

North American Border Challenges: terrorists/drugs/trade & American Indians*

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Abstract

The goals for expanding economic trade within North America while fighting drug and human trafficking, as well as attempting to secure the common borders against terrorism – North America (Canada, Mexico, United States of America), under leadership of the USA, has created an environment that clearly favors capitalism often at the expense of the culture and tradition of indigenous Americans. Intended or not, the autonomy and free movement of Indigenous peoples has been greatly compromised since the enactment of the North American Free Trade Agreement (NAFTA) on January 1, 1994 and further restricted following the terrorists attacks on the USA on September 11, 2001.

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Introduction

The United States has long held conflicting sentiments toward its neighbors in North America – Canada and Mexico – especially toward its cross-border Indigenous populations: American Indians/Alaska Natives; First Nations, Inuits; Metizos/Metis. Since its independence from Great Britain, the United States of America has been embroiled in conflicts designed to expand its holdings in both Canada (War of 1812; Oregon Territory, 1846; Maine/New Brunswick border, 1840...) and Mexico (Annexation of Texas, 1836; War with Mexico, 1846-48; Gadsden Purchase, 1853).

These conflicts have greatly impacted the indigenous populations that once had free access to all of North America (French & Manzanarez, 2004; Jackson, 1917; Stanaard, 1992; Stephanson, 1995; Thornton, 1987). Imposed and enforced borders provide physical, cultural, and psychological barriers for American Indians forcing them to abandon traditional lands and cultural ways in order to accommodate the demands of the Euro-American way of life (Weber, 1930). As Indigenous populations were relegated to reservations (USA), reserves (Canada), and communal ejidos (Mexico), Canada and Mexico emerged as important U.S. trading partners for both licit & illicit goods and services. Indeed, until the September 11, 2001 (9/11/01) terrorist attacks on the USA, the US/Canada border was the longest “open” border in the world.

Border restrictions implemented by the USA following the 9/11 attacks have further complicated border agreements. Geopolitical differences now extend beyond the internal definitions of reservations or reserves. A significant dimension of this dilemma is the imposition of Euro-centric laws to groups that still adhere, with varying degrees, to aboriginal traditionalism and cultural ways. New passport laws greatly restrict the movement of cross-border tribes along both the US/Canada (Iroquois; Wabanaki...) and US/Mexico borders (Tohono O’odham...). The United States has also attempted to militarize *Indian Country*, where the U.S. Marshals and FBI have long been the federal law enforcement agency, in its *war on terrorism* and *war on drugs*. Clearly, racial and ethnic factors play a role in these extra-legal pursuits.

Cross-border Treaty Rights

Tribal border issues pertain not only to the 564 federally-recognized Indigenous groups comprising *Indian Country* – but to those 40+ tribes that transcend the U.S./Canada and U.S./Mexico borders – creating both internal and international sovereignty issues as well as the larger population of un-recognized Indigenous peoples, and mixed-Indian/Anglos known as Metis in Canada and Mestizos in Mexico. Historically, cross-border rights for indigenous peoples dates back to the 1794 *Jay Treaty* (aka, Treaty of London) that allowed for intra-tribal movement to traditional tribal lands now dissected by the newly defined international Canada/USA border. These rights were extended to those tribes transcending the USA/Mexico border with the Treaty of Guadalupe Hidalgo following the Mexican War in 1848 and later under the conditions following the Gadsden Purchase in 1854 that expanded United States incursion into Mexico (Campbell, 1989; Connor & Faulk, 1971; French, 2010; Griswold, 1990; Merk, 1972). Nonetheless, American Indians residing on traditional homelands that bridge the U.S./Mexico or U.S./Canada border have traditionally held a precarious status. Up until the September 9, 2001 terrorist attacks on the United States, the U.S. allowed free crossing for American Indians between the U.S./Canada borders. No corresponding rule applied to American Indians residing along the U.S./Mexico border, which included the Tohono O’odham (Papago), whose U.S. section of its traditional cross-border (in Arizona) consists of three million acres, or the substantial Mestizo population along the *Borderland*.

These changes in the *borderland* between Mexico and the United States added a new dimension to the racial mix with the addition of the high concentration of mixed-Indian-Spanish population (Mestizos). Furthermore, in 1924, the same year that American Indians/Alaska Natives gained federal citizenship (June 2nd), the United States Congress passed a law exempting American Indians born in Canada from the dictates of the *Immigration Act of 1924*:

That the Immigration Act of 1924 shall not be construed to apply to the right of American Indians born in Canada to pass the border of the United States: Provided, that this right shall not extend to persons whose membership in Indian tribes of families is created by adoption (Public Law 106-554 - April 2, 1928).

The *Borderland*, that region that transcends the 1,933 mile U.S./Mexico border for a radius from 30 to 50 miles on either side of the international border, flourished under the long reign of Porfirio Diaz who dominated Mexican politics from 1877 to 1911. Hence, the *Borderland* effectively became a viable border entity starting in 1882 with passage of the U.S./Mexico treaty allowing reciprocal border crossings. However, the race/class differential of those Mexicans being exploited for cheap labor in U.S. factories along the border or in U.S. agricultural, peasants, Indians and Mestizos, eventually fueled the Mexican Revolution (Gonzalez, 2002; Hall & Coerver, 1988; Harris & Sadler, 1990; Mclynn, 2000; Timmons, 1990; Womack, 1968).

For the most part, economic factors replaced the U.S. 19th century strong-arm tactics for land grabs in North America especially between Canada which soon became a leading trade partner. The fear of impeding U.S. intervention under the dictates of the Monroe Doctrine rendered Mexico a favorite place for U.S. resources, both material and human. Indeed, the United States benefited from the long-term rule (six terms as president) of General Porfirio Dias (the *Porfiriato* – 1872 to 1911) with U.S. mining, manufacturing, and oil giants dominating Mexico’s resources. It was also a time of economic growth

and stability in Mexico following the previous turbulent 50-years of its independence from Spain. Nonetheless, a race/ethnic/class divide also reemerged during Dias rule leading to the Mexican Revolution of 1910 that pitched the Anglo aristocrat land-owners, of Spanish heritage (*Criollos*) against the Indian and mixed-breeds (*Mestizoa*) seeking land reform (French & Manzanarez, 2004).

During this time the United States mustered some 20,000 military troops along the *borderland* and in 1914, invaded and occupied Veracruz in order to protect American interests in Mexico. The Mexican Revolution also led to vigilante killings of Mestizos at the hands of the Texas Rangers and other Texas law enforcement agencies during the ill-fated *Plan de San Diego*, the short-lived 1915 uprising among Hispanics to take back lands ceded to the U.S. by the Mexican War. In 1916, General Poncho Villa and his Metizo army attacked the U.S. Army fort at Columbus, New Mexico in retaliation to President Wilson's taking sides in the revolution and aiding the forces of General Carranza (Carranzitas). (Tompkins, 1934; Eisenhower, 1993; Webb, 1935).

The Mexican Revolution ended in 1917 leading to a new *Revolutionary Constitution* restricting future Presidents to a single six-year term plus allowing for free secular primary education (grades 1-6) and major land reforms (*Plan of Ayala*). Even then, the United States embarked on an 11-month *Punitive Expedition* in pursuit of General (*Poncho*) Villa. While General John (*Black Jack*) Pershing's troops were not successful in capturing General Villa, the expedition introduced mechanized equipment that served to transform the old horse military into a modern force (Eisenhower, 1993; French, 2010; Gonzalez, 2002; Hall & Coerver, 1988; Thompkins, 1934). The following year (1918) General Pershing led American troops (American Expeditionary Force) in Europe during World War I. During this era (1880 – 1930) U.S. immigration laws accommodated some 25 million European immigrants. It was during this time that the first exclusionary legislation was enacted, the Chinese Exclusion Act of 1882. The immigration situation for Mexicans during this era, up to the Second World War, was focused mainly on the *Borderland*. The worldwide Great Depression curtailed the immigration of laborers from both Canada (French Canadians to New England mills) and Mexico (cheap farm labor).

The trans-border movement during this time was not seen as being problematic in that the U.S. Border Patrol was relatively small. Since its inception in 1924, the U.S. Border Patrol remained relatively small for decades. Following the Great Depression the need for transient Mexican "day laborers" (*braceros*) led to an international agreement with the establishment of the *Bracero Program* (Public Law 45) from 1942 until 1964 (Public Law 45; Craig, 1971; Garcia, 1980). This was a form of capitalism that was seen as being beneficial to both the U.S. (First World) capitalists and Mexico's (Third World) peasant society in that these transitory exchanges did not drastically alter the rural Indian/Mestizos lifestyles.

Unrest in North America during the 1960s and 1970s led to changes in North American relations (Dion, 1992; French & Manzanarez, 2004; Navarro, 2008; Vallieues, 1971). Internal unrest plagued Canada, Mexico, and the United States with the FLQ (Front de Liberation du Quebec) Quebec Separatists Movement in Canada; the College Student Pro-Democracy demonstration in Mexico City during the 1968 Summer Olympics; and the anti-war and civil rights riots in the United States during the late 1960s and early 1970s including the emergence of the American Indian Movement (AIM) and the siege on Pine Ridge Sioux Reservation in South Dakota (1973-75) known as *Wounded Knee II*. These events provided the prelude to the North American Free Trade Agreement, known as NAFTA.

NAFTA and Neocolonialism

Talks of a tripartite free trade agreement began in earnest in the early 1990s and by the fall of 1993, the United States Congress had approved the passage of NAFTA. In contrast with the United States and Canada where there was considerable, often contentious, public and political debates on this issue, essentially little public debate was allowed in Mexico. In general, dissenting views were stifled. Even the business sector was not universally admitted into the NAFTA discussion. Nonetheless, Mexico was being forced into the international free trade market by virtue of its overwhelming debt following the devaluation of the Peso in 1976 and the stringent economic measures enforced in order to comply with the International Monetary Fund (IMF) and U.S. conditions for economic aid.

Thus, by the early 1990s, with passage of NAFTA, Mexico, under President Salinas, firmly established itself as a member of the free market states. However, this drastic change in Mexico's international status did not resonate with everyone, especially the Indians and Metizos who benefitted from the restoration of the ejido system (peasant communal-held land) following the Revolution. President Clinton insisted that as a condition for acceptance in NAFTA, the Mexican government abrogate Article 27 of the Mexican Constitution that protected Indian communal landholdings from sale or privatization – a hallmark of the Zapata/Villa Revolution of 1910-1919: *Plan of Ayala* which called for the breakup of the large haciendas (ranches/farms) and the redistribution of land to the campesinos: return of land to the pueblos, ranchos, and communities for communal distribution and communal use (Bulmer-Thomas, et al. 1994; French, 2010). At the same time, the U.S. Clinton Administration enforced the *Southwest Border Strategy* which was designed to shore up the most porous sections of the 1,933 mile-long U.S./Mexico border, those areas adjacent to the major *Borderland* centers: San Diego, California; Tucson, Arizona; and El Paso, Texas.

As the trade agreement went into effect on January 1, 1994, Mexico witnessed another Native uprising. Calling themselves the *Zapatista National Liberation Front* (EZLN), an armed group of hooded rebels attacked military posts and took over several towns in the southern state of Chiapas which is heavily populated by Mayan Indians. The emergence of the EZLN put the Indians' plight in the forefront of not only national, but international focus. With the dissolution of Article 27 of their Constitution, rural Indian and Mestizo communities that historically relied on their corn crop, fell prey to the dictates of the big agricultural businesses in the United States. The unintended consequence of this was the unraveling of the traditional ejidos lifestyle, forcing young Indians and Mestizos from the interior to the *Borderland* factories, known as *maquiladoras* (Fatemi, 1990; Katz, 1988; Khasnabish, 2010). Ironically, 1994 was the year when Mexico was to blast off on the path in modernization and join the other industrialized countries of the world. Instead it was the year of armed uprisings, political crimes, and economic crisis, as well as the rise of the Mexican drug cartels.

NAFTA was a major factor in the internal migration of working class Mexicans from the interior to the *Borderland*, and later, to industrial cities such as Toluca, Leon, and Puebla. By the same token, poverty and discrimination against indigenous peoples in war-torn Central American countries was the main incentive for the migration of non-Mexican Hispanics to enter Mexico in transit to the *Borderland* in their effort to enter the United States or Canada. Regarding the internal Mexican migration, not everyone had the intention of entering the United States. For the most part, many young females were enticed by their families to migrate to the *Borderland* in order to be employed in the maquiladoras. Accordingly, the NAFTA-driven migrations led to an increase in both licit and illicit enterprises along the *Borderland* resulting in the flooding of the slums within the cities and the emerging unincorporated

squatter settlements in rural areas known as *colonials* (Buffington, 2000; Fatemi, 1990; French, 2010; Katz, 1988). While the maquiladora factories provided legitimate employment, the illicit businesses, such as human trafficking (people smuggled into the USA by *Coyotes*), drug trafficking, and prostitution (legal in Mexico), flourished as well (French, 2010; Navarro, 2008; Ramos, 2005).

With the advent of a flood of young, single or unaccompanied females, the sex market in the *Borderland* became a draw for Mexican and American men, especially in the bar district of the major Mexican *Borderland* cities. An unfortunate consequence of this sex trade is that of child sex tourism where Mexico is one of the leading magnets for child sexual exploitation in the Americas. According to the U.S. Department of State, *Human Rights Report: Mexico*, the most vulnerable groups to be exploited are women and children, indigenous persons, and undocumented migrants (Human Rights – Mexico, 2008). Since 1993, the period corresponding with the advent of the NAFTA accord, hundreds of teens and young women have been murdered or simply disappeared in the *Borderland* region surrounding Juarez, Mexico (French, 2010, Cpt. 6).

Prime suspects have included the bus drivers hired by the maquiladoras to transport these women to and from work. The youngest victims from the maquiladora work pool are age 13, three years below the minimum legal age for this type of employment in Mexico. Civil rights groups in both Mexico and the United States fault the maquiladora administrators for these abuses since they obviously do not provide adequate protection for their female workers, most of which are Indian or Mestizos. These women are often forced to live in shantytowns (*Colonials*) while the maquiladoras subcontract bus drivers without conducting adequate background checks. Clearly, the United States bears some responsibility for this problem given that 40 percent of the maquiladora factories are U.S. owned. Hundreds of girls have disappeared or been killed since NAFTA was initiated. Drug and prostitution gangs, women haters, sexual sadists, and even those trafficking in body parts have come under scrutiny for these unsolved crimes French, 2010).

U.S. Wars on Drugs and Terrorism

The success of *Plan Columbia*, the tens of millions of dollars spent in Colombia in an effort to curtail that country's lucrative drug enterprise, opened the drug market in Mexico. Instead of eliminating the South American drug pipeline, U.S. antidrug efforts brought it closer to the United States by bringing this problem to America's southern border. This unintended consequence resulted in a new front on the *War on Drugs* along with a new battle strategy – *Plan Mexico*. Along with these strategies came a self-fulfilling prophecy, the transformation of Mexico from a small-time drug market to that of a major trafficking route to the United States starting in the 1990s. The U.S. Drug Enforcement Administration began its formal interventions in the Mexican drug war in 1996 with *Operation Reciprocity*, which addressed the distribution of cocaine and marijuana from Mexico to major U.S. cities. A year later, *Operation META* added methamphetamine to the drug battle. In 1999, *Operation Impunity* specifically targeted the Amado Carrillo-Fuentes Cartel in Juarez and in 2000 *Operation Tar Pit* was initiated to address the black-tar heroin trade (French, 2010).

This level of cross-border drug enforcement cooperation is linked to NAFTA through the Security and Prosperity Agreement of North America component. Not only did these actions increase the level of drug operations in Mexico, it promoted increased violence along Mexico's southern border with Guatemala, with its substantial Indian population, and other entry points for illicit drugs driven north to the United States and Canadian markets. The establishment of a border fence was a major outgrowth of

Clinton's NAFTA border strategy leading to the creation of *death corridors*. As a consequence of these actions, the U.S. government makes running the border gauntlet all the more deadly.

Militarization along the U.S./Mexico border began under the first Bush Presidency when in 1989, George H.W. Bush established *Joint Task Force-6* (JTF-6) at Fort Bliss in El Paso, Texas. JTF-6 was created in order to provide military support to the *War on Drugs* along the *Borderland*. The advent of both NAFTA and the 9/11/01 terrorist attacks in the United States has resulted in an increased U.S. influence in Mexico's military and law enforcement, what is termed – *the Colombianization of Mexico*. JTF-6 eventually became the longest-serving joint task force in U.S. history with some 70,000 troops deployed in 30 states with over 3,000 missions from 1990 to the present and in a modified fashion since the establishment of the U.S. Department of Homeland Security in 2003. Clearly, violence has intensified since passage of NAFTA and the inter-cartel wars since 9/11/01. Brazen gang killings of police, news media personnel, and by-standers have made Mexico one of the most dangerous places in the world. Over 90,000 killed since 2007 (French, 2010).

Following the terrorist attacks of 9/11/01, the United States created the Department of Homeland Security (DHS) on March 1, 2003, with responsibility for U.S. Customs and Border Enforcement (CBE), U.S. Citizenship and Immigration Services (USCIS), and U.S. Immigration and Custom Enforcement (ICE) with the U.S. Border Patrol now being under the CBE while ICE is responsible for deportation. In 2006, U.S. President George W. Bush, shored up his predecessor's *Southwest Border Strategy* initiated as part of the NAFTA accord, with *Operation Jump Start*. Here, the federal government reimburses the Governors of California, Arizona, New Mexico, and Texas for the deployment of their National Guard units along the U.S./Mexico border.

This tactic gets around the federal prohibition of using federal troops within the United States for domestic purposes. Accordingly, *Operation Hold the Line* was initiated at the Ciudad Juarez, Mexico/El Paso, Texas entryway, while *Operation Gatekeeper* addresses the main California entry from Ciudad Tijuana, Mexico into the Imperial Beach/Dan Diego region, and *Operation Safeguard* was employed along the Nogales, Mexico/Douglas, Arizona entryway to Tucson, Arizona. These border operations not only set the stage for the modern-era of the militarization of the *Borderlands*, it coincided with a significant reinforcement of the Border Patrol, making it the single largest U.S. Law Enforcement agency with some 45,000 officers (French, 2010).

Also in 2006, the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, commonly known as the ATF, initiated its five-year (2006-2011) secret sting operation, *Project Gunrunning*. The idea behind this program was to sell assault weapons to Mexican gang leaders from U.S. gun dealers so that these weapons then could be traced to those using them in Mexico. These weapons included AK-47 assault rifles and 50-caliber sniper rifles and ammunition. Some 2,000 weapons found their way to Mexican gangs. The “gunwalking” projects began in 2006 under *Operation Wide Receiver*, in Tucson, Arizona (2006-2008) and operation *Fast and Furious* in Phoenix from 2009-2011).

Things went wrong when the AFT and Mexican officials could only account for 710 of the 2,000 weapons that investigators were monitoring. The clandestine operation drew public and congressional attention when two of the guns were used to kill U.S. Border Patrol Agent, Brian Terry, on December 14, 2010. On May 29, 2011, Mexican Federal Police helicopters came under fire from .50 caliber weapons while attacking a cartel compound. Clearly, the introduction of these military assault weapons greatly increased the firepower of the drug cartel gangs. It is estimated that more than 200 Mexicans

were killed due to the availability of these weapons. This secret operation strained U.S./Mexico relations and resulted in former U.S. Attorney General, Eric Holder, being held in *Criminal Contempt of Congress* for his refusal to disclose internal U.S. Justice Department documents to Congress (Horwitz, S., 2011; ATF Fact Sheet, 2011; & Jackson, D., 2012).

Post 9/11/01 restrictions

As noted, cross-border security at both the Canadian and Mexican borders was shored up following the 9/11/01 terrorist attacks on the United States. These initiatives fell under the authority of the newly created Department of Homeland Security (DHS) created on March 1, 2003. In 2008, the United States began to institute the dictates of the *Western Hemisphere Travel Initiative* (WHTI). Under this agreement, approved NAFTA groups have access to *FAST-Free and Secure Trade Express* passage but it requires official passports for all others including North American Indians, of which, many do not hold required U.S.-approved birth certificates. Consequently, Indigenous peoples, notably those 40 tribal groups whose traditional lands transcend either the Mexico/USA or Canada/USA borders are among those most affected by increased post-9/11/01 security measures; those groups who historically had free access to their traditional lands and relatives regardless of which county they resided. Effective January 31, 2008 verbal declarations of citizenship, including Indian status, were no longer sufficient for border crossings. Consequently, WHTI fast-tracked approved NAFTA crossings while, at the same time, enforcing a USA-approved passport requirement for entering or leaving the United States.

The new rules require the Indian Affairs Canada card (INAC) and Tribal Enrollment cards, with photo, as well as proof of 51% Indian blood, accompanied by a government-issued photo ID such as a driver's license or Provincial Health Card. Any person of American Indian descent with less than 51% enrollment blood degree must meet the passport requirement. This includes the entire class of Métis (mixed-bloods) who are also protected under the 1982 Canadian Constitution. Many tribal members on either side of the U.S./Canada border only have tribal ID cards - insufficient for obtaining a passport. Moreover, many tribal members in all three countries do not have government-approved birth certificates, critical to obtaining a Canadian, Mexican, or United States passport. Mexican Indians are at an even greater disadvantage as are the vast majority of Metizos given their semi-autonomous lifestyle that often obviates federal or state birth certificates or other government-approved forms of official identification.

Another little known security measure is *Executive Order 13175*, the "Consultation and Coordination with Indian Tribal Government" which went into effect November 9, 2000, eight months prior to the terrorist attacks of September 11, 2001. With the advent of the Department of Home Land Security, in 2003, the federal government extended its authority to unilaterally enter any of the 564 federally-recognized tribal groups constituting *Indian Country*, including the deployment of military forces (Federal Register, Oct. 1, 2010). Under the auspices of "strengthening the United States government-to-government relationships with Indian tribes...", the federal government had extended its control over *Indian Country* by adding the Department of Homeland Security, along with its military mandate, to the duties of the Department of the Interior (Bureau of Indian Affairs) and the Department of Justice (Major Crimes Act) further restricting the limits of tribal semi-autonomy to that of low-level civil, criminal, or administrative authority (Federal Register, Nov. 9, 2000). Obviously, greater federal intrusion into *Indian Country* makes tribes more dependent on federal programs, which have historically been inadequate and grossly underfunded, while at the same time stifling tribal enterprises including any international endeavors.

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