

Gender and Regionalization in North America: From NAFTA to CUSMA and Beyond?

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Abstract

The literature on world regions is largely gender-blind. This article suggests ways in which the study of regionalism can incorporate gender analysis, based on the case of North America. It argues that this can be done in three ways: through an examination of the gendered impact of regional integration; through an examination of how gender concerns are, or can be, mainstreamed into regional policies; and through research on new forms of feminist-inspired activism that may shape regional outcomes. After applying these perspectives to the case of North America and the new Canada–United States–Mexico Agreement, it argues that despite the failure of the Canadian government to achieve the inclusion of a gender chapter, the inclusion of language around gender discrimination in the labour chapter makes the new agreement a more effective (if still limited) tool for promotion of some forms of gender equality.

Keywords

Gender, regionalism, North America, labour, CUSMA, NAFTA

The contemporary global system has become, in many ways, a “world of regions,” as reflected in the title of Peter Katzenstein’s influential 2005 book.¹ The “region-ness” of world politics has arguably only intensified in the context of the global pandemic, the

1. Peter J. Katzenstein, *A World of Regions: Asia and Europe in the American Imperium* (Ithaca: Cornell University Press, 2005).

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rise of economic populism, disruptions of global supply chains, and “nearshoring” strategies in response to these disruptions. Despite the rich and diverse literature on regionalism and regionalization, and also on the gendered character of the global political economy, there has been very little academic examination of the gendered nature of regional integration, including the North American region.²

The terrain of regional integration in North America has proved to be tough ground for promoting progressive policy agendas, including feminist objectives, and illustrates many of the challenges with gendering regionalism. The character of the North American Free Trade Agreement (NAFTA), the first regional agreement in a wave of “new regionalism(s)” that was launched in the late 1980s, was dominated by the ascendancy of neoliberal philosophy, the interests of large multinational corporations, and the aspirations of the regional hegemon, the United States, which was determined to use this agreement to promote its own political and economic objectives regionally and globally.³

Some of the most trenchant critiques of globalization and regionalization have come from feminist activists and scholars who have argued that the liberalization of trade, investment, and production relations has had a disproportionate impact on women, particularly racialized women. These critiques emerged during the debate on NAFTA, when cross-border alliances were forged between Canadian, US, and Mexican women’s and feminist organizations.⁴ Unlike the criticisms coming from the environmental and labour movements, however, which resulted in the addition of two side accords, feminist concerns were not addressed in the final NAFTA agreement (apart from limited language around gender discrimination in the workplace in the labour side accord, which was not enforceable).

The Canada–United States–Mexico Agreement (CUSMA),⁵ which entered into force in 2019, was a victory of sorts for the politics of “business as usual” in the context of the wildly unpredictable, toxic, and misogynist Trump administration which had threatened to tear up the preceding North American Free Trade Agreement. To some,

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2. Anna van der Vleuten, Anouka van Eerdewijk, and Conny Roggeband, “Introduction,” in Anna van der Vleuten, Anouka van Eerdewijk, and Conny Roggeband, eds., *Gender Equality Norms in Regional Governance: Transnational Dynamics in Europe, South America and Southern Africa* (Houndmills: Palgrave Macmillan, 2014), 1–2; Leticia González and Daniela Vanesa Perrotta, “¿Dónde están las mujeres en la integración regional? Análisis y propuestas desde el MERCOSUR,” *Conjuntura Austral: Journal of the Global South* 12 (2021): 50.
 3. See Stephen Clarkson, *Does North America Exist? Governing the Continent after NAFTA and 9/11* (Toronto: University of Toronto Press and Woodrow Wilson Center Press, 2008).
 4. Christina Gabriel and Laura Macdonald, “NAFTA, women and organising in Canada and Mexico: Forging a “feminist internationality,”” *Millennium: Journal of International Studies* 23, no. 3 (1994), 535–562; R. Edmé Domínguez, “Continental transnational activism and women workers’ networks within NAFTA,” *International Feminist Journal of Politics* 4, no. 2 (2002): 216–239; Laura Macdonald, “Globalization and social movements: Comparing women’s movements responses to NAFTA in Mexico, the USA and Canada,” *International Feminist Journal of Politics* 4, no. 2 (2002): 151–172.
 5. Also known officially in the United States as the “United States–Mexico–Canada Agreement” (USMCA) and in Mexico as “T-MEC” (Tratado México-Estados Unidos-Canadá).

CUSMA represented merely NAFTA 2.0, with minor changes in such areas as rules of origin, and “modernization” of some elements that drew upon more recent negotiations in the context of the Trans-Pacific Partnership, which all three NAFTA members had been part of until Trump’s decision to withdraw.⁶

In response to widespread critiques of globalization and domestic inequalities, the Canadian government of Justin Trudeau committed itself to a feminist foreign policy and “progressive trade agenda” (now known as “inclusive approach to international trade”) which contained a commitment to use trade agreements to reduce the gender inequities of trade relations. The influential Canadian trade minister during the CUSMA negotiations, Chrystia Freeland, promised to include gender and Indigenous chapters in a renegotiated NAFTA. These demands were dropped during the negotiations. Nevertheless, the first complaint brought forward under the new labour chapter in March 2021 relates to the rights of Mexican migrant women workers in the United States.

In light of these events, this paper examines debates about the gendered impacts of regionalization and trade agreements, in the specific context of North America. It presents an overview of the evolution of discussions of gender in the politics of trade negotiations and implementation in the North American context, from NAFTA to CUSMA and beyond. I argue that there are three ways in which feminist insights can contribute to the analysis of regionalism: first through an examination of the gendered impact of regional integration, particularly the impact of increased trade and investment relations within the region; secondly through an examination of how gender concerns are, or can be, mainstreamed into regional policies; and thirdly through research on new forms of feminist-inspired activism that may shape regional outcomes. The first section of the paper reviews literature on theories of regionalism, and identifies the gender-blind nature of much of this debate. The next section applies the three approaches to gendering regionalism just mentioned to an analysis of the case of North America, including an analysis of the gendered impact of regional economic integration, the ways in which gender has and has not been mainstreamed into regional policies, and the role of civil society activism. The conclusion contends that while North American integration has generally acted to intensify gender disparities, the CUSMA agreement shows the potential to use regional agreements to address gender discrimination, in this case through the labour chapter. As well, the new relationships forged between women’s civil society organizations and other actors like trade unions may result in a

6. Greg Anderson, *Freeing Trade in North America* (Montreal: McGill-Queen’s University Press, 2020). Some of the chapters in the CUSMA which draw closely on provisions in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) include those on digital trade, intellectual property, telecommunications services, small and medium enterprises, and competitiveness and business facilitation. See David A. Gantz, “The USMCA: Updating NAFTA by drawing on the Trans-Pacific Partnership,” 2020, <https://www.bakerinstitute.org/research/usmca-updating-nafta-drawing-trans-pacific-partnership> (accessed 27 November 2022).

form of regionalization that Marianne Marchand refers to as a “cobweb” model, which could contest the dominant, neoliberal model of regionalization.⁷

Of gender-blindness, regional integration, and trade

Theoretical approaches to regional integration differ over the nature of regionalism and regionalization, the origins of these phenomena, the causal dynamics that drive regional integration or de-integration, and the economic, social, political, and cultural impacts of regionalization. Little of this discussion has addressed the gendered dimensions of regionalization, however, although there have been some case studies of how gender plays out in different regional settings. The lack of attention to gender in studies of international regionalism is perhaps not surprising, given the generalized failure of most international political economy (IPE) scholarship, including critical theories, to analyze the way in which the global political economy is gendered.⁸ V. Spike Peterson describes this gender-blindness as being the result of three “problematic premises”: positivism, modernism, and masculinism. Positivism refers to the hegemony of rationalist, objectivist, ahistorical assumptions in the study of IPE. Most modern trade theory rests upon these positivist assumptions and methodologies and thus influences the study of preferential trade agreements like CUSMA. Modernism refers to the centring of Western knowledges, experiences, and forms of policymaking, which we certainly see in the tendency of regionalist theory to look at European experiences as the model. And masculinism refers to the gender code that privileges attributes, ways of thinking, and behaviour associated with masculinity while marginalizing those associated with femininity.⁹ All of these problematic premises together constrain the capacity of analysts of regionalism to notice approaches to regional identity and activity which do not conform to those premises, including its gendered dimensions.

The most influential approach to the study of regionalism has been neo-functionalism, which insists on the importance of the construction of regional supranational institutions and the transfer of sovereignty away from nation-states to these new institutions. For neo-functionalists, there is a built-in dynamic leading to higher levels of integration over time as the result of policy “spillover,” as early forms of cooperation lead to unintended consequences which are best addressed through higher forms of integration, ultimately leading to the formation of a new political community. Elites, including interest groups, political parties, state functionaries, and international organizations, are the most important actors in this approach.¹⁰

7. Marianne Marchand, “Gender and new regionalism in Latin America: Inclusion/exclusion,” *Third World Quarterly* 15, no. 1 (1994): 63–76.

8. Georgina Waylen, “You still don’t understand: Why troubled engagements continue between feminists and (critical) IPE,” *Review of International Studies* 32, no. 1 (2006): 145–164.

9. V. Spike Peterson, “Problematic premises: Positivism, modernism and masculinism,” in Juanita Elias and Adrienne Roberts, eds., *Handbook on the International Political Economy of Gender* (Cheltenham: Edward Elgar, 2018).

10. Søren Zibrandt von Dosenrode-Lynge, *Limits to Regional Integration* (London: Routledge, 2016).

Liberal intergovernmentalism, first developed by Andrew Moravcsik, was introduced as a counter to neo-functionalism.¹¹ Moravcsik argued that it is states that make the decision to move toward or away from higher levels of regional integration as a result of a rational cost-benefit analysis. This analysis, however, shares neo-functionalism's elite bias, since when integration occurs, it is a result of the construction of national and transnational coalitions by domestic actors, mainly private firms.

Whatever their differences, these early approaches both came out of the context of European regional politics, agreed on the importance of developing shared supranational political institutions as the defining feature of regionalism, and also agreed on liberal assumptions related to the rationality of states and other actors. They were also completely gender-blind, ignoring the way in which changing forms of political authority and economic governance might be shaped by, and affect, gender relations, whether it be in a positive or negative direction. These approaches ignore the private realm of the household, the unequal division of care labour and informal forms of power relations that may shape economic and political outcomes. In recent years, the European Union (EU) has attempted to "mainstream"¹² gender in some of its policy areas, yet Elaine Weiner and Heather MacRae note that this effort often resembles the labour of Sisyphus, as in several policy areas, "gender mainstreaming makes no progress; gender mainstreaming rolls back out of policy, or alternatively, never rolls in at all."¹³

The so-called "new regionalism(s)" approach provides another approach to understanding regionalization. Scholars of new regionalism largely reject the rationalist and elitist assumptions of the older approaches, as well as its Eurocentric biases.¹⁴ For these theorists, regionalism is not synonymous with the development of supranational institutions, and it is embedded in broader political, economic, cultural, and other processes of regionalization which shape it. In particular, external forces like globalization and neoliberalism take on central importance in shaping the new regional trade agreements that were emerging throughout the world in the 1980s and 1990s, in

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11. Andrew Moravcsik, "Preferences and power in the European Community: A liberal intergovernmentalist approach," *Journal of Common Market Studies* 31, no. 4 (1993): 473–524.
 12. Gender mainstreaming was adopted as a strategy for promoting global gender equality as part of the 1995 Beijing Platform for Action. Jacqui True defines mainstreaming as "efforts to scrutinize and reinvent processes of policy formulation and implementation across all issue areas and at all levels from a gender-differentiated perspective, to address and rectify persistent and emerging disparities between men and women." Jacqui True, "Mainstreaming gender in global public policy," *International Feminist Journal of Politics* 5, no. 3 (2003): 369.
 13. Elaine Weiner and Heather MacRae, "The persistent invisibility of gender in EU policy: Introduction," *European Integration online Papers (EIoP)* Special Issue 1, 18, no. 3 (2014): 2–3.
 14. Bjorn Hettne, "Beyond new regionalism," *New Political Economy* 10, no. 4 (2005): 543–571; Fredrik Söderbaum, "Comparative regional integration and regionalism," in Todd Landman and Neil Robinson, eds., *The SAGE Handbook of Comparative Politics* (London: SAGE Publications Ltd., 2009), 477–498; Marianne Marchand, Morten Bøås, and Timothy Shaw, "The weave-world: The regional interweaving of economies, ideas and identities," in Fredrik Söderbaum and Timothy Shaw, eds., *Theories of New Regionalism* (Houndmills: Palgrave Macmillan, 2003), 197–210.

contrast to the earlier European approaches which tend to focus on endogenous factors to explain regionalization. As with liberal intergovernmentalism, multinational corporations are often the main actors promoting regional integration, and they exercise heavy influence over state policies. Free trade agreements are often the main objective of these firms, while other more political and social forms of regional cooperation are eschewed or downplayed. Civil society organizations may also play an important role in the process, although they often come into the picture as opponents of higher levels of regional integration.

In many ways, the new regionalism approach appears more appropriate for integration of gender analysis, given its emphasis on non-parsimonious, interdisciplinary, and multi-causal modes of analysis, the importance of civil society, the complexity and social construction of regions, its rejection of Eurocentric assumptions, and its recognition of the impact of neoliberalism and the ways in which regions may reinforce forms of exclusion and inequality. Nevertheless, the literature that follows this approach is also largely gender-blind, and while gender may be mentioned in lists of factors involved in the new regionalism, gender relations are rarely the focus of analysis.¹⁵ One early notable exception was a 1994 article by Marianne Marchand which asked about the implications of regionalism for women already living on the margins of the global political economy (specifically for women working in Mexico's *maquiladoras*), and about the implications of regionalism for feminist theorizing on development.¹⁶ Like Peterson, she criticizes the masculinist assumptions embedded in discussions of regionalism, whether from a neoliberal or a critical Marxist perspective, and calls for a feminist rethinking based on a gender and development (GAD) approach:

This regrouping of regionalism would allow us to remove its specific masculinist traits of economism, dichotomised hierarchies, and concentration *cum* homogenisation. Instead we could start to think of regionalism as a truly relational concept which emphasises horizontal (empathetic) cooperation in a wide variety of areas. Such interpretation would create the necessary discursive and political space in which to avoid new regionalism becoming a mechanism which reinforces patriarchy. Possibly, it could entail a cobweb-model of regionalism/integration which emphasises cooperation in multiple areas, heterogeneity, respect for difference and a more inclusionary approach.¹⁷

Critical comparative and international political economy and decolonial feminist perspectives thus open up space for consideration of gender dimensions of regionalism.

15. See, for example, one of the authoritative compilations of new regionalism theory, *The Study of New Regionalism(s) at the Start of the Second Decade of the Twenty-First Century* (2011) by Timothy Shaw, J. Andrew Grant, and Scarlett Cornelissen (eds.), in which gender does not appear in the index or as a major topic in any of the articles in the collection.

16. Marchand, "Gender and new regionalism in Latin America," 65.

17. *Ibid.*, 74.

As Jill Steans maintains,¹⁸ feminist critiques of existing global political economy (GPE) scholarship draw attention to the public-private divisions that are rendered invisible in dominant approaches to GPE. Drawing on Gillian Youngs, she argues that these feminist critiques thus make visible the “deep social relations of power” that shape political and economic outcomes. Rosalba Icaza examines the practices of Mexican women’s citizenship struggles in the context of North American integration, and argues that their strategies and practices contributed to “an open-ended questioning of regions and regionalism, exposing those entities as cultural and imperial constructs that produce and reproduce particular ways of understanding the world, and in which certain experiences are actively produced as irrelevant by the International Political Economy and International Relations academic communities.”¹⁹

Despite these important contributions, the ways in which feminist analysis might contribute to the understanding of broader phenomena of regionalization have received scant attention. Neoclassical economic studies, premised on Peterson’s three “problematic premises,” imply that trade liberalization in developing countries should be particularly beneficial to women, since they are more likely to be located in unskilled jobs than men. According to the neoclassical argument, trade liberalization will place pressure on firms to abandon discrimination against women workers which keeps wages artificially high for those male workers.²⁰ The logical implication is that there is no need to incorporate specific measures to address the impact on women or other marginalized groups, since the pressures of market liberalization will put pressure on firms to eliminate these irrational practices.

Substantial evidence from feminist and heterodox economists challenges this type of assumption. For example, numerous studies have shown the persistence of gender gaps in wages in manufacturing sectors in semi-industrialized countries that have increasingly been integrated into world markets.²¹ A United Nations Conference on Trade and Development (UNCTAD) report²² notes that increasing women’s labour force participation without demand-side policies and structures to absorb the new labour force participants “worsens gender segregation in labour markets and encourages the crowding

18. Jill Steans, “The private is global: Feminist politics and global political economy,” *New Political Economy* 4, no. 1 (1999): 114.

19. Rosalba Icaza, “(Re)thinking the ‘new’ North America,” in Jeffrey Ayres and Laura MacDonald, eds., *North America in Question* (Toronto: University of Toronto Press, 2012), 309.

20. See Diane Elson, Caren Grown, and Nilüfer Çagatay, “Mainstream, heterodox, and feminist trade theory,” in Irene van Staveren et al., eds., *The Feminist Economics of Trade* (London: Routledge, 2007), 35–38.

21. Stephanie Seguino, “Gender inequality and economic growth: A cross-country analysis,” *World Development* 28, no. 7 (2000): 1211–1230; Shaienne Osterreich, “Gender, trade and development: Labor market discrimination and North-South terms of trade,” in Irene van Staveren et al., eds., *The Feminist Economics of Trade* (London: Routledge, 2007), 55–78.

22. *Trade and Development Report 2017, Beyond Austerity: Towards A Global New Deal*, United Nations Conference on Trade and Development, New York and Geneva, 2017, xi.

of women into low-value-added, informal service sector activities.” The next section discusses how this feminist analysis can be applied to the case of North America.

Gender and regionalism in North America

Unlike many other world regions which have established different forms of regional institutions aimed at a wide variety of forms of cooperation, including education, health, conflict prevention, migration governance, and others, the North American region is largely bereft of these institutions and heavily focused on promoting economic integration.²³ The new regionalism approach’s emphasis on the broader context of globalization and the role of powerful multinational corporations in promoting regionalization is therefore extremely relevant. This approach also helps identify informal processes of regionalization that are occurring, including migration, environmental contamination, money flows, arms sales, and various forms of cross-border cooperation and (limited) convergence in ideas and norms. In contrast with more optimistic forms of regionalist theory, the approach also highlights the inequitable and asymmetrical character of power relations in the region. Nonetheless, to date, this approach, like its predecessors, has largely failed to incorporate attention to inequitable gender relations and the way in which regional integration may intensify or mitigate that inequality.

The following sections lay out three ways in which a gender analysis illuminates aspects of North American regionalism which are overlooked in gender-blind approaches. Although I present them separately, these dimensions are interwoven (resembling a cobweb), since unequal gendered impacts have given rise both to top-down efforts on the part of states and negotiators to mitigate these unequal impacts through gender mainstreaming, and also to more contentious forms of politics led by feminists and allies who seek to achieve more equitable, horizontal, and truly inclusive forms of regionalism.

Gendered impacts of North American integration

The economic implications of NAFTA were most profound for Mexico’s political economy, since Canada and the United States had already entered into a similar agreement a few years earlier. In this section, I focus primarily on how North American integration has affected Mexican women since the Mexican economy was subjected to the most dramatic restructuring as a result of NAFTA, in an extremely gendered manner. In contrast with the neoclassical arguments about the beneficial impacts of trade for women workers, Lilia Domínguez-Villalobos and Flor Brown-Grossman argue that in the case of Mexico, increased trade after the implementation of NAFTA

23. For an examination of the nature of and reasons for the differences between the European Union and North America, see Clarkson, *Does North America Exist?*

did not translate into increased gender equality.²⁴ The centrality of women's labour in the *maquiladora* export sector, which expanded dramatically after NAFTA was implemented, draws attention to the importance of expanding women's labour rights in Mexico, since women make up the main labour force in this sector.

The adoption of neoliberal structural adjustment policies after the debt crisis of 1982 and the implementation of NAFTA after 1994 led to the rapid transformation of the Mexican economy. These policy shifts resulted in the dismantling of the earlier import substituting industrialization policies, which had led to rapid growth in industrial production, largely located in the country's central region. In this system, industrial employment had been largely the preserve of men, and workers were represented by male-dominated and corrupt corporatist unions controlled by the de facto one-party state. These gendered patterns of production shifted with the adoption of neoliberalism, meaning that the process of transnationalization and regionalization of production was linked with the rapid feminization of the labour force.²⁵ Much of the country's industrial production moved northward to the country's border with the United States. The Border Industrialization Program (BIP), established in 1966, had permitted foreign-owned companies to import parts into Mexico duty-free to be used in low-wage assembly plants called *maquiladoras*. Employment in this sector expanded dramatically as a result of the introduction of NAFTA in 1994.

By 1996, the maquila sector represented 32 percent of the total manufacturing employment in Mexico, and was particularly important in the electronic, textiles, and auto parts sectors.²⁶ Although the BIP was designed to promote male employment in Mexico to replace the migrant employment lost in the United States because of the cancellation of the Bracero program,²⁷ women initially made up the large majority of the labour force. During the 1980s, women represented about 80 percent of the total workforce in the maquilas, preferred by employers because of their perceived docility and dexterity (characteristics that are clearly related to the construction of femininity in Mexico).²⁸ Over time, as the country's economic policies changed, maquila production expanded outside of the northern border region to other parts of the country, where traditional industries were declining.²⁹ Male employment in the maquilas also

24. Lilia Domínguez-Villalobos and Flor Brown-Grossman, "Trade liberalization and gender wage inequality in Mexico," *Feminist Economics* 16, no. 4 (2010): 55.

25. María Eugenia de la O Martínez, "Geografía del trabajo femenino en las maquiladoras de México," *Papeles de Población* 12, no. 49 (2006): 92.

26. *Ibid.*, 95.

27. The Bracero program (1942–1964) was initially established during World War II to address labour shortages in the United States. It permitted millions of Mexican men to work in the US on a short-term basis, primarily providing low-skill labour in the agricultural sector. See "The Bracero Program," UCLA Labor Center, <https://www.labor.ucla.edu/what-we-do/research-tools/the-bracero-program/> (accessed 27 November 2022).

28. Edmé Domínguez, Rosalba Icaza, Cirila Quintero, Silvia López, and Åsa Stenman, "Women workers in the maquiladoras and the debate on global labor standards," *Feminist Economics* 16, no. 4 (2010): 187.

29. de la O Martínez, "Geografía del trabajo femenino en las maquiladoras," 101.

increased, but women's employment remained most intense in lower paid jobs in the less technologically-advanced sectors, like textile production.³⁰

Despite significant progress in levels of female education and political rights in this period, gender disparities in employment and wages remain deeply entrenched. Overall, the importance of Mexican female employment in low-wage and low-benefit production reveals the importance of a gender analysis of the impact of regionalization in North America.

Mainstreaming gender into North American integration policies

The second way in which a feminist analysis can contribute to the understanding of North American regionalism is through an examination of the presence or absence of gender mainstreaming policies. The North American region emerged at a moment when socially conservative and neoliberal governments were in place in all three countries of the region and when there was little official recognition of the gendered impacts of trade. The mainstream economic and trade policy assumptions on which NAFTA is based implicitly suggest that trade is gender-neutral and that therefore no policies that explicitly address gender discrimination are required within the field of trade policy. Despite the gender-blindness of official institutions of regional integration in North America, attention to the linkages between gender and trade did increase over time. Among the three member states, Canada has been the clear leader in advocating for the mainstreaming of gender concerns into trade policy. This policy direction has intensified under the current Liberal government, which has committed itself to an "inclusive" trade policy, including the mainstreaming of gender concerns.

Reflecting the political conditions in which NAFTA emerged, in the main text of the agreement, there is no reference to "gender," and the only reference to "women" or "girls" is in the schedules that classify the tariff status of specific types of garments that may be exported within the region (i.e., garments may be classified as either "women's and girls'" or "men's and boys'"³¹). Inanimate objects are thus more likely to be attributed a gender status than citizens of the region.

NAFTA did include side agreements on labour and environment, but because these were not incorporated into the main text of the agreement, they did not have enforcement mechanisms and had little direct impact. The North American Agreement on Labour Cooperation (NAALC) does include as one of its "guiding principles" "equal wages for women and men," which is based on "the principle of equal pay for equal work in the same establishment."³² As stated in the agreement, each party is committed to promoting these principles, "subject to each Party's domestic law, but [they] do not

30. *Ibid.*, 105.

31. North American Free Trade Agreement, <https://www.italaw.com/sites/default/files/laws/italaw6187%286%29.pdf> (accessed 31 May 2022).

32. North American Agreement on Labor Cooperation (NAALC), 1993, <https://www.dol.gov/agencies/ilab/reports/pdf/naalc> (accessed 31 May 2022).

establish common minimum standards for their domestic law. They indicate broad areas of concern where the Parties have developed, each in its own way, laws, regulations, procedures and practices that protect the rights and interests of their respective workforces.” The NAALC lacked sanctions for non-compliance, and rested on the requirement that each state enforce its own labour laws, rather than establishing common higher standards, and thus was an unpromising site for promoting labour rights in general, or the rights of women and gender-diverse people specifically. Nonetheless, as argued by Mark Aspinwall, they did have significant indirect impact on civil society actors, particularly in Mexico.³³

A trilateral North American Commission on Labor Cooperation (NACLCL) was established as part of the agreement, as well as a ministerial Council to administer the Commission. The Council was supposed to undertake cooperative activities to promote the labour principles contained in the agreement, including “the equality of women and men in the workplace.”³⁴ The activities of the NACLCL eventually slowed, however, primarily because of the lack of US political support and funding, and the Secretariat disappeared in 2010 during the Obama presidency; therefore this commitment became irrelevant.³⁵

North America continued to lack strong institutions of regional governance that might be subject to mainstreaming even as economic integration proceeded rapidly after NAFTA came into effect.³⁶ The region adopted new approaches to governance after the 9/11 attacks, under the guise of the Security and Prosperity Partnership of North America (SPP), driven by US security concerns. Annual North American Leaders Summits occurred during the four years in which the SPP existed (2005 to 2009). An analysis of all the documents produced during this period finds no references to women or gender in any of them, continuing the pattern established with NAFTA of gender-blind approaches to regional integration.³⁷ The SPP was cancelled in 2009 by newly elected US president Barack Obama, partly because of the public perception that the process was secretive and elitist.³⁸

Feminist insights into the failure of trade and globalization to improve outcomes for women, have, in recent years, begun to influence trade policy. The failures of neoliberal policies to achieve sustained growth, economic benefits for the poorest and most

33. Mark Aspinwall, “Learning from the experience of NAFTA labor and environmental governance,” *Forbes*, 10 August 2017, <https://www.forbes.com/sites/themexicoinstitute/2017/08/10/learning-from-the-experience-of-nafta-labor-and-environmental-governance/> (accessed 31 May 2022).

34. North American Agreement on Labor Cooperation, 1993.

35. There is no reference to “gender” or “women” in the environmental side agreement. North American Agreement on Environmental Cooperation (NAAEC), 1993, <https://ustr.gov/sites/default/files/naaec.pdf> (accessed 31 May 2022).

36. Jeffrey Ayres and Laura Macdonald, “Deep integration and shallow governance: The limits to civil society engagement across North America,” *Policy and Society* 25, no. 3 (2006): 23–42.

37. These Security and Prosperity Partnership of North America (SPP) documents are available here: <https://web.archive.org/web/20081207080118/http://www.spp.gov/> (accessed 27 November 2022).

38. Jeffrey Ayres and Laura Macdonald, “Democratic deficits and the role of civil society in North America,” in Jeffrey Ayres and Laura Macdonald, eds., *North America in Question: Regional Integration in an Era of Economic Turbulence* (Toronto: University of Toronto Press, 2012), 334–360.

marginalized members of society, or political stability have led to widespread efforts on the part of states, regional organizations, and international organizations to achieve more “inclusive” economic models, including some attention to the gender implications of such policies.

For example, the Buenos Aires Declaration on Trade and Women’s Economic Empowerment was adopted at the eleventh World Trade Organization (WTO) ministerial conference in December 2017. The declaration acknowledges “the importance of incorporating a gender perspective into the promotion of inclusive economic growth, and the key role that gender-responsive policies can play in achieving sustainable socioeconomic development.”³⁹ Other regional agreements like Mercosur and the Economic Community of West African States (ECOWAS) are incorporating gender considerations, sometimes under pressure from the EU. This tendency has been more common, though, in regional agreements like these that incorporate social concerns than in the NAFTA-style neoliberal model of regionalism.

Feminists have cast doubt, however, on the extent to which these official policies really represent a significant shift away from neoliberal policies and include the perspectives of women’s organizations and other subaltern social forces. Erin Hannah, Adrienne Roberts, and Silke Trommer argue that many of the contemporary efforts to mainstream gender in existing trade architectures, such as separate gender chapters in regional or other multilateral trade agreements, the WTO Declaration, efforts to promote women’s entrepreneurship, and gender-based analysis (GBA) of trade policies fall seriously short because they fail to acknowledge the importance of social reproduction in the economy or to consult with women’s organizations in devising new strategies.⁴⁰

Notwithstanding the lack of openings within NAFTA and other bilateral and regional trade agreements modelled on NAFTA⁴¹ for promoting feminist objectives, states and international organizations also began to incorporate gender concerns in a limited fashion in the 1990s. The Canadian state played a leading role in pushing for incorporation of gender-based analysis into global trade policies in the 1990s.⁴² Most of this momentum was lost during the decade-long rule of the Conservative government under Stephen Harper (2006–2015), which embraced neoliberalism, promoted

39. WTO, 2017.

40. Erin Hannah, Adrienne Roberts, and Silke Trommer, “Towards a feminist global trade politics,” *Globalizations* 18, no. 1 (2021): 70–85.

41. While at an earlier stage, the European Union was the model for other regional integration agreements, after NAFTA was signed and in the context of the rise of neoliberal globalization, many other agreements were signed that drew heavily on the NAFTA model, including all of the post-NAFTA agreements signed by the United States and Canada with countries like Jordan, Israel, Central America and the Dominican Republic, Peru, Colombia, and others. There was some evolution over time in some of the provisions—for example, with regards to treatment of labour rights.

42. Christina Gabriel and Laura Macdonald, “Managing trade engagements? Mapping the contours of state feminism and women’s political activism,” *Canadian Foreign Policy* 12, no. 1 (2005): 82.

gender-blind trade agreements in the Americas along the lines of NAFTA, and opposed gender analysis or gender mainstreaming.⁴³

Under the Liberal government of Justin Trudeau (2015–present), however, there has been a determined effort to incorporate GBA+⁴⁴ analysis in all elements of Canadian public policy, including trade. A first effort in this direction was the gender chapter in the 2017 Canada-Chile Free Trade Agreement. The chapter recognizes that “improving women’s access to opportunities and removing barriers in their countries enhances their participation in national and international economies.” It establishes an agenda of shared learning and cooperation, and a joint committee to oversee progress. It includes commitments to cooperate in areas such as:

encouraging capacity-building and skills enhancement of women at work, in business, and at senior levels in all sectors of society (including on corporate boards); improving women’s access to, and participation and leadership in, science, technology and innovation, including education in science, technology, engineering, mathematics and business; promoting financial inclusion and education as well as promoting access to financing and financial assistance; advancing women’s leadership and developing women’s networks; ... [and] promoting female entrepreneurship[.]

As such, the main focus of these measures is to address barriers faced by women business owners, professionals, and corporate executives to accessing the benefits that flow from participation in international trade. To be fair, further down the list are such measures as “advancing care policies and programs with a gender and shared social responsibility perspective; conducting gender-based analysis; [and] sharing methods and procedures for the collection of sex-disaggregated data, the use of indicators, and the analysis of gender-focused statistics related to trade.”⁴⁵ However, the chapter includes no mechanisms for enforcement of any of these commitments and does not attempt to develop shared standards. The Liberal government has raised the idea of a gender chapter as part of its agenda in promoting deals with China, India, and Mercosur, and one was included in a modernized trade deal with Israel. Feminists were encouraged by the Canadian government’s recognition of the uneven effects of trade deals on men and women, but raised concerns about the largely symbolic nature of a separate gender chapter, as well as the heavy focus in such chapters on promoting

43. Rebecca Tiessen and Krystel Carrier, “The erasure of ‘gender’ in Canadian foreign policy under the Harper Conservatives: The significance of the discursive shift from ‘gender equality’ to ‘equality between women and men,’ *Canadian Foreign Policy Journal* 21, no. 2 (2015): 95–111.

44. The “+” in GBA+ refers to the effort to incorporate intersectional analysis into training of public servants and development of public policy under the Trudeau government. See <https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.html> (accessed 23 November 2022).

45. Government of Canada, *Canada-Chile Free Trade Agreement*, 2017, Appendix II – Chapter N – *bis* Trade and Gender, https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/2017_Amend_Modif-App2-Chap-N.aspx?lang=eng&_ga=2.98019484.2086421917.1654110182-1419960879.1654110181 (accessed 23 November 2022).

women-owned businesses' participation in the benefits of international trade rather than addressing other forms of harm that might be experienced by less elite actors.⁴⁶

The prospects for incorporating gender-sensitive provisions into trade agreements were dim at the start of the CUSMA negotiations, despite the fact that the Canadian government had pledged to push for separate gender and Indigenous chapters. Andrew Scheer, then the leader of the Canadian Conservative party, opposed such demands, arguing that the government's insistence on what he called "social issues" was endangering the prospects for the renegotiation of NAFTA. "Using a trade deal to try to advocate for non-trade-related types of issues in a sovereign country, in some cases right down to the state level, to me is jeopardizing a very important trade deal," Scheer argued. Erin O'Toole, then his party's foreign affairs critic, similarly dismissed Liberal efforts as "virtue signalling," and said the Conservatives were willing to offer non-partisan support to the government during the negotiations, but only if it stuck to so-called "economic issues."⁴⁷ Ultimately, the Canadian government dropped the demand for a gender chapter in the face of firm opposition from the Trump administration.

While this effort failed, some progress on gender mainstreaming occurred in negotiations on the new labour chapter. In contrast to the toothless labour side accord that accompanied NAFTA, chapter 23 in CUSMA is subject to trade sanctions. This inclusion reflected in part the political priorities of the Trump administration. Trump had forged a fragile relationship with labour leaders, including Richard Trumka, head of the AFL-CIO union, representing the blue-collar sector that Trump claimed to represent in his "America First" appeals. Trumka supported the CUSMA deal, in part to promote more auto industry jobs moving from Mexico to the United States (the higher rules of origin and the requirement of \$16 an hour wages in the auto sector are designed to ensure this goal), and he was key in pushing for ratification of the deal in Congress, particularly among Democrats.⁴⁸ The inclusion of labour demands in the main text of the agreement (which had become standard practice in US trade agreements in recent years) as well as the development of a bilateral US-Mexico rapid response mechanism for monitoring and responding to labour violations in Mexican worksites, were seen as key wins for the US labour movement. The inclusion of the labour chapter meant that violation of the rights included in chapter 23 by any of the three parties could be punished through the type of trade sanctions that apply to all the other elements of the deal. Under pressure from the United States and the International Labour Organization, Mexico had also adopted a

46. Laura Macdonald and Nadia Ibrahim, "Trade is not gender neutral," in Gavin Fridell and Zach Gross, eds., *The Fair Trade Handbook: Building a Better World, Together* (Black Point and Winnipeg: Fernwood Books, 2021), 32–41.

47. Sean McCarthy and Laura Stone, "Scheer accuses Liberals of putting NAFTA at risk with 'social issues' push," *The Globe and Mail*, 5 September 2017, <https://www.theglobeandmail.com/news/politics/scheer-accuses-liberals-of-imperilling-jobs-with-social-issues-push-at-nafta-talks/article36179156/> (accessed 31 May 2022).

48. Andrea Shalal and David Shephardson, "AFL-CIO's Trumka says USMCA is first step to undoing evils of NAFTA," *Reuters*, 19 December 2019, <https://www.reuters.com/article/us-usa-trade-usmca-trumka-idUSKBN1Y004Q> (accessed 31 May 2022).

progressive labour reform that included principles of labour justice, freedom to organize and right to collective bargaining, transparency, accountability, and gender equality policies.⁴⁹ The labour reform requires attention to violence against women workers, the prohibition of violent acts, discrimination, and sexual abuse against members of trade unions, as well as the prohibition of pregnancy testing by employers (a practice that was fairly common in the maquilas and which was the subject of a NAALC challenge).⁵⁰

Although the Canadian government had failed in its attempt to include a gender chapter, its labour ministry negotiators pushed for progressive language, including language on gender issues, in the labour chapter, and the Mexican government evidently supported this approach behind the scenes.⁵¹ As a result, the initial text of the deal that was released to the public included Article 23.9 on “sex-based discrimination in the workplace.” The article stated that the parties:

recognize the goal of eliminating sex-based discrimination in employment and occupation, and support the goal of promoting equality of women in the workplace. Accordingly, each Party shall implement policies that protect workers against employment discrimination on the basis of sex, including with regard to pregnancy, sexual harassment, sexual orientation, gender identity, and caregiving responsibilities, provide job-protected leave for birth or adoption of a child and care of family members, and protect against wage discrimination.

The language on sexual orientation and gender identity resulted in a strong backlash among Republican congresspeople.⁵² As a result, the United States Trade Representative pushed for revision of the original language, with the new language committing each signatory “to ‘implement policies that it considers appropriate to protect workers against employment discrimination on the basis of sex, ... sexual orientation and gender identity.’” A footnote was also added that stated that the article “requires no additional action on the part of the United States ... in order for the United States to be in compliance with the obligations set forth in this Article.”⁵³

Even with these changes, the language on gender in the labour agreement is perhaps the most progressive found in any trade agreement, and, according to Jean Galbraith and Beatrix Lu, even the watered-down version has “expressive value by recognizing and protecting the existence of LGBTQ identities.”⁵⁴ Notably, the labour chapter also

49. Aleida Hernández Cervantes, “T-MEC, reforma laboral e igualdad de género: Apuesta por el adelanto de las trabajadoras,” (Friedrich Ebert Stiftung, December 2020), <http://library.fes.de/pdf-files/bueros/mexiko/17565.pdf> (accessed 27 November 2022).

50. *Ibid.*, 24.

51. Jean Galbraith and Beatrix Lu, “Gender identity protection, trade, and the Trump administration: A tale of reluctant progressivism,” *Yale Law Journal Forum*, vol. 129 (7 October 2019): 45.

52. Alexander Panetta and Lauren Gardner, “House conservatives protest LGBT protection in Mexico-Canada trade deal,” *Politico*, 16 November 2018, <https://www.politico.com/story/2018/11/16/house-conservatives-lgbt-protection-trade-pact-977288> (accessed 31 May 2022).

53. Galbraith and Lu, “Gender identity protection,” 49 fn 18.

54. *Ibid.*, 60.

included protection of migrant rights, an element that had been left out of earlier versions of the chapter, but was included after lobbying from migrants' rights organizations.

The deal that emerged from the renegotiation of NAFTA thus failed to mainstream gender in a substantive way. However, the gender-sensitive language in the labour chapter still created an opening that activists and government bureaucrats could take advantage of, as discussed in the next section. The labour chapter framework may in fact be much more effective as a tool for gender mainstreaming in a trade agreement than a standalone gender chapter, since the former can result in concrete sanctions whereas the latter is largely aspirational in nature.

Feminist and labour activism in North America

The third way in which regionalism can be gendered is through the activism of feminist and women's organizations that promotes greater attention to gender inequities in existing forms of regionalism, and the adoption of policies to diminish these inequities. Feminist activism in response to North American regionalism dates back to the negotiation of the Canada–United States Free Trade Agreement (CUSFTA) in the mid-1980s. The National Action Committee on the Status of Women (NAC), the dominant English-Canadian women's movement in this period, pioneered analysis of the gendered implications of trade agreements, and brought this analysis into the coalition formed to oppose the CUSFTA, the Action Canada Network (CAN). Opposition to CUSFTA did not spread to the United States because of the lack of interest or concern about trade with Canada among US-based social movements.

Mexican women workers have also been active in pushing for labour rights since industrialization began in Mexico. For many years, they encountered the same barriers to freedom of organization as men did, such as the dominance of corporatist unions controlled by the government, and “yellow” unions that represented the interest of the firms. They also, however, faced specific barriers related to their gender, such as the predominance of patriarchal structures and charismatic male leaders within the corporatist union structures, and the lack of union representation in sectors where women were most prevalent, especially the informal sector.⁵⁵

In the 1990s, the NAFTA negotiations led to the formation of trinational coalitions opposed to the neoliberal character of the agreement. Women's organizations mobilized against NAFTA in all three countries, promoted gender analysis of the potential impact of the agreement, and collaborated in some transnational activities.⁵⁶ These incipient ties between feminist organizations in the North American region had largely dissipated

55. Edmé Domínguez Reyes and Cirila Quintero Ramírez, “The fight for improved labour standards: Women labour organising on the Northern Mexican border and El Salvador,” *Third World Thematics: A TWQ Journal* 4, no. 1 (2019): 29.

56. Laura Macdonald, “Gendering transnational social movement analysis: Women's groups contest free trade in the Americas,” in Joe Bandy and Jackie Smith, eds., *Coalitions Across Borders: Transnational Protest and the Neoliberal Order* (Lanham: Rowman and Littlefield, 2005).

by the time of the renegotiation of NAFTA. However, some Mexican non-governmental organizations (NGOs) continued to carry out training, education, and capacity-building among women workers around workers' and women's rights, often with support from US and Canadian union allies.⁵⁷

The new political opportunity structure created by CUSMA discussed above created new openings for civil society movements advocating for the gendering of regionalism. The inclusion of the article on sex-based discrimination in the workplace, as well as the inclusion of migrants' rights, led to the first complaint that was brought forward under chapter 23 of the CUSMA. A group of Mexican women migrants to the United States have alleged—in a petition to Mexican authorities—that by failing to enforce gender discrimination laws in temporary labour programs (like the H-2A visa) the US is violating the terms of chapter 23. The petition, filed on 23 March 2021 by the Centro de los Derechos del Migrante (CDM), a binational NGO that promotes migrant labour rights, claims that women frequently encounter sexual harassment and gender-based violence and are subject to systemic discrimination in hiring and employment conditions. The issue is similar to complaints filed under the NAALC side accord around migrant workers' rights in both the United States and Mexico during the last years of NAFTA, which did not result in satisfactory outcomes.⁵⁸

The Mexican government accepted the CDM petition and asked the US government to cooperate on issues related to both the situation of farmworkers and workers in protein processing plants, the industries where the two Mexican petitioners work. The CDM was encouraged by this response as it went beyond the issues raised in the complaint to ask the US government to address harmful health and safety practices affecting all workers, including undocumented workers and men in those industries.⁵⁹ Moreover, several other petitions have been filed around labour abuses in Mexico under the US-Mexico rapid response mechanism. While gender discrimination is not the main focus of these cases, by contributing to the democratization of labour relations they may create more opportunities for women trade unionists.

Another result of the US Democrats' insistence on ensuring that Mexico actually reformed its labour relations systems was the provision of funding by both the United States and Canada to strengthen independent and democratic unions and labour relations in Mexico. Some of these projects focus specifically on sexual harassment and other forms of sex discrimination and increased representation of women workers. As a result, the CUSMA agreement, combined with existing pressures toward identifying and overcoming labour rights abuses in Mexico and a new legal framework, may support existing activism by Mexican civil society organizations and their allies to improve the conditions of Mexican women workers, as well as Mexican women migrant workers in the United States.

57. Domínguez Reyes and Quintero Ramírez, "The fight for improved labour standards," 33.

58. Christina Gabriel and Laura Macdonald, "New architectures for migration governance: NAFTA and transnational activism around migrants' rights," *Third World Quarterly* 42, no. 1 (2021): 68–85.

59. See CDM discussion of this complaint here: <https://cdmigrante.org/migrant-worker-women-usmca/> (accessed 27 November 2022).

Conclusion

The case of North American regionalism displays the importance of attention to gender issues in the process of regional integration, despite the apparent gender-blindness of the NAFTA agreement and of most academic approaches to studying regionalism. This article has shown how feminist analysis contributes to our understanding of the gendered dimensions of regionalism in the case of North America in three ways: by revealing the gendered impacts of processes of economic integration, particularly but not only in Mexico; by analyzing efforts toward gender mainstreaming within regional institutions and practices; and by directing attention to the agency of feminist and other civil society activists in promoting more equitable forms of regionalism.

The regional restructuring that has occurred in North America, especially in Mexico, has depended heavily upon the exploitation of women's labour. Efforts to promote gender mainstreaming have been hamstrung by the limited levels of institutionalization that have accompanied North American integration, and by patriarchal and sexist political and economic ideas and practices that have been widespread in the region. The events surrounding the CUSMA negotiations have shown that despite the failure of the Canadian government to secure the inclusion of a gender chapter in the agreement, important gender provisions have been mainstreamed into the labour chapter, and this may prove to be a useful tool to address some forms of gender discrimination. The outcome, however, will not depend primarily upon benevolent state or corporate action. As the case of the first petition brought forward under the labour chapter shows, transnational cooperation among labour unions and women's and feminist organizations as well as migrant rights groups can contribute to the deepening of the "cobweb" model of regional cooperation that may be able to counteract the exclusionary and hierarchical tendencies in the dominant form of North American integration. As this discussion has shown, especially in the context of new and potential forms of gender mainstreaming in regional agreements, transnational feminist organizing has the potential to undermine traditional hierarchical and state- and corporate-led forms of regionalism, and construct more egalitarian, participatory, and horizontal forms of connection across regional space.

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