge-intensive and high value-adding industries, have altered drastically the occupational and skill structure in an economy. This topic

is hence to explore how a steady process of conversion of an economy from a concentration upon blue-collar industrial employment to that upon white-collar service employment has affected expectations and orientation of the workforce and in turn, workplace labour relations.

In particular, a dual set of emerging new phenomena in the domain of labour market and employment practices are worth noting for their key implications for the workplace.

The first is the rise of white-collar unionism as a new form of collective union power. However, this drift towards a 'black-coated' labour movement has been counter-balanced by an overall retreat in trade unionism and working class consciousness. Concomitantly, there has also been a creeping growth of a new ideology of 'individualism' propagated by the 'human resource' perspective for people management at the workplace – which levies a quest for quality of performance in selection, hiring and pay.

The second is the decay of the principles of permanency and job security as a basic employment practice and hiring norm. The trendy shift towards flexi-hiring has the effects of i) de-regulating the labour protection norms of providing safeguards on job security; and ii) re-casualising the 'non-core' segments of the labour market. The widening share of the peripheral workforce breeds concomitant problems of low pay, job insecurity and other pathos of part-time employment above and beyond the nominal advantage of flexibility and cost saving. Because of their 'marginality' and transient status of employment, these temporary workers are not easy to organise collectively and have to depend more upon the government than self-strength to protect their rights and interests. Atypical employment as a popular trend in the labour market has also worked to the detriments of trade union organisation.

***Topic Five: The New Horizon of the Workplace (I): The Rise of Human Resource Management and Implications for Workplace Labour Relations***

This topic deals with one of the key issues which now emanates at the workplace because of the shifting pattern of managing people at enterprises. The apparent emphasis attached by modern businesses to knowledge-based performance has given rise to a new managerial consciousness about the strategic role of human resources in sustaining business success and competitiveness. The students will hence be given a brief introduction to the notion of human resources management and its practices at the workplace level.

An important implication of the human resource approach to managing people and work is the attention employers and employing organisations now give to the selection and education (i.e. training and development) of the personnel hired as a

piece of asset. However, in order to justify such investment in the human asset and capital, the individual employee needs to prove his/her competency, proficiency and ability at performance. The growing concern of human resource management with measuring the relative worth of jobs and the relative worth of people has led to an emphasis upon performance appraisal, performance pay and performance management, as based upon equity norms of parity and equality in giving employees access to opportunities. These new human resource prescriptions have, however, bred a new drift at the workplace towards 'individualism' and competition among employees in bidding for the organisation's recognition of individual excellence at performance and pay reward.

In addition, performance measures also become a control device for identifying the low performers who are liable to be laid off or retrenched in an exercise of down-sizing. To this extent, human resource management may imply a coercive connotation which erodes adversely the individual sense of job security and commitment and loyalty to the employing organisation.

This topic will summarise, by making reference to the Hong Kong situation, the paradoxical effects arising from the human resource prescriptions now in popular practice at enterprises for workplace labour relations.

***Topic Six: The New Horizon of the Workplace (II): Globalisation and Trans-national Movement of Capital and Labour***

This topic presents another emergent feature amidst the shifting contours of employment and workplace labour relations due to the cross-border movement of both capital and labour.

Multinational corporations (MNCs) as the carrier of foreign capital are always known as the pattern-setters of modern employment and human resource practices in the labour and wage markets of the host economy. They become what labour economists describe as employers in the 'primary sector' or upper tiers of these markets. However, these transnational enterprises are also evasive and even hostile towards trade unions and avoid engaging in collective bargaining with them. This is in part because the MNCs feel confident in the relative superiority of their pay and human resource practices in the labour market – which makes collective bargaining unnecessary. In part, it is also due to the ability of the MNCs to evade and avoid dealing and bargaining with local unions because of the ease with which they can disguise profits by way of internal transfer of earnings and surplus among branches and subsidiaries. It has also been argued that the MNCs tend to evolve and propagate a strong corporate culture and also expect employee loyalty which can conflict with labour's unionised solidarity.

Workplace labour relations at enterprises funded by foreign capital can also be problematic for other reasons. For example, the labour force at these workplaces is always segmented between a 'core' of headquarters staff and a wide periphery of local employees and such a state of 'dualism' in employment practices can strain staff relations. These ethnicity-based differentials in pay and career opportunities have given rise to recent movements aimed at 'localising' appointments at senior levels and later, also 'equalising' access to opportunities and pay across all ethnic groups because of the popularisation of 'human rights' norms at the workplace level. In addition, expatriate assignment of personnel from the headquarters in a global context of manpower utilisation has become another important topic on the human resource agenda of enterprises which are establishing subsidiaries overseas.

Adding to the complexity of the workplace labour and employment profile is the growing diversity of the workforce in a post-industrial society. Such an ethnic plurality is due to admission and hiring of guest workers recruited from overseas. This type of foreign migrant workers, known as 'imported labour' in Hong Kong, has been resisted strongly by the trade union movement and given rise to perennial tension between organised labour and employers, when labour importation was liberalised at the beginning of the last decade because of acute labour shortages. Management of workplace labour relations can become problematic among these groups since employers are required by the government to recruit these imported workers as a special group governed by industry-specific quotas and an elaborate body of labour protective regulations.

### ***Topic Seven: Workplace Communication and Collective Bargaining***

This topic outlines the interrelated notions of workplace communication, labour-management consultation and disclosure of information. The interface between workplace labour consultation and collective bargaining as the basis of a new East Asian approach to the 'non-adversarial' practice of workplace labour relations is also discussed and examined. This prescription, heralded as a new spirit of labour-management co-operation in place of the antagonistic perspective behind traditional western-style collective bargaining, is inspired by the Japanese system of consultative management and is promoted under official sponsorship in such reformed and new economies as PRC, Singapore and even South Korea and Taiwan. Consultative bargaining is hence devolved to the workplace level and is generally viewed as congruent with human resource management in approaching work and workplace human relations.

This topic looks at the Hong Kong pattern of workplace communication and explore, albeit speculative and tentative, the prospect for it to evolve and become institutionalised as a workplace system of consultation-cum-bargaining, Hong Kong style.

### ***Topic Eight: Industrial Conflict and Workplace Labour Relations***

This topic focuses upon the pattern of labour-management conflict and disputes among enterprises in Hong Kong. These conflicts can assume the form either as disputes of interests or disputes of rights. They can pertain also to disagreements and discords over substantive as well as procedural issues. They can be pursued individually, often as grievances disputes or collectively, as when the workers stage a strike. In Hong Kong, individual grievances over the alleged deprivation of rights and entitlements at employment are labelled and processed as 'claims'. They can be submitted by the disputing parties to the Labour Relations Service of the Labour Department for conciliation or are actionable at the Labour Tribunal for judicial determination.

This topic also looks at the incidence of collective labour-management disputes, and of strikes when labour disputes result in work stoppages. Strikes and working days lost due to strikes are often taken as the standard international indicators of industrial harmony and peace in an economy. In Hong Kong, the incidence of strikes has been consistently sparse and lends evidence to the relative stability of industrial relations at the economy-wide level. However, there were landmark disputes during the previous two decades, such as the strike at the Mass Transit Railway Corporation in 1983 and the strike at the Cathay Pacific Airways in 1992, which were symptomatic of key issues in the law of industrial relations and industrial conflict in Hong Kong. The first problem pertains to the trade union's rights of recognition by the employers and the second concerns the need for formalising protection of the workers' right to strike, as enshrined in the law book.

This topic also discusses how the economy's downturn persisting after the East Asian financial crisis of 1997 has affected the state of labour and industrial harmony in Hong Kong.

### ***Topic Nine: Trade Unionism and Hong Kong's Labour Movement***

This topic gives a brief review of the theories of trade unionism which explain and exemplify the principles behind workers' associations and combinations into trade unions. Workers' collective organisations can be traced back to the writing of the Webbs (about 'industrial democracy' and 'collective bargaining') and Karl Marx (about the 'working class' and its consciousness) during the period of the Industrial Revolution in Britain. The functions, purpose and structure of trade unions have evolved through a process of significant changes as an industrial society develops. Such a evolution process is also discussed. However, labour unions still retain their essential nature as workers' defensive self-organisations and vested with a primary role to act as the representative agency of the employees, both to bargain collectively with the employers and also to lobby the government in public policy making in the labour and employment fields.

This topic also examines and explains the recent trend of a worldwide decline in the strength of unionisation and erosion of collective bargaining activity. Two key factors appear to be most commonly cited. The first is the 'bureaucratic' growth of collective bargaining and exhaustion of its scope. The second is the latest trend of business re-structuring and the popularisation of the human resource approach to people management at the workplace level, widely perceived to be supplanting and hostile towards trade unionism.

Besides reviewing the implications of the above two factors for the Hong Kong trade union movement in the recent periods, the topic will also examine the stimulation of the political power of organised labour and workers' organisation in Hong Kong during the political transition before and after the 1997 handover. The topic takes a cursory look at the thesis of re-politicisation of the labour movement in this context.

### ***Topic Ten: Labour Market Reforms and Employment Relations: PRC and Hong Kong Experiences***

This topic looks at briefly how new labour reforms under the national agenda of building 'market socialism' have altered the nature of employment and workplace labour relations inside China. The reforms led to an enactment of a Labour Law in 1994 for governing standards at employment. Such a law codifying the practice of labour and employment standards suggests signs of PRC's convergence with other 'marketised' economies in evolving a properly regulated labour market, which can be benchmarked against the employment systems in the capitalist industrial societies. Another converging phenomenon between China and the west is the complex process and problem of business rationalisation and down-sizing employment at the state-owned enterprises, which are analogous to those experienced at corporate bureaucracies in western economies burdened earlier as a result of growth stagnation in the eighties and nineties.

Hong Kong has also been faced with a lengthy process of painful adjustments and reforms in its employment and labour market but these efforts are more led and brought about by market forces than by government direction and intervention. This topic traces the background and causes leading to these changes, and examines some key aspects of the 'de-regulation' phenomenon in the labour market, like the admission of foreign imported workers and the growth of part-time employment and the 'casual' labour market. These developments also have important implications for workplace labour relations and trade union strategy, which are hence worth noting.