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Union Disclosure in Canada and the United States

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Executive summary

In 2005, labour relations laws regulated 32.0 percent of the workforce in Canada and 13.7 percent of workers in the United States. Numerous studies have examined aspects of labour relations laws, such as certification, decertification, and union security laws, and their effects on the labour market. However, very few have focused on union disclosure requirements.

Disclosure laws and transparency

Disclosure laws regulate the quality and quantity of financial information that affected organizations must make public. Public disclosure of this information allows interested parties to gauge the financial health and performance of organizations. In addition, the accordant transparency that comes from disclosure serves to improve the governance of organizations.

Union transparency is important for two additional reasons. First, transparency enables workers to make more informed decisions about their preference for collective representation. That is, timely information regarding the operations of unions allows potential and existing members to more accurately assess the financial position and performance of their representatives.

Second, transparency leads to and is essential for accountability. Disclosing financial information publicly allows workers and interested parties alike to determine the appropriateness, effectiveness, and efficacy of union spending. Public disclosure is important because it enables union members, unionized employees, and the general public to have access to timely, high-quality information about a union's financial activities. The key element in public disclosure is the anonymity and confidentiality that unionized members and non-members, and the general public enjoy.

Union disclosure: Canada and the US

The divide between Canada and the United States with respect to financial disclosure requirements is acute. In general, the disclosure requirements for unions are extraordinarily weak in Canada. Three Canadian provinces (Alberta, Prince Edward Island, and Saskatchewan) do not require any public disclosure of union financial information while the remaining seven provinces, as well as the federal government, require some financial disclosure to union members only.

The disclosure requirements in these eight Canadian jurisdictions (seven provinces and the federal government) are also quite limited. For example, these jurisdictions require financial statements to be made available to union members upon request. However, only four of the seven provinces (British Columbia, Ontario, New Brunswick, and Newfoundland) require the financial statements to be audited.

While the seven provinces and federal government require financial disclosure to union members who submit a request, no Canadian jurisdiction prescribes or mandates the

amount of detail the financial statements must contain. Moreover, there is no requirement for a delineation of expenses by type of activity. More specifically, there is no requirement that financial statements indicate a breakdown between representation and non-representation spending. In all Canadian jurisdictions, the details that the financial statements include are at the discretion of the union.

In five of the seven provinces that permit union member information requests (British Columbia, Manitoba, Ontario, New Brunswick, and Newfoundland) as well as the federal government, workers are able to obtain additional, more detailed information anonymously through their respective labour relations boards.

The United States, on the other hand, has rigorous and stringent public reporting requirements for unions, which are differentiated by size based on spending. Large unions (those that spend over \$250,000) must provide detailed information for 21 informational items and 47 financial items that are organized into two financial statements and 20 supporting schedules. Medium-sized unions (those that spend \$10,000 to \$250,000) are required to provide 23 informational items and 32 financial items that are organized in two general financial statements. Small unions (those that spend under \$10,000) must provide 13 pieces of information and 5 financial items.

Unions in the United States must complete and submit specific forms to the Department of Labor (DOL), which then posts the submissions on its web site. This form of disclosure provides complete anonymity to anyone wishing to review union submissions.

Problems with the US system

The US system is not without its difficulties, although at least it has erred on the side of more information than less, unlike Canada. In order to evaluate the US system, we used four criteria: accessibility, simplicity, comparability, and comprehensiveness (consolidation). For example, the US system is highly accessible, but the materials lack simplicity. It is very difficult and time-consuming for an average person to easily obtain a realistic idea of the financial performance of a union due to the copious amount of information available. For example, in 2005, the average length of a disclosure report for the top 20 international and national unions in the US was 131 pages, and this did not include the average 691 union locals. Information for unions and their locals are not consolidated.

Differences in worker choice laws: exacerbating the difference

The stark differences in access to information between Canadian workers, broadly speaking, and US workers are exacerbated by differences in worker choice laws regarding union membership and union dues payments. No provincial or federal jurisdiction in Canada prohibits mandatory union membership from contracts as a condition of employment. In other words, as a condition of employment, Canadian workers can be compelled to join a union. In addition, all

Canadian workers covered by a collective agreement, regardless of union membership status, must pay full union dues.

All US workers, on the other hand, enjoy much greater choice with respect to both union membership and financial support (dues). No US worker can be compelled to join a union. Further, any US worker can voluntarily opt out of union dues that are deemed to be unrelated to representation. In other words, US workers can choose not to pay union dues that are not directly related with their collective agreement. Such expenses include political contributions. In addition, 22 US states known as the Right-to-Work (RTW) states have expanded on the federal law to allow workers to fully opt out of paying any union dues.

Conclusion

Canadian workers clearly have little choice—certainly much less than their US counterparts. They can be forced to join and financially support a union, but do not enjoy the type of anonymous access to information that US workers enjoy, even though US workers cannot be compelled to join a union and are only required, at the most, to pay representation-related dues.

Labour relations laws in Canada, which govern the process through which unions gain and lose the right to represent workers, the subsequent interactions between employers and employees once a firm is unionized, as well as some interactions between unions and their members, must focus on better balancing the ability for workers to be collectively represented with worker choice and labour market flexibility broadly defined.

Introduction

Labour relations laws govern the process through which a union acquires and loses the right to collectively represent workers as well as the ongoing interactions between employers and employees (through a union) once a workplace is unionized. In 2005, labour relations laws regulated 32.0 percent of the workforce in Canada and 13.7 percent of workers in the United States.¹ Numerous studies have examined several aspects of the labour relations laws (certification, decertification, union security laws, among others) and their effects on the labour market.² Unfortunately, very few have focused on one of the most critical aspects: disclosure of financial information to union members and the public. This is particularly surprising in light of the recent heightened interest in issues of transparency and accountability (See Fung *et al.*, 2002; Bac, 2001; World Bank, 2000; and USAID, 1999).

Financial disclosure laws regulate the quality and quantity of financial information that affected organizations must make public. For example, federal guidelines cover disclosure requirements for registered charities and federally-incorporated businesses. Public disclosure of financial information allows interested parties to gauge the financial health and performance of organizations. Having transparent information about their activities also serves to improve the governance of organizations (Kaufmann, 2003).

Another benefit of the public disclosure of transparent and timely financial information is that it enables workers to make better decisions regarding their preference for collective representation. Keeping track of relevant and timely financial information enables workers to assess the financial position and performance of their representatives and ultimately, to determine whether or not the services and performance of the union are worth paying for (through union dues).

This study is one of the first in Canada to examine union financial disclosure requirements in the private sector among Canadian provinces and the Canadian federal government, and the United States. This report adds to the body of research examining unionization and related issues; it does so by assessing and comparing union disclosure laws in Canada and the United States.

Organization of this paper

This study is divided into five main sections. The first briefly outlines the benefits of transparency and its connection with accountability. The second section provides an overview of current union disclosure laws in Canada and the United States, paying particular attention to recent changes in the US disclosure laws and the current requirements for union disclosure.

1 Includes both union members and non-members covered by a union contract.

2 For a cross-country analysis of the regulation of labour markets, please see Botero *et al.*, 2004, and Di Tella and MacCulloch, 2005. For a comprehensive analysis of the labour relations laws in Canada and the United States, see Godin *et al.*, 2005, and Karabegovic *et al.*, 2004.

Section three summarizes some of the problems of simplicity and lack of consolidated financial statements with the US laws. The next section summarizes the relationship between union security laws (union membership and dues payment) and unionization rates in order to highlight the context within which disclosure laws exist. The fifth and concluding section incorporates some recommendations for Canada.

I. Transparency and Accountability

Transparency is the timely availability of full and accurate information. The World Bank defines transparency as an effective flow of information (Kaufmann, 2003). An effective flow of information means that the information is easily assessable, timely, of high quality, and accessible to all relevant parties.

Transparency is a straightforward and cost-effective way to ensure accountability. It enables outside groups to independently assess the operations, direction, and decisions of organizations (Karabegovic *et al.*, 2005). The benefits of third-party monitoring was corroborated by a United States Agency for International Development study (USAID, 1999), which noted that in order to improve institutional accountability in transitional countries, greater transparency was needed in order to improve detection and oversight.

Empirical research demonstrates other benefits of transparency, such as improved governance and reduced corruption. For instance, Kaufmann (2003) found that transparency is a key ingredient of good governance not only in the public sector, but also in the private sector. A World Bank study examined how best to combat corruption and argued that “[t]ransparency via public scrutiny has proven to be one of the most powerful forms of monitoring public officials” (World Bank, 2000, p. 40).

In the context of this paper, union transparency is important for two reasons. First, transparency enables workers to make more informed decisions regarding their preference for collective representation. That is, timely information regarding the operation of a union allows its potential and existing members to more accurately assess the financial position and performance of their representatives. Indeed, such disclosure ultimately allows workers to determine whether or not the services and performance of a union are worth the costs (union dues).

Second, transparency leads to and is essential for accountability. Disclosing financial information publicly allows workers and interested parties alike to determine the appropriateness, effectiveness, and efficacy of union spending.³ Public disclosure is important because it enables union members and the general public to access to timely, high quality information about a union’s financial activities in an anonymous and confidential way. In this sense, public disclosure not only protects union members, but it also empowers them to identify financial problems.

3 The literature on the impact of financial disclosure standards for corporations and financial markets shows that not just disclosure standards matter, but disclosures of conflicts of interest also matter (see Djankov *et al.*, 2005 and La Porta *et al.*, 2006). This financial markets evidence, if extended to unions, would indicate a much broader scope for disclosure than discussed in this paper, including the case of union disclosure, the issues of compensation and nomination of union leaders, the interaction among unionized employees, as well as the use of the union’s funds for political activities. So, although this paper mainly focuses on union financial disclosure, we are aware that workers not only deserve disclosure of financial information, but also general information from their union in order to determine whether they should start to attend unions meetings, propose motions, run for union office, or support a union candidate.

II. Union Disclosure in Canada and the United States

Jurisdictional differences

Before discussing the specifics of union disclosure requirements in Canada and the United States, it is important to recognize marked differences in jurisdictional authority over labour market regulation between the two countries. In Canada, regulation and enforcement of labour relations laws is largely decentralized to the provinces.⁴ In fact, only 8.0 percent of Canadian workers (1.3 million) are employed in industries that fall under federal jurisdictions (Canada Industrial Relations Board, 2006a).⁵ Each province has its own set of labour relations laws for both the private and public sectors that are independent of any other province as well as federal law. (For a detailed list of public and private collective bargaining legislation in Canada, see Appendix 1.)

In the United States, on the other hand, private-sector labour relations laws are centralized, regulated by federal law, and enforced under federal authority by the National Labor Relations Board.⁶ States are permitted to expand on or clarify federal labour relations laws but they cannot contravene or supersede federal legislation.⁷

The following section outlines the specific private-sector union disclosure requirements for Canadian and US jurisdictions.

Canada

In 1962, the Corporations and Labour Unions Return Act (CALURA) was first introduced by Parliament. The act's purpose was to collect financial and other information on the affairs of certain corporations and labour unions carrying on activities in Canada. In addition, part II of the act was designed to evaluate the extent and effect of the association of Canadian unions with international labour unions (Statistics Canada, 1999). Under part II, international and national unions, regardless of whether they operated in federal or provincial jurisdictions, were obliged to annually disclose non-financial and financial data. Statistics Canada compiled information and

4 For a list of provincial and federal Labour Relations Boards' websites, see http://www.cirb-ccri.gc.ca/links/index_e.asp.

5 Federally regulated industries include interprovincial transportation (air, land, and water), broadcasting, banking, longshoring, and grain handling. Workers in Canada's territories are also covered by federal labour law.

6 For more information about the National Labor Relations Board, see <http://www.nlr.gov>.

7 It is this provision, which allows for expansion or clarification of US federal labour relations laws by US states, that has allowed for the emergence of Right-to-Work states. See the National Right to Work Legal Defense Foundation (www.nrtw.org) and the National Right to Work Committee (www.nrtwc.org) for further information about Right to Work states in the US. Also see Mihlar, 1997.

published annual reports on these returns. However, part II of the act was officially repealed in 1998, deleting the requirement under the act that labour unions report.⁸

With the repeal of this legislation, the financial disclosure requirements for unions became extraordinarily weak in Canada. (See Taras, 1997, and Taras and Ponak, 2001, for a discussion of the evolution of labour law in Canada). For instance, at the present time, unions are not required to publicly disclose their financial information in any Canadian jurisdiction. In terms of disclosing information to union members, very little is required of unions in any Canadian jurisdiction. Three provinces (Alberta, Prince Edward Island, and Saskatchewan) do not require any public disclosure of union financial information. There is simply nothing in their respective labour relations laws or other legislation that requires unions to disclose financial information either to the public or to union members.

The remaining seven Canadian provinces as well as the federal government require some financial disclosure. However, none of these eight jurisdictions require the disclosure to be public. Rather, the requirements regarding financial disclosure relate to union members exclusively. In addition, union members are required to formally request the information, meaning that the requests are not anonymous.

The disclosure requirements in these eight Canadian jurisdictions are also quite limited. For example, all seven provinces and the federal jurisdiction require financial statements⁹ to be made available to union members upon request (see table 1). However, only four of the seven provinces (British Columbia, Ontario, New Brunswick, and Newfoundland) require the financial statements to be audited (see table 1).¹⁰ Audited financial statements are a signal to unionized employees (members and non-members) that the statements presented by the union have been reviewed with the highest level of rigour by a third party (auditor).

Nova Scotia is one of the provinces not requiring audited financial statements. However, it does require that the statements be verified by an affidavit. An affidavit is a much less onerous requirement than an audit, but does serve to indicate to union members that the financial statements were reviewed by an independent external party. The remaining two Canadian provinces (Quebec and Manitoba) and the federal government do not require any third-party verification or test of accuracy for financial statements.¹¹

8 Statistics Canada's collection and publication of union statistics under CALURA ended in 1995. Starting in 1997, the Labour Force Survey (LFS) has been collecting monthly union data. Unfortunately, since LFS is a monthly household survey of a sample of individuals, only non-financial data is recorded (membership status and wages).

9 Financial statements are defined as a document that contains sufficient information to accurately disclose the financial condition and operation of the organization.

10 Note that the audited statements do not require any specific level of detail, but rather that a third party (auditor) has verified their accuracy.

11 Although under the Canada Labour Code (federal jurisdiction), it is not required that unions present audited financial statements, it is common practice for unions to audit their statements before delivering them to their members (CIRB, 2006b).

Table 1: Union Disclosure Requirements in Canada

	Is Financial Disclosure to the Public Required?	Is Financial Disclosure to Union Members Required?	Access to Information via Labour Board or Ministry/ Department of Labour?	Are Financial Statement Audited?	Disclosure Type	Breakdown of Representation and Non-Representation Costs	Detail Required
BC	No	Yes	Yes (a)	Yes	Financial statements upon request	No	None
AB	No	No	No	No	None	No	None
SK	No	No	No	No	None	No	None
MB	No	Yes	Yes (a)	No	Financial statements upon request	No	None
ON	No	Yes	Yes (a)	Yes	Financial statements upon request	No	None
QC	No	Yes	No	No	Financial statements upon request	No	None
NB	No	Yes	Yes (a)	Yes	Financial statements upon request	No	None
NS	No	Yes	Yes (b)	Yes (c)	Financial statements upon request	No	None
PEI	No	No	No	No	None	No	None
NL	No	Yes	Yes (a)	Yes	Financial statements upon request	No	None
FED	No	Yes	Yes (a)	No (d)	Financial statements upon request	No	None

Source: Provincial Labour Codes; for details see Legislation on Reference section.

Notes:

(a) Via Labour Relations Board.

(b) Via Department of Environment and Labour.

(c) Affidavit required, not audit.

(d) Although it is not required under the Canada Labour Code that financial statements must be audited, it is a common practice that unions present audited statements to their members.

Required details to be disclosed

A second aspect of disclosure is the level of detail required.

While seven Canadian provinces and the federal government require financial disclosure to union members who submit a request, no Canadian jurisdiction prescribes or mandates the amount of detail the financial statements must contain (table 1). Moreover, there is no requirement for a delineation of expenses by type of activity. More specifically, there is no requirement that financial statements indicate a breakdown between representation and non-representation spending.¹² In all Canadian jurisdictions, the details that the financial statements include are at the discretion of the union.

Several provinces have included laws in their legislation that allow union members to acquire more detailed financial information through a third party. While this type of legislation falls short of full, public disclosure, it does provide a mechanism for workers who are seeking additional financial disclosure to be able to do so. In five of the seven provinces that permit union

member information requests (British Columbia, Manitoba, Ontario, New Brunswick, and Newfoundland), as well as the federal jurisdiction, workers can anonymously obtain additional, more detailed information¹³ through their respective labour relations boards. Since labour relations boards enforce labour relations laws, they have the power and authority to require unions to disclose information that union members request.

In Nova Scotia, workers can get additional financial information through the Department of Environment and Labour.¹⁴ This falls short of public disclosure but does provide an outlet for union members seeking additional financial information. Union members in Nova Scotia can get financial statements from their union representative or anonymously from the Department of Environment and Labour if they file a petition under the Freedom of Information and Protection of Privacy (FOIPOP) Act.¹⁵

To summarize, no Canadian jurisdiction (ten provinces and the federal government) requires unions to disclose financial information to the public in a detailed and timely manner. Seven provinces and the federal government require a limited amount of disclosure to union members exclusively, but not anonymously. In addition, only five of these seven provinces require that union financial statements be verified through an audit or affidavit. In the remaining three provinces, there are no requirements for financial disclosure.

United States

In 1959, the United States passed the Labor-Management Reporting and Disclosure Act (LMRDA).¹⁶ It requires that unions file annual financial reports with the Office of Labor-Management Standards (OLMS) of the US Department of Labor [DOL] (DOL, 1987; DOL, 2005a). The act also allows any member of the public access to the financial information.

12 “Representation spending” is disbursements associated with the preparation for, and participation in, the negotiation of collective bargaining agreements and the administration and enforcement of the agreements that the labour organization has made. It also includes disbursements associated with efforts to become the exclusive bargaining representative for any unit of employees, or to keep from losing a unit in a decertification election. Non-representation spending is disbursements related to political activities or other activities not related to the ones specified above.

13 The ability to acquire more detailed financial information anonymously is a key aspect of confidentiality and allows workers to draw their own conclusions without influence from union representatives, other workers, or employers.

14 According to section 76.2 of the Nova Scotia Trade Union Act, unions must submit a copy of their financial statements to the Department of Environment and Labour.

15 Although unions’ financial statements are not public documents, an interested party (union member or not) could petition FOIPOP to have access to the financial statements. Since this is a process, it should be shown clearly why the information requested should be disclosed. Persons who file a FOIPOP request must pay a fee (Nova Scotia Department of Environment and Labour, 2006).

16 The LMRDA is a sub-section of the larger Landrum-Griffin Act, the name for the comprehensive reforms made to the National Labour Relations Act in 1959.

Until recently, union disclosure requirements remained largely unchanged since the LMRDA was enacted in 1959 (Wilson, 2005). In a review of the changes the US federal government made to union disclosure in 2004, Wilson (2005) concluded that since the enactment of the LMRDA, union financial reports were poorly designed and inaccessible to union members and the public. However, in 2004, the requirements were amended to require more detailed information from unions in their financial reports to OLMS. In addition, all reports were subject to full public disclosure and availability on the OLMS website.¹⁷

Communications Workers v. Beck

Several factors triggered the 2004 reform to financial disclosure requirements. First, in the 1988 US Supreme Court case *Communications Workers v. Beck*, it was established that unionized workers in all US states are afforded the right to opt out of paying for union expenditures not associated with representational activities, i.e., political campaign spending.¹⁸

The implication of this landmark legal case was that unions were required on a regular basis to delineate and substantiate representation versus non-representation-related spending. In addition, the reporting of the union's finances was intended to be such that average union members could reasonably evaluate not only the split between representation and non-representation spending, but also the effectiveness and efficacy of the spending.

The problem, however, was that there was no legal obligation requiring unions to disclose financial information in any detail. In practice, workers did not have adequate information to evaluate union spending. In a 2005 report, the US Department of Labor stated that, "[the] old disclosure form failed to provide meaningful information to help members gauge the financial health and integrity of their union," and that, "[the] reforms will empower union members to detect financial problems in their unions and exercise their democratic rights" (DOL, 2005b, p. 4). The US DOL (2005b) reports that the amendments made in 2004 are designed to close the identified information gap and allow workers to assess union finances and take action based on that assessment.

Corruption and financial mismanagement

The second major factor triggering the 2004 changes was frequent reports of corruption and financial mismanagement by union leaders, most notably, the two high-profile embezzlement cases of the American Federation of Teachers and Ironworkers International.¹⁹

17 Copies of union information reports, union annual financial reports, union constitutions/bylaws, employer reports, consultant reports, and union officer and employee reports are available free of charge on the internet at www.union-reports.dol.gov, or are available for purchase.

18 In the *Beck* case and the complementary *Lehnert v. Ferris Faculty Association* case, which also examined union finances, it was found that 79 percent and 90 percent, respectively, of union dues paid were used for non-representational activities. In other words, in both landmark cases, a substantial (majority) proportion of the dues paid were not used for activities involved in the representation of dues-paying unionized workers.

19 For further details of these cases of corruption among others, see DOL, 2005b.

Table 2: Categories of Union Financial Disclosure in the United States

	Definition	Number of Financial Items Re-quired	Number of Informational Items Re-quired	Supporting Schedules	Disclosure Detail
Large-sized Unions	Greater than \$250,000	47	21	20	Over \$5,000
Medium-sized Unions	Over \$10,000 and less than \$250,000	23	32	None	None
Small-sized Unions	\$10,000 or less	5	13	None	None

Source: US Department of Labor, Employment Standards Administration, Office of Labor-Management Standards (2005a).

In addition to corruption allegations, there was also general interest in improving transparency requirements. For instance, the DOL reported that it “has received hundreds of letters from union members asking for increased disclosure” (DOL, 2005b, p. 4). The DOL also stated that in crafting its final rule, comments from both workers and unions were considered (DOL, 2005b) based on the site receiving approximately 425,000 hits per month.

To counter corruption and mismanagement, the new financial disclosure requirements serve to increase the transparency of union operations.²⁰ The full public disclosure of union finances enables any member of the public (and the OLMS) to follow the inflow and outflow of union resources, so it is much more difficult for individuals to take part in illegal or mismanagement activities. Union financial transparency is designed to increase the accountability of unions and their leadership.

Changes to disclosure requirements

The changes made to disclosure requirements in 2004 were divided into three categories based on a union’s expenditures. As table 2 indicates, large unions are defined as having expenditures over \$250,000, medium-sized unions have expenditures between \$10,000 and \$250,000, and small unions are classified as spending \$10,000 or less. A summary of the different financial disclosure requirements for each category follows.

Large Unions

The disclosure requirements imposed on large unions are the most stringent and comprehensive. Every large union must fill out an LM-2 form online and submit it to the OLMS. The LM-2 form consists of 21 informational items and 47 financial items (see table 2). These requirements are organized into two financial statements and 20 supporting schedules. The second column of table 3 presents the financial disclosure requirements.

20 Also, non-governmental institutions such as the US National Legal and Policy Center (<http://www.nlpc.org>) provides information to the general public through the Union Corruption Update about all charges and convictions by state and by union back to 1998.

Table 3: Disclosure Requirements by Type of Union, United States

	Large	Medium	Small
Whether the union has any trusts in which the union is interested	✓	✓	
Whether the union has political action committee (PAC) funds	✓	✓	
How the union acquires or disposes of assets	✓	✓	
Whether the audit or review was performed by an outside accountant or a parent auditor/representative	✓	✓	
Report any loss or shortage of funds	✓	✓	✓
Report if the union was insured by a fidelity bond against losses caused by fraud or dishonesty	✓	✓	✓
Report date of next regular election of general officers	✓	✓	
Number of members	✓	✓	✓
Report of changes in rates of dues and fees	✓	✓	✓
Rates of dues and fees	✓	✓	
List of officers and disbursements to them	✓	✓	
Total value of assets	✓	✓	✓
Total cash	✓	✓	
Accounts receivable	✓		
Loans receivable	✓	✓	
U.S treasury securities	✓	✓	
Investments	✓	✓	
Fixed assets	✓	✓	
Other assets	✓	✓	
Total amount of liabilities	✓	✓	✓
Accounts payable	✓	✓	
Loans payable	✓	✓	
Mortgages payable	✓	✓	
Other liabilities	✓	✓	
Total amount of receipts	✓	✓	✓
Dues	✓	✓	
Per capita tax	✓	✓	
Fees, fines, assessments and work permits	✓	✓	
Sale of supplies	✓		
Interest	✓	✓	
Dividends	✓	✓	
Rents	✓		
Sale of investment and fixed assets	✓	✓	
Loans obtained	✓		
Repayments of loans made	✓		
Cash receipts on behalf of affiliates for transmittal to them	✓		
Cash receipts from members for disbursement of their behalf	✓		
Other receipts	✓	✓	

Table 3: Disclosure Requirements by Type of Union, United States (cont.)

	Large	Medium	Small
Total amount of disbursements	✓	✓	✓
Representational activities	✓		
Political activities and lobbying	✓		
Contributions, gifts, and grants	✓	✓	
General Overhead	✓		
To officers	✓	✓	✓
To employees	✓	✓	✓
Office and administrative expense	✓	✓	
Professional fees	✓	✓	
Per capita tax	✓		
Benefits	✓	✓	
Strike benefits	✓		
Supplies for resale	✓		
Purchase of investments and fixed assets	✓	✓	
Loans made	✓	✓	
Direct taxes	✓		
Other disbursements	✓	✓	
20 supporting schedules (see Appendix 2 for more details about these schedules)	✓		

Source: US Department of Labor, Employment Standards Administration, Office of Labor-Management Standards (2005a).

As table 3 indicates, the financial disclosure requirements for large unions in the United States include seven asset categories, such as cash and investments; four liability categories, such as accounts payable; 13 receipt categories, such as union dues and interest; and 16 disbursement categories, such as benefits and payments to union officers as well as to employees.

Moreover, all disbursements over \$5,000 must be specifically delineated. That is, every expenditure or revenue source consisting of \$5,000 or more must be listed as an individual entry. These financial items are organized into two financial statements: (1) Assets and Liabilities, and (2) Receipts and Disbursements.

The 20 supporting schedules provide more detailed information for particular areas of activity. These schedules allow the public to follow the spending priorities and revenue sources of the union. One of the most important schedules is Schedule 15, which requires a detailed description of representational costs. Included in this schedule is a list of payments made to union officers, employees, and other disbursements used for the purpose of maintaining or negotiating aspects of the collective agreement. The objective of Schedule 15 is for the public and interested parties to be able to easily measure the percentage of union dues being spent on representational costs versus other expenditures.

Schedule 16 is also important in understanding the nature of union spending. It requires a detailed description of political activities and lobbying. This schedule must list all dis-

bursements made to political parties or candidates as well as any disbursements made for lobbying purposes for amounts in excess of \$5,000. In addition, any labour costs associated with this activity must also be included. Schedule 16 provides the public with information regarding the extent of union dues that are being spent on non-representational activities.

Other important schedules include Schedule 17: Contributions, Gifts, and Grants; Schedule 19: Union Administration; as well as Schedule 20, a listing of the benefits available to union members. Appendix 2 lists all the required schedules for large unions.

Medium-sized unions

The disclosure requirements for medium-sized unions are less stringent and comprehensive than for larger unions. They do, however, give the public substantial information about union activity. Every medium-sized union must fill out an LM-3 form online and submit it to the OLMS. The LM-3 consists of 23 informational items and 32 financial items. The third column of table 3 presents the financial disclosure requirements for medium-sized unions.

The disclosure requirements for medium-sized unions are organized in two general financial statements. The first is Assets and Liabilities, which requires 6 asset categories and 4 liability categories. Examples of assets include financial and physical capital. Examples of liabilities include accounts and loans payable.

The second statement is receipts and disbursements, which requires 6 receipt categories and 10 disbursement categories. Examples of receipts include revenues from union dues and any interest from investments. Examples of disbursements include benefits paid out to union members, political spending, and costs for representation activities. Payments to union officers are delineated as a separate item. As it stands, even though the level of detail for medium-sized unions is not as thorough as it is for large unions, representation and non-representation related spending are fairly easy to calculate.

Small unions

The disclosure requirements for small unions are the least stringent. Small unions must fill out an LM-4 form consisting of 13 pieces of information and 5 financial items. This form includes total assets, total liabilities, total receipts, and total disbursements. Small unions must also submit the total amount of payments to union officers and employees. The fourth column of table 3 summarizes the disclosure requirements for small unions.

III. Problems with US Union Disclosure Laws

Although US requirements for union financial disclosure, particularly when compared to Canadian standards, are comprehensive and stringent, there are nonetheless problems. Canadian policy makers would be well advised to assess both the strengths and weaknesses of the US system before devising a new Canadian policy for union disclosure.

The criteria for a successful and productive system of union disclosure includes accessibility, simplicity, comparability, and comprehensiveness (consolidation).²¹ Unfortunately, while the US system is significantly better than Canada's, it performs poorly on two of these tests. The following section discusses problems with the US law and offers some solutions, which Canada could incorporate as it moves to craft a better union disclosure policy.

1) Accessibility

The first test for disclosure laws is the level of accessibility. In this area, the US laws excel. All of the required information is publicly available on the Department of Labour's (DOL) website, enabling any interested individual to anonymously search, review, and analyze reports. In addition, a search engine on the DOL website enables specialized searches and queries.

2) Simplicity

The second test, simplicity, is integrally related to accessibility. The US system is highly accessible; unfortunately, the available materials lack simplicity. Due to the large amounts of information available, it is very difficult and time consuming for an average person to easily obtain a realistic idea of a union's financial performance.

Table 4 summarizes information about the top 20 international and national unions in the United States, based on receipts, relating to mandated disclosure and information available on the DOL website. The number of pages available in the disclosure report for the top 20 unions ranges from a low of 33 for the Maintenance of Way Employees to a high of 460 for the Steelworkers. The average length of the disclosure report in 2005 was 131 pages.

People who want information about unions need more than just international or national level data; unions also maintain local, state, and/or regional locals. In order to reasonably understand a union's operations and financial performance, an interested individual must also assess these union locals. The number of local, state, or regional unions within the top 20 international and national unions in 2005 ranged from a low of 18 for Unite Here to 2,373 for the Letter Carriers. The average number of union locals for the same year was 691.

21 These four criteria are based on the rationale that disclosure of information is meaningful to interested parties if it is accessible, simple, and understandable to them. The risks associated with over-disclosure and over-regulation are well documented in the literature. (See Djankov *et al.*, 2002 for a broad discussion on the danger of over regulation.)

Table 4: Disclosure Data for the Top 20 US International / National Unions, by Receipts, 2005

Name of Union	No. of Pages of Annual Report	No. of Local/ State/ Intermediate Affiliates of National Union	Total Receipts in 2005	Total Membership in 2005
Steelworkers	460	1,604	\$1,125,882,062	754,978
Electrical Workers (IBEW)	53	1,057	\$955,799,114	704,794
Letter Carriers National Association	132	2,373	\$912,916,110	292,221
Communications Workers	253	1,289	\$546,869,567	545,638
National Education Association IND	56	45	\$341,239,670	2,731,419
Auto Workers	67	1,122	\$306,747,724	557,099
Service Employees	252	334	\$258,844,884	1,505,100
Air Line Pilots Association	101	161	\$218,849,785	61,187
Food and Commercial Workers	77	554	\$201,924,005	1,311,548
Teachers	86	162	\$188,678,054	828,512
Teamsters	71	533	\$158,971,924	1,396,174
State, County, and Municipal Employees	307	375	\$148,949,240	1,459,511
Postal Workers, American	128	1,078	\$131,450,405	286,700
Laborers, AFL-CIO	158	583	\$126,273,202	669,772
Plumbers	36	330	\$125,420,746	324,043
Engineers, Operating	79	146	\$122,087,135	392,584
Maintenance of Way Employees	33	670	\$114,108,856	34,367
Machinists	59	1,209	\$109,881,897	653,781
Sheet Metal Workers	109	186	\$108,069,748	148,806
Unite Here	109	18	\$98,223,259	455,346

Source: US Department of Labour, as accessed of June 2nd, 2006. Available at <http://erds.dol-esa.gov/query/orgReport.doc>.

Recall that each local, state, regional, national, and international disclosure contains all of the required information as determined by the size of the union. An interested person must reconcile the financial flows from and to each of the locals in order to determine a net spending by their union. This is obviously a Herculean task for most individuals and organizations. Thus, while the US legislation does disclose a great deal, it does not do so in a way that facilitates analysis and comprehension by average, interested citizens.

3) Comparability

Comparability enables individuals to readily compare the submissions of one organization with those of another. To meet this objective, the principle of standardization is central. The US system is highly standardized and thus comparable because it prescriptively requires unions to complete pre-established financial statements. However, improvements could be achieved if, for reporting purposes, the categories within financial statements were standardized.

4) Comprehensiveness

This final criterion refers to whether union locals must submit consolidated statements of activity. As discussed previously, there is no requirement for consolidation, which, incidentally, is required for government accounts in both the US and Canada. The US system could be improved by requiring a standardized, consolidated statement of activity for locals or unions deemed to be related.

Summary

The US disclosure system is clearly more demanding than the current Canadian system. However, there are problems within the current US laws. Specifically, a number of suggestions, including consolidated accounts for union locals, would make it much easier and less costly for interested individuals to have access to union disclosure information.

IV. Union Membership, Union Dues, and Unionization Rates

Section III showed that workers in Canadian jurisdictions have minimal access to quality financial information for unions. In contrast, the United States requires that, similar to other public institutions such as government and corporations, unions must disclose financial information to interested parties. Although the American system is more demanding than the Canadian one, as Section III outlines there are problems associated with it.

An additional issue is relevant to understanding union disclosure requirements: worker choice. The stark differences in access to information between Canadian workers, broadly speaking, and US workers, is exacerbated by differences in worker choice laws regarding union membership and union dues payments.

No Canadian jurisdiction prohibits workers from being compelled to join a union as a condition of employment. In addition, workers covered by collective agreements, regardless of whether or not they are forced to become union members, are required to pay full union dues.

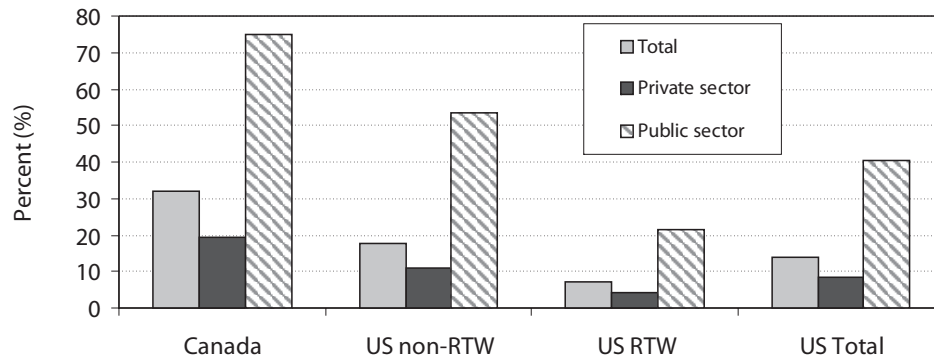
This stands in stark contrast to the level of choice that US workers enjoy. No US worker, regardless of the state in which they reside or work, can be forced to join a union as a condition of employment.²² In addition, all US workers may opt out of union dues payments that are not directly related to their representation. More specifically, all US workers can opt out of non-representation-related dues, such as political and advocacy spending. US workers in the 22

Table 5: Unionization Rates, 2005, by Type of Union Security

	Canada	US		Total
		Non-RTW	RTW	
Total Union Rate	32.0	17.8	7.1	13.7
Private Sector Union Rate	19.3	11.1	4.2	8.5
Public Sector Union Rate	75.0	53.4	21.3	40.5

Source: Statistics Canada (2006); Hirsch and MacPherson (2006); calculations by the authors.

22 Section 8(a)(3) of the NLRB act allows employers and unions to enter into union-security agreements requiring all employees in a particular bargaining unit to become members on or after the 30th day following their being hired. In the 1963 decision *NLRB v. General Motors Corporation*, the US Supreme Court held that the term “member” requires only the payment of periodic dues and fees, as opposed to full membership. Therefore, under current US law, no one has to be a member of a union in order to keep a job, but all employees subject to a union security obligation can be required to pay union dues and fees. This statement is reaffirmed under the *Communications Workers v. Beck* case, which stated that employees had the right to be or remain non-members of a union, subject only to the duty to pay initiation fees and dues. From these two cases, we can infer that the definition of “union member” is different in Canada and the United States. In Canada, to be a union member, full membership is required, while in the US, to be considered a “member,” one must at least support the union financially. This definition difference may affect union membership numbers in both countries.

Figure 1: Unionization Rates by Type of Union Security, 2005

Right-to-Work states²³ have even more flexibility: they can completely opt out of any dues payments.

These two provisions, union membership and union dues payments are commonly referred to as union security. Union security laws²⁴ have been shown to result in stark differences in unionization rates (Taras and Ponak, 2001; Johnson, 2004). For example, in 2005, private sector unionization in Canada stood at 19.3 percent versus 8.5 percent in the United States (table 5). Even within the United States there are marked differences based on union dues: private sector unionization rates in 2005 varied from 4.2 percent in RTW states to 11.1 percent in non-RTW states.

Canadian workers covered by collective agreements can be compelled to become union members and must pay full unions dues. Workers in the US, however, have significantly greater choice with respect to both union membership and dues payments. These differences in union security provisions have resulted in marked differences in unionization rates between the two countries.

These findings seem completely at odds with union disclosure laws in the two countries. Put simply, Canadian workers can be forced to join a union and pay full union dues, yet have limited access to information about how that money is used. In addition, these laws cover a substantially higher percentage of workers in Canada than in the United States. It is difficult to reconcile an environment in which workers are forced to pay and support organizations with an environment that is not required to disclose timely, accessible, and useful information.

23 The Right-to-Work states are Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wyoming.

24 See Godin *et al.*, 2006; Clemens *et al.*, 2005; and Karabegovic *et al.*, 2004 for more detail on union security in the United States and Canada.

V. Conclusion and Recommendations

This study compares the union financial disclosure laws of Canadian provinces, the Canadian federal jurisdiction, and US states.

Disclosure laws and transparency

Disclosure laws regulate the quality and quantity of financial information that the affected organizations must make public. Public disclosure of financial information allows interested parties to gauge the financial health and performance of organizations. In addition, the transparency of that information serves to improve the governance of organizations.

Specifically, union transparency is important for two reasons. First, transparency enables workers to make more informed decisions regarding their preference for collective representation. Second, transparency leads to and is essential for accountability.

Canada-US divides

The divide between Canada and the United States with respect to financial disclosure requirements is acute. In eight Canadian jurisdictions (seven provinces and the federal jurisdiction) there are some requirements for disclosure to union members, but this information is limited and in most cases is not anonymous. Three Canadian provinces (Alberta, Prince Edward Island, and Saskatchewan) do not require any kind of public disclosure of union financial information.

The United States, on the other hand, has rigorous and stringent public reporting requirements for unions, differentiated by size based on spending. Unions in the United States must complete and submit specific forms to the Department of Labor (DOL), which then posts the submissions on its website. This form of disclosure allows complete anonymity for those wishing to review union submissions.

Recommendations for Canada

A Canadian policy for union disclosure should build on the successes of the US system while recognizing its problems. Specifically, Canadian policies should focus on ensuring that disclosure reports are publicly available, consolidated for all locals union activities, standardized, and easily accessible for average Canadians. One method of achieving this goal is to have a new, standardized form that simply delineates representation and non-representation spending on a consolidated basis. This simple statement would be supported by two financial statements that further delineate spending based on specific and prescribed categories. These two financial statements would be supported by various schedules equivalent to those now required in the US.

Final conclusion

Canadian workers clearly have much less choice than their US counterparts. They can be forced to join and financially support a union, but are given very little information about the nature and activities of the union. US workers, on the other hand, who already enjoy tremendous choice with respect to union membership and dues payment, also benefit from sweeping public financial disclosure requirements.

Labour relations laws in Canada, which govern the process through which unions gain and lose the right to represent workers, the subsequent interactions between employers and employees once a firm is unionized, as well as some interactions between unions and their members, must focus on balancing the ability for workers to be collectively represented with worker choice, as well as labour market flexibility broadly defined. Canadian laws are largely biased against both worker choice and labour market flexibility.

Appendix 1: Collective Bargaining Legislation in Canada

Jurisdiction	Private Sector	Municipal	Police	Firefighters	Hospitals	Teachers	Civil Service	Government Enterprise
Canadian Federal	Canada Labour Code	Canada Labour Code		Canada Labour Code	Public Service Labour Relations Act	Canada Labour Code	Public Service Labour Relations Act	Canada Labour Code
British Columbia	Labour Relations Code	Labour Relations Code	Labour Relations Code	Labour Relations Code	Labour Relations Code	Labour Relations Code	Public Service Labour Relations Act	Labour Relations Code
			Fire and Police Services Collective Bargaining Act	Fire and Police Services Collective Bargaining Act	Public Service Labour Relations Act	Public Education Labour Relations Act		
Alberta	Labour Relations Code	Labour Relations Code	The Police Officers Collective Bargaining Act	Labour Relations Code	Labour Relations Code	Labour Relations Code	Public Service Employee Relations Act	Labour Relations Code
Saskatchewan	Trade Union Act	Trade Union Act	Police Act	Fire Dept. Platoon Act	Trade Union Act	Education Act	Trade Union Act	Trade Union Act
			Trade Union Act	Trade Union Act		Teachers' Federation Act	The Public Service Act	1998
Manitoba	Labour Relations Act	Labour Relations Act	Labour Relations Act	Labour Relations Act	Labour Relations Act	Public Schools Act	Labour Relations Act	Labour Relations Act
			City of Winnipeg Charter	Firefighters and Paramedics Arbitration Act	Labour Relations Act (subject to the Public Schools Act)	Civil Service Act		
Ontario	Labour Relations Act	Labour Relations Act	Police Services Act	Fire Protection and Prevention Act	Labour Relations Act	Education Act (for public elementary and secondary schools)	Crown Employees Collective Bargaining Act	Crown Employees Collective Bargaining Act

continued ...

Appendix 1: Collective Bargaining Legislation in Canada (cont.)

Jurisdiction	Private Sector	Municipal	Police	Firefighters	Hospitals	Teachers	Civil Service	Government Enterprise
			Ontario Provincial Police Service Act	Hospital Labour Disputes Arbitration Act	Colleges Collective Bargaining Act	Labour Relations Act		
Quebec	Labour Code	Labour Code	Labour Code, Div. II	Labour Code, Div. II	Labour Code	Labour Code	Labour Code	Labour Code
			Civil Service Act		Public Service Act	Public Service Act	Public Service Act	Public Service Act
			Police Force Surete du Quebec			Civil Service Act	Civil Service Act	
New Brunswick	Industrial Relations Act	Industrial Relations Act	Industrial Relations Act	Industrial Relations Act	Public Service Labour Relations Act	Public Service Labour Relations Act	Public Service Labour Relations Act	Public Service Labour Relations Act
			Police Act					
Nova Scotia	Trade Union Act	Trade Union Act	Trade Union Act	Trade Union Act	Trade Union Act	Teachers' Collective Bargaining Act	Civil Service Collective Bargaining Act	Trade Union Act
Prince Edward Island	Labour Act	Labour Act	Labour Act	Labour Act	Labour Act	School Act	Civil Service Act	Civil Service Act
Newfoundland and Labrador	Labour Relations Act	Labour Relations Act	Labour Relations Act	Labour Relations Act	Public Service Collective Bargaining Act	Teachers' Collective Bargaining Act	Public Service Collective Bargaining Act	Public Service Collective Bargaining Act
			Royal Newfoundland Constabulary Act, 1992	St. John's Fire Dept. Act				

Source: Swimmer and Thompson (1995); Social Development Canada (2005).

Appendix 2: List of Schedules for LM-2 (Large Unions), United States

1	Accounts Receivable Aging
2	Loans Receivable
3	Sale of Investments and Fixed Assets
4	Purchase of Investments and Fixed Assets
5	Investments other than US. Treasury Securities
6	Fixed Assets
7	Other Assets
8	Accounts Payable Aging Schedule
9	Loans Payable
10	Other Liabilities
11	All Officers and Disbursements to Officers
12	Disbursements to Employees
13	Membership Status
14	Other Receipts
15	Representational Activities
16	Political and Lobbying Activities
17	Contributions, Gifts, and Grants
18	General Overhead
19	Union Administration
20	Benefits

Source: US Department of Labor, Employment Standards Administration, Office of Labor-Management Standards (2005a).

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