

# THE MEXICO-U.S. LINE: IS SHARED RESPONSIBILITY POSSIBLE?

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### **The Dual Function of the U.S.-Mexico Border**

The *North American Free Trade Agreement (NAFTA)* enhanced and expanded material and human mobility across the North American region, legal or not, and challenged cross-border governance mechanisms prevailing in the region for dealing with transnational circulation. Parallel to the enhanced mobility spurred by regionalization trends, the regional bloc also witnessed a “thickening” of inner or outer borders, an overall retooling of strategies and technologies gearing to a redefinition of social distances, and the enhancement of deterrence and confinement. It is as though the more mobility is exacerbated by the abatement of economic and technological barriers, the more state agencies and governments seek to reclassify and differentiate the capabilities of those people and material goods that are entitled to move from those who are not.

However, strategies enhancing mobility or deterrence are not a sign of an “anomaly”; they rather complement one another and have become intimately intertwined. The two integrate a sort of circulation regime, the goal of which is to encourage those flows considered legal and beneficial for specific purposes according to states’ policy and political preferences, while at the same time targeting undesirable, illegal, or risky movements that must be confined. Within the North American space the mobility side of the circulation regime has been earmarked by *NAFTA* and the economic interdependence exacerbated by the regionalization trend, while the confinement side has been epitomized by the prosecution of “illegal” material transactions or “unauthorized” moving of people, and after September 11, by “suspicious” and “risky” flows of any kind. The governance of mobility in North America is moving rapidly from the enforcement of deterrence to the governance of risk.

Ideally, the *NAFTA* regime, in place since 1994, was aimed at building a sort of “borderless economy”, the great metaphor dominating the ideology and narrative of global markets. This metaphor reflects well the spirit and backbone of the trade regime: to enhance and empower the circulation of goods and investment in the hands of firms and markets in order to boost wealth, productivity, and efficiency

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throughout North America, and to discipline state intervention in the economy. Nonetheless, the building of this circulation regime had to be accommodated within political realities and strategic imperatives of security. The creation of a borderless economic space has remained a metaphor since territorial and non-territorial borders were not barred nor banned by the NAFTA agreement. In fact it provoked the opposite: a progressive “securitization” of the Mexico-United States border, exacerbated by unauthorized migration and illegal trafficking.

### **The Flaws of the Mobility Regime between Mexico and the U.S.**

According to the Obama administration, the southern border is now more secure than it has been for 20 years. To support this, the U.S. government highlights that the Border Patrol is better staffed than at any time since it was created, that investigative resources have escalated, that surveillance mechanisms have stepped and that “shared responsibility” mechanisms with Mexico have developed. Indeed, border states and cities on the U.S. side are quite secure. While it is difficult to establish the link between violence, crime and drug trafficking organizations (DTOS) activities, official data shows that crime rates in major U.S. border cities have in fact decreased compared to the national average, and that, in spite of the violence spurred in Mexican border cities, there is no evidence of “spillover” violence to the American side of the line. The border region on the U.S. side is indeed secure. The same cannot be said for the Mexican side of the border.

However, the question that should be raised is whether a militarized and barricaded border has helped to deter the illegal influx of people from Mexico into the U.S. Officially, one of the major goals of the staff, police and army based at the U.S. southwest border is to stem and interdict the flow of drugs and illicit proceeds. Local and federal agencies normally assess the soundness and success of their activities by measuring drug seizures and human apprehensions and deportations. Following those standards, the record of the past years looks good. From 2005 to 2010, heroin, marijuana and methamphetamine seizures coming from Mexico have increased while seizures of cocaine have declined. Human apprehensions have declined from the peak of 1.6 million people in the period from 1991 to 2000 to little more than 300,000 in 2011. But those figures say nothing about drug consumption behavior in the U.S., or migrants’ recidivism after U.S. deportation. Does the decline in cocaine seizures in the past few years mean that Americans are consuming less of this drug or substituting it with other drugs, thus explaining the increase in seizures of heroin or marijuana? There are no records attempting to make these connections. Since the disruption of drug trafficking coming from Mexico is affecting the prices and quality of illegal drugs consumed in the U.S., to what extent this reduces consumption, or if consumption patterns are simply adapting to the new circumstances, is unknown. Though the Obama administration has accepted the demand side of the question, we don’t know to what extent the American people are becoming less addicted to illegal drugs.

The case of human smuggling and unauthorized traffic is very complicated. The more barricaded the southwest border became the greater the number of illegal aliens that trespassed over the border. From the early 1990s to 2007, the number of unauthorized people crossing the border jumped from 2.5 to 12 million. This has declined to less than 11 million today, but no connection can be established between border deterrence enforcement and illegal human trafficking. In fact, similar to what happens in drug markets, U.S. demand for cheap, non-unionized and politically unprotected labor is commanding the cycle of human trafficking across the border. The deep financial crisis witnessed by the U.S. during 2007-2009 helps to explain the decline of the non-authorized population. Deportations and a stricter surveillance at work sites also explains in part that decline. However, the illegal flow will probably recover if the U.S. economy witnesses a new boom similar to that of the 1990s.

And then, of course, we have the “unintended” consequences of a barricaded line. The border remains secure, with no “spillover” violence in border cities on the U.S. side but it has become dangerous and violent in key border cities of the Mexican side, i.e. Juárez, Nuevo Laredo and Monterrey. Disruption of illegal drugs coming from Mexico, fueled by Mexico’s own strategy of using the army to combat drug trafficking organizations (DTOs), has spurred violence at the border and in many other cities and regions as territorial disputes arise among drug barons. Illegal migrants have become more vulnerable due to increased American enforcement measures (assessed by the increase in their death toll), to smugglers, and to new risky routes they have to take in order to trespass the line. They also have become more stigmatized in the U.S., as witnessed by the proliferation of xenophobic legislation passed by state legislatures.

Furthermore, the thickening of the border has strained U.S. relations with Mexico as the asymmetric conditions at the border become apparent. Although the trafficking of illicit drugs and people has become riskier and more expensive, it is impossible to stop as the demand for drugs and for cheap/unprotected labor from north of the border and the demand for illegal guns and money from south of the border is driving the activity. Illegal money and arms only escalates the violence and military capabilities of the DTOs in their conflicts with the Mexican army or rival warlords. Only very recently has the U.S. accepted their role in the problem but it is not yet clear how a “shared responsibility” will be translated into workable solutions. While the Obama strategy on drugs is to reduce consumption and treat it as a public health issue, the states of Washington and Colorado have already liberalized the consumption of marijuana, and other states seem ready to get on the band wagon. The U.S. has also become committed to stem gun smuggling into Mexico, but operations such as “Fast and Furious” only highlight the complexity of the problem and how unilateral the so-called “shared responsibility” operates. More recently, President Obama has invited Congress to severely regulate the gun market in the U.S. but his motivations have more to do with a rising number of fatal shootings in the U.S. and do not take into consideration the security and strategic consequences of an unregulated arms market on Mexicans.

### **Will Mexico and the U.S. Agree in a Common Definition of Risk?**

After September 11, 2001, U.S. border politics rapidly shifted from the sovereignty-centered border game of protecting and exercising the monopoly of the state in deciding on the legal transit of “aliens” and goods in its territory, to a rather war-centered paradigm in which protection of the homeland, not only its borders and territory, but also its population, resources, and all their interconnections with the “outside world”, was at stake. This “war-centered” paradigm did not replace the “sovereignty-based” one; rather, they overlap and reinforce each other. The “historically embedded” territorial border is still to be protected against illegal aliens and drugs, but the focus shifted to those criminal aliens potentially linked to or exploited by terrorist purposes.

It is in this context that “smart borders” were conceived, as moving and changing checkpoints whose technology and knowledge-intensive mechanisms for screening and profiling suspicious or risky people aims at building a threat assessment for the homeland. According to Washington, “smart borders” and transport are intertwined, in the sense that every community in the United States, be it small or large, is interconnected within a worldwide transport infrastructure. Harbors, railroads, airports, highways, energy grids, virtual networks, and any flow conveying people or commodities are currently considered to be part of this infrastructure. In other words, “smart borders” were not devised to deter and confine people or goods, a task accomplished by barricaded lines. The tactical goal of these moving, flexible supervision checkpoints is not to interrupt or dislocate, but to differentiate risky movements from those that are not. In contrast with territorial borders embedded in historical national narratives and

identities, “smart borders” are constantly moving and changing; they could be an embassy or consular premise; they function at customs clearance or preclearance; they could be activated when a cargo in a container is being registered in advance; they are in airports and aircrafts, in shipping routes and pipelines. The goal of “smart borders” is to promote, through modern screening technology—digital analysis of fingerprints, irises and other biometrics—the “efficient” and “safe” transit of people, goods, and services across the homeland and its interconnections. Framed in those terms, Mexico became a de facto extension of the U.S. homeland and became a strategic “buffer area” where the main goal is to filter any potential threat or risk to U.S. security and interests.

Although Hillary Clinton has considered Mexican DTOs to be “terrorist insurgencies”, there is no evidence of terrorist groups or activities operating in Mexico targeting U.S. citizens or American territory. While Janet Napolitano has warned of potential spillover violence at the border, towns and cities along the U.S. border remain safe and peaceful. The risk to the U.S. is a potential one, but the way it is being addressed has made Mexico a dangerous place. The unintended consequence is that the Mexican state risks being either “captured” by DTOs interests or becoming devastated by corruption and violence triggered by drug barons. Furthermore, Americans should consider how the fragmentation of the DTOs operating in Mexico is going to change the way DTOs operate in the U.S. Mexicans should also evaluate whether it still makes sense to combat DTOs whilst the legalization of certain drugs, such as marijuana, continues in the U.S.

### **Some policy options**

Cooperative border activities between Mexico and the U.S. should move from a unilateral deterrence approach to a shared vision and assessment of the common risk.

However, Mexico should strengthen its side of the border in order to anticipate and prevent the smuggling of guns and bulk money. A replica of the U.S.-made barricaded border is not the answer as it is very costly and highly inefficient, but the strengthening of cross-border cooperation with U.S. agencies and programs in order to trace, in US territory, any illegal trafficking going across the border to the south.

Is there a common threat to both, let alone, the three North American nations? If terrorism and terrorist-related activities are the common threats, barricaded lines are not the solution. The two (three) countries should move toward building a common threat assessment framework from which specific policy goals and targets can be defined. If DTOs and drug-related violence is the common threat, Mexico and the U.S. should move towards a renewed paradigm on drug abuse, consumption and prohibition. As the scientific record suggests, not all illicit drugs are equally dangerous and toxic. Tobacco or alcohol could be more harmful to health, if abused, than say, marijuana. The scientific evidence and medical research should be at the forefront in the discussions and policy making on the problem.

At present, the “war” against illegal drugs has emphasized the destruction of production and the disruption of their supply lines, regardless of the changing behavior in consumption, and the changing behavior in the global supply. A similar pattern has dominated the transit of illegal aliens. In the latter case, a bipartisan proposal has been put forward to the U.S. Congress by the Obama administration. The proposal is not to enlarge or thicken the border line, but to decriminalize and make more transparent the circulation of people. A similar approach should be followed with the circulation of drugs, with all the caveats involved in this case.

If the liberalization of marijuana has been initiated at the state or subnational level, the three countries of North America should gradually converge on a common approach towards reclassifying the toxicity, and consequently the health risk, of psychotropic drugs, in order to top down the level of prohibition and bottom up tolerance.

At present, the risk of illegal traffic is being socialized in a discriminatory way. The war on drugs has not only killed drug barons but also a great number of innocent citizens. It is time to move part of the risk of drug abuse, to the individual abuser. As President Obama has recognized,, at the end of the day, drug consumption is a public health problem.

In spite of the regional trends that are reshaping the North American landscape, territorial borders will persist. However, the debate in which public agencies, officials, social and individual stakeholders are involved needs to shift from the escalation of deterrence to the analysis and assessment of common risks, be it local, cross-border regional, North-American or global.