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INDIGENOUS TERRITORIAL AUTONOMY AND SELF-GOVERNMENT IN THE DIVERSE AMERICAS

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Indigenous Governance Innovation in Canada and Latin America: Emerging Practices and Practical Challenges

Roberta Rice

Indigenous peoples' exclusion under settler states looms large, not only for democratic legitimacy, but also for the performance and effectiveness of democratic institutions and processes (Eversole, 2010; Papillon, 2008). Democracies in the Americas that operate without Indigenous participation are deficient (CEPAL, 2014). The ongoing attempts to link this long-excluded sector of society to the polity in Canada and Latin America raise important questions about the role of political parties and the nature of political representation in intercultural settings. What are the successes, failures and lessons learned from the innovative experiments in decolonization that are currently underway in Canada and Latin America? This question forms the basis of the present chapter. Based on case study examples from Bolivia, Ecuador, Nunavut and Yukon[1], the chapter develops the argument that the capacity for political innovation lies within the realm of civil society, while the possibility for uptake of such innovations is found within the State and its willingness to work with Indigenous communities. Strong and well-organized Indigenous movements which have pursued a strategy of institutional engagement have

taken the lead in decolonizing efforts in these four cases. Individually, the cases highlight different models and approaches to Indigenous autonomy and self-government that have been achieved in Canada and Latin America. Together, they demonstrate that alternatives to the status quo exist for national as well as sub-national governments.

Indigenous movements in the cases under consideration in this study see institutional change as key to self-determination. In northern Canada and the central Andes, liberal-inspired democratic orders co-exist and compete with traditional and adapted Indigenous governance structures. In between the extremes of Western and Indigenous forms of governing, however, there exists ample space for political experimentation to link formal with non-formal types of institutions to improve overall democratic governability (Retolaza Eguren, 2008; Postero & Tockman, 2020). To be effective, the process should not formalize all institutions (which would only tilt the political arena to the further advantage of the politically powerful), but instead promote the productive interplay between both types of institutions. To do so would be to construct a democratic system with the ability to produce the results that civil society demands and to consolidate political institutions which guarantee the fundamental rights of Indigenous peoples.

The study employs a "most different systems" comparative research design which involves the study of similarities across structurally different cases. The inclusion of four relatively successful cases of Indigenous autonomy in practice, two from the Global North and two from the Global South, serves to bring together highly distinct cases and bodies of literature into the same theoretical and conceptual space. The approach of the study is institutionalist in nature, emphasizing how institutional arrangements shape political outcomes through the way in which they structure the rules of the game (Rothstein, 1996). The study aims to demonstrate how institutions, in theory and practice, are designed or constructed to achieve a measure of autonomy for Indigenous communities in Bolivia, Ecuador, Yukon and Nunavut. In all of these cases, Indigenous leaders and politicians are seeking ways of doing democracy differently.

The chapter opens with an overview of the concept of decolonization as it applies to the institutional experiments that are taking place in Canada and Latin America. The process of democratic decolonization is suggested to be facilitated by an emphasis on governance, as opposed to government, the meaningful incorporation of non-formal institutions into the polity and

the role of citizenship as agency in pushing the boundaries of representative democracy. Special attention is paid in the chapter to how Indigenous institutional participation promotes the growth of new forms of society-centered governance, including in the natural resource sector. The chapter also addresses how formal, informal and non-formal institutions are implicated in current efforts to re-design governing institutions in more culturally grounded and relevant ways. Finally, the chapter examines the relationship between civil society engagement and inclusive democratic governance. The chapter then explores how these dynamics play out on the ground through the use of case study examples. Indigenous movements have played a decisive role in determining the extent and nature of democratic inclusion in Bolivia, Ecuador, Nunavut and Yukon. The case study examples are presented not with the intention of using them as yardsticks with which to measure one against the other, but rather in the spirit of advancing the project of decolonization in all of them and in providing instructive lessons for Indigenous movements elsewhere which are struggling against colonial-minded governments.

Decolonizing Democracy

The governments of Bolivia, Ecuador, Nunavut and Yukon have embarked on ambitious projects of decolonization, albeit to varying degrees. Although Nunavut and Yukon are sub-national governments within Canada (as opposed to nation-states), they are struggling with many of the same issues faced by the governments of Bolivia and Ecuador, especially in terms of how to incorporate relatively large and unassimilated Indigenous populations into their respective political systems. Despite dramatic differences in economic development, geography and political history, powerful and well-organized Indigenous movements have emerged to press for change in Bolivia, Canada and Ecuador (see Table 1). In this study, decolonization refers to the revalorization, recognition and re-establishment of Indigenous cultures, traditions and values within the institutions, rules and arrangements that govern society (Vice Ministerio de Descolonización, 2013). According to Bolivia's Vice Minister of Decolonization, Félix Cárdenas, the Bolivian State has not only historically excluded Indigenous peoples; it was founded in opposition to or against them.[2] The same can, and should, be said of all settler States. The project of decolonization entails re-imagining the nation-state as Indigenous. This means not only infusing the State with Indigenous principles, but making

an attempt to create a national Indigenous culture with new political subjects and forms of citizenship (Canessa, 2012; García Linera, 2014). Previous attempts at linking Indigenous peoples to the State, whether it was State-sponsored corporatism or multiculturalism, sought to reshape society along the lines desired by governing elites (Hale, 2002). Such approaches tended to target Indigenous peoples as the problem in need of change. Decolonization, in contrast, allows for the meaningful incorporation of Indigenous peoples into democratic nation-states by focusing on transforming the State to better serve and reflect the needs and interests of society.

Decolonization places new demands on democracy. Liberal or representative democracy — with its reliance on elections and parties as the only available channels of communication between representatives and citizens — does not require citizen deliberation on policy matters or collective action. According to Cameron (2014, p. 5), "[w]ithout a voice in deliberations over the decisions that may affect them directly, many citizens become disengaged. This malaise may be especially acute in Indigenous communities with strong traditions of collective decision-making." Institutional innovation is crucial to making democracy work for all sectors of society. Democratic innovations are institutional arrangements that open up the policy-making process to citizen participation, deliberation and decision-making (Smith, 2009; Talpin, 2015). Comprehensive land claims with self-government agreements in the North and the introduction of elements of communitarian democracy and Indigenous governing principles in the constitutions of the South are key democratic innovations that have provided important measures of self-determination for Indigenous peoples. Self-determination challenges an institutional context that shapes and constrains Indigenous participation (Eversole, 2010). As Montúfar (2006) points out, agents of representative democracy are reluctant to innovate, given their commitment to the principle of political responsibility and the performance-based evaluation criteria that guide their actions. Unlike political parties, civil society organizations have greater liberty to propose and act on new initiatives as their legitimacy is derived from internal consensus rather than external approval. Decolonizing democracy thus requires that civil society actors drive change and that institutions are grounded in, or at least made compatible with, the traditions and values of the peoples they serve (Eversole, 2010).

Based on the comparative case study examples presented in this chapter, the critical components of a decolonized democratic system are suggested to

Table 21.1. Selected Social and Economic Indicators (most recent year available)

Item	Bolivia	Ecuador	Nunavut	Yukon
Total Population Size	11,153,785	16,773,473	38,243	33,897
Total Land Area (km2)	1,098,581	283,560	2,093,190	482,443
Indigenous Population (%)	62	25	84	23
Per capita GDP (USD)	3,105	5,969	46,981	56,931
Infant Mortality Rate (/1000)	35.3	16.4	21.4	5.0
Human Development Index	0.674	0.739	0.821	0.889

Sources: Nunavut Bureau of Statistics (https://bit.ly/3kJddem); Statistics Canada (https://bit.ly/368XqBt); United Nations Development Programme (https://bit.ly/363UDti); World Atlas (https://bit.ly/2HreUPb); World Bank (https://bit.ly/2G6NSw0).

include: 1) an actively engaged civil society that pressures for institutional change; 2) non-formal institutions as the site of political innovation; and 3) the dispersal of governing authority beyond the traditional centers of power. Decolonizing democracy means that representation and participation may occur beyond, and at times, outside the traditional channels of representation. Nevertheless, while the shift to a decolonized democratic system may change the character of representative democracy, it need not be seen as undermining it (Cameron, Hershberg & Sharpe, 2012; Exeni Rodríguez, 2012). New mechanisms for Indigenous inclusion have the potential to strengthen representative democracy by enhancing or stretching liberal democratic conceptions and expectations (Anria, 2016).

Governance and the State

Decolonization is closely intertwined with the concept of governance. Governance can be understood as "…the structures and processes that enable governmental and non-governmental actors to coordinate their interdependent needs and interests through the making and implementation of policies in the absence of a unifying political authority" (Krahmann, 2003, p. 331). In other words, whereas government centralizes power in the State, governance disperses political authority amongst governmental and non-governmental actors, as well as Indigenous communities, in potentially democratizing ways (Swyngedouw, 2005). It is the process through which governments,

civil society organizations and private sector associations interact and make decisions on matters of public concern (Graham, Amos & Plumptre, 2003; Levi-Faur, 2012). To promote the growth of society-centered governance, governments must be willing to work in partnership with civil society at each stage of the policy design and implementation process. The practice of public dialogue and deliberation is both a means and an opportunity to bridge the gap that exists between formal democratic institutions and excluded Indigenous communities and their public authorities (Retolaza Eguren, 2008). New institutional arrangements to promote Indigenous participation and representation in northern Canada and the central Andes are challenging conventional State-centric forms of policy-making and generating new forms of society-centered governance, such as natural resource co-management boards and Indigenous-centered public policies (Clarke, 2017).

Indigenous autonomy is the articulating claim of Indigenous movements in Canada, Latin America and around the world. The demand for autonomy centers on the call for self-determination and self-government within Indigenous territories. However, autonomy is more than just another demand; it is "the demand that allows for the realization of all other demands" (Díaz Polanco, 1998, 218). Securing political and economic rights is the key to advancing Indigenous autonomy. New institutions of participatory governance must include sectors of the economy that impact Indigenous peoples' lands and livelihoods. The economies of Bolivia, Ecuador, Nunavut and Yukon are heavily dependent on subsurface mineral, oil and gas resources. Given the strong overlap between the location of Indigenous communities and the presence of mineral, oil and gas deposits, natural resource extraction projects in or near Indigenous territories pose a serious threat to the practice of Indigenous autonomy (Anaya, 2011). Society-centered governance in the natural resource sector serves to promote sustainable and inclusive development.

The right to free, prior and informed consent (FPIC), which is established in international conventions, notably the 1989 International Labour Organization's (ILO) Convention 169 on Indigenous and Tribal Peoples, and in non-binding or soft law, such as the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), is an important institutional innovation in resource governance (Kirsh, 2014; O'Faircheallaigh, 2012). It is a global standard against which governments can be measured in their interactions with Indigenous peoples. FPIC is free in that consent is given without coercion, intimidation or manipulation. It is prior in that consent is sought

before every significant stage of project development. It is informed in that all parties share information, have access to that information in a form that is readily understood and have enough information to make informed choices. And it is consent, meaning that it comes with the option of supporting or rejecting developments that significantly impact Indigenous lands or cultures (Bustamente & Martin, 2014). There is a broad family of FPIC and FPIC-like governance regimes. According to Szablowski's (2010) framework of analysis, a consultation regime is marked by the two-way exchange of information between a project proponent and Indigenous community members. Despite the presence of dialogue, the option of supporting or rejecting the proposed development is negated under a consultation regime. In other words, consent is sought but not required. A consent regime is characterized by the possibility of offering or withholding consent. A genuine FPIC process involves the sharing or transfer of authority between proponents and Indigenous communities in nation-to-nation type negotiations.[3] Based on the above descriptors, Nunavut and Yukon may be classified as classic consent regimes, whereas Bolivia and Ecuador are hybrid regimes that fall between a consultation and a consent regime, combining important features of both.

Formal and Non-Formal Institutions

In Canada and Latin America, formal institutions of representative democracy (e.g., political parties, elections, legislatures, courts) co-exist and compete with vibrant yet marginalized traditional and adapted Indigenous governance structures and institutions (e.g., customary law and communal justice; leaders and authorities; land use and tenure practices). According to Retolaza Eguren (2008, p. 313): "at one extreme, we have Western-minded formal institutions with strong public funding as well as funding from international donors and lenders; at the other extreme, self-sustained or underfunded non-formal institutions which sternly condition indigenous and peasant social and political life and hence its interaction with the wider context." In much of Latin America, the uneven reach of the State and formal democracy has excluded Indigenous and rural peoples while providing them with a de facto form of autonomy (Lucero, 2012). A similar dynamic is witnessed in northern Canada, where Indigenous groups are remote from the seat of power and have experienced a much less intensive and protracted process of citizenship than their southern counterparts due to the logistical and

technical challenges involved (Henderson, 2008; Milen, 1991). The governance gap that exists between these historically excluded Indigenous communities and formal public authorities and institutions has produced democratically dysfunctional States.

Institutions are the underlying "rules of the game" that organize social, political and economic relations within a polity (North, 1990). Indigenous governance institutions are distinct from formal and informal institutions. *Formal institutions* are the written rules and regulations, such as constitutions, laws and policies, which are enforced by officially recognized authorities. Much of the literature on democracy and development focuses on how formal institutions shape political actions and outcomes (Mainwaring & Scully, 1995; March & Olsen, 1989; Rothstein, 1996). This body of literature fails to note the important influence that informal and non-formal institutions have on actor expectations and behaviors in practice. *Informal institutions* are socially shared rules and regulations, usually unwritten, which are created, communicated and enforced outside officially sanctioned channels (Levitsky, 2012; O'Donnell, 1996). *Non-formal institutions* are neither informal institutions nor institutions formally recognized by the State. They include customary laws and practices and traditional authority and governance structures (Eversole, 2010; Retolaza Eguren, 2008). Whereas the emerging literature on informal institutions is divided over whether or not informal practices, such as clientelism and patrimonialism, compete with or complement the performance of formal institutions, the role of non-formal institutions in making formal democratic institutions work has yet to be addressed (Levitsky, 2012).

Institutions imposed by Westerners on Indigenous communities have not historically served the interests of Indigenous peoples (Eversole, 2010). The cultural foundation of Indigenous governance institutions, however, is also not without controversy. Recent scholarship on multiculturalism and Indigenous rights has focused on the perceived tension between collective and individual rights. On the one hand, the recognition of the collective Indigenous right to autonomy is suggested to serve as an important corrective to the assimilationist and integrationist policies and practices of the past. On the other hand, it is argued that local autonomous spaces may come at the expense of community members' constitutionally protected individual rights, especially women's rights (Danielson & Eisenstadt, 2009). According to Lucero (2013, p. 33), "[w]hile one should avoid any romantic notions about

Indigenous spaces, it is also important to avoid the opposite mistake of seeing them as the static containers of 'tradition' and take a closer look to see how Indigenous men and women continue to transform what it means to be 'Indigenous,' 'men' and 'women.'" Broadly speaking, Indigenous peoples cannot enjoy their individual rights without first enjoying their collective rights (Regino Montes & Torres Cisneros, 2009). Coates and Morrison (2008) have suggested that even though self-government that is rooted in traditional philosophies and practices may not be democratic in the liberal sense, it seems to serve the needs of the communities well by helping to educate Indigenous youth in the traditional ways, broadening community debates and providing for greater potential inclusion in governance processes. Official acknowledgement of the important role played by non-formal institutions within Indigenous communities is essential to promoting Indigenous peoples' engagement with the broader, formal political environment.

Citizenship and Agency

Indigenous governance innovation demands an active citizenry. Political will and inclusive democratic institutions, while necessary, are not sufficient to decolonize democracy. Citizens must take on the role of protagonists by demanding and defending their rights, seeking greater social control of their governments, working with the institutions of democracy and leading political innovation (Beatriz Ruiz, 2007; Montúfar, 2007). In the words of Guillermo O'Donnell (2010, p. 197), "[t]his construction entails, and legally demands, the effectuation of a system of respectful mutual recognition as such citizens/agents in our legitimate diversity." Citizenship and agency are at the core of democracy. Given that citizens bring with them dense networks of social relations, collective affiliations, cultures and identities, there cannot be a single, superior model of democracy but many variations and pathways to further democratization (O'Donnell, 2010). Democratic innovations, such as self-government, popular assemblies or participatory budget councils, open an important space so that citizen initiatives can influence formal institutions and processes, which in turn, allows for the development of a more active citizenry (Lupien, 2016; Oxhorn, 2016). Mechanisms of Indigenous collaboration with formal authorities on key policy matters do not imply the erosion of representation or the substitution of the roles and responsibilities of political parties, but rather the development of a synergistic relationship between Indigenous communities and the State.

Struggles over citizenship have profound consequences for State-society relations. Oxhorn (2011) has identified three broad models of citizenship: citizenship as co-optation; citizenship as consumption; and citizenship as agency. *Citizenship as co-optation* refers to the historical tendency of Latin American elites to grant citizenship rights selectively so as to control and contain popular sector demands for socioeconomic equality and political inclusion. For Indigenous peoples, this meant national incorporation as peasants in the 1960s and 1970s as a means to access land, credit and services from the State (Yashar, 2005). The shift to neoliberal economic policies in the 1980s and 1990s resulted in the weakening of State corporatist institutions and the move to more atomized or individuated State-society relations. *Citizenship as consumption* understands citizens as consumers who spend their votes and resources to access minimal rights of democratic citizenship in a market-oriented environment (Oxhorn, 2011, p. 32). Both citizenship as co-optation and citizenship as consumption heavily circumscribe the role of civil society in democratic governance. In contrast, *citizenship as agency* involves the active participation of civil society actors in public policy deliberation, design and implementation. Active citizenship entails a process of democratic learning, for civil society actors as well as for political authorities, that has the potential to generate new understandings of social reality and ways of doing democracy (Montúfar, 2007). According to Oxhorn (2011, p. 30), "… citizenship as agency ideally reflects the active role that multiple actors, particularly those representing disadvantaged groups, must play in the social construction of citizenship so that democratic governance can realize its full potential." Only citizenship as agency has the capacity to bring about inclusive democratic governance.

Collective action has been the principal historical motor for the expansion and universalization of civil, political and economic rights. In Latin America, Indigenous movements have organized nation-wide strikes and protests, blocked unpopular economic reforms, toppled corrupt leaders and in some instances formed political parties and even captured presidencies (Albó, 2002; Bengoa, 2000; Lucero, 2008; Van Cott, 2005; Yashar, 2005). In Canada, Indigenous peoples have participated in constitutional reforms, negotiated land claims, won policy concessions and secured a measure of self-determination (Abele & Prince, 2003; Cairns, 2000; Cameron & White, 1995; Henderson, 2007; Ladner & Orsini, 2003). Scholtz (2006) has suggested that a combination of activism alongside landmark court rulings shifted Canada's

policy terrain toward negotiation on issues of territorial control and self-government. A central dilemma faced by Indigenous movements in Canada and Latin America is whether to retain an oppositional stance to their respective political systems or to try to bring about change by way of the democratic mechanisms already in place. An institutional participatory strategy is conventionally assumed to risk the loss of movement legitimacy and autonomy as Indigenous groups submit themselves to the rules and regulations of the largely alien political system that had long served as an instrument of their domination and oppression (Ladner, 2003; Massal & Bonilla, 2000). As the cases under consideration in this study indicate, autonomy and participation do not have to be mutually exclusive. Civil society can play a critical role in facilitating democratic governance innovation by working with the State on policy matters, setting new public agendas and advocating for institutional change in the corridors of power (Oxhorn, 2011).

The Practice of Indigenous Autonomy

Bolivia and Nunavut are the first large-scale tests of Indigenous governance in the Americas. In both cases, Indigenous peoples are marginalized majorities who have assumed power by way of democratic mechanisms. In Bolivia, the inclusion of direct, participatory and communitarian elements into the democratic system under the administration of Evo Morales (2006-2019), the country's first Indigenous President, dramatically improved representation for Indigenous peoples (Anria, 2016; Madrid, 2012; Rice 2012). In Nunavut, Indigenous peoples have also opted to pursue self-determination through a public government system rather than through an Inuit-specific self-governing arrangement. In a broadly similar dynamic to Bolivia, the Nunavut government seeks to incorporate Indigenous values, perspectives and experiences into a liberal democratic order (Henderson, 2009; Timpson, 2006; White, 2006). The conditions for success are far from ideal in either case. Significant social, economic and institutional problems continue to plague the new governments of Bolivia and Nunavut. Nevertheless, important democratic gains have been made.

In Ecuador and the Yukon, Indigenous peoples constitute approximately one-quarter of the total population (see Table 1 above). Despite similar proportional Indigenous population sizes, the geographic and socioeconomic differences between the two polities are stunning. The Yukon may be

Canada's smallest territory, yet its total land area (482,443 km²) nearly doubles that of Ecuador's (283,560 km²). Ecuador's gross domestic product per capita (USD 5,969) is only a fraction of that of the average Yukoner (USD 56,931). Nevertheless, both polities are struggling with the question of how to reconcile Indigenous rights with extractive industry operations while trying to rebuild Indigenous-State relations on a more just footing (Rice, 2019). In the Yukon, the settlement of a comprehensive land claim with sub-surface mineral rights has provided the institutional basis for the implementation of nation-to-nation type partnerships in the management of land and resources. In Ecuador, sustained social pressure on the government has prompted efforts to incorporate Indigenous peoples' priorities into national political agendas.

Bolivia

The 2005 presidential win by Evo Morales and his Movement Toward Socialism (MAS) party marked a fundamental shift in Indigenous-State relations in Bolivia and in the composition and political orientation of the State. President Morales made Indigenous rights the cornerstone of his administration in his bid to promote a more inclusive polity. The 2009 Constitution is central to the advancement of this agenda. According to the constitution's preamble, Bolivia has left behind the colonial, republican and neoliberal State of the past.[4] In its place is a Plurinational State that rests on Indigenous autonomy. The new constitution goes further than any previous legislation in the country, and perhaps the world, in securing representation and participation for the nation's Indigenous peoples including, for example, the recognition of all 36 Indigenous languages of Bolivia as official languages of the State (art. 5) and the guaranteed right to proportional representation of Indigenous peoples in the national legislature (art. 147). It also redefined Bolivian democracy as "intercultural." Intercultural democracy is a hybrid form of democracy that is at once direct and participatory, representative and communitarian (Exeni Rodríguez, 2012). Communitarian democracy is based on Indigenous customs, traditions and decision-making processes. It is exercised within Indigenous communities through the election or selection of governing authorities. The constitutional recognition of communitarian democracy institutionalized Indigenous forms of governance as part of the State (Zegada et al., 2011). These, and other such democratic innovations, have made Bolivia's democracy more inclusionary, though decidedly less liberal (Anria, 2016).

The Morales administration committed itself to deepening the decentralization process that began in the mid-1990s. The 1994 Law of Popular Participation (LPP) created more than 300 municipal governments with widespread administrative powers, direct citizen oversight and dedicated resources as a means to bring government closer to increasingly mobilized rural and Indigenous communities (Arce & Rice, 2009; Postero, 2007). The reforms opened the door to the electoral participation of a new generation of Indigenous leaders, including Morales. Once the MAS captured national-level power, it instituted additional reforms to grant a substantial degree of autonomy to departmental, regional, municipal and Indigenous governments (Centellas, 2010; Faguet, 2013). The 2010 Framework Law of Autonomy and Decentralization regulates the new territorial organization of the State as defined in the 2009 Constitution. In addition to the recognition of the three hierarchical levels of government in Bolivia (e.g., departmental, regional and municipal), the new constitution also identified Indigenous First Peoples Peasant Autonomies (*autonomía indígena originario campesina* or AIOC) as a separate and distinct order of government, one that is not directly subordinate to the other levels (CIPCA, 2009). Under current provisions, existing Indigenous territories as well as municipalities and regions with a substantial Indigenous presence may convert themselves into self-governing entities based on cultural norms, customs, institutions and authorities in keeping with the rights and guarantees in the new constitution (Faguet, 2013, p. 6).[5] Bolivia's experiment with Indigenous autonomies aims to improve citizen engagement and government responsiveness, and ultimately to make democracy more meaningful for Indigenous citizens.

The governance innovations of the MAS have brought about important changes to the structure of the State and the practice of democracy in Bolivia. Yet, tensions and contradictions within the new constitution itself have limited the construction of the Plurinational State in practice. According to constitutional scholar Roberto Gargarella (2013), a highly centralized organization of power tends to work against the application of Indigenous rights. Bolivia's new constitution concentrates State power while expanding Indigenous rights. Stated differently, it pits governance against government. For instance, the Morales government's commitment to Indigenous autonomy was at odds with its resource-dependent, State-led model of development. The constitutional provision that all non-renewable resources remain under State control places firm limits on the right to self-government and self-determination

(Tockman & Cameron, 2014). Bolivia's Constitution (article 30.15) establishes the right of Indigenous peoples to free, prior and informed consultation, not consent, concerning planned measures affecting them, such as mining and oil or gas exploration. The constitution does stipulate that the prior consultation process by the State must be conducted in good faith and in a concerted fashion, and that it should respect local Indigenous norms and procedures. Nevertheless, Indigenous groups cannot veto State-sponsored development and resource extraction projects in their territories (Schilling-Vacaflor & Kuppe, 2012; Wolff, 2012). Veto power is a characteristic of the classic consent regime. As it stands, the new constitution does not fully change power relations between the State and Indigenous peoples.

Nunavut

The 1993 Nunavut Land Claims Agreement (NLCA), the largest in Canadian history, between the Inuit Tungavik Federation of Nunavut, the federal government of Canada and the territorial government of the Northwest Territories, brought about substantive change in the governance of the eastern Arctic. In addition to a whole host of land and resource rights, the NLCA resulted in the creation of a new territory called Nunavut ("our land" in Inuktitut) in 1999. The Inuit of Canada's Eastern Arctic had long dreamed of their own homeland and felt increasingly alienated from the culturally and geographically distant Government of the Northwest Territories (Henderson, 2009; Hicks & White, 2015). The comprehensive land claims agreement and accompanying political accord marked the accomplishment of this dream by establishing a political regime in which the Inuit could control their own affairs. The NLCA provided the Inuit with title to more than 350,000 km² of land (equivalent to 18% of Nunavut), sub-surface mineral rights to approximately 36,000 km² of that land and over $1 billion CAD in federal compensation money (Henderson, 2009). Inuit beneficiaries of the claim are also entitled to a share of the royalties from oil and gas extraction on public lands, additional hunting and fishing rights, and the guaranteed right to participate in decisions over land and resource management. Given the disproportionate size and relative homogeneity of their population, the Inuit decided on a public government system (one that serves Indigenous and non-Indigenous peoples) instead of a more direct form of Inuit self-government (White, 2006).

The Inuit-led Nunavut Implementation Commission (NIC) was tasked with the design and structure of the new government. The Government of

Nunavut is modeled largely after the Euro-Canadian parliamentary form of government with a few key innovations. For instance, the Nunavut Legislative Assembly operates by consensus decision-making. There are no political parties in the territory. Instead, candidates run in elections as independents. Most members of the assembly are Inuit and much of the debate is carried out in Inuktitut. Members tend to wear traditional clothing and are seated in a circle, rather than in opposing rows of benches as they are in the rest of Canada (White, 2006). From the outset, the implementation commission sought to emphasize the distinctiveness of Nunavut. Early goals included incorporating Inuit values and perspectives into the political system, achieving 85% Inuit employment in the new bureaucracy and having Inuktitut as the working language of the government by the year 2020 (NIC, 1995; Timpson, 2009). Nunavut's co-management boards dealing with land, wildlife and environmental issues represent the most significant governance innovation to date. The boards ensure Indigenous participation in policy decisions that are central to their culture and livelihoods while maintaining federal government control over the use and management of public lands (Nadasdy, 2005; Stevenson, 2006; White, 2008). Nunavut's institutional experiment highlights the centrality of both economic and political rights for advancing Indigenous agendas.

The guiding principle of the Government of Nunavut is Inuit *Qaujimajatuqangit* (or "that which is long known by the Inuit"). "IQ" (as it is commonly referred to in the shorthand) is the key mechanism for incorporating Inuit cultural values into a Canadian system of government. The implementation commission recommended the creation of departments that would translate IQ into public policy. Two departments of particular note were the Department of Sustainable Development (DSD) and the Department of Culture, Language, Elders and Youth (CLEY). Although both departments were central to the creation of Inuit-sensitive institutions of governance, they have since been dismantled. In 2004, the Department of Sustainable Development was split to form the Department of the Environment and the Department of Economic Development and Transportation (Timpson, 2009, p. 202). In 2012, the Department of Culture, Language, Elders and Youth was restructured into the more conventional Department of Culture and Heritage (Hicks & White, 2015, p. 245). According to Nunavut's Director of IQ, Shuvinai Mike, the restructuring process essentially left her office solely responsible for "Inuitizing" government policy and programs.[6] As White

(2001, p. 93) cautions, "how governments do things can be as important as what they do." In many ways, IQ can be seen as a benchmark against which to judge the success and failure of the new territory in doing government differently.

Ecuador

Ecuador's 2008 Constitution was the first in the region to institutionalize Andean Indigenous governing principles as part of the State. Under the direction of the Confederation of Indigenous Nationalities of Ecuador (CONAIE), Ecuador's Indigenous movement was once widely regarded as Latin America's strongest social movement (Van Cott, 2005; Yashar, 2005). Indigenous mobilization around the enactment of the new constitution resulted in one of the most progressive constitutional texts in the world, both in terms of recognizing the collective rights of Indigenous peoples and in attributing rights to Nature (Caria & Domínguez, 2016; Gudynas, 2011; Lalander, 2014).[7] The new constitution officially proclaimed Ecuador to be a plurinational State, the historic objective of the nation's Indigenous peoples. It also made an explicit commitment to the Indigenous principle of "living well" (*buen vivir* in Spanish and *sumak kawsay* in Quichua) as an alternative model of development around which the State and its policies are now organized (Bretón, Cortez & García, 2014; Ugalde, 2014). The living well principle is derived from the Andean Indigenous values of harmony, consensus and respect, the redistribution of wealth and the elimination of discrimination, all within a framework that values diversity, community and the environment (Fischer & Fasol, 2013). According to Delfín Tenesaca, former president of Ecuador's main highland Indigenous confederation ECUARUNARI: "In the past, the Church would tell us that we would have sumak kawsay in the next life. Then we asked ourselves, why is it that everyone but us has the good life now? We want the good life too."[8] While the principle of *sumak kawsay* presents an opportunity to bring about an alternative to development, it is being used by the Ecuadorian government to justify resource extractivism in the name of progressive social welfare programs (Lalander, 2014; Peña & Echeverría, 2012). Indigenous movements appear to be losing patience with official rhetoric and are increasingly mobilizing against government-sponsored development initiatives.

Indigenous activism in the streets and in the electoral arena paved the way for an alternative political project in Ecuador, though under the leadership of left-leaning president Rafael Correa (2007-2017). The Correa administration introduced several important policy measures to address Indigenous demands in the country, albeit without meaningfully including Indigenous peoples in the policy deliberations. Correa's "citizen's revolution" managed to institutionalize the Indigenous movement's political vision while marginalizing the movement itself (Becker, 2013; Rice, 2012). The 2008 constitutional recognition of plurinationality marked a watershed moment in Indigenous-State relations in Latin America. Nevertheless, Ecuador's model of plurinational constitutionalism is quite limited in comparison to Bolivia's. For instance, Spanish remains Ecuador's official language (art. 2), with Indigenous languages recognized only in the realm of intercultural relations (Schilling-Vacaflor & Kuppe 2012, p. 360). In addition, while both countries recognize Indigenous or customary law, Bolivia's new constitution places ordinary and customary legal systems on an equal footing (art. 179), whereas the Ecuadorian constitution does not (Wolff, 2012, p. 192). Martínez Novo (2013) has suggested that the Ecuadorian government's emphasis on interculturality is at odds with its commitment to plurinationality. Whereas plurinationality acknowledges distinct legal and political orders within the State, interculturality privileges the individual rights of disadvantaged groups to inclusion and equity in diversity. Under the presidency of Lenín Moreno (2017-2021), the Indigenous movement has re-assumed social leadership in defense of their constitutionally acquired rights and in holding the national government to account. This was the case in October 2019, when massive austerity protests ceased only after Indigenous groups and President Moreno reached an agreement to reverse austerity measures and to collaborate on combating overspending and growing public debt (*Los Angeles Times*, 2019).

Yukon

The Yukon is a global leader in modern-day self-government. More than half of Canada's formally recognized self-governing First Nations are found in the Yukon. In 1990, the Government of Canada, the Yukon Government and what is now the Council of Yukon First Nations (CYFN) signed an Umbrella Final Agreement to establish an innovative model for Indigenous self-government in the territory (Alcantara, 2007; Cameron & White, 1995). Since then,

11 of the Yukon's 14 First Nations have successfully negotiated comprehensive land claims and self-government agreements that provide them with an impressive array of formal powers, the scope of which are unprecedented in the Americas. The agreements transformed the former *Indian Act* bands into self-governing First Nations. In terms of territorial rights, self-governing First Nations in the Yukon enjoy surface as well as sub-surface rights to much of their settlement lands, including mineral, oil and gas rights (CYFN & YTG, 1997, p. 11). Self-governing First Nations also have the jurisdictional authority to pass their own constitutions and laws, including the right to determine citizenship, and to assume full legislative and delivery responsibilities for their own programs and services if and when they so desire. In matters of general application, First Nation law takes precedence over Yukon law (Cameron & White, 1995). In short, the governing power of Yukon First Nations is very much comparable to that of provincial and territorial governments in Canada. They are a new order of government. The comprehensive land claims and self-government agreements are constitutionally protected documents, meaning that they cannot be changed without the consent of the parties involved. According to Ruth Massie, former Grand Chief of the CYFN, "Yukon First Nations eat, sleep and breathe these documents."[9]

Yukon First Nations achieved such substantial self-governing powers by adopting an institutional participatory strategy. In 1973, Chief Elijah Smith of Kwanlin Dün First Nation called for increased First Nation control over their territories and affairs with the publication of the visionary document, *Together Today for our Children Tomorrow: A Statement of Grievances and an Approach to Settlement.* Chief Smith was the founding president of the Yukon Native Brotherhood (YNB), an organization that represented status Indians (CYFN, 2010; Johnston, 2011; Joseph-Rear, 2011). A delegation of Yukon Chiefs traveled to Ottawa to present the document to Prime Minister Pierre Elliott Trudeau and his Minister of Indian Affairs. In a speech to the Prime Minister, Chief Smith stated,

> This is the first time the leaders of the Yukon Indian people have come to the capital of Canada. We are here to talk about the future. The only way we feel we can have a future is to settle our land claim. This be a future, that will return to us, our lost pride, self-respect and economic independence. We are not here for a handout. We are here with a plan. (CYFN, 2005, p. ii)

Together, the Chiefs were able to convince the federal government to negotiate a land claim agreement with the Yukon First Nations. In 1975, the Council for Yukon Indians (CYI) became formally incorporated as a non-governmental organization with an official mandate to negotiate and complete a Yukon land claim on behalf of the 14 First Nations with the Government of Canada (Jensen, 2005). The CYI provided the political front and powerful voice that the Yukon First Nations would need to succeed. This sea change in Indigenous-State relations in Canada did not come about from above, but from below through citizenship as agency.

Conclusion

This chapter has analyzed different models and approaches to Indigenous autonomy and self-government in Canada and Latin America with an eye to highlighting best practices and practical challenges. Strong and well-organized Indigenous movements pushing for institutional change were found to be the engine of political innovation in Bolivia, Ecuador, Nunavut and Yukon. Mutual respect and recognition between the State and Indigenous actors appears to be a critical ingredient in strengthening autonomy and self-determination. The chapter's findings suggest that Indigenous governance innovation plays an important role in improving the performance and effectiveness of formal institutions, which, in turn, can contribute to democratic governance and advance Indigenous rights agendas. Decolonizing democracy requires new institutions that provide the space for an active partnership between Indigenous actors and the State in the pursuit of common goals (Oxhorn, 2011). In Bolivia, Ecuador, Nunavut and Yukon, an unparalleled space and political push for democratic innovation has resulted in efforts to incorporate Indigenous or non-formal institutions into formal democratic arrangements. This has broadened the inclusive qualities of their respective democracies. The shallow reach of representative democracy in Indigenous communities in Canada and Latin America has created a fluid democratic landscape that is ripe for experimentation (Roberts, 2016).

The case study examples presented in this chapter also reveal several challenges to the implementation of Indigenous autonomy and self-government in practice. First, while the cases highlight the gains for Indigenous peoples of working within the system to push for positive change, as opposed to relying solely on extra-systemic tactics, they also demonstrate the need for political will by governing elites to address Indigenous rights demands,

a feature that is in short supply throughout much of the Americas. Second, the case study examples reveal the importance of establishing a secure land base, ideally with sub-surface mineral rights, for self-determination and autonomy to be realized in practice. Finally, the cases demonstrate that there are serious tensions between Indigenous political and territorial autonomy and the resource-dependent, extractivist models of development pursued by the governments of Bolivia, Canada and Ecuador. Reconciling natural resource development with Indigenous sovereignty is a critical challenge for the Americas. Repairing and rebuilding Indigenous-State relations on a more just and equal footing requires recognition of and respect for Indigenous peoples' rights to autonomy and self-government. Indigenous governance arrangements of the variety explored here hold great potential to foster inclusive democratic processes in Canada, Latin America and beyond. There is much to celebrate in the four cases, just as there is much work left to do to make their visions of a more just society a reality.

NOTES

1   Research for this chapter was undertaken by the author in Iqaluit (Nunavut), La Paz (Bolivia), Quito (Ecuador) and Whitehorse (Yukon) in 2012, 2013 and 2014 under the auspices of a Social Sciences and Humanities Research Council of Canada (SSHRC) standard research grant.

2   Author interview, La Paz, Bolivia, 22 August 2014.

3   Nation-to-nation relations between Indigenous peoples and the State refers to a bilateral relationship based on mutual respect and consideration.

4   The 2009 Bolivian Constitution is available for download at: https://bit.ly/3j6NXNM

5   Currently, two municipalities (Charagua Iyambae and Uru Chipaya) and one territory (Raqaypampa) have completed the requirements to become AIOCs. For more information, see: https://bit.ly/341rUUx

6   Author interview, Iqaluit, Nunavut, 11 June 2013.

7   The 2008 Ecuadorian Constitution is available for download at: https://bit.ly/344N7NC

8   Author interview, Quito, Ecuador, 29 August 2012.

9   Author interview, Whitehorse, Yukon, 5 June 2012.

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