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A Counterpublic Analysis of Sidewalk Toronto

Sidewalk Toronto was an Alphabet-driven project that aimed to build up a piece of Toronto's waterfront, a small parcel of land known as Quayside (pronounced kee-side), into a testbed for digital experimentation and innovation. Although this public-private partnership (PPP) failed, it serves as a rich case study of power relations at play within tech-infused PPPs. We argue for the need for a counterpublic analysis to critically map and examine the central stakeholders involved in any PPP project and analyze the power dynamics, both formal and informal, at play. A counterpublic analysis spotlights community members and impacted parties who are given minimal opportunity to inform PPPs from the early ideation and design stage. However, these parties disparately bear the harms and risks of tech-driven initiatives. Counterpublic analyses show how communities exert power through public engagement processes.

We contend a counterpublic analysis of PPPs should ask:

- Who (that is, what communities and/or subgroups) is served by, or benefits from, the PPP?
- Are tech-driven PPPs and their processes ameliorating or re-instantiating power asymmetries?

- How do counterpublic interventions impact or increase the negotiating power of the public actor (the government/state)?

- How might a counterpublic analysis suggest interventions to increase and expand public power and agency in future projects?

PPPs are agreements between private and public actors through which private capital finances public infrastructures and initiatives in exchange for a variety of partnership benefits. Since the 1950s, projects as wide-ranging as hospitals, toll roads, bridges, water plants, and universities have been built through PPPs.[1] As the PPP Knowledge Lab explains, "There is no one widely accepted definition of public-private partnerships."[2] The construct of a typical PPP has continued to evolve, and PPP projects are beginning to include "smart" digital infrastructures more frequently. These types of digital infrastructure PPPs have repeatedly demonstrated little to no ability to productively engage in the unresolved matters of digital governance with various publics, particularly in relation to community-based concerns.[3] Despite these challenges, the appeal of smart city PPPs endure across the globe.[4]

Situating Counterpublics In Participatory Processes and Deliberation

Drawing from Gayatri Spivak's work on the subaltern[5] and Rita Felski's concept of counterpublics,[6] Nancy Fraser defines "subaltern counterpublics" as "parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses, which in turn permit them to formulate oppositional interpretations of their identities, interests, and needs."[7] Her concept underscores how dominant discourses typically reinforce the

1 Tony Bovaird, "A Brief Intellectual History of the Public–Private Partnership Movement," *International Handbook on Public–Private Partnerships*, eds. Graeme A. Hodge, Carsten Greve, and Anthony E. Boardman (Edward Elgar Publishing, 2010), https://www.elgaronline.com/edcollchap/edcoll/9781848443563/9781848443563.00010.xml.

2 Public Private Partnership Resource Center, "What are Public Private Partnerships?" World Bank Group, last modified December 9, 2022, https://ppp.worldbank.org/public-private-partnership/overview/what-are-public-private-partnerships.

3 Germaie R. Halegoua, *The Digital City: Media and the Social Production of Place* (New York: NYU Press, 2020); Taylor Shelton, Matthew Zook, and Alan Wiig, "The 'Actually Existing Smart City,'" *Cambridge Journal of Regions, Economy, and Society* 8 (February 2014): 13–25, https://doi.org/10.1093/cjres/rsu026; Chamee Yang, "Historicizing the Smart Cities: Genealogy as a Method of Critique for Smart Urbanism," *Telematics and Informatics* 55 (December 2020): 101438, https://doi.org/10.1016/j.tele.2020.101438.

4 Burcu Baykurt and Christoph Raetzsch, "What Smartness Does in the Smart City: From Visions to Policy," *Convergence* 26, no. 4 (August 2020): 775–89, https://doi.org/10.1177/1354856520913405; Yang, "Historicizing the Smart Cities."

5 Gayatri Chakravorty Spivak, "Can the Subaltern Speak?" *Marxism and the Interpretation of Culture*, eds. Cary Nelson and Lawrence Grossberg (London: Macmillan, 1998).

6 Rita Felski, *Beyond Feminist Aesthetics: Feminist Literature and Social Change* (Cambridge: Harvard University Press, 1989).

7 Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy," *Social Text*, no. 25/26 (1990): 56–80, https://doi.org/10.2307/466240.

status quo; it also pushes for more expansive, egalitarian visions of democracy wherein status markers are removed — that is, neutralized — within deliberation. This requires the inclusion of — and indeed, prioritizing a greater role to — subalterns, or the subordinated groups (e.g., women, workers, people of color, and queer people) minimally consulted within bourgeois, elite-driven models of deliberation.[8]

Building on this definition, we define a counterpublic analysis within tech-driven PPPs to be equally shaped by the needs and experiences of the oft-minimized (yet impacted) parties within the design, scoping, and development of interventions. Counterpublics can consist of individuals, groups, and organizations from marginalized communities, but they are generally united in, first, an experience of minimization within corporate-driven PPP processes; and relatedly, a desired goal of resisting hegemonic structures and processes in favor of more representative, and egalitarian, deliberation. Thus, our reorientation to being attendant to counterpublics within PPPs must start from the recognition of power relations and structures within democratic processes. A counterpublic analysis examines whether there are opportunities within PPPs to mitigate power asymmetries and support growth in public capacity and input. Often, this entails creating opportunities for increased public input and participation, and within it, a process that fosters democratic friction.

Sidewalk Toronto: Context and Background

Sidewalk Toronto was described as an opportunity for local innovation, designed to address pressing urban problems and premised on values of sustainability and inclusion. The project was a direct collaboration between a

8 Fraser, "Rethinking the Public Sphere," 70.

public entity, Waterfront Toronto, representative of all three orders of the Canadian government, and a private company, Sidewalk Labs, an Alphabet subsidiary. Sidewalk Labs was the successful winner of a request for proposals to create and fund a plan to develop a parcel of valuable real estate on Toronto's waterfront, named Quayside.

Beyond their plans for real estate development, the development of tall-timber building construction, modular housing ideas, and autonomous vehicles, Sidewalk Labs' initial proposal also included ideas to transform Quayside into a testbed for technologies by merging the city's physical and digital layers. These included deploying ubiquitous connectivity, installing data sensors to monitor air quality, noise levels, automobile and pedestrian traffic, and weather; combining census data, open data, and Google data to power simulation models and portals; and building high-tech infrastructure, such as autonomous sanitation systems and mail delivery.[9]

Overall, the Sidewalk Toronto PPP aimed to leverage Sidewalk Labs' corporate ties and capital to improve and invest in Toronto's infrastructure. This positioned both Alphabet and the City of Toronto as global leaders in high-tech urban innovation; and expanded Alphabet's foray into real estate development and traditional capital infrastructure financing (e.g., a streetcar line). Amid COVID-19 budgetary concerns, the partnership was terminated by Sidewalk Labs in May 2020.

9 Sidewalk Labs, "Sidewalk Labs Vision," October 17, 2017, https://storage.googleapis.com/sidewalk-labs-com-assets/Sidewalk_Labs_Vision_Sections_of_RFP_Submission_7ad06759b5/Sidewalk_Labs_Vision_Sections_of_RFP_Submission_7ad06759b5.pdf.

Situating Counterpublic Power in Relation to the Public

If we understand the public in public-private partnerships to strictly mean the government as the representative of the public, one could argue that the general public, writ large, has little to no role to play in negotiating PPP contracts. Historically, this has been the case. Even when broader conceptions of publics beyond the government are involved in deliberative processes, Fraser contends that elite-driven models reify the historic and structural subordination of counterpublics: namely, they render members of various (marginalized) social groups as minimally legible within conceptions of publics, thereby warranting this alternative category.[10]

Despite the design of processes that typically seek to exclude and remove their power, counterpublics' self-directed participation in the Toronto process expanded and grew the negotiating power of the public actor (Waterfront Toronto) within the partnership. By contesting the project, various counterpublics created additional room and pressure for Waterfront Toronto to demand improved terms for the deal. The final stages of negotiation, by which Waterfront Toronto made increasingly beneficial public value demands, are one of the inputs that led to the demise of the project by impacting the projected profitability and project scope.

10 Fraser, "Rethinking the Public Sphere."

Which Publics Have a Say in a Public-Private Partnership?

The public participation component of Sidewalk Toronto would more properly be understood as an extractive model designed to inform Sidewalk Labs' product development. In the framing of the public engagement processes, as created by both Waterfront Toronto and Sidewalk Labs, saying no to the project was not an option. Waterfront Toronto and Sidewalk Labs wanted to hear from the types of publics enthusiastic about helping shape the plan, who generally thought the partnership and approach was a good idea. This inherently assumed general consent from the entire city's population regarding the proposed partnership and development plans. *Saying no* to the project wasn't on the table for the public, only helping with the how.

This core framing problem underscores important critiques, previously mentioned, regarding which publics constitute the purview of PPPs, including the flattening of multiple publics into one public and portraying public and private benefits as equally tiered. As the project unfurled from real estate development and land valuation to economic development and intellectual property, from transportation automation to neighborhood technology infrastructures there were some community members or civic institutions who enthusiastically favored the proposals, and some community members and institutions who deeply opposed them.

Issue by issue, the breadth and complexity of the proposed project surfaced critiques from multiple perspectives. The negotiation process of the deal was subject to an unusual amount of public oversight for a PPP because a range of publics and counterpublics refused the corporate capture that attempted to set the terms and boundaries of public engagement. Their refusal forced public leaders in charge of negotiations to ensure that the terms of the deal would stand up to deep public scrutiny. This was a display of public — and counterpublic — power, despite both the public and private actors failing to frame the process in support of this kind of conflict and refusal.

A key appeal in the tech-infused PPP narrative is that the technology sector, as the well-capitalized and creative force, can fill in the gaps for governments, particularly amid times of austerity.[11] This was, and continues to be, a major vulnerability in Toronto, one common in many cities, where residents are frustrated by aging infrastructures, lack of affordable housing, and cost-of-living increases. The selling points used to pitch the project to the general public were less about technology and more about quality of life.[12] In short: "Your government can't do what's needed. Tech companies can."

Alarmingly, in Sidewalk Toronto as well as other smart city projects, digital technologies are named as key tools for how to improve quality of life. Tech-infused PPPs often gesture toward the need for increased data collection and use to improve public spaces and services. Yet as Chris Gilliard and David Golumbia underscore, it is the privileged (i.e., wealthier and white) communities that can more easily opt out of these technologies and avoid consequences, compared to the minoritized (i.e., poor, immigrant, and/or BIPOC) communities more likely to bear their risks and harms.[13] Gilliard and Golumbia call for reassessing who benefits from tech-driven interventions. A counterpublic analysis asserts the importance of counterpublics in reimagining interventions that address pressing, community-relevant problems while also allowing for their continued engagement and input as projects evolve, foregrounding this unequal distribution of negative impacts and privileges.[14]

11 Baykurt and Raetzsch, "What Smartness Does in the Smart City."

12 Bianca Wylie, "Debrief on Sidewalk Toronto Public Meeting #1— Evasive on Data Products, No Answer on Data….," *Medium*, March 28, 2018, https://biancawylie.medium.com/debrief-on-sidewalk-toronto-public-meeting-1-evasive-on-data-products-no-answer-on-data-a9f551535dcd.

13 Chris Gilliard and David Golumbia, "Luxury Surveillance," *Real Life Mag*, July 6, 2021, https://reallifemag.com/luxury-surveillance/.

14 Gilliard and Golumbia, "Luxury Surveillance."

The Interplay of Publics, Counterpublics, and Representative Power

Sidewalk Labs continuously sought to influence and win the support of the City of Toronto's civic elites. They organized events and participation models to court members of various publics that included local neighborhood associations, former elected officials, members of the political class, leaders of nonprofit organizations, the technology start-up community, volunteer organizations, and so forth. They did this mostly in partnership with Waterfront Toronto, and in some cases independently.[15]

Across many sectors of civic life in Toronto, there were people and groups that welcomed the project wholesale, that would only conditionally support it, and others that rejected the idea and wanted to refuse the project entirely. Below is a small sample of the kinds of topical tensions, and related inter-community frictions, that were in effect between some of the representatives of various publics and counterpublics implicated in the Sidewalk Toronto process.

Affordable housing. ACORN, an affordable housing advocacy organization, was relentless in challenging both the public and private partners for designating too few units of affordable housing on public lands during a housing crisis. The concerns that these housing advocates brought into the conversation were minimized in relation to conversations about technology. At the first public organizing meeting held by BlockSidewalk, the full room in attendance (100+ people) agreed on the need to prioritize land use for affordable housing. This public demand was immensely difficult to keep in the conversation during the project's duration. The profile of affordable housing had to fit within the conservative vision regarding the number of units to

15 Josh O'Kane, "Sidewalk Labs Forming Separate Advisory Panel for Toronto Smart-City Project," *The Globe and Mail*, October 9, 2018, https://www.theglobeandmail.com/business/article-sidewalk-labs-forming-separate-advisory-panel-for-toronto-smart-city/.

be made available in the development proposed by both Waterfront Toronto and Sidewalk Labs. As with everything else in the project, the innovations proposed regarding housing construction and the attendant potential market for these goods overshadowed the actual number of affordable housing units that the project would create.

Privacy. An alternative model for data management — a civic data trust — was proposed during the project. The former Ontario Privacy Commissioner came out against the idea of a community stewardship model for data collection and use, as did the sitting Ontario Privacy Commissioner.[16] While privacy professionals have long upheld the privacy rights of Canadians, most of them were not interested in considering a model that might take a more expansive look at how various publics and counterpublics could potentially organize around data governance. Here again, counterpublics with different concerns extending beyond (technical notions of) privacy were not given the same status and stature in conversations as those held by the privacy establishment. This conservative approach also played into Sidewalk Labs' framing: if the project was privacy-preserving, then it should be a go. Such framing forestalled discussions about the full-fledged privatization of local governance in Toronto, an issue upstream of (and larger than) privacy.

Academic research. Many universities in Toronto signed on to Sidewalk Labs' grant-funded projects, and in doing so appeared to prioritize their institutional desires to be part of something innovative and visible in the press over the needs and concerns of some of the residents that these public institutions are implicated in representing. Universities lent significant credibility to the project by highlighting their importance in the innovation economy, but without accountability to the counterpublics and critics who held starkly

16 Donovan Vincent, "Sidewalk Labs' Urban Data Trust Is 'Problematic,' Says Ontario Privacy Commissioner," *Toronto Star*, September 26, 2019, https://www.thestar.com/news/gta/sidewalk-labs-urban-data-trust-is-problematic-says-ontario-privacy-commissioner/article_ae44fec0-2180-58f3-8799-196a034707ce.html.

different views of the project's fundamental impacts. Public universities, like state actors, are under fiscal and political pressures to take part in, and support, the innovation economy, rather than concerned counterpublics.

Urban planning. Urban planning professionals, particularly those who are registered, have a duty to the public, and for some registered professionals, a code of ethics that commits them to doing work in the public interest. Some professional planners worked with the private partner to advance Sidewalk Labs' interests, sometimes motivated by frustration with local government and its lack of interest in trying new things. Other urban planners critiqued the project and worked on the side of the counterpublics: they worked both within and from outside government to challenge the dominant approach and upsides of innovation that were marketed to the city.

Economic development. The Canadian business community is an exception to the type of group that usually comprises a counterpublic, but in this case study, it must be mentioned that the geopolitics of their dissent about the project bore significant weight in the political discourse. Some of the local tech startups were excited to take part in the project. The Toronto Region Board of Trade was a vocal supporter; others, such as the Canadian Council of Innovators, were in steadfast and vocal opposition.

These are but several examples. The list is non-exhaustive. The intent is to reflect on the wide range of smaller and less visible topical frictions — and implicated counterpublics — that were engaged in the conversation, and how their concerns were subsumed beneath various public interest actors. The negation of their concerns was especially pronounced when these counterpublics refused to support techno-solutionism as a model and general approach to city building. Counterpublics would have borne the largest risks of the project.[17] These harms included the obfuscated risks of

17 Adwoa Afful, "Toronto Can't Be a Futuristic City," *Bitch Media*, January 15, 2019.

privatization, such as turning over public design, maintenance, and oversight of digital public infrastructures to private entities, worsening an already opaque process for accountability and redress.

Practical Lessons From Sidewalk Toronto

Procurement as a site for counterpublic advocacy in PPPs. In the context of Sidewalk Toronto, it was the state — through three levels of government — that had, and has, a democratic duty to all publics and counterpublics. In their failure to own up to this role, they enabled a private actor, one with relationships within a consumer context and not a democratic one, to wield influence that was not theirs. As Bianca Wylie elaborates, this negligence to support the counterpublics — to whom the state is accountable — was designed into the process right from the start via the state-created and designed request for proposal.[18] That is, the request for proposal process serves as a prime example of how elite-driven models for deliberation reify the subordination of counterpublics.

Future advocacy efforts should consider the procurement phase of any digital infrastructure project as a potential area for engagement, refusal, and resistance, particularly of counterpublics. This includes participating in proactive disclosure advocacy: requiring governments to communicate with residents about potential digital infrastructure projects prior to writing tendering documents. Another policy advocacy opportunity is seeking commitments from governments to mandate engagement on the proposed tendering process for PPP projects of a certain size or type, actively seeking to move beyond the traditional boundaries of public participation that focus on privileged groups.

18 Bianca Wylie, "In Toronto, Google's Attempt to Privatize Government Fails — For Now," *Boston Review*, May 13, 2020, https://www.bostonreview.net/articles/bianca-wylie-sidewalk-labs-toronto/.

From ownership to stewardship: Designing and supporting community self-governance of digital infrastructures. Mandating the ongoing participation of counterpublics in the governance of new digital infrastructures is a tactical opportunity to shift power. For one, counterpublics, as extensions of larger communities, can advocate for the creation of ongoing stewardship models in the governance of neighborhood technologies, a distinct departure from prevailing top-down models of tech ownership and control. By creating new self-governance models and advocating for public funding to support their operations, residents can build up a more persistent approach to both governing and refusing the use of technology. Counterpublics can define acceptable norms and create friction in cases where technology must be refused, removed, or put on hold. By setting up ongoing oversight with public participation, private companies will also have to grapple with what it means to consistently engage with (counter)publics. As a result, public bids will likely require more flexible, transparent, and adaptable approaches to product development and maintenance. In this manner, the state, through engagement with various counterpublics and publics, can leverage public power and funds to reshape the public technology market. This could include the use of mandatory technology standards in procurement.

Designing self-governance considerations as a requirement for bidders shifts the public mindset from accepting what the market has to offer to asserting what it needs from vendors. Modes of increased participatory governance or self-governance — wherein community members play more active roles in shaping and determining interventions and outcomes — are seen in community land trusts,[19] data and digital infrastructure trusts,[20] digital justice principles,[21] commons models,[22] civic co-design models,[23] and public and digital realm stewardship.[24] We contend this approach could reorient interventions in favorable ways toward increased participation designed by

19 "The Community Land Trust Model and Movement," https://groundedsolutions.org/tools-for-success/resource-library/community-land-trust-model-and-movement; Bianca Wylie and McDonald Sean Martin, "What Is a Data Trust?" Centre for International Governance Innovation, October 9, 2018, https://www.cigionline.org/articles/what-data-trust/.

20 Wylie and McDonald, "What Is a Data Trust?"; Sean Martin McDonald, "Reclaiming Data Trusts," Centre for International Governance Innovation, March 5, 2019, https://www.cigionline.org/articles/reclaiming-data-trusts/; Sean Martin McDonald, "Civic Data Trusts," Some-thoughts.org, Accessed November 20, 2023, https://some-thoughts.org/mcdonald.html.

21 Nasma Ahmed, "Digital Justice Principles," 2019, https://www.some-thoughts.org/ahmed.html.

22 Kristin Hayes, interview with Erik Nordman, Resources Radio, podcast audio, March 8, 2022, https://www.resources.org/resources-radio/managing-the-commons-insights-from-elinor-ostrom-with-erik-nordman/.

23 Sheila R. Foster and Christian Iaione, *Co-Cities: Innovative Transitions toward Just and Self-Sustaining Communities* (Cambridge: MIT Press, 2022).

24 Bianca Wylie and Zahra Ebrahim, "Shared Governance: A Democratic Future for Public Spaces," *Azure Magazine*, February 3, 2021, https://www.azuremagazine.com/article/bianca-wylie-zahra-ebrahim-shared-governance-public-space/.

and for counterpublics, especially when combined with interventions that target procurement. Inserting and requiring self-governance models to be part of any PPP project opens more possibilities for ongoing participation and adaptation.

Conclusion

Public-private partnerships involving digital infrastructures, such as Sidewalk Toronto, emphasize data and data-driven technologies in ways that threaten to replace, weaken, or delegitimize democracy. As researchers and advocates, we propose the development of case studies and critical frameworks that proffer counterpublic analyses to foster this reckoning with the power relations — and differentials — laden within PPPs. It allows us to focus narrowly on the specific complexities, tensions, and conflicts present within projects, even within the flattened category of public.

Moving beyond the unhelpful flattening of power relations within notions of universal public interest, (a problem well-known in urban planning circles), a counterpublic analysis underscores important questions about power and inequality, which are overlooked within simpler notions of the "public" within PPPs.[25]

Like Fraser, we do not anticipate the process to be simple and seamless, nor do we claim that all counterpublics are well intentioned and siding with the public interest over corporate expansion.[26] Yet, an emphasis on counterpublics, when coupled with increased participatory governance, enables multiple rounds of deliberation and facilitation in order to ensure increased influence throughout all stages of digital infrastructure pre-building, design, and maintenance. Aligning ongoing public participation with the full life

25 See also Maria Filippelli, "Public Interest Technology" and Anne L. Washington and Joanna Cheung, "Public Interest," *Keywords of the Datafied State*, eds. Jenna Burrell, Ranjit Singh, and Patrick Davison (Data & Society Research Institute, 2024).

26 Fraser, "Rethinking the Public Sphere."

cycle of technology is one of the most opportune approaches to being able to operate with a true and defensible social license. Governments that are willing to create, support, and fund community self-governance arrangements for digital infrastructures can ensure increased public guidance and oversight throughout the PPP process, rather than treating engagement (and impacted parties) as an afterthought.

Admittedly, the proposed intervention is only a possible beginning and not the end of an exploration of where and how we can reimagine counterpublic engagement for the broader — and democratic — good. Moreover, based on a North American example premised upon democratic principles, this model will manifest differently within other social, cultural, and political contexts and models for tech ownership, stewardship, and financing. In the end, we draw attention to how PPPs disparately distribute harms and risks, and thus the need to shift power relations in a more nuanced, equitable, and impacted-first manner. We call attention to the leakage of public power and the alarming implications if such corporate power is not checked. We also draw attention to the importance, and wide range of complex views, among counterpublics that should be earnestly considered to mitigate the disparate risks and harms of tech-infused PPPs. Through engaging counterpublics, tech-driven PPPs can preserve and enable, rather than forestall, democracy. We also must resist the replacement of democratic institutions by technological processes that remove and reduce the input and engagement of counterpublics. The alternative is increasingly anti-democratic technocratic systems of governance, owned and managed by private interests, that seek to continue the ongoing blurring of the line between resident and consumer.