



# BORDERS AND BORDERLANDS IN THE AMERICAS



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## **INTRODUCTION**

The sheer variation across the Americas in terms of cross-border flows of persons, goods, and data has created a highly complex set of challenges for states and non-state actors in this hemisphere. Globalization has accelerated and increased these flows across the Western Hemisphere's borders, within both licit and illicit networks. Traditional territorial security concerns declined in the Americas following the end of the Cold War, and NAFTA in North America and Mercosur in the Southern Cone have promoted free trade and accompanying economic development in border regions. At the same time, other concerns pertaining to security and the market have arisen, such as the shifting of routes for narcotics and human trafficking from the Andes, Central America, and the Caribbean in the 1980s into the United States and Mexico in the last decade. This dynamic has fostered substantial illicit networks and a dramatic escalation of violence in a number of borderlands in the hemisphere. Furthermore, issues of identity and ethnicity that were disregarded during much of the 19<sup>th</sup> and early 20<sup>th</sup> centuries now present challenges to states as national majorities, indigenous populations, and inhabitants of borderlands debate issues of citizenship, migration, and even the legitimacy of existing borders.

This project has sought to understand how border policies affect, and are affected by, national and subnational actor preferences, including the interaction of border policies with international, domestic, and subnational politics. We were particularly interested in the unintended consequences and conflicts that arise as states attempt to formulate and implement policies addressing different imperatives in American borderlands. This project report underscores the extent to which we find important differences between the borders and borderlands in the Americas and those in other regions of the world. This has important implications for how we foster collaborative border policies going forward in the Western Hemisphere.

The report first presents the project methodology and defines how borders and borderlands in the Americas were conceptualized by participants in the project. It then presents the project's key findings and identifies avenues for future research.

## **PROJECT METHODOLOGY**

This project is explicitly comparative in nature. It not only focuses on borders and borderlands across the Americas, it also draws on insights from other regions of the world. Although the majority of participants were experts on the Western Hemisphere, the project also sought views from scholars of Europe, Asia, and the Middle East to provide context and suggest insights that may be useful for explaining the current policies and practices we observe in the

Americas. The cases considered also look backwards in history to identify trends and recurring phenomena that may offer insight into why some borders and borderlands remain particularly problematic for states in the region.

The project consulted experts in policy and academia to identify critical cases and important findings on the nature of borders and borderlands in the Americas. The experts were selected because of their deep knowledge of specific cases and, for one more comparative panel, their theoretical expertise. Authors were each asked to write a 10-page think piece focused on border issues. To provide additional background on the systematic study of borders and borderlands, all participants received a concept paper that reviewed contemporary literature on this subject and identified variations between observations made in Europe and North America – where border studies as a discipline has largely focused – and those made throughout the Western Hemisphere. In collaboration with the Center for International Security and Cooperation at Stanford University, the project culminated with a workshop on 18 and 19 June 2012 in Palo Alto, California for 35 experts from across the Americas and beyond, including U.S. government officials from the Department of Homeland Security, U.S. Southern Command (USSOUTHCOM), and U.S. Northern Command (USNORTHCOM).<sup>1</sup> Participating experts provided think pieces and briefings highlighting key findings and relevant cases, drawing on their knowledge to contribute to the key findings presented in this report.

## **THINKING ABOUT BORDERS IN THE CONTEXT OF THE AMERICAS**

What are the purposes of a border? From the perspective of this project, borders are much more than geopolitical boundaries delimiting sovereignty. They may contribute to or detract from security; they may serve as a focus for national defense (or not); they can define identities both for national and local populations; they may be cash cows for local or national government, for instance as sites of huge investments in security technologies or the collection of tariff revenues; and they can create arbitrage opportunities for private actors by differentiating jurisdictions and regulating or facilitating flows of money, people, goods, and data.

Although there is no unifying lexicon across the social sciences for studying borders, the existing scholarship generally focuses on four dimensions:

1. borders as an external boundary delimiting sovereignty (geopolitics),
2. borders as a boundary of internal security and the rule of law (policing),
3. borders as an economic space affecting transactions between and among different forms of private and public actors, and
4. borders as an imagined community (identity).<sup>2</sup>

These conceptualizations/approaches tend to draw on evidence from Europe and, to a lesser extent, North America for support, and yet if we look comparatively across the Western Hemisphere, we see a wide range of variation and deviation from standard explanations across a number of the dimensions.

Borders in the Western Hemisphere present a particularly intriguing set of puzzles because they point out the inherent contradictions between dynamics of economics, security, and identity, and between national border policy interests, on the one hand, and the interests of actors within borderlands on the other. From a geopolitical perspective, there are multiple international territorial and maritime border disputes in the Western Hemisphere, but few states are willing to fight militarily over contested boundaries. On the other hand, from a policing perspective, borders in the Western Hemisphere have become highly contested. In spite of the lack of interstate wars, or perhaps because of it, conflicts in borders zones are escalating as a result of piracy, border banditry, and smuggling of peoples, drugs, and guns, creating tensions both between countries and among actors in borderlands. From an economic perspective, increasingly open borders have traditionally been associated with economic and demographic growth. However, opening borders in the Western Hemisphere has tended to undermine border security due to a collateral increase in smuggling, human migration, tax evasion, and trafficking. Finally, unlike borders in Europe and elsewhere, borders in the Western Hemisphere have not always generated strict “us versus them” identities. Instead, in some borderlands inhabitants on either side of the international border have shared ethnic – often indigenous – identities that are stronger than state-centered identities and/or have shared economic and security interests that differ starkly from the interests of the broader national populations.

## **SIGNIFICANT FINDINGS**

Given the sheer amount of variation along the four dimensions of borders in the Western Hemisphere, it is only natural to expect to observe differences in state preferences over border policies. The border policies resulting from these preferences are a reflection of not just structural and international factors, but also domestic politics, national and local institutions, and state capacity. Moreover, national governments find that there are tensions between different border imperatives, such as economic development and police control or international security and border identity. The following section presents the key findings from this project explaining the evolution and present status of borders and borderlands in the region, organized along the dimensions of international relations, domestic politics, and dynamics within and among organizations operating at the border.

## **International Factors**

We live in a world of softened sovereignty, where states increasingly conduct security work in bilateral and multilateral settings. The fiscal/military/industrial state pioneered in 18<sup>th</sup> and 19<sup>th</sup> century Europe might have been able to defend and patrol “hard” borders. This is no longer possible today as states increasingly share power with subnational, international, and transnational actors.<sup>3</sup>

Nevertheless, one key insight presented during the workshop was a cautionary note about thinking that in earlier times borders in the hemisphere were enforced or enforceable. Historically, smuggling was critical to economic development in countries throughout the Western Hemisphere. U.S. history is full of examples in which smuggling was essential for economic development and survival, such as during the Revolutionary War, the War of 1812, the Civil War, and Prohibition. Other borders where contraband pioneered illicit trading routes and “dark” networks include the Colombia-Venezuela, Ecuador-Colombia, Bolivia-Argentina, Argentina-Brazil-Paraguay, and Chile-Peru borders. Contraband goods in these examples are understood to be licit goods rendered illicit by the form of their transport (smuggling) to avoid high tariffs. Examples include liquor, cigarettes, and domestic durable goods. This form of contraband has been replaced by the smuggling of goods that are illegal in and of themselves (narcotics), rather than because of the status in which they were transported from one jurisdiction to another.<sup>4</sup> Many of these goods move along traditional contraband routes used for centuries across the hemisphere.

Though perhaps a hard border may be mythical, nonetheless there are large variations in both border functions and the ability of states to use borders to enact these functions across the Western Hemisphere. This project found that some of the key elements driving this variability in borders were the ability of the state to support capabilities commensurate with its self-defined problem set; the relative legitimacy of border policy regimes within society at the local and national levels; and the state’s relative tolerance for border porosity, understood here as the degree to which individuals and organizations are able to evade state policies at the border to achieve their preferred outcome.<sup>5</sup>

Borders not only define the limits of state sovereignty, but are also used as tools by states to manage critical functions, such as the maintenance of security and identity, defense of territorial integrity, and regulation of economic activity. This means that borders help states to define what is legal and what is illegal within certain territorial limits. In essence, states construct their own border “problem sets” by adopting certain definitions of what is permissible and impermissible.<sup>6</sup> Although theoretically states can adjust the problem set that they face by

changing these definitions, in practice, border policies tend to be quite “sticky” and difficult to change.<sup>7</sup>

Border policies are rooted in a deep history of partial, problematic state building in the region. Historically, Latin American states have engaged in rivalry rather than war. Rivalry benefits these states because it enables the development of nationalism and nationality. Rivalry promotes state coherence and acts as an attractor for weak central governments, using nationalism to retain some loyalty and some authority over populations in their borderlands.<sup>8</sup> Though rivalry impedes interstate cooperation to resolve border issues in some key cases in the Americas (Peru, Bolivia, and Chile; Venezuela and Colombia), it does not rise to such a level that it generates the cycle of international conflict, defense preparedness, taxation, and popular mobilization. This means that Central and South America did not experience the type of state building that led to the development of hard fiscal/military/industrial states in Europe in the 18<sup>th</sup> and 19<sup>th</sup> centuries.<sup>9</sup> This historically limited state capacity across much of the region to address border security issues unilaterally, but rivalry also limited the possibility for cooperation across borders to address security and other dimensions of borderlands.

This project found no cases in the Americas in which borders were seriously at risk of provoking international war, even in the cases that were most ideologically polarized, as was the case on the Colombian-Venezuelan and Colombian-Ecuadorean borders. While we still see the militarization of borders as vehicles for signaling during international disputes, we found that leaders in the contemporary Americas were constrained by domestic stakeholders and economic considerations. In fact, much of the violence identified in borderlands has occurred in precisely those spaces where international relations are smoothest, especially due to strong economic relations: in Central America, regional economic integration and cross-border flows are growing even as states struggle to maintain border security.<sup>10</sup> The peaceful settlement of international disputes and *uti possidetis* (the legal concept that borders are based on those inherited from the colonial period) has become the norm across the region. In some cases, there is an increased tendency to legalize territorial claims, settling border disputes in international tribunals and through judicial arbitration. This means that states do not necessarily view their borders as matters of existential import, but at most as subjects that may be negotiated.<sup>11</sup>

Trade liberalization may be undermining the rationale for conflict in once high-risk areas such as Central America, the Southern Cone, and the Colombia-Venezuela border. In particular, some experts suggested the desire to attract investment and promote development might be having an additional dampening effect on conflict. Colombia-Venezuela may be most extreme example of ideological and geopolitical rivalry combined with massive trade growth. In all of the cases considered, international trade created domestic stakeholders that influenced national

governments to choose to deepen economic ties and liberalize regimes, privileging development over security.<sup>12</sup> Similarly, trade, fostered through NAFTA, has shaped and affected the U.S.-Mexico bilateral agenda, leading to increased national, regional, and even local cooperation between both countries. But even here we have witnessed unintended consequences as a result of 9/11 and drug trafficking dynamics. Ironically, the cities and ports of entry that tend to concentrate bilateral trade have also witnessed increased drug violence, including Tijuana, Juarez, and Monterey. Although drug violence has not yet spilled over into cities such as El Paso or San Diego, securitization, militarization, and bilateral conflict have permeated the U.S.-Mexico border.<sup>13</sup> Hence, increased trade may contribute to improved economic transactions and raise the costs of war, but it should not be considered a panacea in reducing tension and illegal transactions in borderlands. Interestingly enough, licit and illicit actors alike use trade regimes (routes, highways, means of transportation, and currencies) to exchange goods and services across borders; thus, as long as there is a market, trade will create incentives for legal and illegal transactions in common frontiers.

In addition to establishing trade regimes, states further shape cross-border flows by how they define what is licit and illicit. By targeting certain illicit activities, states should be aware that they are simultaneously creating attractors and deterrents to participate in that activity because the risk premium creates high rewards for successful entrepreneurs. This also attracts a particularly risk-acceptant kind of actor into that particular market segment. The competition between state border enforcement agencies and illicit traffickers creates a complex adaptive dynamic that selects for fitness, analogous to an evolutionary dynamic.<sup>14</sup> Taken to the extreme (as may be occurring on the U.S.-Mexico border), this effectively creates an X Prize for illicit trafficking, analogous to the recent X Prize awarded for the first private space launch. Anyone who can get a ton of narcotics across the border is rewarded with millions of dollars in profits, while the leadership of the drug-trafficking organizations (DTOs) can take a hands-off approach that focuses on financing lower level actors that are willing to accept the risk.<sup>15</sup> Evidence of this dynamic is found in multiple cases across the region, including the tri-border region (Argentina-Brazil-Paraguay), Central America, and North America (U.S., Mexico, and Canada).

One final observation regarding international dimensions of borders that emerged from the project is the existence and relevance of varied definitions of the border “problem” across the region, including divergence between states sharing a common border. For example, the United States defines its borders in the wake of 9/11 as being predominantly about security and law enforcement, whereas for its neighbors, Canada and Mexico, borders are predominantly about economic development and trade.<sup>16</sup> Venezuela’s leaders present their border with Colombia as primarily a security or even ideological problem, when in fact trade drives the actual border policies of both the Colombian and Venezuelan governments.<sup>17</sup> In some cases, the states directly

involved agree about the border reality, whereas other states do not. For example, Brazil, Argentina, and Paraguay agree that the triple frontier region should be understood primarily in terms of economic transactions and tourism, but other international actors observe a significant security problem.<sup>18</sup> These divergences have implications for how states talk to – or past – each other about managing common borders.

When it comes to solutions to border challenges, this project has found that there are two alternative models of border security currently in competition: fortress vs. ring of friends. A global comparative discussion identified that the European Union has been evolving towards a system of rings of friendly or collaborative states, although there are clearly remaining elements of fortress mentality (the United Kingdom, the Spanish border with Morocco in Ceuta, and the Greek border with Turkey). The contemporary European model of border security has a broader human security focus which aims to improve outcomes across diplomatic, development, and security dimensions. Europe also focus on subsidizing other border states to improve their own capabilities to keep borders from generating a fortress mentality in the European Union.<sup>19</sup> In the wake of 9/11, the United States initially tended to adopt a fortress mentality for the U.S. and Canada, and more ambivalently for Mexico. Since the establishment of DHS and USNORTHCOM, there has been a progressive, albeit inconsistent, effort to incorporate Mexico in the North American perimeter.<sup>20</sup> However, the U.S. approach is not multidimensional since the economic and development aspects are frequently managed separately from security and migration policies. Nevertheless, we do observe efforts within DHS to collaborate with Central American counterparts to build an interagency whole-of-government approach on both sides of borders. In practice, this starts to resemble an approach based on “pushing the border out.” However, for most of the rest of the hemisphere, U.S. policy is still guided by bilateral agreements focused on technical law enforcement and intelligence sharing with neighbors.

## **Domestic Factors**

Popular perceptions of borders and borderlands tend to be dominated by single issues that obscure the complexity of the border. This single-issue focus on economics, security, or migration drives policymaking, even when the focus may be unhelpful. For example, the U.S.-Mexico border is defined within the U.S. as a problem of illegal migration, often overlooking the fact that allowing flows across the border is necessary to enable the economic dynamism of legal commerce between the countries. The key problem at the Ecuador-Colombia border is insurgents crossing to rest, regroup, resupply, and train in northern Ecuador, yet the logical solution that emerged out of a narrow focus on these security challenges has not worked: the Ecuadorean Army does all it can to avoid contact with the insurgents.<sup>21</sup> Similarly, in the tri-border region of South America, international actors insist on focusing on terrorism, even as the main challenge

for authorities at the border is smuggling, piracy, and counterfeiting. Single-focus policy solutions, particularly those that involve prioritizing security over other dimensions of borders, may not prove workable and may provoke negative externalities.

In the economic realm, a security focus can lead to neglect of potential economic-based measures to facilitate legal markets and interfere with illegal ones. Differences in jurisdictions, laws, and enforcement levels across borders create incentives for jurisdiction shopping by both licit and illicit actors. Licit actors seek the most attractive operating environments, i.e., where the profits gained outweigh the cost of operating. In international banking and trade, this creates disincentives to increase restrictive regulations or oversight because doing so would drive economic activity across border. There are a number of border dyads in the region where investing across the border is particularly easy (Argentina-Uruguay or Panama-Colombia). This helps to explain the persistent resistance to greater transparency and oversight of financial institutions in small states such as Uruguay and Panama that benefit from their status as regional banking centers.<sup>22</sup> The implications for border collaboration in the Americas is that certain states will resist increased border security because of the impact on economic growth.

When it comes to illicit markets, the dynamic is different, but an economic focus remains critical. Illicit actors also engage in jurisdiction shopping to minimize risk and maximize profits. This explains the repeatedly observed displacement effect that occurs when law enforcement action in certain jurisdictions reduces criminality locally but not regionally. Illicit markets also have difficulty solving problems associated with creating credible commitments, protecting property rights, reducing transaction costs, and securing flows of (illicit) goods and people. One way trafficking organizations solve this problem is through cartelization of illicit markets and hybridization of governance (defined as members of criminal organizations participating in government and members of government collaborating with criminal organizations). The alternative is fragmentation and competition, which tends to lead to high levels of violence in illicit markets.<sup>23</sup>

Treating borders and borderlands primarily as security concerns also creates problems for governments with important domestic stakeholders. Examples include smugglers (Paraguay), contrabandists (Bolivia), tax evaders (Argentina), ethnic minorities (Brazil), indigenous populations (Andean Region), and the military (Venezuela and Ecuador). Increases in state capacity can lead to counter-reaction by local communities that make themselves more opaque to the state (Bolivia contraband case). While international partners may view the concerns of a number of these stakeholders as illegitimate, they are still influential in national politics, creating a disincentive for politicians to increase security at borders.<sup>24</sup> Likewise, increasing federal or national capabilities (militaries and national policies) to improve border security may create or

undermine capabilities and authorities at the local level, fostering bureaucratic competition and even conflict at different national levels.

The legitimacy of border policy in borderlands has a significant impact on the effectiveness of state border policies. In a sense, borders are not just fixed lines, installations, systems, or institutions; they also exist in the mind of the people that make up a society. There is an interaction effect between society, the state, and the border in determining the legitimacy of border policy. Public opinion influences how policymakers approach borders and what solution sets are acceptable. Local support in borderlands may be particularly critical for a national government's border policy to take root. Local knowledge of how to navigate borders (and how illegal border-crossers navigate borders) is frequently superior to that of national authorities. Locals are better at identifying those who do not "belong" in border communities. Support from local border populations can thus make border policy much more effective.<sup>25</sup> Alternatively, where border policies are considered illegitimate, it makes the border regime much less effective because local populations have superior knowledge of the means to evade border authorities and control. In such cases, border populations actively undermine national-level border policies. Unfortunately, governments have historically been bad at consulting and incorporating the preferences of local populations or local border control authorities.<sup>26</sup> Effective border policies require local legitimacy, but local preferences over border policies can be quite different and even at odds with national preferences.

The crucial nature of legitimacy means that once a single-focus border policy leads to poorly conceived policies, those policies in turn can trigger negative feedback loops. Such negative feedback has the potential of delegitimizing and destabilizing domestic political coalitions and triggering political instability. The legitimacy of border policy is a key variable in explaining the relative degree of difficulty states face in managing their borderlands. The legitimacy of a border policy derives in part from the functional results the policy produces. Democratic process and popular opinion become frustrated when single dimension solutions do not produce success. Rather than looking for and supporting alternatives, political elites and public opinion can become fixated on making the preferred solution work at all costs. This can lead to a hardening of positions over time, and generate a negative policy feedback loop. When the solution for border dysfunction is defined as more security, border systems can become progressively harsh, but not more effective, as has been the case in the United States.<sup>27</sup>

Latin American governments have recognized the danger of securitizing borders. Some states in the region have resisted securitizing borders is the fear of empowering the militaries in fragile democracies. In fact, some Latin American governments, in an attempt to demilitarize disputed territorial and maritime borders have instrumentally opted for judicial settlements. This

is a legacy reaction to the authoritarian periods that preceded contemporary democracies. When combined with economic integration and liberalization, this has produced a de-emphasizing of the security dimension along some borders, but has also generated unintended effects, including poorly funded militaries.<sup>28</sup>

## **Organizational Factors**

This project also found a tension at the organizational level between agencies operating at the border and those making policy at the national level. Local bi-national law enforcement is often better informed about the challenges at the border than national authorities, but international law and agreements privilege the work of national authorities such as foreign ministries, ministries of interior, and ministries of defense. Interference from the central government may make border law enforcement worse in some cases by disrupting informal local bi-national arrangements designed to control illegality.<sup>29</sup> This produced a discussion about how cooperation at the local level across borders could be encouraged. Examples included local border information sharing, as is being promoted by the U.S. Department of Homeland Security (DHS) with and among Central American states as DHS seeks to “push U.S. borders out.” Cross-border information sharing is further facilitated when government officials on each side of the border share information within their own governments, a practice that DHS has deliberately set out to encourage in partner states and agencies.

A parallel problem exists in the relationship between international organizations setting standards that affect the operation of national border control agencies. International agencies may set standards for transport, communication, commercial and human security that are most easily enforced at border crossings. However, these international agencies do not take into account local conditions, preferring to apply uniform standards using a checklist approach and periodic inspections. Not only are the inspections easily spoofed by local authorities, but the checklists can lead to an inappropriate emphasis on some dimensions of security while creating vulnerabilities in others. The current international regime for air transportation security was offered as one example of such a problem. Airports are effectively a borderless zone once people penetrate inside a secure area. The airport security regime is focused on securing visitors and on facilitating throughput, not on monitoring the permanent employees carrying out airport functions. This regime makes it particularly attractive to organized crime since it means that they benefit from developing inside agents amongst the permanent employees of secure areas. The employees may still do their primary job – securing air transport – while at the same time facilitating illicit trafficking.<sup>30</sup>

Perhaps most critically, taking the local border reality seriously alerts us to situations in which border control agencies do not have the capacity to perform the functions assigned by national policymakers. This tension between local and national authorities may be highest at so-called “hot” borders where the risk of violence is high. Cases considered by the project included the Venezuela-Colombia border, the Ecuador-Colombia border, and the U.S.-Mexico border. “Hot” borders create particular problems of overload for domestic security organizations that can lead them to shirk or undermine national border security responsibilities.<sup>31</sup> For example, in the case of Ecuador, the army deliberately avoids confrontations with Colombian insurgents crossing the international border, even though it is the policy of the Ecuadorean government to prevent such crossings. High levels of violence in Mexico’s northern borderlands overwhelm the capabilities of border security agencies and create a zone of impunity along the northern border where DTOs engage in competitive and increasingly macabre displays of violence to intimidate adversaries and law enforcement.

In states where border agency capabilities are overloaded by violence or multiple responsibilities, security organizations will pick and choose which missions to perform in a way that protects the core of the institution.<sup>32</sup> This produces a divergence between what national policymakers think that they have ordered border security institutions to do, and the work border security actors actually perform. This also has implications for international partners who may think they have negotiated a common collaborative approach to borders, only to find that local security actors are not following the agreed-upon policy regime. Paradoxically, we also found that security organizations that are overloaded are reluctant to shed missions because mission diversity is seen as a sign of the “value” of the organization to the state and society.

Though there was strong agreement that the local border reality must be considered when analyzing hot and cold borders, some participants cautioned against too much latitude for local security forces, noting the problem of maintaining accountability and protecting human rights in the absence of national standards or national oversight. This concern is highly relevant to Central and South American countries where borders are “hot” due to criminal violence. There, the military is frequently the most trusted public institution, which means that the society (and consequently politicians) are reluctant to turn to alternative civilian law enforcement solutions. On the other hand, military actors are rarely trained to conduct law enforcement operations in accordance with national and international legal and human rights regimes. They are also not trained to conduct law enforcement operations in accordance with standards for the collection of evidence and handling of witnesses so as to maximize the likelihood of successful prosecution and conviction of criminal perpetrators. This puts both the military institution and the government at risk that increased efforts to enforce the rule of law will produce incidents of

human rights violations or fail to produce justice in such a way that these efforts would undermine citizen confidence in national authorities.

## **POSSIBLE SOLUTIONS AND DIRECTIONS FOR FURTHER RESEARCH**

States determine what a “problem” at the border is through their constitutions, legal regimes, and policies. This means that states should be mindful that how they define what is legal and illegal can widen or narrow the scope of the problem they face. One way of interpreting recent statements in 2012 by the presidents of Colombia and Guatemala favoring a degree of decriminalization of some narcotics is precisely an effort to reduce the challenges they face by narrowing the scope of the problem. As the disconnect between requirements, threats, and available capabilities grows, we should expect to see more states in the hemisphere attempting to define away their border challenges as a means to reduce the demand for new capabilities or additional investments in security.

States can also narrow the scope of their border challenges by changing the sites where regulatory and enforcement agencies perform their work. For example, in cases of economic migration, it may make more sense to target illegal immigration at workplaces rather than at the border. If jobs for undocumented migrants are no longer available, the incentive for cross-border migration diminishes. Similarly, states increasingly perform border inspections at remote ports and transit centers located in foreign jurisdictions to reduce the workload at traditional bi-national border crossings and ports. The Proliferation Security Initiative, which focused on interdicting weapons of mass destruction by enlisting the assistance of foreign partners in monitoring and intercepting WMD components and precursors, is another effort that falls into this category. In a world characterized by softened sovereignty, efforts to “push borders out” will become increasingly common in the future. Importantly, as raised by U.S. government officials during the conference, sometimes such policies are not well received by governments that have border policy goals that conflict with those of the U.S. government.

“Pushing borders out” successfully will require investing in partnerships and collaborations with other states in the region. Relatively modest amounts of investment in training, capability development, information sharing, and multilateral institution building can repay handsome dividends, as the European Union experience with FRONTEX or the Department of Homeland Security efforts in Central America suggest. Most U.S. border security and law enforcement relationships in the hemisphere are managed on a bilateral basis, and there possibility of multilateral institutions should be explored, particularly where they build on pre-existing regional institutions, such as those existing in Central America or North America. These pre-existing regional institutions have already done some of the work of overcoming legacies of

interstate rivalries in the region and allowed states to develop their reputation for trustworthy behavior in other areas, such as economic development, that could be leveraged to make progress in other dimensions, such as security.

While partnerships and collaborations can strengthen state capacity, a new approach to border control and security would also aim to reduce the burden on security agencies by shifting the focus from efforts aimed at patrolling thousands of miles of border surrounding a country to identifying the areas, transit routes, and persons posing the greatest risk and devoting resources there. In particular, border security agencies throughout the hemisphere need to devote more resources to focused inspections and enforcement actions based on the behavior of targeted individuals and flows of goods, money, and data. The analogy to the searching for a needle in the haystack is instructive – to make the needle easier to find, remove as much of the hay as possible. One possible avenue that requires further research is developing profiles based on behavioral patterns associated with illicit activities rather than on the inherent characteristics of individuals. This type of work is already performed by a number of security organizations, and although they may find it difficult to share information widely due to concerns over secrecy, it may be possible to share the underlying targeting algorithms for suspicious behavior to enable partner states and agencies to better target their own capabilities.

Another way in which states can manage the scope of their border challenges is by building the legitimacy of border regimes. Most border enforcement and regulation is essentially self-enforcement by citizens. For example, it is estimated that the vast majority of all border crossings of goods and persons on the U.S.-Mexico border are legal. The sheer volume of traffic overwhelms inspection regimes, yet the reality is that by far the majority of border users voluntarily comply with regulations. Building the legitimacy of border regimes is a complex interaction between politics, policy, law, and public opinion. One important gap that states need to be mindful of is the one that separates the legitimacy of border regimes among borderland populations and the nation as a whole. As observed in this project, negative policy feedback loops can develop in national politics and produce increasingly harsh measures that in turn are rejected and undermined by border populations. How states develop and maintain legitimacy and congruence between national and borderland attitudes towards border regimes is an area for further study.

On the other hand, one of the obstacles to interstate collaboration on borders is the difference in legal systems, particularly when it comes to the rights of individual citizens. For example, U.S. officials have found it more difficult to collaborate with Canadian than Mexican counterparts because of the strict privacy laws prevailing in Canada. The effort to build legitimacy does not necessarily lead to more compatible views of the legal dimensions of

interstate collaboration, and these will be a permanent source of friction. This is another area that needs additional research.

In the very long term, there may be a trend towards a “deep” border, where the border exists everywhere inside the state in what is almost a biometric approach to defining who and what is legally within the state and what is not. Although there are numerous and very serious ethical, political, civil rights, privacy, and legal implications, the technology is rapidly becoming available to digitally tag, biometrically identify, or otherwise track and store information on most all physical and virtual objects and persons. This type of information could easily be associated with other information on legal status, making it possible to electronically query and determine who and what belongs in each jurisdiction. This is an area that deserves much more thorough study, both because the technology to implement this is almost upon us and because it would have very serious implication for the relationship between states, citizens, and institutions.

In the near term, a collaborative approach to border management among states and other actors is increasingly necessary to achieve desirable outcomes such as security and development. Collaborative border management involves each state sharing some sovereignty to achieve absolute gains. We already see such gains in joint U.S.-Canada border inspection teams, Department of Homeland Security collaboration with Central American partners, and U.S.-Mexico collaboration on law enforcement. Such efforts are much less common in South America, where interstate rivalries are still latent and collaborative border management is more rare. But more could still be done to strengthen collaborative border management. This includes combined bi-national border facilities where regulatory and law enforcement teams from two states work side by side to focus on identifying and separating threats. It should also include more sharing of intelligence, or at least algorithms and best practices for identifying suspect behavior at border crossings. The development of bi-national border teams may be a way of capturing the benefits of local knowledge and experience while maintaining accountability and oversight. Such a collaborative approach would require a deep commitment by all governments involved to understanding and respecting the governments’ different border policy agendas and compromising such that the ultimate policy equally serves – and does not serve – the interests of each individual state. Additional work is needed to identify emerging best practices here.

Another area where collaborative border management may pay dividends is in working with the private sector. While there is a transaction cost for the private sector when engaging with a border, there are also benefits from well-managed and secure borders, not least of which is minimizing political risks associated with security failures. The costs to the private sector of the security measures adopted in the wake of 9/11 attacks is one example of how heavy a price society and private actors can pay when public goods (in this case the provision of security) fail.

However, even everyday examples such as airport security are places where the private sector benefits enormously from the public provision of security for the air transportation system. One way of stretching the capabilities of states is by relieving border agencies of the burdens of routine border operations, such as inspections, by outsourcing them and thereby allowing states to focus their capabilities more closely on intelligence, enforcement, and regulation efforts that target the small percentage of bad actors. Another way of improving the capabilities of states is by having the private sector actors that derive the greatest effort from efficient border regimes to contribute additional funds to defray the cost of operating these institutions.

## WORKS CITED

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