This study examines the creation of a criminogenic policy, NAFTA, and its subsequent social harms that primarily impacted poor rural farmers and indigenous people in Mexico. Previous research into state-corporate crime has focused on crimes committed by one state and one corporation, while little research has investigated the commission of crimes by more than one state operating in collusion. Previous research on human rights violations has emphasized genocide and physical integrity rights, while this study raises attention to “lesser” human rights violations such as abusive working conditions, lack of political participation in policy formation, and limited access to clean air and water. Criminogenic policies can contribute to these forms of human rights violations, and offer one avenue for studying the relationship between states. Using criminogenic policy as a guiding concept,
this study asks and begins to answer at least three questions: (1) Can policies (e.g., treaties, declarations, conventions, charters, etc.) legally created cause social harm (crime/human rights violations)? (2) Are some policies criminogenic based on how they are formed?; and (3) Was NAFTA criminal and/or criminogenic?

Utilizing a case study method, this study employs an analytical framework for studying criminogenic policies to the case of NAFTA. This framework is informed by four primary bodies of literature including state-corporate crime, world-systems analysis, social structure of accumulation theory, and neo-Gramscian work on the transnational capitalist class. Numerous sources including academic journals, newspapers, historical archives, meeting memos, recorded phone conversations, NGO reports, and governmental documents are used to reconstruct the time before, during, and after the NAFTA negotiations and their subsequent social harms.

The results of this study indicate that members of a transnational capitalist class spanning North America including political leaders, business elites, prominent intellectuals, media pundits, and members of international financial institutions heavily influenced the creation of NAFTA. The TCC actively blocked public participation in NAFTA, and Mexico desperate for foreign investment gave larger concessions than either the United States or Canada. In the over twenty years since NAFTA, various social harms have affected primarily rural farmers and indigenous people in Mexico. Of these effects, this study documents the poverty, inequality, un- and underemployment, harsh working conditions, lax workers’ rights and protections, displacement, product-dumping, improper removal of toxic wastes, deforestation, water shortages, soil erosion, air and water pollution, exploitation of guest workers, and drug-, border-, and immigration-related violence in Mexico as a result of NAFTA. This study charges that NAFTA is criminal and/or criminogenic on three counts violating the UN International Bill of Human Rights: (1) the NAFTA negotiation process was criminal and criminogenic for its undemocratic structure, influence of the TCC, and oppression of opposition groups, (2) the written text of NAFTA was criminal and criminogenic for its failure to include human rights protections; and (3) NAFTA was criminogenic for the various listed social harms that occurred as a partial result of NAFTA.