Creating an enabling environment for digital self-determination

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At the contemporary historical moment, innovations in networked digital technologies are rapidly diffusing around the world, impacting terrains of economics and politics, languages, mobilities, and cultures. As part of this process, organizations are establishing infrastructures and services in indigenous territories. These developments are not simply imposed from above: the latest expression of colonial logics. They also arise in the on-the-ground work of indigenous peoples.

A growing body of empirical evidence from Canada and elsewhere illustrates community-based technology development initiatives. Partnerships between universities and indigenous organizations, like the First Nations Innovation Project and the First Mile project, are demonstrating how indigenous peoples are encoding their distinct laws, practices, institutions, values and goals in emerging technologies.[1]

These diverse activities can be interpreted through the theoretical framework articulated by scholars of indigenous resurgence (Alfred, 2009; Borrows, 2010; Simpson, 2011). Beyond expressions of resistance, such perspectives highlight the creativity of people working from marginalized spaces. Through its deep consideration of issues like community, self-determination and resilience, this work provides many lessons that can inform development practices more broadly.

But despite these benefits, community-based initiatives are often reliant on contingent and/or precarious supports from external entities like state governments. This article discusses how this challenge might be considered through establishing a state-based enabling environment for digital self-determination.

The imperative to decolonize technology development
A few short centuries ago, networks of unequal social relations between colonizing and colonized peoples intensified around much of the world, including in North America. Scholars demonstrated how colonized peoples have always exercised creative agency against these oppressive conditions (Said, 1978). However, when interpreted temporally, the preface "post" may imply that this historical period of colonization has ended, and formerly colonized subjects are now free. But in many societies colonialism continues across a range of fields,

from legal and institutional frameworks to areas of culture, politics, and economics.

For example, in Canada wide-ranging studies like the *Report of the Royal Commission on Aboriginal Peoples* (1996) found that government policy in fields as diverse as health, education, housing, public works, employment, and justice had, and continue to have, negative effects on indigenous peoples. As Irlbacher-Fox (2009) writes, "Aboriginal policy focuses on 'present suffering' as though that suffering were unrelated to injustice and instead primarily the result of poor lifestyle choices and the non-modern nature of indigeneity" (p.3).

In short, the structural inequalities that justified and supported the dispossession of the rights, territories, and resources of indigenous peoples are deep-rooted and continue to be expressed in policies, acts of legislation, and regulatory frameworks.

Efforts to overcome colonial conditions seek to reconfigure these inequalities. But some critics argue that state-led decolonization is a primarily symbolic venture. For example, the activities of the Truth and Reconciliation Commission of Canada and Prime Minister Stephen Harper's formal apology to Aboriginal peoples for the residential school system demonstrate symbolic goodwill. But many of these efforts remain constrained in practice.

The Truth and Reconciliation Commission, created as part of a class action lawsuit against the government and tasked with presenting a history of Canada's residential schools, was forced to take the federal government to court for restricting access to historical records associated with the investigation.[2] As the #IdleNoMore movement made clear, the Prime Minister's apology rings hollow to those indigenous peoples protesting his government's imposition of policies associated with continued resource extraction and environmental (de)regulation on their territories. These two examples illustrate contradictions of public statements of goodwill.

Given these conditions, authors of indigenous resurgence call for solutions that better reflect the unique legal status of indigenous peoples and the inherent, group-differentiated rights and responsibilities that flow from that status (Alfred, 2009; Borrows, 2010; Simpon, 2011). This work might be operationalized in policy through an "enabling environment": a concept that links laws and policies to the ideas, values and practices of participatory development.

Such an approach draws from work in the late 1990s and early 2000s, when theorists like Amartya Sen (1999) argued for development policies to better support and account for human agency. Sen encouraged state governments and civil society organizations to avoid conflating the means of development with its ends. In this framework, enabling environments aim to create the conditions might that support endogenous development.

Critics warned of the negative impacts of an unreflexive approach to human development. They questioned the ability of existing institutions, practices, policies, and discourses to adequately incorporate the voices of marginalized individuals and populations. Models of participatory development can foreground rhetoric at the expense of material transformation, and so become a form of co-optation rather than transformation.

Given the presence of structural inequalities, human development must ensure that marginalized individuals and populations gain voice and influence in this work. As Sen (1999) writes: "capabilities [of persons] can be enhanced by public policy, but also, on the other side, the direction of public policy can be influenced by the effective use of participatory capabilities by the public" (p.35). In the next section, I discuss how recent scholarship on indigenous self-determination might enrich the formation of state enabling environments.

Indigenous self-determination in the network society
In the new millennium, a consensus among UN member states on models of "internal decolonizatio" formally recognized indigenous land claims, self-government rights, laws, and customs. This *de jure* recognition of indigenous self-determination is expressed in the UNDRIP, a document articulated only after years of consultation with indigenous groups. These parties stressed the need to operationalize self-determination to fit their diverse lived experiences, and to this end outlined four broad categories of participatory rights (see Stavenhagen, 2011: 273-4):

1) The right to participate fully in the political, economic, social and cultural life of the State.
2) The right to maintain and develop distinct political, legal, economic, social and cultural systems and institutions.
3) The right of indigenous institutions to act as a nexus between indigenous peoples and States, to support participation in public life and control over their own affairs.
4) The right that States give due recognition to indigenous laws and customs.

The UNDRIP reflects a deep recognition of the laws and practices of indigenous peoples. For example, Article 3 describes self-determination as a sacred right to which indigenous peoples have been entitled since time immemorial. This is a form of self-determination that emerges from place-based laws, beliefs, and practices – a different conception than that which emerged in the Western context following World War Two and the founding of the United Nations. That prior discourse foregrounded the self-determination of states and framed issues of political sovereignty in the context of the Westphalian international system.[3]

But some indigenous peoples argue that state activities in this area are used to justify and perpetuate colonial rule. Consider the sources of legitimacy of claims to self-determination (the burden of proof of the legal existence of a distinct "people" as the sovereign "self" that will exercise the "determination"). At present, there are no universally agreed-upon criteria that distinguish indigenous peoples from stateless nations. Even when this question is settled, challenges arise regarding the implementation of the right to self-determination inside a state's borders.

For example, some scholars expressed concerns over the balance of the right as applied to individuals vis-à-vis "peoples" or collectives. For indigenous peoples,

recognition of a collective right helps preserve the communal dimension of their societies, worldviews, and identities. Yet collective rights may in some cases restrict individual rights: the self-determination of a group may undermine the liberty (self-determination) of individual members of that group. Today, these difficult questions remain unresolved, and are beyond the scope of this article.

Here, I consider those controversies that arise when the right of self-determination is implemented through the existing institutional structures of a state. Under international law, indigenous sovereignty must yield to state sovereignty. This means there are state-imposed limits to indigenous self-determination. Historically, these limits are framed with reference to a binary between "internal" and "external" forms of self-determination. External self-determination refers to the right of a people to determine their own international status, for example by seceding and forming an independent state. Given their relatively low populations, broad geographic dispersion, and high diversity, it is highly unlikely that indigenous peoples will form their own sovereign and independent states.

For these reasons, the more common position is that of "internal" self-determination, which refers to the right of a people to choose their own system of government and develop their own policies and institutions inside the framework of an established state apparatus. While some critique this approach because it allows states to set limits on indigenous sovereignty, supporters frame it as a form of negotiated autonomy.

In this context, scholars of indigenous resurgence argue that indigenous peoples focus on strengthening their own, community-based institutions, which arise autonomously from those established by states. They suggest that these indigenous institutions are best equipped to engage with the focus and distribution of political power and economic activities in their communities. This perspective supports institutions, practices, and values linked to the lived realities of members of indigenous communities. It positions diverse indigenous peoples as epistemic communities linked by shared experiences, distinct values, and a common resistance to colonialism – all of which change over time.

When used to advocate reforms to existing relationships with the state, this approach might provide these community-based institutions with increased opportunities to shape the laws and policies that impact the lives of their constituent members: indigenous peoples. Examples of such reforms include the creation of reserved parliamentary seats for indigenous representatives in New Zealand (where the Māori Party was founded in 2004), and subsidies to support indigenous media in Canada, as for Aboriginal radio stations. In the next section, I suggest that this approach can also support the creation of an enabling environment for digital self-determination.

Generating enabling environments for digital self-determination
Processes of technology development both shape and are shaped by broader negotiations over self-determination. Indigenous peoples engage with states over the policies and regulatory frameworks that reflect the diffusion, construction and use of emergent technologies. These activities have normative

outcomes: technologies are not only tools of self-determination, but can also entrench structures of colonialism.

For example, state and corporate entities have used digital networks and technologies to undertake the surveillance, control, and containment of indigenous peoples. However, to accept such negative effects at face value is to fall into the trap of social and technical determinism. It is impossible to define with conviction *a priori* the path or effects of any development. At best, we can attempt to describe its logics, activities, and structures, with the goal of critical analysis and reform.

Framed this way, the design and management of technology development links to the ongoing colonialism/self-determination dialectic. Digital networks and technologies carry a public good – information – that is used to support political participation, expose the abuses of power, and enable interactions between people over distances. Think of online platforms like social media, websites, email and blogs. Without access to such tools, indigenous peoples lack a key means to participate in political decision-making.

But compared to print and broadcast media, digital technologies provide additional affordances with deep implications for indigenous self-determination. That is because of their widespread use in areas like governance, economic development, and the delivery of health and education services. The data and services provided through such technologies are increasingly used to make decisions that impact the balance of powers among indigenous nations and state governments.

At the contemporary moment, digital networks and technologies are quickly achieving closure as the invisible platforms guiding many aspects of our lives. For now, the ways that these new technologies are being shaped and diffused are subject to public deliberation. In this context, the enabling environments supporting and constraining these projects become a key site of struggle and negotiation.

Examples of digital self-determination taking place in indigenous communities demonstrate the kinds of initiatives that such enabling environments can support. However, they also contribute something more: new ways of thinking about how we can identify and re-shape the relations of inequality and potential that threaten to become embedded in our built environments.

Notes
1. Disclosure: The author is involved in these projects. For more information, please see: http://fn-innovation-pn.com and http://firstmile.ca
2. For more information about the Truth and Reconciliation Commission and its mandate, visit: http://www.trc.ca/
3. Westphalian sovereignty is the concept of the sovereignty of nation-states on their territory, with no role for external agents in domestic structures. Scholars of international relations have identified the modern, Western originated, international system of states, multinational corporations, and organizations, as having begun at the Peace of Westphalia in 1648.

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