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## UNIONIZATION IN POST-FREE-TRADE-AGREEMENT CANADA

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### Introduction

In recent years there has been an increasing interest in Canadian industrial relations by Americans, particularly trade unionists and academics. This heightened curiosity stems from different industrial relations outcomes in the two countries. Most significantly, while both countries had approximately equal unionization rates in the early 1960s, at about 35 percent, the US rate has dropped in half, declining significantly in the 1980s, while the rate in Canada has increased to about 38 percent. And during the 1980s, the overall rate in that country remained approximately the same (Troy, 1989). Moreover, Canadian unions have been able to resist concessions and cooperative arrangements relatively more successfully than have US unions (Adams, 1989).

An important question arises: Will the Canadian unionization experience remain different from that in the US, or will there be convergence? Will the Canadian rate fall to the US level, as pressures of integration stemming from FTA (the Free Trade Agreement), and the economic environment that produced it, limit Canadian distinctions? With the opening of the US/Mexico/Canada negotiations over a trilateral trade agreement, it may be even more difficult for Canadian unions to protect their relative advantage in unionization.

The basic conclusion of our analysis is that important factors (like FTA) will push industrial relations events in Canada toward the US outcome. However, it is not expected that these strong pressures will reproduce the US model in Canada, as there exist in that country important institutional differences that tend to support more strongly the role of labor than is the case in the US. We arrive at this conclusion by utilizing an "agency" framework of industrial relations.

We begin, first, with a brief explanation of the agency approach. Second, we consider aspects of the Canadian industrial relations experience within this agency framework that has provided Canadian unions with an advantage over US unions. Third, the effect of FTAs challenge to Canadian labor's advantage is analyzed. Fourth, Canadian labor's response to this challenge is discussed. Finally, we consider some implications that follow from the above analysis.

### Unions' Strength: An Agency Approach

The conceptual framework suggested here, and developed more fully elsewhere (Glyde, 1989; Glyde, 1991B), has unions acting as an agent for their members, the most obvious principal-agency relationship in collective bargaining - - a seminal work on the general theory of agency is found in Jensen and Meckling (1976). Less obviously, unions act as an

agent for the firm (or employer) as well, providing certain services that would have to be provided in any case. This agency role is not seen in a negative light in the sense that somehow the union is deceiving its members or simply doing the firm's bidding. Finally, it is also useful to consider the role of the union as agent for society (or for government as society's representative) in the pursuit of public goals.

Unions acting as agent for their membership is the usual way in which we think of union function. Workers decide, democratically, whether or not they wish the unions to act as their bargaining unit's agent over matters such as wages, benefits, and other conditions of employment. A union agency role for the firm as principal, as we have noted, is perhaps not so obvious. Why would the firm ever desire unionization? The answer is not independent of whether workers of that employer desire union representation, but that is not the full explanation.

Assume that an employer's workers desire a union to act as their agent and they are successful in winning representation. Once in place a union also acts as agent for the employer (as the principal). The union agency role for the firm should be taken in the context that firms must, even in the absence of a union, set wage rates, have some form of shopfloor discipline, have a mechanism to communicate with workers, and devise ways to provide for industry stability. In the US, Piore (1982) has suggested that in important respects unions formed around firm's needs. And Freeman and Medoff (1984) indicate that the "collective voice-institutional response" arrangement that unions provide for employers has important productivity enhancing effects.

This is not to suggest that the firm would on its own select unionization of its workforce; there are other methods to provide itself with these services. What is important is that the firm will resist unionization less, given that its employees desire a union agent, and are less likely to fight an established union, when the union acts as well as a useful stabilizing agent for the firm.

Unions also act to serve in an agency role for society (as principal) at large. That is, unions perform services that spill over beyond the specific interests of the union membership so that the public in general supports the result. There is a "public good" aspect to union function. Also, lobbying efforts to pass legislation that is generally viewed as favorable is clearly an act of agency for the public - - Freeman and Medoff (1984) suggest this sort of public role is what explains much of the historical success of unions in the US in the legislative arena (and also their less successful recent attempts at amending legislation).

The basic point we wish to suggest here, utilizing this framework is: when unions are simultaneously utilized as stabilizing agents for all three principals, then unions will tend to flourish. Conversely, when two of their three principals—firms and society—no longer value unions' services as stabilizing agent, then even if the membership has greater stabilizing demands, unions will not be very effective in carrying out this basic function. It is in this environment that we consider the experience of unions in Canada in contrast to the experience of US unions.

### The Canadian Experience

It is now easier to consider the uniqueness of the Canadian political-economic setting which we believe has provided Canadian unions with a significant measure of advantage over their US cousins. But FTA, and other economic developments in Canada, may have reduced this advantage. We consider, first, what may be unique about unions in the Canadian industrial relations setting, and in the following section we consider the effects that a treaty such as FTA might have on the maintenance of this uniqueness.

The thesis suggested here is that Canadian unions have historically developed, and have retained, a stronger and more diversified agency role in Canadian society than have US unions in their country. Moreover, this broader-based agency role for society that Canadian unions fulfill underlies the more obvious advantages which appear to favor Canadian unions, for example, relatively favorable labor laws and stronger public sector unions.

It should be noted that an agency role is not simply a passive or static one. That is, once established in an agency relationship a union can solidify that role such that it becomes more costly for the principal to disengage or to revise the relationship. On the other hand, as economic events change an agency role can weaken, meaning that the principal can more easily withdraw and may have more of a preference to do so than before events changed. This point is important in the case of Canadian unions since, in our judgement, they have developed a stronger agency role than US unions. However, Canadian unions are also subject to significant revisionist tendencies on the part of their principals, particularly firms and government, a tendency we consider later.

The general framework developed above suggests that unions are more secure when they are serving simultaneously an established and stable agency role for workers, their primary principal, and for society (or its representative, government) as well as for employers or firms. In Canada, unions have served the membership much as have US unions, securing wage and benefit increases, improving conditions on the job, and providing a measure of job control. The support of the membership principal is therefore reasonably strong in both countries.

In Canada, however, there has been less willingness on the part of Canadian unions to take concessions or to engage in cooperative experiments (Adams, 1989). That is, from the perspective of Canadian union members, union officials have been more protective of their previous gains than is the case in the US. In terms of our model, this point suggests that Canadian unions' agency role for their Canadian members may be somewhat stronger relative to US unions, where more concessions occurred, leaving union leaders there with less political capital with their membership.

However, the fundamental agency role that unions play for their members has not diminished significantly in either country. That is, the demand for union services is strong on the part of workers, especially in the 1980s and early 1990s as long-term structural industrial adjustments occur and the 1990-91 recession developed. And as wages and benefits (especially in real terms) in the better paying jobs are threatened, and low-paying, benefit-scarce clerical and retail jobs expand, there is clearly a need on the part of workers for the services that unions can supply. Whether unions are able to service this need or not is a

separate question; the point is that the need (agency relation between unions and workers) exists in both countries.

But it is not the agency role that unions play directly for their members that explains why Canadian unions have an edge over US unions. Rather, in our view it is particularly the agency role that unions have played for society, as well as for firms, which marks a major difference between Canadian and US unions' experiences and successes in maintaining membership. And success in these two less obvious agency roles are in turn expected to facilitate Canadian labor's more obvious agency role for its membership. Since the agency role for society is considered more fundamental to the relative union success in Canada, at least historically, we focus on that relationship first.

Lipset (1990), among others, has pointed out that American society tends to be more egalitarian, antielitist, individualistic, antistatist and based more on a competitive meritocracy than is Canadian society. And, as Lipsey notes, this societal or cultural perspective shapes the views of US and Canadian labor leaders as well—and we suspect the views of management, too.

“The leaders of American workers[...] were anti-statist and opposed to a separate labor or socialist party. The Canadian union officials though not formally socialist, repeatedly endorsed the principal of independent labor political action from the turn of the century on and were much more favorable to state intervention than their counterparts to the south (Lipset, 1990, 5).”

In this context it has been easier to mobilize Canadian workers, and other groups, to further collective and more socialist objectives. In terms of our agency model, this point provides support for the view that unions can play an agency role for society (either for or against collectivism), and that a collectivist role has been a more natural one for Canadian labor. And the evidence suggests that this is an important role Canadian labor sees for itself.

“It has been clear to the Canadian Labor Congress, from the time of its founding, that we could never secure our objectives for our members solely through collective bargaining. [.....] Our massive geography and small population, our regional economic disparities, our relatively narrow economic base, the high degree of foreign ownership of our economy—have all required creative public policy responses to insure that the economy could provide Canadians with the opportunity to be employed in rewarding, well-paying and secure work. To the extent that Canadians have been successful in meeting this objective, we have not done so by simply relying on corporations to pursue their self-interest in the market place. We have done so by imposing the public interests in the context of a mixed economy (CLC, 1989A, 1).”

Canadian society has been more willing to pursue social policy, encouraging collective action more than has US society. This relatively broader support for collective action and statism—by all Canadian political parties—has filtered down to the industrial relations arena, and has provided Canadian labor with a collective agency role for society that has much more impact than in the US. In fact, Piore (1986) has suggested that for US unions to regain strength they need to define a new social role for themselves in the US context.

While US unions temporarily (in the historical context) played an important agency role

for society during the 1930s depression and ensuing war years—assisting in the war effort and helping to pass legislation that had general public support (including right to organize and collective bargaining laws)—and for a subsequent extended period of economic growth that followed, they appear to have lost that important societal role, being viewed more as a special interest group. Unfortunately for US unions, they operate as a collective force in a society that is much more imbued with a competitive, individualistic character than is the case in Canada. Thus, the collectivist actions of unions are less likely to clash with society's views of collectivity and fairness in Canada than in the US.

In this context, the industrial relations laws that Canada has passed, and the support the population provides to the NDP (New Democratic Party)—which wins about 20 percent of the popular vote at the federal level, and wins provincial elections, significantly the 1990 provincial election in Ontario—suggests a strong social agency role for unions. Canadian labor has formal ties to the NDP, in fact, the CLC was instrumental in the NDP's relatively recent formation from earlier socialist-leaning parties (Morton, 1974). And a statist attitude also runs through the historical policy of the Conservatives and Liberals as well (Lipset, 1990).

This analysis suggests a much stronger collective-statist mentality in Canada, a base from which unions could build support and which facilitates coalition-building. These points are not meant to imply that the Canadian public necessarily supports unions in some easily observable way. Rather, there are roots of public support in Canada that exist for collective action, and unions have invested their political capital in this base of support to strengthen their position, for example, by getting strong labor laws passed.

In their important book on unions in the US, Freeman and Medoff (1984) outline the decline of private sector unionization in the US. They point out that employers have instituted human resource policies to substitute for union function, they have slowed down the legal process by using the law to the letter, and they have increasingly broken the law in their efforts to become or remain union-free. Freeman and Medoff largely blame weak US labor law, suggesting stronger Canadian labor law for the different unionization rates existing between the two countries.

Their conclusion is correct in that Canadian law speeds up the process whereby workers can decide on union affiliation (in all but two provinces there is no certification election if a majority of the bargaining unit officially indicates—via authorization cards—a union preference); the law does not allow employers to unfairly postpone bargaining of the first contract—a common occurrence in the US; and rules about replacement workers restrict Canadian employers' options during strikes. In all these areas, many US employers have been effective at thwarting organizing and bargaining efforts by US unions. American labor has been singularly unsuccessful at labor law revision. Even when President Carter (a Democrat) was in office, and a Democrat majority existed in both houses of Congress, a relatively modest Labor Law Reform Bill was defeated.

But industrial relations law differences in the two countries reflect a more fundamental variant in the agency role that Canadian and American unions play for their respective societies. US unions have had to operate in a more individualistic environment, periodically responding to public demands for stabilizing services, while Canadian unions operated in

more collectivist surroundings, making their agency role more natural. The difference may not be as great as it was in the past, but Canadian unions have invested in the past in this "agent for society" role in a way that US unions did not, and could not, given the different views the two publics held regarding collective action versus individualism.

The investment that Canadian unions have made in their collective role—as agent for society—is consistent with the conclusion that Canadian unions have a "margin of strategic choice" in the current economic environment (Lipsig-Mumme, 1989) that US unions do not (Kochan et al., 1984). And this room to maneuver has provided Canadian unions with a measure of protection to date. The question of whether this advantage will be eroded by current economic trends, including FTA, we will consider below, after looking briefly at the agency role that unions play for firms in Canada.

It is well established that a significant number of American employers decided in the 1980s to reduce the presence or effectiveness of unions. These decisions represented behavior that was fundamentally different from previous actions (Kochan et al., 1984; Freeman and Medoff, 1984; Heckscher, 1988). Kochan et al. suggest that firms, especially in times of crisis, have a "strategic choice," not available to unions, and that this employer's choice in many cases was to become nonunion.

In the context of our agency model, the interpretation of strategic choice is that in the US, under one set of conditions—industry wide agreements, economic growth, little foreign competition, marginal technological change, the union served a useful stabilizing function for the firm both at the industry level as well as on the shop floor. For example, unions could take wages out of competition for industry oligopolists. Thus, firms made a strategic choice to allow unions to serve as their agent—given that workers at the same time desired representation.

But foreign industrial competition, and new technological requirements, changed the agency role that unions played for the firm (Piore, 1982). If the agency role of the union for the firm is significantly (not marginally) reduced, then union function is in jeopardy. Moreover, if little collective public support exists for unions—reflected in weak labor laws, then employers can make strategic choices to become union free or to demand significant concessions. This can occur in the face of union members requiring more, not less union services.

Canadian employers taken as a group have not challenged unions as much to date as their American counterparts. This is not to say that Canadian employers, along with government, have not engaged in significant efforts to role back unions (Panitch, 1988; Glyde, 1991A); only that on a comparative basis this has occurred less in Canada. That is, unions in Canada still play a more important agency role for employers than they do in the US.

The explanation for this difference is complex, but may (in part) indirectly reflect the historical differences between the two countries, to which we have referred. Canadian public pressure implicitly constrains what employers can do, as do more explicit constraints such as labor laws, reflecting more directly the public preference. On the other hand, the difference may simply reflect a lag, such that employers are just beginning major adjustments

in Canada that have already been carried out in the US. Moreover, Canadian business probably never was as intertwined with collective bargaining as an industry stabilizer—industrywide and pattern bargaining on a large scale—as was the case in the US.

Additional factors would include the fact that Canadian firms have less incentive to promote nonunionism since more comprehensive employment and health benefits exist in Canada regardless of workers' union status; thus, union-nonunion compensation differences are not so large. Moreover, there has been no "south" as an escape avenue for Canadian employers, and less need to reject Canadian unions because of protectionism afforded to business in Canada, these protections being part of the collective fabric of the country. Also, exchange rate adjustments have in the past cushioned higher costs in Canada to some extent. In short, there have been less compelling reasons in the past for Canadian firms to openly confront unions, and there would have been relatively less public and governmental support in Canada for such behavior by firms. Moreover, unions in Canada retain more of the CIO spirit, and they are quite willing to aggressively meet head-on employers who break the trust (Lipsig, 1989).

Another factor encouraging maintenance of the union agency role for employers concerns US firms resident in Canada. These employers, who located in Canada in order to avoid tariffs, had no need to escape Canadian unions as long as their costs were competitive in Canada. Most of these firms were not in Canada for export purposes. In contrast, US firms in their own market have been subject to greater foreign and domestic competition with the result that they have been more likely to bolt from their established collective bargaining relationships (Glyde, 1986).

Thus, for a number of reasons Canadian unions were able to maintain their agency role for firms—an easier task given the collectivist nature of the country, the desire of union members, the less aggressive nature of Canadian employers, along with a more aggressive labor movement, factors which together provide Canadian unions with a "margin of strategic choice". These factors help explain why Canadian unionization rates have remained higher than those in the US and why Canadian unions have managed to resist concessions and cooperative agreements, compared to US unions.

The overall conclusion, in the context of our agency framework, is that Canadian unions have been able to maintain an advantage over their US counterparts because they have maintained simultaneously a stronger triple-agency role, providing stabilizing services: for their members, for society at large, and for firms. US unions in contrast have a much weaker stabilizing agency link to society and to employers. Although unions once played a more powerful role for these two principals, society and firms are presently not so interested in the stabilizing services that unions might provide. In this context, Canadian unions have remained more entrenched. It remains to be seen whether future economic conditions, including those engendered by FTA, will erode the advantage that Canadian labor has nurtured.

### FTA and Canadian Labor

The relatively enhanced agency role that Canadian unions appear to have achieved is, of



course, not immutable. There are indications that the Canadian model is leaning more closely toward the US industrial relations experience (Panich, 1988; Kumar, 1988). One major sign of change in the Canadian environment is passage of FTA, and its subsequent implementation, and the recent US/Canada/Mexico trilateral agreement to enter into negotiations on a joint free-trade agreement. The Canadian-US FTA debate represented a test of wills in Canada between the free-market faithful, who suggested that FTA really represented "free-trade" and those more skeptical of how market adjustments, and trade deals, are brokered in the imperfect world of production and international trade (Glyde, 1991A).

It is perhaps too simplistic, but people in Canada who tend to be sympathetic to the collectivist ideal, were against FTA, while proponents were more likely to believe in the benefits FTA would bring via efficiency, individualism, competition, and a more minimalist role for the state—the American model. The Free Trade Agreement along with the current Conservative government's free market ideology, privatization, contracting-out and the selling-off of corporations such as Air Canada, represents a move away from the collectivist characteristic described above.

But FTA does represent a change in direction that could have important implications. It could affect Canadian unions' agency role for society and for firms. FTA, which does not reflect free trade, but is a mixed-bag of imperfect agreements (as well as agreements to agree in the future on important items such as the definition of subsidies) will have the effect of upsetting established competition in the Canadian market with unknown consequences. Firms resident in Canada will be less protected and this will mean that they will be more cost-conscious; Canadian firms may be forced in larger numbers to consider new locations to the south—especially if the US/Canadian/Mexican agreement is struck—an option that was not as appealing to them before FTA.

US firms resident in Canada can now consider a home location in the US, since they may have originally entered Canada to escape the tariff of an earlier era. Overcapacity in the US can now be used to supply the Canadian market, especially in times of recession such as 1991. New US business in goods production and in services are now freer to compete in Canada placing greater strains on Canadian providers. While Canadian culture, interpreted narrowly, was explicitly protected by FTA, the larger culture of Canadian collectiveness and statism will be severely tested by the process we have described here.

While FTA-related economic shifts in the long term might bring rewards to some sectors in Canada—there is considerable debate over the benefits and costs of FTA (Glyde, 1991A) and of trade strategy in general (Krugman, 1988)—there will be large adjustment costs and by implication a redistribution of income. The CLC, while unable to plot precisely the progression of FTA, has kept a log of plant closings and layoffs, and this list is apparently growing much more rapidly as a direct result of FTA (CLC, 1991).

In terms of the model we have suggested, it seems reasonable to suggest that in the Canadian economic environment of the 1990s, the union agency role for workers will remain strong. In fact, while it may be harder for unions to deliver to their members, the demand for union services and protection will likely increase. The collectiveness ideal, to which we referred above, has and will come under significant pressure as more market-oriented

policies are pursued by firms, and the government is less willing to provide supportive services—services that supposedly slow down the economic adjustment process and are inefficient, according to market-oriented policy makers. Unless Canadian unions can keep together and strengthen their coalition efforts, as they did to fight the passage of FTA, they are in danger of being seen more as a special interest group than previously. In that event they will lose some of the advantage that they have over US unions.

It has been suggested that in order for Canada to get closure on FTA, it had to agree unofficially to a rise in the value of the Canadian dollar compared to the US dollar (CLC, 1991). This increase has indeed taken place, although the connection between the exchange rate and FTA cannot be proven. Nonetheless, it does appear to be perverse that Canada is pursuing such a high interest rate policy in the face of the current (1991) recession, unless the goal is to keep the Canadian dollar much closer to that of the US. In terms of our framework, a higher Canadian dollar will press employers to reduce their labor costs in Canada, including confronting unions as US firms have done.

In conclusion, the triple-agency stabilizing role of Canadian unions, resulting in a higher unionization rate, is likely to be severely tested. However, as we have pointed out, Canadian unions have a measure or “margin of strategic choice” stemming from institutional investments that they have made in the past based on their advantage—e.g. labor law political-party links, and coalition-building. These investments will prevent, in our judgment, as steep a decline in Canada as US unions have experienced in their country. While speculative in nature, our conclusion is that while Canadian unions will retain an edge over US unions in terms of union density and economic clout, this relative advantage will shrink.

### Current Activities of Canadian Labor

Their post-FTA actions suggest that Canadian unions are engaged in vigorous efforts to protect the collectivist heritage in which they evolved. According to the agency model suggested here, this collective role which makes unions an agent for society—including union workers, nonunion workers as well as persons out of the labor force—can provide them with an important insurance policy against unfair economic adjustments, at least compared to their counterparts south of the border. This labor market strength does not translate into inefficiency; rather it provides a forum for hard bargaining and perhaps an enlightened transition (Adams, 1989; Verma, 1990).

In order to protect itself and its triple agency role, Canadian labor needs to be seen as innovative and, in particular, it needs to demonstrate its agency-for-society role. It appears to be doing this in a number of ways. First, Canadian unions appear to be sticking to their strength—as an advocate for equity on social issues, as an organizer of coalitions for social justice. For example, the CLC emphasizes that its rejection of FTA (if possible it would still recind the agreement) was not based on a fear of international trade or on some narrow notion of “isolationist nationalism.” Rather, the CLC makes the point that its rejection of FTA was based on “our deep committment to fight for full employment, a marketplace with social responsibility and the belief that a strong and vibrant public sector is the only

guarantee that the fruits of the economy will be fairly shared by all" (CLC, 1989B,1).

The CLC has put together a six point program which reflects its concern as a social agent for society: (1) Demand that government minimize effects of adjustment problems associated with FTA (2) monitor the effects of FTA (3) increase interunion solidarity to face revisionist corporations attempting to aggressively implement FTA (4) increase international solidarity and (5) increase community solidarity and coalition-building (6) improve education and information efforts (CLC, 1989B).

Second, the labor movement in Canada, as suggested by number (3) above, intends to keep its agency role for the corporation. To date, Canadian unions have engaged in hard bargaining as opposed to concessions or cooperative industrial relations. In terms of our model, Canadian unions may play a positive transition-assisting agency role for firms, a role US unions have had trouble maintaining. This role will not be easy, given the philosophy suggested by this quote by the chairman of the Canadian Manufacturing Association: "All Canadian governments must test all their policies to determine whether or not they reinforce or impede competitiveness. If a policy is anti-competitive dump it" (quoted in CLC, 1991, 13). Presumably, this test would cover industrial relations regulations as well.

### Implications

We have suggested that Canadian labor has been able to maintain to date a triple stabilizing agency role, while US unions have on a relative basis lost two of their three principals—society (government) and firms. There has always been something contradictory about the collectiveness nature of American unions and the individualistic society in which they operate. Apparently this has led to a low unionization rate in the US compared to the Canadian case where the state and the collective society plays a somewhat more central role.

With the passage of FTA, and trilateral negotiations commencing on a US/Mexican/Canadian free trade arrangement, and the Conservative Party promoting the free market ideology, events may press hard on Canadian labor's remaining advantage. Judging from the last federal election, the Canadian preference for a more collective society—relative to the US—still remains in place, but it may be eroding. And it may become harder for unions to argue that they serve as protector of the collective will.

Thus, the pressures of competition and reducing government activity exist in each country and will become more intense. Canadian firms and government will have to orchestrate change more by hard bargaining than is the case in the US, since Canadian labor is more able to insist on it, based on past investments in strengths such as provincial labor law—more easily passed given their stronger agency position.

Compared to their US cousins, Canadian labor is in a better position to consolidate its power. While both Canadian and US employers are exercising a "strategic choice" which may work against unions and collective bargaining, Canadian employers will probably have to pay more attention to the union response, since Canadian unions have a "margin of strategic choice" of their own, based on a nurturing of their triple agency role in Canadian society. In comparison, American unions seem much weaker along these dimensions.

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