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Co-operating with the Neighbours: Regional Planning in Hamburg and Toronto

PATRICIA PETERSEN†

City-regions must compete globally—of this we are continually reminded. Success in this world competition, experts advise, depends on a region’s ability “to develop a shared set of values, formulate a common vision, and mobilise resources to achieve it.” This requires a shift in focus—from institutions to process, from government to governance. Focussing on process offers “a social learning perspective (where society’s members actively learn from one another)” and demands “sensitivity to intricate process detail.” Sensitivity to intricate process detail describes exactly the way in which politicians and civil servants in the Hamburg Metropolitan Region (HMR) have tackled regional planning since the early 1990s. Participants in the exercise consider the process more important than the goal and designed it so that all interests in the region would agree. The process used in the HMR contrasts sharply with the disjointed attempts to co-ordinate activity in the Greater Toronto Area (GTA). One might argue that the success of the process is evident in the result: the HMR has a detailed regional plan covering nine policy areas, despite very

†Professor of Political Science, Innis College, University of Toronto; M.A. (Political Science), University of Toronto, 1978; Ph.D. (Political Science), University of Toronto, 1985. I would like to thank the staff of the Office of the Greater Toronto Area and the Greater Toronto Services Board, civil servants and politicians of the City of Hamburg, and Dr. Gerd Brockmann, former mayor of the city of Wedel who willingly and enthusiastically answered all my questions regardless of how simple. I would also like to thank Dr. Jürgen Mantell, chairman of the joint steering committee for the Hamburg Regional Plan, for allowing me to attend some of their meetings. My compliments to the Buffalo Law Review for the excellent work in organizing and hosting the Symposium on Regionalism in March 1999.


2. Ian Wight, Deconstructing Regionalism, PLAN CANADA, May 1998, at 31, 32.
complicated intergovernmental relations in the region. The GTA has yet to formulate a plan for any policy area. The question is—can such a process be replicated in North America? The two case studies in this paper suggest this may not be possible. Our Anglo-American political institutions and traditions could not support the kind of rational deliberation and attention to detail that is necessary for this process to work. In short, we may not be able to "formulate a common vision" for our regions.

I. HAMBURG AND TORONTO

I chose the Hamburg and Toronto\(^3\) regions to compare because I was struck by similarities between them, as was Hans Blumenfeld\(^4\) who had compared them in 1970. The city of Hamburg is slightly larger in area than the city of Toronto but has a slightly smaller population. Both cities are at the centre of regions of similar populations, although the HMR is more than double in area.

<table>
<thead>
<tr>
<th>City/Region</th>
<th>Area (km(^2))</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Toronto</td>
<td>630</td>
<td>2,357,378</td>
</tr>
<tr>
<td>Hamburg</td>
<td>755</td>
<td>1,705,872</td>
</tr>
<tr>
<td>Greater Toronto Area</td>
<td>7,061</td>
<td>4,484,583</td>
</tr>
<tr>
<td>Metropolitan Hamburg</td>
<td>18,110</td>
<td>3,996,698</td>
</tr>
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Both regions are important in the national and international economy. Hamburg is the second largest city in Germany and Europe's second largest port in terms of annual tonnage. According to a report of the European Union issued in 1996 the HMR is Europe's richest region and "has bettered German national growth, on average by a solid half point each year" since 1990.\(^5\) The population of the GTA is forty-two percent of Ontario's population and fifteen and one-half percent of the population of Canada. It

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3. Reference is to the present city of Toronto as created by provincial legislation January 1, 1998. It encompasses the boundaries of the former Municipality of Metropolitan Toronto (1954-1997).


is home to fifty percent of the Ontario labour force and twenty percent of the Canadian labour force. Most importantly, however, regional planning has been at the top of the political agenda in the two regions since the late 1980s. Predictions of disaster surfaced periodically in both cities if something was not done to improve government coordination in the region. “[I]n no other region in Germany do state boundaries have such drastic consequences” a government report on the HMR concluded in 1989.6 “[F]ailure to take bold steps”, a Toronto newspaper warned in 1995,” may lead to . . . prosperous suburbs surrounding a rotting core. . . . [W]e cannot ignore that frightening prospect.”7

Major differences exist between the two cities, however. Population in the HMR has not grown significantly since the end of the war, although it has experienced a major shift in population, as Hamburg residents migrated to the suburbs; a migration that began in the early 1960s. Between the late 1960s and 1980 Hamburg shrank by 201,000 and the suburbs grew by 203,000. In contrast, the population of Toronto and its outer suburbs has grown substantially since the end of World War II. The population in Toronto grew by 1.2 million from 1951 to 1994; the population in the region grew by 3.1 million during the same period. Another difference is that the development of the suburbs around Hamburg was controlled by two major plans. The first, designed in 1928 by Fritz Schumacher, Hamburg’s chief planner and architect, permitted land to develop only along eight axes radiating out from the city. The second plan regulated the density of the development along these axes. The GTA still does not have a plan to guide settlement in the region.

The most significant difference between the two regions lies in the political structure of each. Government relations in Ontario are much less complicated than those in Hamburg. In the first instance, the GTA has fewer governments. It encompasses twenty-five local and four regional governments.8 It lies entirely within one province.

8. There were thirty municipal and five regional governments prior to the
The HMR contains 250 municipal, seven county, and three state governments.9 Secondly, only one government—the province of Ontario—has the constitutional authority to plan for the GTA even though the plan would involve three levels of government-provincial, regional, and municipal. Four levels of governments share responsibility for regional planning in the HMR-federal, state, county, and municipal. All four have some constitutional authority for planning. Federal legislation set the principles governing regional and city planning.10 The states are responsible for regional and conceptual plans dealing with city development. Municipal governments prepare and approve the development plans for specific areas of the city. To further complicate matters in the region, the state of Lower Saxony has delegated its responsibility for regional planning to its county governments. Regional planning in the HMR involves many unequal partners, all of who possess some constitutional status in Germany. The Hamburg region has real border problems.

A. Planning for the Hamburg Metropolitan Region: Negotiating Away the Boundaries

In November 1991, the city-state of Hamburg signed a trilateral agreement with the states of Schleswig-Holstein and Lower Saxony to devise a plan for development in the region for the next twenty years. The plan would cover a wide range of government activities: land use planning, environmental protection, recreation, waste disposal, research, education, transportation, women’s issues, and economic development. The agreement entrusted the plan’s design to a joint steering committee comprised of civil servants from the three state governments and municipal civil servants representing the surrounding municipalities.

9. The HMR was enlarged in 1996 after the three states approved the regional development plan. These numbers describe the region prior to this date.

10. See, for example, DAS RAUMORDNUNGSGESSETZ (ROG) for regional planning, and DAS BAUGESETZBUCH (BauGB) for all other planning powers. See also GERD SCHMIDT-EICHSTAEDT, STADTEBAURECHT: EINFUHRUNG UND HANDBUCH, (Verlag W. Kohlhammer, 1998), for a description of the planning powers of the various governments. Article 28 of the German Constitution grants municipal governments authority to pass ordinances in areas of local concern.
The plan was completed in November 1996 and approved in a joint cabinet meeting in December. The three states agreed to base all future decisions affecting the region on the policies. Further, they established three bodies suggested by the committee to oversee the implementation of the plan: a regional planning conference, a planning board, and an executive steering committee. They also directed this last committee to begin work on revising the plan for the year 2000. The plan is a step in the right direction, as Henning Voscherau, former mayor of Hamburg noted, however, it “must still prove itself. The institutions that have developed are comprehensible and appealing . . . [b]ut will our grandchildren say one day they were useful—or at least—they did no harm?”

The trilateral agreement signed in 1991 marked the first time that the three states had agreed in writing to work toward a comprehensive plan for the region, even though border problems had existed for a long time. Of the three states, Hamburg suffered the most from these disputes. Two factors had contributed to Hamburg’s problems: its limited amount of territory, and the growth in its suburbs, which had begun in earnest in the early 1960s. This “fat belt” (Speckgürtel), as the Germans call it, today contains some of Hamburg’s wealthier taxpayers, business and residential, who had been moving out of the city since the late 1950s. As this suburban population grew, the gap between the city’s interests and those of the surrounding municipal and state governments’ widened. This intensified conflicts over land use and infrastructure. Because its territory is so small, Hamburg needs land in the suburbs to carry out even its most basic governmental functions. It needs land to dump garbage it cannot incinerate; it needs land to dump the silt that it must dredge periodically from the harbour to keep the port operating. The location of infrastructure in the region, be it roads, railways, or airports is also contentious, although all governments in

the region agree that improving the region’s infrastructure benefits the regional economy. Conflicts arose because the location of the infrastructure affected the economy and hence the revenues flowing into each state treasury.

An on-going battle between Hamburg and Schleswig-Holstein over the construction of a new highway illustrates this problem. Germany needs to build a new highway across the Elbe River to connect eastern Germany and the Baltic States with the West. Hamburg and Lower Saxony would like the highway to cross the river directly east of Hamburg where the river is narrower and the crossing would be cheaper to build. Schleswig-Holstein wants the crossing to be west of Hamburg in the hopes that it will improve the economy of a poor, underdeveloped part of the state which has no major highways. Hamburg’s fear is that a crossing west of the city would only make travelling easier between eastern Germany and the Baltic States and Hamburg’s main economic rival, the port city of Rotterdam.

Suburban growth has cost the city in other ways. Seventy-two percent of Hamburg’s annual revenues come from taxes; approximately fifty-two percent of this is income tax. Federal legislation requires people to pay their income tax to the state government in which they live and not to the state in which they work. Many of the people who work in Hamburg are suburban commuters. Because Hamburg is so small, these commuters live in and pay taxes to another state. Of the 900,000 jobs in the city, commuters fill approximately 200,000. Hamburg is responsible for collecting income taxes from these commuters, because they work in Hamburg, but must hand them over to the state in which they live. The government of Hamburg has argued that it loses money each year because it has to transfer revenues from these taxes to neighbouring states. This amount has averaged 2.2 billion Deutsche mark annually since at least 1991 and represents approximately seventeen percent of the city’s net annual revenues.13 State governments also offer a number of services to residents which are paid for out of general revenues. As the urban centre for the region, Hamburg provides many municipal and state services to suburban residents, such as hospitals,

13. For financial data on Hamburg see the financial report the Ministry of Finance issues yearly as background to the annual operating and capital budgets; see Freie und Hansestadt Hamburg, Finanzbericht 1998.
universities, schools, and cultural facilities. These suburban residents, however, pay taxes to another state. Hamburg is in the costly predicament of providing expensive services to people from whom it can collect no revenue.

Because the border between Hamburg and its suburbs is both a city and a state boundary, co-operating with the neighbours in the past had proved difficult. Bargaining between Hamburg and the municipalities was awkward because it occurred between unequal partners—the suburban municipal governments and the city-state government of Hamburg. Furthermore, the governments of the two neighbouring states were never pleased to have Hamburg negotiate with their municipalities without their involvement as well, precisely because Hamburg was also a state. Over the years, Hamburg had devised a wide variety of methods to handle these disputes. In several instances Hamburg simply by-passed the other governments. For example, it controlled development in the suburbs by buying the land itself or by lobbying the federal government to withhold funds for infrastructure. It was more usual, however, for Hamburg to work out some arrangement with the neighbouring state, municipal, or county government. This might be as informal as a quid pro quo that procured a dumpsite for Hamburg and a new transportation line for the agreeing municipality. Or these arrangements might take the form of signed contracts with the governments of individual municipalities or states for the sharing or buying of services. Hamburg signed contracts with suburban municipalities or states to allow their residents to use special schools or hospitals. These contracts required the governments to pay some of the costs of these facilities. A number of special purpose bodies, run by the governments involved, also exist to construct and operate specific facilities such as water and sewage treatment plants, incinerators, and the airport. The region has one transit authority, the Hamburger Verkehrsverbund (HVV), to plan, construct, and operate all public transportation, i.e., buses, rail transit, subways. HVV membership comprised all the governments providing public transit in the area—the suburban municipalities and the two richest and strongest members, Hamburg and the federal government.

There were problems, however, with all of these arrangements. In the first instance, they could not be used all of the time or for every issue. Hamburg may be able to
buy land in the suburbs to keep it undeveloped, but had a much harder time buying land in the suburbs to build something the suburbs did not want—incinerators, garbage dumps, or public housing. Suburban municipalities could block these through their authority to approve development plans. The city’s ability to influence the federal government fluctuated with party fortunes locally and federally. Often, the special agencies the states created to build and operate specific services were fought by municipalities that saw these agencies as an encroachment on their jurisdiction. Moreover, contracts designed to share services and costs worked only when the rules for dividing costs and benefits were clear, e.g. when operating costs were covered by user fees. Those arrangements in which distribution of costs and benefits had to be negotiated did not work as well.

The most damaging criticism of these multitudinous, often ad hoc, arrangements was that they did nothing to further planning and co-ordination of government activity in the region. To rectify this the states had tried various advisory forums over the years to discuss common problems. The most successful in the past had been the two regional planning councils that Hamburg established with each of its neighbour states in the mid-1950s. These councils comprised the heads of the state governments, government ministers, and senior civil servants. Each council produced a plan for the development of the territory under its jurisdiction following Fritz Schumacher’s original plan of 1928. The regional planning councils administered a structural fund (Förderfond) to help implement these plans. Each state contributed fifty percent of the money to the fund. The structural funds were of some benefit for they helped to co-ordinate activity in the region. It soon became apparent, however, that the serviced land they made available in the suburbs was drawing people and businesses out of the city. Hamburg’s contribution to the funds understandably dwindled. The government of Hamburg was no longer interested in contributing to a fund that was hurting the city. The regional planning councils themselves also suffered from a number of weaknesses—they had no authority, outside of the authority to spend money on infrastructure, and no administrative staff. In addition, municipal governments were not involved in council discussions, yet often they were the ones responsible for implementing council recommendations. Furthermore, the
most tangible areas of co-operation usually involved only Schleswig-Holstein and Hamburg and not the whole region. Lower Saxony was less willing to participate because it was not as dependent upon Hamburg's suburbs for state tax revenues.

By early 1991, it had become clear to all governments in the region that the opportunities for economic development presented by the reunification of Germany and the strengthening of the European Union through the Treaty of Maastricht made co-ordinating government activities imperative. The losses for not agreeing would now be much greater. Hamburg and its suburbs were no longer at the edge of Europe; German reunification and the end of the cold war had turned the region into a major crossroads for European trade. The amount of east-west traffic passing through Hamburg had begun to increase now that the impenetrable border forty kilometres east of the city had disappeared. Most of the goods that had previously sailed from Rostock on the Baltic, East Germany's only major port, would now leave from Hamburg because its port was more efficient and closer to the Atlantic. Roads, railway lines, and port facilities needed to be improved if the greater Hamburg region was to benefit from these changes.

This prospect of expanded development in the region prompted the state governments to sign the trilateral agreement in late 1991. The agreement had been suggested by two experts in intergovernmental relations commissioned by Hamburg to "improve the search for acceptable solutions" to these disputes. It had been discussed extensively with the regional chambers of commerce, industry, and artisans, with the north German branch of the German Federation of Trade Unions, and with the lower levels of governments in the region before being approved. The agreement specified a process for developing the plan that would transform the existing "state-centred" negotiating, where each participant was interested only in what is best for a particular political unit, to "common good" negotiating, where participants would negotiate as if there were no state boundaries. For this reason the steering committee of civil servants charged with this task was given the authority to negotiate and vote on specific items in the plan without having to obtain the

14. SCHARPF & BENZ, supra note 6, at 39.
approval of their respective governments first.\textsuperscript{15}

Between 1991 and 1996 the plan’s steering committee produced a concept for the region,\textsuperscript{16} detailed policies in ten areas of government activities (housing, conservation and agriculture, economic development, transportation, recreation, water, waste disposal, harbour sludge, energy, and land use planning), and three governmental bodies to oversee the implementation of these policies.\textsuperscript{17} The state cabinets approved all of these in December 1996 with no amendments. At the same time the cabinets directed the steering committee to review the plan and report back with changes for a new plan for the year 2000. The region needed a new plan primarily because the state cabinets had been forced to expand the boundaries of the region at the same time they approved the plan. Several counties in Lower Saxony who had been left out of the region initially insisted on being included, as they realised the advantages this would bring them. They had threatened to use their authority over regional planning to block the implementation of the plan, if they were excluded.\textsuperscript{18}

The success of the plan depends on the willingness of all governments to adhere to its policies, because no government in the region has the authority to impose it on any of the others. Therefore, all governments had to be involved in the entire planning process. Membership on the plan’s steering committee and on each of the nine policy committees struck to hammer out detailed policies comprised representatives from the executive branches of the state, municipal, and county governments. Moreover, the steering committee consulted extensively with important stakeholder groups—chambers of commerce, industry and trades, environmental associations, farmers’ unions, civil service unions, and the political parties. Two municipal associations, representing the municipalities in Hamburg’s neighbour states, also advised the nine policy committees.

\textsuperscript{15} Interview with Niels Jonas, Chief Negotiator of Hamburg, in Hamburg (May 1996).


\textsuperscript{18} Interview with Jens Lattmann, Freie und Hansestadt Hamburg, Senatskanzlei-Planungsstab, in Hamburg (Dec. 1998).
committees. The consultations with these stakeholder groups produced numerous amendments to the draft policies.

The structure of the three institutions created to oversee the plan reflects the need to convince governments of its legitimacy. A planning board comprised of members of the executive branch of state and local governments sets policy. It receives advice from a regional planning conference that meets biannually. Conference members come from the state legislatures and representatives of specific interests groups, such as the chambers of commerce, industry, and artisans and labour unions. An executive steering committee of civil servants from state and local governments implements the policies mainly through two committees, one for Hamburg-Schleswig-Holstein and one for Hamburg-Lower Saxony, which decide on the allocation of structural funds. The steering committee also mediates in disputes involving the state governments.

It is too early to judge the success of the plan, however, the governments are co-operating in a number of areas. Two of the most contentious areas in which agreement has been reached are social housing and public transportation. Hamburg and Schleswig-Holstein signed an agreement in late 1994 to share equally the cost of funding social housing built by the Schleswig-Holstein municipalities in the Hamburg region. Fifty percent of the units will be reserved for Hamburg residents. The two states also have signed an agreement to change the funding and structure of the HVV, which operates public transit in the region. The policy committees that had negotiated these arrangements had faced strong resistance from the municipal governments responsible for implementing all or part of these policies. Suburban municipalities feared that Hamburg would use the housing agreement to export its slums to the suburbs. Some municipalities were worried that under a regional transportation association they would be responsible for the transportation debts incurred by poorer, or less efficient, municipal governments. Agreement in these areas was reached in part because the state governments were willing to accommodate these concerns in the final agreements. More important, perhaps, were the external pressures on the governments, both state and municipal, to reach a compromise. Suburban governments must provide housing
for their growing population; they cannot do this without financial aid because the cost of land and labour is too high for them to build alone. The reform of the German railway system in 1995 which delegated responsibility for regional rail transportation to the state governments, plus several recent regulations of the European Union governing rail transportation made reform of the public transportation system in the region mandatory by January 1996. Whether agreement can be reached in other areas without such external pressure is difficult to judge. However, municipal officials in the region continue to press their state governments to uphold the policies in the plan. At their insistence, the regional planning conference has added two new policy areas; job training, and research and development to the plan, and is considering adding labour, health and social services.

Despite support for the plan, three main sources of tension still exist. Tensions arise occasionally between the state ministries responsible for planning and those responsible for specific functions, e.g. transportation or housing. Tensions also occur in regional land use planning because different levels of governments in the three states handle this function. Most serious, however, are the tensions that still occur between the states over specific issues, especially those that shift economic power. There is always conflict in the region when money is involved. Political confrontation between Schleswig-Holstein and Hamburg over two decisions—Hamburg closing its schools to suburban children and Schleswig-Holstein publicly announcing its support for new a highway across the Elbe west of Hamburg—erupted suddenly in early 1995, making headlines and taking members of the committee negotiating the original plan by surprise. This kind of behaviour continues to complicate the work of the regional planning bodies. In 1998, tension arose between Hamburg and Schleswig-Holstein when they clashed over the construction of a large furniture store. Originally the two states had opposed the construction of the store in a Schleswig-Holstein suburb adjacent to Hamburg because it would draw customers away from Hamburg's downtown and destroy part of the green belt designated in the regional plan. The suburban government referred the issue to the regional plan's steering committee for mediation. Before the steering committee had decided on the issue, Hamburg
approved the construction of similar furniture in Hamburg across the border from the proposed location of the suburban store.

Despite these tensions, members of the joint regional planning committee remain optimistic. One reason for this optimism is their belief that the institutions created to produce and oversee these regional policies encourage cooperative behavior. They do this by building trust among the governments. Participation, continuity, and transparency are essential to building this trust: every government in the region participates in the process; those involved in the negotiations remain the same, and committee membership does not change with each meeting; finally, everyone involved in the process is kept fully informed. The institutions created to oversee the plan, the planning board, the regional planning conference, and the executive steering committee continue the consensual approach used to arrive at the comprehensive regional plan. Negotiators believe that this venture in planning for regional development will lead to an understanding of the problems each government faces and, more importantly, to a realisation that, in the words of one suburban mayor, "we have interests as a region that make co-operation unavoidable."

B. Regional Planning in the GTA: Encouraging Co-operation in the Region

In late 1998, the province of Ontario established a service board for the Greater Toronto Area and entrusted it with the management of the provincial transit authority in the GTA. The board is comprised of mayors and councillors from the local councils in the region. The provincial government created the Greater Toronto Services Board partly to reduce provincial involvement in public transit, an issue that it considered to be purely local. The province also hopes, however, that the new board will improve co-operation between municipal governments in the region and eventually produce a plan to co-ordinate services and development in the region. All previous attempts by provincial governments since the late 1960s to encourage planning and co-ordination between municipalities in the

region have failed.

The greatest growth in Ontario's population and industry since the end of WWII has occurred in the southern part of the province along the shoreline of Lake Ontario. This uneven development increased the economic and social differences between northern and southern Ontario. Although the provincial government was willing to tolerate some variances between the regions, it did not want a sharp division between the two in identities and values. To counter this, the Ontario government issued a series of policy papers on regional planning for the entire province entitled Design for Development. Design for Development was meant to guide decisions of provincial ministries and local governments in order to distribute population and economic activities optimally across the province. No sanctions were included in the policy, however, if a ministry or local government failed to adhere to it. The government also created six additional regional governments in the southern part of the province and delegated to them the authority to approve land use plans. The province hoped that the regional governments would make regional planning easier. In practice, however, the regional councils had little influence over planning. The authority for zoning by-laws and subdivisions remained with the local councils who guarded these powers jealously. Because the members of regional councils were local councillors appointed by their own councils, they were reluctant to impose regional plans on those who had appointed them. Consequently, spending by provincial ministries which was based on ministerial priorities determined the character of growth in the GTA. This was


21. Metropolitan Toronto, the first regional government, was created in 1954.
especially true of spending on infrastructure, and in particular, on two main trunk water and sewer systems built in the late 1970s and early 1980s, which allowed the development of "wall to wall housing to the east and north of Toronto."22 Regional planning in the GTA beyond ministry spending decisions remained a dream.

By the middle of the 1980s, it had become apparent to provincial staff in the Premier's Office and in most ministries that issues in this region were absorbing an increasingly large portion of their time. Growth in the area was chaotic and becoming expensive for the government to service. To bring this growth under control, staff in the Ministry of Municipal Affairs created two informal committees of civil servants whose purpose it was to keep local governments informed about provincial activities in the region. The first was a committee of chief administrative officers of regional and local municipalities in the GTA, which later became known as the Greater Toronto Co-ordinating Committee (GTCC); the second was a committee of assistant deputy ministers from ministries most active in the area—Agriculture, Community and Social Services, Education, Environment, Government Services, Health, Housing, Management Board, Municipal Affairs, Natural Resources, Transportation, and Treasury. Then in 1988, the premier of the province created a special office for the region called the Office of the Greater Toronto Area (OGTA). It was headed by its own deputy minister who reported to the Minister of Municipal Affairs. Responsibility for the GTCC was handed over to the OGTA soon after it was established. The OGTA's mandate was to monitor the disposal of solid waste (Toronto was running out of landfill sites), major highway and transit projects, sewers, water, and urban intensification and redevelopment. Those were its short-term goals. Its long-term goal was to maintain the Greater Toronto Area as a good place to live and work.

Between 1989 and 1994, the OGTA and the GTCC produced a number of studies for public discussion dealing with the region's future. Some of these were produced by planning consultants. Other plans were written by working committees assigned to specific policy areas: infrastructure,
urban form, economic vitality, countryside, investment planning and financing mechanisms, and human and social development. Committees were comprised of provincial and municipal staffs who were specialists in these fields. The government hoped that these studies "would isolate the major issues which require discussion prior to decisions being made by all levels of government.... [and] would move towards a collective understanding by municipalities and the public as to future actions."23

All the studies identified the same problems—severe congestion, expensive infrastructure, loss of farmland and natural areas, and the same culprit—sprawl, especially in the region outside the city of Toronto. This pattern of settlement, typical of North American urban growth, was damaging both the economy and the environment. It was the product of a mentality that defined the countryside as "'undeveloped' land awaiting some form of 'higher and better' land use."24 Sprawl increased the costs of providing infrastructure in the region. It made public transit more expensive, thereby increasing traffic on the roads. This in turn increased pollution and the cost to businesses of moving goods. Toronto had become a bottleneck in the east-west movement of traffic across the province. It was particularly important to stop this pattern of development now as demographers had forecast that the population in the GTA would grow by almost another two million by 2021. All of the reports supported a more compact form of


development and they all recommended "greater provincial leadership in the achievement of these goals."  

As the Canadian economy worsened in the early 1990s, the emphasis in regional planning for the GTA shifted from reducing sprawl to improving the economy. In January 1995, the GTCC issued the first of two reports on finances in the region that described a GTA battered because it was losing a significant amount of provincial revenues to other regions in the province.  

Under pressure from the media and an impending election, the provincial government appointed a small task force of disinterested citizens in April 1995 to recommend ways of ensuring "that the heart of the GTA remains strong and economically vibrant."  

Specifically, it was to address "the property tax crisis," to "provide direction for the future governance of the GTA," and to "answer the fundamental questions our citizens are asking."  

The OGTA served as administrative staff to the task force. The life of the task force was shortened from eighteen to eight months immediately after the government that had appointed it was defeated in the election in June 1995.

The report of the GTA Task Force, released in February 1996, reiterated the problems detailed in previous studies: the GTA lacked an integrated transportation plan; congestion was severe and particularly heavy along regional boundaries; the Regional Municipality of York did not have natural access to the water in Lake Ontario and this skewed development there. The report also noted some new concerns which, it argued, were hurting the region's economy: an outdated assessment system, a complicated and lengthy process for approving development, and competition between municipalities for economic development which undermined the ability of the GTA "to speak with a single, identifiable voice."  

The outdated assessment system was creating special problems, for it had

29. Id. at 67.
produced a tax gap within the GTA that made municipalities outside Toronto more attractive as locations for business and this was deterring businesses from locating within Toronto. This gap had been identified in the second report of the OGTA released in January 1996.  

According to the GTA Task Force report, this “continued erosion of the tax base can only diminish the region’s competitiveness further.”

The work of the province, and in particular of the OGTA and the GTCC, improved informal communications among provincial and municipal governments in the region. The establishment of the six working groups was the first time that municipal and provincial staff had come together officially to discuss common problems. The GTCC and its subcommittees allowed governments in the region to share information. More importantly, they fostered co-operation on specific projects. For example, the economic development subcommittee helped the government of Metropolitan Toronto organise a conference for site selectors from the United States to promote the GTA. The OGTA had also helped to organise and finance an agency requested by the regional mayors to promote economic development in the region. The studies on and debate about the GTA sparked the creation of a parallel committee of politicians, the Heads of Council Committee, known as “mayors and chairs.” This was set up in the early 1990s at the instigation of several suburban mayors who wanted to boost the economy in the region. The province agreed to fund the committee and give it some staff support.

The citizens of Ontario elected a new provincial government in 1995 with a mandate to eliminate the provincial deficit within two years. The government approached the problem holistically—it cut government spending everywhere. The government devised three ways to deal with municipal costs: create a uniform assessment system for the province, re-structure local government, and

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31. GTA Task Force, supra note 28, at 35.

reassign responsibilities for services between the provincial and municipal governments. Two important outcomes within the GTA of this approach were the amalgamation of the seven governments in Metropolitan Toronto and the creation of the Greater Toronto Services Board (GTSB). The main purpose of the GTSB is to manage the regional transit authority which had been previously run by the Ontario government. The province hopes that the GTSB will also serve as “a vehicle for GTA municipalities to co-operate on better, more efficient ways to deal with service responsibilities.” However, the GTSB has no sanctions to impose, nor incentives to give, that would promote this cooperation. GTSB members comprise the twenty-nine municipalities in the region. The number of representatives each municipality may send, and the number of votes each representative may cast, varies with the population in each municipality. The legislation caps the City of Toronto vote at fifty percent of the total. A number of issues, such as assigning costs of the regional transit authority, require a two-thirds majority to pass.

Municipalities in the GTA disagreed on the need for such a board, on its composition, and on its powers. As the consultant commissioned with the design of the board politely noted, “the diversity of interests expressed enriched the context within which these recommendations are offered.” Strong opposition came from some of the most powerful cities in the region, those in the GTA core. The need to save was clearly the GTSB’s chief selling point. “Better co-ordination of big ticket services such as sewer and water, major roads and transit, and garbage disposal, can save taxpayers money . . . . The new Greater Toronto Services Board could make that happen.”

The interests of those directly affected by the creation of a regional services board—municipal governments, citizens, and businesses—were filtered through various government-appointed committees and consultants. A panel composed of retired municipal politicians and civil servants, and a

35. Id. at 7.
private consultant in municipal finance first suggested a regional services board in December 1996. The structure of the board and its powers were designed by a retired municipal civil servant who reported his findings to the province in June 1997. The province delegated the responsibility for moderating review of the draft legislation with municipalities within the GTA to a former regional chairman. All of these consultants followed a similar consultation process—gathering information in meetings with local councillors, city officials, provincial civil servants, local businesses, and citizens; submitting draft reports for public debate and further comment; and finally, reporting their recommendations to the minister.

C. On Reflection . . .

The HMR is much further along in planning for its region. It has a plan, approved by all governments in the region, to govern state activity in nine policy areas. It has institutions to oversee the implementation of the plan, and to amend the plan as economic and social conditions in the region change. The GTA has a newly created board to manage a regional transit authority that had previously been the responsibility of the provincial government. It has no regional plan, and governments in the region are still reluctant to co-operate. The mayor of one of the fastest growing suburbs outside Toronto has refused to attend any GTSB meetings. The Heads of Council Committee, which the GTSB was to replace, continues to meet. Most board members attend GTSB meetings to protect their own municipalities. Rural farming communities are afraid of urban encroachment; the developed suburbs around Toronto are afraid of being bullied by the City. The City, in turn, sees the suburban communities as a threat to its tax base. The only thing that unites them is their common enemy, the GTSB. None of the member municipalities


38. See Ontario, Ministry of Municipal Affairs and Housing, Getting Together—Executive Summary (Toronto: Queen's Printer, 1999); Ontario, Ministry of Municipal Affairs and Housing, News Release, Improved Service Coordination Cited in Greater Toronto Services Board Report (Toronto: Queen's Printer, 1999).
wants it to become another level of government. This does not bode well for regional co-operation.

The procedure used to deal with regional problems in the two jurisdictions differs markedly. The process in the HMR was purposely designed to achieve consensus on the plan and on its implementation among all governments in the region. It was a collaborative approach with pedagogical overtones to teach these governments that “common problems could only be resolved through common effort.” This process was formalised in a treaty between three semi-autonomous states. The treaty set a specific goal for these negotiations and established a specific structure, a joint steering committee, to oversee work on the plan. It allowed the committee to work autonomously from the state governments. Steering committee members were senior bureaucrats from ministries in the three states that reported directly to the state presidents and senior civil servants from municipal governments. Experts from ministries of the three states and senior bureaucrats in the county and municipal governments made up the nine policy groups. These were people who worked in the policy area in which they were making recommendations. Most of them would have to implement the recommendations they were proposing. Membership on these committees was not voluntary. Very few of the people on the steering committee or on its working groups changed during the five years it took to write the plan. The process also defined specific interest groups that were to be included in the discussion on the plan and their method of inclusion, thereby guaranteeing public support for the plan when it was finished. The process ensured the plan’s acceptance and its practicability.

The evolution of regional planning in the GTA, such as it is, was disjointed and did not bind the governments in the region firmly into the process. Work on regional co-ordination began with the creation of the OGTA in 1989. This office was attached to a line ministry with some money to pay staff and produce studies, but with no authority over other ministries. A number of different governmental bodies participated in the process aside from the OGTA: the GTCC

and its subcommittees, the Heads of Council Committee (HCC), and the GTA Task Force. The mandates of these bodies were quite general. The OGTA's mandate was to maintain the quality of life in the region. The mandate of the GTA Task Force was to "answer the fundamental questions our citizens are asking."40 None of these bodies were directly responsible to the same entity. The Task Force reported to the premier of the province; the GTCC and the HCC reported to no one; the OGTA reported to the Minister of Municipal Affairs (1988-1990), the Minister of the Environment (1990-93), the Minister of Municipal Affairs (1993-95), and the Minister of Municipal Affairs and Housing (1995—). Membership on the GTCC and the HCC might vary from meeting to meeting. Participation in the HCC was voluntary. For the first two years of its existence it was boycotted by most of the mayors in Metro Toronto.

Only some members of these bodies had had experience in the areas in which they were making recommendations. Fewer still would have been responsible for implementing the recommendations had the provincial government approved them. Members of the GTCC were the chief administrative officers from the regions and local governments. They were responsible for personnel and budgeting, but not for issues such as planning or transportation, which were creating problems for the region. Decisions of the HCC were only recommendations to the municipal councils because mayors and regional chairmen had no authority to decide independently of their councils. The GTA Task Force consisted of five citizens who had never been civil servants or local councillors (a university president, an architect, a demographer, a fundraiser, and a dentist) and who continued to work at their own jobs during their tenure on the Task Force. Members of the six working groups set up by the GTCC in 1992 were staff with experience in the subject area, however, each of their reports began with the caveat that their recommendations "were produced for discussion purposes only, [t]hey are not representative of Provincial policy nor do they represent the policy of individual provincial ministries or municipalities."41 The fact that the party in power in the province changed three times between 1988

and 1995 aggravated the discontinuity in the process.

A number of practical reasons exist to explain the differences in both process and result. In the first instance, the need to plan regionally is greater in the HMR. Land is scarce. Failure to co-operate on regional issues seriously threatens the economic survival of the region. Hamburg creates most of the wealth in the region but without co-operation the city could not survive; it could not carry out its basic functions, or keep its port competitive, or pay its bills. If Hamburg's economy collapsed, and it could without any co-operation from the region, the region's economy would collapse. Moreover, competition with other regions in Europe is intense and the governments are acutely aware of this. The region has real border problems. Regional planning involves three state, twelve regional, and over 280 municipal governments, all of which share responsibility for services and planning. These responsibilities are protected by the German constitution. The governments have to co-operate in order to do anything. This "institutional organisation of power," as Peter Katzenstein calls it, goes a long way to explain the need for consensus building in the region.  

The GTA has no border problems and therefore, its main problems—sprawl, transportation, and assessment inequities—should not be that difficult to alleviate. The region exists within one province whose government has sole jurisdiction over all lower tier governments. It has the authority to deal with the major problems occurring in the region. It reformed the municipal assessment system, amalgamated the governments in Metro Toronto, and created the GTSB in its first term of office. It could impose a regional plan on the GTA. There are, however, a number of reasons why the provincial governments were and still are reluctant to do this. In the first instance, the province has not intervened directly because the problems facing the GTA are not life threatening. The form of suburban

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42. See Peter Katzenstein, Policy and Politics in West Germany: The Growth of a Semisovereign State (1987). Katzenstein argues that you need to understand this institutional organization of power—the need to build coalition governments, the need to cooperate between the three levels of government, and the reliance on para-public institutions—in order to explain the lack of major changes in German policy from 1949 to 1988.

43. Interview with Brian Ashton, City of Toronto Councilor, in Toronto (Sept. 1996).
development in the GTA may not be the most efficient or friendliest to the environment, but it would not necessarily kill the vitality of the region. What seems to have been the catalyst for much of the debate on regional planning was not a specific set of problems, but rather a general sense of malaise—"a growing public perception that our quality of life may be deteriorating."\(^4\) This sense of malaise was fuelled by the Toronto Star, which decided in January 1995 to launch a crusade to save the GTA. The activities of the government of Ontario that focussed on the GTA were really responding to this general sense of malaise. The predictions of disaster if the governments in the GTA failed to co-operate were the result of two factors unrelated to regional planning. The first was the recession that started in the late 1980s and hit Toronto harder than the previous recession. It also hit Toronto harder than other cities in Canada. Toronto had always been the Canadian city least vulnerable to recessions in the past. The second factor is the Canadian tendency to set policy with one eye on the United States. The Minister of Municipal Affairs justified the creation of the GTA Task Force in April 1995 with these words: “There are growing fears here in the GTA that our own central city may become like the hollowed-out core areas of these [Detroit, Newark] American cities—cities that are unsafe and crime ridden, that are wastelands of empty buildings and boarded-up shops.”\(^5\)

Other reasons exist to explain Ontario’s hesitancy to plan for the region. It does not like to favour one region of the province, something it would have to do, if it were planning for the GTA. Secondly, almost all of the undeveloped land in the region is privately owned. These owners form an articulate and strong lobby group that often has different views of planning in the region than the planners and civil servants. Finally, provincial governments prefer to encourage rather than dictate to municipalities. Municipalities have become accustomed to this and view any provincial intervention as “patronising” and “intrusive” and “without regard to local authority,” as some GTA mayors complained in 1995.\(^6\) Ontario’s municipalities can

\(^4\) GTA Task Force, supra note 28, at 63.
be nasty when provoked.\footnote{The battle between the province and municipalities in the GTA over development charges in late 1996 illustrates this nicely. In November 1996, the provincial government tabled legislation that would reduce the amount municipalities could charge developers for the cost of providing infrastructure to new developments. The government did not consult with individual municipalities before tabling the legislation, only with an organization purporting to represent all municipal interests in Ontario. A number of large municipalities in the GTA retaliated by refusing to issue building permits thereby freezing development in the region.}

The difference in process reflects the difference in institutional legacies in the two countries, and in particular, the perception of the state's role in society. According to Kenneth Dyson, different concepts of public authority produce different institutions and different patterns of behaviour.\footnote{See KENNETH H. F. DYSON, STATE TRADITION IN WESTERN EUROPE (1980).} Dyson argues that the most important institutional inheritance in continental European politics is the concept of the state. Only through an understanding of this tradition of the state can one obtain "a 'feel' for the peculiar character ... [of] continental European politics."\footnote{Id. at 4.} Societies with a state tradition of authority view "state" as a normative concept that describes how public authority should be organised. Included in this abstract idea is the notion of a state existing separate and distinct from society. This state exercises public power for the collective good of that society. What constitutes this collective good is arrived at through rational deliberation. It cannot be understood "simply as the end-product of compromise amongst sectional interests."\footnote{Id. at 276.}

Concepts of the state shape politics in these state societies (although Dyson remains sensitive to the fact that men and institutions shape ideas as much as they are shaped by them). A state tradition of authority leads, in Dyson's terms, to a depersonalization and depoliticization of power. The "rationalist spirit of inquiry" used to discover the collective good produces a "preference for bureaucratic and legalistic methods of conflict resolution and for technical criteria in decision-making."\footnote{Id. at 51.} Politics is not about bargaining, game playing, or brokerage. State institutions are perceived "as the embodiment of reason and public
service applied to a general interest that is more than the
sum of partisan interests."52 This emphasis on rationality
and technical knowledge strengthens executive authority
and partially removes it from the control of the legislature.
The state tradition contains a "highly developed
consciousness of collective self-interest"53 which produces a
greater acceptance of state control to order society for the
general good. Anglo-American political traditions lack this
strong state tradition. Rather, they are characterised by a
"vigorously politicking society, which implies a tolerance for
a plurality of values and of perceptions of reality, [and this]
is as much a precondition of political morality as the
abstract commands of the state."54

D. What Has Comparing Taught Us?

The Metropolitan Hamburg Region has designed a
process which succeeds in producing co-operation in the
region. All governments in the region have agreed on policy
in nine areas and are implementing this through a number
of small projects. Despite the attractiveness of this process
in effecting regional co-operation, it would be difficult to
import to Ontario. As Dogan and Pelassy have argued, "a
certain harmony [must exist] between the political
practices, the rules of the game, on the one hand, and what
people expect, what they recognize as legitimate, on the
other."55 A great deal of harmony exists between this
process and what Germans recognise as legitimate. It is a
rationalist approach to conflict-resolution that suits the
state tradition of authority. The process was carefully
designed to achieve consensus. It delegated the authority
for producing the plan to bureaucrats who were experts in
these policy areas and who negotiated and voted on specific
items in the plan without having to obtain the approval of
their respective governments first.56 Their decisions were
based primarily on technical rather than political

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52. Id. at 256.
53. Id. at 274.
54. Id. at 266.
55. MATTEI DOGAN & DOMINQUE PELASSY, HOW TO COMPARE NATIONS:
STRATEGIES IN COMPARATIVE POLITICS 73 (1990). Dogan and Pelassy argue,
however, that political culture must be considered along with other variables.
56. Interview with Niels Jonas, Freie und Hansestadt Hamburg,
Senatskanzlei-Planungsstab, in Hamburg (May 1996) (emphasis supplied).
considerations. There is little in this process that Canadians would consider legitimate. They would be especially wary of allowing bureaucrats to decide on policy. Moreover, conflict-resolution in Canada is confrontational not consensual. It reflects quite clearly the Anglo-American belief that "a vigorously politicking society, which implies a tolerance for a plurality of values and of perceptions of reality, is as much a precondition of political morality as the abstract commands of the state." Vigorous politicking certainly describes what has been occurring in the GTA.

This is not to say that one region is right and the other wrong in its handling of regional co-operation. According to Dyson, the emphasis on a unified, collective interest arrived at through rational deliberation when combined with the perception of a state that stands apart from and above "petty politicking" creates a political system not open to outside participation. This raises barriers to the development of democratic institutions. Democracy and the state tradition coexist. The liberal democratic states of continental Europe attest to this, yet it is a democracy with an elitist quality. Most English language studies have assumed the state to be a "burden on the development of a democratic political consciousness."

57. DYSON, supra note 48, at 266.
58. Id. at 7 (citations omitted).