

# **Labor Transnationalism and Global Governance: The Impact of NAFTA on Transnational Labor Relationships in North America<sup>1</sup>**

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This article examines how the North American Free Trade Agreement (NAFTA) catalyzed cross-border labor cooperation and collaboration (i.e., labor transnationalism), by creating a new political opportunity structure at the transnational level. Because there are differences in the way power is constituted at the transnational and national levels, theories of national political opportunity structures cannot be directly mapped onto the transnational level. The author describes three primary dimensions of political opportunity structure at the transnational level that explain how power is established: (1) the constitution of transnational actors and interests, (2) the definition and recognition of transnational rights, and (3) adjudication at the transnational level. The case of NAFTA suggests that while the emergence of national social movements requires nation-states, global governance institutions can play a pivotal role in the development of transnational social movements.

## INTRODUCTION

The 1993 passage of the North American Free Trade Agreement (NAFTA) institutionalized processes of globalization that had been occurring since

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the 19th century into North American policy, better enabling transnational companies to traverse the planet in search of new markets, untapped natural resources, and cheap labor.<sup>2</sup> NAFTA embodied an emergent “multilateral regime,”<sup>3</sup> that is, a particular kind of global governance institution that many predicted would intensify animosity among North American unions by forcing them to compete for a diminishing number of manufacturing jobs.<sup>4</sup> An examination of the aftermath of the struggle against free trade in North America, however, reveals that far from polarizing workers, NAFTA had the unanticipated consequence of stimulating labor cooperation and collaboration among many North American unions.

In this article, I will examine the emergence of labor transnationalism (i.e., ongoing cooperation and collaboration across national borders on substantive issues) in North America and its relationship to a new global governance institution, NAFTA.<sup>5</sup> To measure labor transnationalism, I employ as my unit of analysis the emergence of transnational *relationships* among unions,<sup>6</sup> and focus on one trilateral relationship that developed in the 1990s among the United Electrical, Radio and Machine Workers of America (UE), the Authentic Labor Front (Frente Auténtico del Trabajo, or FAT), and the Canadian Steelworkers of America (CUSWA).<sup>7</sup> These were not the only unions to engage in transnationalism as a result of NAFTA; however, I focus on this triad because the relationship was the earliest to emerge and is the most developed.<sup>8</sup> I argue that NAFTA

<sup>2</sup> NAFTA was passed by the U.S. Congress in September 1993; it entered into force on January 1, 1994.

<sup>3</sup> For a discussion of multilateral regimes see Krasner (1983) and Ruggie (1993).

<sup>4</sup> NAFTA is more accurately a regional governance institution, but for simplicity and consistency with the term used in the literature, I will refer to it as a global governance institution.

<sup>5</sup> The practices of labor transnationalism can include grassroots and labor organizing, political lobbying and mobilization, strategic planning, campaign organizing, invoking legal bodies, creating new institutions, etc.

<sup>6</sup> Scholars distinguish among several types of transnational contention or political activity, including cross-border diffusion and political exchange, transnational social movements, and transnational advocacy networks (see Keck and Sikkink 1998; Tarrow 2005, 1998b, chap. 11). Here I add the term “transnational relationship,” defined as ongoing interactions based on equality, long-term goals, and mutual interest, with rank-and-file involvement.

<sup>7</sup> The Canadian steelworkers are known by USWA, but to distinguish them from their U.S. counterpart, I use CUSWA in this discussion.

<sup>8</sup> Other relationships include the largest unions in the telecommunications industries in each country: the Communication Workers of America (CWA, U.S.), the Communications, Energy, and Paperworkers Union (CEP, Canada), and the Mexican Telephone Workers’ Union (STRM); and among North American labor federations the AFL-CIO, the Canadian Labour Congress (CLC), and independent Mexican union federations (those not controlled by the ruling party), including the FAT and National

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and its labor side agreement, the North American Agreement on Labor Cooperation (NAALC), stimulated the relationship among these unions by constituting a new transnational political opportunity structure through which labor activists could engage each other.<sup>9</sup> Using this case, I will reveal the process by which NAFTA created a new political opportunity structure at the transnational level that facilitated the creation of a nascent transnational political action field.<sup>10</sup>

While North American unions had contact with each other for years prior to NAFTA through various institutions and organizations (e.g., the World Federation of Trade Unions, the International Confederation of Free Trade Unions, and international trade secretariats, among others), these interactions did not rise to the level of transnational relationships according to my definition because in general they were not equitable, were not based on efforts to create and nurture long-term programs based on mutual interests, and usually only involved union leaders and elites.<sup>11</sup> Moreover the anticommunist activities (particularly in Latin America) of the American Federation of Labor and Congress of Industrial Organization (AFL-CIO), and the tendency of the U.S. labor movement to employ racist rhetoric and policies to scapegoat foreign workers and immigrants for job losses in the United States, tainted relations among North

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Union of Workers (UNT). For a discussion see Boswell and Stevis (1997), Cohen and Early (1998), Kay (2004b).

<sup>9</sup> Here I utilize political opportunity structure as a set of independent variables that facilitates the *emergence* of labor transnationalism, not its success and failure (see Gamson and Meyer 1996). I adopt Tarrow's definition of political opportunity structure as "consistent—but not necessarily formal, permanent, or national—signals to social or political actors which either encourage or discourage them to use their internal resources to form social movements" (Tarrow 1996, p. 54). I use the term political opportunities to identify those opportunities that emanate from a political opportunity structure. Thus, in the transnational arena, a transnational political opportunity structure would emerge first, allowing for the creation of a transnational political action field.

<sup>10</sup> Fligstein defines fields as "local social orders" in which "actors gather and frame their actions vis-à-vis one another" (Fligstein 1998, pp. 2, 6). See also DiMaggio (1986), Scott (1995), DiMaggio and Powell (1991), and Fligstein (2001). For a discussion of political action fields, see Evans (2002). For a discussion of the related concept "transnational social fields," see Khagram (2004), and Levitt and Schiller (2003). Here I define a transnational political action field as an arena that crosses national boundaries in which social actors and their organizations frame issues, mobilize, and contest or advocate particular policies or practices.

<sup>11</sup> For a discussion of the history and limitations of international labor organizations, see Stevis (1998) and Boswell and Stevis (1997). I characterize union relations in the pre-NAFTA era as similar to what Tarrow (1998a) terms "contingent political alliances," which are based on ephemeral transnational "relays" or exchanges between social activists.

American unions.<sup>12</sup> When asked about the AFL-CIO's involvement in transnationalism prior to NAFTA, a leader in the federation's international department explained: "Basically there was nothing, or very little before NAFTA. The AFL was involved with the CTM and worked mostly through the International Labor Organization on issues not related to the U.S. or Mexico, but on other Latin American countries, problems . . . The transnational activities that existed prior to 1990 were not really linked to national unions, but rather were carried out by progressive locals, or dissident northern movements, and did not involve long-term relationships usually."<sup>13</sup> The relationships among unions and federations that emerged in NAFTA's wake were new and unique in North America.<sup>14</sup> This presents a compelling puzzle: How did NAFTA, the concrete manifestation of globalization processes in North America, help deepen labor solidarity on the continent?

I argue that NAFTA catalyzed labor transnationalism in two ways. First, it stimulated political mobilization. Labor unions in Canada, the United States, and Mexico, which for years had been isolated and estranged from each other, came together to try to kill the free trade agreement and what they deemed a weak and ineffectual labor side agreement. They created and nurtured new ties of cooperation and networks of protest during the NAFTA negotiations.

Second, NAFTA created nascent institutions through which labor activists could build transnational relationships. The NAALC established new rules, procedures, and venues to adjudicate complaints of labor rights violations in North America. It established National Administrative Offices (NAOs) in each of the three NAFTA countries to handle complaints of labor rights violations (called public submissions or communications). The NAALC stipulates that complaints may be filed against the government of any NAFTA country through an NAO in a country other than the one in which the alleged labor violation occurred. Because it requires submitters to file complaints outside their home countries, the NAALC forces labor unions to search for allies in other NAFTA countries with

<sup>12</sup> For more on the anticommunist activities of U.S. labor, see Cantor and Schor (1987), Spalding (1992), Morris (1967), and Herod (1997). U.S. labor's xenophobic tendencies are discussed by Bustamante (1972) and Frank (1999). I have examined how NAFTA helped facilitate the process of rupturing racist rhetoric and policies among North American labor unions (Kay 2003*b*, 2004*a*, 2004*b*).

<sup>13</sup> The Confederation of Mexican Workers (CTM) is the major Mexican union federation with historic ties to the ruling party (the Institutional Revolutionary Party, or PRI). The quote comes from a personal interview with an AFL-CIO representative, February 29, 2000, in Washington, D.C.

<sup>14</sup> For discussions of changes in the landscape of union relations in response to NAFTA, see Kay (2000), Stillerman (2003), Robinson (2002), Kidder (2002), and Hinojosa-Ojeda (2002).

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whom to collaborate on submissions. By facilitating cooperation and collaboration through its procedural rules, the NAALC catalyzed transnational relationships that had not previously existed.

An examination of NAFTA not only offers empirical insights into the nature of global governance institutions and labor transnationalism, but also provides rich theoretical contributions to the social movements literature. Substantively, this analysis illuminates the process by which global governance institutions constitute transnational political opportunity structures. It shows that changes in transnational rather than national political systems and institutions stimulated the alliance among the UE, FAT, and CUSWA. This is not to suggest that nation-states become irrelevant as a transnational political action field emerges. To the contrary, national labor movements continue to be oriented to and gain leverage through nation-states while simultaneously exploring the strategic possibilities of the transnational arena. To the extent that transnational relationships emerged in North America, however, they did so in response to a nascent transnational political opportunity structure, which is the focus of this article.<sup>15</sup>

An analysis of NAFTA also enables us to expand our theoretical understanding of national political opportunity structures to the transnational arena in order to explain how power is constituted at the transnational level. Moreover it contributes to our theoretical understanding of transnational social movement emergence.<sup>16</sup> That is, it demonstrates how global governance institutions stimulate the emergence of transnational social movements by creating new political opportunity structures, which together with the social actors that engage them, constitute an emergent political action field. If, as Tilly (1984) argues, the development of national social movements can only take place in the context of the nation-state, the case of NAFTA implies that statelike entities in the

<sup>15</sup> The relevance of the nation-state to labor movements is unique among social movements because their tactical options are constrained by labor laws that force them to engage the nation-state and employers through institutionalized processes (see Kay 2003a; Stillerman 2003). Unlike other social movements that can focus primarily or solely on disruptive politics (such as the antiglobalization movement), the labor movement must invoke legal mechanisms as part of its tactical repertoire, or risk legal sanction. Of course, the labor movement also benefits from institutional access to power, and guarantees of particular kinds of state protection. It is therefore highly unlikely that, in an international system composed of nation-states, labor movement activists would embrace transnational strategies to the full exclusion of national or local strategies. Elsewhere, I discuss how national labor movements' continued orientation toward their nation-states presents significant obstacles to labor transnationalism (Kay 2004b).

<sup>16</sup> Here I examine one transnational relationship that emerged among many in the struggle against NAFTA that together constituted a transnational social movement; elsewhere I provide a more detailed discussion (Kay 2004b)

international arena can play a pivotal role in the development of transnational social movements.<sup>17</sup> Thus, the creation of new global governance institutions like the NAALC should help stimulate the growth of transnational social movements.

#### NATIONAL AND TRANSNATIONAL POLITICAL OPPORTUNITY STRUCTURES

The nature and salience of the political process theory of social movements has been widely debated during the last decade (see Tilly 1995; Tarrow 1994; McAdam, McCarthy, and Zald 1996; Gamson and Meyer 1996; Goodwin and Jasper 1999, and responses in *Sociological Forum* 1999; Jenkins, Jacobs, and Agnone 2003). The intellectual debate centers on how well the key concepts of political opportunity and political opportunity structure explain the emergence, strategic repertoires and trajectories, and success of social movements.<sup>18</sup> But despite the intellectual skirmishes, political process theory remains part of the holy trinity of social movement theory (along with resource mobilization and framing), and has given birth to numerous analyses of national social movements.

Political process theory, however, developed almost exclusively in relationship to national social movements and nation-states. While scholars have dissected the nuances of national power structures, international or transnational power structures and their relationship to political opportunities have not been examined in the same depth. Thus with the rapid progression of globalization processes, a new debate surfaces about how well political process theory explains the emergence and strategic nuances of transnational social movements (see Keck and Sikkink 1998; Tarrow 2005, 1998*b*, chap. 11; Khagram, Riker, and Sikkink 2002). In particular, can theories of national political opportunity structures simply be applied whole cloth to regional, transnational, or international political opportunity structures, or do those theories need refinement to account for the particularities of transnational social movements and their unique relationship to nation-states and global governance institutions?

Khagram et al. point out that some social movement theorists acknowledge the existence of “multilayered” opportunity structures and “multilevel

<sup>17</sup> My argument is not that North American labor activists should applaud the passage of NAFTA and the NAALC. The free trade agreement undermined labor’s bargaining power and stimulated capital flight in North America (see Scott et al. 2001; Bronfenbrenner 1997). The argument I make here is that despite the negative effects of free trade, NAFTA provided new political openings that, if exploited, could be used strategically to improve workers’ lives and working conditions in North America.

<sup>18</sup> In this article I am concerned with how political opportunity structures explain the emergence, not the success or failure, of social movements.

polities” (2002, p. 18). But, they suggest that scholars tend to dismiss the idea of transnational political opportunity structures because social movement actors target institutionalized power (as embodied by and leveraged through nation-states), which is rare in transnational contexts (2002, p. 18). While other scholars articulate the importance of transnational political opportunity structures (Stillerman 2003), few studies examine and theorize the nature of transnational political opportunity structures.

Keck and Sikkink (1998) provide the primary exception in their nuanced analysis of the relationship between global governance institutions, nation-states, and transnational social movements (other work includes Ayres 1998, Dreiling 2001, and Khagram 2004). They describe how globalization processes create political openings that enable social activists to leverage states and provoke changes in state policies and practices. While Keck and Sikkink’s work is an important contribution to our understanding of the relationship between social movements and global governance institutions, they do not articulate a theory of the *emergence* of transnational labor movements in relationship to global governance institutions. And because they do not analyze networks of labor activists, they cannot illuminate the processes by which transnational labor movements develop in response to globalization processes and how and why they coalesce transnationally.<sup>19</sup>

Here I argue that global governance institutions constitute transnational power structures that provide new political opportunity structures for emergent transnational social movements. Although there are some similarities between national and transnational political opportunity structures, I argue that there are critical differences in the way power is constituted at the transnational and national levels. Thus the model of national political opportunity structures cannot simply be mapped onto a transnational political action field.

Synthesizing key scholars’ conceptualization of the term, McAdam (1996, p. 27) highlights four primary dimensions of political opportunity at the national level: (1) the relative openness or closure of the institu-

<sup>19</sup> The burgeoning literature on labor transnationalism tends to focus on the history of labor transnationalism (Sikkink and Smith 2002; Herod 1997; Stevis 1998; Howard 1995), and the causes of success and failure of particular transnational campaigns (see Armbruster 1995, 1998a, 1998b; Cohen and Early 1998; Jessup and Gordon 2002; Kidder 2002; Zinn 2002; Anner 2002; Wilson 2002). See Evans (2000, 2005), Tarrow (2005), Waterman (1991; 1998) for theoretical analyses of labor transnationalism. Some scholars have suggested that NAFTA’s labor side agreement facilitates labor transnationalism (Alexander 1999; Bouzas 1999; Carr 1999; Damgaard 1999a, 1999b; de Buen 1999; Compa 1999; Cook 1997; Kay 2000; Kidder 2002; Luján 1999; Stillerman 2003; Thorup 1993). Here I extend these analyses by introducing new empirical data and providing a theoretical analysis of the process by which NAFTA and the NAALC constituted regional actors, interests, and rights.

tionalized political system, (2) the stability or instability of elite political alignments, (3) the presence or absence of elite allies, and (4) the state's capacity and propensity for repression. While these variables allow for a rich analysis of national social movements, they lack explanatory power when applied to the transnational arena. Unlike nation-states, global governance institutions have neither democratic electoral accountability nor repressive capacity. A polity's relative accessibility is therefore largely irrelevant at the transnational level. Electoral politics, which Tilly (1984) cites as the primary engine behind national social movements' engagement with the nation-state, also lacks relevance in the transnational arena. Transnational elites are not elected, nor do they belong to transnational parties subject to voter sanction. At this stage of labor transnationalism in North America, the effects of transnational elites are therefore minimal.<sup>20</sup>

And finally, while power at the national level can be constituted through repression, global governance institutions lack repressive powers. NAFTA and the NAALC, for example, have no military power and little ability to impose severe sanctions. Moreover all four dimensions of political opportunity structure at the national level presume the existence of one nation-state. But what if the political opportunity structure involves three nation-states (in North America) and one nascent global governance institution (e.g., NAFTA)?

Here I offer three primary dimensions of political opportunity structure at the transnational level that explain how power is established at the transnational level: (1) the constitution of transnational actors and interests, (2) the definition and recognition of transnational rights, and (3) adjudication of rights at the transnational level. The first dimension of transnational political opportunity structures highlights the importance of constituting regional or North American actors with North American interests (as opposed to national actors with national interests).<sup>21</sup> Actors in the transnational arena often have opposed interests that stem from varied geographical, cultural, economic, and political experiences and positionings. Some scholars suggest that these differences are particularly difficult for labor movements to overcome because the interests of labor unions in developed and developing countries are antagonistic (Bhagwati 2000). That is, the global economy forces workers in different countries to compete for jobs.

<sup>20</sup> National elites were critical to the passage and structure of NAFTA and the NAALC (see Evans 2002).

<sup>21</sup> I do not mean to imply that social movement actors no longer retain national identities and interests, but that these exist simultaneously and are compatible with their nascent transnational identities and interests.



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In this article I show how global governance institutions facilitate a process that constitutes transnational actors and interests. NAFTA forced labor unions in all three countries to recognize the common threat to North American workers if the free trade agreement stimulated a reduction in jobs and wages and in health, safety, and environmental standards. Although it is commonly thought that NAFTA only created a common market, my data suggest that it also created a transnational political opportunity structure through which national unions in North America could identify their common interests as *North American unions* and advocate for them by developing a transnational political action field.

The second dimension of transnational political opportunity structures expands upon the first by emphasizing the importance of defining and recognizing transnational actors' and social movements' rights in the transnational arena. This dimension is similar to Tilly's (1984) assertion that national social movements target nation-states because they have the power to grant or deny legitimacy. In the transnational arena, global governance institutions have the same power. That is, they make and enforce rules that, however weak, establish transnational rights, standards, and norms. By laying out 11 North American labor principles and recognizing transnational social movements' right of standing through the NAO submission process, the NAALC creates a set of *North American labor rights* that must be protected in all three countries. Moreover their violation allows for redress by any North American "citizen."<sup>22</sup> Thus the NAALC grants a legitimacy to North American labor unions and their grievances that did not exist before NAFTA's passage.<sup>23</sup>

The third dimension of transnational political opportunity structures emphasizes the importance of adjudicating grievances at the transnational level. The NAALC, for example, not only defines and recognizes transnational rights, but also adjudicates complaints of labor rights violations at the transnational level. And its procedural rules facilitate cooperation among North American labor unions in that adjudicative process. While national political opportunity structures have both electoral and adjudicative dimensions, transnational political opportunity structures lack the former. At the transnational level, political opportunity structures are embedded in rules and bureaucratic processes rather than electoral processes. This is another reason for the minimal role of the polity and elite alignments at the transnational level.

<sup>22</sup> The NAALC actually allows any party, regardless of national origin, to file public submissions. As of this printing, no party outside North America has filed a public submission.

<sup>23</sup> A more detailed discussion of the NAALC, its 11 labor principles, and its procedural rules are given in app. B.

Figure 1 presents my schematic model of the ways in which NAFTA helped catalyze labor transnationalism by forging a new transnational political opportunity structure. As figure 1 shows, NAFTA catalyzed labor transnationalism in two ways. First, between 1989 and 1993, it stimulated unions to mobilize politically in order to prevent its passage. In so doing, it constituted North American unions as transnational actors with common interests (the first dimension of transnational political opportunity structures). I call this NAFTA's *political mobilization effect*. Second, between 1994 and 2001, NAFTA had an institutional effect because it created new institutions through which labor activists could nurture transnational relationships. These new institutions define and recognize transnational rights, and adjudicate violations of these rights at the transnational level (the second and third dimensions of transnational political opportunity structures). It is important to emphasize that both effects serve a constitutive function; during the political mobilization period, because new interests are created, and during the period of institutionalization, because actors are legitimized. Thus power is constituted at the transnational level during both periods, but in different ways.<sup>24</sup>

By examining NAFTA as a case of a global governance institution that spurred three unions to collaborate across North American borders, we can develop a more rigorous model of the relationship between global governance institutions, the emergence of labor transnationalism, and the development and idiosyncrasies of a transnational political opportunity structure.

<sup>24</sup> The period when NAFTA was introduced and was being negotiated was critical to unions because the trade and labor side agreement architectures would be crucial components of the transnational power structure. That unions and other civil society organizations (e.g., environmental, fair trade, farmers, indigenous rights groups, etc.) contested them so vehemently at local, national, and transnational levels shows how much they believed was at stake with the passage of these multilateral accords (see Evans 2002). Thus, power was constituted during this period despite the lack of institutional mechanisms, as unions participated across borders in the process of determining the nature of the transnational mechanisms and institutions that would emerge. And they did so because they began to see themselves as transnational actors with regional interests. Unions' collective demand that the trade agreement include labor protections helped ensure that a labor side agreement was passed, although North American unions had little influence on the structure of the NAALC and the level of labor protections it would provide (Evans 2002). Theoretically, this case suggests that transnational political mobilization can precede transnational institutionalization and can occur without institutionalization. Indeed, many unions began to organize transnationally during this mobilization period (see Evans 2002; Carr 1999; Compa 1999; Cook 1997; Kidder 2002). But, the two institutional effects help reinforce the political mobilization effect by underlining the constituted interests and offering a remedy based on those interests.

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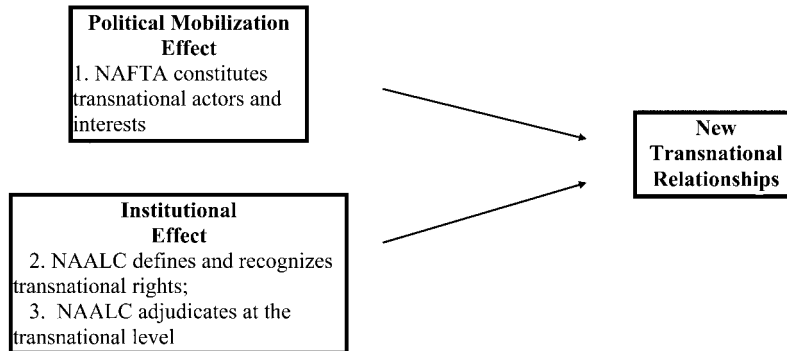


FIG. 1.—NAFTA's effects on labor transnationalism

### RESEARCH DESIGN

Using the transnational relationship as my unit of analysis enables me to illuminate labor transnationalism not only as an outcome, but also as a process of relationship and institution building. That is, it is a process of creating a transnational union culture based on cooperative complementary identities, defined as a shared recognition of mutual interest coupled with a commitment to joint action. I identify five stages in this process: (1) contact, (2) interaction and the coalescing of interests, (3) growth of confidence and trust, (4) action (e.g., joint activities and actions to address mutual needs and interests), and (5) identification (e.g., recognizing mutual interests).

My analysis centers on one set of North American unions that developed a relationship after 1989 in response to NAFTA—the United Electrical, Radio and Machine Workers of America (UE), the Authentic Labor Front (Frente Auténtico del Trabajo, or FAT), and the Canadian Steelworkers of America (CUSWA). This case emerged out of a larger sample of unions that developed transnational relationships in the post-NAFTA (1989–2001) period.<sup>25</sup> I focus on this case because it has achieved all five stages in the process and is therefore the most robust.

The FAT was formed in 1960 as an independent federation of Mexican labor unions, worker-owned cooperatives, farm workers, and community organizations. It is a progressive organization, promulgating gender equity and democratic values in each of its affiliates. The UE was born in 1936 and was the first union chartered by the CIO. In 1949 it broke with the

<sup>25</sup> Although NAFTA was formally passed in 1994, I consider the period during which it was debated and negotiated part of the post-NAFTA period because NAFTA had an effect on union mobilization during this prepassage period. Also, see app. A for a detailed discussion of my case selection.

CIO to protest red baiting and has maintained its focus on democratic unionism ever since. The CUSWA formed in 1942. Though part of the United Steelworkers of America (USWA), it remains extremely independent and autonomous. In 2000, the CUSWA had 190,000 members. That year the UE had 35,000 members, and the FAT claimed approximately 30,000 members.

In order to determine the catalyst of the relationship among these three unions and to evaluate the relationship's nature and quality, I employed a qualitative approach that included in-depth interviews, ethnographic fieldwork, and the analysis of a variety of secondary sources and archival materials. I interviewed key informants at each of the unions, including the UE's director of organization, political action director, and director of international labor affairs; a founding director and executive director of the CUSWA Humanity Fund; and four (current and former) national coordinators of the FAT. In addition, I interviewed one former and two current attorneys for the FAT, and two FAT organizers. Interviews lasted between one and four hours.

I conducted interviews with UE and CUSWA officials between May 2000 and March 2001 in Washington, D.C., Pittsburgh, Toronto, and Ottawa. I completed interviews with FAT officials in Mexico City between June 1999 and August 2000. All FAT interviews were conducted in Spanish. In addition to interviews, I conducted ethnographic fieldwork in the FAT offices in Mexico City between February and July 2000. While working as a volunteer with the FAT,<sup>26</sup> I observed various meetings, conferences, protests, strategy sessions, and rank-and-file union exchanges (including one held jointly with the UE). I was also given access to FAT archives.

In addition to conducting in-depth interviews and fieldwork, I examined the union newspapers/magazines of the FAT, UE, and CUSWA. I examined all available issues of the *UE News* published between 1987 and 1999, *Steelabour* (Canadian version) published between 1986 and 1999, and the FAT's *Resistencia Obrera*, published between 1978 and 2000. I also examined archived documents from each union, including press releases, internal memoranda, educational materials, newsletters, position papers, policy statements, and correspondence. And finally, I reviewed the 23 NAO public submissions filed between 1994 and May 2001 and legal documents associated with them.

<sup>26</sup> As a volunteer, I assisted with translations and helped organize FAT archives.

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### FINDINGS

#### Constituting Transnational Actors and Interests

Despite all they had in common, the FAT, UE, and CUSWA did not have a relationship before 1991. Bertha Luján, formerly a FAT national coordinator, explained that before NAFTA, the FAT did not have transnational relationships with other North American unions:<sup>27</sup> “I think there was little interest on the part of American unions and also on our part to establish relations . . . the United States was not a priority, it was not in our strategy, nor on the part of American unions was there interest in Mexico” (Bertha Luján: FAT, 8/29/00). During this period few unions had transnational contacts, and those that existed were transient and inequitable (as between the AFL-CIO and official Mexican unions). There were no ongoing programs of action, nor coordinated efforts of solidarity. Permanent transnational relationships based on mutual support through actions and assistance did not exist before NAFTA.

But the trade agreement presented a “shock” to the landscape of international union relations that forced unions to reevaluate their previous strategies. Suddenly, with NAFTA’s introduction, the priorities of North American unions shifted. Institutional scholars have long recognized that severe shocks to stable organizational fields in the form of legal or policy shifts can force organizations to change their own policies and strategies (see Fligstein 1985, 1991). Labor scholars have recently examined how shocks impact organizational transformations within labor unions (Voss and Sherman 2000).

Social movement scholars also recognize that social movements often emerge in response to threats (Berejikian 1992; Goldstone and Tilly 2001; Jenkins et al. 2003).<sup>28</sup> Here I will argue that NAFTA presented a shock or a threat that helped constitute a transnational political opportunity structure by mobilizing labor unions in two ways. First, it constituted transnational actors and interests by making economic globalization processes tangible, and forcing labor activists to recognize their common plight in the face of regional economic integration. While processes of regional economic integration had been occurring for over a decade, NAFTA embodied them in a way that was concrete and transparent. UE members, for example, knew that a significant amount of their work had been transferred to Mexico in the 1980s. Mexican labor activists realized

<sup>27</sup> With the exception of the Quebec-based National Union Confederation (CSN) that, like the FAT, was affiliated with the World Federation of Labor and had links to the Catholic Church.

<sup>28</sup> Although their origins vary, threats and political opportunities often generate similar responses. Both can force social movement actors to decide what is worth fighting for and to mobilize.

the plethora of well-paid jobs promised by freer trade and border factories (called *maquiladoras*) had not materialized. And Canadian activists witnessed free-trade inspired downward harmonization that they had predicted and fought against during negotiations over the Canada-U.S. Free Trade Agreement in the mid-1980s.

According to Luján, NAFTA had profound effects on Mexican unionists. She explained that the trade agreement helped to change the consciousness of Mexican activists; that is, it altered the way they viewed their northern neighbors and the process of economic integration: “NAFTA permitted us to understand that we were all a part of the same strategy and process of economic integration. It helped us to see that we have the same problems. Globalization has provoked the fall of labor standards and salaries in the three countries. The consequences have been for us to realize that the same labor and economic policies apply in the three countries, and that we’re facing the same enemies” (Bertha Luján: FAT, 8/3/99).

Second, NAFTA brought labor activists into contact with each other and helped coalesce their interests as North American unions. Labor leaders realized that it would be difficult to combat the forces of global capital as individual and isolated labor unions. The struggle against NAFTA would have to be a collaborative one, a uniquely North American one. Before NAFTA, North American unions saw their struggles as isolated and particular to their own nations. But NAFTA’s negotiation and subsequent passage created a transnational political opportunity structure that helped them constitute a transnational political action field in North America. In this field, labor unions struggled to defeat the free trade agreement and came to see their interests and futures as inextricably linked. The surfeit of joint meetings, conferences, and strategy sessions during the NAFTA battle reflects NAFTA’s ability to constitute North American actors and interests.<sup>29</sup>

The first contact between the UE and FAT occurred in 1991. Canadian organizations (which organized their own struggle in the mid-1980s against the Canada-U.S. Free Trade Agreement)<sup>30</sup> approached U.S. and Mexican organizations to join their efforts against NAFTA (Arroyo and Monroy 1996). In October 1991, the trade ministers of the three North American countries met in Zacatecas, Mexico, to negotiate the free trade agreement. A trinational group opposed to free trade convened a forum in the same city; they dubbed their meeting “Public Opinion and the NAFTA Negotiations: Citizen Alternatives.” It was through participation

<sup>29</sup> For a discussion of these early collaborations see Evans (2002).

<sup>30</sup> See Ayres (1998) for an excellent discussion of Canadian social movements’ struggles against free trade.

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in this forum that FAT and UE representatives first met. Thus NAFTA provided the political impetus for labor activists to begin to mobilize transnationally. According to Luján, “In reality the majority of relationships with unions in the United States began with NAFTA, and our activities against NAFTA” (Bertha Luján: FAT, 8/29/00). NAFTA therefore provided the three unions an opportunity to solidify their positions and push common agendas. Gerry Barr, formerly of the CUSWA explained, “because of the context created by NAFTA there were lots of opportunities for relevant discussions and sort of common policy discussions and so on. I mean someone once said about NAFTA that one of its best byproducts was the sort of solidarity platform it created for social movement actors and trade unionists and I think there is some truth in that. And one of the important pieces of that theory is that the FAT is a great believer in it, they themselves think that” (Gerry Barr: CUSWA, 3/1/01).

The UE viewed the Zacatecas forum as an opportunity to create more solidary relationships with Mexican unions. Bob Kingsley, the UE’s director of organization, explained that in the months leading up to the forum UE leaders worried that a free trade agreement would intensify the flight of UE jobs to Mexico. In order to deal with the loss of UE jobs, which had been decreasing since the 1980s, the UE hoped to begin a dialogue with the FAT:

I had come down after discussions with the leadership of our union to try to figure out what else we could do to try to make a link to the FAT that would be more than just the cordial distant relationship that existed at that time. We knew of them, we had perhaps corresponded with them but we hadn’t done much with them. So during the course of it I was able to get together with Bertha Luján and a couple of other leaders of the FAT . . . To sit down and talk about what is possible in terms of a relationship between the UE and FAT that takes our unions forward, that takes international solidarity work forward. (Bob Kingsley: UE, 1/23/01)

One of FAT’s three national coordinators confirmed this account of how the FAT-UE relationship began: “Before NAFTA certain unions in the United States suggested we start to work together in the face of the negotiations that were going on over NAFTA. The UE was one of them. So we started to create alliances and solidary mechanisms with the idea of creating them by sector. So through events in both countries, support for our organizations, we have developed relationships that are more tight and solid, beginning with our compañeros from the UE” (Alfredo Domínguez: FAT, 4/3/00). Another FAT leader explained that the UE distinguished itself from other North American unions during the NAFTA struggle by not promulgating a nationalistic, protectionist rhetoric: “Orig-

inally, during the initial fight over NAFTA negotiations, the attitude of American and Canadian unions was protectionistic. They wanted to prevent American companies from leaving the U.S. After NAFTA there was a difference. We wanted to create real collaboration and solidarity and the great majority of U.S. unions were very protectionistic. The UE was an exception” (Alfredo Domínguez: FAT, 4/3/00).

The UE’s stance on NAFTA, then, facilitated its relationship with the FAT. Its view that NAFTA was a threat to North American unions, not simply to U.S. unions, helped build a common agenda and trust with the FAT. The two unions embarked on a historic relationship. They created a Strategic Organizing Alliance that survived despite NAFTA’s ultimate passage. As the UE proclaims on its Web site, “UE works to give new meaning to *international solidarity* through its ‘Strategic Organizing Alliance’ with Mexico’s independent Authentic Labor Front (FAT). The first-of-its-kind cross-border approach to organizing developed out of the two organizations’ opposition to the North American Free Trade Agreement (NAFTA).”<sup>31</sup>

The first project the two unions undertook through their alliance was to attempt to organize a General Electric (GE) plant in Juárez, Mexico. They chose GE because the company had relocated plants with UE membership to Mexico. But the goal of the campaign was not to keep jobs in the United States; rather, it was to maintain decent labor rights and standards in North America. The UE’s Bob Kingsley explained: “The idea that we could form an organizing alliance with the idea that rather than just publicly condemn what was going on, we would try to fight it by identifying locations where our jobs had moved and targeting them for organization. And undertaking actual campaigns to improve wages and conditions in those locations, knowing that the result would not be that the work would return to the United States but trying to take the edge of exploitation out of what’s going on here by raising wages and conditions for workers in the Mexican facilities” (Bob Kingsley: UE, 1/23/01).

Although the GE organizing campaign was not successful (due to the strength of employer and Mexican government opposition), it was instrumental in strengthening the bonds between the FAT and the UE. The failure provided activists from both unions an opportunity to reevaluate the project together and ultimately to change the project’s strategy. As the director of international affairs for the UE explained, the UE and FAT realized that their failure stemmed, in part, from a lack of worker education and knowledge in northern Mexico. To remedy this problem, they opened a workers’ center, the Education Center and Labor Workshop

<sup>31</sup> <http://www.ranknfile-ue.org/uewho4.html>.



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(CETLAC by its Spanish acronym) in Ciudad Juárez in 1996. Robin Alexander, the UE's director of international labor affairs explained: "The response to that [failure] was that we needed to take a few steps back and do some of the basic education in a way that would begin to educate workers and prepare them for a different kind of struggle where they weren't just seeking some quick bucks and moving on, but really seeking to gain some control within a plant" (Robin Alexander: UE, 12/21/00).

Since 1992, the FAT and UE's joint actions have included organizing multiple worker and organizer exchanges, opening additional worker education centers, implementing an adopt-an-organizer program, and completing mural projects in both countries. In addition, some UE locals support FAT through a voluntary supplementary dues checkoff and monthly contributions. The UE and FAT also collaborate on an online bimonthly periodical titled "Mexican Labor News and Analysis," created on January 1, 1996. The FAT and UE are in weekly, and often daily, contact.

Activists have definitely achieved the fifth and final stage in the process of labor transnationalism, identification. They see themselves as connected and have a strong sense of mutual interest. Arturo Alcalde, one of the FAT's lawyers, was forceful in his defense of labor transnationalism based on mutual interest and concrete action, "After this process of identification, which brings information and confidence, trust, it is very important to work on common agendas" (Arturo Alcalde: FAT, 3/29/00). A former FAT national coordinator explained that while differences persist between the unions, the two organizations focus on building upon common problems and concerns: "So I think there are differences and areas of convergence. And it is those areas of convergence which are common interests, there is where we must find and construct things in common" (Bertha Luján: FAT, 8/3/99).

This commitment is made manifest in the symmetry of the relationships. That is, they are not one-sided (with northern unions simply offering money and "expert" advice to Mexican unions), as many contacts between U.S., Canadian, and Mexican unions have historically been. FAT's Alcalde explained:

And international solidarity isn't just about the United States and Canada helping us, the poorer less developed country, because the United States is not a haven of labor freedom. There are many obstacles there. And here is the double sidedness of international solidarity, the old international solidarity which people criticized as being protectionist. We can't judge Americans in general, we committed many errors in the past because we lacked information. The Americans also committed an error because they assumed all Mexican unions were corrupt. They lacked information. So information is a central point in creating specific common programs and collaborating,

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the exchanging of realities in a more simple manner is a good path to follow.  
(Arturo Alcalde: FAT, 3/29/00)

In 1994, the two unions' theoretical commitment to mutualism was put into practice when the UE requested assistance from FAT to organize Latino workers as part of its organizing drive in a Wisconsin plant. The UE's political action director, Chris Townsend, explained the reasons for the UE's decision to request a FAT organizer: "But it is an interesting tactic. To me, it was a little bit of turnabout. I was talking earlier about U.S. labor people running all over the planet giving out free advice and this was an example of where we had some turnabout and invite somebody to come here. But it came out of a practical necessity" (Chris Townsend: UE, 12/18/00).

With FAT's assistance, the UE won the election by 12 votes. Townsend suggested that the collaborative strategy was more important than the victory itself because it reflected an historic shift in the direction of aid across the continent. A FAT national coordinator agreed that the strategy was significant because it marked a change in attitude and method for North American unions:

We need to create organizations that look beyond their borders and have respect for the idiosyncrasies of each country. I can't tell labor leaders in the U.S. what they need and they can't come here and teach me what I need. Labor leaders used to come here and try to tell us what we needed. We need to give each other support. We sent some organizers from here to go and help organize a plant in [Wisconsin] because they needed help organizing Latino workers, some were undocumented. This organizer went and they won the election. We need to say where do you need our help and what kind of help do you need. (Benedicto Martínez: FAT, 7/27/99)

The alliance between the UE and FAT is strengthened by regular exchanges among their members. The UE's Robin Alexander explained the importance of the exchanges for institutionalizing labor transnationalism within her union:

I think the time and effort that we put into the worker-to-worker exchanges are really important, too. Part of the thinking behind them was we need to understand each other and each other's realities and it's not just a question of doing support for organizing work, but there has to be a deeper understanding within our organizations of what's going on and what the realities are. Because otherwise we're not really able to talk to each other. . . . But it's a wonderful thing to watch because you really visibly see people's mindsets shift within a 10-day period, and it's pretty extraordinary. And it happens on both sides of the border. (Robin Alexander: UE, 12/21/00)

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When asked the most significant lessons workers on both sides of the border learn from the exchanges, Alexander replied:

I think people on both sides are just astounded by the similarities, that they expect things to be very different and yet they find that the details may be different, but in the broad strokes it's sort of the same. It's that organizing is hard in both places. I think people here tend to kind of assume that folks in Mexico probably don't really know what they're doing . . . and they get down there and it's like, ah, these people are really good, they work really hard, they're very dedicated . . . and they run into problems that are not all that dissimilar to what we confront, that workers are afraid to organize because they're afraid they're going to lose their jobs. That bosses are nasty. It's very familiar stuff. (Robin Alexander: UE, 12/21/00)

Alexander's description suggests that the UE and FAT's joint participation in a transnational political action field solidified the process of constituting regional actors and interests, and helped undermine racial stereotypes and assumptions.<sup>32</sup>

Although the CUSWA developed a relationship with the FAT after NAFTA's passage, the union's decision to seek out a Mexican partner was a direct result of the free trade agreement. The Canadian Steelworkers' Humanity Fund, created to assist with the African food crisis in the mid-1980s, began to devote attention to labor solidarity work in the early 1990s. One of its founders described how regional economic integration made relationships with Mexican unions more relevant and how the fund's directors identified the FAT as a partner in this new context:

A number of the people who were working in the Humanity Fund had long histories in solidarity work, and it was because of that that we were aware of the FAT . . . and as we thought our way through the question of involvement in Mexico, and Mexico was increasingly relevant particularly with the arrival of NAFTA, it seemed to us that—I mean you talk about tricky labor terrains in which to work Mexico was a classic example of that—and we needed I think a kind of relatively secure sort of anteroom to the world of labor and labor politics in Mexico, we needed a sort of safe place from which to . . . a relatively safe place in developmental terms I mean in terms of integrity in programming. . . . And the FAT was an obvious candidate for that, they were solid, they had survived, they were thoughtful, they had careful analysis, they believed a lot in solidarity so it was just sort of a no-brainer for us. (Gerry Barr: CUSWA, 3/1/01)

Like the UE, the CUSWA strengthened their relationship with the FAT in the wake of NAFTA. The CUSWA and FAT regularly hold joint

<sup>32</sup> In other work, I give a detailed discussion of how NAFTA helped undermine racial stereotypes (Kay 2004a, 2004b, 2003b).

meetings and exchanges. The two unions have also devoted significant resources to collaborations on health and safety issues. In 1994, the unions embarked on an innovative project to build a strike fund for the FAT, which previously had no access to emergency funds. David Mackenzie, who administered the Humanity Fund, explained the project, known by its Spanish acronym, FOSAM:

What's unique about our relationship with the FAT, the Canadian Steelworkers, is that we have built through the Humanity Fund a specific mutual support fund with them which they can access as a kind of emergency strike fund or emergency organizing relief fund in situations that are, well emergency situations basically or extremely stressful ones. They needed long term support mechanisms to support people at strikes like the Morelos print shop that's been going on for four years. So that's been a concrete way we can help them and we've been working with them to build this assistance fund. And we've funded it up front, and we're funding it for a five year period, it will end in a couple of years. And the FAT meanwhile have assigned people . . . to work full time getting the FAT locals and co-ops and other organizing members paying into the Fund at their end so that after a while when we stop paying into it will be self sustaining, it will feel like part of joining the FAT is joining this mutual support fund. (David Mackenzie: CUSWA, 2/16/01)

In addition to the FOSAM project, the CUSWA also began to fund a project to support FAT's expansion and consolidation efforts. As the Steelworkers Humanity Fund Programme describes, "This is a two-year project meant to increase membership in iron, steel, metal-mechanic and textile sectors in the Valle de Mexico. It is carrying out organising campaigns and offering educational, legal and technical support for groups of workers in non-union workplaces or workplaces with 'official,' government-linked unions" ("Steelworkers Humanity Fund's Programme," n.d., p. 8).

Like the UE, the CUSWA also institutionalized its ties to FAT by educating members about the value of labor transnationalism. CUSWA's Mackenzie described the development of the union's "Thinking North-South" project:

Over time, as people got increasingly proud of [the Humanity Fund], it compelled us to do a couple of things. One of the things was to ramp up our . . . international solidarity program education internally. We basically created a new one. We used to have a kind of half-assed course that we borrowed bits and pieces from other people, but we starting using our Humanity Fund assisting our Education Department developing a program we called "Thinking North-South," a week long program that was very popular. And we find that it's very useful to have local union people in that who then go back to their locals all charged up who want to bargain the Fund and get involved. So we've created a network through the Fund

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and through the Education Department, a network of international solidarity activists right in our local unions who are on top of these issues and extremely knowledgeable and constantly pressuring the union to do things. Like all unions have networks of health and safety activists, and we've got this really good group of international solidarity activists. (David Mackenzie: CUSWA, 2/16/01)

CUSWA's Barr explained that the relationship between his union and the FAT, and the UE and the FAT, ultimately led to interactions between CUSWA and the UE. He described how, through their engagement in a North American political action field on labor rights, the three unions' relationship began to coalesce trinationally:

So the FAT was keenly interested in and valued the international tie and as a result of that interest as well, I mean I think that moved us forward to a much more mature kind of level of participation with each other's work. And then of course there were—simultaneously and preceding our sort of formal connection with the FAT—there had been other ties of course that the FAT had created with unions in the United States and elsewhere but certainly in the United States. And one of the most obvious points of connection is their relationship with the small but very valiant United Electrical Workers. And so they had created a very high quality point of contact and very thoughtful, very careful, very long-term. And naturally we became involved in three-way discussions between sort of Canada—the Steelworkers in Canada—the UE and the FAT. (Gerry Barr: CUSWA, 3/1/01)

As will be discussed below, the relationship among the three unions became trinationally through their joint participation in a significant NAO submission. But the construction of a nascent transnational political action field enabled these unions to build trust, collaborate, and lay the groundwork for a robust transnational relationship.

The data clearly demonstrate that NAFTA provided a new transnational political opportunity structure for FAT, UE, and CUSWA. The free trade agreement had a significant political mobilization effect—it made manifest processes of regional economic integration and brought the unions into contact for the first time. It also allowed them to interact and exchange information as they came together to fight NAFTA. The plethora of joint meetings, conferences, and strategy sessions during the NAFTA battle attests to the substantive nature of their interaction. NAFTA, then, catalyzed a new kind of North American labor struggle by constituting transnational actors whose complementary interests transcended physical and cultural borders. A FAT official explained: “I would say that one of the great benefits of NAFTA is that it obligates us—unions and organizations—to seek out relations and strengthen them, and to create alliances. Now relations do not result from mere circumstance, but

from a recognition of mutual interests. I think that before NAFTA there was not an understanding of the reality and the phenomenon of globalization" (Benedicto Martínez: FAT, 7/27/99). After they failed to prevent the ratification of NAFTA, the three unions did not abandon their relationships; rather they continued to nurture and develop them.

#### Defining, Recognizing, and Adjudicating Transnational Rights

While the fight over NAFTA constituted transnational actors and interests and provided a foundation for transnational relationships between the FAT and its U.S. and Canadian counterparts, the NAALC created a new institutional context for transnational collaboration and cooperation. The NAALC laid out 11 labor principles that defined and recognized the key labor rights of North American "citizens." It also established new adjudicatory venues and procedures for filing complaints of labor violations in each of the three signatory countries, based on the 11 labor principles. The NAO process therefore enables us to gauge the effects of a nascent global governance institution on the development of a transnational political opportunity structure.

I argue that the NAO process allowed activists to deepen their relationships and increase their activities in two ways. First, it legitimized labor activists and their grievances through the joint filing of NAO submissions. And second, the NAO process allowed them to collaborate in concrete and meaningful ways. The FAT's attorney explained that being able to engage an international venue was particularly important for independent Mexican unions such as FAT.<sup>33</sup>

Now when we have a submission someone in the Mexican government will call and want to know why this, why that. They don't ignore it anymore, and this didn't exist before. We spoke but they didn't listen, we existed but they didn't see us. I think now that they listen, and they listen because what we do hurts them. And what we do is within the law. So there's a balance, in general terms things have been very positive, educational. And I am confident that the government will have to change its labor policies. Not of their own volition, but because of the pressure we've been putting on them. Because more and more the governments of the U.S. and Canada question the labor policies of the Mexican government. (Benedicto Martínez: FAT, 7/27/99)

A former UE attorney who worked on numerous NAO submissions concurred that the NAO process legitimized and strengthened the hand of

<sup>33</sup> Independent Mexican unions are those not officially linked to the government or ruling party. Historically, the organizing efforts of independent Mexican unions such as the FAT have been thwarted by government authorities.

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independent Mexican unionists: “And in Mexico I think it went a long way to overcome the isolation of the independent union forces, I mean they became real players because they had this. They were able to invoke this international mechanism. In the last year of the PRI government Bertha Luján was a regular visitor at the secretary of labor’s office, he would consult her because she was now a player” (Lance Compa, 12/19/00).

In describing her participation in one of the first NAO cases, the UE’s director of international labor affairs explained how an international platform to address labor rights violations was important for U.S. and Mexican activists: “But at the point where we first filed the NAO cases, there was no official platform that independent lawyers or trade unionists could use to talk about what was going on” (Robin Alexander: UE, 12/21/00).

In addition to legitimizing labor activists and their grievances, the NAO process also provided them with a new institutional arena in which the rules of regional economic integration and by extension, those of the global economy, could be contested. The NAALC provides a tangible institution to engage. Labor activists and lawyers told consistent and compelling stories about how the NAALC’s procedural rules facilitate labor transnationalism. These procedural rules make it extremely difficult for a union to file a submission with a “foreign” NAO without the assistance of “foreign” unions/organizations. The NAALC stipulates submissions may be filed against the government (not individual employers or corporations) of any NAFTA country through an NAO established in each country. Public submissions may be filed with an NAO other than the one in which the alleged labor violation occurred. The FAT’s lawyer explained how this procedural rule generates labor transnationalism: “I think the side agreement facilitates relations among unions, there is an intimate relation between these submissions and international relations. In our experience one of the most important sources of relations has precisely been this type of submission because above all else you must present them in another country. If you don’t have contacts you can’t submit complaints” (Arturo Alcalde: FAT, 3/29/00).

Steve Herzenberg, assistant to the U.S. chief negotiator of the NAALC, concurred that the NAO process resulted in increased labor transnationalism: “The side agreement contributed to that increase because it created new venues through which you could act in solidarity and support one another” (Steve Herzenberg: U.S. Department of Labor, fall 2000). FAT’s Luján argued that the NAO process also stimulated labor transnationalism by forcing unions to recognize the problems workers face in other countries: “Does the NAO process stimulate transnational labor solidarity? Yes, obviously yes. The submission process has increased the solidarity between unions because it obliges unions to recognize the violations that

occur in the other countries and obliges them to mobilize themselves. This is a form of solidarity and support that is very concrete between unions. It's a concrete way of establishing a relationship. It's not theory, it's something very concrete" (Bertha Luján: FAT, 8/3/99).

Luján suggested that labor activists could no longer dismiss or claim to be ignorant about the problems of their NAFTA counterparts. The NAO process forced interaction and the dissemination of information about conditions in other countries. Luján made this claim more specific by arguing that the NAO process helped unions make achieving labor freedom a "unifying goal" in North America:

In general our participation in submissions has been very interesting. It's allowed us to construct stronger relationships with unions in the U.S. and Canada. It means that to file submissions, U.S. and Canadian unions must learn more about the situation in Mexico, and we must learn more about what is going on in those countries, for example the forms of labor repression and discrimination that exist in those countries. It's allowed us to construct an agenda in common. Through the submissions, for example, labor freedom has become a unifying goal among unions in the three countries. We realize that the only way to rectify violations of union liberty which occur in the three countries is through unity. The side agreements have helped us strengthen our efforts toward this goal. (Bertha Luján: FAT, 8/3/99)

Labor lawyer Lance Compa suggested that the process by which the NAO grants legitimacy and generates concrete collaboration is inextricably linked:

And what the NAALC has created is this kind of framework for a lot of rich interaction between union activists in the countries . . . like when the flight attendants came up from Taesa [a Mexican airline] to testify at the public hearing in Washington, D.C., they were just—ecstatic might be overstating it—but they thought it was great because until this forum was available, this would have been just some . . . a silent suffering in Mexico, and nobody would have ever heard of it. Even in Mexico it would be, kind of a few people on the left would know about it, but it would be totally ignored otherwise. And here they've got high level officials from the U.S. government sitting in a public hearing listening to them tell the story of what happened to them, and what Taesa did to them and what the government did to them. And they said, this is great . . . it's just great that somebody will take us seriously and hear our story. And for the two unions—the flight attendants in the United States, and ASSA, the union in Mexico—the people from those unions also told me, this is great, it's given us a chance to really work together and get to know each other better. What they did before was send each other resolutions of support, or telegrams of support, and that was it. And now they've got something very concrete to work on. And in the long run that's going to pay off, even if it doesn't pay off in some magical judgment under the NAALC to rehire the workers that got fired. (Lance Compa, 12/19/00)



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For the UE, FAT, and CUSWA, the NAO process not only gave them legitimacy, it also catalyzed their relationship into a trinational one. In 1997, a group of six U.S. and Canadian unions (including the UE and CUSWA), and FAT, formed the Echlin Workers Alliance. These unions had previously worked together in various coalitions to defeat NAFTA. The alliance was created to support workers employed by the Echlin Corporation (which later became Dana), a U.S.-based transnational auto parts manufacturer. Member unions represent workers in Echlin/Dana plants in all three NAFTA countries.

One of the primary objectives of the Echlin alliance was to support Mexican workers in their struggle to improve the working conditions in Echlin plants. A statement adopted at its founding meeting read, “We will make a special effort to support Echlin workers in Mexico who suffer the lowest wages and worst conditions and who face the worst repression when they stand up for their rights” (Hathaway 2000, p. 191). The Echlin alliance, then, was created because the unions viewed protecting workers’ rights in plants in all three NAFTA countries as their common interest and goal. Soon after the alliance’s founding, STIMAHCS, a FAT-affiliated independent metal workers union, requested assistance for an organizing drive at a Dana-owned plant called ITAPSA in Mexico City. The alliance pledged its mutual support for STIMAHCS’s organizing campaign at ITAPSA. Bob Kingsley of the UE described how unions from the three NAFTA countries came together to support the ITAPSA struggle:

Before very long even though the initial organizational vision was sort of a broader one about how we were going to go out and cooperatively by comparing notes and joining forces—Canada, Mexico, and the United States—attempt organization throughout this chain, the thing became focused on ITAPSA because the Mexicans were first out of the gate. They went to the factory, they tried to organize it, [and] you know they faced horrible repression, of course this new organization then closed ranks behind the workers involved in that struggle and made that the prime piece of our work. And that work took a number of forms, from activities we tried to organize in the various organized shops to protest the company’s actions, our first instinct being to involve the rank-and-file Echlin workers to take on this company. And we were able to undertake activities in Canada, in the United States, in support of what was going on at ITAPSA in Mexico. (Bob Kingsley: UE, 1/23/01)

Echlin did not relent and in December, 1997, the Echlin Workers Alliance filed a public submission with the U.S. NAO office that accused the corporation of labor rights violations in Mexico and demanded that the Mexican government remedy the situation. Over 50 organizations from all three NAFTA countries, including seven unions that represent Echlin workers in the United States and Canada, signed the submission. The

UE, FAT, and CUSWA were among the submitters. The submission was reinforced by concrete actions, including demonstrations in front of the company's headquarters and actions at their shareholders meeting. At the shareholder's meeting, the alliance demanded that the company sign a code of conduct which would apply in Echlin's plants in Mexico, the United States, and Canada. The UE's director of organization described the action at the shareholder's meeting this way:

And it was just right. It was the scene that ought to be. Here's their corporate headquarters, this palatial setup overlooking this beautiful lake, comfortable location used by these overpaid executives that run this outfit. And here we are, a nasty bunch of skunks attending their garden party and bust up this meeting by raising the Echlin issue and demanding that they respond to us on this topic, that they contemplate adopting a corporate code of conduct, that justice be done for these people who've been done wrong. And it was a good day for us, was a good day for us when we were able to do that. (Bob Kingsley: UE, 1/23/01)

Despite the alliance's efforts, the U.S. NAO submission and joint actions failed to remedy the problem at ITAPSA. Thus, a year later the CUSWA spearheaded another NAO submission against Echlin and submitted it to the Canadian NAO in April 1998. Gerry Barr, formerly of the CUSWA, explained that although Canadian unions were hesitant to use the NAO submission process, his union decided to participate in the case in order to support the FAT:

In Canada this turned out to be the first time that a union aimed at using the side agreement. The view with respect to the NAFTA side agreement had been very very harshly negative and we thought and to some extent still think that this is a procedure designed to not work and designed to be inaccessible and designed for inefficacy not efficacy and to some extent we still think that. But it does remain true that it was a venue, right? It was a place to engage and so because the FAT was interested in that we became interested in it. And because they valued it we suspended some of the critique with respect to the nonutility of the platform and were prepared to accompany them, their interest and to sort of give some weight to their interest in having it aired in Canada and we became the lead agency as it were. (Gerry Barr: CUSWA, 3/1/01)

Barr's comments reflect how his union came to see its interests as linked to those of the FAT. The CUSWA therefore supported (and helped fund) the NAO complaint even though the case did not involve Canadian workers.

It was through this process, with the FAT as an intermediary, that the CUSWA developed a relationship with the UE. When asked to describe the benefits of the NAO case, the UE's Robin Alexander responded, "I

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think that one benefit for us is we really did get to know the Canadian Steelworkers much better as a result of all of this” (Robin Alexander: UE, 12/21/00). Alexander described how the relationship with the CUSWA developed through participation in the case:

There had been no NAO cases filed in Canada. And so the [Canadian] Steelworkers agreed to really be the point people on that case, because of their relationship with the FAT, and the FAT had through the Echlin Workers Alliance asked for assistance, and so a decision was made to file cases both here and in Canada and so the Canadian Steelworkers agreed to really coordinate that work . . . I wound up working very very closely with people in their Humanity Fund and with their lawyers and got to know them. (Robin Alexander: UE, 12/21/00)

The Echlin NAO case demonstrates that through the NAO submission process, the NAALC provided a concrete mechanism to stimulate new relationships and direct and galvanize established relationships in the wake of NAFTA’s passage. It also shows how the NAALC helped constitute transnational actors with uniquely North American interests. The unions that formed the Echlin alliance were those that had worked together to defeat NAFTA, and through this process they came to see their fates as intertwined. The UE-FAT-CUSWA relationship served as a model and signaled a significant shift in the way many unions deal with shocks such as free trade. Instead of relying on protectionistic and nationalistic strategies to deal with the crisis, these three unions decided to fight against the threat together by creating a relationship that was beneficial to all participants. One FAT leader explained that although the relationship requires constant negotiation to ensure that the needs of all are being met, it is a step in the right direction:

This is not a relation of agreements and declarations, of good intentions. This is a relation based on action and from here we have to work very hard. But for good reason because these are new experiences, and each side has distinct needs. Therefore the process goes slowly. But we are on this path. And we need to do the same thing with unions in Europe. And it takes a lot of work due to differences in culture, standards of living, etc. But we have confidence in this path and that like capital, we will create global unionism. That we will not have to be an individual union confronting capital where it appears in our country. (Benedicto Martínez: FAT, 7/27/99)

NAFTA’s effects transcend the specific case of the FAT, UE, and CUSWA. An analysis of the NAO submissions filed during the period under (1994–2001) study reveals a general trend toward increased joint participation on submission cases. While only the one or two submitting unions participated in joint actions to support the first few NAO cases,

over 50 unions and NGOs participated in the NAO Echlin/ITAPSA submission. Many of these unions had no previous contact.<sup>34</sup>

#### CONCLUSION

An examination of NAFTA and the emergence of labor transnationalism suggests that the dimensions of political opportunity structure articulated by social movement theorists cannot adequately explain how political opportunity structures operate at the transnational level. Because political process theory developed almost exclusively in relationship to nation-states and national political processes and institutions, the processes by which power is constituted at the transnational level have not been fully theorized. I show that just as the nation-state constitutes a national power structure that provides political opportunities for national social movements, transnational global governance institutions (such as NAFTA and the NAALC) constitute transnational power structures that provide new political opportunities for emergent transnational social movements. I therefore identify a relationship between the development of a transnational power structure and the *emergence* of transnational social movements.

But an analysis of NAFTA as a *case* of a new global governance institution enables us to do more than simply illuminate the link between it and the emergence of labor transnationalism; it also allows us to unearth the process by which this reaction occurred. Here I illuminate the *process* by which global governance institutions create new transnational political opportunity structures for transnational social movements. I offer three dimensions of transnational political opportunity structures that global governance institutions affect in order to constitute power transnationally.

First, global governance institutions constitute transnational actors and interests in the transnational arena. NAFTA forced labor unions in North America to see the common threat NAFTA posed to the continent's living and working conditions. Through their common struggle to define and defeat the threat of regional economic integration, national unions in North America came to identify and organize around their collective interests as *North American unions*. Second, in the transnational arena global governance institutions have the power to define and recognize transnational rights and grant legitimacy to transnational actors and their claims. While nation-states have the power to define and grant the rights of national "citizens," global governance institutions define and recognize the rights of transnational or regional social actors and their organizations.

<sup>34</sup> I discuss this in detail elsewhere (Kay 2004b).

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That is, global governance institutions constitute them as “citizens of standing” in transnational adjudicative arenas. They do so by making and enforcing rules that establish transnational rights, standards, and norms. The NAALC, for example, codifies North American labor principles.

And finally, global governance institutions provide a formal political-institutional structure that makes rules and provides mechanisms for expressing and adjudicating grievances when rules are violated at the transnational level. Although the NAALC’s enforcement mechanisms are weak, the creation of transnational standards and norms is useful to labor activists whose grievances are legitimized at the transnational level. Moreover by engaging the NAO process and collaborating on submissions, North American labor unions solidify their common interests. NAFTA’s stimulation of transnational labor relationships demonstrates that global governance institutions catalyze labor transnationalism by both galvanizing resistance to and providing venues for contesting the rules governing the global economy.

These findings have several implications for the study of transnational social movement emergence. First, they suggest that the literature on social movements and state building needs to be refined and extended to the transnational level. At the center of this analysis should be global governance institutions that create shifts in national and transnational political opportunity structures. As the FAT-UE-CUSWA case demonstrates, it was not changes in national political systems and institutions that stimulated this trinational alliance, but rather, changes in the transnational arena. Moreover, it was not a change in an existing *national* political institution that created a shift in the North American political opportunity structure, but rather the introduction of new global governance institutions—NAFTA, the NAALC, the NAOs—that opened new political possibilities in the transnational sphere.<sup>35</sup>

Second, this analysis demonstrates that processes of globalization need not undermine labor movements.<sup>36</sup> While leaders of the FAT, UE, and CUWSA unanimously criticize the NAALC for failing to provide sufficient remedies for labor rights violations in North America, they agree that by providing a new transnational political arena, the NAALC is quite valuable. That is, although they do not see the NAALC as an effective mechanism to eliminate labor abuses, they do see it as useful

<sup>35</sup> It is plausible that labor transnationalism could also emerge as a result of significant changes in existing global governance institutions (such as the International Labour Organization) that encourage transnational collaboration and cooperation.

<sup>36</sup> For discussions of counterhegemonic globalization, see Carr (1999) and Evans (2000, 2005).

insofar as it gives them standing and legitimacy in a transnational arena and facilitates their continued cooperation. Thus, it is possible that as the transnational political opportunity structure develops, labor activists can build their capacity to take advantage of it, to amend their strategic repertoires, and to begin to shape how the rules governing the regional economy are made. This possibility may not have existed were it not for the initial contacts and relationships stimulated by NAFTA.

Finally, a case analysis of NAFTA and its transnational progeny offers much needed insight into the obstacles to labor transnationalism. A dearth of global governance institutions that have meaningful participatory mechanisms could explain a corresponding lack of transnational social movements, while the existence of the NAALC, a statelike global governance regime, explains transnational emergence. Excavating the mechanisms by which NAFTA and the NAALC stimulated labor transnationalism suggests that global governance institutions that grant legitimacy and provide mechanisms for expressing and redressing grievances when rules are violated, are critical to the development of transnational social movements. NAFTA serves these functions in North America, thus it galvanizes resistance to globalization processes in different ways than global governance institutions that lack these functions, such as the World Trade Organization (WTO) and World Bank (WB). For example, popular resistance to WTO and WB policies is usually manifested in large transnational demonstrations precisely because these institutions have no public adjudicative processes that activists can engage. Activists cannot file complaints of labor rights violations with the WTO or WB; there is no transnational legal rights mechanism to engage. Indeed, activists' primary criticism of these institutions is their lack of transparency and democratic participatory processes.

This study indicates that future research that pursues negative and positive cases of labor transnationalism would be invaluable to our understanding of transnational social movement emergence. In addition, it would be useful to compare the effects of global governance institutions of long standing (such as the International Labour Organization, or ILO), with emergent transnational institutions (such as the NAALC) on transnational social movement development. The dimensions of transnational political opportunity structures and global governance institutions I identify as being the most salient to labor transnationalism provide a useful yardstick by which to measure other global governance institutions and their potential to serve as catalysts for various types of transnational social movements. It is probable that the role of transnational social movements poised to contest inequalities wrought by processes of globalization will only become more important as these processes proceed.

APPENDIX A

Methodology

Gauging the extent of the shift to labor transnationalism is extremely difficult because there exists no aggregate data on transnational labor relationships. Unions do not maintain records of their every contact and interaction with unions in other countries, and only large events and campaigns appear in union publications and documents. Moreover, because many unions do not have departments dedicated to managing international work, the reporting of that work in formal archived sources is not routinized and tends to be sporadic. And finally, international work is usually conducted by key actors in unions through informal mechanisms—there is little institutional memory regarding how relations emerged and developed. Determining the universe of unions involved in transnational relationships is therefore extremely problematic.

Building a sample of unions to examine required culling from a variety of sources and utilizing multiple methodologies. To build my sample, I first examined the newspapers of 15 key U.S. and Canadian union federations and industrial unions during a 15-year period (1985–99) to determine if articles that discussed labor transnationalism appeared.<sup>37</sup> Until 1992, no articles appeared in any of these union newspapers that revealed the existence of transnational relationships. Articles appeared that mentioned transnational contacts, usually meetings of high-level union leaders through international trade secretariats or other international bodies.<sup>38</sup> Articles also discussed various unions' support for Solidarity workers in Poland and for the antiapartheid movement in South Africa. After 1992, published articles mentioned transnational relationships among North American unions. These articles appeared in the newspapers of the UE, the CUSWA, the Communication Workers of America (CWA), and the Communications, Energy, and Paperworkers Union (CEP, Canada) detailing their nascent transnational relationships with Mexican unions.

To test this population of unions involved in transnational relationships, I compared it to a population of unions that participated in Mexico-U.S. Dialogos, convened in 1988 by David Brooks to bring together U.S. and

<sup>37</sup> This included 24 publications (due to changes in publication names over time, union mergers, and distinct series published in Canada). The publications were collected at Princeton University, the University of California, Berkeley, the University of Toronto, and at the archives of various unions and federations. While some issues were missing, the collections were relatively complete.

<sup>38</sup> Such as the International Labour Organization (ILO), International Confederation of Free Trade Unions (ICFTU), etc.

Mexican activists (later, Canadians became involved)<sup>39</sup> to discuss the process of regional economic integration. Compared to the larger universe of North American unions, the unions that participated in Mexico-U.S. Dialogos meetings were directly affected by trade.<sup>40</sup> Meetings were held annually, beginning in Chicago in September 1988. From the roster of participants of all Mexico-U.S. Dialogos meetings, I compiled a list of national industrial unions that had transnational relationships prior to 1989. There were none. I then compiled a list of industrial unions from the roster that developed transnational relationships after 1989. The list included six unions. Combining the lists of unions culled from union newspapers and Mexico-U.S. Dialogos meetings created a population of eight unions/federations with transnational relationships after 1989: the AFL-CIO, CLC, UE, FAT, CUSWA, CWA, CEP, and STRM.

To further test this population, I consulted a variety of labor activists to identify unions that were engaged in transnational relationships after 1989. A small population emerged, and it matched the group that I had already identified by culling from union newspapers and rosters of Mexico-U.S. Dialogos meetings. It also included transnational relationships among the United Auto Workers, Canadian Auto Workers (CAW), and a FAT-affiliated auto union (STIMAHCS), and between the Union of Needletrades, Industrial and Textile Employees (UNITE) in the United States and Canada, and a FAT-affiliated garment union.

The transnational relationships that emerged vary in their intensity. I therefore distinguish them as either fully or partially developed based on whether or not they meet the following six criteria: (1) a commitment to work together (usually in the form of a statement of cooperation), (2) the intention that the relationship be permanent and equitable, (3) participation of rank-and-file members, (4) ongoing contact and interaction (at least once every two months), (5) institutionalization, that is, permanent staff positions that facilitate the relationship between the organization and its members, (6) joint actions, for example, joint activities and actions to address mutual needs and interests. I categorize unions that meet at least three of these criteria as having a partially developed relationship. Unions that meet two or fewer criteria I categorize as having transnational contacts.

<sup>39</sup> In addition to unions, participants included NGOs (environmental, human rights, etc.), policy institutes, farmers' organizations, scholars, religious and advocacy organizations.

<sup>40</sup> Although industrial unions constituted the majority of union participants, unions representing public employees and service workers attended.



APPENDIX B

NAFTA and the NAALC

NAFTA's passage in 1993 culminated after a long and difficult battle among government representatives and advocacy groups in all three NAFTA countries.<sup>41</sup> The fight to kill the free trade agreement not only brought together advocates of "ethical trade" within each nation, but also across North America (Evans 2002). These included transnational coalitions and networks of advocacy groups that had previously not cooperated, such as labor unions, farmers' groups, and environmental NGOs.

The coalitions succeeded in pressuring presidential candidate Bill Clinton to support and push for environmental and labor side agreements. These agreements were not incorporated into the text of NAFTA, but rather negotiated as supplemental parallel agreements. Convinced that NAFTA's passage by the U.S. Congress depended on the successful negotiation of side agreements, President Clinton and his trade representative Mickey Kantor began to negotiate with Mexican and Canadian representatives (Evans 2002). The U.S. and Canadian negotiators agreed that trade sanctions should be included in the labor side agreement. Mexican negotiators, however, refused to allow trade sanctions for all types of labor rights violations. Thus the agreement only allows trade sanctions in cases of child labor, minimum wage, and health and safety violations.

The final agreement, embodied in the NAALC, committed each of the three signatory countries to "*protect, enhance and enforce basic workers' rights*" while advancing regional market integration, enhancing North American firms, and creating new employment opportunities.<sup>42</sup> But the NAALC emphatically states that the goal of protecting workers' rights and promoting improved working conditions will *not* be achieved by creating a supranational labor law. Article 42 specifically states that one party (i.e., signatory nation) may not enforce labor laws in another's territory.

The NAALC is a supplemental labor side agreement entered into force by three autonomous nation-states. It attempts to maintain each nation's sovereignty and autonomy by basing labor rights on national labor legislation rather than a supranational labor code. Under the NAALC, each nation must enforce its own domestic labor laws. This stipulation was created in order to deal with concerns over national sovereignty. Mexican officials worried that the U.S. government would dominate and dictate legal proceedings to their country's detriment. While the Canadian federal

<sup>41</sup> See Evans (2002) for a discussion of NAFTA and "ethical trade advocacy."

<sup>42</sup> "North American Agreement on Labor Cooperation." 1993. Text of the agreement. September 13. Found at <http://www.naalc.org/english/agreement.shtml>.

government signed the NAALC, each province decided whether or not to sign onto the labor side agreement. Thus workers under the jurisdiction of the federal government (approximately 10% of the workforce)<sup>43</sup> and those in the four provinces that have ratified it—Alberta, Quebec, Prince Edward Island, and Manitoba—are covered by the NAALC. Workers in Canada's other provinces are not.<sup>44</sup> The NAALC allows each nation discretion as to how its labor laws should be interpreted, enforced, and adjudicated. Thus, nation-states remain critical to the NAALC process and to the development of a transnational political action field on labor rights in North America.

Although the NAALC did not create a transnational labor law, it is transnational in scope because it established 11 “guiding principles” each signatory country agreed to promote: (1) freedom of association and protection of the right to organize, (2) the right to bargain collectively, (3) the right to strike, (4) prohibition of forced labor, (5) labor protections for children and young persons, (6) minimum employment standards, (7) elimination of employment discrimination, (8) equal pay for women and men, (9) prevention of occupational injuries and illnesses, (10) compensation in cases of occupational injuries and illnesses, (11) protection of migrant workers. Complaints of labor rights violations are filed against a NAFTA country for failing to enforce its labor laws. They cannot be filed against an employer, company, or individual.

The NAALC created new adjudicatory venues and procedures for filing complaints alleging a signatory country failed to effectively enforce its labor laws related to one or more of the 11 labor principles. The Commission for Labor Cooperation (CLC), is composed of a ministerial council (Council), and a secretariat. The Council serves as the governing body of the CLC and has ties to each party's federal government, specifically the department that handles labor matters.<sup>45</sup> The NAALC required each country's labor department (or its equivalent) to set up a national administrative office (NAO) to handle initial complaints of labor rights violations (referred to as submissions or public communications). The following organizational chart (fig. B1) illustrates the structure of the CLC.

<sup>43</sup> *Labor Relations Law in North America* (2000), p. 33.

<sup>44</sup> British Columbia, Ontario, New Brunswick, Newfoundland and Labrador, Nova Scotia, and Saskatchewan declined. See Grayson (1995).

<sup>45</sup> The United States Department of Labor; Human Resources and Skills Development Canada; and the Ministry of Labor and Social Welfare (Secretaría del Trabajo y Previsión Social).

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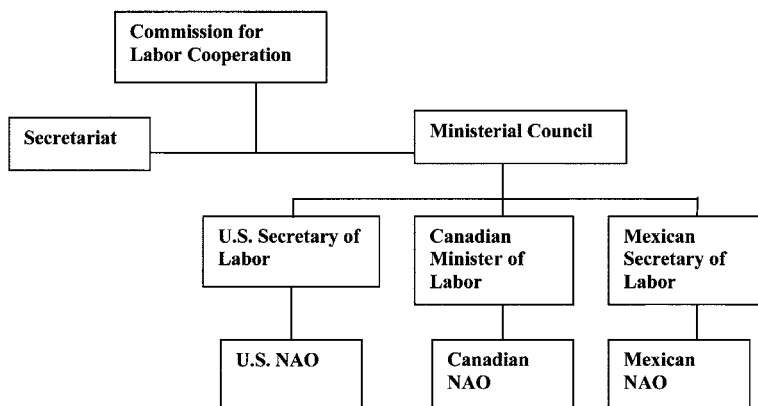


FIG. B1.—Organizational chart of the Commission for Labor Cooperation

There are three primary levels in the adjudicative process, and not all types of complaints can reach the highest level: (1) ministerial consultations, which can be initiated based on an alleged failure to enforce labor laws associated with any of the eleven labor principles, (2) an evaluation committee of experts (ECE) can be convened if the alleged violation pertains to eight labor principles (excluding freedom of association, the right to bargain collectively, and the right to strike), and (3) an arbitral panel can be invoked if the submission deals with labor protections for children and young persons, minimum wages, and/or prevention of occupational injuries or illnesses. Trade sanctions can only be levied at this level. In order for an ECE or an arbitral panel to be established, the matter must be both trade related and covered by mutually recognized labor laws. Table B1 details the 11 principles and their different levels of treatment in the NAALC process.

The NAALC does not specifically require that a submitter be a citizen or resident of the NAFTA country in which the submission is filed. The NAALC only states that a submission must be filed in a country other than the one in which the alleged labor law violation occurred. A guide prepared by the U.S. NAO states: “Any person may file a submission with the U.S. NAO regarding labor law matters arising in the territory of another Party.”<sup>46</sup> Thus, for example, a citizen or group in any country may file a submission with the U.S. NAO. The only requirement is that

<sup>46</sup> “The North American Agreement on Labor Cooperation: A Guide.” U.S. National Administrative Office, Bureau of International Labor Affairs, U.S. Department of Labor. Accessed April 1998 (available at <http://www.dol.gov/ilab/media/reports/nao/naalcd.htm#NAO>).

TABLE B1  
NAALC LABOR PRINCIPLES AND LEVELS OF TREATMENT

Ministerial Consultations	Evaluation Committee of Experts	Arbitral Panel
Freedom of association and the right to organize		
The right to bargain collectively		
The right to strike		
Prohibition of forced labor	Prohibition of forced labor	
Labor protections for children and young persons	Labor protections for children and young persons	Labor protection for children and young persons
Minimum employment standards	Minimum employment standards	Minimum wages
Elimination of employment discrimination	Elimination of employment discrimination	
Equal pay for women and men	Equal pay for women and men	
Prevention of occupational injuries and illnesses	Prevention of occupational injuries and illnesses	Prevention of occupational injuries and illnesses
Compensation in cases of occupational injuries and illnesses	Compensation in cases of occupational injuries and illnesses	
Protection of migrant workers	Protection of migrant workers	

the submission addresses labor law violations by Mexico or Canada. Moreover a submitter need not be party to a particular case. As a NAALC publication clarifies, “Individuals, unions, employers, non-governmental organizations or other private parties may file submissions seeking NAO reviews in accordance with the domestic procedures established by the country’s NAO.”<sup>47</sup> Although the NAALC process does not require transnational cooperation on submissions, its procedural rule that requires submissions to be filed through an NAO in a country other than the one in which a labor violation occurred facilitates cooperation among North American labor unions. This procedural rule makes it extremely difficult for a union to file with a “foreign” NAO without the assistance of a “foreign” union.

*Nation-States and Transnationalism*

Although the role of the three nation-states is important to the adjudication of NAO public submissions, the three levels of treatment involve

<sup>47</sup> [http://www.naalc.org/english/info/broch\\_7.htm](http://www.naalc.org/english/info/broch_7.htm).

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trinational adjudication (i.e., ministerial consultations, ECEs, and arbitral panels involve participants from each country). The primary power each NAO has in the public submission process is whether or not to accept a public submission, and whether it merits ministerial consultations. There is a high rate in both the acceptance of submissions and ministerial consultations. Of the 23 NAO submissions filed between 1994 and May 2001,<sup>48</sup> 18 were accepted for review, and 13 resulted in ministerial consultations. Once a submission is accepted and goes to ministerial consultations, the adjudicatory process becomes trinational. Ministerial consultations involve deliberations by the U.S. and Mexican Secretary of Labor and the Canadian Minister of Labour. ECE and arbitral panels include experts chosen by consensus by the three countries. Moreover, an arbitral panel must include experts from each country involved in a dispute. While the NAO process is not independent of North American nation-states, it would more accurately be described as embedded in a trinational process dependent on the collective and consensual will of three nations. Because the NAO process depends on the collective action of U.S., Canadian, and Mexican representatives, it is not subject to the individual whim of one nation. Thus, the politics of a particular country would have little effect on unions' choice of where to file an NAO submission. That decision would be driven primarily by the NAALC's procedural rules, which prohibit submitters from submitting a complaint to the NAO in the country in which the alleged labor rights violation occurred, but allow them to file multiple submissions. That is, submitters may file two submissions, one in each "foreign" NAO (as occurred with the Echlin case). The ability to file multiple submissions provides unions additional protection from political or other factors that could bias the adjudicatory process. Indeed, interview data reveal that unions' preference for filing submissions is primarily driven by transnational factors, in particular the existence of a viable counterpart in the "foreign" country to assist in the submission process.

NAFTA's negotiation and the NAALC process marked a significant shift in the institutional landscape governing trade and labor rights in North America. While the three nation-states maintained their sovereignty, they ceded some autonomy to a trinational process of labor rights adjudication. It is to this shift that labor unions responded by creating viable transnational relationships that spanned the continent for the first time in North American history.

<sup>48</sup> This is the period under study.

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