

Title: Innis Redux: Dependence, Entrenchment, and Lock-In in the Canadian Provinces

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Abstract: Accepting that financial capitalism is built on a distribution of regional institutional logics underlines the importance of understanding the geography of finance when considering contemporary economic activity. Employed within this research agenda, comparative corporate governance has long focused on national models of corporate governance with particular attention paid to the balance of influence between divergent path-dependence and convergent global market forces. Within this debate, the Canadian model of corporate governance has received little attention and has long been assumed to be an extension of the USA model. The corporate geography of Canada demonstrates that the path-dependent forces of Canada's resource-dependent economic development remain a principal determinant in contemporary corporate Canada. Continued resource-dependence in combination with a system of asymmetric federalism has led to a situation in which provincial regulatory frameworks have effectively been locked-in by corporate interests. As corporate interests are provincially distinct due to the heterogeneous distribution of natural resources and markets across Canada this provincial lock-in leads to an informal degree of managerial entrenchment. Combined, these path-dependent consequences have rendered the Canadian model of corporate governance distinctive in its multi-jurisdictional nature.

Key Words: Canada; Corporate Geography; Corporate Governance; Federalism; Lock-In; Resource Dependence

1. Introduction

Financial capitalism is built on a distribution of regional institutional logics, predominantly assumed to be nation-state-based, thereby underlining the importance of understanding the geography of finance when considering contemporary economic activity (Clark and Wójcik 2007). The global reach of financial flows and resultant heterogeneous distribution of risks and returns, as exemplified by the global financial crisis of 2008/2009, has placed renewed emphasis on understanding these corresponding underpinning frameworks. Comparative corporate governance has focused predominantly on the models of the USA, UK, Japan, and Germany (Hopt *et al.* 1998) and research is increasingly discussing models of corporate governance in emerging markets (Lins 2003; Klapper and Love 2004). Apart from cursory overviews within multi-national analyses (e.g. La Porta *et al.* 1999), the Canadian model of corporate governance is seldom discussed. This is surprising given Canada's sophisticated financial markets (Mittoo 2006), its well established position in global trade (e.g. Innis 1956), and the fact that Canada's banking sector is proving to be one of the most resilient during the global financial crisis of 2008/2009 (Ratnovski and Huang 2009). It is often assumed that the Canadian model of corporate governance is an extension of the USA model, however the limited research carried out to date casts suspicion on this assumption.

The USA model of corporate governance can be understood as arising from an inter-state competitive market in corporate law under broad reaching federal oversight (Roe 2005). Given the lucrative market for incorporation, including associated fees and legal services, states compete against each other in a supply-side market of corporate law (Romano 1985). The competition appears to be predominantly contested between states seeking to retain their in-state incorporations and the State of Delaware which is determined to attract all out-of-state incorporations. More than 50 percent of all public corporations are incorporate in Delaware in which nearly 20 percent of the state's revenues arise from incorporation fees. New York is the second destination for incorporation with approximately five

percent of all public firms (Daines 2001). The US market for corporate law is divided between those who view competition as leading to lower standards of shareholder protection and increasing managerial power (Cary 1974; Subramanian 2004) and those who view competition as leading to improved shareholder protections (Winter 1977; Romano 1993; Daines 2001).

In contrast, Canadian corporate law has evolved in a political landscape void of any significant inter-jurisdictional competition (Cumming and MacIntosh 2000; 2002). Furthermore, Canadian corporate ownership differs from the widely accepted USA model of diffused ownership (Berle and Means 1932) and is characterized by the presence of significant controlling shareholders and pyramidal business groups (Morck and Yeung 2006; Valsan 2008). A rich history of comparative research on corporate director interlocks in Canada and the US demonstrates a stark divergence in the development of these national knowledge transfer networks (see notably Green 1983; O'Hagan and Green 2002; 2004) thereby providing further evidence of disparities between these two national models of corporate governance.

Additionally, Canada's political economy presents a unique case for comparative corporate governance. According to Harold Innis' seminal work on the country's economic development since the original European settlers, Canada has developed as a resource hinterland supplying staples to other nations and relying on these markets for capital and technological inflows (Innis 1930; 1933; 1954; 1956). Interestingly, Canada's rising income levels and mass post-war consumption did not end the economic reliance on resource exports, as expected under traditional dependency theory, thereby leading contemporary Canada to demonstrate social relations of advanced capitalism within economic structures of dependency (Drache 1982; 1983); a political economic situation which has been labelled 'mature dependency' (Hammer and Gartrell 1986). Furthermore, the significantly concentrated power of the economic elite, the small size of the middle-level investing class, and the large proportion of

productive resources which are owned extra-nationally have rendered the relationship between corporate power and social structure in Canada atypical among industrialized societies (Porter 1965, Clement 1975).

In this article, I maintain an evolutionary economic geography perspective (Boschma and Frenken 2006; Boschma and Martin 2007) throughout the analysis in order to account for Canada's rather unique political economic development and territorial heterogeneity, accepting that the economy is a complex system which is both spatially distributed and embedded (Martin and Sunley 2007). Resultantly, I supplement the above literature with an analysis of the corporate geography of Canada and draw four principal conclusions contributing to the understanding of the Canadian model of corporate governance:

1. There is in fact a Canadian model of corporate governance distinct from the USA model.
2. The Canadian model is distinctive for its pronounced multi-jurisdictional character arising from the Canadian model of federalism.
3. There is no evidence of inter-jurisdictional regulatory arbitrage leading to convergence on a single national model of corporate governance.
4. The lack of regulatory arbitrage is leading to provincial regulatory lock-in and associated managerial entrenchment.

Scholars have long discussed the balance of path dependent forces and market forces in shaping contemporary economic institutions (Merton and Bodie 2005; Clark and Wójcik 2007). Increasingly, it appears that numerous formerly distinct institutional forms and functions are driven by internationalized market forces to converge upon an idealized model characterized by its rather Anglo-American nature, as appears to be occurring within the German model of corporate governance (developed through Wójcik 2002; 2003; 2006). That the Canadian model of corporate governance remains predicated on sub-national inter-jurisdictional heterogeneity, as explained by the nation's

historical economic development, presents yet another case of Canadian exceptionalism albeit one with potentially negative consequences for the nation's continued and efficient economic development.

The remainder of this article is presented in six sections. Section two provides an overview of the Canadian model of federalism. Section three provides a discussion of the corporate regulatory frameworks in Canada with attention paid to the separation of federal and provincial powers and the potential for regulatory arbitrage. Section four provides an original analysis of the corporate geography of Canada from which arises the distinctive Canadian model of corporate governance. Section five discusses the implications of this multi-jurisdictional model of corporate governance and section six concludes with an eye to future research.

2. Canadian Federalism

Canada was originally formed as a federation of four provinces under the British North America Act of 1867. The federation was adopted as the national framework in order to both recognize and maintain regional differences (Richard 2005) which arose from the cultural differences of the varying resource-dependent colonies, and subsequently provinces (Innis 1930). The federation has since grown to include ten provinces and three territories (herein referred to as provinces) (see Map 1 in section 4). Canada is the third oldest federation in the world, after the US and Switzerland (Watts 1999) and is home to 33.3 million inhabitants (as of December 31st, 2008) spread across a land area of 9,984,670 km² (Statistics Canada 2009a; 2005).

Federal powers and responsibilities apply to all Canadians while each provincial government remains sovereign within its own territory (Van Loon and Whittington 1987). The British North America Act of 1867, which was repatriated as the Canada Act 1982, provides for significant federal government authority. This authority, however, has been significantly eroded over the last few decades. Following

WWII, the federal government assumed a position of leadership in financing social provision throughout Canada. Yet in the mid-1970s the federal government began to focus increasingly on eliminating the national deficit and therefore was forced to limit fiscal transfers to the provinces. From this period onwards the vast majority of social programs were increasingly administered in a series of shared-cost arrangements with individual provinces thereby eroding the federal government's position of leadership (Boismenu and Graefe 2004). Federal goodwill was further undermined as each province sought to highlight their differences within the federation thereby requiring unique federal-provincial arrangements (Brock 2008).

Although some claim the federal government is employing a unilateral approach in its mission to regain leadership (Hobson and St.-Claire 2000), most commentators appear to agree that the approach is more so one of collaborative federalism (Inwood 2000; Cameron and Simeon 2002). Under the heading of collaborative federalism, the federal government is expected to govern not from a federal-provincial hierarchy but more so to embrace provincial differences and seek solutions within a partnership framework. Furthermore, provincial governments are expected to collaborate among themselves on initiatives in which the federal government remains absent (Cameron and Simeon 2002). In essence, national policies are formed by a series of federal-province and province-province arrangements as economic developments and the resultant political responses have lead to a de-centralization of the state (Magnusson and Walker 1988).

Within this asymmetric federalism provinces have the option of participating in federal programs or of determining for themselves how to administer resources provided by the federal government, as was the case in Quebec's decision to not participate in the nation-wide Canadian Pension Plan but instead to develop the Quebec Pension Plan (Richard 2005). This asymmetry is not enshrined within the constitution but has been established by successive negotiations and compromises among the federal

and provincial political regimes. The result is a division of powers which on the one hand has been admired as having “the virtue of being flexible, and readily adaptable to changing circumstances” (Leo 2006, p.487), and on the other hand as being ‘chaotic’ (Norrie *et al.* 1986).

Adding to the tension is the fact that Canada is one of only fifteen bijural countries in the world (Richard 2005). The Province of Quebec, originally French Canada, has diligently guarded its culture, language, and civil law heritage, so much so that it has officially been recognized as a nation within the country. Resultantly, “official legal culture is neither French nor English, neither civil law nor common law; instead, it is all of these together, with all the ambiguity that such complexity entails” (Richard 2005 p.23, drawing on L’Heureux-Dubé 2002).

From the beginning Canadian governance has been problematised by a desire to establish national policies while respecting significant regional differences, claiming “[t]hat diversity necessarily imports inefficiency is nothing to the point: the Canadian priority is nation-building, not efficiency” (Hurlburt 1987, p.391). Canada’s low population density has lead to significant economic regionalization and present day governance is further problematised by a growing desire for deeper federalism in which national policies need not only recognize regional differences in terms of varying provincial settings but also increasingly recognize community differences (Leo and Enns 2009).

Canadian federalism and its inherent tensions raise significant issues for efficient and harmonized policies regarding nearly all aspects of national and regional governance. These tensions in jurisdictional authority in addition to a low population density divided along cultural, economic and geographic lines and a wealth of natural resources has lead to a distinctive business environment (Innis 1956; Taylor and Baskerville 1994).

3. Corporate Regulatory Frameworks

3.1 Corporate Law

Firms seeking to incorporate in Canada have the choice of fourteen jurisdictions within which to do so, namely the federal and the thirteen provincial and territorial jurisdictions. To what degree this resembles a competitive market for corporate law remains little researched. Daniels (1991) argues that the creation of the federal Canada Business Corporations Act in 1975 and the resultant adoption of similar statutes by the majority of provinces is a demonstration of a fledgling competitive market. Yet, Cumming and MacIntosh (2000) have empirically demonstrated that a competitive market in corporate law is significantly limited. On the demand-side, firms did demonstrate law-shopping behaviour between five of the fourteen jurisdictions, however economic activity levels of individual provinces were a more significant determinant in the choice of incorporation. Additionally, there was no statistical support for a supply-side based competition in corporate law. In a further review of re-incorporations within Canada after 1975, Cumming and MacIntosh (2002) determined that inter-provincial re-incorporations were driven more so by concerns of transaction costs of carrying on a business whereas federal re-incorporations did demonstrate a degree of law-shopping.

Similar characteristics of the market for corporate law in Canada are identified by both Daniels (1991) and Cumming and MacIntosh (2000; 2002), although in the case of the former the characteristics are perceived as being minor hurdles to be overcome by market participants desiring to establish a competitive market whereas in the latter the characteristics are perceived as significant limitations on the development of a competitive market. First, the federal incorporation fee was traditionally the most expensive at \$500 but has recently been reduced to \$250; therefore no jurisdiction is dependent on incorporation revenues. Second, no province has yet established a unique corporate jurisprudence. Given the scarcity of provincial court rulings on corporate law, provincial courts regard other provincial

rulings as precedents thereby diluting any distinct provincial body of corporate law. Furthermore, the Supreme Court of Canada is the highest court of appeal and its rulings apply to all provinces; however the Supreme Court does not typically address corporate issues as its docket remains full of constitutional queries.

Although the market for corporate law may be limited, it is important to note that federal and provincial corporate laws are not identical. A review of the individual Corporations Acts carried out by the author in May 2009 concerning board composition, arguably a preeminent factor in corporate governance (Gompers *et al.* 2003; Bebchuk *et al.* 2009), revealed the following:

- All jurisdictions require a minimum of three directors, except Nova Scotia with a minimum requirement of one director.
- The Federal, Newfoundland, Ontario, Manitoba, Saskatchewan, and Alberta jurisdictions require that at least 25 percent of directors be resident Canadians. The other jurisdictions have no residency provisions.
- The Federal, Newfoundland, Manitoba, Saskatchewan, Alberta, and the three territorial jurisdictions require that at least two directors be independent. Ontario requires that at least one third of directors be independent. The remaining jurisdictions have no provisions for independent director requirements.
- Quebec and Nova Scotia require that directors own shares of the corporation in order to serve as a director. The remaining jurisdictions do not require that directors own shares.

Both Daniels (19991) and Cumming and MacIntosh (2000; 2002) agree that the introduction of the federal Canada Business Corporations Act in 1975 served to encourage the provinces to adopt similar statutes at risk of losing incorporation business. Since 1975, however, the federal act has remained relatively neglected whereas many of the provincial acts have undergone more significant amendments

thereby giving rise to the differences mentioned above. The federal government is therefore at the trailing edge of any supply-side competition for corporate law regardless of how limited this competition may be.

As such, there must be an additional characteristic of the federal act, beyond corporate law statutes, which attracts incorporations. The federal government itself proclaims that a significant benefit of federal incorporation is the ability to be easily recognized as a Canadian corporation when operating in international markets (Industry Canada 2008). This is not to say that provincially incorporated firms are any less Canadian, however any corporate documents and information will identify them first as corporate citizens of a particular province and subsequently as Canadian. Although this characteristic is often framed as a competitive asset in international markets, I suggest it is also an asset for corporations operating in multiple domestic markets. Provinces have long defended their differences, even at the cost of efficiency, therefore a Canadian corporation operating in multiple domestic jurisdictions may be more warmly received than, for example, an Ontario corporation operating in multiple provincial jurisdictions.

3.2 Securities Regulations

Securities regulations are a significant force shaping corporate form and function in Canada especially as securities regulations have become significantly intertwined with corporate law (Moyer 1997). Securities regulations fall entirely within provincial jurisdictions and there is currently no constitutional remit for a federal presence.

There are thirteen securities regulators participating in the oversight of capital markets in Canada. Each securities regulator is created by provincial legislation and all are distinct from each other in their approaches to regulation and policy formation. Notably, the regulators fall along the spectrum stretching from principles-based regulations, anchored by British Columbia, to rules-based regulations,

anchored by Ontario (Ford 2008). Furthermore, some provincial regulators are self-funded, independent commissions while others are embedded within larger governmental departments.

The benefits and costs of such a system have been a point of contention between the provinces and the federal government for decades with the most recent Expert Panel on Securities Regulations in Canada commissioned by the Federal Department of Finance having filed its report recommending the creation of a single national regulator in January 2009, concluding that:

“[...] the current structure fundamentally misallocates resources, causing securities regulation to be less efficient and effective. Resources must be devoted to keep 13 separate securities regulators operating in Canada. This is inefficient since each jurisdiction dedicates a different level of resources to securities regulation, which causes the intensity of policy development, supervision, and enforcement activities to vary across Canada.”(Hockin Report 2009, p. 40)

The thirteen regulators are often perceived as introducing inefficiencies for both issuers and investors alike (Anand and Klein 2005). Additionally, the International Monetary Fund continues to push for a single regulator citing the presence of thirteen sub-national regulators as an impediment to efficiency in Canadian markets (IMF 2008). That the debate has continued for so long is evidence that it is less concerned with market efficiency and more concerned with the politics of federalism (Jordan 2008).

Although the passport system, in which each issuer is appointed to one particular provincial securities commission as a principal regulator, is a step towards greater harmonization it in fact does very little to overcome the multi-jurisdictional nature of the Canadian securities regulatory landscape from the perspective of individual corporations. Currently, the passport system only includes the review of prospectus filings and exemption requests whereas all other aspects remain under the jurisdiction of separate provincial commissions. Provincial commissions are unlikely to voluntarily harmonize additional

regulations as to do so would be perceived as a divestiture of constitutional authority. Currently, each commission gains jurisdiction over corporate affairs when a non-trivial number of shares are owned within the province regardless of the corporation's jurisdiction of incorporation. As such, securities regulations in all thirteen provincial jurisdictions, and the differences therein, are liable to play a significant role in determining corporate form and function.

3.3 Context-Specific Regulations

Although corporate and securities laws form the cornerstone of the regulatory frameworks determining corporate form, additional regulatory domains play a significant role in determining corporate function. Although not addressed in detail in this article, numerous other pertinent regulatory frameworks remain within provincial jurisdictions, such as: labour rights (Bruce 1989); minimum wage legislation (Baker *et al.* 1999); governance of tertiary education institutions (which provide an educated labour force and product innovation) (Jones 2002); and environmental regulations (which effectively determine natural resource development) (Harrison 1996; Cameron and Simeon 2002).

Furthermore, all corporations pay standardized federal taxes as well as individually-determined provincial taxes. In 2009, provincial corporate income taxes ranged from a low of 10 percent in Alberta to a high of 16 percent in Nova Scotia and Prince Edward Island in addition to a federal general corporate income tax rate of 38 percent which decreases to 19 percent after abatements, deductions and reductions (KPMG 2009a). Provincial personal income tax rates range from a low of 5.06 percent in British Columbia to a high of 16 percent in Quebec, in conjunction with a federal rate of 15 percent (rates based on lowest taxable income brackets) (KPMG 2009b). Such tax codes may be a significant determinant in corporate strategy as a corporation which carries on business in multiple jurisdictions as one corporate entity must allocate taxable income according to a formula based on distribution of sales and payroll among provinces whereas a corporation which carries out business in multiple jurisdictions

through separate registered subsidiaries is not required to allocate taxable income (Mintz and Smart 2004).

It is expected that the inter-provincial variations in regulatory frameworks will be a factor in determining the location of corporate operations. Geographers have long been interested in the distribution of corporate operations (e.g. Amin and Thrift 1992; Harrison *et al.* 1996; Markusen 1996). Although tensions remain as to the cause and effects of different distribution patterns (compare Porter 2003 with Martin and Sunley 2003), few would disagree that corporate location is an integral component of competitive strategy.

As corporations increasingly make use of subsidiaries, temporary partnerships, spot-market supply chains and out-sourcing, corporate location becomes an increasingly fluid concept. As such, I employ the location of corporate headquarters as a proxy for corporate location in the following analysis of the corporate geography of Canada. This methodology rests on the critical assumption that the headquarters will be strategically located to generate a competitive advantage, following the long-established understanding that Canadian corporate influence is concentrated in its headquarters' location (Semple and Green 1983). Following, it is assumed that the regulatory frameworks of the jurisdiction within which the headquarters are located have greater consequence for corporate function than do the regulatory frameworks of other jurisdictions where the corporation carries on business.

3.4 Regulatory Arbitrage

The regulatory landscape over which the boundaries of corporate form and function are determined is built on a separation of powers between the provincial and federal governments. Although the federal government is present in most regulatory settings it remains secondary to its provincial counterparts.

When analyzing the Canadian model of corporate governance it is important to recognize the nation as a

mosaic of sub-national regulatory frameworks and not as a harmonized entity. This system of loose federalism creates a fertile landscape for regulatory arbitrage (Noam 1982).

Analyses of regulatory arbitrage are often undertaken with an eye to the distribution of multi-national corporations (Dicken 1992; Yeung 1998a) however the explanatory models are equally applicable to multi-jurisdictional settings in which corporations have the freedom to operate across jurisdictional boundaries but in which regulatory frameworks are constrained by jurisdictional boundaries, even if those jurisdictions happen to be at a sub-national level. Within these multi-jurisdictional settings, corporations are expected to distribute their operations based first on access to markets and resources and second on the applicable rules of operation (Dicken 1992).

Understandably, the heterogeneous distribution of population centers in Canada is of little concern for corporations focused predominantly on export markets, yet may be of significant importance for access to domestic markets. The most attractive domestic markets are in jurisdictions with high population and income levels (Table 1). Nearly 86 percent of the Canadian population resides in the provinces of Ontario (38.8%), Quebec (23.3%), British Columbia (13.2%), and Alberta (10.8%). These four provinces also have some of the highest median annual family incomes therefore making them some of the most attractive domestic markets in Canada. Only the Yukon and the North West Territories report higher median annual family incomes, however, as these two territories also report two of the lowest populations, they are unlikely to be perceived as significant domestic markets.

[INSERT TABLE 1 APPROXIMATELY HERE]

An equally heterogeneous distribution of natural resources can also be identified across the provinces. The distribution of natural resources can be demonstrated by the distribution of resource-dependent communities. Based on census data from 2001, there are nearly 2,000 resource-dependent communities across Canada (defined as a community in which a minimum of 30 percent of employment income is

derived from resource extraction activities). Forestry-reliant communities are more common in British Columbia, northern Ontario, Quebec, and New Brunswick; Energy-reliant communities are concentrated in Alberta; Agriculture-reliant communities are concentrated in Saskatchewan, Manitoba, and Quebec; Fishery-reliant communities are concentrated in New Brunswick, Nova-Scotia, Prince Edward Island, and Newfoundland and Labrador. Mining-reliant communities are more equally distributed across all provinces due to the significant variety of minerals available across Canada (Natural Resources Canada 2001).

The heterogeneous distribution of natural resources and domestic markets across the country, the case of provincial sovereignty in the majority of relevant regulatory frameworks, and the reality of multi-jurisdictional corporate operations create a scenario conducive to regulatory arbitrage. Following, I provide an overview of the corporate geography of Canada, with particular attention placed on jurisdictions of incorporation and the locations of corporate headquarters, in order to analyze to what degree corporations capitalize on this potential for regulatory arbitrage. The fact that provincial securities commissions gain jurisdiction over corporate affairs regardless of the corporation's jurisdiction of incorporation when a non-trivial number of shares are held within said province undermines the case for securities regulations playing a significant role in regulatory arbitrage across provincial jurisdictions.

4. Corporate Geography of Canada

Publicly traded corporations in Canada are listed on the Toronto Stock Exchange (TSX) which is located in Ontario. In 2008 there were a total of 1,568 listed issuers for a combined market capitalization of \$1,282.253 billion (all currency figures in Canadian dollars). Information pertaining to the respective jurisdictions of incorporation and of the respective headquarters was retrieved from individual corporate disclosure filings accessible through the Canadian Securities Administrators' System for Electronic Document Analysis and Retrieval (SEDAR) for all corporations. Desiring to focus solely on the

Canadian model of corporate governance all foreign incorporated firms were removed. Exchange-traded funds and unit trusts were also removed as were all commercial banks as these are chartered and regulated under a different set of regulations than all other corporations. A similar paring of the data was conducted by Daines (2001) and Subramanian (2004) in their empirical investigations of the market for corporate law in the USA. The remaining sample of corporations included in the analysis of the corporate geography of Canada contained 1,008 publicly traded corporations with a combined market capitalization of \$943.35 billion.

Corporations were categorized as operating in the sectors of Forestry, Mining, Oil and Gas, Finance, and all remaining corporations were gathered under the heading of Products and Services. Identification of industrial sectors was undertaken using the North American Industry Classification System 2007 (NAICS 2007). The dependence on natural resources appears to be a continuing characteristic of corporate Canada as resource dependent corporations represent 46.2 percent of incorporations and account for 43.2 percent of market capitalization (Table 2).

[INSERT TABLE 2 APPROXIMATELY HERE]

There is a heterogeneous distribution of incorporations across the fourteen jurisdictions (Map 1). The federal jurisdiction is home to 32.14 percent of all incorporations followed by Ontario, Alberta, British Columbia, and Quebec, with all other jurisdictions reporting less than 4 percent of incorporations. Interestingly, the federal jurisdiction accounts for 32 percent of incorporations but 55 percent of incorporated market capitalization whereas British Columbia accounts for 16 percent of incorporations but only 6 percent of incorporated market capitalization and Alberta accounts for 19 percent of incorporations but only 11 percent of incorporated market capitalization. This discrepancy between the number of incorporations and market capitalization witnessed in British Columbia and Alberta may be explained by the fact that these two provinces were, until recently, the hub of publicly-traded venture

capital in Canada. The Canadian Venture Exchange was formed in 1999 by the merger of the Vancouver Stock Exchange (British Columbia) and the Alberta Stock Exchange. In 2002, the Canadian Venture Exchange was purchased by the TSX Group and rebranded as the Toronto Stock Exchange-Venture (TSX-V). As such, there were strong institutional forces present in British Columbia and Alberta to encourage emerging firms to incorporate and seek venture capital in public markets thereby generating an increasing number of incorporations of smaller capitalization firms. The discrepancy in the number of incorporations at the federal level and the represented market capitalization can perhaps be explained by a trend for larger multi-market-oriented corporations to incorporate at the federal level to facilitate trade, as discussed above.

The distribution of headquarters follows a similarly heterogeneous distribution with the notable difference that corporations incorporated at the federal jurisdiction must subsequently select a provincial jurisdiction for their headquarters (Map 1). Corporations are also permitted to locate their headquarters in a foreign jurisdiction, which nearly 5 percent chose to do (representing 1.69% of market capitalization). Ontario is the preferred jurisdiction for headquarters followed by Alberta, British Columbia, and Quebec with all other provincial jurisdictions reporting less than two percent of headquarters.

[INSERT MAP 1 APPROXIMATELY HERE]

The heterogeneous distribution of jurisdictions of incorporations and headquarters can be further explored based on industry categories (Table 3). Forestry corporations are predominantly incorporated at the federal level followed by British Columbia with most headquarters located in British Columbia. Additionally, Forestry corporations are the most likely to locate their headquarters in a foreign jurisdiction. Mining corporations are more equally distributed between British Columbia and Ontario whereas Oil and Gas corporations are predominantly incorporated and headquartered in Alberta.

Finance corporations clearly prefer incorporating and locating in Ontario whereas Products and Services corporations prefer incorporating at the federal jurisdiction followed by Ontario and Alberta with the majority of headquarters spread across these same two provincial jurisdictions.

[INSERT TABLE 3 APPROXIMATELY HERE]

Although the distribution of corporations between jurisdictions of incorporation and jurisdictions of headquarters are not identical they do suggest that many corporations prefer to be incorporated and headquartered in the same jurisdiction and thereby operate in what can be labelled a uni-jurisdictional regulatory environment. Following, corporations which incorporate and locate their headquarters in two Canadian jurisdictions must operate within a bi-jurisdictional regulatory environment and corporations which locate their headquarters in a foreign jurisdiction operate in an international regulatory environment (Table 4).

[INSERT TABLE 4 APPROXIMATELY HERE]

A clear majority of Canadian corporations (>56%) prefer to operate in a uni-jurisdictional regulatory environment. Although corporations can incorporate at the federal level there is no manner in which they can be headquartered at a federal level, therefore federal incorporation necessarily leads to bi- or international-jurisdictional regulatory environments. If federal incorporations are removed from the sample, thereby reducing the sample population to 684 provincially incorporated entities, the proportion of uni-jurisdictional corporations increases to nearly 84 percent. Resultantly, 87.5 percent of Forestry; 75 percent of Mining; 92.5 percent of Oil and Gas; 88.5 percent of Finance; and 85.8 percent of Products and Services remaining corporations prefer uni-jurisdictional regulatory frameworks.

It is interesting that the clear majority of corporations operate in a uni-jurisdictional regulatory environment when the Canadian regulatory landscape itself is so conducive to regulatory arbitrage. For

example an Oil and Gas corporation is free to incorporate in Nova Scotia and yet base their headquarters in Alberta thereby maintaining a strategic asset with regards to its access to resources yet potentially benefitting from regulatory arbitrage with regards to corporate law. In fact, Daniels (1991) has encouraged provinces to increasingly compete with each other in the market for corporate law and Cumming and MacIntosh (2000) find the limited market for corporate law relatively surprising given that some provinces could gain much from such competition. Of great interest is the fact that there are no legal or operational limits on regulatory arbitrage or a competitive market in corporate law yet these do not materialise. The findings suggest that the benefits of local favouritism appear to outweigh the potential gains of regulatory arbitrage.

Contemporary capitalism has been characterised by an interdependence between corporations and nation-states (Shonfield 1965; Offe 1975). Furthermore, geographers have stressed the importance of the firm-territory nexus (Dicken and Malmberg 2001) and most attention has been devoted to the nation-state in a globalized economy (Yeung 1998b; Glassman 1999) or localized clusters with international connections (Gertler 2003; Bathelt *et al.* 2004; Maskell *et al.* 2006). The corporate geography of Canada demonstrates that the territory of greatest importance in the Canadian firm-territory nexus of contemporary capitalism is the provincial jurisdiction.

Concerns over access to resources and markets are the most significant determinants in this firm-territory nexus. Canada's large land mass and high degrees of biological and geological diversity have provided the country with a wealth of natural resources albeit also with a geographically heterogeneous distribution of distinctive resources. This heterogeneous distribution played a significant role in determining provincial boundaries as cultural differences of resource-dependent regions were taken into account during the creation of the Canadian federation (Innis 1956). The consequences of such remain pertinent in the contemporary corporate geography of Canada.

Oil and Gas corporations incorporate and base their headquarters predominantly in Alberta whereas Mining corporations incorporate and base their headquarters predominantly in British Columbia and Ontario. Forestry corporations demonstrate a slightly different pattern as they base their headquarters predominantly in British Columbia yet half of them incorporate at the federal level. This may be due to the reality that British Columbia is known for its abundance of high quality wood sources but other provinces, notably Ontario, Quebec, and New Brunswick are known for having high volumes of wood sources yet of a lower quality. As such, corporations incorporate at a federal level in order to be perceived as a Canadian corporation and thereby not stimulate any inter-provincial turf-wars when operating in multiple jurisdictions but in turn base their headquarters in the most lucrative jurisdiction. This strategy may also be beneficial in terms of allocation of income for corporate and personal tax purposes as well as with an eye towards international markets.

Federal incorporation is less common in the other resource dependent sectors and nearly 65 percent of Federal incorporations operate in the Finance and Products and Services categories. This distribution supports the notion that a Federal incorporation is perceived as a strategic asset by those operating in competitive and highly substitutable markets, both domestic and international. Unlike resource-dependent corporations which provide the foundational elements of the real economy and are therefore more likely to compete on issues of quality and price-points, Finance and Products and Services corporations are increasingly competing on the basis of intangible assets (Lev 2001).

For those oriented towards international markets a federal incorporation is believed to provide a guarantee of certain easily recognized standards, somewhat similar to the case of public corporations cross-listing in the US as a bond in attempts to guarantee good corporate governance standards (e.g. Siegel 2005). Federal incorporation may also be an asset for domestically oriented corporations. Most Federally-incorporated firms, being in the Finance and Products and Services categories, are seeking

access to markets and there are four predominant provincial markets in Canada. A corporation wishing to compete in all four markets may benefit from recognition as a Canadian corporation thereby potentially avoiding any inter-provincial turf-wars as provinces are adamant about retaining their differentiating characteristics.

Although the vast majority of corporations are based in Ontario, British Columbia, Alberta, and Quebec it is important to note that corporations do in fact incorporate and base their headquarters in the other provinces as well, there just happens to be fewer of them. Further supporting the finding that the provincial jurisdictions are preeminent in the firm-territory nexus of corporate Canada is the fact that the few corporations which do incorporate in the other provinces also prefer to base their headquarters in the same provinces. As such, the corporate governance models of Ontario, British Columbia, Alberta, and Quebec may be perceived as the most important in constructing the Canadian model of corporate governance but attention must also be paid to the other provincial models when seeking to develop a complete understanding.

Contrary to popular assumptions, the Canadian model of corporate governance is distinct from the US model. Whereas sub-national forces within the US model are aggregated and assimilated by overarching federal regulatory bodies and a competitive market in corporate law, Canada's asymmetric and loose federal structure and lack of a competitive market in corporate law in fact accentuates sub-national differences and regulatory divergence. The Canadian model is distinctive, therefore, in that it is not one individual model but a collection of thirteen models predicated on provincial sovereignty and a heterogeneous distribution of population centers and natural resources therein.

5. Implications

The Canadian model of asymmetric federalism in which provincial governments hold considerable authority gives rise to a political landscape ripe for regulatory arbitrage. Regulatory arbitrage can be expected to lead to convergence toward a national regulatory model, following either a race to the top or bottom trajectory, as has been the case in the USA. Yet regulatory arbitrage and convergence toward a single regulatory model does not appear to be the case in Canada. Instead, Canadian corporations are significantly entwined with particular provinces thereby leading to clearly distinct provincial regulatory frameworks with minimal motivation for national convergence.

Following Innis' model of the economic development of Canada since the earliest European colonies, local favouritism within provinces should perhaps not be surprising as provincial origins were determined based in large part on the distribution of natural resources. Provincial prosperity and, by extension national prosperity, have ever since been tied to resource production. Each province is, in effect, a unique set of attributes differing from all other provinces and as such each provincial economy has evolved along correspondingly unique trajectories (Essletzbichler and Rigby 2007). As most provinces are particularly endowed with one, and at times a few, classes of resources, it is understandable that they have generated regulatory frameworks which best suit the development of their specific resource potential.

Ever since the founding of contemporary Canada, an increasing number of corporations have arisen to develop said resources. Initially, provinces created regulatory frameworks conducive to their distinctive resource development needs and played a significant role in developing resources through the extension of crown corporations. Over time, and with the push towards greater market liberalization, provinces became less and less directly involved in resource development and instead opted to collect taxes and royalties from private sector resource development.

As such, provinces have become ever more entwined with corporations to the point at which it appears that the Canadian model of corporate governance is one based on provincial regulatory lock-in: a negative path-dependency arising from their techno-industrial legacy and entrenched political-economic interests (Boschma and Lambooy 1999). Provincial regulatory frameworks are distinctive not because of a competitive market for corporate law but because each province has shaped its regulatory frameworks to be conducive to the corporate development of different resources and markets. This regulatory lock-in has consequences beyond corporate law and permeates the entire provincial regulatory environment. For example, Quebec, which does not retain any Oil and Gas incorporations, is often considered the leader in responses to climate change as it has long implemented a carbon-based tax and is ahead of the other provinces in establishing a cap-and-trade system, whereas Alberta, which is home to nearly three quarters of Oil and Gas incorporations, is often considered the laggard in formulating climate change policies.

This lock-in has significant implications for corporate governance beyond the fact that the Canadian model of corporate governance is actually an aggregation of thirteen distinctive models. Regulatory lock-in should also be perceived as a form of managerial entrenchment. Given that provincial governments are inextricably entwined with the corporations operating within their jurisdiction, the balance between shareholder and managerial interests is often tipped in favour of the latter, which reside within provincial boundaries, over the former, which are more internationally distributed. A recent example of this can be found in the 2009 bailout of General Motors Canada in which the federal government would only provide emergency funding contingent on funding being provided by the Ontario provincial government (Ontario is the heart of the Canadian automotive industry) with the resulting bailout favouring Ontario-based employment at the expense of securities holders.

Comparative corporate governance has been increasingly concerned with issues of managerial entrenchment ever since Berle and Means' (1932) seminal work drawing attention to the vastly diluted power of shareholders. Typically, managerial entrenchment has been identified by the presence of poison pills, board structures and shareholder rights, that is, by particular legal provisions within corporate form (e.g. LaPorta *et al.* 1999; Gompers *et al.* 2003; Bebchuk *et al.* 2009). Among such analyses, Canada has been deemed to have 'good' corporate governance. Such comparative corporate governance studies, however, miss the occasions of managerial entrenchment which arise not out of legal provisions but out of operational circumstances such as regulatory lock-in.

In sum, the Canadian provinces' original and continuing dependence on heterogeneously distributed natural resources and the resultant distribution of population centers is having a lasting impact on the Canadian model of corporate governance. The provinces' reliance on corporations to develop their respective natural resources and service their markets has driven them into a situation in which each provincial regulatory landscape is locked-in with the complement of corporations operating within their respective jurisdictions. In turn, corporate managements benefit from political protection surpassing anything prescribed by law.

6. Conclusion

In this article I have addressed the Canadian model of corporate governance. The Canadian model has long been overlooked and simply assumed to be an extension of the USA model. Based on an analysis of the corporate geography of Canada I have shown that there is in fact a unique Canadian model of corporate governance and it is distinctive for its pronounced multi-jurisdictional character arising from Canada's system of asymmetric federalism. Although Canadian federalism, in which the majority of the power rests within the provinces, is ripe for regulatory arbitrage, the corporate geography of Canada is

determined not by a competitive supply-side market in corporate law, as it is in the USA, but more so by a demand-side necessity for access to resources and markets. The rather unique Canadian model of corporate governance can be better understood within the context of the nation's historical economic development, that is from an evolutionary economic geography perspective (Boschma and Frenken 2006; Boschma and Martin 2007).

Over seven decades ago, Harold Innis explained the economic development of Canada along the lines of a staples theory. Since the earliest European settlements, Canada has developed as a natural resource supplier to international markets. This early dependence on natural resources had significant consequences for the development of the country. As the natural resources were heterogeneously distributed across the land different population centers arose to harvest different resources and each center developed its own resource-dependent culture. These culturally-distinct resource-dependent regions were formalized as provinces with the proclamation of the British North America Act of 1867 which gave rise to the Canadian federation. Over time, and particularly during the period following WWII, the federal powers were divested towards the provinces and each has increasingly sought to demonstrate their differentiating characteristics within the federation. Contemporary Canadian politics are now governed more so by a desire to retain inter-provincial differences and autonomy and less so by concerns of political efficiency (Hurlburt 1987), as in the case of securities regulations (Jordan 2008).

Both the USA and Canada are advanced capitalist federations yet another instance of Canadian exceptionalism appears to arise in the case of models of corporate governance due to the nation's lack of a competitive market in corporate law and continued economic dependence on natural resource development—two characteristics which are not witnessed in the USA. In the USA, the State of Delaware, recognizing significant potential economic gains, made attracting incorporations a political priority thereby stimulating a competitive market in corporate law (Cary 1974). In Canada, it appears the

provinces instead focused primarily on the development of natural resources for economic gain and discounted the value of business incorporations thereby leading to a significantly limited supply-side market in corporate law (Cumming and MacIntosh 2000). Resultantly, corporations arose to compete in resource development and incorporated and located their headquarters in the jurisdictions within which access to the necessary resources could be guaranteed with little attention paid to provincial corporate laws.

In 1975, the federal government provided an additional jurisdiction for incorporation under the Canada Business Corporation Act (CBCA). Provincial corporate laws were quickly amended to reflect novel statutes within the CBCA thereby demonstrating a temporary degree of competition in corporate law (Daniels 1991) which faltered quickly thereafter (Cumming and MacIntosh 2002). Although the provincial amendments erased many of the legal advantages of the CBCA over its provincial counterparts, federal incorporation attracted sufficient interest to remain viable. Federal incorporation appears to appeal primarily as an intangible asset for non-resource dependent corporations operating in multiple domestic and international markets and less so as an alternative to provincial corporate laws. As such, the corporate geography of Canada has been determined more so by corporate concerns over access to resources and markets and less so by supply-side competition in corporate laws and associated regulatory frameworks.

Resultantly, the path-dependent forces of Canadian economic development have led to a divergence of sub-national models of corporate governance. Continued resource-dependence has led to a situation in which provincial regulatory frameworks have effectively been locked-in by corporate interests. As corporate interests are provincially distinct due to the heterogeneous distribution of natural resources and markets therein this provincial lock-in leads to further inter-provincial divergence as well as an

informal degree of managerial entrenchment. Combined, these path-dependent consequences have rendered the Canadian model of corporate governance distinctive in its multi-jurisdictional nature.

These findings, in addition to previous work on Canadian corporate ownership (Morck and Yeung 2006; Valsan 2008) and director interlocks (O'Hagan and Green 2002; 2004), suggest that the Canadian model of corporate governance has more in common with those of Continental Europe, notably the German model, than it does with the USA model. Geographers have established that the German model of corporate governance arises from sub-national and heterogeneous jurisdictional path-dependency, as appears to be the case in Canada, yet is currently experiencing significant convergence to a more homogeneous and rather Anglo-American model driven by internationalized market forces (see notably Wójcik 2002; 2003; 2006). Of great interest for future research is the question of the impact of such internationalized market forces on the Canadian model of corporate governance given the country's rather unique political economic setting of mature dependency (Drache 1983; Hammer and Gartrell 1986).

In this article I have addressed what I perceived as a lacuna in the comparative corporate governance literature, namely research on the Canadian model of corporate governance. The corporate geography of Canada demonstrates that the path-dependent forces of Canada's resource-dependent economic development, originally noted by Harold Innis over seven decades ago, remain a principal determinant in contemporary corporate Canada. There is no homogeneous Canadian model of corporate governance but more so a mosaic of thirteen provincially distinct models.

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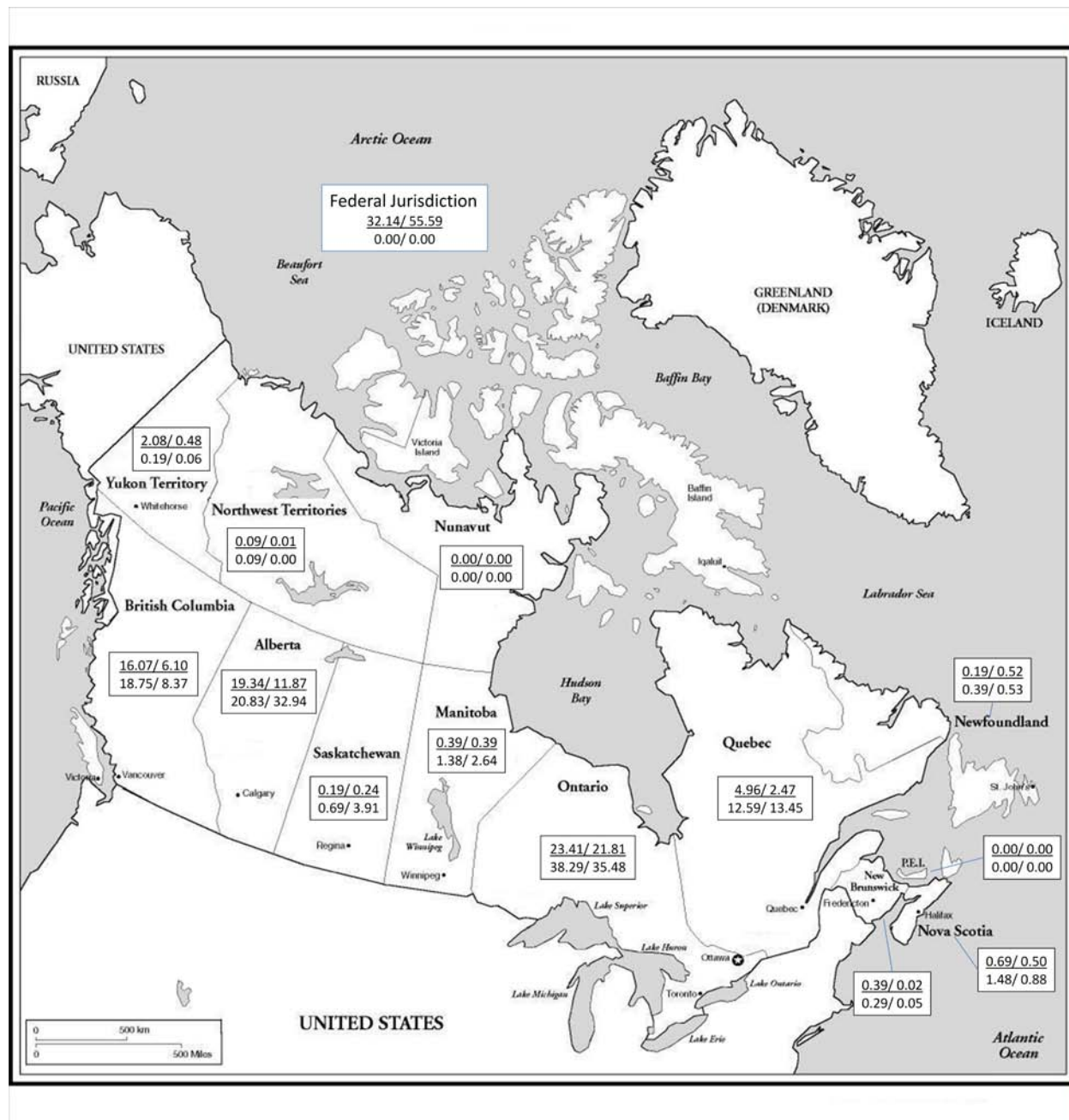
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Jurisdiction	Population (in thousands)	Median Family Income (\$ CDN)
British Columbia	4,381.6	62,600
Alberta	3,585.1	78,400
Saskatchewan	1,016.0	60,500
Manitoba	1,208.0	58,700
Ontario	12,929.0	66,600
Quebec	7,750.5	59,000
New Brunswick	747.3	54,000
Nova Scotia	938.3	56,400
Prince Edward Island	139.8	56,100
Newfoundland and Labrador	507.9	50,500
Yukon	33.1	76,000
North West Territories	43.3	88,800
Nunavut	31.4	54,300
Canada (total)	33,311.4	63,600

Table 1: Provincial distribution of population (as of 2008) and median family income (as of 2006)
(Statistics Canada 2009a, b)

	% of Corporations (n=1,008)	% of Market Capitalization (n=\$943.35 billion)
Forestry	1.6	0.5
Mining	30.5	19.4
Oil and Gas	14.2	23.3
Finance	4.8	7.6
Products and Services	48.9	49.2

Table 2: Industry-sector categorization of Canadian publicly-traded corporations as of 2008



Map 1: Distribution of incorporations and headquarters of publicly-traded corporations in Canada. The top row of numbers represents the percentage of incorporations within each particular jurisdiction followed by the respective percentage of market capitalization. The bottom row of numbers represents the percentage of headquarters located in each jurisdiction followed by the respective percentage of market capitalization. Total number of incorporations is 1,008 and total market capitalization is \$943.35 billion. Original map sourced from: Cartographic Research Lab, University of Alabama 2009.

Jurisdiction	Forestry (n=16)	Mining (n=307)	Oil and Gas (n=143)	Finance (n=49)	Products & Services (n=493)
British Columbia	25.00/43.75	34.53/37.46	4.20/4.20	6.12/6.12	8.72/8.37
Alberta	0.00/0.00	4.89/3.58	74.83/87.41	12.24/10.20	13.59/32.94
Saskatchewan	0.00/0.00	0.33/1.63	0.00/0.00	0.00/0.00	0.20/3.91
Manitoba	6.25/6.25	0.00/0.00	0.00/0.00	0.00/2.04	0.61/2.64
Ontario	6.25/18.75	22.48/40.39	4.20/4.20	51.02/69.39	27.38/35.48
Quebec	12.50/31.25	4.23/6.19	0.00/2.80	2.04/4.08	6.90/13.45
New Brunswick	0.00/0.00	0.65/0.33	0.00/0.00	0.00/0.00	0.41/0.05
Nova Scotia	0.00/0.00	0.65/1.30	0.00/0.70	0.00/2.04	1.01/0.88
Prince Edward Island	0.00/0.00	0.00/0.00	0.00/0.00	0.00/0.00	0.00/0.00
Newfoundland	0.00/0.00	0.33/0.33	0.00/0.00	0.00/2.04	0.20/0.53
Yukon	0.00/0.00	4.56/0.33	1.40/0.00	0.00/0.00	1.01/0.06
North West Territories	0.00/0.00	0.33/0.00	0.00/0.00	0.00/0.00	0.00/0.00
Nunavut	0.00/0.00	0.00/0.00	0.00/0.00	0.00/0.00	0.00/0.00
Canada (Federal)	50.00/0.00	27.04/0.00	15.38/0.00	28.57/0.00	39.96/0.00
Foreign	0.00/0.00	0.00/8.47	0.00/0.70	0.00/4.08	0.00/4.26

Table 3: Distribution of incorporations/headquarters (%) across all jurisdictions based on industry categories

Jurisdiction	Distribution of Corporations Among Regulatory Frameworks (%)		
	Uni-Jurisdictional	Bi-Jurisdictional	International
Canada	0.00	95.99	4.01
British Columbia	79.01	13.58	7.41
Alberta	87.18	9.23	3.59
Saskatchewan	100.00	0.00	0.00
Manitoba	100.00	0.00	0.00
Ontario	88.56	8.47	2.97
Quebec	98.00	2.00	0.00
New Brunswick	25.00	50.00	25.00
Nova Scotia	71.43	28.57	0.00
Prince Edward Island	0.00	0.00	0.00
Newfoundland	100.00	0.00	0.00
Yukon	9.52	47.62	42.86
North West Territories	0.00	0.00	100.00
Nunavut	0.00	0.00	0.00
Total	56.75	38.29	4.96

Table 4: Distribution of Canadian corporations which operate in a uni-, bi-, and international jurisdictional setting, using the jurisdiction of incorporation as a starting point followed by jurisdiction of headquarters (n=1,008)