

TRANSPARENCY IN LABOR UNIONS

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Labor relations in Mexico have not kept pace with the processes of change underway in other aspects of national life. Instead, they are mired in an age-old story of corporatism and top-down control that interferes with the way unions are supposed to work to modernize the overall system, benefiting workers and improving national productivity. This political model is especially limiting, and especially obvious, whenever collective rights are involved: it shows up in the ways unions are organized, in collective bargaining, and in the labor justice system.

Workers often have to confront multiple challenges when they try to organize an independent union, because traditionally, employers and the State decide which organization gets to operate in a workplace. From the start-up of a given business, the bosses choose the union they want and repress any attempt at change. Due to the fact that unions have been subjected to employers' interests instead of those they ostensibly represent, their function of representing and defending workers is weak in general, and is perceived as such by potential adherents to independent movements.

Opacity in the handling of information is a key element in maintaining this system of control and corruption. Workers and the surrounding community are denied crucial information having to do with labor relations, such as union statutes, member lists, and the contents of the collective labor contract. Without this information, workers cannot defend their rights, and remain under the control of union managers and their collaborators, thus perpetuating a hierarchical model. This is why registries are kept secret and guarded as if they were a national security matter. These registry lists contain documents that unions are supposed to show the labor courts and the Ministry of Labor (STPS in Spanish), specifically the STPS's Associations Registry Department. Transparency of information is a necessary if insufficient condition to achieving legitimacy in unions and contracts.

Although the organizations that have been most active in promoting and evaluating transparency in Mexico have not focused on union and labor issues, it is important to note that both lawmakers and activists have made some improvements in this area. A vital part of the context here is the negotiation and signing of the North American Free Trade Agreement (NAFTA) among the US, Canada and Mexico, which went into effect January 1, 1994. At the same time, all three countries signed a parallel labor cooperation agreement.

The first article of the agreement establishes its objectives, while the seventh article promises to, “promote transparency in the administration of labor law.”

Based on this accord, workers at the Itapsa-Echlin plant, after a union election recount, lodged a complaint citing violations of their right to free association. After substantiating the complaint, on May 18, 2000 the Ministries of Labor of the three signing countries issued Public Communications 9702 and EUA 9703. These documents promised to uphold workers’ rights to a secret vote and to establish neutral voting places during union disputes. Moreover, as mechanisms essential to the exercise of labor rights, they included a commitment to, “[...] increase the open publication of union registry lists, including through the internet [...] and to make efforts to ensure that workers have information at their disposal about contracts that are currently in effect at their workplaces [...].” However, if initially the Mexican government was concerned about this international pressure, it was not long before it swept its commitment under the rug.

As part of his campaign trail, on June 27, 2000, presidential candidate Vicente Fox Quezada met with a large group of labor organizations and civil society representatives to collectively sign a document called, “The 20 Commitments to Union Freedom and Democracy.” One of those commitments read, “Establish public union registry lists and collective contracts. The organization responsible for said registry lists will be of a public nature and independent of the Executive Branch.” However, although the president-elect addressed this topic in one of his programs on economic development, later he omitted it, to avoid angering the corporatist union establishment.

Demands for union and labor transparency were made concrete in a reform bill authored by 64 legislators, most of them from the Party of the Democratic Revolution (PRD in Spanish). The bill, presented before Congress on October 31, 2002, proposed a reform of the Mexican Constitution and of the Federal Labor Law. It included a clause XXI to the new Article 123 of the Constitution, which would establish a public national registry of labor organizations and collective bargaining contracts. The institution tasked with housing the registry would be a public organization, federal but decentralized, with its own sources of funding and formal organizational structure duly constituted under the law; it would operate by principles of independence, accuracy, legality, professionalism, objectivity, and public disclosure. The projected establishment and operation of this institute is developed further in the text of the reform bill; one of the described functions of the registry would be to open up all information related to union and contractual matters. The initiative is still pending, awaiting analysis and resolution.

Union transparency, freedom of information and accountability of the pertinent authorities are longstanding demands, and they have come from a wide range of democratic union groups. This set of concerns was reflected in the report submitted on December 8, 2003 by Anders Kompass, the representative of the United Nations' High Commission for Human Rights in Mexico. The report recommended, among other measures, that Mexico, "develop legislation towards union transparency, the accountability of funds and assets, and of the management of membership dues [...]" and, "create an independent, legally constituted and separately funded institute to handle the registry of unions and collective contracts [...]." This recommendation was ignored, however, when Mexico drew up its National Human Rights Plan.

The government, at both federal and local levels (regardless of party affiliation) has been staunchly resistant to transparency in labor matters. This is because transparency would reduce its scope of control and would generate unrest, both in the business sector and among the unions invested in the corporatist system. It would affect the so-called employer "protection contracts", which operate at the periphery of workers' knowledge and consent, but which constitute the most common sort of workplace arrangement, especially in small and medium-sized plants.

Among the few practical steps forward in the area of labor transparency was the Labor Ministry's decision to publish a list of unions and their leaders on the internet. But, even there, crucial information was omitted, because the list was not organized to correlate specific leaders' names with the workplaces where they hold formal positions as union representatives. Additionally, access to information regarding the status of the contracts in the Federal Conciliation and Arbitration Board (JFCA in Spanish), and in Mexico City's similar local-level labor dispute resolution board, was blocked by a labyrinthine bureaucratic requirement: applicants had to establish "accreditation" by demonstrating their "legal interest", identification, and their relationship to the business that had submitted the contract. These obstacles combined with technical problems in the STPS' filing systems, including its organization of historical material, is a *de facto* limitation of workers' access.

The most important piece of news in terms of union transparency came in the form of eight appeals resolutions between 2004 and 2006 by the Federal Institute for Access to Public Information, (IFAI in Spanish).¹ Of these, three are linked to demands for information from

¹ Editor's note: These appeals resolutions refer to official IFAI decisions on cases where information requestors have appealed an agency response to an information request.

the Associations Registry Department of the STPS. Requested documents included union member lists, statutes and leadership registries of the Uniroyal Union, of the Oilworkers Union of Mexico and of the Radio, Television and Related Industry Workers of Mexico.² Five resolutions regarding collective contracting are remarkable in the sense that they force the JFCA to allow public access to their files on contracts.

In each of these cases, the IFAI has consistently pointed out, with solidly based legal argumentation, that applicants do not need to establish any particular accreditation or status to obtain information. Despite the firmness of these resolutions, authorities of both institutions (the STPS and the JFCA) continue to turn people away by obliging applicants to engage in a long struggle for the information they seek.

If we recognize that union transparency is a first step towards the democratization of the labor world, and that this process would have a positive multiplying effect in creating a social chain reaction, then it is essential to develop an agenda that allows us to move forward on this matter. It would be helpful, towards this end, to take into account international experiences and the positive experiences of contemporary democratic unions, with the objective not just of benefiting union members, but also of fostering a culture of labor and citizen responsibility. For transparency and accountability to be effective and practical, we need to pick up the threads of various initiatives for reform, which have been dropped. Key among these is the proposed creation of the public registry of unions and collective contracts; also, workers' rights to receive a full and detailed accounting of the administration of their union's financial status, according to Article 373 of the Federal Labor Law, should be made effective. These efforts cannot be limited to the federal arena, either, since labor authorities also operate on the local level and in the Federal District. The IFAI's criteria have to be distributed and extended to the rest of the state organizations dealing with transparency, so that those who fail to respect rights already established can be sanctioned.

Finally, it would be worthwhile to gather a group of citizens interested in labor and union transparency to create a watch-dog organization. The organization could follow up on how authorities at various levels behave and publicize the results nationally and internationally. In order to develop a democratic, responsible labor system that will benefit society, we will have to keep chipping away—at hard stone, and on multiple fronts.

² IFAI, Resolutions 448/04, 305/04 and 7/05 (respectively).