

Legalizing Transnational Activism: The Struggle to Gain Social Change from NAFTA's Citizen Petitions. By Jonathan Graubart. University Park, PA: The Pennsylvania State University Press, 2008. Pp. 184. \$45.00 cloth.

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As transnational legal institutions that issue nonbinding unenforceable “soft” law, do the commissions established under the North American Agreement on Labor Cooperation (NAALC) and the North American Agreement on Environmental Cooperation (NAAEC) matter, and if so, how, why, and under what circumstances? Countering mainstream political discourse and social science understandings of these legal bodies, which suggest that they are defunct, or a “bad joke” (p. 61), political scientist Graubart assesses, from international law-in-action and legal mobilization perspectives, the utility of these transnational legalities born of the political compromise that was NAFTA’s “side agreements.” Focusing upon the citizen petition mechanisms common to both commissions, where individuals file complaints against treaty members in quasi-judicial bodies (housed in respective state agencies), he finds that they have had an impact upon social and environmental standards. With an eye to an audience beyond those interested in NAFTA, he underscores that labor and environmental commissions will continue to play a significant role in years to come in the ongoing social justice struggle that accompanies economic globalization, as governments continue to incorporate similar mechanisms into the plethora of international trade and investment agreements. Thus one should understand what work they are doing in transnational legal space.

Graubart’s analysis of the NAALC and NAAEC commissions will be of most interest to law and society scholars, as he unpacks their institutional structures comparatively, analyzes how the respective commissions work in practice, how they are used from the “bottom up” by transnational actors, and ultimately their relation to state and corporate actors. Interestingly, Graubart points out that, due to the particular negotiation history of NAFTA’s additional agreements, such commissions further the politics of domestic labor and environmental standards, rather than ones particular to the transnational field. Thus here one can see the potential for the commissions to reach behind-the-border of the nation-state by giving a voice to domestic actors on domestic issues in the transnational plane. As expected, it remains the case that labor and environmental activists face considerable resource constraints and organizational challenges to mobilize these mechanisms, while the commissions give variable levels of support to the activists’ expressed goals.

In Chapters 1 and 2, Graubart develops his theoretical perspective, writing against but also within the tradition of international legal scholarship and works on law and social movements. Graubart argues for the transnational commissions' capacity to shape state behavior, despite their issuance of soft law. Yet he argues that such effects are not even, and depend on the state's position in the political and economic global framework, the government party in power, and the state's experience with transnational legal challenges, as well as the type of challenges states face from the activists. Furthermore, the activists' ability to use law to shape their political claims and go beyond law into a broader political strategy affects the quasi-judicial body's capacity to check state and corporate power. In Chapters 3 and 4, he presents empirical analysis from both bodies, detailing the content of the citizen-submissions, how the agencies first responded to them, and how the activists' claiming strategies adopted to the legal opportunity structure. In both commissions, Graubart must note that both have declined in effect in recent conservative years.

In sum, while Graubart has noted that the effects of the commissions are limited, he does not probe the meaning such standards assume when put in relation to the ongoing capital-driven race-to-the-bottom. While it may be true, as Graubart notes, that "the very act of negotiating to join a trade bloc with the US or other Western states pressures a state to establish internationally acceptable or environmental standards" (p. 19), he does not interrogate the relationship between such standards, the greater propensity of activists to target Mexico, and the role such commissions play in the legitimization of corporate capitalism in the global south. In addition, readers are not given a full picture of how the internal informal legal mechanisms also produce disparities between actors and states. After all, the legality being described is informal, a law type whose tendencies and consequences are well-known to law and society scholars of alternative dispute mechanisms in the United States and globally. Last, in assessing the transnational bodies, perhaps readers should take Shapiro's (2001) critique to heart. Public interest social activists may represent the interests of the most marginalized humans and ecosystems, but inevitably one must also consider what local concerns are lost in their activities and legal language, as inevitably, the high human and social capital it requires to reach transnational administrative bodies and to be heard enables the exercise of new forms of power in economy and society.

Reference

Shapiro, Martin (2001) "Administrative Law Unbounded: Reflections on Government and Governance," 8 *Indiana J. of Global Legal Studies* 369–77.