

Lecture 1, Jan 5, 2026

Introduction to Law – Jurisdiction and Types of Law

- When analyzing a legal situation, we need to know where we are and what time it is:
 - Laws only applies to a specific *jurisdiction* (e.g. municipal, provincial, federal), though most places have similar laws but this cannot be assumed
 - Laws change over time, in response to changes in society's values and beliefs; changes in laws follow changes in societal norms
- Laws can often be immoral, but is always binding
- Laws are often not rigid, i.e. they can be subject to interpretation, due to the principle of *common law*
 - Statutes (Acts passed by Parliament) need to be interpreted as a whole, with the whole context
- Structure of law in Canada:
 - Constitutional monarchy: the King is the head of state, represented by the Governor General in Canada
 - The constitution is *uncodified*: there is no single codified constitution document, but there are a number of documents making it up (e.g. the Constitution Act, Charter of Rights and Freedoms), and implicit precedent
 - Federal state: federal and provincial governments can establish statutory law (Acts) within their sphere of powers (s. 91, 92 of the Constitution Act)
 - * They cannot get into each other's sphere of power (but they often try, which ends up debated in court)
 - * The federal government is responsible for inter-province responsibilities (e.g. foreign affairs, defense, budgets) while provincial governments are responsible for local affairs (e.g. education, policing, healthcare)
 - However the federal government often controls funding, so they can exert influence by withholding funds from provinces
 - * Authority can be delegated to organizations, e.g. government agencies (CRTC), municipalities (Toronto), or professional regulators (PEO)
 - Territories are not established by the constitution, but have powers to pass their own laws; they are similar to how provinces makes municipalities
 - *Bijural*: Canada has both common law (in most of Canada) and civil law (in Quebec)
 - * Common law has unwritten parts and based on precedent set by judges (and written statutes), while civil law is codified and judges only interpret the law
 - Often set by judges in higher courts (e.g. appeals courts, supreme court)
 - Treaties govern the relationship between the federal government and indigenous peoples
 - Other countries have different structures, e.g. the US has constitutional divisions of power between branches of the government (which Canada does not have in its constitution), Britain's constitution is completely uncodified
 - Types of law:
 - *Public law*: relating to the society as a whole, e.g. constitutional law, criminal law, administrative law, international law
 - *Private law*: relating to individual interactions, e.g. contracts, torts, property law
 - Law can come from many sources:
 - Statutes/Acts passed by parliament
 - * Note *bills* are statutes before they are passed, as they are being discussed in parliament
 - Regulations derived from statutes (e.g. specific requirements on toxic chemical levels)
 - * Statutes create regulatory bodies, which can handle matters under the statute and often have administrative tribunals to handle issues and disputes
 - * Regulations are laws passed by the regulatory body that allows it to do its work, which is like a very narrow and specific version of a statute
 - Municipal by-laws
 - Codes of conduct from professional organizations (e.g. PEO Code of Ethics)
 - Case law (precedent in common law)

- Tribunal decisions (delegated courts)
 - * These are considered less when reviewing precedent but can still be valuable in their interpretation
- e.g. for a pipeline, the federal government controls natural resources, First Nations control resources on treaty lands, and various different provincial regulatory bodies exist depending on where
- The Charter of Rights and Freedoms protects individuals from actions of the government, while the provincial Human Rights Code protects individuals from the action of others

Lecture 2, Jan 16, 2026

Finding Applicable Law

- Municipalities derive their power from the province (e.g. Municipal Act in Ontario)
- In Ontario municipalities can have many names (e.g. city, town, township, village, region, district, county, etc.)
 - *Lower tier* municipalities are often small and are only responsible for a small and local subset of services, with the others handled by upper tier municipalities
 - *Upper tier* municipalities are regional governments that provide broader services (e.g. land-use planning, water and sewage, solid waste, etc)
 - Counties are upper tier municipalities that exist in Southern Ontario
 - Districts are bigger than counties, often in Northern Ontario (e.g. manages roads)
 - Some municipalities (e.g. Toronto) are single-tier
- Conservation authorities are local public sector organizations established by the province (e.g. for a specific river or area)
- A single project often involves many different tiers of government regulations, e.g. a dredging project might involve the local conservation authority, the upper tier and lower tier municipality
- Guidelines are codes and best practices set by industry or administrative bodies, which are not legally binding, but must be recognized and understood when working on a project
 - However, failure to adhere to standards can result in lawsuits for negligence or worse; adherence can be used as legal defense arguments to excuse the maker from negligence
 - Can be issued by governments, professional associations, etc.
- Standards are set out by organizations to ensure consistency and compatibility between products
 - Can come from many sources, e.g. international standards (e.g. ISO, IEEE), national, provincial

Association of Professional Engineers of Ontario

- The Association of Professional Engineers of Ontario (PEO) is the professional administrative body governing engineers in Ontario
 - Other provinces have different governing bodies, and each one manages its own membership
 - PEO is responsible for membership registration, professional obligations, enforcement, education, etc; in general its goal is to ensure engineers practice at their highest level of standards
 - The “right to title” is the protection of the title used by engineers and other professionals
 - The “scope of practice” is the protection that no one other than a registered engineer can practice in the area
 - PEO has powers to discipline any members, operating with a discipline committee similar to a tribunal system
 - * “Discipline” is the process of charging a member for incompetence or breach of duty, while “enforcement” is the process of charging a non-member for violating the right to title or scope of practice
- As a professional administrative body the PEO has powers to create regulations, e.g. regarding licensing requirements, code of ethics, definition of professional misconduct, etc
 - The Code of Ethics is broad and includes more than just adherence to standards (e.g. known issues must be addressed)
 - Breaches of Code of Ethics may result in both civil and legal prosecution (e.g. fraud, negligence)

- * Civil courts will use the Code as a basis for what an engineer should do
- *Negligence* is the failure of the engineer's duty to act fairly and impartially, and with absolute integrity to all parties
 - * Engineers have a duty to act according to the Code, even if compromises are requested by the client
- Engineers have certain duties:
 - Act as faithful agents
 - * Opinions must be presented impartially
 - Conduct themselves with courtesy
 - Present fairly the consequences if professional judgement is disregarded
 - * Clients can choose to ignore this but the consequences must be communicated
 - Ensure awareness of all environmental and societal consequences of a project
- The Professional Engineers Act sets the Code of Ethics
- Bulletins are more lightweight than guidelines and services to provide best practices to the engineer; guidelines carry more weight
 - Guidelines or bulletins are best practices but are not always obligatory since each situation is unique
 - * However, deviations from guidelines should be justified and the reason documented
 - Standards must be followed or the engineer risks disciplinary action
 - PEO establishes performance standards and sets out practice bulletins

Lecture 3, Jan 19, 2026

Introduction to Common Law

- Common law comes from judges' written decisions in trials, or decisions of appellate courts, SCC, or from administrative tribunals
- There are several levels of courts in Canada:
 - The supreme court is the court of final appeal
 - Federal courts hear matters that involve the federal government (e.g. taxes, immigration, IP, etc)
 - * This is divided into a trial division and a court of appeal
 - Military courts handle military matters
 - Provincial courts are the ones that deal with most issues
 - * The superior courts can hear anything in the province
 - * Appeal courts are above the superior courts
 - * Judges are appealed federally, but paid for provincially and court is run by the province
- Lower courts are bound by precedent of higher-level courts
 - All courts are bound by the SCC
 - Provincially, every court is bound by the Courts of Appeal of that province
 - Decisions from other provinces can be influential but not binding
- When considering relevant precedent, it's important to note:
 - Older case law may be less applicable (or be entirely rejected) since the law and societal values change over time
 - Cases currently under appeal are unreliable
 - All relevant cases must be considered, from all views
 - Facts are extremely important for applicability; a small change in facts can lead to totally different decisions
 - * However principles can still be derived from different types of cases
- Facts are introduced via evidence – documents and testimony that courts accept
 - Evidence law is concerned with what kind of evidence can be submitted as reliable, i.e. what is admissible evidence
 - Evidence law may come from statute (Evidence Act in Ontario, Canada Evidence Act) or common law and cases

Outline of Canada's Court System

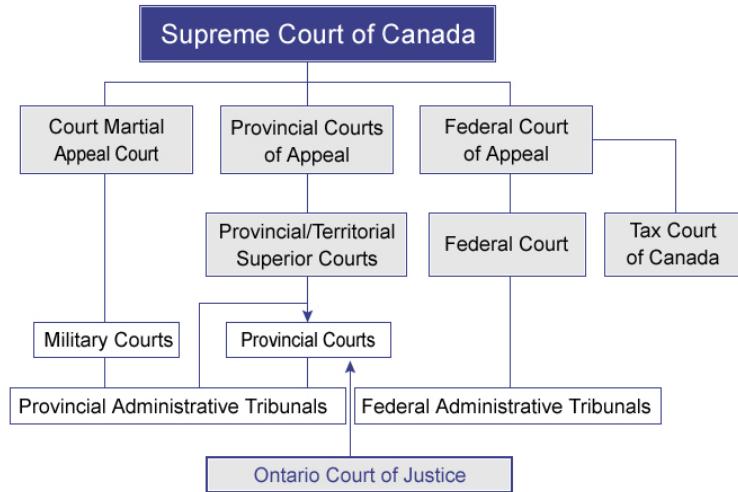


Figure 1: Court system of Canada.

- *Admissibility* is whether evidence can be admitted; *weight* is how reliable a court determines the evidence to be, based on its truthfulness and accuracy, and therefore how much it influences a case
- Evidence can come from a number of sources:
 - Witness testimony
 - * Credibility (how believable the person is, whether they are likely to lie) and reliability (how well they can actually perceive the events) are both important
 - * Testimony must be about facts, not opinion or hearsay (i.e. information received from other people, deemed unreliable as they are not under oath)
 - Real evidence (physical things, such as paper documents, photographs, film, audio recordings, etc)
 - Documentary evidence (emails, letters, contracts, etc)
 - Opinion/Expert evidence
 - * Experts such as engineers and doctors can present unbiased opinions drawn from facts, unlike normal witnesses which are limited to only facts
 - * Opinions can only be given about the expert's area of expertise
 - * Expert opinion is used to assist and educate courts in understanding complex areas beyond their normal experience

Civil and Criminal Law

- Frequent areas of civil disputes involving professionals include:
 - Contracts
 - Tort (e.g. negligence)
 - Labour/employment
 - Property (including IP)
- Difference between civil and criminal law:
 - In criminal law, the state (crown) prosecutes a person (defendant) based upon infraction of statutory law (mostly the Criminal Code but also e.g. traffic codes), and if successful the defendant is fined or imprisoned
 - * Important, criminal law does not compensate the victim, it only deters the crime
 - * The standard of proof must be beyond a reasonable doubt, i.e. almost absolute certainty that the crime was committed
 - * One of 3 types:

- Conviction offences: usually smaller offences that result in fines and no jail time, e.g. minor theft and traffic violations
- Indictable offences: serious offences often resulting in jail time, e.g. murder
- Hybrid offences: can be either depending on judgement, e.g. assault, illegally carrying a weapon
- In civil law, a person (plaintiff) makes a claim against another person (defendant) due to some damage they have caused, and if successful the defendant must compensate for the breach, usually by paying money
 - * The plaintiff brings forward a Statement of Claim, while the defendant brings forward a Statement of Defence
 - The parties go through a discovery process to establish the facts (different from criminal law)
 - Resolution can happen at any time through a settlement
 - * The standard of proof is based on a balance of probability – the claim is successful as long as the proof is more likely to be true than false
 - * Due to the difference in standard of proof, it's possible for the same case to succeed in civil court, but not criminal court
 - * The parties bear the cost, and often the losing party has to pay in the settlement
 - The cost of litigation is an important factor to consider since civil court is all about money in the end
- In the case of criminal negligence, there will often be criminal and civil suits brought forward, and PEO investigations; usually the criminal trial takes priority

Corporate Structures

- The law only applies to “persons” – individuals or corporations; all “persons” can sue or be sued
- Corporations are one type of business association, but there are also different forms:
 - Sole proprietorship: a single person owns the business
 - * The owner has unlimited liability, including for employees
 - * Taxed like an individual
 - Partnership: multiple people share the ownership/operation/profits of the business
 - * The Partnerships Act in Ontario sets out rules for partnerships that do not have explicit partnership agreements put in writing
 - By default the profits are evenly divided and each partner has the same authority
 - * Partners have a duty to trust and not work against each other (fiduciary duty), which cannot be removed in a partnership agreement
 - * Limited liability partnerships (e.g. lawyers and doctors) have the liability of a partner being limited to their proportionate share, but in general the liability is unlimited by default
 - There is required to be a general partner who has limited liability
 - * Partners are taxed based on the funds they receive, as individuals
 - Corporation: formed under the laws of the provincial/federal government
 - * The corporation as a whole absorbs all the liabilities of the people who work for it – it acts as a barrier to individuals being found individually liable
 - * They have the power to sue and be sued as they constitute persons; in cases they are indicated with suffixes like Corp, Inc, or Ltd
 - * Corporations have to be federally or provincially registered with a name, which comes with filing and accounting requirements, making it more expensive
 - * Corporations can be publicly or privately held
 - * Officers and directors are fiduciaries and must act in the best interest of the corporation
 - They may face civil and criminal liabilities for acting outside the duties of the corporation
- Sole proprietors and partnerships are not persons, but corporations are
 - When suing or being sued, the person behind the sole proprietorship/partnership is suing or being sued

Lecture 4, Jan 26, 2026

Torts

- *Torts* are private or civil wrong or injury for which a court will provide a remedy in the form of an action for damages; i.e. the tort gives the plaintiff the right to sue
- Two main categories:
 - Intentional torts: harms committed by one person against another
 - * The plaintiff must establish that the defendants performed the act (*actus reus*) on a balance of probabilities
 - * These acts can result in both civil and criminal cases
 - * Note that this does not mean that the defendant need to have intended to cause the harm or consequences (*mens rea*), unlike in criminal court
 - In some cases it is still necessary to prove the intention to perform the action itself, while in others this is not required
 - * Can include assault (threats) or battery (physical attacks), intentional infliction of mental suffering or emotional distress, false imprisonment, trespassing, theft, conversion, defamation, fraud, etc.
 - * For some types of torts (e.g. defamations), in addition to monetary settlements it's possible to also get *injunctions*, which are court orders requiring a person to do or stop doing an action
 - * *Strict liability* torts are ones with no defence – the defendant is culpable as long as the act is committed, regardless of intention, or even precautions taken, i.e. there is no need to find a fault
 - Unintentional torts: unintentional acts that cause harm to others
 - * *Nuisance* is when the defendant causes a substantial and unreasonable interference with the occupier's land or their use of their land
 - This is often a strict liability tort
 - Nuisance and negligence are often brought forward together, but nuisance is often much easier to prove
 - * *Negligence* is when the defendant causes damage to the plaintiff by failing to fulfill a duty of care
 - It must be proven that:
 1. Defendant owed the plaintiff a duty of care
 2. The defendants breached that duty
 3. The plaintiff suffered a loss
 4. The breach of duty was the proximate cause of the loss, i.e. the loss would not have happened had the breach not occurred
 - *Duty of care* depends on reasonable foreseeability and proximity (see *Ontario Inc. v Totten Sims Hubicki Associates*) – e.g. who do you need to reasonably keep in mind when making the design?
 - Duty of care is more likely to exist when there is a relationship between the parties, e.g. a contract
 - Engineers can owe a duty of care beyond their clients
 - * Duty to warn requires engineers to act even when they are not under contract (fiduciary duty)
 - A *fiduciary duty* is a higher level of duty that requires one party to act solely in the best interest of the other, e.g. parent-child
 - *Learned intermediary* are persons which provide the products (e.g. doctor, dentist, engineer), which may owe a duty even though they did not design the product
 - To establish breach, the court must decide upon an applicable *Standard of Care* and then decide whether it was breached
 - The standard of care is based on what a “reasonable and competent engineer” would have done in the situation
 - The scope of the contract is vital to the standard of care

- It's possible to seek *contribution* (spreading out the penalty over multiple parties based on how they are responsible) and *indemnity* (one party may shift the entire loss to another)