

Differentiated Autonomy: North America's Model of Transborder Governance

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The intellectual context for my work is the realization that, because globalization has allowed corporations to become transnational in their operations and escape the control that nation-states used to exercise over them, states have responded by forming regional groupings in order to regulate corporations in continental spaces. In this optic, Europe is at the vanguard of the process of forming "world regions," having taken more than half a century to pursue the visionary project of creating a supranational quasi-state structure, the European Union (EU), which has managed to make weaker states stronger, to make poorer states richer, and to contain the power of the biggest state of all, Germany, by engendering a zone of peace among its members.

On 1 January 1994, when the North American Free Trade Agreement (NAFTA) came into effect linking Mexico to the United States and Canada, many saw NAFTA as an embryonic form of the EU. Given time, the argument went, NAFTA would evolve into something looking like the European Union.

My research has been devoted to finding out how the region called North America actually functions in its transborder relationships. Given that North America is the home to the world's only superpower, the United States of America, I wanted to find out whether transborder governance in the continent increased or limited US power in its immediate neighbourhood. I also wanted to determine whether the United States' typically tense and difficult relations with its Third-World neighbour to the south, Mexico, are becoming more similar to its relatively cozy and amicable relations with its First-World neighbour to the north, Canada.

What I found can be classified in four ways. In its institutionalization, North America is less than meets the eye. In some of its transborder economic governance, it is more than meets the eye. In other cases of regulatory harmonization, it is not at all what it appears. Finally, in inter-governmental security cooperation, it is just what it seems.

First, when you look at the institutions created by NAFTA to oversee the functioning of its many economic rules, you find that North America is considerably *less than meets the eye*. The reason is that such a central organization as NAFTA's North American Free Trade Commission has no building, no staff, and no budget. Apart from occasional meetings of the three countries' trade ministers, NAFTA's executive does not exist. NAFTA's judicial institutions for resolving disputes are of minimal importance, with the exception of one procedure which gives transnational corporations (TNCs) the power to set up international tribunals that can invalidate a domestic law if it has unfairly limited a company's profitability. Because NAFTA gives Mexico and Canada no institutional capacity to offset the United States' tremendous power and because NAFTA's rules mainly favour US interests in its periphery, it can be seen to have increased rather than limited US power in North America.

Second, if you look at the marketplace, you can find a number of economic sectors whose transborder governance is much *more than meets the eye*. Since the late nineteenth century, for

instance, the capital markets of Canada and Mexico have been closely integrated with American stock markets, in particular the New York Stock Exchange. Because the larger and more successful Canadian and Mexican companies have raised money in New York and because US TNCs raise capital in Canada and Mexico for their branch plant operations in those countries, the regulatory bodies overseeing each country's stock markets have developed intimate relations, with Canada's and Mexico's regulatory bodies often having to adapt their regulations to US standards.

The steel industry is fascinating, because it is the only sector to develop genuinely trilateral governance. To the extent that the three countries consult their three steel industry associations in order to develop a common negotiating position for North America at the World Trade Organization and the Organization for Economic Development and Cooperation, we can see an example of continental governance.

Third, some evidence of continental harmonization is *not at all what it seems*. The fact that the three countries' banking regulations are becoming more similar does not signify a development of *North American* governance. It represents the participation of the three countries' bank regulators in the Bank of International Settlements in Switzerland, which is the world's regulatory forum for national banking systems.

Another example is intellectual property rights (IPRs) which are particularly important for big pharmaceutical companies wanting to reap the financial rewards from marketing new drugs. Even though the IPRs in NAFTA are virtually identical to those in the World Trade Organization, it is the latter which pharmaceutical TNCs use when enforcing their rights in Mexico or Canada. Here again, North America is not functioning as a world region but as part of a global economic regime.

Fourth, if you consider how the three North American governments have interacted on security matters since September 2001, continental governance is pretty well *what we see*. The United States has pushed Canada and Mexico to sign Smart Border agreements in order to strengthen policing powers affecting the shipment of goods and the movement of individuals across the United States' two land borders. Paradoxically, while enhanced security signifies an increase of US hegemonic control over its periphery, Washington's dependence on Ottawa and Mexico City to implement these agreements reduces the power asymmetries between Centre and periphery; Uncle Sam's security depends on its neighbours' cooperation. In the 2005 Security and Prosperity Partnership for North America, Canada and Mexico are hoping to exchange compliance with US requirements to heighten border security for increased and guaranteed access to the US market.

In all these cases, we can see both that US power over its periphery has increased and that the disparity between the US-Canada and the US-Mexico relationship has diminished because — despite the massive narco-traffic and illegal immigration issues plaguing the US-Mexico border — managing common problems with the United States has tended to put Mexico on a par with Canada.

To divine where North America is heading, we might look at one leading industry that used NAFTA to give itself protection against competition from Asia and Europe. Global market consolidation in the automobile industry suggests that North America is losing its chance to become a regional regulatory space. Textiles, another industry that gained protection from NAFTA, has lost its short-lived continental integrity with the end of the Multi-Fiber Agreement and devastating competition from China. Even steel, which had seemed to be a truly continental sector, is being globalized by mergers and acquisitions with European and Asian steelmakers.

Bereft as it is of structured supranational governance forms, North America has neither a single hierarchical framework nor a separate mode of regulation for its continental accumulation systems. Rather, as our examples have suggested, it presents a multiplicity of informally institutionalized and overlapping networks of information, finance, production, distribution, communication, and marketing.

Whether we look at NAFTA's weak institutions, North America's informal transborder economic integration, those economic sectors that are more globalized than continental, or increased border security measures dictated by Washington, it seems clear that North America is not following in the EU's heavily institutionalized and solidaristic footsteps. In short, there is much transborder governance in North America but precious little governance of North America.

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