Centring Community: New Pathways in Resource Extraction Policy Processes

by

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Table of Contents

List of Tables

List of Figures

Abstract

The community dimension of resource extraction is a historically understudied area of inquiry in Canadian political science. While bringing prosperity and benefits for more privileged members of communities, resource extraction projects also bring substantial negative socio-economic impacts, which are disproportionately borne by historically marginalized members of communities (including women and girls, Indigenous people, people with disabilities, and people living on low incomes). I take impact assessments (IAs) – the primary regulatory and institutional mechanism to ensure that proposed resource extraction projects will not cause undue harm to communities and the environment – as my central site of inquiry. I explore three research questions: (1) Why do current resource extraction impact assessment processes fail to prevent the increased marginalization and unequal distribution of costs and benefits among members of Northern communities? (2) What are, and what should be, the responsibilities of the state and resource corporations in identifying and responding to the social impacts of resource extraction during IA processes? (3) What changes are needed to create a more equitable and inclusive IA process that centres communities and their concerns? The conceptual framework weaves together five inter-related literatures (settler colonialism in Northern Canada, the resource curse, multilevel politics, intersectionality, and environmental justice) to explain different aspects of Northern communities' experiences of resource extraction and the IA process. I take a comparative, feminist critical policy studies methodological approach, completing a comparative scan of IA policy frameworks, interviews, and case studies of four resource extraction projects, in order to analyze the inclusion and exclusion of women and girls, Indigenous people, people with disabilities and people living on low incomes in resource decision-making. I argue that structural and systemic inequities exist within IA processes and policy frameworks that often prevent both the participation of marginalized members of Northern communities and the recognition of their concerns within the IA process. These inequities emerge from unequal relationships of power between communities and the state, communities and the proponent, and within communities themselves, which shape community impacts from resource projects but are also are reproduced in the IA process.

List of Abbreviations Used

ACOA	Atlantic Canada Opportunities Agency (Federal)
AEA	Adverse Effects Agreement
AIP	Agreement-In-Principle
BC	British Columbia
BCH	BC Hydro
BCUC	British Columbia Utilities Commission
BCWI	British Columbia's Women's Association
CBIA	Community-based impact assessment
CCIA	Community-centred impact assessment
CEAA	Canadian Environmental Assessment Agency (Federal)
CEC	Clean Environment Commission (Manitoba)
CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada (Federal)
CNP	Cree Nation Partners
CSOs	Civil society organizations
DAWN	DisAbled Women's Network of Canada
DFO	Department of Fisheries and Oceans (Federal)
DIO	Disabilities Issues Office (Manitoba)
DNR	Department of Natural Resources (Federal)
DRC	Democratic Republic of the Congo
EA	Environmental assessment
EAO	Environmental Assessment Office (British Columbia)
EARP	Environmental Assessment and Review Process (Federal)
ECDA	Economic and Community Development Agreement
EIS	Environmental impact statement
EU	European Union
Fed.	Federal government
FLCN	Fox Lake Cree Nation
FNFN	Fort Nelson First Nation
FPIC	Free, prior and informed consent
GBA	Gender-based analysis
GBA+	Gender-based analysis plus
GDA	Gender and diversity analysis
IA	Impact assessment
IAA	*Impact Assessment Act* (Federal)
IAAC	Impact Assessment Agency of Canada (Federal)
IBA	Impact-benefit agreement
IGR	Intergovernmental relations
IIBA	Inuit impact and benefits agreement
IK	Indigenous knowledge(s)
IS	Impact statement

JKDA	Joint Keeyask Development Agreement
KCN	Keeyask Cree Nations
KHLP	Keeyask Hydropower Limited Partnership
LGBTQ2S+	Lesbian, gay, bisexual, trans, queer, two-spirit (plus) people
LIA	Labrador Inuit Association
LILCA	Labrador Inuit Land Claim Agreement
LMA	Labrador Métis Association
MB	Manitoba
MMF	Manitoba Métis Federation
MNBC	Métis Nation of British Columbia
MLG	Multilevel governance
MOU	Memorandum of understanding
NATO	North Atlantic Treaty Organization
NEPA	*National Environmental Policy Act* (USA)
NFA	Northern Flood Agreement (Manitoba)
NFC	Northern Flood Committee (Manitoba)
NIRB	Nunavut Impact Review Board (Nunavut)
NL	Newfoundland and Labrador
NU	Nunavut
NLCA	Nunavut Land Claim Agreement
NUPPAA	*Nunavut Planning and Project Assessment Act* (Nunavut)
NWAC	Native Women's Association of Canada
Prov.	Provincial government
PVEA	Peace Valley Environmental Association
RCDC	Red Chris Development Company Ltd.
SFN	Saulteau First Nations
SPA	Special policy agency
SSHRC	Social Sciences and Humanities Research Council of Canada
T8TA	Treaty 8 Tribal Association
TAC	Technical advisory committee
TCN	Tataskweyak Cree Nation
TIA	Tongamiut Inuit Annait (Labrador Inuit women's organization)
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VBNC	Voisey's Bay Nickel Company
VEC	Valued environmental component
WLFN	War Lake First Nation
WRDC	Women in Resource Development Corporation
Y2Y	Yukon to Yellowstone Conservation Initiative

Glossary

This glossary provides an easily accessed reference for key conceptual definitions for terms that may be unfamiliar to the reader or where multiple definitions of the term exist in the scholarly literature. These definitions reflect how this term is used within this dissertation. All definitions that appear in this glossary are provided within the text or in a footnote where the term first appears. Where those definitions are drawn from other scholarly works, the direct quotations and/or a citation are provided here.

'be taken seriously'	"to be listened to, to be carefully responded to, to have one's ideas and actions thoughtfully weighted. It means that what one does or thinks *matters* – that is, significant consequences flow from it" (Enloe 2013, 5).
Canadian variation of the resource curse	the phenomenon where the costs and benefits of resource extraction are unequally distributed within and between communities and between the Northern and Southern regions of the country, with historically marginalized members of Northern communities bearing a disproportionate share of the costs of resource extraction and lacking access to many of the benefits.
capitalist imperialism	"a contradictory fusion of 'the politics of state and empire' (imperialism as a distinctively political project on the part of actors whose power is based in command of a territory and a capacity to mobilize its human and natural resources towards political, economic, and military ends) and 'the molecular processes of capital accumulation in space and time' (imperialism as a diffuse political-economic process in space and time in which command over and use of capital takes primacy)" (Harvey 2005, 26).
community actors	include individual community members, civil society organizations, Indigenous governments, and local governments (e.g., municipal, hamlet, or village governments).
civil society organizations	includes organizations that represent members of marginalized groups (e.g., women's organizations, disabled peoples' organizations, Indigenous organizations), advocacy organizations or groups, non-governmental organizations,

	human rights organizations, charities that provide programs or services, groups that emerge from grassroots organizing, and many others.
'duty to care'	the state's general responsibility to work to counter inequities in society, particularly those that result from or are worsened by a decision of the state.
eninesewin	Cree word for knowledge held by Cree people.
extractivism	the pursuit of profit or government revenue through extractive industries and extractive forms of development that often rely on systemic exclusion and dispossession, through relationships of racism, colonialism, and imperialism (Harvey 2005; Preston 2017; Willow 2016).
harmonization	a process of "co-ordinating application of legislative frameworks prescribed by different jurisdictions so that, effectively, the project undergoes one review" (Fitzpatrick and Sinclair 2016, 184).
historic treaty	historic treaties were signed between 1701 and 1923. They include the Treaties of Peace and Neutrality, Peace and Friendship Treaties, Upper Canada Land Surrenders, Williams Treaties, Robinson Treaties, Douglas Treaties, and the Numbered Treaties (CIRNAC 2020).
IA agencies	settler government departments, agencies or boards responsible for managing and overseeing impact assessments.
Indigenous	includes First Nations (including Status Indian), Inuit and Métis Nations and Peoples.
Indigenous governments	Indigenous Nations' and Peoples' chosen representatives. These include: band governments under the *Indian Act*; governments created through self-government agreements; traditional, hereditary, or ancestral forms of government; tribal associations, councils, or confederacies, among others.
Labrador Inuit Lands	Inuit owned lands totalling 15,800 square kilometers where Labrador Inuit have the most rights and benefits, including ownership of a portion of the subsurface resources in some parts of the Labrador Inuit Lands (Government of Canada 2005).

Labrador Inuit Settlement Area	a larger area (122,000 square kilometers of land and sea) of traditional Inuit territory which includes the five Nunatsiavut communities and the Labrador Inuit lands. In the parts of the Settlement Area that are not Labrador Inuit Lands, the Inuit have some specific rights and benefits (e.g., harvesting) but less than those available on Labrador Inuit Lands (Government of Canada 2005).
man camps	a colloquial term for the on-site housing accommodations to house the primarily male workers while they are working at a resource extraction site. Workers often live there for several weeks at a time.
medical model	"The medical model says people are disabled because they have an impairment or disease. The goal of the medical model is to identify what makes individuals different from what is considered normal...Once the 'abnormality' has been identified and labelled, the work is to treat, fix or rehabilitate the individual to maximize their functioning" (Stienstra 2020, 3).
modern treaty	modern treaties are those signed after the 1973 *Calder* decision. The James Bay and Northern Quebec Agreement was the first modern treaty (CIRNAC 2020).
multilevel governance	"a process of political decision making in which governments engage with a broad range of actors embedded in different territorial scales to pursue collaborative solutions to complex problems" (Alcantara and Nelles 2014, 185).
neoliberal capitalism	"in neoliberal capitalism market relations and market forces operate relatively freely and play the predominant role in the economy" (Kotz 2015, 1).
norm	a normative criterion of 'what ought to be' which serves as a standard against which policies, programs, concepts, etc. can be assessed or evaluated.
Nunatsiavummiut	Inuttitut word for Inuit of Nunatsiavut.
project impact area	"the area that may be adversely affected by the project" (Canadian Environmental Assessment Agency 2015b).

proponent	the developer (most often a corporation) proposing a resource extraction project that requires government approval in order to proceed.
settler colonialism	In contrast to other forms of colonialism, "settler colonies were not primarily established to extract surplus value from indigenous labour…They are premised on displacing indigenies from (or *re*placing them on) the land" (Wolfe 1999, 1). "Settler colonies were (are) premised on the elimination of native societies. The split tensing reflects a determinate feature of settler colonization. The colonizers come to stay" (Wolfe 1999, 2).
'settler common sense'	"the ways the legal and political structures that enable non-Native access to Indigenous territories come to be lived as given, as simply the unmarked, generic conditions of possibility for occupancy, association, history, and personhood" (Rifkin 2013, 322–23).
settler governments	generally used in relation to federal and provincial governments, however many municipal and some territorial governments could be considered settler governments as well.
staples	"natural resource products that have undergone minimal processing and that are exploited for the purpose of export to other areas where they are manufactured into end products" (Clement 1989, 37).

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During my PhD, I have lived and worked in Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq People. As a settler scholar and guest in this territory, I am continually learning more about these lands and waters and my obligations as a partner to the Peace and Friendship treaties. In completing this dissertation, and particularly the case study pieces, I have been very fortunate to learn about relationships to land and waters in other Indigenous territories across Turtle Island. In particular, I acknowledge that the resource extraction projects examined in this dissertation are located on the ancestral territories of the Dunne-za, Saulteau, Dene, Tse'khene, Cree, Tahltan, Métis, Innu, and Inuit Peoples. I extend great thanks to the many Indigenous people and Indigenous governments and organizations who participated in the impact assessment process for those projects and shared how their lives and territories would be affected by these developments in submissions and hearings. That participation was integral to my learning. While available resources did not allow me to visit these territories during this research process, I hope to be able to do so in the future.

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Chapter 1: Introduction

> *"The Chief of the Attawapiskat First Nation meets with the Grand Chief. 'Sir,' he says, 'I have got some good news and bad news.' The Grand Chief asks for the good news first and is told that the De Beers has just discovered diamonds near Attawapiskat. The Grand Chief is happy. He says, 'Well, this is great. Hope for our youth. What could the bad news possibly be,' he asks the Attawapiskat Chief. The reply is, 'The bad news is that De Beers has just discovered diamonds near Attawapiskat.'"*
>
> (Peerla 2005, 1)

In December 2012, the tiny Mushkegowuk Cree community of Attawapiskat in Treaty 9 territory in Northern Ontario made national news when Chief Theresa Spence of Attawapiskat First Nation declared a hunger strike over the deplorable housing conditions on the reserve.[1] Part of the wider Idle No More movement, Chief Spence's hunger strike brought much needed attention to the chronic underfunding of essential services and infrastructure in remote and isolated reserve communities in Canada's North, the erosion of the treaty relationship between Indigenous Nations and Peoples and the Canadian state, and the need for a return to a nation-to-nation relationship based in mutual respect and peaceful co-existence. Less talked about in the mainstream press coverage surrounding Chief Spence's hunger strike was the fact that, since 2008, the large multinational mining company De Beers had owned and operated the highly profitable Victor Diamond Mine less than 90 kilometres from Attawapiskat (De Beers Group 2020), on the unceded and ancestral territory of the Nation. The dire situation of the housing crisis in Attawapiskat, despite a profitable mine on their territory, points to a severe problem in the distribution of the benefits of resource extraction to communities in Canada's North. It also raises important questions about communities'

[1] It should be acknowledged that an external financial audit of band spending between 2005 and 2011 showed "no documentation or incomplete documentation" for the majority of federal funding transfers made to the reserve. The audit also showed that "the reserve's accounting practices ha[d] improved" somewhat significantly since 2010 when Chief Spence was elected (Schwartz 2013).

experiences of social and environmental justice in relation to resource extraction projects situated near their communities.

My interest in the topic of community experiences of resource extraction began with my involvement with the Feminist Northern Network (FemNorthNet), a SSHRC-funded community-university research alliance based at the Canadian Research Institute for the Advancement of Women, and has continued with my involvement in several related research projects with partners from the FemNorthNet project. Over the last seven years, our collective body of research[2] has shown that Attawapiskat's experience with the De Beers mine is similar to many Northern Canadian communities' experiences of resource extraction – where few of the benefits that could be expected when a large mine or hydroelectric dam is situated near the community are realized in practice and some members of communities, particularly those from historically marginalized groups, experience increased marginalization and disproportionately negative socio-economic impacts. This dissertation builds upon this previous body of work by examining the role that the policy and decision-making processes for resource extraction projects play in the perpetuation of this pattern of poor community outcomes.

Research Context

The community dimension of resource extraction is a historically understudied area of inquiry in the political economy of natural resources, environmental policy studies, and Canadian politics, although a number of scholars (myself included) are beginning to address this gap. Compared to the literature on environmental impacts, there is very little literature relating to the social impacts of resource extraction in Canada, and indeed, in Western industrialized countries more generally. However, the scholars who work in this area have documented numerous negative social and economic effects that often accompany resource extraction projects in Northern communities. One significant insight from this body of empirical work, and a piece of the

[2] See http://fnn.criaw-icref.ca/en/catalog for links to much of this research.

puzzle in this research, is that these social and economic effects are very similar across Northern communities. While the *magnitude* of these effects is certainly contextual and differs between and within communities, previous research (Stienstra et al. 2016; 2019) has revealed that the *types* of effects are largely consistent. Rapidly rising housing prices, higher alcohol and drug use, increased crime, new and increased instances of sexual exploitation, and wider prevalence of sexual and physical violence are just some of the costs linked to these projects (Bowes-Lyon, Richards, and McGee 2009; Dana, Meis-Mason, and Anderson 2008; Gosselin et al. 2010; Major and Winters 2013; Pauktuutit Inuit Women of Canada 2012; Stienstra 2015; Nightingale et al. 2017). The sudden influx of workers often strain local healthcare systems, government services, and food supply and transportation networks, and contributes to a loss of sense of community and inclusion (Archibald and Crnkovich 1999; Dylan, Smallboy, and Lightman 2014; Kamal et al. 2015; Parkins and Angell 2011). Beyond this, resource extraction projects frequently "disrupt Indigenous traditions and cultural practices" (Stienstra et al. 2016, 11), limit access to and use of ancestral and unceded lands (Alcantara 2007; Booth and Skelton 2011), and have been linked to language loss (Buell 2006).

The empirical literature has also found that some groups within communities are less likely to gain the most common 'benefits' of projects (typically conceptualized as jobs, business income, and training), and are more likely to bear the negative effects of projects described above, as well as new and worsening crises. The largest amount of scholarly attention has been focused on effects experienced by Indigenous[3] people and Indigenous communities (Archibald and Crnkovich 1999; Alcantara 2007; Booth and Skelton 2011; Buell 2006; Parkins and Angell 2011), with Indigenous women being the most well-documented group within that literature, due in part to the strong advocacy and dedicated research of Indigenous women's organizations and their partners, including Pauktuutit Inuit Women of Canada and the Native Women's Association of

[3] Throughout the dissertation, I use the umbrella term Indigenous to include First Nations (including Status Indian), Inuit and Métis Nations and Peoples. Where the discussion is applicable to only one of these Nations or Peoples or an individual community or government, the appropriate more specific terminology is used.

Canada (Pauktuutit Inuit Women of Canada 2012; Nightingale et al. 2017). This literature also shows that the costs and consequences of resource projects disproportionately affect women and girls (Coumans 2005; Cox and Mills 2015; O'Faircheallaigh 2013; Pauktuutit Inuit Women of Canada 2012; Gislason et al. 2018), seniors and elders (Hanlon et al. 2014; Ryser and Halseth 2013), people with disabilities (Bonnycastle and McKerracher 2015; Manning et al. 2016; Stienstra, Baikie, and Manning 2018), those living on low incomes (Kamal et al. 2015; Levac 2014), and those with precarious residency status in Canada (Major and Winters 2013; Foster and Taylor 2013). In short, historically marginalized members of communities are most likely to bear more of the negative effects, experience increased marginalization, and face exacerbated conditions of crisis (Stienstra et al. 2019). They are also less likely to enjoy the benefits of resource extraction projects near their communities, raising important questions about power and justice in relation to resource extraction in Northern Canada.

This problem of communities experiencing poor development outcomes and new or worsened socio-economic challenges when resource extraction projects are situated nearby is one of the manifestations of the 'resource curse' in the comparative politics literature. While very little of this literature has focused on Canada, I argue in this dissertation that positioning Northern Canada as an example of the Canadian variant of the resource curse is essential for making sense of Northern communities' experiences of resource extraction. In this dissertation, I position the version of the resource curse that we see in Northern Canada as emerging largely from inequities in the domestic context: where the costs and benefits of resource extraction are unequally distributed within and between communities and between the Northern and Southern regions of the country, with historically marginalized members of Northern communities most likely to bear a disproportionate share of the often devastating costs of resource extraction, and be unable to access many of the benefits.

The focus of my dissertation is impact assessments (IAs). They are a policy and planning process intended to identify the potential impacts of proposed resource

extraction projects and determine if those impacts can be sufficiently mitigated to allow projects to proceed (Hanna 2016). This statement bears repeating in a slightly different way because it is crucial to understanding the role of IA in the persistence of the resource curse in Northern Canada – the dominant perspective on the purpose of IA is that an IA is not meant to stop projects. An IA is meant to allow the vast majority of resource extraction projects to proceed. Being explicitly clear about the purpose of IA in the eyes of different actors (proponent, state, community) involved in the process is essential to both understanding the problems that exist in the current practice of IA in Canada but also imagining a different and more equitable IA process that is better suited to prevent the conditions associated with the resource curse in Northern Canada.

The vast majority of proponents for Canadian resource extraction projects[4] are capitalist corporations. As such, these proponents are ultimately responsible to their shareholders (Garvie and Shaw 2016), not local communities. Their goal is to maximize profit for their shareholders (Hall 2013; Blowfield 2005; Garvie and Shaw 2016) and passing an IA is a prerequisite to obtaining that goal. As Morrison-Saunders et al. (2015, 108) note, there is a widespread "expectation by proponents that impact assessment should deliver permission to develop at the least cost in the least time." While proponents are certainly obliged to follow the laws of the state regarding environmental protection, labour, crime, taxes, etc., they are not obliged to go beyond the letter of those laws to prevent socio-economic impacts or ensure any benefits accrue to local communities (Garvie and Shaw 2016). Of course, many proponents do engage in some voluntary initiatives (e.g., signing benefit agreements) designed to prevent some socio-economic impacts and provide some benefits (often in the form of employment) to members of local communities as part of wider corporate social responsibility agendas. Arguably, they do so to obtain what is often termed a 'social license to operate' from local communities (Garvie and Shaw 2016; Morrison-Saunders et al. 2015; Cameron and Levitan 2014; Dashwood 2012). I argue that this move is not motivated by a sense of

[4] Large-scale hydroelectric dams are the exception to this rule because, in Canada, they are often owned by Crown corporations (discussed below).

altruism or a desire to mitigate the worst excesses of capitalism or extractivism, but instead is "a stakeholder risk-management strategy" connected to the goal to continue making as much money as possible (Dashwood 2012, 61). Protests and blockades by members of local communities that impede project development are incredibly costly to proponents (Garvie and Shaw 2016). Thus, proponents are incentivized to address at least some community concerns in the IA. Engaging in the IA process and preparing an impact statement (IS) only to have a project rejected at the decision stage is likewise incredibly costly and is wasted money if the project does not ultimately proceed. However, making too many concessions in relation to mitigating socio-economic impacts during the IA can also be expensive when proponents are required to follow through on those measures. Proponents therefore engage in IA and account for socio-economic impacts within the IA only to the extent that is required to pass the IA and achieve a social licence to operate (Garvie and Shaw 2016; O'Faircheallaigh 2009).

Among Canadian settler governments and Canadian state actors, resource extraction projects are seen as a vital part of the economy, composing 11.3 percent of the Canadian economy in mid-2019 (Statistics Canada 2019b). In some cases, an arm of the state itself is the proponent for resource extraction projects. For example, most major hydroelectric projects in Canada are developed by Crown corporations[5] owned by provincial governments and are an important source of electricity for residents of the province. For both these reasons, it is typically in the state's interest for resource extraction projects to proceed and succeed in passing an IA. O'Faircheallaigh (2009, 97) argues that this influences the state's actions with regard to socio-economic impacts within IAs: "in jurisdictions where the level of economic activity relies substantially on

[5] While technically owned by the state, Crown corporations operate at arms-length from the government in practice. Most major and day-to-day decisions are made by corporate executives and their board of directors, with very little government direction or direct oversight (Bernier, Dutil, and Hafsi 2018). They have public policy objectives, but in operating as a business, also have commercial interests. Bernier et al. (2018, 471) argue that the use of Crown corporations as a policy instrument has declined in recent decades, and that a "lack of policy direction [from the political executive] allows Crowns to focus [more] on commercial activities." However, because they are owned by the state and ultimately are accountable to the political executive (even if that accountability mechanism is rarely utilized), they arguably should be held to higher standards of conduct than non-state-owned firms.

large-scale resource development, governments are often driven by an 'ideology of development', are strongly supportive of corporate interests, and are similarly reluctant to consider… [socio-economic] findings that might constrain or delay development." Indeed, as the analysis in this dissertation will show, settler governments tend to take a minimalist approach in accounting for and mitigating socio-economic impacts in IA. Many of the settler governments' actions to guarantee local benefits (e.g., signing or requiring benefits agreements with Indigenous Nations) are arguably more about securing an 'investor-friendly climate' to allow resource development to proceed than securing an equitable distribution of costs and benefits (Garvie and Shaw 2016).

Given that the goals of both proponents and the state are to allow the project to proceed, there is considerable danger that IA becomes just another checkbox on the path to project approval. Indeed, both industry proponents and some political parties[6] and their supporters have sought to 'streamline' IA processes or otherwise reduce the burden of regulatory measures (including IA) for proponents. The restrictive changes made to the *Canadian Environmental Assessment Act* in 2012 under the Harper government (one of the triggers of the Idle No More movement) are one example of this phenomenon. Under the Trudeau government, there has been widespread opposition among these actors to the addition of new requirements for early engagement with communities, the explicit consideration of socio-economic impacts, and the integration of GBA+ in the new federal *Impact Assessment Act (IAA)*, and considerable lobbying efforts to have those requirements removed before the bill became law (Levac and Manning, n.d.).

In the face of the considerable obstacles created by state and proponent objectives, two questions are particularly important: (1) Why do and why should community actors[7] participate in IA? (2) What is the purpose of impact assessment for marginalized groups? For many community actors, particularly those who are members

[6] Particularly the federal and many provincial Conservative parties and the BC Liberal party (Levac and Manning, n.d.; anonymous interview).

[7] Throughout the dissertation, I use the term 'community actors' to include individual community members, civil society organizations, Indigenous governments, and local governments (e.g., municipal, hamlet, or village governments).

of or represent marginalized groups, participating in an IA is about making sure that their voice and concerns about the proposed project are heard and put on the record, that decision-makers are made aware of the potential impacts that are likely to be experienced within the community and how they might affect groups within the community differently, and to attempt to ensure that some of the benefits of the project trickle-down to the community level. Without their participation, as discussed throughout this dissertation, the proponent's viewpoint will likely dominate the IA even more than it already does (Sinclair and Diduck 2016). For marginalized groups then, the purpose of IA is arguably to prevent the mine or dam from resulting in unduly negative impacts, and to allow the project to proceed only when it is in the best interests of all members of the community and when the negative socio-economic impacts can be minimized. However, as we can see from the steadily growing body of research on the negative socio-economic impacts of resource extraction in the North, IAs rarely succeed in fulfilling this purpose.

This problem leads to the three research questions at the heart of this work:

1. Why do current resource extraction impact assessment processes fail to prevent increased marginalization and unequal distribution of costs and benefits among members of Northern communities?
2. What are, and what should be, the responsibilities of the state and resource corporations in identifying and responding to the social impacts of resource extraction during IA processes?
3. What changes are needed to create a more equitable and inclusive IA process that centres communities and their concerns?

Conceptual and Methodological Approach

In exploring these questions, I take an interpretivist qualitative multi-method approach within this dissertation. I take impact assessments (IAs) – the primary regulatory and institutional mechanism to ensure that proposed resource extraction

projects will not cause undue harm to communities and the environment – as the site of inquiry. Situating this work within the tradition of feminist critical policy studies (Hawkesworth 2010; Paterson and Scala 2015; Fischer et al. 2015), I explore the ways that IA legislation, policies, and processes are shaped by power and work to exclude marginalized members of Northern communities and their concerns from resource governance. Using a comparative policy scan (Cox 2014) of IA frameworks in five Canadian jurisdictions (federal, British Columbia, Manitoba, Newfoundland and Labrador, and Nunavut), interviews with policy-makers across those jurisdictions, and four case studies of IAs for mines and hydroelectric dams (Voisey's Bay Nickel Mine, Red Chris Mine, Keeyask Generation Project, and Site C Clean Energy Project), this dissertation examines the policies and processes of IA in Canada's North. I examine the opportunities and limitations within IA frameworks to account for community concerns about negative socio-economic impacts and facilitate the equitable participation of members of communities, particularly those who are marginalized.

In my conceptual framework, I weave together five bodies of literature that explain different aspects of Northern communities' experiences of resource extraction and the IA process. In theorizing the North in relation to Canadian politics, I position the North as a region shaped by settler colonialism in ways that have contributed to its relative neglect within the subfield and also shaped its experience with resource extraction. I draw on the comparative politics literature on the resource curse to make sense of Northern communities' experiences of receiving few benefits and many negative impacts from resource extraction projects. I situate the IA process and IA policy frameworks within theories of multilevel politics to explore the ways that jurisdictional complexities and gaps in the political and institutional structures of resource governance shape the (lack of) recognition of community concerns regarding socio-economic impacts. Theories of intersectionality and environmental justice provide the critical perspective missing in the other parts of the conceptual framework. They serve as a basis for exploring the ways that power shapes the IA process, affecting the extent

to which members of communities can participate in IA and have their concerns are recognized within the process.

Argument

Underlying my argument in this dissertation is what Enloe (2013) refers to as the 'politics of seriousness' – a form of politics that is shaped by intersectional power dynamics based in settler colonialism, racism, capitalism, extractivism, sexism, ableism, and other systems of power – that works to include and give more influence to particular perspectives and voices in political conversations, governance, and policymaking, while excluding and reducing the influence of other voices and perspectives. Examining the politics of seriousness is essential because when important perspectives are not taken seriously by those with power in decision-making, "the results can be inadequate explanations, poor decisions, flawed policies, failed efforts, and perpetuated injustices" (Enloe 2013, 7). As Enloe (2013, 5) writes, "to be taken seriously means to be listened to, to be carefully responded to, to have one's ideas and actions thoughtfully weighted. It means that what one does or thinks *matters* – that is, significant consequences flow from it." In this dissertation, I argue that Northern communities, and particularly the more marginalized members of Northern communities (women, Indigenous people, people with disabilities, people living on low incomes, and those who are members of multiple of those groups), have, for the most part, not been taken seriously in design or conduct of the IA process in the jurisdictions and cases studied. While there are certainly some examples of promising practices that take community members and their concerns seriously in both the IA policy frameworks studied and case study IAs, these promising practices are often undermined by other parts of the IA process that do not take the participation of community members or the expression of their concerns about socio-economic impacts as seriously.

In Northern Canada, I argue that considerable inequities exist within IA processes and policy frameworks that often prevent both the participation of marginalized

members of communities and the recognition of their concerns within the IA process. These inequities emerge from unequal relationships of power between communities and the state, communities and the proponent, and within communities themselves, which shape community impacts from resource projects but are also reproduced in the IA process. Many of these inequities are also based in wider structural and systemic relationships of power, including those shaped by the intersections of settler colonialism, capitalism, racism, sexism, and ableism, among others. In this dissertation, I identify and analyze nine interrelated processes of power at work in the dominant policy frameworks of IA in Canada's North which shape the extent to which members of communities and their concerns can be taken seriously within the IA process. In keeping with my interpretivist and critical policy studies methodological orientation, which "seeks to identify and examine existing [policy] commitments against normative criteria" (Fischer et al. 2015, 1), I also examine the extent to which the practice of IA in the North meets the normative expectations of environmental justice. I argue that many aspects of the ways that IAs are conducted fail to meet the norms of procedural, recognition, distributive, and restorative justice for members of Northern communities. The inequities and injustices that are part of the IA process itself make it impossible for an IA to meaningfully prevent or address the conditions associated with the resource curse, which provides a plausible explanation for its persistence in Canada's North.

For IAs to work more effectively to prevent the conditions associated with the resource curse, I argue a different perspective on the role of the state is needed, namely that IAs must be seen as part of the state's duty of care towards its citizens, particularly those that are most marginalized. The duty of care emerges from tort law and is the basic principle that people and organizations have a responsibility "to avoid acts or omissions that could likely cause harm to others" (Canadian Public Health Association 2019). The law surrounding the duty of care is concerned with legal liability for harms that are caused by negligence on that part of individuals and organizations. My argument is less concerned about the legal liability of the duty of care under tort law and much more concerned about what I call the 'duty to care': the state's more general

responsibility to work to counter inequities in society, particularly those that result from or are worsened by a decision of the state – in this case, the decision to approve a resource extraction project at the end of an IA. While the classic liberal and neoliberal thought favours a minimal state and positions too much state interference in the working of the market as illegitimate (Cudworth 2007; Fineman 2010), other schools of political thought prescribe a more active role for the state in relation to inequality. Social democratic theorists have long seen a role for the state in correcting the worst excesses of the market and managing the conduct of companies (Hall 2007). Likewise, advocates of state feminism recognize that the action of the state has an important role to play in ending gendered and other oppressions. Further, Fineman (2017, 142) in her theory of vulnerability and inequality recognizes "the ways in which power and privilege are conferred through the operation of societal institutions, relationships and the creation of social identities, sometimes inequitably," and argues that a more responsive state is needed to counter those inequities. In Canada, the settler state has a special duty of care in its relationship with Indigenous Peoples. This fiduciary duty requires that the Crown act in the best interests of Indigenous Peoples when making decisions that affect their lands or rights (Morrison 2018), including when making decisions about resource extraction. The Charter of Rights and Freedoms extends constitutional protection to members of other marginalized groups and arguably requires the state to act to prevent discrimination and consider the rights of members of protected groups when making decisions. I argue that the state's duty to care in IA requires a more active role in ensuring that IAs fulfill their purpose for marginalized members of communities: designing a process that facilitates community inclusion, equitable participation, and decision-making power in IA, ensuring that measures are put in place so that the negative socio-economic impacts that can be reasonably foreseen during the IA are prevented or mitigated, and requiring a more equitable distribution of costs and benefits.

Significance of Research

This research is significant for two main reasons. First, it provides a different kind of institutional explanation for the resource curse and argues that Canada should be considered a country that experiences a variation of the resource curse. Many mainstream comparative political science and political economy scholars exploring the resource curse have relied on explanations rooted in macro-economics (Auty 1993; Sachs and Warner 2001), internal conflict and civil war (Collier and Hoeffler 1998; Snyder 2006), and corruption and democratic malfunction in political institutions (Mehlum, Moene, and Torvik 2006; Collier 2007). More critical scholars place the roots of the resource curse in the systems of capitalist imperialism and extractivism (Magdoff 2003; Harvey 2005; Petras and Veltmeyer 2007; Butler 2015) or existing inequities between and within countries and communities (Manning et al. 2018a; Lahiri-Dutt 2011). I suggest that the persistence of the resource curse in Northern Canada requires a more critical institutional explanation: that impact assessments (IAs), and the related institutions of settler colonial governance and multilevel politics, do not adequately account for the concerns and experiences of marginalized members of communities in the processes involved in making decisions about whether or not the project can proceed and under what conditions. In my focus on the relationships of power that shape IAs, I merge the critical scholarship with institutional explanations of the resource curse, showing the relevance of the concept to the Canadian case and the study of Canadian political economy. Historically, Canadian political economy scholarship on natural resources and resource industries has revolved around staples theory and exploration of the staples trap. In focusing on the North in this dissertation, I argue that the resource curse makes an important theoretical contribution to the study of political economy and extractivism in Canada, particularly in pointing to the uneven implications of resource development within Northern communities and the disproportionate costs borne by historically marginalized members of those communities.

Secondly, this research demonstrates the importance of using an intersectional lens in studying environmental justice issues within IA specifically and policy processes in general. Much environmental justice research in this area treats communities and social groups as more or less homogenous 'stakeholder groups' in examining how inequalities shape IA outcomes and the extent to which they can participate in IA (Malin and Ryder 2018; Malin, Ryder, and Lyra 2019). By using an intersectional lens, my research makes visible the diversity within communities and stakeholder groups that shape how their concerns can be accounted for (or not accounted for) in IA. It shows that different members of communities can experience different barriers to participation in IA and require different solutions to ensure their concerns are accounted for. In particular, this work emphasizes that democratic inclusion and equitable public engagement require more than formally equal rights to participate. It requires looking critically at the framing, the mechanics, and the practice of policy processes like impact assessment to counter intersectional invisibility and inequities in participation. It also requires using analytical frameworks that are attentive to the ways structural and systemic inequities based in the intersections of settler colonialism, capitalism, sexism, racism, and ableism, shape policy outcomes and experiences of inclusion and exclusion within policy processes for marginalized people.

Chapter Outline

In Chapter 2, I first examine the North as a theoretical concept and particularly the role of settler colonialism in shaping dominant understandings of the North and its relationship to resource extraction. I then critically review four additional and interrelated bodies of literature (the resource curse, multilevel politics, intersectionality, and environmental justice) that shape my conceptual framework.

Chapter 3 describes the methodological approach for this research. I discuss my work as situated within the interpretivist paradigm of political science research and as following a feminist critical policy studies methodological approach. I then describe each

of the methods used in the dissertation (policy scan, interviews, and case studies based on document analysis) in turn. This chapter concludes with a discussion of the analysis process based in intersectionality and environmental justice as well as the challenges and lessons learned during the research.

In Chapters 4 and 5, I use an intersectional policy analysis to identify and analyze nine interrelated processes of power that shape communities' experiences of IA in the jurisdictions studied. Chapter 4 begins with a brief overview of Canadian IA processes, before delving into the five processes of power (definition, boundary construction, negotiation, accountability, decision-making) that shape institutional dynamics and the extent that community concerns and perspectives can be taken seriously within the IA . In Chapter 5, I examine how four processes of power (representation, recognition, participation, and consultation) shape inclusion for members of marginalized groups in IAs. In these chapters, I argue that the ways these processes of power structure the norms, policies, and practices of IA are essential to understanding community experiences and why these processes afford limited attention to communities' experiences of socio-economic impacts.

In Chapters 6 and 7, I turn my attention to questions of environmental justice and examine the extent to which the standards of environmental justice can be observed in the records of the four case study IAs. In Chapter 6, after providing an overview of the wider social and political context for each of the case studies, I focus on procedural and recognition justice as determining which members of communities can participate in IAs, and the extent that their knowledges, experiences, and concerns are recognized and taken seriously in various stages of decision-making within project level IAs. I argue that procedural and recognition injustices limit the space available in IA to centre community concerns and experiences. In Chapter 7, I focus on distributive and restorative justice as determining whether or not members of communities see meaningful changes in their experiences of resource extraction as a result of becoming involved in IAs. I argue that IAs result in distributive and restorative injustices for members of Northern communities because they do little to unsettle dominant relations

of power and counter structural and systemic inequities that shape community experiences of the resource curse.

In Chapter 8, I reflect on the findings of this dissertation and propose necessary standards of a community-centred impact assessment process that is consistent with deeply intersectional environmental justice. I then assess the extent to which new impact assessment legislation, specifically the federal *Impact Assessment Act (IAA)* and British Columbia's *Environmental Assessment Act, 2018*, are consistent with those standards. I conclude by reflecting on the significance of this research to the study of resource extraction in Canadian politics and the politics of inclusion and exclusion in policy processes.

Chapter 2: Situating Resource Extraction in Canada's North

In 1996, O'Faircheallaigh wrote, in the context of his work with Indigenous communities in Australia, that there was a significant gap in the research on the social and community impacts of resource extraction: "What is required, and what the existing literature does not provide, is an analytical framework which allows a thorough analysis of the various dimensions of inequality and acknowledges that these can interact in a dynamic fashion; and which provides a basis for explanation and so for policy prescription" (O'Faircheallaigh 1996, 5). This chapter lays out the conceptual framework that addresses this gap in relation to the experiences of communities in Northern Canada, the focus of my dissertation. In doing so, I first define the boundaries of 'the North' as a concept and argue that studying the North is of vital importance to Canadian politics. I then develop a four-part theoretical framework that I use throughout my dissertation to explain the persistence of disproportionately negative impacts borne by members of Northern communities situated near major resource extraction sites. The comparative politics literature on the resource curse, while typically not applied to the Canadian case, helps to explain the poor development outcomes experienced by Northern communities despite the high levels of wealth generated through resource industries. The Canadian literature on multilevel politics helps to frame the political and institutional relationships that shape the regulation of resource extraction in Canada and the jurisdictional complexities and gaps within the regulatory framework. Theories of intersectionality and environmental justice provide the critical perspective on power missing in the dominant approaches to the resource curse and multilevel politics. Together, they make visible the inequities and structural barriers that exist in current approaches to resource governance and provide potential direction for reimagining a regulatory process that is truly inclusive of historically marginalized members of communities.

Theorizing the North

Figure 1: Map of Canada's North

Source: Statistics Canada 2019

While many settler citizens' first image of the North is a snowy Arctic village, I take a slightly broader definition. When referencing Northern communities, I include those both in the 'far North' (the area above the 60th parallel, including the Territories and parts of Labrador and Québec) and the 'near North' (the northern parts of the provinces as defined by Statistics Canada's census area definitions[8] – see Figure 1 above). Both near and far North communities share some common characteristics

[8] There is considerable debate about where (and how) to draw the boundaries of the 'near' or Provincial North (White 2011; Coates, Holroyd, and Leader 2014). I have chosen to use Statistics Canada's boundaries (see Figure 1) to provide a consistent basis for comparison across provinces.

including geographic remoteness, small populations, high numbers of Indigenous people, few transportation links to the rest of the North and Southern Canada, challenges in building and maintaining public infrastructure, limited government services, high costs of living (with lower average incomes than much of Southern Canada), and colder climates (Coates and Morrison 1992; White 2011).

The North has been historically neglected in Canadian political science, and the sub-field of Canadian politics specifically (White 2011). On the one hand, there is growing attention to the study of the far North, especially the new consensus-based governance arrangements emerging in Nunavut and the Northwest Territories, and the slowly increasing number of Indigenous Nations that have negotiated self-government agreements in the territories (White 2011). On the other hand, the same attention has not been given to the study of the near North, or the 'Provincial North' as it has sometimes been labelled in the limited Canadian political science literature on the region (Coates, Holroyd, and Leader 2014; Coates and Morrison 1992). An important question for the field is: why? In part, the answer is a function of the study of institutions that dominates the sub-field of Canadian politics. As Coates and Morrison (1992, 4) accurately point out, the region's "small populations mean limited electoral power, which in turn ensures that in Canada's system of brokerage politics, prime ministers and premiers [and, by implication, the majority of Canadian political scientists who study these systems and actors] need not pay much attention to them." In part, the answer can also be attributed to the lack of a sense of unity as a region among the Provincial Norths and their citizens (Coates and Morrison 1992). Like institutions, regionalism is a central focus of the sub-field of Canadian politics. To the (very) limited extent that 'the North' is considered as a region in the study of regionalism in Canada, it is typically conceptualized as being composed solely of the three territories, and sometimes as including the parts of Labrador and Quebec above the Arctic Circle – namely the Inuit territories of Nunatsiavut and Nunavik (White 2011). Both the near North and the far North are worthy of further scholarly attention, for the reasons discussed in the remainder of this section. White (2011) notes the interdisciplinary and

comparative perspectives are especially valuable in advancing the study of the North in Canadian political science. This is one of the contributions of my dissertation.

Coates and Morrison (1992, 2) argue that the near North, in particular, is an important region for making sense of Canadian politics because "many of the central conflicts and decisions facing Canada today originate in these regions, rather than from the settled south or the highly publicized 'true' North." Many of those conflicts concern equity and social justice in the context of natural resource extraction, particularly as they relate to Indigenous Nations and Peoples, unsettled land claims, unrecognized sovereignty, and unfulfilled treaty obligations. The 'near North' has been called the 'forgotten North' by some political scientists – or perhaps more accurately (albeit cynically) described as largely ignored until it seen as useful for resource development by the government housed in the Southern capital (Coates and Morrison 1992). Unlike the far North, where Northerners can exercise a certain amount of political power and self-determination through their territorial governments, in the near North, having been "politically incorporated into a provincial unit, the northern districts [have] found themselves virtually powerless, lacking the political and economic authority to influence or control their own destiny" (Coates and Morrison 1992, 5). Thus, Coates and Morrison (1992, 6) argue that the provincial Norths should be regarded as examples of "internal colonies," where major political and economic decisions are largely controlled by outsiders, namely governments and an electorate (often supporting corporate interests) based in the southern parts of the provinces, with these decisions often justified by arguments of 'the provincial or national interest.'

Outside the larger hub communities and territorial capitals, the small and remote communities of the North are primarily inhabited by Indigenous people (Coates and Morrison 1992; White 2011). In Nunavut, the Northwest Territories, northern Saskatchewan, and northern Manitoba, at least 50 percent of the total population is Indigenous (White 2011; Allen and Perreault 2015). In Labrador, 44 percent of the total population is Indigenous (Allen and Perreault 2015). Canada's historical and ongoing systems of colonization, which facilitate the dispossession of land, rights, sovereignty,

and wealth from Indigenous Peoples and Nations, is thus an important part of the story of the North.

Many Western global development and political economy scholars would say that a uniting feature of the North, both near and far, is its chronic and systematic underdevelopment when compared with the wealth and prosperity enjoyed by much of Southern Canada. In both the near and far North, there are high levels of poverty and unemployment, especially among Indigenous communities, and significant policy challenges in providing high quality public infrastructure and services to large geographic areas with small and sparse populations (Coates, Holroyd, and Leader 2014; White 2011). From the classical global development studies perspective, where capitalist economic production and the individual accumulation of material wealth is the accepted norm[9] of 'development,' the Canadian North is an example of a region in need of further development, with resource extraction seen as providing the most likely pathway to facilitate it.

While rarely acknowledged in the Canadian political economy literature on resource extraction or the Canadian politics sub-field more generally, settler colonialism[10] is a defining feature of the North as a region. Loomba (2015) writes that settler colonialism involves the construction of a racial hierarchy, with White settlers at the top and Indigenous and other racialized peoples at the bottom. Violence is integral to settler colonialism as a political project, as is the seizing of Indigenous lands and the more widespread physical and cultural displacement (and in some cases, elimination) of Indigenous Peoples (Wolfe 2006; Loomba 2015). Acknowledging that colonialism is a "structure not an event" (Wolfe 2006, 388), analyses that critically engage with settler colonialism seek to unpack "settler common sense[:] …the ways the legal and political

[9] I use 'norm' throughout this dissertation in the sense of a normative criterion of 'what ought to be' which serves as a standard against which policies, programs, concepts, etc. can be assessed or evaluated.
[10] In contrast to other forms of colonialism, "settler colonies were not primarily established to extract surplus value from indigenous labour…They are premised on displacing indigenies from (or *re*placing them on) the land" (Wolfe 1999, 1). "Settler colonies were (are) premised on the elimination of native societies. The split tensing reflects a determinate feature of settler colonization. The colonizers come to stay." (Wolfe 1999, 2).

structures that enable non-Native access to Indigenous territories come to be lived as given, as simply the unmarked, generic conditions of possibility for occupancy, association, history, and personhood" (Rifkin 2013, 322–23). As Cooke (2016, 236) argues: "Settler colonialism is a cultural project – it sets the terms for its own cultural production and works to naturalize and normalize structures of domination in ways that attempt to cleverly cover its colonizing tracks. 'North' in Canada is one such production." Part of the settler colonial production of the North as part of Canada's nation-building project involved situating the North as "a resource-rich hinterland ripe for exploitation" (Cooke 2016, 238) – a production that continues today. Central to this production is an image of the North as largely "unpeopled, empty, and free for the taking, [thus] signaling the settler colonial interests" involved in understanding the North in this way (Cooke 2016, 239). As Wolfe (2006, 388) reminds us: "*terra nullius*[11]…[is] taken for granted in settler culture." In the North, this 'settler common sense' conveniently ignores the presence of Indigenous Peoples in the region since time immemorial and that lands and waters are Indigenous territories that have long histories of occupancy and use before the first settler presence. As a region, the North is highly dependent on resource extraction as a primary economic activity. Much of the untapped mineral and hydroelectric resource potential in Canada is located in the North (Coates, Holroyd, and Leader 2014). The construction of new mines and hydroelectric dams in the North are often positioned by settler government and corporate actors as vital to the national, regional or local (capitalist) economic interest. In doing so, these actors engage in rhetoric steeped in settler colonialism that positions the North and its resources as existing primarily to serve majority settler and Southern interests.

In its settler colonial orientation, this rhetoric also marginalizes non-capitalist Indigenous visions of development and ignores the importance of traditional subsistence and mixed economies to Indigenous understandings of 'the regional and local interest.' Many Indigenous Nations and Peoples around the world have teachings

[11] A Latin term meaning 'nobody's land,' or land that is considered unoccupied and uninhabited. The legal doctrine of *terra nullius* was (and is) used to justify settler occupation of Indigenous territories.

about 'the good life.' Called 'buen vivir' by several Andean Indigenous Peoples (Broad and Fischer-Mackey 2017), 'pimatisiwin' or 'mino-pimatasiwin' by some Cree Peoples (Settee 2013), and 'inuitsiaqpagutit' in some Inuit dialects (Tagalik 2010), teachings about the good life (which are diverse and have many nuances between Indigenous Peoples) often embrace a vision of wellbeing and development that is not dependent on the capitalist economic system or extractivism.[12] They emphasize caring for others, individual-community connections, mental, spiritual and cultural health, and responsibilities to the land and waters. Kuokkanen (2011) argues that traditional subsistence and mixed economies are integral to Indigenous Peoples' abilities to live the good life. The principles of sustainability and reciprocity are central to both traditional economies and teachings about the good life (Kuokkanen 2011). These economies are very different than capitalist economies:

> Profit to non-Natives means money. Profit to Natives means a good life derived from the land and sea, that's what we are all about, that's what this land claims was all about…The land we hold in trust is our wealth. It is the only wealth we could possibly pass on to our children. Good old Mother Earth with all her bounty and rich culture we have adopted from her treasures is our wealth. Without our homelands, we become true paupers. (Antoinnette Helmer quoted in Kuokkanen 2011, 215)

Many Indigenous communities in Canada's North have a mixed economy where subsistence and capitalist-oriented economies exist side-by-side. However, Kuokkanen (2011, 221) cautions that subsistence economies should not be assumed to be less important than capitalist economies, as the subsistence economy "continues to play a significant economic, social, and cultural role in many indigenous communities. According to various estimates, a subsistence economy accounts for 30–80 percent of all production and income in many northern indigenous communities." Resource extraction projects can undermine these traditional economies, with implications for

[12] They also offer a critique of non-capitalist forms of extractivism.

Indigenous Peoples' abilities to pursue the good life and their preferred vision of development.

Many Northern communities, and federal, provincial and territorial governments, see resource development projects as a pathway to prosperity and capitalist development. Many Indigenous Nations and communities hope that the economic benefits from these projects can help to meet basic needs, fund much-needed improvements in infrastructure and services, support fiscal autonomy and self-determination, and enhance community members' capacities to engage in subsistence and mixed economies. In practice, however, few of the economic benefits trickle down to Northern communities, and especially to their most marginalized members. Instead, resource extraction in the North has been overwhelmingly characterized by "massive transfers of wealth out of the region" (Coates and Morrison 1992, 10), and into the hands of Southern workers, Southern governments and multinational corporations (Morgan, Dobson, and Lim 2013; Morgan 2015; Huskey and Southcott 2018), along with the creation of new crises and challenges for Northern communities and many of their members (Stienstra 2015; Stienstra et al. 2019) rather than prosperity and the good life. This leads to the question: should resource extraction in Canada's North be considered an example of the resource curse?

The Canadian Resource Curse

The dominant narrative about natural resources in Canada, and in most other parts of the world for that matter, is that they are important drivers of our economy and a source of prosperity for rural and remote communities and their citizens. However, we know that this is not the case for all communities and all members of communities. The comparative literature on the political economy of natural resources addresses this very phenomenon, although this literature has historically focused primarily on countries that we would typically think about as being part of the Global South. As illustrated in the previous section, the North in Canada shares similar histories of colonization,

'underdevelopment' and core-periphery relationships with many Global South countries, and can be usefully conceptualized as an example of 'the Global South in the Global North.' In particular, the comparative politics literature on the political economy of natural resources is helpful in making sense of the connection between development and resource extraction in Northern Canada. To date, there has been little engagement with this literature within the Canadian politics sub-field of political science, although questions of extractivism have informed the Canadian political economy sub-field. Highlighting the relevance of this literature to the study of Canada and Canadian politics is one of the contributions of my dissertation.

Several theories exist to explain the phenomenon of what political scientists and economists have called the 'resource curse' or the 'paradox of plenty' (Karl 1997) – when a new development of highly profitable natural resources does not result in the development and prosperity that we might naturally expect it to bring. Instead, these developments often create negative socio-economic impacts and new challenges for countries (and as I argue, communities) with little wealth generated from the extraction of natural resources contributing to public infrastructure and services that would improve the lives of citizens. This section briefly discusses each of the most common explanations of the resource curse found in the comparative and Canadian political economy literature before discussing the concept's relevance to the Canadian context.

Explanations of the Resource Curse

The comparative politics literature has a number of explanations of the resource curse. The Dutch disease is the primary economic explanation of this phenomenon, while other common explanations point to conflict and problems in governing institutions as the main causes of the problem. Less common in the comparative literature are the explanations which highlight relationships of power or inequities as contributing to the resource curse, although questions of power have shaped the more recent Canadian political economy literature. Each of these explanations is briefly reviewed below.

Dutch Disease

The dominant explanation of the resource curse in the comparative literature is the phenomenon known as 'Dutch Disease' – changes to a national economy brought on by the new discovery of natural resources and the subsequent shift away from export-oriented industries, like commercial agriculture or manufacturing, to resource industries as a large share of the economy's production. Collier (2007, 39) describes the Dutch Disease in this way: "The resource exports cause the country's currency to rise in value against other currencies. This makes the country's other export activities uncompetitive. Yet these other activities might have been the best vehicles for technological progress." This lack of technological progress and economic growth has consequences for a country's development. The Dutch Disease explanation of the resource curse relies on a kind of "crowding-out logic" (Sachs and Warner 2001, 833), where industries more important to sustainable and long-term development are 'crowded-out' of the national economy. While resource industries often provide new rents (sources of revenue) in the form of royalties and taxes, these rents tend to exacerbate the crowding-out of other industries and result in lost growth in the long run (Auty 1993; Collier 2007). Two additional factors provide context to the Dutch Disease model. First, resource industries typically employ fewer people than other primary industries (Auty 1993), and thus are not an effective vehicle for long-term, mass employment. A second contributing factor is that the price of natural resource commodities is especially volatile (Collier 2007). Resource corporations will often cut back their production when the price of commodities is low and increase their production again when prices rise. While making business sense, this "boom-and-bust" cycle (Collier 2007, 40) has development consequences for the employees of the industry and communities and governments that depend on the revenues it generates.

Conflict

A second explanation of the resource curse links resource development to internal conflict and civil war. The logic of this explanation asserts that the discovery of natural resources can incite a struggle to control the resources and their potential wealth. So-called 'conflict diamonds' or 'blood diamonds' prominent in the civil wars in Sierra Leone and Angola are but one example of this phenomenon. Collier and Hoeffler (1998) found that countries with natural resources are up to 4.5 times more likely to have internal conflict than countries that have no natural resources. They did however find that if there were plenty of natural resources, conflict was less likely than if there were only a small amount of resources. One reason suggested for this difference in the literature is that "small endowments of natural resources provide taxable revenue that rebels wish to take control of while large endowments of natural resources provide a government with the means to heavily invest in their military" and thus subdue any potential internal conflict (A. James 2015, 56).

A second body of literature on 'lootable' resources suggests that some types of resources are more likely to contribute to conflict than others. A resource is considered 'lootable' if it is lucrative and is found in easily accessible locations that do not require a significant amount of financial investment or technological inputs to facilitate extraction (Hilson and Maconachie 2010; Snyder 2006). These resources are more likely than non-lootable resources to be extracted by rebel groups, terrorists or other non-state actors and sold to fund their armed actions against the state. Alluvial minerals (e.g., gold nuggets in riverbeds) and gemstones are common examples of lootable resources (Snyder 2006). The 'lootability' factor partly explains why diamonds have facilitated conflict in Sierra Leone, where they are primarily extracted by hand from riverbeds, but have not had the same effect in South Africa, where they are primarily extracted from kimberlite pipes, which is a much more expensive and technologically advanced process. Snyder (2006) does caution that just because a resource would be considered lootable, it does not mean that it will automatically contribute to conflict. When the extraction of

lootable resources is regulated by the government and there are mechanisms like taxes or royalties to return at least some of the profit to the state, lootable resources are much less likely to contribute to conflict (Snyder 2006).

Institutions and Democratic Malfunction

Despite the two previous explanations, Collier (2007, 42) asserts that "the heart of the resource curse is that resource rents make democracy malfunction" and that the most relevant explanation is fundamentally an institutional one. Collier is not the only scholar to make the connection between the resource curse and poor democratic outcomes. Campbell (2003) argues that effective governance is essential to ensuring that resource wealth can be translated into positive development outcomes through democracy. Mehlum, Moene and Torvik (2006) maintain that the nature of institutions determines how resource rents affect growth and contribute to development. They distinguish between "producer friendly" (2) and "grabber friendly" institutions (3). When institutions are producer friendly, resource rents help to foster entrepreneurship and production, whereas when institutions are grabber friendly, they encourage corruption, patronage, and rent-seeking behaviours which discourage competition and are not helpful for growth (Mehlum, Moene, and Torvik 2006). Heilbrunn (2014) makes a similar path-dependent argument by saying that perhaps the single most important factor in a country's successful management of natural resource wealth is the institutional structure that is in place to manage that wealth when resource rents start to flow as that determines success or failure.

Collier's argument about resource rents, democracy and development adds complexity missing from the more statistically oriented literature on the Dutch Disease. Political scientists (e.g., Ross 2001; 2013) who work in this area have long asserted that resource-rich countries tend to move toward autocracy, rather than democracy. Collier (2007, 43) argues that this occurs because "oil and other surpluses from natural resources are particularly unsuited to the pressures generated by electoral

competition." Firstly, the need to win elections in a democratic system can cause the ruling party to make poor investment decisions with their new resource wealth. They are reluctant to invest in projects that are important to development goals in the long-term, but would not produce an immediate benefit to sway the next election (Collier 2007, 44). Secondly, weak institutional structures with few checks and balances, combined with resource rents, "lets in the politics of patronage" (Collier 2007, 44), where buying votes becomes the preferred way to win an election, instead of providing public services or infrastructure to increase social wellbeing (Collier 2007, 44). As Collier (2007, 45) notes, this only works because resource rents bring a large influx of money into the public purse that can be diverted. In this way, winning an electoral competition in a system with high resource rents then becomes about "survival of the fattest," rather than merit or a record of good governance and commitment to the high-quality delivery of public services, which would theoretically produce better development outcomes (Collier 2007, 46). These effects of the resource curse are amplified in countries with high levels of ethnic diversity. In fact, Collier (2007, 45) states: "the more ethnically diverse the society, the worse the performance of a resource-rich democracy." Patronage politics can be enhanced in countries where voters are very loyal to their ethnic groups (Collier 2007). As Collier explains, this has a particularly negative effect in countries with many small ethnic groups rather than a few large ethnic groups. He writes: "The narrower the base of social support, the stronger the incentive for economic policy to sacrifice growth in order to redistribute income" to a leader's ethnic group (Collier 2007, 50).

A key part of this natural resources 'trap' is a lack of checks and balances in the system to encourage political restraint. Collier (2007) argues that resource rents often weaken checks and balances. The central reason for this is that resource rents provide significant government revenue that allows a government to avoid taxing its citizens. He points out that this has the effect of not "supplying the public good of scrutiny over how their taxes are being spent" (Collier 2007, 47), which can lead to greater potential for government revenue to be misdirected, with the result often being the outcomes

described above. Collier (2007, 47) also recognizes that resource-rich economies tend to have a problem with political restraints, writing: “The resource-rich countries are more in need of checks and balances than other countries, but paradoxically have fewer of them.” Increasing political restraints is essential to avoiding the natural resources trap. Of all the checks and balances in a democratic system, Collier (2007) found that a free press is most important to ensuring economic growth for resource-rich countries.

Profit and Power – Extractivism, Capitalism, Imperialism, Colonialism, Racism

The body of literature on capitalism as an imperialist system is also relevant to the challenge that natural resources pose to development, though is rarely positioned alongside the three ‘mainstream’ explanations of the resource curse that have been discussed so far. Lenin (2010) argues that the export of capital is the last, imperialist, stage of capitalism. Magdoff (2003), Harvey (2005), and other critical (often Marxist) scholars argue that we are currently experiencing a form of imperialism different from the imperialism of the past, which is known as capitalist imperialism:

> a contradictory fusion of ‘the politics of state and empire’ (imperialism as a distinctively political project on the part of actors whose power is based in command of a territory and a capacity to mobilize its human and natural resources towards political, economic, and military ends) and ‘the molecular processes of capital accumulation in space and time’ (imperialism as a diffuse political-economic process in space and time in which command over and use of capital takes primacy). (Harvey 2005, 26)

As Magdoff (2003, 41) writes, “The principal new feature is the concentration of economic power in giant corporations and financial institutions, with the consequent internationalization of capital.” Multinational corporations (MNCs), often the proponents of major natural resource developments, are the new imperial actors in this system, backed by the power of the imperial state. While some insist that MNCs do not ‘belong’ to a particular country, given their multinational nature, Petras and Veltmeyer

(2007, 31) point out that all "MNCs have a home base," depend on their home state to assist in facilitating favourable business conditions, often through policy reform, and ultimately, these home (imperialist) countries want their MNCs to maximize profit.

Dependency scholars have long recognized that the world capitalist system results in uneven development for the Global South (Petras and Veltmeyer 2007). This is reinforced by the fact some post-colonies remain economically dependent on their former colonizer (Magdoff 2003). However, Petras and Veltmeyer (2007) argue that these new relations constitute more than dependency and must be analyzed through the lens of capitalist imperialism. Scholars who work in this area note capitalism's expansionary drive to secure new markets and, particularly important in the context of resource extraction, new and cheap sources of materials and labour. Magdoff (2003) argues that market relations between the Global North and South have evolved in ways that reinforce imperial relations. Harvey (2005, 32) has conceptualized these relations as relying on particular asymmetries:

> Uneven geographical conditions do not merely arise out of the uneven patterning of natural resource endowments and locational advantages, but, even more importantly, are produced by the uneven ways in which wealth and power themselves become highly concentrated in certain places by virtue of asymmetrical exchange relations.

Uneven development is then, for many of the resource-rich countries of the Global South,[13] partially a result of these asymmetries of capitalist imperialism. The solution for overcoming the structural inequalities inherent in this system and promoting development then necessarily requires that countries of the Global South "overhaul the existing international trade patterns and transform their industrial and financial structure" (Magdoff 2003, 111) to disrupt the dominant system.

[13] The binary between Global North and Global South was always somewhat misleading and is certainly not as clear-cut as it used to be. There are some countries that would have been traditionally considered Global South countries that, while being disadvantaged in the global capitalist system, also act as imperial powers in relation to other Global South countries

Some critical scholars recognize neoliberalism as a form of capitalist imperialism that has acute consequences for the development of Southern nations. Neoliberal capitalism relies on a particular set of institutional structures, maintained with the full cooperation of the state,[14] that allow market actors to act in a relatively uninhibited manner in the pursuit of capitalist accumulation. As Kotz (2015, 12) states:

> Neoliberal theory asserts that a 'free' (meaning unregulated) market system assures optimal economic outcomes in every respect — efficiency, income distribution, economic growth, and technological progress — as well as securing individual liberty. This theory claims that a capitalist economy naturally maintains full employment and an optimal rate of economic growth, and any state interventions aimed at promoting those goals are not just unnecessary but will worsen economic performance.

Petras and Veltmeyer (2007, 58) write that "what best defines neoliberalism in practice is a pattern of uneven development and the growth of social inequalities in the distribution of income," particularly inequality both within and between countries. Neoliberal capitalism operates through a set of practices that Harvey (2005, 145) labels "accumulation by dispossession." These include privatization of state-owned businesses and public services, further commodifying 'the commons,' and dismantling labour and environmental regulatory frameworks to encourage foreign investment (Harvey 2005). Petras and Veltmeyer (2007) assert that many of these practices contribute to social exclusion and other development consequences for marginalized groups within countries, while local elites continue to benefit from this imperial system. Of course, this accumulation by dispossession is not met by silence. Both Harvey (2005) and Petras and

[14] As Kotz (2015, 9) writes: "The concept of neoliberal, or free-market, capitalism does not mean that the state plays no role in the economy. Market relations and market exchange require a state, or state-like institution, to define and protect private property and to enforce the contracts that are an essential feature of market exchange. Every large-scale society requires a state, or a state-like institution, to preserve order…The meaning of "free-market" in this context is that the state role in regulating economic activity is limited, apart from the preceding essential state functions, leaving market relations and market forces as the main regulators of economic activity — but of course operating within a framework provided by the state."

Veltmeyer (2007) remind us that these practices have provoked a substantial backlash in the form of resistance movements on both a local and global scale.

What the 'mainstream' capitalist imperialism development literature neglects is an acknowledgement of how this system relies not only on unequal class-based and colonial-based relations, but also unequal relations based in other systems of power, particularly racism. Black Marxist scholars, particularly Cedric J. Robinson, C.L.R. James and Robin Kelley, have been instrumental in developing an analysis of racial capitalism. The term racial capitalism was first coined by Robinson in 1983 in his book *Black Marxism: The Making of the Black Radical Tradition* (Robinson 2000). Robinson (2000, 2) argues that as "the development, organization, and expansion of capitalist society pursued essentially racial directions, so too did social ideology" so that the social construction of relations between classes under capitalism was not just a function of the relations of production but also racism, a fact which Marx largely neglected. Kelley (2017) argues that one of the most important contributions Robinson made to the study of race, capitalism and colonialism was the recognition that:

> Capitalism was 'racial' not because of some conspiracy to divide workers or justify slavery and dispossession, but because racialism had already permeated Western feudal society. The first European proletarians were *racial* subjects (Irish, Jews, Roma or Gypsies, Slavs, etc.) and they were victims of dispossession (enclosure), colonialism, and slavery *within Europe*. Indeed, Robinson suggested that racialization within Europe was very much a *colonial* process involving invasion, settlement, expropriation, and racial hierarchy.

In developing his analysis of racial capitalism Robinson draws on the work of earlier Black radical and Marxist scholars, writers, and activists, including C.L.R. James (1938), whose book, *The Black Jacobins,* highlighted the successful revolutionary efforts of enslaved Africans and free people of colour in Saint-Domingue and how their resistance was tied to transatlantic relationships of slavery, capitalism, and imperialism. The core tenet of racial capitalism is that capitalism, with its expansionary drive, requires an Other who can be exploited to maximize profit. This Other is constructed through a

process of racialization. Butler (2015, 26–27) writes, “racism both facilitated the expansion of capitalism through colonialism and facilitated the intensive appropriation of the labour of colonized and dominated peoples.” These trends have continued into the contemporary neoliberal era. Butler (2015, 29) points to the rolling back of the state, the continuation of the myth of merit as the key to economic success and development, and “the expanded numbers of people effectively abandoned as ‘disposable’ or ‘surplus’” as processes that are implicitly racialized and indeed have a disproportionately negative effect on racialized minorities, including Indigenous Peoples in the territories we call Canada.

At the core of these inter-related explanations of the resource curse as linked to capitalism, imperialism, colonialism, and racism is the concept of extractivism. While certainly not solely a product of capitalist systems (Klein 2015), the concept of extractivism acknowledges that the pursuit of profit or government revenue through extractive industries and extractive forms of development often relies on systemic exclusion and dispossession, through relationships of racism, colonialism, and imperialism (Harvey 2005; Preston 2017; Willow 2016). As Willow (2016, 4) argues “contemporary extractivism reproduces the resource colonialism of old, with symbolic and material benefits continuing to flow into already empowered (and usually distant) hands and local peoples continuing to bear disproportionate environmental and social burdens.” In Canada, the historic building of the white settler state relied on relations of extractivism (Butler 2015). The contemporary maintenance of the settler state in Northern Canada, as discussed in the ‘Theorizing the North’ section above, likewise relies on (settler) colonial and (often capitalist) relations of extractivism (Butler 2015; Willow 2016), however Canada is rarely used as a case in the extractivism literature.

Exacerbating Inequalities

The least well-developed explanation of the recourse curse posits that the development of natural resources increases inequalities within a country. As Collier

(2007) and Ross (2013) note, sometimes in countries with high levels of ethnic inequality or strong regional identities, the discovery of natural resources provide the motivation for a simmering separatist sentiment to become a full-fledged push for secession. We have seen this happen in the Niger Delta, Biafra, and South Sudan to name a few. Avoiding these types of conflicts, especially when the new resources in question are located on territory mostly populated by the disenfranchised ethnic group, can be difficult. Redistributive mechanisms for resource rents that can appease the interests of both the majority and minority within the country are essential to deal with this problem. A second cause of inequality brought about by the discovery of natural resources is that developing resource mega-projects generally involves displacing already marginalized people from their lands and livelihoods. This is particularly the case in large dam projects as Conca (2006) and Khagram (2004) note. However, mines and oil and gas projects also use large amounts of land and pollute the natural environment, making previous livelihoods dependent on lands and waters much more difficult (Collier 2010). Barbier (2005) suggests that it is important for governments to become aware of populations that might be displaced by the expansion into previously undeveloped areas of the country and take steps to ensure they are taken care of even if they have to be moved elsewhere. Resource industries can also exacerbate other existing inequalities in societies as we have extensively documented in the Canadian case (Manning et al. 2018a; Stienstra et al. 2019). For example, the majority of jobs in resource industries are men's jobs, as Lahiri-Dutt (2011) describes, so women are less likely to benefit from new job opportunities. To some extent, this can be alleviated by governments requiring equitable hiring policies and investing in needed training for women. Cox and Mills (2015) assert that the institutionalization of masculinity in part explains why women are less likely than men to find well-paid employment in resource industries, and why gendered concerns are not adequately addressed in IA and IBA processes.

Resources and Canadian Political Economy

While not using the concept of the resource curse itself, the Canadian political economy sub-field has long engaged with questions of Canadian resource dependence and exploitation, although in a different way than much of the international resource curse literature. Early Canadian political economy was almost wholly focused on resources with Innis' (1930) staples thesis being the dominant theoretical lens of that era to explain the country's development trajectory. For Innis, when staples[15] are the dominant sector of the national economy, like in Canada for much of its history, they lead to a resource-led form of development that is highly dependent on the workings of the international market. The market is particularly unfavourable to 'periphery' resource-exporting nations but highly favourable to 'core' countries that manufacture consumer goods from the staples and control access to the consumer market, thus capturing much of the direct and indirect wealth generated from the staples. Innis was very concerned about the predicament of periphery nations (he includes Canada), where high levels of staple production generate very little sustainable wealth and few economic linkages. Watkins (1963) built on Innis' staples theory to explain the mature, post-war Canadian staples economy where "governments provided firms with access to natural resources in exchange for royalties, commitments to employment, and infrastructural development in rural areas. These arrangements resulted in the creation of resource-dependent communities … and also promoted economic diversification through expanded secondary manufacturing" (Mills and Sweeney 2013, 7).

Questions about resources are also frequently addressed in the 'new political economy,' but with more attention to the domestic context, particularly how staples structure labour, and therefore class, relations in Canada, concentrating wealth in the hands of a few (Clement 1989). The new political economy tradition also devoted a significant amount of attention to how the resource boom and bust cycles shape

[15] "Staples are natural resource products that have undergone minimal processing and that are exploited for the purpose of export to other areas where they are manufactured into end products" (Clement 1989, 37).

regional differences within Canada (Brodie 1990), while also examining how "Canada's uneven internal development is conditioned by its place in the world system" (Clement 1989, 44), and the role of foreign investment in sustaining that uneven development (Clement and Williams 1997). Feminist political economists working in this tradition, notably Marilyn Porter (1993) and Meg Luxton (1980), emphasized the importance of gender relations, unpaid domestic labour, and social reproduction to the maintenance and adaptability of Canada's staple resource industries. The concentration of resource wealth in "the hands of foreign investors" (Mills and Sweeney 2013, 7) is also a focus of much work in what Mills and Sweeney term the 'neostaples' political economy. It is advanced as an explanation of why natural resources do not bring prosperity to the resource-dependent regions of the country and why local communities see few economic benefits from resource extraction (Watkins 2007; Stanford 2008).

Despite the centrality of resource development to the Canadian political economy subfield, there has been limited attention in this literature to the questions central to my thesis, particularly how members of marginalized groups in Canada's North experience the costs and benefits of resource development and why they bear disproportionately negative impacts. The work that does exist on this topic tends to use a historical lens (Tough 1997; High 1996) or focuses solely on employment and labour relations (Mills and Sweeney 2013; Cox and Mills 2015). While feminist political economists have embraced the principles of intersectionality and applied an intersectional lens to the study of a wide variety of areas, including citizenship, welfare state restructuring, pay equity, childcare, and the neoliberal state (Vosko 2002; Armstrong, Cornish, and Millar 2003), little recent feminist political economy scholarship has engaged with resource extraction. On the whole, the North as a region and the role of settler colonialism in sustaining and shaping resource extraction in the North have also received limited attention in the Canadian political economy literature, although that is slowly changing (e.g., Green 2003; Hall 2013; Cameron and Levitan 2014).

Fast (2014, 35) uses the term "neoliberal extractivism" to conceptualize Canada's current approach to resource extraction. As a concept, neoliberal extractivism

recognizes the ways that neoliberal capitalism requires exclusion and dispossession to both maintain itself and sustain extractive industries. While Fast (2014), like many Canadian political economists who study resource extraction, offers only a cursory acknowledgement of settler colonialism as an integral part of the neoliberal extractivist project, the extractivism literature discussed above makes it clear that settler colonialism is an essential part of the story of the resource curse in Northern Canada.

The Case for the Canadian Resource Curse

Like most other Global North countries, Canada is not frequently mentioned in the resource curse literature. When it is mentioned, it is most frequently cited as a success story of a country that has successfully avoided the resource curse and used natural resources to bring prosperity to its citizens. For example, Gelb (2014, sec. Summary) describes Canada as "a resource-rich, free and democratically accountable country," in stark contrast to the Democratic Republic of Congo (DRC), which he describes as a "resource-rich, corrupt, violent and impoverished country." But is it really true that Canada should be considered a success story in regard to the resource curse? In comparison to the experience of the DRC, we can say yes, as that is an extreme comparison between two radically different contexts. However, there is significant evidence that communities in Northern Canada experience the 'underdevelopment despite high levels of natural resources' associated with the resource curse phenomenon. Yet few scholars argue that Canada too experiences a resource curse. Some notable exceptions include Parlee's (2015) article and Shrivastava and Stefanick's (2015) edited collection, both of which focus exclusively on Alberta's experience with the oil industry.

The question then is: why has Canada not been a focus of the resource curse literature, despite the strong place of the study of resources in Canada's political economy tradition? There are a number of possible reasons, including that is not always considered 'sexy' by Canadian political scientists to study Canada. Others relate more directly to dominant trends in the scholarship of the resource curse. Much of the

resource curse literature engages in a macro-level analysis, examining countries as a whole and treating them more or less homogenously. If we were to look at Canada as a whole, it makes sense that we would not say that Canada is experiencing a resource curse, as the poor outcomes and underdevelopment associated with the resource curse are concentrated in particular regions of the countries, and are felt by only some members of communities. The explanations that connect resource development with conflict and civil war, for example, hold little relevance to Canada as a relatively stable country on the world stage. Canada is also a comparatively rich country, and arguably it has more capacity to 'buy' consent and diminish many of the conflict-generating impacts of the resource curse. That being said, it is important to note that resource development does lead to significant division and resistance within and between communities, which is examined more closely in Chapters 6 and 7. The most common institutional explanations of democratic malfunctioning may also at first glance seem to lack relevance to Canada in that we have a fairly well-functioning democracy compared to many of the countries most frequently cited in this literature. However, Canadian democracy and democratic institutions are certainly not without faults, particularly as they relate to jurisdictional gaps and the distribution of the costs and benefits of resource extraction. The literature on capitalism as imperialism may also seem inapplicable to Canada as our country is not a post-colony in the same way as many Global South countries are. However, as Butler (2015) acknowledges, settler colonialism has shaped many of the same dynamics in Canada, although settler colonialism is not a focus of much of the resource curse literature. In the context of the Canadian North, however, as discussed earlier in this chapter, settler colonialism is an important part of the story of resource development.

So, what is the Canadian variation of the resource curse? It is in many ways similar to what I said earlier about the nature of the resource curse in the comparative political economy literature – the resource curse occurs 'when a new development of highly profitable natural resources does not result in the development and prosperity that we might naturally expect it to bring. Instead, these developments often create

negative socio-economic impacts and new challenges for countries (and… communities) with little wealth generated from the extraction of natural resources contributing to public infrastructure and services that would improve the lives of citizens' (see page 25 above). While much of the international resource curse literature emphasizes the country level and centres analyses of economic growth, when we apply the concept to Northern Canada, it becomes clear that the core of the resource curse in this context is about domestic inequities, rather than inequities in the international context which characterize many understandings of the resource curse in the Global South. This attention to the domestic level is one of the contributions of the Canadian political economy literature to the study of natural resources and development. One of the distinctive features of the Canadian version of the resource curse is that the wealth generation and growth from resource extraction projects is primarily concentrated in the South of the country (in the hands of settler governments and corporate entities), while resource extraction is associated with growing inequality and displacement in the communities adjacent to the developments themselves in the Northern parts of the country. In this dissertation, I argue that the Canadian variation of the resource curse is the situation in which the costs and benefits of resource extraction are unequally distributed within and between communities and between the Northern and Southern regions of the country. Historically marginalized members of Northern communities are most likely to bear a disproportionate share of the costs of resource extraction and be unable to access many of the benefits.

There are two main benefits to conceptualizing resource extraction in Northern Canada as an example of the resource curse. Firstly, it lends legitimacy to the voices of members of communities who raise serious concerns about the negative impacts of resource extraction but are too often sidelined by the dominant narrative that resources in Canada bring prosperity. This is particularly important given how these impacts create 'cascading effects'[16] in other policy areas beyond resource governance. For example, the

[16] Thank you to Bonnie Brayton of the Disabled Women's Network (DAWN) Canada for introducing me to this term.

National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) found that the 'man camps'[17] common at resource extraction worksites in the Canadian North are linked to high rates of sexual violence and ultimately the ongoing genocide of Indigenous women and girls. The Disabled Women's Network (DAWN) of Canada has argued that traumatic brain injuries, a devastating consequence of the intimate partner violence common in resource-affected communities, are an experience of disability linked to resource extraction that demands a dedicated policy response relating to new demands for disability-related services and supports (Bonnie Brayton, personal communication).

Secondly, this study of the Canadian North makes a contribution to the scholarly understanding of the causes and consequences of the resource curse. While not examined in the comparative politics literature on the resource curse or the Canadian political economy literature, I argue in the later chapters of this dissertation that a distinct kind of institutional explanation is at work in the case of the Canadian resource curse, namely that institutions of resource governance in the Canadian context (particularly impact assessment agencies and processes) have been structured and practiced in ways that uphold, rather than challenge, dominant relations of power that sustain extractivist development agendas. They reproduce inequities based in settler colonialism, capitalism, racism, sexism and ableism (among others) in ways that limit the equitable participation of members of marginalized groups in resource decision-making, while also constructing strict boundaries around what community experiences, concerns, knowledges, and types of impacts are taken seriously by those who hold power in IA institutions. This research shows that institutional understandings of the resource curse are relevant in Global North contexts like Canada and can be enhanced through linkages with explanations that pay more critical attention to how relationships of power shape policy and governance. Northern Canada effectively illustrates the

[17] A colloquial term for the on-site housing accommodations to house the primarily male workers while they are working at a resource extraction site.

connection between extractivism and inequality explanations of the resource curse in shaping resource governance institutions.

Multilevel Politics and Resource Governance

As is clear from the resource curse literature, governance mechanisms are important in distributing the costs and benefits of resource extraction within countries and communities. In Canada, I argue that without understanding the regulation of resource extraction through the lens of multilevel politics, involving relations of federalism, intergovernmental relations and multilevel governance, key dimensions of structurally embedded inequalities that shape institutions and thus poor outcomes for Northern communities will remain invisible.

Relations of Multilevel Politics

The regulation of resource extraction in Canada operates through the system of federalism that defines Canadian governance. Briefly, dominant institutional understandings of Canadian federalism emphasize the division of powers and jurisdiction between federal and provincial governments, as defined in the constitution (Simeon, Robinson, and Wallner 2014; Rocher and Smith 2003). Both federal and provincial governments are considered sovereign in their areas of jurisdiction and formally have equal status (Simeon, Robinson, and Wallner 2014), although that is debatable in practice. This institutional arrangement is often justified as a way of managing Canada's considerable territorial and regional diversity (Bakvis and Skogstad 2002; Smith 2010). The Supreme Court is considered to be the arbiter of the constitution and is ultimately responsible for resolving conflicts relating to jurisdictional disputes between governments that cannot be solved through negotiation (Rocher and Smith 2003). Much of the day-to-day collaboration between federal and provincial governments in Canada occurs through the institutions of executive federalism,

especially intergovernmental cooperation, committees, and relationships between ministries and departments with similar mandates within both levels of government (Meekison, Telford, and Lazar 2002).

This dominant institutional understanding of federalism largely neglects other forms of government. Municipal governments have historically not been given much attention within the study of Canadian federalism.[18] They have been traditionally considered "creatures of the provinces" (Magnusson 2005, 6) with limited power to control their own affairs, except in the areas of provincial jurisdiction assigned to them through a process of devolution. This has important implications for the regulation of resource extraction in Canada, as municipal governments have limited power to influence the project approval process which is formally federal and/or provincial jurisdiction. Similarly, territorial governments have not been given as much attention as provinces in the study of federalism.[19] Constitutionally, not unlike municipal governments, the territories would be considered 'creatures of the federal government' as their powers and jurisdiction are determined by federal statute. Increasingly, however, territorial governments are being recognized as important actors in their own right, and as sites for institutional innovation within federalism (White 2011).

Dominant institutional understandings of federalism likewise exclude Indigenous governments.[20] As Ladner (2010, 66) accurately identifies: "The standard treatment of federalism also ignores the legacies of colonialism and the constitutional imperatives that recognise Indigenous peoples as having a different relationship with the state than (other) citizens and governments." Treaty federalism is an alternative understanding of federalism that provides a pathway to a nation-to-nation relationship and political

[18] Notable exceptions to this trend include Young and Sancton (2009), Horak and Young (2012), and Tolley and Young (2011).
[19] Again notable exceptions to this trend include Cameron and White (1995) and Hicks and White (2015).
[20] I generally use the term Indigenous governments to refer to Indigenous Nations' and Peoples' chosen representatives. These include: band governments under the *Indian Act*; governments created through self-government agreements; traditional, hereditary, or ancestral forms of government; tribal associations, councils or confederacies, among others. I use the term 'government' in reference to these different forms of governance structures primarily as a way of affirming Indigenous Nations and Peoples' right to self-determination and to choose their own representatives and governance structures outside the settler state.

reconciliation between Indigenous Nations and settler governments (Ladner 2003). In this understanding, by signing treaties with Indigenous Nations, the Crown recognized the nationhood of Indigenous Peoples and made a commitment to peaceful co-existence and autonomy for each partner (Ladner 2008; Ladner and McCrossan 2009). Where no treaties were signed, Indigenous Nations retained their sovereignty and jurisdiction (Ladner and McCrossan 2009). The Haudenosaunee Kaswentha[21] treaty is often cited as an example of a nation-to-nation relationship based in treaty federalism. The relationship is described by the Haudenosaunee in this way:

> Two vessels travelling down a river – the river of life – side by side, never crossing paths, never interfering in the other's internal matters. However, the path between them, symbolized by three rows of white wampum beads on the treaty belt, was to be a constant of respect, trust, and friendship…without these three principles, the two vessels could drift apart and potentially be washed onto the bank (or crash into rocks). (Hill 2017, 30)

Scholars of treaty federalism argue that in creating Section 35, which affirms Aboriginal and treaty rights, in the *Constitution Act, 1982*, Canada "constitutionalized Indigenous political orders and made them part of the Canadian Constitution" (Ladner 2008, 295). This opened a pathway for Indigenous Nations and governments to be recognized as formal partners in federalism and intergovernmental actors in policymaking.

Recognizing that the state is no longer the only actor involved in policymaking, there has been a proliferation of literature on multilevel governance (MLG) in the past few decades. Alcantara and Nelles (2014, 185) write:

> In the simplest terms MLG is a process of political decision making in which governments engage with a broad range of actors embedded in different territorial scales to pursue collaborative solutions to complex problems. The decision to engage these diverse societal and governmental actors may be driven by necessity (i.e., the capacities to engage with the

[21] In English, the Two Row Wampum treaty.

particular issue are distributed across governmental jurisdictions and/or social groups), efficiency (collaboration is perceived as the most effective solution), and/or legitimacy (engagement enhances the legitimacy of political decisions).

Ladner (2010) argues that a shortcoming of most theories of multilevel governance is that they only discuss settler governments[22] and actors. In doing so, they ignore longer histories of multilevel political structures and collaborative, consensus-based decision-making in the confederacies and federations that characterized many Indigenous Nations' pre-contact governing structures.

There is considerable debate and confusion in the literature about the boundary between intergovernmental relations (IGR) and multilevel governance, with different scholars sometimes using the terms to mean very different things. I find the distinction made by Alcantara, Broschek and Nelles (2016) to be particularly helpful. They suggest that, instead of multilevel governance being used as a catch-all term for political decision-making involving multiple levels and actors, we use the term 'multilevel politics' instead. They then suggest that intergovernmental relations and multilevel governance are two examples of multilevel politics, as are different forms of federalism. Intergovernmental relations involve (settler)[23] "governmental actors as the primary decision-makers" (Alcantara, Broschek, and Nelles 2016, 39). These actors can be at the same level or encompass multiple levels, such as relations between two provincial governments or between a federal and provincial government. The decision-making that emerges from intergovernmental relations is generally controlled by the state, and any involvement of non-state actors is generally limited to consultation rather than meaningful involvement in decision-making (Alcantara, Broschek, and Nelles 2016). In

[22] I generally use the term settler governments in relation to federal and provincial governments, however many municipal and some territorial governments could be considered settler governments as well.
[23] While Alcantara et al. (2016) do not explicitly limit their discussion of intergovernmental relations to settler government actors, I suggest that the structures of settler colonialism that are fundamental to the settler state and Canadian government means that, at this point, no Indigenous government has an equal level of decision-making authority with settler governments, and thus cannot participate as an equal partner in intergovernmental relations.

contrast, multilevel governance in their framework involves government and non-government actors where "at least one actor is embedded at a different political/territorial scale from the other actors" (Alcantara, Broschek, and Nelles 2016, 39). They suggest that multilevel governance is more inclusive and involves non-state actors as partners in decision-making: "The key difference between IGR and MLG with respect to decision-making is that IGR involves state authorities flexing their hierarchical authorities and jurisdictions in relation to societal actors" (Alcantara, Broschek, and Nelles 2016, 43). In contrast, multilevel governance involves the sharing of power (Sawer and Vickers 2010).

Multilevel Politics and Marginalized Groups

Marginalized groups trying to have their experiences and concerns recognized by the government have found both opportunities and barriers in multilevel political structures. There is an extensive body of both Canadian and international literature on women's and feminist organizations' attempts to engage with the state and have women's concerns recognized in political agendas. This literature reveals a number of opportunities and barriers for these groups within federalism. The existence of multiple levels of government within federal structures is often cited as an important opportunity for feminist activism in federal systems (Chappell 2002; Sawer and Vickers 2010). The 'multiple citizenships' implicit in federalism allows women's organizations to 'forum shop' for a favourable policy arena in which to push for their concerns to be addressed (Sawer and Vickers 2010). Factors that influence the openness of different levels of government to feminist concerns include: the political parties which hold power, their openness to feminist ideologies and whether it is a majority or minority government (Chappell 2002). The existence of multiple levels of government has the additional benefit that, when a particular demand is shut down at one level, the demand can be taken up at another level of government (Sawer and Vickers 2010; Vickers 1994). Federal systems of government also allow for a great deal of policy movement across levels of government and between jurisdictions at the same level. This

is particularly important for organizations that engage in forum shopping as having a demand recognized at one level of government often results in policy competition or emulation and "flow-on reforms across jurisdictions" (Chappell 2002, 150; Sawer and Vickers 2010). One of the most pressing barriers to these types of engagement by feminist organizations is funding. In order to be the most effective, feminist organizations need to be active on all levels of government (Vickers 1994). It is very expensive, time-consuming, and takes a lot of staff and resource capacity for organizations to engage with multiple levels of government on a frequent basis (Sawer and Vickers 2010; Gray 2010). This level of engagement is often necessary because, as Vickers (1994, 138) notes, "the policy demands of women's movements 'do not fit neatly into jurisdictional boxes' in the current Canadian federal system." Furthermore, the executive federalism that characterizes intergovernmental relations in many federal systems, including Canada, has been very elite and male-dominated, with very few women at the table, which can result in the marginalization of issues particularly important to women and other excluded groups (Gray 2010).

Chappell's (2002) comparative study of the Canadian and Australian 'Anglo-majoritan' feminist movements shows that different opportunities exist in each country's federal institutional structure. She argues that "the multiple access points offered by federalism have advantaged the Australian women's movement, allowing it to enjoy a system of 'dual democracy' but the same openings have not always been available to Canadian activists" (Chappell 2002, 10). The focus on regionalism and territorial concerns in Canadian federalism has limited the political attention given to central feminist concerns (Chappell 2002; Vickers 1994). Historically, the mainstream Anglo-Canadian women's movement has focused the majority of its efforts on the federal level, strengthened by the equality provisions in the Charter and the funding provided by the Women's Program until 1995 (Chappell 2002; Dobrowolsky 2014). They have been particularly worried about the ongoing processes of devolution within the Canadian federation and that women across the country have uneven access to important social programs and supports depending on the province or territory in which

they live (Chappell 2002). This reflects a wider trend in feminist engagements with the state in federal systems where "many feminists support the assignment of social welfare functions to federal governments, to ensure national standards and uniform social and economic rights and prevent the 'post code lottery' determining women's access to services" (Sawer and Vickers 2010, 6). Facing significant funding reductions and financial and capacity constraints in a neoliberal political climate, many Canadian women's organizations have shifted gears in the past two decades and embraced new strategies of organizing that responds to those realities (Dobrowolsky 2014). While less visible and involved in traditional forms of political lobbying and advocacy than they were in the 1970s and 1980s, women's organizations across the country have engaged in extensive coalition building with other social movement organizations representing 'special interest' groups and embraced creative forms of political resistance (Dobrowolsky 2014).

Indigenous Nations and actors have been more successful than women's organizations in getting their concerns recognized by the government and being recognized as actors in multilevel policymaking. This is due in large part to the constitutional recognition of Aboriginal and treaty rights in Section 35, although the institutional understanding of federalism is much more dominant in Indigenous-settler state interactions than treaty federalism (Alcantara and Morden 2019). Actors that represent Indigenous interests in multilevel politics include 'traditional' government structures (e.g., clan- or family-based governments), self-governments created through treaty and land claims agreements, state-imposed band governments in First Nations communities, tribal councils or multi-Nation alliances, and national or regional representative bodies (Ladner 2010). The ability of Indigenous Nations and organizations to intervene in multilevel politics differs depending on a number of factors. Papillon (2008, 306) notes "their demographic and geographic situation, their resources, and of course, the nature of their institutions of governance" as particularly influential factors. Indigenous Nations with state-recognized self-governments "have significantly more leverage and resources to engage in government-to-government

negotiations" (Papillon 2008, 306). In instances where settler governments require (or perceive that they require) the support or consent of Indigenous Nations to ensure the successful implementation of a particular policy or program, Indigenous Nations are much more likely to be invited as meaningful partners in the co-design of that policy or program (Alcantara and Morden 2019).

There are many examples of (limited) Indigenous successes in multilevel politics. The devolution of federal government responsibilities for delivering education, health, and other services to self-governments and band governments is an example of intergovernmental relations (Alcantara and Nelles 2014). Prominent examples of multilevel governance involving Indigenous Nations and organizations include the constitutional conferences on Aboriginal and treaty rights held in the 1980s, the negotiation of many resource co-management plans, and the comprehensive land claims negotiation process (Alcantara and Nelles 2014). While there are considerable differences in power between Indigenous Nations and settler government actors that can constrain the abilities of Indigenous Nations to achieve their goals in these processes, Alcantara and Nelles (2014, 199) argue that these examples should be considered examples of multilevel governance because they are "more horizontal than top-down." Likewise, they should also be considered examples of multilevel governance using Alcantara, Broschek and Nelles' (2016) criterion relating to the integration of government and non-government actors at different territorial scales, discussed earlier in this section.

Dominant approaches to the study of multilevel governance and Indigenous people position multilevel governance as positive for Indigenous Peoples and Nations, as even a partial "migration of authority" is better than a continued pattern of the sole dominance of the settler state in decision-making (Alcantara and Morden 2019, 251). Alcantara and Morden (2019) question this notion of multilevel governance as a net positive for Indigenous people, noting that consultation is a much more frequent approach to settler governments' engagements with Indigenous Nations and actors, rather than a relationship of co-creation or co-production of a program or service. They

also acknowledge that the structure of the settler state and the dominance of settler political institutions and policy frameworks largely remain unchanged when Indigenous actors engage in multilevel governance processes with Canadian settler governments (Alcantara and Morden 2019). There is little room for Indigenous knowledges and governance structures in forms of multilevel politics that rely on dominant understandings of federalism (Stienstra 2019), but some scholars, such as Ladner (2010), argue that a process of decolonization based in treaty federalism and a nation-to-nation relationship between Indigenous Nations and governments and the settler state could lead to a more equitable form of multilevel politics. However, many Indigenous scholars are at best skeptical of this possibility, and often overtly critical of settler government efforts to engage with Indigenous Nations and governments, pointing to the fundamental inconsistencies between Indigenous demands for self-determination and sovereignty on the one hand, and the maintenance of the settler state on the other hand (Stienstra 2019; Coulthard 2014; Alfred 2005).

Indigenous women and Indigenous women's organizations have further unique challenges in engaging in multilevel politics. Ladner (2010, 68) argues that "there are complex tensions in how Indigenous women and organisations engage with multilevel governance. This may be perceived by some as a competing impetus between solidarity with the goals of self-determination for their communities and the legal protections afforded to women by the settler state." Indigenous women and organizations who choose to engage in struggles for gender equality with settler actors and largely white feminist organizations can face harsh criticisms by some members of their communities. That being said, many Indigenous women's organizations, such as the Native Women's Association of Canada (NWAC), while engaging in multilevel politics with settler governments, at the same time argue that settler government policies and colonization have been major forces in shaping experiences of patriarchy in Indigenous communities, and decolonization and increased self-determination is necessary for improving outcomes for Indigenous women within Nations and communities (Ladner 2010).

In comparison to women and Indigenous Peoples, the engagement of other marginalized groups in multilevel politics is relatively invisible in the Canadian scholarly literature. In one of the few scholarly works that engages the implications of multilevel politics for people with disabilities, Prince (2001) argues that some new social programs and policy frameworks that emerged in the 1990s through collaborative federalism – both in terms of federal-provincial and interprovincial/territorial intergovernmental relations – have had positive effects in terms of enhancing the citizenship rights of people with disabilities. However, more recent work by Stienstra (2018, 3) points to the "uneven patchwork of disability-related policies" within Canada's system of federalism, combined with the pressures of neoliberalism, as contributing to the continued exclusion and relative invisibility of people with disabilities in multilevel politics. The engagement of anti-poverty organizations and others representing people who live on low incomes is likewise largely invisible in the scholarly literature on multilevel politics. Haddow (1993, 189–90) suggests that some of this invisibility could be due to the suspicions of the labour movement of some early poverty reform measures as potentially eroding "working class solidarity" and the lack of appeal of such measures for many middle class voters. While anti-poverty organizations did advocate for improvements to social security debates in the 1970s, Haddow (1993) argues that they did not achieve much influence in multilevel politics due to inadequate capacity and financial resources as well as a lack of coherent cross-organizational priorities. However, Banting (2018) reminds us that material concerns have long been been central to social movements working to counter gender and racial inequities and their engagements with the state. The intersectional invisibility in Canadian politics and policymaking of both people with disabilities and people living on low incomes, in themselves and in their diverse intersectional sense, is a theme that will be revisited throughout this dissertation.

Gaps in Multilevel Politics

Scholars who study the impacts of federalism and other forms of multilevel politics for historically marginalized people have noted a substantial problem with gaps in multilevel governing arrangements. Feminist scholars who work on federalism frequently argue that "jurisdictional overlaps and lack of clarity in relation to the federal division of powers may be used by political elites to avoid political obligation and policy responsibility" (Gray 2010, 25). They note that women can experience poor social and health outcomes as a result of this problem (Vickers 1994; Gray 2010; Sawer and Vickers 2010). Papillon (2008, 296) also argues that the division of powers in the constitution – where the federal government holds formal responsibility for Indigenous people, but the provinces have jurisdiction over important policy areas like health and education – creates a jurisdictional gap that affects the lives and material outcomes of many Indigenous people, "especially off-reserve Indians and Métis." Ladner (2010) likewise argues that jurisdictional disputes have disproportionate effects on the lives of Indigenous Peoples. Stienstra (2018, 3) notes that "an uneven patchwork of disability-related policies" between federal, provincial and territorial governments contribute to different levels of access to services and supports for people with disabilities living in different jurisdictions and shape disability-related inequalities. For Indigenous people with disabilities, there are additional layers of complexity in accessing services and supports in the Canadian multilevel political system (Stienstra 2018; 2020). After the death of Jordan River Anderson, a Cree boy with disabilities from Norway House Cree Nation who died in hospital after the federal and provincial government could not agree on which jurisdiction should cover the care supports that would allow him to live in a home, the federal and some provincial governments adopted 'Jordan's Principle' – which "calls for the government of first contact to pay for the services and treatment and then seek reimbursement afterwards" (Stienstra 2020). While an example of a potentially promising practice in addressing jurisdictional gaps rooted in federalism, the federal government's implementation of Jordan's Principle in practice has been labelled as discriminatory to Indigenous children by the Canadian Human Rights Tribunal

(Stienstra 2020), suggesting that its ineffective implementation reduces its transformative potential as a practice.

Resource Extraction as Multilevel Politics

I argue that the regulation of natural resource extraction in Northern Canada is a problem of multilevel politics, deeply entwined in relationships of federalism, intergovernmental relations and multilevel governance. This framing is a contribution of my research. Major resource extraction projects in Northern Canada formally fall under either federal or provincial jurisdiction or often both. Jurisdiction depends on a number of factors including the type of extractive industry, the size of the project, its predicted impacts, and where the main project site is located. However, the regulatory process involves many other government and non-government actors, including regional and municipal governments, Indigenous Nations and governments, community stakeholders, civil society and non-governmental organizations, and resource corporations. The regulatory frameworks that govern resource extraction in Canada have been described in our previous research as a "tangled web" (Levac et al. 2016, 1). Pieces of this tangled web include impact assessment (IA) policies and legislation, the duty to consult, treaties, land claim negotiations, gender-based analysis (GBA+) requirements, impact-benefit agreements (IBAs), and differing jurisdictional responsibilities and assessment criteria. Making sense of the tangled web involves mapping the relations of multilevel politics that shape the governance space of resource extraction, which is the focus of Chapters 4 and 5.

Importantly for my research questions, responsibility for providing policy, programs and services to deal with the social impacts of projects also fall under multiple jurisdictions. This means that even when potential impacts on communities are identified in the impact assessment or another stage of the permitting and approval process, these impacts can quickly become lost in jurisdictional disputes and impasses, which are rarely resolved quickly or to the satisfaction of all citizens affected. Theories of intersectionality and justice suggest that there is more to the story of these

jurisdictional disputes than simply a gap to be identified and fixed. These theories help to identify relationships of power and inequality which shape government identification of, responses to, and mitigation measures for socio-economic impacts.

Intersectionality and Power in Policymaking

An intersectional lens is largely missing in the multilevel politics literature but has an important contribution to make. Intersectionality is a theoretical framework that allows for critical understandings of relationships of power and how they affect the lives of marginalized people. The term 'intersectionality' was first coined by Black legal scholar Kimberlé Crenshaw in 1989; however, the key ideas of intersectionality have informed the organizing and theorizing of women of colour and Indigenous women for much longer (Collins 2002; Crenshaw 1989). For example, the Combahee River Collective's (1977) statement described their mission as being "actively committed to struggling against racial, sexual, heterosexual, and class oppression, and see[ing] as our particular task the development of integrated analysis and practice based upon the fact that the major systems of oppression are interlocking. The synthesis of these oppressions creates the conditions of our lives." Since that time, intersectionality has become the dominant theoretical paradigm within the field of Gender and Women's Studies and has slowly become integrated in feminist Political Science (Smooth 2013). A concise overview of the basic theoretical premises of intersectionality is offered by Hankivsky (2014a, 2):

> Intersectionality promotes an understanding of human beings as shaped by the interaction of different social locations (e.g., 'race'/ethnicity, Indigeneity, gender, class, sexuality, geography, age, disability/ability…). These interactions occur within a context of connected systems and structures of power (e.g., laws, policies, state governments and other political and economic unions…). Through such processes, interdependent

forms of privilege and oppression shaped by colonialism, imperialism, racism, homophobia, ableism and patriarchy [and others] are created.

Intersectionality emerged as an explanation for experiences of oppression and discrimination that were not easily explainable through what is known as a "single-axis" approach (Dhamoon 2011, 231) based on one social location, such as gender, race or class. Intersectionality recognizes that few experiences of oppression are adequately understood through a singular lens. It requires that researchers explore how different social locations, structures, and systems of power have intersected to create particular experiences for particular groups of people in particular contexts (Hankivsky 2014b). In this way, intersectionality can be understood as a solution to the gap I identified in the first section of this chapter: the need for a framework to explain how multiple historically marginalized groups experience negative social impacts from resource extraction projects. Intersectionality, with its focus on intersecting power relations, is distinct from other theoretical explanations for inequalities that rely on concepts of identity politics, such as additive approaches to understanding identity where someone at the intersections of two inequalities, like a woman with disabilities, would be considered 'doubly' oppressed or to be experiencing "double jeopardy" (Dhamoon 2011, 232).[24] Intersectionality, in recognizing the multiplicity of social locations and systemic and interconnected nature of power relations, is also a theory that facilitates building relationships of solidarity across difference (Hancock 2011). In doing so, intersectionality helps to avoid an 'Oppression Olympics,' where different marginalized groups feel forced to compete in an environment shaped by limited resources to advance their position as the 'most' oppressed and thus the most deserving of limited resources (Hancock 2011; Hankivsky and Cormier 2011; Yuval-Davis 2012).

Intersectionality understands systems of power, such as sexism, colonialism, and racism, as dynamic and intersecting or interlocking, mutually shaping and reinforcing one another (Collins and Bilge 2016; Dhamoon 2011). Crenshaw (1989, 149) uses the

[24] From an intersectional perspective, to be a woman with a disability is not to experience 'double oppression' but instead to experience the world from a particular social location that has different challenges than those facing other women and other people with disabilities who are not women.

analogy of traffic in a four-way intersection to describe how power works in an intersectional framework. She writes: “Discrimination, like traffic through an intersection, may flow in one direction, and it may flow in another. If an accident happens in an intersection, it can be caused by cars traveling from any number of directions and, sometimes, from all of them.” In this way, intersectionality understands experiences of oppression as having multiple causes that are not easily untangled from one another, like the causes of a traffic accident. A complementary way of conceptualizing this concept within intersectionality theory comes from the work of Patricia Hill Collins (2002) who uses the term “matrix of domination” (227) to refer to the “overall social organization within which intersecting oppressions originate, develop, and are contained” (228). Collins (2002, 228) recognizes that the precise structure of this matrix of domination will necessarily vary across contexts and identities due to social, political and economic differences, however, she believes the concept “encapsulates the universality of intersecting oppressions as organized through diverse local realities.” A basic tenet of intersectionality theory is that there are differences of power both within social groups and between groups who occupy different social locations, shaped by these interlocking systems (Hankivsky and Cormier 2011). The dynamic and intersecting nature of these systems means that individuals can experience both privilege and oppression in different areas of their lives (Collins 2002), and explains why some individuals within a social group might have more power than others within the group. This understanding of contextual and interlocking oppressions provides partial explanations as to why the interests of certain groups are and are not represented in decisions about resource development in Canada, why organizations representing different marginalized groups have different capacities and challenges to engage in multilevel politics, and why some members of communities benefit less than others from resource projects.

A multi-level understanding of power is one of the strengths of intersectionality as a theory and creates synergy with theories of multilevel politics. Different theorists conceive of what these levels are in different ways. Collins and Bilge (2016, 27) describe

the levels as "*domains of power*, namely structural, disciplinary, cultural and interpersonal." Yuval-Davis (2006, 198) argues that intersectionality must consider that "social divisions have organizational, intersubjective, experiential and representational forms." Hankivsky (2014b, 255) writes that intersectionality "takes into account the micro, meso, and macro levels of analysis." Simpson (2009) conceives of power as operating in relation to individual circumstances, aspects of identity, discriminatory societal attitudes, and social, political and economic structures and institutions. Smooth (2013) cautions that many conceptualizations of intersectionality overemphasize the individual level at the expense of understanding how power relations at the structural and institutional levels affect those at the individual level. While slightly different in their terminology for the different levels, these authors hold in common an understanding that power operates *within, through and across* multiple levels of social, political, cultural and economic life. In terms of my research, an intersectional lens shows how resource extraction regulatory processes might reinforce, shape, or contribute to already existing relationships of power at multiple levels within communities and between communities, government and corporations. But it also can help us to think about how these relationships of power might be challenged and contested within the regulatory process, particularly impact assessment.

Hankivsky and Jordan-Zachery (2019) assert that intersectionality can make an important contribution to the study of public policy. They write: "intersectionality draws attention to aspects of policy that are largely uninvestigated or ignored altogether: the complex ways in which multiple and interlocking inequities are organized and resisted in the process, content, and outcomes of policy" (Hankivsky and Jordan-Zachery 2019, 2). Few policymakers and analysts consider intersectional identities in policy creation and implementation. Instead, they tend to treat identity factors as static and siloed (Hankivsky and Jordan-Zachery 2019; Manuel 2019). Dominant approaches to policy creation focus on simplifying complex issues into disparate parts that lend themselves to easily implemented, cost- and time-efficient, solutions (Manuel 2019). Questions of power and justice are often forgotten, deliberately ignored, or purposefully rendered

invisible in these approaches. Manuel (2019, 44) argues that public policy is by its very nature exclusionary: “Public policy (by drawing distinctions between beneficiaries and non-beneficiaries) must exclude some groups. Who is ‘excluded’ is often shaped by how ‘deserving’ they are thought to be, rather than what their needs are.” These categorizations of groups deemed deserving or not deserving are often the product of relationships of power that can be examined effectively using intersectionality. Intersectionality recognizes that while policies and regulatory processes are “structural domains of power,” they can also be used as avenues to pursue social justice aims (Hankivsky and Jordan-Zachery 2019, 2), such as reforming resource extraction regulatory processes to better account for the needs and concerns of the most marginalized members of communities.

With its emphasis on power as operating on multiple levels, intersectionality recognizes that relationships of power affect what kind of knowledge is considered valid and included in making policy and law (Hankivsky 2014a). Dhamoon (2011, 233) writes that research using intersectionality theory has often “emphasized and celebrated the voices, experiences, situated knowledge, and perspectives of those traditionally marginalized and erased in political science and other conventional disciplines,” as a way of resisting dominant relationships of power within academia. This suggests that examining what types of knowledge are included in resource extraction regulatory processes could provide insight into what kinds of impacts these processes are able to identify and account for. For example, the kinds of submissions that are considered in environmental assessment panels or the kinds of evidence that are cited in the decisions approving projects provide important clues as to what types and degrees of social and community impacts have been considered and the relationships of power that have shaped that consideration or lack thereof.

There are several critiques of intersectionality that have been accounted for within my research. The first is raised by Ronlandsen Agustin (2013) who cautions feminists who push for consideration of intersectionality in public policy. While intersectionality sometimes gets taken up in policy development in ways that are

inclusive of diversity and difference, her study of intersectionality in European Union (EU) policy found that intersectionality is sometimes conceptualized in policy in exclusionary ways. She defines exclusionary intersectionality as "the recognition and saliency of one kind of inequality at the expense of a negative accentuation of other categories" (Ronlandsen Agustin 2013, 142). She points out that intersectionality has been used in exclusionary ways to support the culturalization of gender-based violence in the EU where "the framing of honor-based violence [in EU policy], for instance, depicts certain groups as inherently violent" (Ronlandsen Agustin 2013, 144). A related critique from the Canadian context is offered by Mason (2019) who argues that intersectionality as a concept can be 'flattened' when implemented in Canadian policy, particularly in ways that overemphasize sex and gender at the expense of other diversities. In my research, I have tried to be careful to ensure that my advocacy of the consideration of intersectionality in resource extraction regulatory processes does not have the same exclusionary outcomes and retains an emphasis on intersectionality as being about more than just gendered impacts. A second important critique of intersectionality is that, as the theory has travelled beyond its origins in Black feminism, "its critical roots have been erased" with the theory depoliticized and co-opted by the neoliberalization of diversity (Salem 2016, 3; Mohanty 2013; Hankivsky and Jordan-Zachery 2019). In writing this dissertation, I have attempted to consistently remember intersectionality's origins and "radical potential" (Salem 2016, 12), particularly as more than simply an analysis of identity politics.

In responding to both these critiques in this dissertation, I aim for deeply intersectional rather than shallow intersectional analysis and writing. Stienstra (2017, 118) writes that 'thin' or 'shallow' intersectionality can be thought of as identity-centric analyses that are limited to the "gender-race-class trichotomy, or the tendency to group together identities such as race, religion, class, ability, age, etc. in an unsophisticated or misguided attempt to engage with diversity." In contrast, 'thick' or 'deep' intersectionality moves beyond solely identity-centric analyses, by accounting for the role of structural and institutionalized relations of power (particularly racism, white

supremacy, and settler colonialism – reflecting intersectionality's scholarly roots) and acknowledging that individual and group experiences of privilege and oppression take place in particular cultural, historical, and socio-political contexts (Malin and Ryder 2018; Yep and Lescure 2019).

Resource Extraction and Justice

The poor outcomes experienced by members of Northern communities as a consequence of resource extraction can be partially explained by conceptualizing them as examples of social injustice. Social justice can be alternatively considered a concept, an outcome, and a theory. Bankston (2010, 165–66) writes that the concept of social justice emerged due to "two historical experiences: the rise of a mass-consumption economy and the adoptions of the civil rights movements as a model for thinking about social relations." Fraser (1995) asserts that theories of social justice help to explain struggles that occur in the context of material inequality, such as is the case among communities in Northern Canada that are experiencing resource extraction. Miller (1999, 1) offers a useful working definition of social justice:

> Very crudely, I think, we are discussing how the good and bad things in life should be distributed among members of a human society. When, more concretely, we attack some policy or some state of affairs as socially unjust, we are claiming that a person, or more usually a category of persons, enjoys fewer advantages than that person or group of persons ought to enjoy (or bears more of the burdens than they ought to bear), given how other members of the society in question are faring.

In the context of resource extraction regulatory processes, theories of social justice help to provide an understanding of what the responsibilities and duties of institutional actors, such as governments and corporations might be, particularly in relation to members of communities. They also allow for explanations of what types of outcomes

of policy processes, such as regulatory processes, and what kind of distributions of costs and benefits within communities could be considered fair.

The existing literature has identified that historically marginalized groups are more likely to bear a disproportionate amount of the costs versus benefits of resource extraction projects. Fraser's (1995; 1999) theory of justice provides one potential explanation for why this could be the case. She writes that many injustices are faced by bivalently oppressed groups, those who "suffer both socioeconomic maldistribution and cultural misrecognition in forms where neither of these injustices is an indirect effect of the other, but where both are primary and co-original" (Fraser 1995, 78). This definition is one that is consistent with intersectionality, in that it describes the injustices experienced by members of many marginalized groups and the emphasis on the 'co-originality' of injustices is similar to intersectionality's emphasis on interlocking systems of power. Fraser (1995, 72) also writes that both of these types of injustice are "rooted in processes and practices that systematically disadvantage some groups of people vis-à-vis others" and that they work to reinforce one another. Fraser's (1999, 26) theory of social justice argues that justice for bivalently oppressed groups can only be achieved through "both redistribution and recognition." Young's (2011) work on the politics of difference also provides important theoretical insight on this question of costs and benefits of resource extraction. Young (2011, 16) argues that the distributive paradigm of social justice is flawed and that "the concepts of domination and oppression, rather than the concept of distribution, should be the starting point for a conception of social justice." She emphasizes the importance of examining how oppressions are embedded in the "social structure and institutional context" when studying social justice (Young 2011, 15). Together Fraser's and Young's works provide a starting point from which to explore the ways regulatory processes are structured, what groups and actors are recognized within the processes, the ways in which systemic relationships of oppression are embedded in environmental governance, and what kinds of mitigation and redistribution measures are available, all of which could help to identify some of the limitations of the processes in preventing harmful social and economic impacts. As will

become clearer in the subsequent chapters of this dissertation, in considering questions of distribution, justice, and power in resource extraction, I deliberately bracket a thorough analysis of relations of production, reproduction, and conditions of labour under capitalism that underlie some of the community benefits and impacts of mines and dams.[25] While such relations and conditions are certainly an important dimension of distributive justice and worthy of further study, I have made the choice to place them largely outside this work to focus more tightly on the socio-economic impacts[26] that communities have identified as their most pressing concerns about planned projects in IAs. I do however examine more closely some of the ways that relations of colonialism, capitalism, and extractivism shape these experiences of socio-economic impacts in Chapters 6 and 7 of the dissertation.

Conventional theories of social justice are not without their critics, especially in the current political climate where 'social justice warrior' is an insult of choice among members of the alt-right (Ohlheiser 2015). The most prominent academic critic of social justice is Hayek (1976), who argues that social justice is a "primitive concept" (63), which is "probably the gravest threat to most other values of a free civilization" (66-67). Hayek (1976), reflecting his libertarian and pro-market positionality, was particularly concerned that the redistribution implicit in social justice would give government far too much control over citizens' lives. In response, I would argue that governments already exercise significant control of citizens' lives (through institutions such as the police, prison system, among others). Arguably, these are far more harmful to historically marginalized members of communities than the redistribution that would be the outcome of processes that move towards social justice. Another potential critique of theories of social justice (and intersectionality for that matter) in this work, particularly from those with a more positivist research orientation, is that these theories are neither

[25] Although there is some overlap with parts of my arguments, I also do not substantively address the growing literature on how Indigenous Nations, governments, and communities use IA and IBA processes as strategic instruments to realize their community employment, labour, business, and development goals (e.g., McCreary 2013; McCreary, Mills, and St-Amand 2016; Mills and Sweeney 2013; O'Faircheallaigh 2010; 2015).

[26] See 'Research Context' section in Chapter 1 for an overview of these impacts.

politically nor normatively neutral. However, my choice to use a methodological approach grounded in feminism and critical policy studies is consistent with the political imperative to work towards social change implicit in both sets of theories. I follow the philosophy of Keohane (2009, 362) when he states: “Our symbiotic relationship to democracy means that political science cannot be value-neutral…We should choose normatively important problems because we care.” In choosing to situate my work within this theoretical frame, I hope to produce knowledge that has a positive social and political impact.

The concept of environmental justice is an environment-centric conceptualization of social justice. Environmental justice is particularly useful in answering my research questions because it uses theories of social justice, particularly those derived from Fraser’s (1995; 1999) and Young’s (2011) work, to focus on how relationships with nature and the environment and decisions made about environmental matters shape people’s experiences of social justice (Schlosberg 2009). For this reason, I use environmental justice to operationalize social justice in this dissertation. Canadian public policy has generally been inattentive to issues of environmental justice, and particularly to the ways that social justice concerns relate to environmental matters, including resource extraction.

Theories of environmental justice first emerged out of US social movements, which recognized that “environmental problems bear down disproportionately upon the poor” and people of colour. However, these theories have been applied in many different contexts globally (Agyeman, Bullard, and Evans 2002, 78; Schlosberg 2013). Early understandings of environmental justice argue that high pollution industries, waste dumps, etc. are typically situated near communities primarily inhabited by people of colour and people living in poverty, who often lack political resources and access to environmental decision-making. These communities bear significant health consequences as a result of this siting, which negatively affects their quality of life (Agyeman, Bullard, and Evans 2002; Mohai, Pellow, and Roberts 2009). The term ‘environmental racism’ is closely related to environmental justice (Agyeman, Bullard,

and Evans 2002). There is debate within the environmental justice literature on whether race or class is the root issue in the discrimination that leads to environmental injustices (Mohai, Pellow, and Roberts 2009). Discussions of environmental justice and Indigenous peoples within the literature emphasize the consequences of industry and pollution for Indigenous peoples' health, culture, traditions, and viability of subsistence livelihoods (Schlosberg and Carruthers 2010; Mascarenhas 2007; Keeling and Sandlos 2009; Sandlos and Keeling 2016b). In recent years, the study of environmental justice has moved beyond solely the study of environmental racism to study other types of discrimination in the context of environmental matters (Malin and Ryder 2018; Walker 2012).

Malin, Ryder and Lyra (2019, 111) suggest that environmental justice can be usefully conceptualized as encompassing four different types of justice: "distributive, procedural, recognition, and restorative justice." Distributive justice is the typical understanding of social justice described in detail earlier in this section, concerning the distribution of good and bad things. Procedural justice "includes participatory aspects of environmental justice, especially whether or not members of the public have the opportunity to authentically participate in making decisions about environmentally risky activities" (Malin, Ryder, and Lyra 2019, 111). Access to transparent information and the accountability of government and corporate actors is part of procedural justice (Kojola 2019). Recognition justice relates to the extent to which the knowledge and worldviews of historically marginalized people are meaningfully included in environmental decision-making. Restorative justice recognizes the unjust displacement of Indigenous Nations and peoples through colonization and seeks pathways forward that work towards decolonization (Malin, Ryder, and Lyra 2019).

Malin, Ryder and Lyra (2019) argue that an environmental justice perspective must be included in research about the resource curse. To date, this link has been understudied (Malin, Ryder, and Lyra 2019). They write:

> We have substantial evidence that extractive industries can also create persistent structural inequities for the communities hosting them. Whether we call it the resource curse, natural resource dependence, or the resource

> community lifecycle, these outcomes show that patterns of inequity develop around sites of extraction, where boom-bust cycles, persistent poverty, and spatial isolation remain significant sources of structural inequity. (Malin, Ryder, and Lyra 2019, 109)

Looking at relationships of power within communities and between communities and other actors that structure access to decision-making is an important part of doing research that links the resource curse to environmental justice (Malin, Ryder, and Lyra 2019).

An intersectional lens is particularly helpful in doing this kind of work on environmental justice but is largely missing in environmental justice research as a whole (Malin and Ryder 2018). Larkins (2018, 67) argues that intersectionality is "a theoretical and analytical complement to environmental justice." It recognizes structural and institutional factors that shape experiences of environmental justice and injustice, recognizes the diversity among community members and claims about justice, and acknowledges resistances to injustices by communities (Larkins 2018). Intersectional analyses show how "socio-economic status, race, ethnicity, immigrant status, gender, geographic location, and indigeneity intersect across time, space, and context to make some individuals and communities more and others less vulnerable to environmental and economic exploitation" (Daum, Ryder, and Malin 2019, 126). Intersectionality is particularly useful in examining how participation in environmental decision-making, such as the regulation of resource extraction, is constrained by relationships of power and structural inequities (Kojola 2019). Malin and Ryder (2018, 3) have three suggestions for scholars who wish to engage a deeply intersectional lens in their environmental justice work: "(1) emphasize multiple social locations and intragroup differences; (2) explore these issues with a multi-scalar lens; and (3) more directly and critically identify and analyze not only powerful actors but systems and processes of power in these dynamics." This is referred to throughout this dissertation as a 'deeply intersectional environmental justice' approach.

Conclusion

This chapter has reviewed the literature from five somewhat disparate bodies of scholarship that all help to explain different dimensions of Northern Canada's experience of resource extraction. Within the Canadian politics sub-field, there has been limited attention dedicated to the study of the North, and especially the 'near North,' representing a significant gap in the field. My research, which takes a comparative approach to the study of the North and pays significant attention to the workings of settler colonialism in shaping the North's place within Canada and relative absence in the study of Canadian politics, begins to fill this gap. I have argued that Northern communities' experiences with resource extraction can usefully be conceptualized as an example of the resource curse. While the resource curse literature has generally not focused on the Canadian case, my research shows that theories of the resource curse resonate with the experiences of many communities in Northern Canada. I suggest that what is needed to understand the resource curse in the context of Northern Canada is a merging of the institutional explanations of the resource curse with the more critical explanations of structural relationships of power that shape development outcomes for marginalized groups and communities. Integrating insights from the literature on multilevel politics is needed to explain the jurisdictional gaps within resource governance institutions that have negative implications for members of marginalized groups. Theories of intersectionality and environmental justice provide a path toward the more critical institutional explanation of the resource curse, by allowing for the assessment of power and the implications of power relations for the justice of outcomes. Research on resource industries within the Canadian political economy tradition has historically been largely silent on issues of structural inequities beyond class, particularly the intersection of settler colonialism with other systems of power. My research helps to fill that gap by looking within communities to ask why some people benefit while others experience new challenges and crises when extractive

industries are situated nearby and asks how those outcomes are linked to the impact assessment policy process.

These gaps and my proposed synthesis have led me to my three research questions:

1. Why do current resource extraction impact assessment processes fail to prevent increased marginalization and unequal distribution of costs and benefits among members of Northern communities?
2. What are, and what should be, the responsibilities of the state and resource corporations in identifying and responding to the social impacts of resource extraction during IA processes?
3. What changes are needed to create an IA process that centres communities and their concerns?

The next chapter provides an overview of the research design and methodological approach I used to examine these questions, and the data collection and analysis process that shapes the work presented in the remainder of this dissertation.

Chapter 3: Methodology and Methods

This chapter outlines the methodology and methods that have shaped my research design. The research design is informed by my identity as a feminist scholar with commitments to intersectionality and social justice. This dissertation uses a qualitative feminist critical policy studies methodological approach grounded in an interpretivist paradigm. The first part of this chapter describes the key principles that shape the adoption of interpretivism by political scientists and the foundations of feminist critical policy studies. The second part of the chapter discusses the multi-method and comparative approach I have used in this research. The third part of the chapter describes my analysis process, and the final part shares some challenges and lessons learned in producing this dissertation.

Interpretivism in Political Science

A core tenet shared by most interpretive political scientists is that "political life consists of actions laden with meanings" (Bevir and Rhodes 2018, 3). Making the meanings behind action visible is a central goal of interpretive research. Interpretivists use multiple methods and encourage flexibility in research design (Schwartz-Shea and Yanow 2012). Interpretivism is a distinct research paradigm, in stark contrast to the "positivist hegemony within political science" in much of North America (Hawkesworth 2014, 29). Interpretivism rejects many of the assumptions made by the positivist paradigm about the criteria that define the quality of research, such as objectivity, falsifiability, and 'big-T' truth claims (Bevir and Rhodes 2018). Interpretivists see all knowledge as socially constructed, "historically situated and entangled in power relationships" (Weeden 2009, 80). Many scholars who do not work within an interpretive paradigm assert that interpretive research lacks rigour, objectivity, and (implicitly) validity (Yanow 2014b). As Yanow (2014b, 100) points out, this is an invalid critique, as "interpretive methods have their own procedural criteria" which are distinct

from positivist methods. A brief discussion of these criteria is important to frame my research design.

Interpretive methods eschew the hypothesis setting and variable-centric analysis central to the scientific method. They emphasize the importance of "letting the data 'speak for themselves'" (Yanow 2014b, 101), allowing findings to emerge and be interpreted through the data collection and analysis process. Analytic rigour in this paradigm is primarily judged on the quality and soundness of argument, "where conclusions are adequately supported by the evidence that is presented, such that the reader is persuaded of the cogency of the argument" (Yanow 2014b, 102). Other interpretivist scholars refer to this type of rigour as 'thick description' in providing evidence and data to support arguments (Schwartz-Shea 2014). Yanow (2014b) asserts that 'faithful reading' is the norm of 'objectivity' for interpretive research. This means both faithfulness to the texts and data, but also "faithfulness to the researcher's own theoretical and analytic agency" (Yanow 2014b, 110).[27] Researchers should be transparent about the choices they make within the research design and analysis process, and how their positionality may have influenced the research design (Schwartz-Shea 2014). This is known as reflexivity. Member checking[28] of draft writing and interview transcripts is also an important element of trustworthy interpretive research (Schwartz-Shea and Yanow 2012; Schwartz-Shea 2014). Finally, triangulation is important in interpretive research but has a different meaning than in positivist-oriented research. For interpretivists, triangulations "compels researchers committed to trustworthiness to grapple with, rather than discount, inconsistent and conflicting findings" (Schwartz-Shea 2014, 134). Using data from multiple sources and noting inconsistencies or tensions among sources helps to ensure the trustworthiness of final results.

[27] Yanow (2014b, 110–11) elaborates on these two elements of faithfulness: "The interpretation is, in other words, both experientially faithful, seeing and portraying the situation as situational actors (including, at times, the researcher as participant) understood it, and analytically faithful, in keeping with the researcher's theoretical and conceptual 'priors' and insights."

[28] Allowing research participants or interviewees to double check the validity of the researcher's interpretation and representation of their experience or words.

Feminist Critical Policy Studies

I use a feminist methodological approach, in the tradition of critical policy studies, within this research. Feminist research recognizes that "knowledge and power are internally linked; they co-constitute and co-maintain each other. What people do – what kinds of interactions they have in social relations and relations to the natural world – both enables and limits what they can know" (Harding 2012, 50). With this recognition of the situated and socially constructed nature of knowledge, feminist research falls within the interpretivist paradigm of political science (Weeden 2009).

Like other interpretive approaches, feminist inquiry resists positivist standards of objectivity. Feminist critiques of this standard include the fact that much 'objective' research has resulted in harm for women and other historically marginalized groups and that power relations affect what problems are considered worthy of study, as well as how terms, evidence, and standards are defined (Hawkesworth 2006). Instead, feminist methodologists suggest that reflexivity and intersubjectivity should be the norms by which the validity of feminist research is assessed (Hawkesworth 2006; Frazer 1997). Detailing the research design and analytical process so others can evaluate our research is essential (Pillow and Mayo 2012). While broad or universal generalization is not generally the goal within feminist research, scholars often explore "possible patterns and cross-case resonances" (Hawkesworth 2018, 382).

Hawkesworth (2018, 360) writes that feminist research is primarily concerned with the "politics of exclusion." It is committed to critically analyzing and challenging dominant relations of power, often taking the realities of marginalized people's lived experiences as the starting point for research (Hesse-Biber 2012), and acknowledging that "particular political convictions inspire its existence" (Hawkesworth 2006, 5). A feminist approach embraces multiple methods and perspectives within the research process and has the explicit aim of promoting social change (Preissle and Han 2012; Reay 2012). As artfully stated by Hawkesworth (2018, 362):

> Feminist analysis involves reflective comparisons and judgements that illuminate the visible and invisible – modes of embodiment, facets of desire, dynamics of social existence, categories that structure perception and action, intended and unintended consequences of action and inaction, macro- and micro-structures that constrain.

Orsini and Smith (2007, 1,2) write that critical policy studies "is an orientation to policy analysis inspired by the Laswellian tradition and by a desire to speak truth to power," which recognizes that "politics and policy occur at a number of scales, across different spatial horizons." Scholars who work in the area of critical policy studies seek to understand the "interests, values and normative assumptions – political and social – that shape and inform [policy] processes" (Fischer et al. 2015, 1). Critical policy studies is not a singular field and embraces a variety of theoretical orientations and perspectives (Fischer et al. 2015; Paterson and Scala 2015). There is a strong tradition of feminist approaches within critical policy studies. Paterson and Scala (2015, 481) argue that attending to "issues of hierarchy, power differentials and domination… is the task of a critical feminist policy perspective." A contribution of feminist theory to critical policy studies is an awareness of the need for an intersectional lens in policy analysis. Hankivsky and Jordan-Zachery (2019, 5) write:

> If policies are to effectively reach populations they seek to help and serve, particularly those who have been pushed to the margins, power, context, and complex identities are unavoidable central considerations. However, such efforts are characterized by researcher and policy analysts often working largely in siloes, looking at factors such as race, ethnicity, gender, class, geographic location, migration status, and sexuality as linear, static, unconnected phenomena rather than multi-faceted, fluid, and intersectional…These approaches do not adequately reflect the reality of multiple identities, how people experience their lives, and how their interacting social locations are shaped and formed by broader structures, processes, and relationships of power. Nor do they systematically consider

how affected actors act strategically within these power relations to resist, if at all, unjust consequences of existing policies.

Feminist scholars who do intersectional analysis emphasize the importance of using both intracategorical and intercategorical lenses within research to account for the diversity of experiences related to particular problems. McCall (2005, 1784–85) writes that an intercategorical lens examines "relationships of inequality among already constituted social groups," while intracategorical lenses examine those relationships and dimensions of difference within one social group. Others have different labels for these two lenses. For example, Manuel (2019) refers to approaches to examining intra-group differences as horizontal intersectionality, while she refers to approaches to examining inter-group differences as vertical intersectionality. It is important to ensure that, in focusing on categories of difference within these lenses, intersectional analysis does not become a depoliticized examination of identity. Paying attention to power relationships that shape inequalities and injustices is critical.

Impact Assessments as Spaces of Power

I have chosen to focus on impact assessments (IAs) as the primary resource regulatory process within this project. As discussed in Chapter 1, impact assessments are the key mechanism through which the benefits and harms of a proposed resource extraction project are identified and assessed, and plans for mitigating predicted risks and harms are put in place. Without passing an IA, a proposed project will not be developed.

Impact assessments, like any policy space, are shaped by relationships of power that result in the inclusion and prioritization of some interests, views, and voices, while excluding and devaluing others (Howarth and Griggs 2015). As Kojola (2019, 130) argues, they are:

> important sites of power that shape if communities have a voice in decisions that can create, or disrupt, environmental injustices. While

> regulatory processes are often presented as objective and fact-based, a large body of research… shows how these processes are constituted through relations of power, particularly the dominance of expertise that disadvantages marginalized communities.

The practice of impact assessment in Canada limits what types of knowledges are considered valid evidence in environmental decision-making, with Western science privileged over community and Indigenous knowledges (Manning et al. 2018b). While impact assessments are often praised as spaces where members of the public can participate in decision-making, some scholars argue that impact assessments "might operate to 'close down' decision making in various ways that are disadvantageous to particular interest groups" (Cashmore and Richardson 2013, 2). In particular, critical IA scholars note that the fundamental purpose of impact assessments from the perspective of many proponents and government actors "remains to secure approval for proposed projects" (O'Faircheallaigh 2009, 97), pointing to a likely motivation for particular patterns of inclusion and exclusion within IAs.

Impact assessments are particularly important institutional mechanisms for historically marginalized groups who are more likely to bear a disproportionate share of the negative impacts of a project, should it be approved to proceed. The international literature on impact assessments makes it clear that any community concerns, rights claims, or harms that are not identified or have a mitigation plan put in place during this stage of the regulatory process are unlikely to be adequately considered and mitigated in the subsequent stages (Campbell 2016; Kojola 2019). Some Indigenous Nations have been successful in using Section 35 of the Constitution Act, 1982 and the considerable jurisprudence[29] on the duty to consult to appeal to the courts when their concerns and infringements on their rights were not adequately addressed in the initial IAs (e.g., *Tsleil-Waututh Nation v. Canada* [2018] and *Squamish Nation v. British Columbia* [2019]

[29] Particularly *Haida Nation v. British Columbia* [2004], *Taku River Tlingit First Nation v. British Columbia* [2004], *Mikisew Cree First Nation v. Canada* [2005], and *Tsilhqot'in Nation v. British Columbia* [2014] (Gibson, Galbrath, and MacDonald 2016).

concerning the Trans Mountain Expansion pipeline). Many other cases[30] brought before the courts by Indigenous Nations have been unsuccessful, however. Organizations representing other historically marginalized groups, including women, people with disabilities, and people living on low incomes, have generally not used the courts as a tool to contest impact assessments. In part, as discussed throughout this dissertation, this is due to a lack of resources (financial, legal, and time) and capacity constraints to make legal claims about IAs and articulate the implications of IAs for members of these groups in a way that is legible within the justice system. In part, as is also discussed, it is also that IAs and resource extraction, in general, have not been a central focus of disabled peoples' organizations nor anti-poverty organizations in particular given the number of other pressing priority areas and social policy issues where gross inequities exist. For these groups, ensuring inclusive and participatory impact assessments are essential to increase the likelihood that they can enjoy more of the benefits of resource development near their communities.

Methods

This study takes a multi-methods and comparative approach to the study of resource extraction IA processes in Canada. Methods used include: a policy scan, interviews with government policymakers, and case studies of completed impact assessment processes for major resource projects, relying primarily on document analysis. Each of these is discussed in turn below.

Policy Scan

The first method used in the research was a comparative policy scan. Cox (2014, 2) writes that a policy scan "systematically gathers and analyzes policies in a particular

[30] E.g., *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council* [2010]; *Brokenhead Ojibway Nation et al. v. Canada (Attorney General) et al.* [2009]; *Nlaka'pamux Nation Tribal Council v. British Columbia* [2011]

area of interest." In Chapter 2, I describe resource extraction regulatory frameworks as a tangled web embedded in complex relations of multilevel politics and spanning multiple policy areas. The goal of the policy scan was to collect all the current[31] policy documents (including legislation, policies, technical guidance, guidelines, and agreements) relating to resource extraction regulatory frameworks available in each jurisdiction. This initial data gathering process focused on the federal government and all the provinces and territories. I later decided to focus only on five key jurisdictions: federal, British Columbia, Manitoba, Newfoundland and Labrador, and Nunavut.[32] The process of coming to this decision is discussed below.

For each jurisdiction, I searched systematically the government websites to uncover all relevant policy documents that regulate resource extraction or have the potential to affect the regulation of resource extraction in that jurisdiction. Each search process followed a set sequence of steps and collected a standard set of documents (both detailed in Appendix 1). For provinces with a Northern region, only policy documents related to that part of the province were collected. In practice, this meant that all documents that were applicable province-wide (e.g., most legislation and policies) were included, as they apply equally to the North and South, but those that pertained only to the Southern part of the province were excluded (e.g., treaties that cover only the Southern region of the province). I used Statistics Canada's (2019c)

[31] To the time of the end of this data gathering process in December 2018.

[32] I have made the deliberate choice to retain Nunavut for the policy scan portion of this dissertation, even though I had to cut the planned case study from Nunavut (see discussion in case study section below). While that choice means the symmetry between the policy scan chapters (Chapters 4 and 5) and the case study chapters (Chapters 6 and 7) is not as ideal or 'neat' as I would like, that type of symmetry is not a central concern in the interpretive research paradigm, unlike in a positivist research paradigm. That data and findings from Nunavut (see Chapters 4 and 5) are a valuable addition to this dissertation. While certainly not perfect, Nunavut is consistently the jurisdiction among those studied that is most attentive to community concerns in general in its IA process, and is particularly attentive to the concerns expressed by members of marginalized groups. For example (and discussed in depth in Chapter 5), Nunavut is the only jurisdiction studied that requires targeted and direct consultation with any members of marginalized groups other than Indigenous people in IAs. Nunavut shows that more inclusive IA processes are not idealistic, naive or merely aspirational. It is a jurisdiction that has already put in place many concrete measures (that could be adopted in other jurisdictions) to ensure that community concerns can be addressed in the IA process.

definition of the provincial north determined by census divisions (see Figure 1 in Chapter 2) as the standard to ensure consistency across jurisdictions.

I recorded all documents in a spreadsheet, classifying them by jurisdiction and policy area, before using the spreadsheet to complete a preliminary gap analysis. Where gaps existed, I attempted to obtain the missing document (e.g., a GBA+ policy) by contacting the relevant government department. Where that was unsuccessful in obtaining the document, I submitted an access to information request. In this initial stage, I collected over 570 documents, which I determined were too many for an in-depth analysis. To keep the task manageable, I chose five key jurisdictions for the analysis: Canada (federal), British Columbia, Manitoba, Newfoundland and Labrador, and Nunavut. I selected these jurisdictions based on several criteria including the availability of documents, regional diversity, variation in assessment processes, availability of gender and diversity analysis mechanisms, consultation policies and processes that are attentive to community concerns, and the location of potential case studies for the third part of the research. I also limited the analysis to mining and hydroelectric projects at this time, due to the very different regulatory processes for oil, gas, and coal projects. Mines and hydroelectric dams require the same impact assessment process in most jurisdictions. My final document set contained approximately 325 documents. I read each document in full and extracted and summarized the data most relevant to the research using a set of guiding questions (also detailed in Appendix 1).

Interviews

I supplemented the policy scan with interviews with policymakers (from federal, provincial and territorial governments) in each key jurisdiction. Interviews with policymakers provide insights into why particular policy choices were made and help to provide historical or political context that is missing in other types of data (Mosely

2013). This portion of the research was reviewed by the Dalhousie University Research Ethics Board and I received ethics approval in June 2019.[33]

I used a non-random sample for the interview portion of the research. Participants were recruited through a combination of purposive and snowball sampling (Lynch 2013). For each jurisdiction, I aimed to interview one to two representatives or employees of government departments, boards, and agencies responsible for each of the following policy areas: environmental and impact assessment, natural resources, gender equality, Indigenous relations, disability issues, human rights, and rural issues. Potential participants were identified by a scan of the online directory of government offices with these responsibilities. I contacted each potential participant initially via email, providing a short research information sheet with a synopsis of my research, goals and the purpose of the interview, and an invitation to participate in a phone or virtual interview at a time of their convenience. If a potential participant replied and said that they were not the best person to answer my questions, following my snowball sampling approach, I asked them to suggest another person in their department who might be better suited and willing to participate in an interview. I followed up on each invitation two separate times (by phone and then a second email), each two weeks apart, if I did not hear back from a potential participant on the first try, before assuming that a non-response was a 'no' to the invitation to participate in the research. In total, I contacted forty-seven potential participants between July and November 2019 and was successful in completing thirteen semi-structured interviews. This was many fewer interviews than I had hoped to complete. A breakdown by province and policy area is provided in Tables 1 and 2 below.

[33] I also confirmed with the Nunavut Research Institute that additional ethical review by the Institute was not required in order to complete interviews with employees and representatives of the Government of Nunavut and the Nunavut Impact Review Board. No representatives of Indigenous governments were involved in this stage of the research; thus, no further ethics review was required for this part of the research.

Table 1: Interviews by Jurisdiction

Jurisdiction	Canada	British Columbia	Manitoba	Newfoundland and Labrador	Nunavut
Completed Interviews	2	4	2	3	2

Table 2: Interviews by Policy Area

Policy Area	Number of Interviews
Environmental / Impact Assessment	2
Natural Resources	4
Gender Equality	2
Indigenous Relations	1
Disability Policy	2
Human Rights	1
Rural Issues	1

There are several potential explanations for the low acceptance rate (< 30%) of my invitation to participate in the research. First, the initial invitations were sent over the summer months when many public servants were on vacation or otherwise out of the office and I also took some time off for vacation. I ended up playing 'email and phone tag' over multiple weeks with several potential participants before we were able to successfully connect. It is possible that some of my invitations got lost in email or voicemail inboxes and became a low priority for a reply post-vacation. Second, the topic of my research was particularly controversial during that period as it was shortly after the passing of the highly contested new federal *Impact Assessment Act*, the federal government's approval of the Trans Mountain pipeline, and resource issues were hot topics in election campaigns federally and in some provinces. It is possible my research was perceived as threatening or risky. While none of the potential participants explicitly said that this was the reason that they declined my invitations, things mentioned as reasons why some individuals could not participate point to this explanation. These included: my plans to publish my findings that use their data (the potential media publications[34] mentioned in my invitation letter seemed to be a particular problem), the

[34] These would potentially include op-eds and using the data in interviews with the media about my research. These types of publications are important ways of sharing research findings in ways that are accessible to non-academic audiences, which is one of my central commitments as a researcher.

fact that their jurisdiction was in the midst of or lead up to an election period, and the need to seek permission from more senior members of their department before participating in the research (which was often not granted). In the case of Newfoundland and Labrador, friends with insider knowledge of the public service suggested that the reason I had not gotten the positive responses I had expected from individuals in some departments I had contacted was because of the particularly precarious minority government that had recently been elected in the province, as a result of which extra caution was being taken on government comment on controversial issues like resource development. Third, some of the potential participants I contacted initially replied to say that they were not sure what the connection was between their office's responsibilities and my area of research, despite tailoring of all the letters of invitation describing what I saw this connection to be. I particularly noticed this response from potential participants who work in disability and human rights policy areas. In the four cases where this occurred, I was ultimately successful in securing an interview with three participants after a follow-up conversation to elaborate on the connection I had pointed to in the initial letter. However, I realize that other potential participants may have ignored the invitation for similar reasons and chosen not to contact me to allow me to elaborate on how their participation would be valuable in the research. Finally, I came to realize partway through the recruitment and interviewing process that there was a tension within the public service of Canadian governments that was replicating itself in my research. In comparison to some other Westminster public services, the Canadian public services enforce the commitment to neutrality much more strictly (Chappell 2002). Some potential participants said they had to decline the interview invitation because they were not senior enough to speak on behalf of the government, but also said that they felt that they should not share their personal opinions (even with the promise of anonymity) because of this expectation of neutrality.[35]

[35] Some of these participants did point me to more senior officials who could speak on behalf of the government or connect me with colleagues who agreed to participate in the research.

I conducted all interviews via telephone or a Skype audio call after written or oral consent was obtained. I used a digital audio recorder to record all interviews. From the audio recording, I created a set of notes summarizing the interview, which I sent to participants for their review (representing part of my member-checking process). They were then able to make any additions, changes, or deletions they wished to the notes. The version with their changes is the official copy of the notes within my research, and it was the version that I coded and analyzed. Participants could choose to be identified by their name, department name, or to be anonymous in this dissertation and any other publications that come from this research. The majority chose to be identified anonymously. I asked all participants if they would like to review a draft of the parts of the dissertation where their information was used, and only one participant indicated that they wished to do that.

The difficulties I encountered in participant recruitment (due to the controversial and 'hot' nature of my topic at the time of the research, and public servants' perceptions of the constraints that prevented their participation) and the request by the majority of policymakers that they be anonymous within the research point to the degree to which interview-based research with Canadian government actors may be becoming more tightly constrained. This is unfortunate because, as Chapters 4 and 5 demonstrate, these interviews provided rich contextual information vital to my arguments, particularly in terms of how IA policies and legislation work in practice. Without access to that data, my analysis and this dissertation would be much less insightful. It also points to the importance of researchers' abilities to guarantee anonymity to government interview participants. I was honestly surprised that so many participants had chosen this option, as it is in stark contrast to my previous experience with community-based interviews where most participants chose to be identified by their names. While I did not specifically ask participants if they would still have chosen to participate in the research if the anonymous identification option was not available, my sense from our conversations is that they may have either chosen to not participate or at least been much less frank and forthright when talking with me. These unexpected

(to me) findings have important implications in terms of best practices in framing the research and approaching potential participants for myself and other researchers who hope to do interview-based research with policymakers in the future. They also suggest that this type of research may increasingly become more difficult in the future and we may need to consider alternative methods to gain the same types of insights about policy decisions and processes. Access to information requests[36] for internal meetings and discussions come to mind as a potential alternative method of accessing some of the same types of information obtained through interviews.

Case Studies

The third method used in this research was case studies of completed IAs. This study has not used the most similar systems design or most different systems design common in positivist comparative case research. Comparative case study research done in an interpretive paradigm emphasizes the individualities of cases and their local and historical context (Yanow 2014a). In selecting the cases, I engaged in a process of purposive sampling (Ackerly and True 2010), consistent with an interpretivist approach: "Rather than focusing on 'case selection,' then, interpretive research design expends considerable attention to questions of access, starting with choices of settings, actors, events, archives, and texts in which and among whom to pursue the research question" (Yanow 2014a, 147). Access to the documents I needed to complete the research was my primary consideration in the selection of resource project cases, as the repository systems in different jurisdictions have differing levels of comprehensiveness in document retention, especially for assessment processes completed more than 10 years ago. Documents that were particularly important to me when I was selecting cases were submissions by members of the public and government agencies and transcripts of hearings, as those are where I predicted that concerns about the project from members

[36] There are of course challenges with access to information requests (e.g., cost, redaction, etc.) that may make them unreliable sources of data in some cases.

of the community were most likely to appear (and was proven correct in this assumption when I did the analysis). My other considerations in selecting the cases that increased the likelihood of answering the research questions were: the symmetry of extractive industries (two hydroelectric dams and two mines); the diversity of identity groups within the community and involvement by organizations representing those groups in the assessment process; and, the diversity of mechanisms used in the assessment process (e.g., screenings, hearings, technical committees, community consultations, etc.). Two additional criteria used were that the projects had to be new developments (e.g., not an expansion of an existing mine or dam) for which the impact assessment was completed, and they had to be located in the North in one of the jurisdictions used in the policy scan. While it would have likely been very insightful, I chose to exclude potential cases from Nunavut because there is an additional level of ethical and community approval required by the Nunavut Research Institute[37] for community-oriented research relating to the territory and its people that would have greatly increased the cost of my research[38] as well as lengthened my research completion timeline. This flexibility and exercising of researcher's best judgement when challenges arise are key components of an interpretive research design (Yanow 2014a). Based on these considerations, the four resource projects chosen as cases for this part of the research were: the Voisey's Bay Nickel Mine (NL), the Red Chris Mine (BC), the Keeyask Generating Station (MB), and the Site C Clean Energy Project (BC). Table 3 on the next page provides an overview of the important features of each of the case studies.[39]

[37] As noted earlier, I clarified that this level of additional ethical review was not required by the Nunavut Research Institute for my telephone and virtual interviews with Nunavut government officials for the interview part of this project.

[38] Due to requirements for Inuktitut translation of research documents.

[39] A more comprehensive introduction to each case study project is provided at the beginning of Chapter 6, the first of two chapters where the case study data is used.

Table 3: Case Study Project Overviews

Project	Voisey's Bay	Red Chris	Keeyask	Site C
Location	North Coast Labrador (Inuit and Innu territory)	Northwestern British Columbia (Tahltan territory)	Northern Manitoba (Treaty 5 territory)	Northeastern British Columbia (Treaty 8 territory)
Industry	Nickel mine	Copper and gold mine	Hydroelectric dam	Hydroelectric dam
Proponent	Corporation – Voisey's Bay Nickel Company (Vale Inco)	Corporation – Red Chris Development Company Ltd. (bcMetals)	Crown Corporation – Keeyask Hydropower Limited Partnership (Manitoba Hydro & 4 Cree First Nations)	Crown Corporation – BC Hydro
Timeframe	1996 – 1999	2003 – 2005	2009 – 2014	2011 – 2014
Governments in Power	Prov.: Liberal (Tobin) Fed.: Liberal (Chrétien)	Prov.: Liberal (Campbell) Fed.: Liberal (Chrétien/ Martin)	Prov.: NDP (Doer/ Selinger) Fed.: Conservative (Harper)	Prov.: Liberal (Campbell/ Clark) Fed.: Conservative (Harper)
Type of IA and Jurisdictions Involved	Review panel – Four party (Government of Canada, Government of Newfoundland and Labrador, Labrador Inuit Association and Innu Nation) multi-jurisdictional joint assessment.	Cooperative federal-provincial IA: Provincial Review – EAO Federal Screening – DFO & DNR	'Two-track' approach: 1. Three Indigenous CBIAs 2. Cooperative federal-provincial IA – Provincial CEC Hearing & Federal CEAA Comprehensive Study	Joint Review Panel – Cooperative federal-provincial IA
Notable Features	- Widely praised for its attention to gendered[40] and Indigenous perspectives. - Dedicated hearing session for women's concerns. - Labrador Inuit Association (LIA) and Innu Nation were partners in the IA design.	- Subject of a foundational court case on scoping decisions and public participation in IA. - In 2015, the Tahltan Nation signed a co-management agreement with the proponent.	- Four First Nations were co-proponents for the project. - CBIAs were used alongside a settler government IA process (a first in Canada).	- Close alliances and cooperative mobilization within the IA process between settler citizens of local communities and Indigenous Nations. - Very high rates of public participation in the IA.

[40] Notably in the very early years of federal GBA commitments, and long before GBA+ became a mandatory policy lens in the federal government. For a historical overview of Canadian government commitments to GBA/GBA+ and its relationship to Canadian IA, see our forthcoming article (Levac et al., 2021)

I collected the same types of documents for each project to ensure consistency in the case studies. Yin (2018) flags inconsistency as one of the top errors to avoid in case study research. In terms of the impact assessment process itself, these included: project descriptions, impact statements (IS), IS guidelines, submissions, transcripts of meetings and hearings (where applicable), final reports from the responsible authority, project certificates, and government decisions on the projects. Consistent with my framing of IAs as 'spaces of power,' I acknowledge that formal IA processes exclude many members of communities who may have concerns about the impacts of a proposed project. Therefore, additional sources of information beyond those produced for the IA may hold important clues about exclusions and deficiencies in the formal IA process. Additional types of documents collected for each case included: court decisions (if applicable), media articles,[41] proponent press releases, organizational reports or statements, and project-related agreements (where available). Only the IA documents for the Voisey's Bay mine and Red Chris mine were not available on an online government repository. In the Voisey's Bay case, the documents were held in the collection of the Centre for Newfoundland Studies at Memorial University, so I was able to access them through the Centre. In the Red Chris case, the federal IA screening documents had been removed from the online Canadian Environmental Assessment Agency (CEAA) registry. After unsuccessfully trying to track them down by contacting CEAA officials in multiple offices, I ended up submitting an access to information request

[41] I found media articles for each case by searching the Factiva and Eureka databases (which combined provide access to most national, provincial, regional and local Canadian newspapers), Indigenous news sources (Aboriginal Peoples Television Network and Media Indigena), and Macleans and the Tyee (both of which have done in-depth coverage of community experiences with resource extraction relating to the chosen case studies). I limited the timeframe for my search to 6 months prior to the initiation of the project IA process to 6 months following the issuing of the responsible government's decision statement. Given the large number of articles published about major resource projects, I collected and included media articles only if they provided a perspective that was missing in IA documents or the other data sources. Interestingly, there were very few (less than 20 in total across the 4 case studies) media articles that shared a concern or community perspective that was not otherwise shared during the formal IA process. Rather than assuming that this finding indicates that IA processes are good at capturing all community concerns, I suggest that it is much more likely that this finding indicates that that the majority of the people who bring their concerns to the media or are sought out by the media for their perspective are the same people who participate in IAs. Another potential explanation is that journalists look up who participates in public IA events and choose to interview them.

for those documents, which was successful. A challenge that I had with many of the case studies was that the IA had produced a large number of documents (see Table 4 below). It was impossible to analyze all documents in full. For these cases, I engaged in a process of narrowing down the documents based on specific criteria. This process is detailed in Appendix 1. The total number of documents included in my analysis process are also shown in Table 4 below.

Table 4: Number of Documents Analyzed

Case Name	Number of Documents Initially Gathered	Number of Documents Included in Analysis
Voisey's Bay	578	357
Red Chris	337	87
Keeyask	365	185
Site C	1485	307
Total	**2765**	**936**

Given that I used only publicly available documents in the case studies, this portion of the research did not require ethical review by the Dalhousie University Research Ethics Board. The Nunatsiavut Government requested that I submit the Voisey's Bay case study portion of the research for review through their ethics process, for which I received approval in November 2019.

Analysis

An ongoing challenge in much feminist work is operationalizing intersectionality for the purpose of analysis. Hancock (2019, 97) offers some helpful guidance on operationalizing intersectionality, an approach she calls "paradigm intersectionality" to distinguish it from an approach to operationalization that conceptualizes "intersectionality as [a] testable explanation." She defines paradigm intersectionality as:

> a justice-oriented analytical framework for examining persistent sociopolitical problems that emerge from race, gender, class, sexual orientation and other

> sociopolitical fissures as interlocking, process-driven categories of difference… it has the potential to meaningfully analyze complex causality— the reality that multiple causal paths can simultaneously lead to the same outcome. (Hancock 2019, 118)

Hancock (2019, 119) identifies the five dimensions of paradigm intersectionality as "diversity within," "categorical multiplicity," "categorical intersection," "time dimensions," and "individual-institutional interactions." An intersectional analysis that follows this approach pays explicit attention to each of these dimensions and their potential intersections within the data. Hancock's approach is particularly useful because it avoids many of the shortcomings of some approaches to operationalizing intersectionality, in that it attends to both intracategorical and intercategorical complexities (McCall 2005) and structural dimensions of power, particularly through interactions with institutions. Keeping Hancock's (2019) five dimensions of paradigm intersectionality in mind, I adapted a previous resource extraction analytical framework (Manning 2014) as an intersectional policy analysis framework for examining IA policy documents and processes. The new framework appears in Appendix 1. I used this framework to guide my analysis of both the policy scan documents and interview data. This framework has informed the analysis presented in Chapters 4 and 5.

Similar challenges exist in operationalizing environmental justice, though this is less frequently mentioned in the literature. In my analysis, I take up Malin and Ryder's (2018) call for research to embrace 'deeply intersectional environmental justice' (see discussion in Chapter 2) and recognize the four distinct types of justice that are implicated in environmental justice: distributional, procedural, recognition, and restorative. I developed a second analytical framework focusing on these four components of environmental justice to guide my analysis of the case study data. A series of guiding questions for each type of justice that were developed by applying key concepts and standards from the environmental justice literature[42] and the five

[42] E.g., Schlosberg 2009; 2013; Schlosberg and Carruthers 2010; Young 2011; Hunold and Young 1998; Malin, Ryder, and Lyra 2019; Malin and Ryder 2018; Fraser 1995; 1999; Ottinger, Hargrave, and Hopson 2014; Bell and Carrick 2017; Whyte 2017; Walker 2012.

dimensions of intersectionality to the IA process specifically. This framework also appears in Appendix 1 and has shaped the analysis presented in Chapters 6 and 7.

A major part of the analysis process was coding the policy document summaries, interview notes, and case study documents in MAXQDA, a qualitative data analysis software, to begin to make sense of the data and start to sketch out my arguments. The policy scan documents and interview notes were coded together in one MAXQDA file, while the documents associated with each case study were coded in separate MAXQDA files, given the high number and large size of the case study documents. A set of preliminary code categories for both the policy analysis and case study data was created before the coding process began, which was informed by my previous work on this topic, my theoretical framework, and the intersectional policy analysis and environmental justice analytical frameworks discussed above. Beyond this, the coding followed an inductive process, with new codes and code categories being added as themes emerged from the data, consistent with the interpretivist imperative to 'let the data speak for itself.' Major code categories included: the four types of justice and their components, concerns about the IA process, recurring broad themes (e.g., consultation, wellbeing), policy tools and mechanisms, knowledges, identities and actors, systems of power, types of impacts, and parts of the IA process. Each of these major categories had between three and 76 individual codes with categories with large numbers of codes being further divided into sub-categories (see Appendix 1 for example).

In an interpretive paradigm, the 'text-work' or writing phase of the research is recognized as an important part of the analysis process (Schwartz-Shea and Yanow 2012). Many important insights emerge through the process of "crafting a persuasive manuscript" (Schwartz-Shea and Yanow 2009, 56). This has certainly been true through the writing of my findings and discussion chapters. Through that process, I have refined and expanded the two analytical frameworks discussed above. While both were sketched out before I started writing the next four chapters, they were continually tweaked and refined through the writing process as new insights emerged from the data. The chapters of this dissertation and my main points of argument were also

revised continually during the writing process as my analysis became more sophisticated and refined. In writing both the policy scan (Chapters 4 and 5) and case study chapters (Chapters 6 and 7), I have chosen to write them in a way that puts "meanings – values, beliefs, and feelings or sentiments – at the centre of inquiry" (Yanow 2014a, 132), rather than write in a jurisdiction-by-jurisdiction or case-by-case style that would be more common in a traditional positivist case study project. This approach to the 'text-work' – centring the 'processes of power' in Chapters 4 and 5, and the four types of environmental justice in Chapters 6 and 7 – is consistent with both comparative interpretive research and a feminist critical policy studies methodological approach (Hawkesworth 2010; Paterson and Scala 2015; Schwartz-Shea and Yanow 2012; Yanow 2014a).

Some Reflections on Challenges and Lessons Learned

Part of my commitment to a feminist methodology is being reflexive about the research process, my role in shaping it, and the structural context in which the research takes place. I also strongly subscribe to the second-wave mantra of "the personal is political." In this section, I share some of my personal challenges and struggles, knowing that I am not the only PhD student to experience them, and wanting them to be 'on the record' – or as 'on the record' as a published dissertation is – as my own quiet form of resistance to the unspoken (and sometimes spoken) expectation that we are silent about these issues in our work. I also acknowledge that I experience considerable privilege in academic spaces as a white, cisgender, and settler scholar. That privilege means that I can share these things and write in this way without the same level of personal and social risk that scholars differently positioned might experience. As all researchers know, unexpected things often come up during the course of the research that necessitate changes to our plans. While sometimes something is lost in those changes, other things are often gained that result in significant personal learning for us as researchers or unexpected benefits for our research.

An ongoing challenge of many PhD students, myself included, is adequate funding for our research. In an ideal scenario, I would have had access to dedicated funds for fieldwork, a longer doctoral degree timeframe to allow me to visit each of the communities in my case studies, to build relationships, do interviews and hold focus groups, and be able to compensate community members for their time. This is what we are taught throughout our graduate education that the gold standard of academic research in political science is or, at the very least, should be. However, there are very few sources of funding that allow PhD students to finance that kind of research in Canada, and of the few that do exist, I was not successful in obtaining them. More than one more senior scholar has commented to me that I should have engaged in 'real fieldwork,' even if I had to self-fund and incur personal debt to do so. Given that the communities surrounding my case studies are in Northern Canada, this would require a substantial amount of money. I estimate even spending a week in one community would cost a minimum of $2500, just for travel, lodging, and food – let alone any expenses for the research itself, such as local transportation, community honorariums, interpreters, or disability-related accommodations, which could easily cost a similar amount. It is simply not financially viable for me (or many PhD students) to spend that kind of personal money on dissertation research, when many of us live on no funding or a funding stipend that does not meet the minimum standard of a living wage in the cities where we live. The lack of dedicated funding is a structural constraint that has affected my research design, and part of the reason why I have relied on document reviews and virtual and telephone interviews. However, important strengths can also be found the research design that these constraints have led me to adopt, especially in light of the new challenges for research brought by the COVID-19 pandemic. 'Real fieldwork' is not going to be possible for many researchers for the foreseeable future. This dissertation shows that there are other valuable ways of collecting data when in-person interviews and fieldwork in communities is not possible. Arguably the document analysis and virtual interviews used in this research will be a valuable complement to interview-based field research even when things return closer to 'normal.'

A second challenge that has shaped this research is my ongoing process of "unsettling the settler within" (Regan 2010, 11). I had initially planned to conduct telephone or virtual interviews for each of the case studies with representatives of key organizations within local communities. After an initial phone call to inquire about community research ethics processes, I sent a letter by email or fax to each of the Indigenous Nations (15 in total) on whose territory the case study projects are situated with a description of my research and asking for feedback on my proposed methodology. Representatives of two of the Indigenous Nations I had contacted told me that my proposed approach was not an appropriate way to build a relationship with their Nations. They told me that a more appropriate approach would involve spending time in their communities to build relationships, including by providing honorariums to community members who participate in the research, and returning to share research results in person before publishing and defending my dissertation. One representative also told me that because the community is quite divided on the dam project, having an outsider come to ask questions would likely cause harm that I had not anticipated, and that they were not sure that there would be any direct benefit to their community from my research. After a substantial period of reflection on where I had gone wrong and more respectful ways to build research relationships with Indigenous Nations in future projects (an incredibly valuable lesson in itself), I chose to cut the planned interviews for the case studies and rely on the document review process described above, realizing that that is a much less harmful approach to understanding community concerns about impact assessment projects. I informed all Nations I had contacted about my change in approach, and only one (the Nunatsiavut government) requested I submit the changed approach for their community ethics review (described above on page 83).

While some might predict that the lack of interviews and the reliance on IA documents would result in a less rich dataset and less fruitful analyses, this has not been my experience. The change in approach to relying on publicly available documents has resulted in a much larger dataset (see Table 4 above) than I could have ever obtained in the same timeframe through the interview-based research that I had initially planned.

Interview-based research comes with significant challenges, including needing to invest considerable time in building relationships, participant recruitment, doing the interview itself, and transcribing. As my experience described in the interview section above shows, low response rates are an additional risk of interview-based research, especially on controversial topics like resource development. In contrast, relying on documents as my sources of data for the four project case studies allowed me some significant benefits over a solely interview-based approach. For example, I was able to examine a wide variety of perspectives expressed by different proponent, government, and community actors within the IAs, rather than only those who responded to an interview invitation.[43] I was also able to more effectively compare across case studies because similar evidence and documents were available for each resource project. Similarly, I was able to engage in a much more effective and robust process of data triangulation[44] within the case studies using the rich dataset of documents than would have been possible when relying primarily on a smaller interview dataset. While I do not have the same personal insights from individuals about the 'behind the scenes' workings of the IA process that may have been available through interviews, the breadth and depth of the data available through the publicly available documents has certainly benefitted the research in ways I had not initially imagined when I made the change to the research design.

A final challenge relates to my mental health during the process of finishing this dissertation. Needless to say, when I defended my proposal in September 2018, I did not expect to be finishing much of the data analysis and writing this dissertation itself during a global pandemic. This context only amplified my long-existing challenges with anxiety and, combined with a particularly terrible two months with multiple compounding tragedies affecting many Nova Scotians and military families (including my own),

[43] Based on my previous experience in doing research in the area of resource extraction, I suspect few (if any) proponent and government actors would have been willing to participate in an interview about these IA processes.

[44] For example, double-checking a community actor's assertions that their concerns are being ignored by the proponent during a particular part of the IA process against the documents and statements the proponent produced during that stage of the IA.

contributed to a substantial period of depression and amplified anxiety. There were many days over the last year, but especially the period between April and November 2020, where I was frustrated, did not want to write, and had constant negative thoughts like “What’s the point of even finishing this?” or “Everything I’m writing sounds like garbage.” Dealing with this challenge has involved celebrating the small victories (some days writing even one paragraph is a victory), attempting (and often failing) to be gentle with myself, and putting in place the necessary supports – medication, counselling, and an amazing support network of family, friends, and mentors – needed to allow me to continue to work, although more slowly than I would have liked, to get to the finish line and defend this dissertation. I share this not to complain, but rather to acknowledge the ways that completing a PhD has mental health implications for many students and normalize talking about our struggles and successes in getting to the end.

Chapter 4: Institutional Dynamics and Processes of Power in IA

In this chapter and the next, I dig into the 'tangled web' of the IA regulatory frameworks to analyze the 'nuts and bolts' of the IA process in the five jurisdictions studied (federal, British Columbia, Manitoba, Newfoundland and Labrador, and Nunavut) and assess the potential of existing policy frameworks to meaningfully include the voices and concerns of marginalized groups in impact assessments in Canada's North. To this analysis, I bring my considerable experience in researching issues related to community experiences of resource extraction and how patterns of inclusion and exclusion within communities shape the impacts of mines and dams experienced by different groups within communities. To recap from Chapter 1, marginalized members of communities (including women, Indigenous people, people with disabilities, and people living on low incomes) experience disproportionately negative socio-economic impacts when major resource extraction projects are situated near their communities. Examples of these negative impacts include increased rates of gender-based violence, rising housing costs, new substance use issues, food security concerns, strained public services and community infrastructure, and several different types of negative impacts for Indigenous cultures and traditions (including those that affect wild game and country food harvesting). Many of these socio-economic impacts emerge from the rapid changes that resource projects bring to rural and remote Northern communities, which often work to deepen existing inequities between members of communities. At the same time, few of the benefits of those projects are easily realized by marginalized members of communities and little of the wealth generated by projects flows to the margins of communities. This is the core of the resource curse in the context of Northern Canada.

In this chapter and the next, I explore the ways that the IA process itself shapes the outcomes associated with the resource curse. Consistent with my intersectional theoretical framework, I am most concerned with how the processes and practices of IA enable or limit the expression of community concerns about impacts and the participation of community members who are members of one or more marginalized

groups. I analyze how these processes and practices affect the IA's ability to account for, prevent or mitigate the most pressing community impacts experienced by members of those groups. Guiding my thinking in developing this chapter is the intersectional policy analysis framework laid out in Appendix 1 with its series of guiding questions to think critically about the ways that power shapes IA policy and practice and who are differently affected and in what ways by the power relations that present in both policy and practice. This framework builds upon a general framework for intersectional policy analysis first developed by Hankivsky et al. (2012), which I refined during my work with the Feminist Northern Network to be a tool to analyze resource extraction policy (Manning 2014). During the current research, I refined the 2014 tool once again to be used to analyze IA policy frameworks from an intersectional perspective. That version is in Appendix 1. An important limitation of the analysis that follows is that this chapter and the next relies primarily on the data collected through the policy scan and the interviews with policymakers in the five jurisdictions under study. This means that other mechanisms or policies that may exist but were not publicly available or mentioned in my interviews have not been included.

This chapter argues that structural power relations and relationships of inclusion and exclusion are often invisible in IA frameworks, but shape institutional structures and practices and therefore the experiences of members of marginalized groups and the recognition of their concerns within IA. Using an intersectional lens in critical policy analysis helps to make these dynamics more visible by showing the implications of the silences, absences, conditions of access and structuring norms of IA for marginalized members of communities. My analysis in this chapter suggests that the ways that power works within the institutional dynamics of IAs themselves is essential to understanding the process' (lack of) ability to prevent the conditions associated with the resource curse in Northern Canada. After a brief overview of IA processes in Canada to situate the content, I use the lens of intersectionality to develop an analysis of five of the nine processes of power at work in IA that shape the extent that community concerns and perspectives can be taken seriously within the IA.

Overview of Canadian IA Processes

While there are substantial and important differences in the finer details of IA legislative and policy frameworks across Canadian jurisdictions, which are discussed throughout this chapter and the next, in general, Canadian IAs follow a similar set of procedures (Hanna 2016), summarized in Table 5 below. Although not part of the formal IA process, the negotiation of benefits agreements typically occurs as a parallel process to the IA, and often inform the information shared and decisions made in the IS, review, and decision stages of the IA.

As discussed in Chapter 2, impact assessment processes are tightly bound up in relations of multilevel politics. Each federal, provincial and territorial government has its own impact assessment process and at least one department, agency, or board responsible for conducting them.[45] Federally, this was usually the Canadian Environmental Assessment Agency (CEAA)[46] for the period under study, although other federal agencies can be the responsible federal IA authority in some cases, as we will see with the case of the Red Chris Mine discussed in Chapters 6 and 7. In the provinces, BC has the Environmental Assessment Office (EAO), NL has the Environmental Assessment Division, and Manitoba has the Environmental Approvals Branch. Manitoba is unique among the provinces in having an arms-length agency, the Clean Environment Commission (CEC), that conducts any public hearing processes required as part of a project IA. Nunavut has a standalone institution, the Nunavut Impact Review Board (NIRB), which has responsibility for all parts of the IA process in the territory (from project applications to monitoring) and is largely independent of the federal and territorial governments, although the final decision on project approval is made by the responsible Minister.

[45] These settler government departments, agencies or boards responsible for managing and overseeing the impact assessment are collectively referred to throughout this dissertation as 'IA agencies.'
[46] Now Impact Assessment Agency of Canada (IAAC).

Table 5: Stages of the IA Process

Major Stages	**Details**
Proposal	Sometimes called the project description or initial application depending on the jurisdiction. These are prepared and submitted by the proponent and give an overview of the proposed project and its potential impacts.
Determining Jurisdiction	The proponent's proposal is used to determine whether the project falls under one or more of federal, provincial, or Indigenous jurisdictions. This is determined by legislation and by the terms of treaties or other settler-Indigenous government agreements (e.g., resource co-management agreements) in the case of projects that fall fully or partially within Indigenous jurisdiction. In most cases where projects fall under multiple jurisdictions, a harmonized process is used to facilitate 'one project, one review.'
Screening	The responsible agency determines if a project requires a full impact assessment review. In most Canadian jurisdictions, most mines and hydroelectric dams, considered major projects in the IA legislation, are required to undergo a full review.
Scoping	If a full review is required, a scoping process determines what parts of the proposed project, types of impacts, and time and spatial boundaries will be assessed in the IA review. The scoping phase concludes when the IS guidelines are issued by the responsible IA agency.
Impact Statement (IS) [47]	Sometimes called Environmental Impact Statement (EIS) in some jurisdictions or just Application in BC. The proponent prepares and submits a full IS based on the IS guidelines produced in the scoping stage.
Review	The proponent's IS is subjected to a review process by the responsible committee, agency, board or panel, depending on the type and size of the project and the jurisdiction's IA legislation. Some jurisdictions' legislation requires public hearings for some projects, while others only require public participation in the form of public comment periods. Others leave the question of public hearings to Ministerial discretion.
Decision	A final decision on whether the project is allowed to proceed or not, and under what conditions, is made by the responsible political actor, typically a Minister or the Cabinet. The decision-making phase is also when the settler government determines if the duty to consult has been met throughout the IA process.
Monitoring & Compliance[48]	The government departments and agencies responsible for monitoring the proponent's compliance with the project conditions (decided in the decision stage), receive reports and data on particular indicators, and may conduct site visits during the construction and operations phase of the project.

[47] For consistency, I use the term impact statement (IS) throughout the dissertation.

[48] This dissertation focuses on the IA process only from the proposal to the decision stages. Monitoring and compliance is an incredibly important part of the IA process, but there is very little information about this stage in the research and policy literature compared to the other stages of the IA. For this reason, I have chosen to exclude it from much of the discussion in this dissertation but do reflect on the importance of this stage in the conclusion.

Due to the structure of the Canadian system of federalism, impact assessments for most large mines and hydroelectric dams in the provincial North fall under both federal and provincial jurisdiction. While provinces have jurisdiction over non-renewable natural resources and electrical energy production – effectively mines and hydroelectric dams – under the *Constitution Act, 1867* (Government of Canada 1867), the federal government has responsibilities for sea and inland fisheries, Indigenous Nations and lands,[49] and any issues of a non-local nature – effectively any issues that cross provincial borders, including environmental impacts of resource projects. In most cases where a project implicates responsibilities of both jurisdictions, federal and provincial governments typically agree to a process to allow a harmonized or joint IA of a project. Fitzpatrick and Sinclair (2016, 184) write that harmonization is a process of "co-ordinating application of legislative frameworks prescribed by different jurisdictions so that, effectively, the project undergoes one review." Each respective government still issues its own decision at the conclusion of the IA.

How this process of harmonization happens in practice for a specific project depends on different relations of power. As Gibson and Hanna (2016, 28) argue:

> different interests involved have had conflicting objectives [for harmonization]. Proponents…have generally advocated a broad simplification of assessment requirements. Environmentalist organizations have favoured an upward harmonization, which in essence means bringing all federal, provincial and other assessment requirements to the same high standard of rigorous public process. In contrast, the provinces have seen harmonization largely as a means of minimizing federal involvement in provincial matters.

Upward harmonization, which requires an IA to include all the standards of all jurisdictions with responsibility for the IA, ensures the broadest scope possible for IA. This type of harmonization is most likely to benefit marginalized members of

[49] While the Constitution technically says "Indians, and Lands reserved for the Indians" (Government of Canada 1867, sec. 91(24)), Supreme Court of Canada decisions have affirmed that this applies to First Nations, Inuit and Métis Peoples.

communities, as different jurisdictions' processes can vary considerably in their inclusivity of members of communities and respect for community concerns, as is discussed in this chapter. The simplification (and associated reduction or removal of standards that differ between jurisdictions) advocated for by business interests is likely to increase the gaps and disparate requirements discussed throughout this chapter that already exist in the multilevel political structures that shape IA and the exclusion of marginalized members of communities and their concerns.

Processes of Power in IA

Power is infused in all stages of the IA process in Canada (and internationally). My analysis of IA policy frameworks, through both the policy scan and interview data, shows that power shapes the extent to which IAs are effective in taking community concerns seriously, allowing for the inclusion and equitable participation of community actors (particularly marginalized groups and their representatives), and accounting for the impacts most likely to be disproportionately experienced by members of marginalized groups. Ensuring that IAs do all three of those things is essential to countering the effects of the resource curse in Northern communities.

I use the term 'processes of power' to describe processes at work in Canadian IA that are shaped by power. These processes of power are best understood as part of intersectionality's multi-level understanding of power as shaping individual-institutional (and group-institutional) interactions. The processes of power discussed in this chapter and the next work across the structural,[50] disciplinary,[51] cultural,[52] and interpersonal[53]

[50] Refers to "how social institutions are organized to reproduce…subordination over time" (Collins 2002, 277).
[51] Refers to the use of rules and norms within institutions to exclude particular groups of people (Collins 2002). "Different people find themselves encountering different treatment regarding which rules apply to them and how those rules will be implemented" (Collins and Bilge 2016, 16).
[52] Refers to the use of hegemonic ideas and 'common sense' to support relationships of domination (Collins 2002; Collins and Bilge 2016).
[53] Refers to "how people relate to one another, and who is advantaged or disadvantaged within social interactions" (Collins and Bilge 2016, 15).

domains of power in Collins' (2002) and Collins and Bilge's (2016) intersectional conceptualization of power as exercised through four interrelated domains within a wider matrix of domination. The processes of power reflect unequal power relations between communities and the state, communities and the proponent, and within communities themselves that are reproduced in the IA process. Power operates within these processes in ways that are often subtle and invisible until critically examined through an intersectional lens and important questions about who and what is included and excluded (and why or how) are asked.

I argue that the nine processes of power at work in Canadian IA are: definition, boundary construction, negotiation, accountability, decision-making, representation, recognition, participation, and consultation. This chapter discusses the five processes of power that are most closely related to institutional dynamics (definition, boundary construction, negotiation, accountability, decision-making), while the next chapter discusses the remaining four (representation, recognition, participation, and consultation) that most closely shape dynamics of community inclusion and exclusion within IA. While discussed separately to create this analytical framework, many processes of power are certainly linked. Some of those links are discussed in this chapter and the next. Many of these processes of power occur during multiple stages of the IA process, and as my analysis in this chapter shows, shape the outcomes of these stages in ways that particularly disadvantage members of marginalized groups. The processes of power which are implicated in each stage of the formal IA process are shown in Table 6 below.

While in this dissertation I discuss these nine processes of power exclusively in relation to impact assessment and Canadian IA specifically, these processes of power are likely present in other policy processes beyond IA, and in other IA processes beyond the Canadian context, given the similarities in IA processes and stages between countries. Neither time nor space has allowed me to explore either of these implications in any depth; however, they remain fruitful areas for future research.

Table 6: Processes of Power in IA Stages

Major Stages	Processes of Power
Proposal	Boundary Construction
Determining Jurisdiction	Decision-Making, Accountability
Screening	Decision-Making
Scoping	Definition, Boundary Construction, Decision-Making, Recognition, Representation, Participation, Consultation, Accountability
Impact Statement (IS)	Definition, Boundary Construction, Accountability, Recognition, Consultation
Review	Definition, Boundary Construction, Decision-Making, Recognition, Representation, Participation, Consultation, Accountability
Decision	Decision-Making, Representation, Boundary Construction, Recognition
Determining Benefits	Definition, Negotiation, Accountability

Definition

The process of defining key concepts within IA is the first process of power. As Hankivsky and Jordan-Zachery (2019) note, the problem or issue definition stage of traditional policy cycles are prominent points of exclusion for many marginalized groups and their concerns. Hankivsky and Cormier (2011, 222) argue that: "Because there are so many key stakeholders with various knowledge, biases, and understandings of inequalities involved in agenda setting, it is critical to understand who defines when, where, and why certain policy issues become important and which do not." Embedded in IA processes in Northern Canada are processes of creating definitions for three key concepts: impacts, benefits, and Indigenous rights. Examining how these definitions are created and who does the defining shows one of the ways that power shapes the IA processes to limit the ability of IAs to account for many the socio-economic impacts disproportionately experienced by members of marginalized groups.

Impacts

Major categories of 'impacts' that must be considered in IA processes are also typically defined in legislation, but also occasionally in policy as well when the legislation is silent on a particular type of impact. The types or categories of impacts specifically

required to be considered in IAs differ considerably across the jurisdictions studied (see Table 7). What this means in practice is that it creates a patchwork of assessment requirements for impacts across the country, with particular implications for the consideration of community impacts in IA, namely that where you live or who you are affects whether an impact you might be likely to experience is required to be assessed in a project's IA. It also affects how likely you are to be taken seriously by decision-makers when you raise concerns about that impact in the IA. Harrison (1996) refers to the patchwork nature of environmental protection policy (including IAs) as an example of "'passing the buck'" federalism (162), which results in a "race to the bottom" (166) in terms of consistent national or cross-provincial standards.

Table 7: Impact Types Required to be Assessed by Jurisdiction

Type	Federal	BC	MB	NL	NU
Biophysical/ Environmental	Yes	Yes	Yes	Yes	Yes
Socio-Economic	Only Aboriginal people, must be linked to biophysical impact	Yes	Only those linked to biophysical impacts	Yes	Yes
Health	Only Aboriginal people	Yes	Yes	No	No
Heritage	Only Aboriginal people	Yes	No	No	Yes
Cumulative	Yes	Yes	No	No	Yes

Sources: Environmental Assessment Office 2018; Government of Manitoba 1987a; Department of Environment and Climate Change 2016; Government of Newfoundland and Labrador 2002; Government of Canada 2012; 2013.

While some may certainly argue that this patchwork format of regulations reflects the proper workings of federalism – by allowing provinces and territories[54] to make policies that reflect their own interests and the realities of local challenges – I argue that this patchwork has negative implications for many members of marginalized groups. In particular, this patchwork has specific implications for those impacts (discussed in Chapter 1) most likely to be experienced by members of marginalized

[54] Notably, Harrison (1996) argues that provinces are more likely to reduce rather than strengthen environmental regulations in order to increase the competitiveness of their resource industries relative to other provinces, unless there is political motivation (e.g., a strong environmental movement within the province) to strengthen particular aspects of regulations.

groups. For example, when socio-economic impacts are defined as only required to be assessed when they result from a biophysical impact (as is the case federally and in Manitoba), this definition effectively excludes most of the negative socio-economic impacts experienced by marginalized members of communities near extractive sites that are more closely linked to the influx of workers or changing community dynamics than changes in the biophysical environment (Manning et al. 2018a; Stienstra et al. 2016). These would include housing issues, changes in substance use patterns, and increases in rates of gender-based violence, among others. Similarly, when heritage impacts are specifically included in the scope of impact assessment (like in BC, Nunavut and federally), it often has positive implications for Indigenous Nations and Peoples because examination of heritage often opens space in IA to consider impacts on contemporary culture and spirituality that are unlikely to be captured in the more dominant biophysical and socio-economic impact categories (O'Faircheallaigh 2008). However, when heritage impacts are not required to be assessed, it is much less likely that the same depth of attention will be given to impacts for Indigenous culture and spirituality. While community actors participating in the IA scoping and review stages certainly can (and do) raise concerns about potential impacts of proposed projects that are 'outside the scope'[55] of the types of impacts required to be assessed in legislation and policy, proponents and decision-makers are under no obligation to recognize or deeply consider those potential impacts in the IA because they do not fit within the definitions created in these governing frameworks. Therefore, the patchwork created by the definition of impacts in legislation and policy across jurisdictions has important implications in terms of which impacts, and members of the community, are likely to be taken seriously.

While the types of impacts are defined broadly in legislation and policy, the power in defining the specific impacts to be examined and assessed in the IA in practice largely rests with the proponent. This gives them a significant amount of power in shaping the overall direction and outcome of the assessment. In two jurisdictions (BC

[55] Meaning the impact does not fit within one of the required categories.

and Manitoba), the proponent's control over the definition of impacts begins the scoping stage of the IA, while in the other jurisdictions studied, it begins in the IS stage.

In both British Columbia and Manitoba, the proponent largely controls the scoping of the IA, as it is a common practice for the proponent (rather than an IA agency or government actor as in the other jurisdictions studied) to prepare the draft IS guidelines that are sent out for public comment (Manitoba Law Reform Commission 2014; Environmental Assessment Office 2018). While there are typically policy guidelines that state what must be included in the IS guidelines, they tend to be quite broad and reflect the types of impacts that fall within the scope of impact assessment in that jurisdiction more generally. When the proponent is permitted to define the specifics of the IS guidelines, they exercise a considerable amount of power in defining what impacts will 'count' in the IA. For example, if the policy says that socio-economic impacts must be included in the IS guidelines, the proponent – as the drafter of the specific IS guidelines – has the power to decide what particular socio-economic impacts will be considered (e.g., employment and business opportunities only or a more expansive list of socio-economic impacts like housing, access to health care, local transportation, and violence?) and how each of those impacts will be measured (e.g., will the studies rely on quantitative or qualitative data? How will information be gathered? Will the data be disaggregated by different identity groups? What communities will be included?) in the IS. The draft IS guidelines, no matter if they are drafted by the proponent or an IA agency, are subject to a public comment period (which may be as short as 3 weeks or as long as 3 months depending on the individual project and jurisdiction) and a review by a working group or committee in some jurisdictions before becoming final. The IA agency responsible for the assessment collects and considers these sets of feedback before issuing the final IS guidelines which guide the proponent's preparation of the IS. This is meant to provide a layer of accountability within the IA by receiving public input. However, a common complaint from community participants in all four case studies was that there were limited and largely superficial changes made in response to their concerns when the final guidelines

were issued. Thus, when the proponent is given the power to draft the initial version of the guidelines, they can exercise considerably more power than community actors in defining what is meant by impacts within the IA. The little power community actors can exercise in the scoping process, through giving feedback on the proponent's draft, is undermined when their comments are not meaningfully integrated into the final guidelines by the IA agency.

In all jurisdictions studied, the proponent also exercises a considerable amount of power in defining impacts through the preparation of the IS – whether or not they were also responsible for drafting the IS guidelines. While the IS has to follow the guidelines issued in the scoping stage, those guidelines typically leave a significant amount of discretion to the proponent (and their consultants) who are responsible for preparing and writing the IS. For example, they get to determine through their analysis and writing whether a particular community impact is likely to be significant or not, who is most likely to be affected by that impact, and thus if it deserves action in the form of prevention or mitigation. In essence, the IS is where the proponent gets to define the dominant story about impacts that will shape the rest of the project review. This has important implications for the power of community actors in IA. When the proponent is given the power to write the dominant story about impacts through the IS, community actors who participate in the IA review stage are often limited to a 'fact-checking' role, responsible for pointing out errors, gaps and deficiencies in the proponent's IS. The burden of proof is on proving the proponent wrong, rather than being invited to define their own understandings of impacts that should be considered in the review and would be consistent with their priorities. It is also important to note that many barriers, including the short timelines mentioned above, constrain effective and meaningful public participation in IA, especially by the most marginalized members of communities. These are discussed in detail in the participation section.

Benefits

Table 8: Types of Benefit Agreements

Type	Impact-Benefit Agreements (IBAs)	Provincial Benefits Agreements	Settler Government-Indigenous Government Benefits Agreements
Parties	Proponent & Indigenous Nation/Government[56]	Province & Proponent	Settler Government & Indigenous Government
Where Do They Exist?	All jurisdictions	NL	BC, NL, NU
Public or Confidential?	Confidential except for Nunavut	Public	Public
Basis in Legislation, Policy, or Treaty?	Nunavut (Legislation & Treaty)[57] NL (Policy)[58] Some Indigenous Jurisdictions (Treaty)[59]	Policy	BC (Policy and Treaty) NL & NU (Treaty)[60]

[56] While IBAs are typically limited to Indigenous Nations and communities, one interview participant suggested that there is a precedent for IBAs being signed with non-Indigenous municipalities in Newfoundland and Labrador (anonymous interview). They asserted that IBAs were signed with the municipalities of Happy Valley-Goose Bay, Mud Lake and North West River following the conclusion of the IA for the Lower Churchill Hydroelectric Project. Unfortunately, I was not able to find any further information or a copy of those agreements to determine if they were actually proponent-community agreements similar to IBAs or perhaps a different type of benefits agreement discussed in this section.

[57] Inuit Impact and Benefits Agreements (IIBAs) are required for every major resource development project under the Nunavut Land Claims Agreement and the NUPPAA. While mandated by treaty and legislation, with potential benefits to be included laid out in the treaty, ultimately the federal and territorial government "plays no role in those at all. They're bilateral agreements negotiated between the regional Inuit association and the proponent in question" (Nunavut Department of Economic Development and Transportation interview).

[58] In Newfoundland and Labrador, when a project is taking place within an Indigenous land claim area, "the Aboriginal Consultation Policy will automatically trigger an IBA" (anonymous interview).

[59] For example, the Labrador Inuit Land Claim Agreement requires the negotiation of an IIBA with the Nunatsiavut Government for any mine taking place on Labrador Inuit Lands, and suggests measures to include in that agreement (Government of Newfoundland and Labrador 2005).

[60] Some modern treaties contain provisions for resource revenue transfers from settler governments to Indigenous Nations. Under the Labrador Inuit Land Claim Agreement (Government of Canada 2005), the Nunatsiavut Government receives 25 percent of the provincial revenue from mining developments on Labrador Inuit Lands and a smaller percentage of revenues for projects in the Labrador Inuit Settlement Area. In Nunavut, the Inuit receive "fifty percent (50%) of the first two million dollars ($2,000,000) of resource royalty received by Government in that year; and… five percent (5%) of any additional resource royalty received by Government in that year" (Inuit and Government of Canada 1993, sec. 25.1.1). In Nunavut, the revenue is paid into the Nunavut Trust "for the general benefit of Inuit" (sec. 31.1.1).

In Northern Canada, 'benefits' are primarily defined through benefit agreements. There are three main types of benefit agreements in the jurisdictions studied, which are outlined in Table 8 above. The process of defining benefits through these agreements is done through a process of negotiation between the parties to the agreement. Negotiation is its own process of power that is discussed later in this chapter. However, it is important to note that only some community actors (namely the leadership of Indigenous Nations and governments) can exercise the power of definition with regard to community benefits. Other community actors, including individual members of communities and civil society organizations, who participate in other parts of the IA process have very little power to define benefits or participate in creating benefit agreements.

Within the publicly available benefits agreements and their applicable policies, treaties and legislation examined, benefits are defined quite narrowly and almost exclusively in relation to capitalist, colonial and extractivist understandings of development, rather than Indigenous understandings of the 'good life' (see discussion in Ch. 2). For example, in both Nunavut and Nunatsiavut, the benefits suggested within the treaties (Inuit and Government of Canada 1993; Government of Canada 2005) as appropriate for inclusion in project Inuit Impact and Benefit Agreements (IIBAs) are overwhelmingly oriented towards Inuit access to education, employment and training, and business opportunities to support the resource project. The provincial benefits agreements negotiated in NL likewise focus mainly on preferential hiring and business opportunities for residents of the province, with residents of the region within the province where the project is situated being considered first, and are required to include Gender Equity and Diversity Plans[61] with some measures meant to create an inclusive workplace environment for members of marginalized groups. Similarly, the majority of settler government-Indigenous government benefit agreements are revenue

[61] These plans are developed by the proponent and focus solely on measures to improve employment recruitment and retention for some members of some marginalized groups (women, Indigenous people, members of visible minority groups, and people with disabilities). They are a distinctly different tool than the Gender and Diversity Analysis (GDA) that many Canadian governments require in their policy and decision-making processes (discussed later in this chapter).

transfer agreements. British Columbia has utilized Economic and Community Development Agreements (ECDAs) to bring certain economic benefits to Indigenous Nations affected by projects. These are signed on a project-by-project basis and the benefit is defined as economic revenue transfers of a percentage of provincial tax revenue from a major project. Most ECDAs are more or less identical except for the percentage of revenue promised for a particular project or Nation.

While some members of Northern communities certainly value these types of benefits and many Indigenous governments value an alternate source of revenue to support community development objectives, these job and revenue-centric definitions of benefits are not necessarily welcomed by all members of communities. As discussed in Chapter 2, capitalist understandings of benefits are not necessarily consistent with Indigenous priorities for development and understandings of the desired path to greater community wellbeing. This is also discussed in more depth in Chapter 7. Further, we know from previous research (Manning et al. 2018a; Stienstra et al. 2019) that many members of Northern communities, including women, people with disabilities and people living on low incomes, are unlikely to be able to access those benefits, yet will be left with a large share of the negative impacts. A broader definition of potential benefits in benefit agreements is needed if all members of communities are to see benefits from resource extraction projects.

Indigenous Rights

Indigenous rights are defined outside the IA process, but how they are defined has important implications for the extent to which the concerns expressed by Indigenous people and Indigenous Nations and governments are taken seriously within an IA. Indigenous rights – legally termed 'Aboriginal and treaty rights' in Canada – are protected by Section 35 of the *Constitution Act, 1982*, but they are not defined within the Constitution. Treaty rights are generally accepted to be rights guaranteed through

historic or modern treaties,[62] while Aboriginal rights are "collective rights of distinctive Indigenous societies flowing from their status as the original peoples of Canada" (CIRNAC 2020). The *United Nations Declaration on the Rights of Indigenous Peoples* (United Nations 2007) is beginning to expand Canadian definitions of what types of rights must be considered Indigenous rights but has yet to be fully implemented in domestic legislation. The nuances of defining Indigenous rights and entitlements that flow from these rights as they apply to different Indigenous Peoples and Nations has been quite litigious in Canada, and thus the courts have become one of the most important actors in defining Indigenous rights. When disputes or disagreements about Indigenous rights are raised within the IA process, how Indigenous rights have been defined in the jurisprudence of the courts usually determines the outcome of the dispute (CIRNAC interview).

Many of the ways that the courts have defined Indigenous rights have worked to uphold the dominance of settler colonial interests in Canada and thus in the IA process as well. For example, the 1990 *Sparrow* ruling set out several reasons why a settler government could justify their infringing or limiting Indigenous rights. These include: having a "valid legislative objective" (a rather large loophole), providing compensation for the right infringement, and having consulted or "at the least… informed" the rights holder before infringing or limiting the right (Supreme Court of Canada 1990). In the 1996 *Van der Peet* decision, the Supreme Court of Canada ruled that Indigenous rights must be defined in such a way that they reconcile "'the pre-existence of aboriginal societies with the sovereignty of the Crown'" (Gibson, Galbrath, and MacDonald 2016, 160). These and other court rulings limit Indigenous Nations and governments' abilities to exercise their rights to self-determination in the IA and take away much of their decision-making power regarding projects that affect Indigenous rights or take place in Indigenous territories. While some Indigenous Nations have successfully used the

[62] Historic treaties were signed between 1701 and 1923. They include the Treaties of Peace and Neutrality, Peace and Friendship Treaties, Upper Canada Land Surrenders, Williams Treaties, Robinson Treaties, Douglas Treaties, and the Numbered Treaties. Modern treaties are those signed after the 1973 *Calder* decision. The James Bay and Northern Quebec Agreement was the first modern treaty (CIRNAC 2020).

jurisprudence on the duty to consult to challenge IA decisions, many have been unsuccessful in doing so.[63] Other court cases, such as *Tsilhqot'in Nation* in 2014 (Supreme Court of Canada 2014), have affirmed the existence of Aboriginal title for some Indigenous Nations, first recognized in the earlier *Delgamuukw* decision. Title, where it can be proven to exist,[64] provides an additional tool that can be used to push for greater recognition and decision-making power in IAs. At the same time, both *Delgamuukw* and *Tsilhqot'in Nation* also affirmed that the *Sparrow* test[65] can still be used to justify infringements to that title, if the Crown's duty to consult has been fulfilled. When concerns about Indigenous rights are raised in IAs, they are tested against the criteria laid out by the courts. They are then often interpreted in ways that limit the scope and depth of Indigenous rights to preserve the settler colonial system, rather than moving toward a treaty federalism understanding of the relationship between Indigenous Peoples and the settler state or an understanding of Indigenous rights consistent with UNDRIP.

Boundary Construction

Boundary construction is the second process of power at work in IA. A process of boundary construction or boundary making is present in almost every policy process (Cochrane 2018). The construction of boundaries within policy processes raise "crucial questions about power and how it is exercised" (Fawcett et al. 2018, 481). The construction of boundaries around policy issues and processes delimit who is considered (and not considered) be a stakeholder in relation to a policy issue, who is

[63] See the discussion on this topic (with examples of these cases) in Chapter 3 in the section relating to impact assessments as spaces of power.
[64] Proving title is a very time consuming, costly and difficult legal endeavour for most Indigenous Nations.
[65] In *Tsilhqot'in Nation,* the Supreme Court of Canada (2014, para. 77) stated: "To justify overriding the Aboriginal title-holding group's wishes on the basis of the broader public good, the government must show: (1) that it discharged its procedural duty to consult and accommodate; (2) that its actions were backed by a compelling and substantial objective; and (3) that the governmental action is consistent with the Crown's fiduciary obligation to the group."

given access to policy debates (and who is not), who gets resources (and how many for how long), what concerns are (and are not) accepted as valid and worthy of a policy response, and what potential actions are contemplated (or immediately dismissed) (Manuel 2019; Fawcett et al. 2018; Cochrane 2018). Making those choices in constructing boundaries is a process that is infused with power, particularly relationships of power including sexism, racism, colonialism, ableism and others, that shape perceptions of which groups within society are most 'deserving' of policy attention and public resources (Manuel 2019). Therefore, the process of constructing boundaries often involves creating hierarchies. How states manage the process of constructing boundaries in policy processes, and particularly differences in interests and conflicts over boundaries, has "far-reaching implications for the public's trust in institutions and the ability of governments to meet citizens' expectations" (Cochrane 2018, 209). Boundary construction is a process of power that occurs across multiple IA stages in relation to multiple issues. In this section, I examine just two processes of boundary construction, the creation of spatial and temporal boundaries and hierarchies of impacts, to show how boundary construction as a process of power operates in IA to limit the IA processes' ability to account for the concerns and experiences of members of marginalized groups.

Spatial and Temporal Boundaries

The construction of spatial and temporal boundaries for the assessment begins in the earliest stage (proposal) of the IA and continues through the other stages through to the final decision. How time and space are understood in the different stages of the IA directly shapes the impacts that can be identified and accepted as valid concerns by decision-makers. When these boundaries are narrowly constructed, it limits the extent to which community concerns can be taken seriously within the IA in general, and has particularly negative consequences for Indigenous actors within the IA who are concerned about potential cumulative impacts on their rights and territories.

The temporal boundary used to assess impacts in Canadian IAs is typically constructed around the lifecycle of the proposed project. Federal technical guidance defines the lifecycle as the "preconstruction, construction, operation, decommissioning and abandonment" of a proposed project (Canadian Environmental Assessment Agency 2015c).[66] As a result of this narrow boundary construction, impacts that result from issues that exist before the beginning of construction are rarely accepted as being appropriate issues to debate or address within the IA. As we see from the widespread protests by members of Indigenous Nations and their allies that sometimes accompany major mines and hydroelectric dams (and other resource projects), this process of boundary construction during the IA often fails to adequately address longstanding issues of sovereignty and jurisdiction, rights and title, and colonial domination that pre-exist the project, but certainly will shape its impacts for Indigenous Peoples (Manning et al. 2018b; Noble 2017).

The construction of geographic or spatial boundaries within the IA also has important implications for which community impacts will be considered. The construction of spatial boundaries for assessing particular impacts is done by the proponent and those boundaries are often identified in the initial application. While they are required to include "the area that may be adversely affected by the project" (Canadian Environmental Assessment Agency 2015b), known as the 'project impact area,' that guideline leaves a lot of room for interpretation on the part of the proponent as to the actual geographic boundary. In all the jurisdictions studied, the immediate area of the project site(s), the communities nearest the project site, and any downstream or upstream areas where direct environmental impacts are likely to be experienced are within the boundaries of the project impact area. Nunavut is unique among the jurisdictions studied in that it alone directs proponents to always consider "socio-economic influenced areas… any areas that may be drawn upon for employment initiatives, business opportunities, project supplies or harvesting areas" (Nunavut

[66] While the other jurisdictions studied do not provide the definition of 'lifecycle' as directly, we can reasonably assume that it is similar to the federal definition.

Impact Review Board 2018b, 104). Even with this more specific direction to expand the project impact area to account for socio-economic impacts, proponents still exercise a significant amount of power in constructing that boundary – and thus including or excluding impacts experienced by people in particular communities – as they prepare the IS. Proponents, as holders of the primary responsibility for boundary-making (Cochrane 2018), understandably choose boundaries that suit their interests and goals in the IA. The sufficiency and appropriateness of the proponent's construction of spatial boundaries in the IS is assessed during the IA review process. When community actors raise concerns about impacts that fall outside the proponent's constructed spatial boundaries (e.g., an increased risk of gender-based violence for Indigenous women in a town that is outside the defined project impact area), the burden of proof falls on those actors to prove that the proponent erred or exercised poor judgement in constructing the boundaries and make the case that their concern should be taken seriously within the IA.

The process of boundary construction is not limited to the IA. The construction of temporal and spatial boundaries outside the IA (e.g., in other policy processes, treaty negotiations, court rulings) constrains the types of impacts, particularly for Indigenous people, that can be accounted for in the IA itself. For example, the process of defining Indigenous rights discussed in the section above involves the construction of a narrow boundary around what can be recognized Indigenous land rights protected by Section 35 – namely only those rights that can be linked to the temporal boundary of 'traditional' (pre-European contact according to the courts) activities. This boundary is held as the norm, while largely neglecting to consider how the many years of state-sanctioned violence and dispossession directed against Indigenous Peoples have eroded many of these practices or may have changed them from their pre-contact forms (Procter 2020; Kuokkanen 2011). For example, Procter (2012, 201) writes that, in negotiating the Labrador Inuit Land Claims Agreement (LILCA) and constructing boundaries around Inuit identity and rights, "the federal and provincial governments followed a template for what constituted 'Aboriginalness' that was made up [only] of

lands, subsistence harvesting and forestry." This static and colonial boundary constructed around Indigenous Peoples' use of their territory often means that other contemporary uses of land by Indigenous rights-holders that might be affected by a proposed project (e.g., recreation, education and knowledge sharing, harvesting activities to earn a livelihood) are not given the same level of attention and consideration in IA as those that fit within the colonial narrative of pre-contact activities.

The process of constructing spatial boundaries within modern treaties also have important implications for which impacts and Indigenous rights can be recognized in the IA process. Many modern treaties construct different types of spatial boundaries around different parts of Indigenous territories. For example, under the LILCA, Inuit territory was divided into Labrador Inuit Lands[67] and the Labrador Inuit Settlement Area[68] (Government of Canada 2005). Both are Inuit territory since time immemorial, but one part of the territory has been constructed differently than the other by settler governments, with different rights and entitlements for Nunatsiavut beneficiaries on those lands and different implications for IA if a project is proposed in one of those areas. The construction of these spatial boundaries affects, among other things, the amount of benefits in the form of revenues that can accrue to the Nunatsiavut government from resource projects, and the amount of decision-making power that the Nunatsiavut government can exercise in the IA (Government of Canada 2005).

Boundaries and Hierarchies of Impacts

Canadian IA processes also construct boundaries around the types of impacts that are considered in IA through the process of defining impacts described above.

[67] Labrador Inuit Lands are Inuit owned lands totaling 15,800 square kilometres where Labrador Inuit have the most rights and benefits, including ownership of a portion of the subsurface resources in some parts of the Labrador Inuit Lands (Government of Canada 2005).

[68] The Labrador Inuit Settlement Area is a larger area (122,000 square kilometres of land and sea) of traditional Inuit territory which includes the five Nunatsiavut communities, and the Labrador Inuit Lands. In the parts of the Settlement Area that are not Labrador Inuit Lands, the Inuit have some specific rights and benefits (e.g., harvesting) but less than those available on Labrador Inuit Lands (Government of Canada 2005).

Those boundaries are used to create hierarchies of impacts within IA processes. Biophysical (environmental) impacts are generally privileged over socio-economic and other types of impacts in contemporary Canadian impact assessment practice (Manning et al. 2018b), and indeed have been since the early days of Canadian IA policy and legislation (Hunt 1990). A telling clue about the values at work in constructing boundaries and hierarchy of impacts in IA is found in the fact that all jurisdictions studied except for Nunavut call their IA process 'environmental assessment' or 'environmental impact assessment.' Critically for my research questions and Northern communities, the privileging of biophysical impacts severely limits an IA's likelihood of adequately addressing the concerns of community members about socio-economic impacts.

Of the jurisdictions studied, Nunavut is the jurisdiction that offers the most robust consideration of socio-economic impacts within the IA. My interview with a representative of the NIRB suggested that Nunavut might be an exception to the privileging of environmental impacts, perhaps in part because Nunavut's IA process and institutions have their origins in the territory's modern treaty (unlike the other jurisdictions studied where IA processes and institutions are the creation of settler governments):

> The main goal with any impact assessment is to ensure that any projects that proceed are done with a minimal amount of impact to the environment. But I think also, in comparison to other regions, our process also considers traditional knowledge – that's very important – as well as we look at the socio-economic side of things. The Board considers that as well when they look at potential impacts for a project but also whether or not a project should go ahead. They consider very seriously the socio-economic aspect and that's both the positive and negative aspects of the project. (NIRB interview)

While this is a promising statement, other evidence shows that boundary construction and hierarchies that flow from those boundaries still limit the extent to which Nunavut's

IA process can account for communities' concerns about socio-economic impacts. Another interviewee stated that critical limitations exist in Nunavut:

> I would honestly say that socio-economic impacts are not being considered as fully as they could be. Impact assessment in Nunavut tends to focus largely on biophysical impacts, to the point where the Impact Review Board does not have the mandate to really consider benefits as part of their process. They can mitigate socio-economic impacts, but they can't get into the territory of benefits. (Nunavut Department of Economic Development and Transportation interview)

Two things are noteworthy here. First, biophysical impacts are still at the top of the impact hierarchy in Nunavut, like elsewhere in Canada, even if socio-economic impacts are considered more fully than in other jurisdictions. This hierarchy is also clear in the enabling legislation for the territory's IA process, the *Nunavut Planning and Project Assessment Act (NUPPAA)*. For example, in the decision stage of the IA, *NUPPAA* only allows the responsible Minister to reject or change a NIRB recommendation for mitigating a biophysical impact for two specific reasons.[69] But the Minister can choose to reject or change a NIRB recommendation concerning socio-economic impacts for any reason they wish (Government of Canada 2013, sec. 108). Second, as the second interviewee notes, the firm boundary that is constructed between mitigating socio-economic impacts and ensuring benefits limits the NIRB's ability to issue recommendations that would address community concerns about the proposed project. While one of the NIRB's primary objectives in legislation is to "protect and promote the existing and future well-being" of residents and communities (Government of Canada 2013, sec. 23(1)(a)) through the IA, the legislation is also explicit that the limit of that responsibility lies in ensuring negative impacts are mitigated and establishing any "requirements relating to socio-economic benefits" is prohibited (sec. 24).

[69] They are: "(A) one or more of the terms or conditions are insufficient, or more onerous than necessary, to adequately mitigate the adverse…impacts of the project, or (B) the terms or conditions are so onerous that to impose them would undermine the viability of a project that is in the national or regional interest" (Government of Canada 2013, sec. 105(a)(ii)).

Negotiation

Negotiation is a process of power that is primarily present in the benefits stage of IA. In attempts to ensure at least some benefits from proposed projects flow to their communities, Indigenous Nations and governments negotiate benefits agreements with proponents directly and with settler governments in some jurisdictions (see Table 8 above). While any process of negotiation is one of give and take between the parties, the power inequities built into the benefit negotiations for resource extraction projects place Indigenous Nations and governments at a significant disadvantage and limits their ability to secure just and sustainable benefits for their communities.

A prominent inequity in the negotiation process for agreements with both proponents and settler governments is vast differences in capacity and resources between these actors and Indigenous governments. The financial resources available to Indigenous governments to hire lawyers and consultants to assist in negotiations pale in comparison to the financial resources available to multinational corporations which make millions of dollars in profit each year (Hall 2013) and settler governments with large public purses. This inequity in resources is often justified through "neoliberal discourses of a free-market economy" (Cameron and Levitan 2014, 39) which present it as a natural or inevitable part of any negotiation process. However, it is communities that are unjustly left with the burdens that emerge from benefit agreements that do not end up delivering benefits that adequately compensate for negative impacts likely to be caused by the project. There are also significant inequities in internal capacities to engage in negotiation between Indigenous governments and proponents/settler government actors. As Hall (2013, 386) states, Indigenous governments "are already stretched to meet the bureaucratic requirements imposed on them by the Canadian state, so to somehow find people with the linguistic and legal background to participate in these negotiations [can represent a]…very heavy burden." These inequities can shape

the outcomes of negotiations in ways that are unfavourable for communities and are less likely to result in tangible and long-term benefits.

In the process of negotiating benefit agreements, many Indigenous governments agree to terms that limit their power to ensure their community's concerns about the impacts of the project are addressed in other parts of the IA or through mechanisms outside the IA process. While the content of IBAs is typically confidential, it is common practice for proponents to "negotiate clauses prohibiting public critique of the company on the part of Indigenous community members and prohibiting any form of protest against the mine" (Cameron and Levitan 2014, 26). Similar clauses are also found in agreements between Indigenous Nations and settler governments. Revenue transfers guaranteed through the Economic and Community Development Agreements (ECDAs) that the British Columbian government has signed with multiple Indigenous Nations in the province come with some strict conditions for 'good behaviour' on the part of the Nation's government and its members. For example, the Lheidli T'enneh ECDA for the Giscome mine states that the Nation will "not challenge or impede the right of British Columbia or the Operator…to gain access to the Project and to carry out any activities associated with the development and operations of the Project" and will help the provincial government when one of its members takes action against the mine (Government of British Columbia and Lheidli T'enneh First Nation 2017, sec. 15.2). All other ECDAs I reviewed contained similar language. These clauses in agreements between Indigenous and settler governments are meant to ensure an "investor-friendly climate" (Garvie and Shaw 2016, 1012). In the case of both IBAs and agreements with settler governments, these clauses prohibit what O'Faircheallaigh (2010) calls the most "powerful weapons" available to Indigenous Peoples to ensure their concerns are accounted for in resource extraction: direct action in the forms of protests, blockades, etc. and speaking to the media. Both tools have been used effectively by Indigenous Nations and governments in Canadian IAs to push for greater inclusion of community concerns in decision-making and greater community control of the IA process. When

they are limited by the terms of benefit agreements, it further reduces the power Indigenous community actors can exercise in IAs.

A final point about power in benefit negotiations relates to the underlying premise of the negotiations themselves. Negotiating benefit agreements happens in a settler colonial context where saying 'no' to a resource development project is not an option available to most Indigenous Nations and governments faced with projects in their territory (Hall 2013). Even Indigenous Nations and Peoples with settled land claims and modern treaties rarely retain control over natural resources in much of their territory (Coulthard 2014; Cameron and Levitan 2014), and those without settled land claims have even less power to exercise in benefit negotiations (Hall 2013; Papillon 2008). Free, prior and informed consent (FPIC) is not a requirement for project development under Canadian law at this time, despite being a signatory to *UNDRIP*. In the vast majority of cases, a project would be permitted to proceed whether or not a benefits agreement has been signed (Cameron and Levitan 2014), which means the tried and tested strategy of walking away in an attempt to force better terms is not an option available to Indigenous actors in this context. Walking away might mean they get nothing even though the project gets built. An important step to better equalizing power in negotiations would be to implement the principle of FPIC, and therefore give Indigenous governments an option to say no to a resource extraction project if they wish.

Accountability

Accountability is the fourth process of power at work in IA. As Warren (2014, 39) writes, "accountability is… central to democracy." The central normative principle of democracy is that people are entitled to "proportional influence over collective decisions that affect them" (Warren 2014, 38). In democratic systems that rely to a large extent on delegated power, like Canada, many of the day-to-day decisions of government are made by elites and policymakers who do not necessarily have the same

interests or perspectives as those citizens who are most likely to be affected by the decision. A considerable amount of vulnerability is implicit in this model of democracy and that vulnerability requires systems or mechanisms of accountability – ways for citizens to hold decision-makers to account (Warren 2014). In IA, accountability mechanisms are vital to ensuring that the assessment is done fairly, that the costs and benefits of the project are adequately considered, and that the balance of interests is carefully weighed in all stages. However, the primary mechanisms of accountability currently present in IA, particularly legislation and impact-benefit agreements, are shaped by power in ways that limit their usefulness in ensuring that the concerns of marginalized members of communities are recognized in IA and that they receive equitable benefits. Mechanisms of accountability that have a greater likelihood of achieving those objectives, including gender and diversity analysis, disability policy, and human rights commitments, have not yet been well integrated in IA and have some substantive barriers that must be overcome before they can fulfill their potential.

Accountability Through IA Legislation

Laws are one of the main mechanisms for democratic accountability, in that citizens can use the law to hold governments accountable for their decisions and actions (Warren 2014). IA has a legal basis in legislation in all the jurisdictions studied in this research. This arguably strengthens democratic accountability within Canadian IAs. Hanna (2016, 8) argues that IA legislation "provides clarity for stakeholders," while Sinclair and Diduck (2016, 89) write that the legal basis "reduces administrative discretion, enhances procedural certainty, clarifies authority, creates rights and responsibilities, and presents opportunities for judicial remedies." Canada is notable internationally in that it has had a law-based IA process, rather than one based primarily in policy, for over 25 years (Powell 2014). While most countries now have IA legislation, this is a relatively recent development, with many implementing or strengthening their IA legislation in response to the 2030 Agenda for Sustainable Development (UNEP 2018). In the Global North, many countries, including Canada, observing that the USA's

implementation of the *National Environmental Policy Act (NEPA)* in 1970 quickly established a "litigation-oriented [IA] system," initially opted for an IA regime based in policy, with the hope that it would be less litigious (Hunt 1990). In the Global South, IA and other environmental protection legislation (where it existed) was often a casualty of neoliberal structural adjustment agendas focused on reducing regulation to open Global South economies to foreign investment (Campbell 2003). In Canada, following sustained public critique of the discretionary and inconsistent application of the federal Environmental Assessment and Review Process (EARP) policy (in place since 1973), and two court rulings that the federal government was obliged to use the EARP whenever it had an "affirmative regulatory duty" in relation to a proposed project, the federal government and many of the provinces introduced IA legislation (Powell 2014, 9; Hunt 1990; Gibson and Hanna 2016).

The option of using the courts to pursue legal challenges when the spirit of legislated commitments is not upheld in practice is one that can produce beneficial outcomes for communities and civil society actors in IA. While the move from policy to legislation did not produce the storm of legal challenges related to IAs that some Canadian policymakers had feared, the courts have occasionally been used as a strategy to challenge legislative gaps, loopholes and injustices within IA (Gibson and Hanna 2016). For example, a successful court challenge of the IA for the Red Chris mine brought by Mining Watch Canada (and discussed more in Chapter 6) strengthened requirements for robust public participation in federal IAs (Gibson and Hanna 2016; Sinclair and Diduck 2016). Of course, taking a case to court requires considerable financial resources, putting that option out of reach for many community actors who represent members of marginalized groups.

As one of the primary mechanisms of accountability in IA, what is in the legislation enables, while at the same time *what is not in the legislation limits*, what the process can achieve in practice – especially whether IA processes sustain or counter the relationships of inequality that shape the resource curse. Through the processes of definition (discussed above) and recognition (discussed in the next chapter), legislation

structures the purpose and scope of IA regarding what impacts can be recognized and for which social groups; what types of knowledge and evidence are included in IA; how decisions get made and whose voices count most in making those decisions; and if benefits for local communities and Indigenous Nations are required or subject to the goodwill of individual proponents. The importance of the legislative framework in shaping accountability in IA outcomes for communities became clear when I asked all government officials who participated in interviews what the purpose of impact assessment was. The most common theme in the responses from participants with direct responsibilities for impact assessment was that they look to the legislation to determine that. As one participant said, "We're not there to achieve any other government mandates besides delivering on the requirements of our Act" (anonymous interview). When legislative frameworks are inclusive of the impacts likely to be experienced by marginalized groups, require their knowledge be considered, or that they have a role in decision-making, it Is much more likely that these impacts can be appropriately identified and mitigated during the IA (Manning et al. 2018b; Levac and Manning 2019; Amnesty International 2019; Bond 2019). When legislative frameworks are silent on those issues, or leave them to the discretion of IA agencies, government decision-makers, or the proponent, the effectiveness of the IA itself in accounting for community concerns and the effectiveness of the legislation as an accountability mechanism is often limited, as is the case in many of the jurisdictions studied. Civil society actors who have been involved with Canadian IA processes note that, in the absence of explicit requirements in IA legislation, the experiences and concerns of historically marginalized members of communities largely remain 'out of sight and out of mind' (Stienstra, Manning, and Levac 2020; Amnesty International 2016a).

Although narrow definitions and limited recognition within IA legislation often constrain opportunities for including the impacts experienced by historically marginalized members of communities in impact assessment, an important part of using an intersectional lens in policy analysis is acknowledging where policy frameworks create possibilities that can be harnessed to pursue social and environmental justice

goals (Hankivsky and Jordan-Zachery 2019). For example, some IA agencies have specific mandates within legislation to protect the wellbeing and quality of life of the jurisdiction's citizens. This is the case in Manitoba, Nunavut, and Newfoundland and Labrador. Interestingly, in both Manitoba and Nunavut, this mandate is not only for current citizens but for future ones as well. For example, the NLCA (Inuit and Government of Canada 1993, sec. 12.2.2) states: "The primary objectives of NIRB [Nunavut Impact Review Board] shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area." The focus on well-being and quality of life opens up space to account for many of the socio-economic impacts experienced by members of marginalized groups in the assessment process. As Levac et al. (2021, 18) argue, clauses like these can provide an additional accountability mechanism – "a legislative anchor that [civil society] organizations can 'latch onto' in their efforts to advance safer and more inclusive futures."

Accountability in Impact-Benefit Agreements (IBAs)

A basic premise of public accountability is that it is public – "the account giving is done in public, i.e., it is open or at least accessible to citizens" (Bovens 2005, 183). "Transparency, responsiveness, and answerability" could be considered the three norms of public accountability (Bovens 2005, 193). The stages of the formal IA process are generally accepted to meet these norms of public accountability, although we certainly can critique how these norms are measured and evaluated. In contrast, public accountability is largely missing in the process of negotiating IBAs and is limited in evaluating IBA outcomes. This lack of public accountability severely limits the potential of IBAs to provide tangible and meaningful benefits for marginalized members of Indigenous communities where IBAs have been signed.

Impact-benefit agreements are private contracts negotiated between Indigenous Nations and proponents. They have been heavily criticized on numerous fronts, including for being based in a contract model, which is hard to enforce without a lengthy

legal battle, and for requiring Indigenous Nations to negotiate with proponents for services and infrastructure that rightly should have been provided by settler governments (Cameron and Levitan 2014; Caine and Krogman 2010; Stienstra, Manning, and Levac 2020). On the other hand, many Indigenous "Nations [and governments] link these agreements to their right to economic self-determination. Such agreements can represent considerable improvements over deeply exploitative past practices that gave even less regard to Indigenous Peoples and their rights and tenure linked to affected land and resources" (Stienstra, Manning, and Levac 2020, 73). They give Indigenous Nations a much higher degree of independence in the use of the funds than many of the other revenue transfers that come from federal and provincial governments, which are typically earmarked for particular purposes, subject to strict reporting, and emerge from obligations related to the Crown's fiduciary relationship with Indigenous Peoples.

In all jurisdictions studied except Nunavut, the content of IBAs is confidential. Negotiations typically happen in secret between proponents (and their lawyers) and representatives of the Indigenous Nation or community (and their lawyers). Sometimes even members of Indigenous Nations and communities are not privy to the full content of the IBA when it is finalized (Cameron and Levitan 2014). The confidentiality of IBAs is a particular barrier in both assessing the degree to which benefits might extend to marginalized members of communities and ensuring that companies can be held accountable for their commitments. Concerning the first, the benefits and revenues provided through IBAs and other benefit agreements need to be distributed fairly within communities to avoid exacerbating the community inequalities associated with the resource curse. When the agreement is confidential, those mechanisms of distribution in IBAs, which are shaped by structural relations of power present in our society (Kennedy Dalseg et al. 2018), cannot be examined or challenged. There are likewise no assurances that often invisible members of communities (including women, people living in poverty, and people with disabilities), who might need additional services or supports to manage the socio-economic impacts of a project, were made visible in the negotiations and their needs included in the discussion of benefits. Concerning the

second, many IBAs have been critiqued for not living up to their commitments. There have been cases where promised funds to deliver essential community services and programs that could lessen the negative impacts experienced by marginalized members of communities have never materialized (Pauktuutit Inuit Women of Canada et al. 2014). The confidential nature of IBAs eliminates a powerful tool of accountability that can be used by communities to pressure proponents to deliver the promised benefits – the 'court of public opinion' (Moore 2014). As Cameron and Levitan (2014, 34) argue, confidentiality clauses "limit a community's capacity to release details of the agreement that may assist in creating campaigns of public support and political pressure." The confidential nature of IBAs in most jurisdictions give the proponent significant power and discretion in the distribution of promised benefits.

An additional problem of accountability in relation to IBAs is that they are negotiated with little oversight or regulation by the state. Speaking on this point concerning the IBA negotiation for the Ekati diamond mine, Cameron and Levitan (2014, 29) argue that it was "the federal government's fiduciary obligation to ensure that the interests of Indigenous peoples were being met, and while securing local benefits would be a part of this obligation, requiring Indigenous communities to negotiate IBAs quickly without a regulatory framework or policy guidelines was inconsistent with the Crown's responsibility." While many Indigenous governments value IBAs precisely because they exist outside the state, some Indigenous organizations and scholars suggest that the unequal power relations between Indigenous governments and corporations point to a potential role for the state (in cooperation with Indigenous communities and organizations) in setting out the conditions when an IBA is required, establishing at least some minimal requirements about what an IBA should include, and overseeing IBA outcomes for members of marginalized groups (Pauktuutit Inuit Women of Canada 2020; Cameron and Levitan 2014; Caine and Krogman 2010).

Underutilized Mechanisms of Accountability

Other mechanisms for accountability exist outside the IA process itself but could be applied to it. These include broader policy agendas and norms that exist in other parts of the political environment that can assist in policy innovation and public accountability within IA frameworks. When the political environment includes mandatory policy lenses, they provide important openings that civil society actors can use in their efforts to make IA more inclusive of marginalized members of communities and their concerns. Some mechanisms that exist within the broader political environment can provide alternate avenues for members of communities to get their concerns addressed if they are not adequately addressed in the IA. These alternative mechanisms for accountability include gender and diversity analysis, disability policy, and human rights commitments. To date, these mechanisms have been insufficiently integrated in IA and rarely applied to questions of resource extraction policy in general, however, they are among the strongest potential tools that exist in the policy toolbox to bring IAs closer to addressing community impacts and inequities linked to the resource curse.

Gender and Diversity Analysis (GDA)

Gender and diversity analysis (GDA) is a policy tool with great potential to ensure that IAs consider how different groups of people might be differently affected by a project and provide inclusive and accessible participation opportunities. Some form of GDA exists in all jurisdictions studied except Nunavut (see Table 9 below for an overview). Where it does exist, it is (in GDA policy documents and government rhetoric at least) part of a whole of government approach and a mandatory lens in policy and government decision-making, meaning it should be integrated in impact assessment and final decisions about resource projects. However, my analysis of the policy documents and interviews affirmed that it had not been integrated into IA legislation and was not

required by any specific IA policies in any jurisdiction during the period studied.[70] Without the concretization of GDA as a requirement in IA legislation and policies, there are few incentives for proponents (or IA agencies for that matter) to consistently use a GDA lens in IA. Therefore, GDA's potential as a tool for accountability within IA has not been fully realized.

Table 9: Overview of GDA Tools

Jurisdiction	**Federal**	**British Columbia**	**Manitoba**	**Newfoundland and Labrador**
Tool Name	GBA+	GBA+	GDA	GBA
Responsible Department	Women and Gender Equality Canada[71]	Gender Equity Office	Status of Women Secretariat	Women's Policy Office[72]
Status	Mandatory policy lens	Mandatory policy lens	Mandatory policy lens	Mandatory policy lens
Where is GDA specifically required?	Treasury Board Submissions Memorandums to Cabinet	Treasury Board and Cabinet Submissions	Unknown	Cabinet Submissions Budget
Training	Mandatory for some officials	Mandatory in some departments	Unknown	Optional

Sources: anonymous interviews; Government of Canada 2015; 2016; 2018; Gender Equity Office 2018; Women's Policy Office 2003; Government of Manitoba 2019

Important differences exist between GDA models in different jurisdictions. Some jurisdictions (see Table 9 above) call their approach gender-based analysis (GBA) or gender-based analysis plus (GBA+). GBA+ is meant to acknowledge intersectionality:

> Gender-based Analysis Plus (GBA+) isn't only about gender, and groups of people are not homogenous. Our experiences are affected by intersecting parts of our identity, the context we are in and our lived realities... The "plus" highlights the fact that GBA has always gone beyond sex and gender. It examines how sex and gender intersect with other identities such as:

[70] The new federal *Impact Assessment Act* (*IAA*) and BC *Environmental Assessment Act 2018* both introduced mandatory GBA+ requirements. The implications of this development are discussed in Chapter 8.

[71] Formerly Status of Women Canada.

[72] Now the Office for the Status of Women.

> race, ethnicity, religion, age and mental or physical disability. (Government of Canada 2018)

In practice, however, the implementation of GBA+ in these jurisdictions has largely resembled a 'gender-first' approach, with limited integration of other diversities (Scala and Paterson 2017; Paterson 2010; Hankivsky 2012), meaning that many aspects of the experiences of Indigenous people, people of colour, and people with disabilities, among others, often remain invisible in GBA+ analyses. Manitoba appears to be the possible exception to this trend, in policy at least.[73] The Government of Manitoba's intranet site[74] devoted to GDA describes it as:

> a way of analyzing government policies and decisions to assess their impact (intentional or unintentional) on groups of people with various combinations of backgrounds and social groups…The purpose is to reduce and/or eliminate inequality by identifying options to transform systems for the better, rather than create or continue conditions that result in social disadvantage. (Government of Manitoba 2019)

The intranet site was launched in 2017 and provides GDA training materials for public servants. These include tools and tips for considering diversities in and across many factors, including sex and gender roles, LGBT2SQ+ identities, experiences of disability, Indigenous perspectives, and ethnocultural communities, with none privileged. It explicitly uses the language of intersectionality throughout and includes links to tools that promote intersectionality-based policy analysis. The intranet site also provides a 'Gender and Diversity Analysis' tool with questions to guide public servants through the

[73] I was not successful in interviewing anyone associated with the Status of Women Secretariat. I note that when I asked the two interview participants from Manitoba about the GDA policy, only one was familiar with the policy and they represented another special policy agency within the government. The other interview participant more closely involved in resource extraction policy was unaware of the GDA lens.

[74] I was only able to obtain the contents of this GDA intranet site through an Access to Information request. In all emails where I asked to obtain a copy of the GDA policy, my requests were refused. While I cannot be certain why that is the case, as no reason was given, I suspect it was for some of the same reasons discussed in Chapter 3 for why I was not able to obtain more interviews – namely that Manitoba was in the midst of an election cycle, the topic of my research is controversial, and some public servants are increasingly wary of talking to researchers. It is also possible that the staff of the Status of Women Secretariat did not see how the GDA toolkit applies to my research or the topic of IA more generally, and refused my request on that basis.

GDA process, again not privileging a particular category of identity (Ibid.). These are promising signs that Manitoba's GDA model might be less of a gender-first approach when applied in policymaking. However, clarity is required for where it is to be used and whom is to be trained in its use.

Other pressing issues limit GDA's ability to serve as an accountability mechanism to centre the concerns of marginalized groups in IA. First, there is quite a lot of confusion among public servants about what GDA is intended to do. In part, this is due to misconceptions concerning the purpose, which emerge in part from its gender-first framing. One participant stated: "There's a lot of myths about what GBA+ is about and what it means and fear of it…they have all these assumptions that if it's called gender-based analysis plus then it must be all about women" (anonymous interview). There is also considerable confusion about how GDA should be implemented in the work of the public service. One interview participant said: "It's meant to be a tool to look at the problem and see who's more likely to be affected by it, regardless of who they are. [However,] it tends to be 'Here is something we already cooked up. How will it deal with women? How will it deal with [other minority groups]?' instead of looking at it the other way around" (anonymous interview). These problems of implementation are well-documented in the literature on GDA in Canada (Scala and Paterson 2017; 2018; Brodie 2008; Hankivsky 2012).

Second, a problem that was noted by multiple interview participants is that, among those who understand GDA and subscribe to the norm of GDA as intersectionality, GDA is supposed to do a lot of 'work' within government. As one participant noted: "To be sympathetic to the policy-makers, when you have that plus, and it's representative of race and sexuality and religion and disability and any number of other factors, I think it does become a little bit difficult to decide as a policy-maker how to focus your energies" (anonymous interview). Accounting for all potential diversities in GDA is in many ways an impossible task.[75] This results in the under-

[75] Although there are certainly strategies that can make this task easier, such as focusing on producing a GDA analysis that reflects the diversity of the communities in question, rather than accounting for *all* potential diversities (Stienstra, Manning, and Levac 2020).

consideration and relative invisibility of particular marginalized groups, especially those of lower class or socio-economic status and people with disabilities (anonymous interviews). Social groups that are more likely to be included are those that are important to the political commitments of particular governments. For example, one government official said: "I think in BC there's such an emphasis for this government on reconciliation that I think there is a lot more attention to Indigenous issues [in GDA] than maybe some other disadvantaged groups like immigrants for example" (anonymous interview).

A third problem is related to the amount of 'work' that GDA lenses are supposed to do. There is a lack of capacity and financial support for GDA within the public service. This makes what is already often an impossible task even harder. Within the federal government, one official said: "Having the capacity to do a quality GBA+ [analysis] is still uneven. There are some pockets of excellence but certainly there are other areas that are still grappling with having sufficient capacity…There are some folks out there who know their stuff and are doing fabulous work. Some are perhaps not entirely sure what they are meant to be doing" (anonymous interview). Within the federal government, "the GBA+ focal points are often very junior, [and they do GBA+ work] often off the corner of the desk, not as a dedicated resource" (anonymous interview). One provincial government official felt similarly under-resourced: "I feel a lot of the time like I'm running a non-profit women's organization out of the government. Because it's all about trying to beg, barter and steal resources and so much of it is about trying to convince other people to work with it and go along with it, rather than having the resources assigned to you so you can make it happen" (anonymous interview). Without adequate capacity and financing, GDA is set up to fail in achieving the outcomes it is expected to achieve and this explains in part why it has not been effectively integrated in IA during the period studied.

Disability Policy

Some jurisdictions studied (see Table 10)[76] have formal accessibility legislation or disability policy that can serve as an accountability mechanism in the IA process, although (like GDA) there has been no consistent integration in practice during the period studied. Having a disability-specific lens is important because people with disabilities are the marginalized group most likely to be excluded from IA. People with disabilities experience diverse challenges with access in IA (discussed more thoroughly in relation to participation). They are also likely to experience exclusion when GDA is the only diversity lens used. As one government official pointed out, "when you subsume conversations about disability under a general diversity and inclusion framework… something is lost in terms of the particular uniqueness of the disability community in terms of its priorities, challenges, [and] barriers" (anonymous interview).

Table 10: Disability Policy Overview

Jurisdiction	**British Columbia**	**Manitoba**	**Newfoundland and Labrador**
Office or Department	Accessibility Secretariat	Disabilities Issues Office (DIO)	Disability Policy Office
Disability Policy or Legislation	Accessibility 2024: 10-Year Accessibility Action Plan (Policy, 2014)	Disability Access and Inclusion Lens (Policy, 2008) *Accessibility for Manitobans Act* (Legislation, 2013)	Provincial Strategy for the Inclusion of Persons with Disabilities in Newfoundland and Labrador (Policy, 2019) Accessible Communications Policy Inclusive Public Engagement Policy

Sources: Anonymous interview; DIO interview; Disabilities Issues Office 2008; 2016; 2019; Government of Newfoundland and Labrador 2019; Government of British Columbia 2019

[76] While outside the period studied and therefore not included in the table, it is important to note that the federal *Accessible Canada Act* was passed in 2019. While they are not among the jurisdictions studied, Ontario and Nova Scotia both also have accessibility legislation.

Manitoba has the longest history of accessibility policy and legislation of the jurisdictions studied.[77] Since 2002, its Disabilities Issue Office (DIO) has had the mandate to be "an internal central point in government to supply a disability lens to the work of government" and administer the government's accessibility policy and support the implementation of the *Accessibility for Manitobans Act* (DIO interview). The Act requires both public and private sector organizations to implement measures to remove barriers for people with disabilities and meet certain standards with customer service, employment, information and communications, design of public spaces, and transportation. Public sector organizations are required to create accessibility plans which should ensure that "whatever new issue or regulation is looked at by a government department… [is] looked at through a disability perspective" (DIO interview).

The *Accessibility for Manitobans Act* should shape the IA process in Manitoba. The Environmental Assessment Branch, Manitoba Hydro (the proponent for all major dam developments in Northern Manitoba), and the Clean Environment Commission, as public sector organizations are all required to abide by the *Act* and develop an accessibility plan. That should create a high standard for access and inclusion within the impact assessment process:

> Is the information that goes out to the public about the resource extraction, so whatever is public information for citizens to give feedback and such, are the surveys accessible? Is the information accessible? Have they thought that every image should also have a captioned explanation of what's in the image? And have the people thought about accessible information and communication? Do print documents give you an alternative and contact information to get it in an electronic or another format that would work for a person who is visually impaired but also has

[77] This is the reason this remainder of the discussion in this section focuses on Manitoba. Newfoundland and Labrador's policies are much newer and were developed outside the period studied. While BC's action plan (see Table 10) is within the period studied, it contains very little information about how accessibility or a disability-specific lens might be incorporated into IA.

> limited dexterity and limited understanding? So, there's lots to think of there. (DIO interview)

Additionally, "when these activities take place by a public sector organization, there's a higher standard" than a private sector organization (DIO interview). While private proponents are still required to abide by the *Act*, the standard that they are held to is lower. While these measures are very promising for increasing the inclusivity of Manitoba's IA process for people with disabilities, they do not yet appear to have influenced the IA legislation and policy. In part, this is likely due to the recent implementation of the *Act* and the fact that updating all legislation and policy to be consistent with the *Act* is a major undertaking. However, it is also likely a problem of accountability. The *Accessibility for Manitobans Act* currently lacks strong enforcement (Jacobs, De Costa, and Cino 2016) and has "unacceptably low public awareness" (Stienstra 2020, 20). As one interviewee put it: "The [current] mantra is 'educating into compliance.' We have a very small budget for marketing this…it's not really fair to penalize folks for not doing what they don't know they have to do. We count on community to let us know, and Barrier-Free Manitoba [a non-governmental advocacy organization] certainly does, when something is inaccessible and then we approach the culprit and try to work out how specific steps could be taken to make that process accessible" (DIO interview). The constraints faced by the DIO in doing this work likely means that improving the accessibility and inclusivity of IA in Manitoba will take a long time.

At the same time, the importance of accessibility legislation as a tool for accountability cannot be understated. Accessibility legislation helps to make sure people with disabilities are part of the agenda where they otherwise may not be. One interview participant suggested that people with disabilities are frequently forgotten in some policy areas: "across the public service, my observation would be that there would appear to be different levels of awareness on the importance of specifically adopting a disability focus in having conversations about different kinds of social and economic policy exchanges" (anonymous interview). They suggested that mandatory disability

lenses embedded in accessibility legislation would help with this problem. However, as the example of Manitoba shows, without stronger commitments on the part of governments to giving accessibility legislation 'real teeth' *and* adequate resources to implementing agencies to monitor and enforce compliance, it is of limited use to people with disabilities in ensuring proponents, decision-makers, and IA agencies specifically consider their concerns and use accessible and inclusive practices in IA.

Human Rights

While human rights are an important part of the political conversation about resource extraction in other parts of the world and one of the strongest accountability mechanisms in protecting the interests of marginalized groups in resource extraction, they are not frequently incorporated in discussions of resource development in Canada. While the nuances of human rights legislation differ slightly by jurisdiction, they have similar prohibited grounds for discrimination.[78] For members of marginalized groups who face oppression or exclusion based on one of these prohibited grounds, human rights frameworks are a vital mechanism for accountability in IA and in relation to community experiences of resource extraction. In particular, human rights can be used to seek justice when the IA is not sufficient in mitigating some negative impacts, or when barriers to access prevent or constrain the participation of members of marginalized groups in IA.

Human rights frameworks have the potential to provide an avenue of redress for some negative impacts not adequately considered and mitigated in the IA process, or for some impacts where mitigation measures put in place do not achieve the desired outcomes. However, to my knowledge, they have not been used in this way in Canada

[78] These include: sex, gender identity (and expression in some jurisdictions), race/ethnicity, age, disability, and source of income, among others. All jurisdictions include both physical and mental disabilities as prohibited grounds of discrimination, and the federal legislation specifically includes substance addictions under its definition of disability (Government of Manitoba 1987b; Government of British Columbia 1996; Government of Canada 1985; Government of Newfoundland and Labrador 2010; Government of Nunavut 2003).

to date. Some negative employment-related impacts fall under most human rights codes. All jurisdictions' human rights acts protect marginalized groups from discrimination based on a prohibited ground in the process of seeking and maintaining employment, and in matters of promotion. Employers also have a duty to provide reasonable accommodations to allow people to fulfill the conditions of employment. This would include project proponents as employers. Employment-related provisions in human rights codes could be used to counter the dominant pattern in resource industry employment where members of marginalized groups (particularly women, Indigenous people, and people with disabilities) are underrepresented and experience considerable barriers in accessing employment despite employment equity promises (Stienstra et al. 2016; Stienstra 2020). Harassment in the workplace is also an area that is covered by some human rights codes, although BC is an exception. Newfoundland and Labrador's *Human Rights Act* specifically prohibits sexual harassment in the workplace by a person who holds a position of power over the person being harassed. Manitoba goes further than the other jurisdictions examined. It says that those "responsible for an activity" (for example, employers or supervisors) have a duty to reasonably prevent harassment, and it is an offence to "knowingly permit, *or fail to take reasonable steps to terminate*, harassment of one person who is participating in the activity or undertaking by another person who is participating in the activity or undertaking" (Government of Manitoba 1987, sec. 19(1)(b), emphasis added). This would include racialized and sexual harassment or any other type of harassment based on a prohibited ground. For resource workplaces, this provision sets a high standard for preventing racist taunting of Indigenous workers and sexual harassment of women (especially Indigenous women) in the workplace, which is commonly reported as an employment-related impact of resource extraction (Cox and Mills 2015; Nightingale et al. 2017).

Additionally, the human rights codes of all jurisdictions studied provide openings that can be used to increase access and inclusion in the IA process itself. All prohibit discrimination regarding 'goods, services and facilities customarily available to the public' or other similar language. These provisions arguably apply to the public

participation and consultation processes that are led by the proponent as part of the scoping and review stages of IA. The equality rights provisions of the Charter of Rights and Freedoms likewise would arguably apply to settler government conduct in IA processes. Together, they present an opportunity to push for more inclusive consultation and participation practices within Canadian IA and an option to challenge IAs where members of communities have experienced barriers to participation based on a prohibited ground.

Some significant limitations exist to human rights frameworks achieving their potential as a tool for accountability for marginalized members of communities in IA and resource extraction. To pursue a Charter case takes a considerable amount of financial and organizational resources, and there are few sources of funding available for those cases (Vanhala 2011). Another key issue is the structure of the complaints process built into many human rights codes and legislation. In many jurisdictions, the process is only initiated when an individual files a complaint about their experience of a human rights violation. Some human rights commissions can only do their work of investigating and finding a method of redress once that complaint is filed. One interview participant suggested that the human rights process is being underutilized by individuals who experience discrimination: “The most marginalized people are not coming to our office. They don’t seem to know that we exist or that [we] can help them with their issue” (NL Human Rights Commission interview). They said they see very few complaints filed by Indigenous people in comparison to people of other protected identities. Even if people do come to a human rights office to file a complaint, there are barriers to access: “Once they come here, the process is really legal. They can feel that it’s too complicated, too hard, that it won’t work out for them, or that maybe it’s too much to deal with” (NL Human Rights Commission interview). Applying an intersectional lens, it is logical to assume that this kind of sentiment is most likely to be expressed by people with lower levels of education, people with intellectual and learning disabilities, and people with many competing demands on their time, such as lone mothers or others who do large amounts of care work. These complaint-driven processes, aside from being

unreasonably lengthy and burdensome for individuals who must make use of them (Stienstra 2020), also place the duty to ensure human rights commitments are met on the wrong actor – it is the positive duty of the state to be proactive in ensuring all citizens can enjoy their full human rights. Some newer legislation, like the federal *Accessible Canada Act* which does not require complaints for action in some policy areas, and government decisions, like the federal government appointing the Canadian Human Rights Commission as the monitoring body for the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), do a better job of embracing the state's positive duty (Stienstra 2020). However, much more widespread and robust action is needed for human rights commitments to be realized in the everyday lives of marginalized citizens and in IA processes and outcomes.

Decision-Making

Power shapes multiple points of decision-making in IA. Decision-making is a process of power that is closely tied to accountability (discussed above) and representation (discussed in the next chapter). Two of the most prominent ways that power works within the process of decision-making is in which actors make important decisions in the IA process and which interests are given the most weight when the decision is made to approve or not approve the project.

Before discussing who makes decisions, it is important to identify the most important decision-making points in the IA for marginalized groups – the points that affect the extent to which their concerns are included and/or accounted for in the IA. The first of these points is the issuing of the IS guidelines, which (as discussed above) establish the scope of the IA review, including which types of impacts are included, which impacts are excluded, and the extent to which the proponent must identify and measure the disproportionality of potential impacts. The second major point of decision-making is the sufficiency of the IS. In other words, does the IS meet the guidelines issued to a sufficient standard to proceed to the review stage of the IA?

Whether the project requires a public hearing process is the third important decision made. Hearings provide additional opportunities for community actors to participate in the IA; the same opportunities do not exist when the review is done by the IA agency or an assessment committee. As my case study data discussed in Chapters 6 and 7 shows, hearings are the part of the IA review where marginalized members of communities and their representatives are most likely to share their concerns about the potential impacts of the project on their lives. The issuing of the assessment report and recommendations is the fourth major point of decision-making. These documents are the primary ones used to inform the final decision made on the project and its terms and conditions, so it matters greatly whether the concerns raised by marginalized members of communities in the IA have been included and how that has been done (e.g., were they just mentioned in the main text of the report or was a substantive recommendation for action made?). The final point is the issuing of the project decision, where the project is officially approved or not approved and the binding list of terms and conditions for project development is given to the proponent. Table 11 provides an overview of which actors make these decisions in the jurisdictions studied. In all five jurisdictions, there are four major decision-making actors in IA: IA agencies, review boards or panels, working groups or committees, and the responsible Minister (the Minister of Environment or their equivalent).

Table 11: Actors and IA Decision-Making for Major Projects

Point	Federal	BC	Manitoba	NL	Nunavut
IS Guidelines	IA agency issues.	Proponent drafts, IA agency approves.	Proponent drafts, IA agency approves.	Assessment committee issues.	NIRB issues.
IS Sufficiency	IA agency or panel decides.	IA agency decides.	IA agency or CEC panel.	Assessment committee or panel decides.	NIRB decides.
Hearing	Minister	Minister	Minister	Minister	Minister
Report	IA agency or panel writes.	IA agency or panel writes.	IA agency or CEC panel writes.	Assessment committee or panel writes.	NIRB writes.
Decision	Minister	Minister	Minister	Minister	Minister

Sources: anonymous interviews; Government of Canada 2012; 2013; Environmental Assessment Office 2018; Government of Manitoba 2013; Government of Newfoundland and Labrador 2003; Department of Environment and Climate Change 2016.

What is common across the major points of decision-making and the actors involved is that communities are given little real power in decision-making structures in most jurisdictions studied. In many jurisdictions, consultation or opportunities to participate in the public parts of the IA (e.g., express views through providing comments on IS guidelines or the proponent's IS or appearing at a hearing) is the limit of their decision-making 'power' at the points that matter – really amounting to no power to affect the decision ultimately made at all. Some jurisdictions, notably British Columbia and Nunavut, do a better job of including some community actors in some parts of the decision-making process than others (see Table 12). For example, two types of community actors are included in British Columbia's working groups. Speaking of the composition of working groups, one participant said: "On the natural science side, it's pretty standardized... On the social side, it's variable… Local governments are always included, Indigenous Nations are always involved" (anonymous interview). However, other community actors, such as civil society organizations (CSOs), are not invited or included (anonymous interview). In Nunavut, interested parties can seek intervenor status and become involved in the technical review process by attending meetings and providing comments to the NIRB on the scope of the project, draft impact statement guidelines, and on the impact statement itself (Nunavut Impact Review Board 2018a). Inuit organizations are one community actor automatically given intervenor status in the NIRB IA process, but any individual, community group or CSO can apply for intervenor status (NIRB interview; Nunavut Impact Review Board 2018). While these are positive examples of greater inclusion for community actors in a decision-making structure, the role of working groups in British Columbia and intervenors in Nunavut is merely to provide advice to inform decisions, which is something distinctly different than actually making the key decisions. Notably in NL, where the equivalent body (an assessment committee) has more decision-making power – they make decisions at three key points of decision-making (see Table 11) – no community actors are included (see Table 12).

Table 12: Working Groups and Committees

	Federal	British Columbia	Manitoba	Newfoundland and Labrador	Nunavut
Type	Expert departments [79]	Working group	Technical advisory committee	Environmental assessment committee	Interested parties can register as intervenors
Who is Included?	Federal departments and agencies	Federal and provincial agencies, Indigenous Nations, local governments	Federal and provincial agencies	Federal and provincial agencies	Anyone who applies. Some parties granted automatic intervenor status.
Role in IA	Provide advice to IA agency when asked.	Participate in technical review and provide advice to IA agency.	Provide advice to IA agency during scoping and review stage.	Conduct the technical review (when no hearing) and advise Minister on recommendations	Provide advice to NIRB during scoping and review stage.

Sources: anonymous interviews; Government of Manitoba 2013; Environmental Assessment Office 2018; Nunavut Impact Review Board 2018; Department of Environment and Climate Change 2016; Department of Environment 2002.

As Table 11 (above) shows, the final decision about whether the potential impacts of a proposed mine or dam have been appropriately identified and mitigated and whether the project will be permitted to proceed and under what conditions are political decisions. These decisions are typically made by the responsible minister (i.e., the Minister of Environment or their equivalent) within the jurisdiction or by both responsible Ministers in the case of harmonized or joint assessment. In all jurisdictions, the IA agency or the panel/board/committee that conducted the impact assessment issues a report and makes recommendations to the Minister as to whether the project should proceed or not, and on what conditions. Whether a Minister is obliged to agree with the report and the recommendations therein differs depending on jurisdiction (see

[79] Departments or agencies with expertise in a particular impact or policy area. For example, Women and Gender Equality (WAGE) is an expert department for gender policy issues and Health Canada is an expert department for health policy issues.

Table 13 below) and is a point where accountability and decision-making intersect as processes of power. Compared to the federal government, British Columbia, Manitoba and NL, the Minister's autonomy in Nunavut to make a political decision contrary to the report recommendations is much more constrained. The Minister can allow the project to proceed when the Nunavut Impact Review Board has recommended against it only if "the project is in the national or regional interest" (Government of Canada 2013, sec. 106(b)) – although that itself is still a rather vague and gaping loophole. As Table 13 (below) shows, federally, in BC and in NL, no justification is needed at all for the Minister to ignore report recommendations. Manitoba only requires justification if the CEC has advised against a project proceeding.

Nunavut is similarly an outlier compared to the other jurisdictions in regard to project licence conditions. If the Minister agrees with the NIRB that the project should proceed, but disagrees with the NIRB's recommendations about the terms and conditions, they can only change the conditions if "(A) one or more of the terms or conditions are insufficient, or more onerous than necessary, to adequately mitigate the adverse ecosystemic and socio-economic impacts of the project, or [again if] (B) the terms or conditions are so onerous that to impose them would undermine the viability of a project that is in the national or regional interest" (Government of Canada 2013, sec. 105(a)(ii)). With that being said, Section 108 of the *NUPPAA* does include the caveat that conditions related solely to socio-economic impacts can be rejected or modified by the Minister at their discretion. However, the NIRB official who participated in an interview suggested this section is rarely used in practice: "in all the projects I've been involved with in the past twelve years in all the projects that the Board has recommended to proceed or to not proceed, the Ministers have generally agreed with our Board's recommendations with regard to both the environmental side and the socio-economic side" (NIRB interview). As the case study chapters will show, this is often not the case in the other jurisdictions, where recommendations are rarely translated into enforceable conditions.

Table 13: Ministerial Accountability

	Federal	**BC**	**Manitoba**	**NL**	**Nunavut**
Is the Minister required to follow the recommendations?	No	No	No, unless there was a CEC hearing process. To reject a CEC recommendation, a reason must be given.	No	Yes, except under certain circumstances defined in the *NUPPAA*.

Sources: Department of Environment 2002; Government of British Columbia 2002; Government of Manitoba 1987; Government of Canada 2012; 2013.

In examining decision-making as a process of power, looking at the final political decision made in the IA is important for several reasons. The fact that Ministers exercise significant autonomy in most jurisdictions as to whether they follow the recommendations emerging from the impact assessment process can be positive for members of marginalized groups who feel that their experiences were missing in the impact assessment or were not given the appropriate emphasis in the final report. An effective lobbying effort by a community or advocacy organization, or a sympathetic Minister or political party in power, could have a significant effect on decision-making to the benefit of marginalized groups, although it is unclear how often this happens in practice. I would suspect rarely given the dominance of economic and extractivist interests in IA. However, it remains a possibility. For example, the Minister might insert conditions in the project certificate that the proponent must avoid construction activities in a place of particular spiritual importance to an Indigenous Nation or require the proponent to create an accessibility and inclusion plan for their workplace. In other cases, the Minister might decide that the project would cause irreparable harm for an Indigenous Nation and would make the decision to not allow the project to proceed. In the case of harmonized and joint assessments, the two decisions required (federal and provincial) provide additional opportunities for strategic intervention consistent with the policy venue shopping technique discussed in Chapter 2 that is used by marginalized groups to intervene in other policy areas that are shaped by federalism.

In the jurisdictions where a Minister's decision-making is more tightly bound by the recommendations emerging from the impact assessment, the implication is that

mitigation measures that might address a marginalized group's concerns or impacts that are not in the final report and recommendations are unlikely to be added to the terms and conditions in the project certificate. To a large extent, this is also the case even in jurisdictions where Ministers exercise more autonomy. Absent a dedicated lobbying effort or a Minister particularly attuned to issues of diversity and inclusion, they will likely only consider the measures recommended in the impact assessment and any issues of particular importance to their government or likely to cause acute political controversy. If a term or condition does not make it into the project certificate, this effectively means that the proponent has no legal obligation to address those concerns or mitigate those impacts. Given the dominance of the outcomes of the impact assessment process in determining the contents of the project certificate, participation by marginalized members of communities in the impact assessment process (discussed in Chapter 5) becomes even more important. Ensuring the impacts most likely to be disproportionately experienced by marginalized groups are within the scope of impact assessment and providing adequate funding, designing inclusive public consultation processes, and reducing their barriers to participation are therefore vital.

Structural relationships of power that shape the marginalization of the North as a region and particular groups within communities are also visible in the process of decision-making. One way this occurs is in who makes the final decision on the project, especially in the Provincial North. As the limited literature on the North has argued, major decisions that primarily affect the lives and wellbeing of Northerners are often not made in the North or by Northerners. This is the case in IA as well, where the government, with a majority of elected officials from the South, is ultimately responsible for making the final decision on a proposed project. A second way structural power is implicated in the process of decision-making is in arguments about the 'national interest' (or regional or provincial interest) that influence IA decisions. Nunavut provides a telling example of this as a judgement that the project is in the national interest is one of the few ways that a political actor can override the recommendations of the NIRB. As Levac and Manning (n.d.) argue, the dominant discourse of the 'national interest' in

debates about resource extraction in Canada use economic growth as the only measure of what should be counted in the national interest, and ignore the ways that "efforts to advance equity and reduce marginalization actually have positive impacts on economic growth" and are valuable democratic goals consistent with the 'national interest' in themselves. Coulthard (2014) also demonstrates that arguments about the 'national interest' regarding resource development in the North are a key tool for justifying settler colonial encroachment on Indigenous lands and limiting Indigenous Peoples' decision-making power in their territory. While the other jurisdictions are less explicit about the 'national' or 'provincial interests' reasoning in legislation and policy, we know this is a frequent reason resource projects are approved despite high levels of community opposition[80] and recommendations to the contrary by IA boards, panels and agencies.[81] Again, this is an example of the persistent marginalization of the North and its people in resource decision-making.

While there are limited opportunities within the IA process in most jurisdictions for community actors to exercise decision-making power, some mechanisms that exist independently of the IA process can give Indigenous Nations and governments greater decision-making power on resource development in some parts of their territory. These include some modern treaties and wider policy commitments to reconciliation.

The provisions found in some (but not all) modern treaties give Indigenous governments more power in the IA process. For example, the Labrador Inuit Land Claims Agreement gives the Nunatsiavut government some special powers in IAs for resource projects on Labrador Inuit Lands, the smaller part of Inuit territory recognized in the treaty, although the same powers do not apply in relation to projects in the larger Labrador Inuit Settlement Area. For projects on Labrador Inuit Lands, the province and Nunatsiavut jointly appoint members to provincial review panels, rather than the

[80] For example, the Prime Minister's statement about the necessity of the expansion of Trans Mountain Pipeline despite the considerable opposition used language such as "for the good of the country" and "The Trans Mountain pipeline expansion is a vital strategic interest to Canada. It will be built" (Prime Minister's Office 2018).

[81] The Site C Clean Energy Project discussed in Chapters 6 and 7 is an excellent example of this phenomenon.

province unilaterally appointing them (Government of Canada 2005). Within Newfoundland and Labrador's IA process, panels are responsible for making decisions at two major junctures when a hearing is ordered by the Minister: determining if the IS is sufficient and writing the report following the public hearings (see Table 11 above). The ability for Nunatsiavut to appoint members to these panels therefore makes it more likely that the decisions made at these points will reflect Nunatsiavummiut[82] interests. The treaty also requires both the province and the Nunatsiavut government to try to reach an agreement on final decisions about resource projects that would normally fall under provincial authority, but if that is not possible, the treaty contains provisions that either can take unilateral action to approve or not approve the project within their areas of jurisdiction (Government of Canada 2005). In British Columbia, the Nisga'a treaty gives the Nisga'a Nation ownership of all minerals on and under Nisga'a lands, in contrast with other treaties that typically give Indigenous Nations no or partial ownership of subsurface resources (Hall 2013). The treaty also gives the Nisga'a Nation the power to establish its own IA processes for projects on its lands. However, in the event of a conflict between a settler IA law and a Nisga'a IA law, "the federal or provincial law will prevail" (Nisga'a Nation, Government of Canada, and Government of British Columbia 1999, 155), reflecting the ways settler colonialism still shapes the interactions between Indigenous Nations and the Canadian state in treaties.

Other policy commitments can contribute to increased decision-making power for Indigenous Nations and governments in IAs. British Columbia, where the majority of Indigenous Nations have not signed treaties, is guided, in policy at least, by its vision of a New Relationship with Indigenous Nations: "a new government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights. Our shared vision includes respect for our respective laws and responsibilities. Through this new relationship, we commit to reconciliation of Aboriginal and Crown titles and jurisdictions" (Government of British Columbia n.d., 1). To some degree, this new relationship has informed IA and related regulatory processes. For example, if a

[82] Inuttitut word for Inuit of Nunatsiavut.

First Nation affected by a proposed project does not agree with the conclusions reached by the Environmental Assessment Office in their report and recommendations to the Minister, the First Nation can submit their own report reflecting their views on the merits of the project (Environmental Assessment Office 2018), although the Minister still makes the final decision. One interview participant indicated that the EAO respects Indigenous self-determination in determining engagement and consultation processes: "Some Indigenous groups have raised at times concerns about whether say some Indigenous women or marginalized groups within Indigenous Nations are appropriately participating, but that engagement we really feel obligated to leave to the individual Indigenous Nation to determine the appropriate level of engagement" (anonymous interview). The provincial government has also signed several shared decision-making and land and resource co-management agreements with Indigenous Nations. Some of these, like the ones signed with the Tahltan and Haida Nations, explicitly acknowledge that conflicting sovereignties and jurisdictions are yet to be fully reconciled, but commit to moving forward in a process of shared decision-making for resource decisions between First Nations and settler governments (Tahltan Central Government and Government of British Columbia 2017; Council of the Haida Nation and Government of British Columbia 2007). However, some policy guidance for proponents cautions against fully recognizing Indigenous assertions of jurisdiction and sovereignty:

> Often, First Nations seek recognition from the company that describes the nature of a First Nation's connection to the land or traditional territories. It is recommended that such recognition be tempered with a legal understanding of the manner in which Aboriginal rights and title are recognized in Canadian law, and not just based upon First Nation assertions. (Government of British Columbia n.d., 9)[83]

[83] While this guidance document does not contain a publication date, evidence suggests it is still considered current policy guidance for proponents. It is still the first guidance document listed on BC's 'Consulting with First Nations' website page (see https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations) and the same page, while not showing the date it was last updated, does contain COVID-related consultation information indicating it has been updated in at least the last year.

This is one prominent example of how the definition of Indigenous rights created through the courts limits Indigenous Nations' power in shaping their relationship with the proponent in both IAs and IBA negotiations.

Conclusion

This chapter has begun to unpack the 'tangled web' of IA policy frameworks in Northern Canada and their implications for members of marginalized groups. In this chapter, I have focused on the five processes of power (definition, boundary construction, negotiation, accountability, and decision-making) that are most closely associated with institutional dynamics, including the structure and dynamics of the policymaking process, the dominant norms of multilevel politics (including multilevel governance) and the privatization of state responsibilities within IA. This chapter has shown that the unevenness of IA legislative and policy frameworks across the jurisdictions studied means that if you are a member of a marginalized group, where you live in the country matters quite a lot in determining whether your concerns and the impacts you are likely to experience from a resource project can be accounted for in IA. Some jurisdictions (notably Nunavut) certainly do a 'better job' than the others in certain respects with regard to these five processes of power; however, each of these processes of power is certainly present in each of the jurisdictions studied. These processes have important (and often negative) implications for the degree to which the concerns and experiences of members of marginalized groups are accounted for in IAs and the persistence of the resource curse in Northern Canada.

Across the jurisdictions studied, significant parts of the IA have been privatized and are controlled by proponents, including many of those that shape the processes of definition and boundary construction. As this chapter has shown, the process of definition affects what kinds of costs and benefits borne by members of communities can be accounted for in IAs. The ways that impacts, benefits, and Indigenous rights are defined in IA processes often exclude both the socio-economic impacts most likely to be

experienced by Northern communities and the non-job-related benefits that might mitigate some of the enduring effects of those impacts. The process of boundary construction limits which impacts can be considered in the IA and also limits the temporal and spatial boundaries of those impacts that can be considered. Within the jurisdictions studied, biophysical impacts are typically privileged over socio-economic impacts. Nunavut is the only partial exception to this hierarchy of impacts in practice, although as this chapter shows, this hierarchy remains true 'on paper' in Nunavut's IA legislation and the proponent still exercises considerable control in constructing the boundaries of IA.

Proponents and the state also have a considerable power advantage over community actors in negotiating benefit agreements. As this chapter has described, the main types of benefit agreements for resource extraction projects are only available to Indigenous governments in the jurisdictions studied. Many of those agreements are private contracts between Indigenous Nations and governments and the proponent, with little state oversight and no equalizing supports for negotiations. Newfoundland and Labrador is the only jurisdiction studied where the settler government signs benefit agreements directly with the proponent. While these are primarily guaranteeing jobs and provincial revenues, rather than the more expansive definition of benefits advocated for by community actors (and discussed more thoroughly in Chapter 7) that would reduce the effects of the resource curse, they are an innovative model that reduces some of the power inequities present in community-proponent or community-state negotiations.

The discussion in this chapter has shown that there are few mechanisms of accountability in Canadian IAs that work to ensure that the impacts most likely to be experienced by members of marginalized groups are adequately considered and mitigated in the IAs. It has also shown that some of the most promising mechanisms of accountability that do exist to recognize impacts disproportionately experienced by members of marginalized groups are currently being under-utilized. For example, all jurisdictions studied except Nunavut have mandatory GDA requirements, yet (as

Chapter 5 will make even more clear) there is very limited recognition of gender, let alone other diversities and intersectional identities, in IA policy frameworks.

Finally, this chapter has demonstrated that there are few opportunities built into the legislative and policy frameworks for community actors to exercise decision-making power within IAs. In the jurisdictions such as BC and Nunavut, in which particular community actors are invited to be involved at different points where important decisions are made, their roles are limited to an advisory function, rather than having any true power to affect or change a decision. This suggests that community actors' voices are not being taken seriously where it truly matters in IAs.

The next chapter continues the process of unpacking the implications of the 'tangled web' of IA policy frameworks for marginalized members of communities. Chapter 5 examines the four remaining processes of power – representation, recognition, participation, and consultation. These processes are closely related to the five processes of power discussed in this chapter, and show how structural power relations and inequities shape community actors' experiences of inclusion and exclusion in IAs.

Chapter 5: Processes of Power and Inclusion in Impact Assessment

In this chapter, I continue the work of the previous one and focus on how the four remaining processes of power shape inclusion for community actors in IA. As a normative ordering principle for democracy, inclusion:

> is the principle that we are all entitled to participate fully in all aspects of society…[it] demands valued recognition of all people and the entitlement of all to meaningful interaction, involvement and engagement in every part of the complex, multifaceted societies in which we live… inclusion is the right of the individual and the responsibility of society as a whole... It requires proactive policy making, lateral thinking and on-going commitment…Inclusion is about valued recognition, meaningful engagement and enabling social policy." (Jones 2011, 57)

Using an intersectional lens that is attentive to both intragroup and intergroup differences as well as the structural inequities that shape individual-institutional and group-institutional interactions, I examine the implications of the related processes of representation, recognition, participation and consultation for the inclusion of marginalized members of communities in the IA process.

In this chapter, I argue that the ways that power shapes IA legislation, policy and practice in the jurisdictions studied limits both the participation of members of marginalized groups and their representatives in IA and the extent to which the community impacts most likely to be experienced by marginalized members of communities can be recognized, documented and mitigated during the IA for a proposed project. While IA legislation, policies and practices in some jurisdictions provide important opportunities to recognize or consult particular groups within communities or particular impacts that they are likely to experience, these opportunities exist on a piecemeal basis and are often undermined by the ways power

works in other parts of the IA in that jurisdiction. They fall far short of a guarantee of meaningful inclusion in IA.

Representation

Representation as a process of power is closely linked to accountability, decision-making, and participation. As Young (2000, 5–6) writes: "The normative legitimacy of a democratic decision depends on the degree to which those affected by it have been included in the decision-making processes and have had the opportunity to influence the outcomes." Representation is a process of power that affects the extent to which marginalized members of communities are included in resource extraction decision-making through IAs. Young (2000, 8) further argues that "systems of representation are most inclusive… when they encourage the particular perspectives of relatively marginalized or disadvantaged social groups to receive specific expression." Dedicated representation of marginalized groups is important because their views, perspectives and interests are often not well-represented in representative and decision-making structures dominated by those groups within society that hold the most political, social and economic power (i.e., elites), which has important implications for environmental justice in political decisions and policy outcomes.

Scholars such as Young (2000; 2011) and Williams (2005) who advocate for dedicated or special representation for marginalized groups in democratic institutions and processes argue that it is essential because structural inequities are responsible for shaping the exclusion of their interests, views and perspectives from many aspects of politics and policymaking. Feminist scholars have long recognized that members of marginalized groups also often hold different knowledges than members of dominant groups because of the socially situated nature of knowledge (Harding 2012). Young (2000, 136) explains it in this way: "because of their social locations, people are attuned to particular kinds of social meanings and relationships to which others are less attuned. Sometimes others are not positioned to be aware of them at all. From their social locations, people have differentiated knowledge of social events and their

consequences." These knowledges are vital for equity-oriented policymaking. As Williams (2005, 27) argues:

> being a member of a marginalised social group brings with it an experience that is directly relevant to political decision-making on matters that affect the group in question. It is fundamentally an epistemic claim that members of marginalised groups are much more likely than others to understand the causes and consequences of group-structured inequality, and to have insight into the kinds of public policy that will ameliorate inequality.

Other benefits of dedicated representation of marginalized groups in democratic structures recognized by Young (2000, 7, 144) include "both pluraliz[ing] and relativiz[ing] hegemonic discourses, and offer[ing] otherwise unspoken knowledge to contribute to wise decisions," while revealing "the partiality and the specificity of the perspectives already politically present." An intersectional lens also reminds us that when pushing for dedicated representation, it is important to acknowledge intragroup differences and that not all members of a particular marginalized group (e.g., people with disabilities) share the same experiences and perspectives. Thus, it is important that the process of choosing representatives attends to intragroup diversity, and that multiple representatives of marginalized groups are invited to the table to avoid a situation where dedicated representation serving as little more than a tokenistic formality.

In IAs, dedicated representation of members of marginalized groups in decision-making and advisory structures is important because these groups experience disproportionately negative impacts, but have little power over the decisions being made. However, there is very limited representation of marginalized groups within these structures in the jurisdictions studied. Representation as a process of power also influences public participation. The representation of members of marginalized groups by civil society organizations within IAs presents an opportunity to ensure community voices are heard.

In Decision-Making and Advisory Structures

The lack of representation of members of marginalized groups and Northern citizens in political decisions is briefly discussed in the section on decision-making in the previous chapter. Here, I will analyze some of the reasons for that lack of representation and its implications for IA. It is widely acknowledged that members of marginalized groups including women, Indigenous people, and people with disabilities are starkly underrepresented in Canada's elected legislative bodies (Trimble, Arscott, and Tremblay 2013; Special Committee on Electoral Reform 2016; Levesque 2016). Why this underrepresentation persists has been the subject of considerable study which I will not repeat here, except to note that discriminatory attitudes and systems of power including racism, colonialism, sexism and ableism have certainly shaped barriers within political parties and poor representation rates. The same groups are also underrepresented in the political executive, among the Ministers that form Cabinet – where final decisions about whether or not to approve a project and under what conditions are typically made. While some governments (e.g., the current federal government) have made efforts to equalize representation for marginalized groups in Cabinet, these efforts are certainly not matched in all jurisdictions. The system of representation by population used in all Canadian legislatures also contributes to the low levels of representation of Northerners within provincial and federal governments. As a region of the country with a small population, representatives of the North account for only an average of 10 percent of all elected officials in the federal and provincial jurisdictions studied (see Table 14). This greatly limits their ability to ensure the perspectives of Northerners shape important political decisions about resource development in these jurisdictions.

Examining representation on review boards and panels is likewise important because they have decision-making power at several of the key IA decision points (see Table 11 in the previous chapter). In particular, the conclusions of the panel at the end of the IA review stage greatly influence the final decision on project approval made by the Minister. In most jurisdictions, projects that are anticipated to cause significant

adverse effects or that are judged to be of significant public concern can be referred to a review panel or board for a public hearing process. Ensuring the inclusion of representatives of marginalized groups or people nominated by representative organizations for marginalized groups (e.g., women's organizations, disabled peoples' organizations, Indigenous women's organizations, etc.) within these panels is a key way that IA processes can become more attentive to the impacts experienced by those groups and result in tangible benefits. For example, in the case of the Voisey's Bay mine IA, which is widely acknowledged to be much more inclusive of women and gendered concerns (especially those of Indigenous women), Indigenous Nations, and Indigenous knowledge than previous (and arguably many subsequent) IAs, the composition of the panel and its appointment process has been linked to that positive outcome (Manning et al. 2018b; Kennedy Dalseg et al. 2018; Gibson and Hanna 2016). However, few jurisdictions studied have mandated or reserved representation for members of marginalized groups within IA review boards or panels (see Table 15 below). Of those that do, representatives of Indigenous Nations and Peoples are most likely to be included, reflecting their important and differentiated status in Canada, but no consideration of mandated representation of other groups is evident in the legislative and policy frameworks examined. This means there is limited potential for the situated perspectives of members of other marginalized groups to inform important points in IA decision-making, unless there is strong representation and participation of these groups in hearings and other parts of the IA process.

Table 14: Representatives of Northern Regions in Legislatures

Jurisdiction	**Federal**	**British Columbia**	**Manitoba**	**Newfoundland and Labrador**
Number of Seats	29	11	5	4
Percentage of Total Seats	8.6%	12.6%	8.8%	10%

Sources: Elections Canada 2020; Elections BC 2020; Elections Manitoba 2020; Government of Newfoundland and Labrador 2019b.

Table 15: Representation in Review Boards and Panels

Jurisdiction	Federal	British Columbia	Manitoba	Newfoundland and Labrador	Nunavut
How are Board or Panel Members Appointed?	Project-by-project basis	Project-by-project basis	Panel of 3-5 selected for each project from a permanent roster of 10 Commissioners.	Project-by-project basis	Appointed for 3-year terms
Reserved Representation for Marginalized Groups?	No, except where required by treaty.[84]	No	No, but 'Aboriginal issues and traditional ecological knowledge' is listed as a desired area of expertise.	One-third of members must be residents of local communities, unless otherwise required by treaty.[85]	Four of nine members are nominated by regional Inuit organizations. Two of nine members are appointed by Government of Nunavut.[86]

Sources: Government of Newfoundland and Labrador 2002; Government of Canada 2005; Government of Manitoba 1987a; Clean Environment Commission 2008; 2018; Government of Canada 2013

Given the limited direct representation of marginalized groups within government decision-making structures, proxy structures of representation become even more important to ensure situated knowledges and the interests of marginalized groups inform resource extraction decisions. Special policy agencies (SPAs) – departments and agencies[87] which represent the views of members of particular groups of citizens (often marginalized groups) within the government – exist in many Canadian jurisdictions and are an important proxy structure of representation. Having

[84] For example, in the case of a project taking place on Labrador Inuit Lands that overlaps with federal jurisdiction, the Labrador Inuit Land Claim Agreement allows the Nunatsiavut government to nominate at least one member of the review panel (Government of Canada 2005).

[85] In the case of a project taking place on Labrador Inuit Lands, the Labrador Inuit Land Claim Agreement requires that half the review panel members be people nominated by the Nunatsiavut government for provincial assessments (Government of Canada 2005).

[86] A government which was created through a treaty and has a mandate to promote the interests of Nunavummiut (Inuit of Nunavut).

[87] Selected examples from the jurisdictions studied include the Labrador Affairs Secretariat (NL), Disabilities Issues Office (MB), Gender Equity Office (BC), and Women and Gender Equality (federal).

representation from SPAs within IA decision-making and advisory structures, such as working groups or committees, is critically important to challenging inequities in IA. Malloy (2003, 17) writes that SPAs "focus on issues pertaining to or affecting a particular societal group…[and] are normally mandated to work on behalf of the entire social group." When SPAs are involved in impact assessment it is more likely that potential impacts for marginalized groups will be identified. Evidence from my interviews suggests that this is true in practice. Speaking about the work of multi-department policy committees tasked with reviewing Cabinet submissions from multiple perspectives, one representative of an agency responsible for gender issues said: "if I'm not there, then no one will bring up gender and diversity" (anonymous interview). Having multiple different SPAs at the table is also important in ensuring a multitude of perspectives are accounted for, as each work from within their own areas of expertise. Another participant said: "Everybody is favouring the group for which their policy or program instrument is designed. For example, if you have a youth employment program, that's going to be your first lens. If you're doing something around Indigenous affairs or development, that will be your priority lens" (anonymous interview). Special policy agencies also bring particular priorities to the table when they participate in IA, which are sometimes missing from the proponent's IS or from agencies and departments primarily concerned with environmental impacts. A representative of one special policy agency who has been involved in an IA committee said:

> We look at it, not just from an environmental standpoint, but also from a sustainability standpoint to ensure that the project is going to have benefits to people living in the region and not just people outside the region. And we want to make sure that it's socially and economically responsible. So, we put that type of lens [on] when we sit on resource development committees… We just want to bring our viewpoint into resource development so they're aware of impacts. (anonymous interview)

At the time of my interviews, the role of special policy agencies in IA working groups or committees was limited. Offices and departments responsible for consultation with

Indigenous Nations are always involved in these bodies when a project implicates Indigenous rights, but the representation of other marginalized groups is much more limited. In BC to date, the Accessibility Secretariat and Gender Equity Office have not been directly involved in the impact assessment process (anonymous interviews). In Manitoba, the Disabilities Issues Office (DIO) has never been part of a project technical advisory committee (DIO interview). I was unable to confirm if Manitoba's Status of Women office has been directly involved in IA. Federally, Women and Gender Equality is an expert department that is sometimes consulted by the IA agency on the potential gendered impacts of a project (anonymous interview). Newfoundland and Labrador is particularly remarkable in that the Office for the Status of Women (former Women's Policy Office) is part of the assessment committee for almost every major resource project,[88] and the Labrador Affairs Secretariat (the only dedicated SPA for Northern citizens in any jurisdiction studied) is likewise involved for all projects in Labrador (anonymous interviews). However, NL's Disability Policy Office has not yet been involved.

The direct representation of Indigenous Nations and governments,[89] and not just the departments responsible for consultation or Indigenous affairs, in the IA working groups and committees is also very important. As discussed in the section on decision-making in the previous chapter, working groups and committees play an important advisory role in IA in most jurisdictions and exercise decision-making power in some parts of the IA in Newfoundland and Labrador. Through direct representation in these structures, Indigenous Nations and governments can speak for themselves, exercising their rights to self-determination and bringing their own perspective on the impacts of a proposed project to the table, which is not necessarily the same perspective that would be shared by the involvement of a department responsible for Indigenous affairs. This direct involvement through representation brings us closer to a treaty federalism understanding of the relationship between Indigenous Nations and settler governments,

[88] This practice began first in the oil industry and then was adopted in IAs for all industries.
[89] Through elected, traditional, or hereditary representatives (chiefs, presidents, elders, etc.), staff, and sometimes their hired lawyers or consultants.

and is an example of multilevel governance in IA. However, as also discussed in the previous chapter, British Columbia and Nunavut are currently the only jurisdictions that give Indigenous Nations and Peoples direct representation in IA working groups and committees. In British Columbia, any Indigenous Nation or government whose rights or territories might be potentially affected by a proposed project or to whom the province owes a duty to consult is invited to join the working group (anonymous interview). In Nunavut, the regional Inuit organizations are automatically granted intervenor status in the IA process (NIRB interview). However, in both British Columbia and Nunavut, the role of these structures is limited to advice, not decision-making. Without stronger accountability mechanisms to ensure that settler governments implement the advice shared through working groups and committees, they are of limited use in ensuring that Indigenous concerns are accounted for in IAs and in promoting a robust nation-to-nation relationship based in treaty federalism.

Representation in Public Participation Opportunities

Representation as a process of power is also present in the public participation opportunities built into the scoping and review stages of the IA. Representation is in many ways necessary for members of marginalized groups in public participation opportunities, as there are considerable barriers to participation (discussed in detail in the participation section below) that may prevent individual members of communities from becoming involved in these parts of the IA. Representation by community actors which are collective bodies or organizations helps to make sure that the perspectives and situated knowledges of marginalized groups inform the IA and hopefully the decisions made, and that the impacts most likely to be experienced by these groups are identified and mitigated.

Indigenous Nations and governments are among the community actors that most frequently participate in IAs and are generally accepted as the legitimate representatives of Indigenous communities by proponents, settler governments, and IA agencies, as they should be. They often spend considerable time, capacity and resources

to make sure the views and concerns of members of their communities inform the IA and settler government decision-making and that their People's Indigenous rights are respected in relation to the project. However, this system of representation of Indigenous interests is not perfect. Some Indigenous people have raised concerns about the degree to which the views and perspectives of often invisible members of Indigenous communities, including women, elders and people with disabilities, are effectively represented in IAs when Indigenous government officials are the only community representatives involved in the IA process and articulating the views of 'the community' (Archibald and Crnkovich 1999; Deonandan, Deonandan, and Field 2016). As Indigenous feminists have noted, elected Indigenous governments reproduce some of the same patterns of underrepresentation as elected settler governments. They remain overwhelmingly male-dominated and not broadly representative of the diversity of the community (Green 2001). Indigenous government officials also often have particular political and economic interests in project outcomes which can shape how they represent community views and which perspectives they choose to share in IAs. On the other hand, O'Faircheallaigh (2013) cautions that it would be incorrect to always assume that the absence of Indigenous women at negotiating or consultation tables means that they have been excluded from community decision-making. He argues that Indigenous women often exercise considerable influence in setting community priorities and negotiating agendas in 'behind the scenes' roles that might not be immediately apparent to those outside the community.

Civil society organizations[90] play an important representative function in IAs for members of marginalized groups not well-represented by local, Indigenous and settler governments, especially in light of the barriers to individuals' participation in IA.[91] For example, during the IA for the Keeyask dam project, Kaweechiwasihk Kay-tay-a-ti-suk, a civil society organization represented the views of the elders of York Factory First Nation

[90] Including group representative organizations (e.g., women's organizations, disabled peoples' organizations, Indigenous organizations), advocacy organizations or groups, non-governmental organizations, human rights organizations, charities that provide programs or services, groups that emerge from grassroots organizing, and many others.
[91] These barriers are discussed in-depth in the participation section below.

separately from the Nation's chief, staff, lawyers and consultant who were also participating in the IA. The elders affiliated with Kaweechiwasihk Kay-tay-a-ti-suk felt that their specific concerns and perspectives were not being adequately represented by the other actors (namely the Chief and Council, staff, and lawyers) representing the Nation (CEC 2013b). Young (2000, 165) states that civil society organizations play an important role in democracy as "a voice for the excluded" and provide vital programs and services for those whose needs are not met through those provided by the state and private industries. They play an important role in holding the state accountable for the effects of their decisions and actions on marginalized groups (Young 2000). Within IAs, their participation increases the likelihood that community concerns and impacts on members of marginalized groups will be taken seriously. The extent of the participation of civil society organizations in IA and some of the constraints they experience are discussed in more depth in the participation section of this chapter.

Recognition

Recognition as a process of power is closely related to participation and consultation and greatly affects the extent to which members of marginalized groups and their experiences are taken seriously in IA. Processes of recognition – including embedding requirements for consultation and participation in legislation through the naming of particular groups or experiences, acknowledging rights, and deciding where to spend limited financial resources – shows who and which types of knowledge are valued in particular policy areas. The environmental justice literature is clear that recognition affects both "participation and self-determination" for marginalized groups in environmental decision-making (Schlosberg 2009, 64). Jones (2011, 54) argues that the "valued recognition of all people" is essential to the meaningful inclusion of marginalized groups within politics and society. Without the recognition of diversity within communities, it is very unlikely that the inclusion of marginalized groups will happen in the IA process. Without both recognition and inclusion, it is also unlikely that

impacts experienced only by some people, especially those with less power, within communities will be identified and mitigated during the IA. After all, "there is a crucial link between a lack of recognition and the inequitable distribution of environmental bads; it is a general lack of value of the poor and people of color that leads to this distributional inequity" (Schlosberg 2009, 60).

Coulthard (2014) cautions that the ways that recognition as a process of power is often taken up in Canadian politics and government works to uphold settler colonialism and the subjugation of Indigenous Peoples and Nations to the settler state, through restricting Indigenous self-determination and control over their lands and territories. Far from respecting the principles of mutual recognition and peaceful co-existence that many Indigenous people have fought for, he argues that "liberal discourse of recognition has been limited and constrained by the state, the courts, corporate interests, and policy makers in ways that have helped preserve the colonial status quo" (Coulthard 2014, 40–41). Attending to how recognition as a process of power in IA works to either challenge or uphold the colonial status quo in relation to Indigenous Peoples' relationship with the state is a vital task of an intersectional policy analysis.

In this section, I am most concerned with two types of recognition: the recognition of marginalized groups and the differential impacts they might experience in the legislation and policy frameworks that govern IA, and the recognition of community-based knowledges and evidence (especially Indigenous knowledges) as a valuable contribution to IAs within the same legislation and policies (Malin, Ryder, and Lyra 2019). Together, these forms of recognition shape the extent to which IAs can be effective in identifying and mitigating socio-economic impacts for those most likely be disproportionately affected. By embedding specific recognition of marginalized groups and their knowledges in legislation and policy frameworks, an additional mechanism for accountability is also created, ensuring that proponents and government actors meaningfully take community actors' concerns into account. Unfortunately, both types of recognition are limited in the IA frameworks of the jurisdictions studied.

Recognition of Marginalized Groups

Indigenous people are the most frequently recognized marginalized group in impact assessment legislation and policy guidance in the jurisdictions studied (see Table 16 below). The most common way this recognition occurs is through clauses and requirements stating that that the impacts of a proposed project on Indigenous people, Indigenous communities, or Indigenous rights must be documented and considered in the IA. One piece of technical guidance supporting the *Canadian Environmental Assessment Act 2012* advises those involved in the scoping phase of impact assessment that engaging with "a cross-section of the Aboriginal group, including leadership, harvesters, elders, women and youth, may help to make interactions more inclusive and the information obtained more representative of the community as a whole" (Canadian Environmental Assessment Agency 2015c); however, that is one of few examples of recognition of diversity within Indigenous communities. In Nunavut, impacts experienced by Inuit people and communities are a primary consideration, given that the Inuit represent approximately 85 percent of Nunavut's population and the Nunavut Land Claims Agreement governs the impact assessment process (Department of Economic Development & Transportation interview). Given that Indigenous people have special status within Canada and more constitutional protections than other marginalized groups, the higher level of recognition within IA frameworks is to be expected. It is also justified given the long history of colonial domination and marginalization. However, Indigenous people and Nations are conspicuously absent from Newfoundland and Labrador's impact assessment legislation and policy documents, although anecdotal evidence from my interviews suggests that they are recognized as important actors in IA in practice. When asked about which groups are more likely to be included in IA processes, one participant said, "In Labrador, of course, Indigenous groups would be the top" (anonymous interview). Another participant said that government officials "work pretty closely with the Indigenous communities in Labrador to ensure that their input is fully incorporated and that their positions are fully

considered" (anonymous interview). The lack of recognition of Indigenous Peoples in NL's legislation is unfortunately not surprising. The provincial government has historically been reluctant to recognize Indigenous Peoples and their territories, especially on the island portion of the province, as acknowledging the presence of Indigenous Peoples unsettles dominant political narratives about settler identities in the province (Manning 2018).

Table 16: Who is Recognized in Legislation and Policy?

Group	Federal	British Columbia	Manitoba	Newfoundland and Labrador	Nunavut
Indigenous People	Yes (Legislation & Policy)	Yes (Legislation & Policy)	Yes (Policy only)	No	Yes (Legislation & Policy)
Women	No	No	No	Yes (Policy only; only in relation to employment equity)	Yes (Policy only)
People with Disabilities	No	No	No	No	No
People Living on Low Incomes	No	No	No	No	No
Others?	No	No	No	Age (Policy only; only in relation to employment equity)	Elders and youth (Policy only)

Sources: Government of Manitoba 2018; Government of Canada 2012; Environmental Assessment Office 2018; Government of British Columbia 2002; Government of Newfoundland and Labrador 2002; Department of Environment and Climate Change 2016; Nunavut Impact Review Board 2013b.

In all jurisdictions studied, the limited forms of recognition afforded to Indigenous people in IA policies and legislation largely resemble the colonial politics of recognition that Coulthard (2014) critiques in that they rely on the state-defined understandings of Indigenous rights (and their limits) and are not linked to any meaningful decision-making power for Indigenous Nations and governments regarding which projects proceed in their territories. As the case study analysis in Chapters 6 and 7 shows, these forms of recognition do little to disrupt dominant relations based in settler

colonialism and extractivism when used in project-level IAs nor do they provide avenues to more equitable IA outcomes for Indigenous people and communities.

Only in NL and Nunavut are other identity groups recognized in IA policies and legislation (see Table 16 above). The policy guidance that accompanies the NL *Environmental Protection Act* does include limited attention to gender and age as factors to be considered in the IA process. For example, proponents are required to provide information in their project description that will "identify how employment equity will be addressed relative to age and gender" (Ibid., 9). However, employment information is the only type of data that is specifically required to be disaggregated by these identity factors, offering limited potential for meaningful recognition of the gendered nature of other impacts. The policy guidance that accompanies the impact assessment legislation in Nunavut shows more consideration of gender and diversity than any other jurisdiction examined. There are several examples of meaningful recognition that is likely to result in inclusion in Nunavut's IA policies. Elders are mentioned in the NIRB Rules of Procedure as a group that should always be provided with an opportunity to give their input on a proposed project (Nunavut Impact Review Board 2009, sec. 36.1). Women's groups within Inuit communities are listed as organizations that will get automatic notification when a project is proposed near their communities (Nunavut Impact Review Board 2013c, 8). The proponent's guide encourages broad consultation with affected communities, including organizations representing women, youth and elders (Nunavut Impact Review Board 2018b, 104–5). My interviews with both the NIRB and the Nunavut Department of Economic Development and Transportation affirmed that this broad recognition of different groups within communities does take place in practice and that differential impacts experienced by these groups are carefully considered by the NIRB when making their decisions.

Dedicated recognition of other marginalized groups that experience disproportionate impacts, including people with disabilities and people living on low incomes, is absent in the IA legislation and policy in the jurisdictions studied as Table 16

(above) shows. One official who participated in my interviews suggested a lack of recognition of people with disabilities is true in other policy areas as well:

> There tends to be less awareness about the disability community than frankly I think is ideal on the part of policymakers, particularly those who don't do disability policy. (anonymous interview)

There is likewise no recognition of people who live on low incomes, or class, as shaping project outcomes in general, in IA legislation or policy. Given this lack of recognition of many identity groups, even in a siloed form, it is not surprising that there is no recognition of the intersectional nature of identities or differential impacts for individuals.

To some extent, this wider lack of distinct recognition for members of marginalized groups beyond Indigenous people is not overly surprising. The Canadian constitutional order and the rights protections granted in the Charter of Rights and Freedoms and in the federal, provincial and territorial human rights codes, provide collective group rights for only Indigenous Peoples and anglophone or francophone minorities. All other 'minority rights' are premised on individual rights preventing discrimination on the basis of a particular aspect[92] of an individual's identity that situates them as a minority relative to the general population (Kymlicka 2014; LaSelva 2014), rather than a collective right held by the group as a whole. This tension of individual versus group rights arguably contributes to lesser levels of formal and distinct recognition in legislative and policy frameworks for those marginalized groups that are not recognized as having collective rights.

Recognition of Marginalized Knowledges

The literature on environmental justice is clear that recognition of the knowledges held by marginalized members of communities is an important norm of just

[92] E.g., sex, disability, ethnicity, etc.

policy processes (Malin, Ryder, and Lyra 2019; Walker 2012; Schlosberg 2009). As discussed briefly with regard to representation above, feminist understandings of social standpoints and the situated nature of knowledge teach us that our social locations both enable and limit what we can know (Harding 2012; Young 2000). In IA, knowledges held by women, Indigenous people, people with disabilities and people living on low incomes are important to identifying and addressing the impacts most likely to be experienced by those groups. However, previous research has shown that the knowledge held by these groups is often poorly integrated in Canadian IA processes (Stienstra et al. 2019; Manning et al. 2018b).

Increasingly, Canadian governments are recognizing the importance of including Indigenous and community knowledges within impact assessment, although this inclusion is still limited and insufficient (Manning et al. 2018b; Udofia, Noble, and Poelzer 2017; Sandlos and Keeling 2016a). Nunavut is the only jurisdiction within this study that explicitly requires that IAs include Indigenous and community knowledges.[93] For example, the NIRB is bound to "give due regard and weight to the Inuit traditions regarding oral communication and decision-making" (Government of Canada 2013, sec. 17(2)) in its work, and in reviews of a proposed project, the NIRB must "take into account any traditional knowledge or community knowledge provided to it" (Ibid., sec. 103(3)). In some other jurisdictions, including Indigenous knowledges is suggested, but ultimately optional in IAs, removing a vital mechanism of accountability. For example, the *Canadian Environmental Assessment Act* (Government of Canada 2012, sec. 19(3)) states that IAs "may take into account community knowledge and Aboriginal traditional knowledge." Newfoundland and Labrador is unique in that it does not mention Indigenous knowledge at all in their IA legislation or policy guidance. The only exception is in relation to IA processes embedded within the Labrador Inuit Land Claims Agreement for projects that are situated on Labrador Inuit Lands which requires the consideration of Inuit traditional knowledge (Government of Canada 2005). Notably, the

[93] Although outside the scope of this research, the new federal *IAA* and new BC *Environmental Assessment Act 2018* both include requirements to recognize and include Indigenous knowledges in IA.

same requirement is not in place for projects in the larger Labrador Inuit Settlement Area – a large part of Inuit territory where many Inuit people exercise their harvesting rights and engage in other important cultural practices that could be affected by a proposed project. Without stronger recognition of the importance of Indigenous knowledges, and stricter requirements for its inclusion in all jurisdictions, important dimensions and nuances of the impacts experienced by Indigenous people are likely to be missed in IAs.

Previous IA research has also shown that Indigenous knowledges are often taken less seriously than Western scientific knowledge (Baker and Westman 2018; Manning et al. 2018b). The fact that their inclusion is optional in most jurisdictions' impact assessments is one way this inequality manifests. From my analysis, Nunavut appears to be the only jurisdiction studied that considers Indigenous knowledges relatively equally with scientific knowledge, likely due to its unique demographics and the basis for its IA process in an Inuit treaty. For example:

> The NIRB puts a lot of emphasis on how a proponent has or will work with Inuit to incorporate Inuit Qaujimajatuqangit into their activities… when discussing potential impacts to wildlife a proponent must extend that discussion to potential impacts on harvesting and communities. Proponents must demonstrate how they are integrating local knowledge and scientific knowledge into their project design to manage potential environmental and social impacts. (Nunavut Impact Review Board 2013c, 7)

Federally, the policy guidance acknowledges that some types of Indigenous knowledge do not fit neatly into existing IA frameworks that privilege scientific knowledge: "Knowledge about, or based on, values and norms, is not as readily integrated with scientific data sets. Where they cannot be reconciled, EA (environmental assessment) practitioners should juxtapose what is suggested by each knowledge system in their EA report and demonstrate how each type of knowledge has been considered in the EA" (Canadian Environmental Assessment Agency 2015a). Assessing the degree to which this happens in practice and the extent to which non-reconcilable knowledges are

considered as valid evidence within the assessment is where case study information is particularly useful. As Chapters 6 demonstrates, despite guidance to the contrary, scientific knowledge is still given more weight in the two most recent case study IAs that involve federal jurisdiction. The federal guidance is also notable in that it is the only jurisdiction that explicitly acknowledges that different groups within Indigenous Nations and communities may hold different knowledges, especially Indigenous women and Indigenous youth. It stops short, however, of mandating that these different knowledges be meaningfully included in IAs.

Ensuring valued recognition of Indigenous knowledges in IA means that they are not only considered as valid evidence, but that they are integrated in the design of IA procedures and processes themselves. The integration of Indigenous knowledges is particularly important to creating welcoming and inclusive spaces for Indigenous people in IA processes (Manning et al. 2018b). Nunavut is the only jurisdiction studied that demonstrates that it has used Indigenous knowledges to design the IA process. The NIRB (2013a, 6) describes their process as "guided by Inuit Qaujimajatuqangit principles: [including] respecting others, relationships, and caring for people;… fostering good spirit by being open, welcoming, and inclusive;…[and] decision-making through discussion and consensus." The special provisions for Elders' participation and the acceptance of oral statements as equivalent to written evidence are two examples of how those principles are applied in practice.

As will be abundantly clear from the discussion thus far, there is no evidence of recognition of other types of marginalized knowledges in the IA legislative and policy frameworks of any of the jurisdictions studied. This is an important gap to rectify as the lived experience of marginalized members of communities is an important source of knowledge that can aid in the identification of potential impacts and also help to identify possible solutions and mitigation measures.

Participation

Scholars of impact assessment (e.g., Sinclair and Diduck 2016; Hanna 2016; O'Faircheallaigh 2009) typically position public participation in IA as part of participatory democracy and applaud the benefits of public participation: increasing the legitimacy of decision-making, protecting the public interest, introducing multiple ethical perspectives, and preventing the proponent from dominating IA. Sinclair and Diduck (2016, 67) assert that "whether such benefits are realized in any particular case depends to a large extent on the legislation and policy applicable to the case and how they are applied." However, what they and other IA scholars often fail to acknowledge is that participation in IA is a process deeply steeped in power relations that work to exclude members of marginalized groups and their representatives. While in policy and legislation 'anyone who wants to' can participate in an IA, this section demonstrates that substantial barriers exist within policy, legislation, and IA practices, limiting access and inclusion for members of marginalized groups and their representatives.

Titchkosky (2011, 4) argues that questions of access and who has access are fundamentally questions about "socio-political relations between people in social space." Exclusion is then best understood as a "failure of access" (Titchkosky 2011, 27), and is closely related to the inequities that structure socio-political relations between people and their interactions with institutions and the policymaking process, which "often operate to exclude or marginalize the voice and influence of some groups while magnifying the influence of others" (Young 2000, 34). Jones (2011) positions access through the removal of barriers as one of three dimensions of inclusion, the other two being non-discriminatory attitudes, and the provision of the necessary supports and adoption of alternate strategies to facilitate inclusion. Disability studies scholars (e.g., Jones 2011; Stienstra 2020) emphasize that the standard for inclusion is much higher than 'integration' and that inclusion is about including all people, not just those who are easy to include, require fewer supports, or whose experiences fit neatly within existing

frameworks and structures. When the standard of inclusion is not met, Young (2000, 54–55) argues that:

> inequalities of power and resources frequently lead to outcomes… where some citizens with formally equal rights to participate nevertheless [either] have little or no real access to the fora and procedures through which they might influence decisions… [or find that] others ignore or dismiss or patronize their statements and expressions… [or] may find that their claims are not taken seriously and may believe they are not treated with equal respect.

Barriers to participation in IA for individual members of marginalized groups and community actors that represent them, particularly Indigenous Nations and governments and equity-seeking civil society organizations, include both failures of access and failures of inclusion. Forms of participation in IA are fairly consistent across the jurisdictions studied. They include public comment periods, where any member of the public can submit written comments, and opportunities to participate in public forums (including open houses, community meetings, and hearings). These forms of participation are limited to the scoping and review stages of the IA. As the rest of this section shows, systemic disadvantages are embedded in these forms of participation that create barriers to access and inclusion. These barriers limit the ability of members of marginalized groups and their representatives to participate equitably in IAs, and thus the extent to which their concerns can be accounted for and the impacts mitigated.

Participation of Individuals in IA

To participate meaningfully as individuals in the public comment periods and public forums, members of communities need to be able to access important information about the proposed project (Malin, Ryder, and Lyra 2019; Sinclair and Diduck 2016), including the initial application, draft documents and guidelines, and the proponent's IS, which form the basis for the IA scoping and review stages. For contemporary impact assessments, the majority of project information is stored online in government IA registries, where each jurisdiction maintains its own project registry.

In British Columbia, physical copies of the proponent's IS are also "often placed in local public facilities (such as libraries) near the proposed project's location" (Environmental Assessment Office 2018, 16). The sheer amount of information available on project registries and the technical language in which it is most often written can be overwhelming for many non-experts (Sinclair and Diduck 2016; Manning et al. 2018b; Malin, Ryder, and Lyra 2019). While it is certainly true that individuals who want to participate in IA 'can just say what they think' about proposed projects, the IA process is designed around these documents. Comments that do not engage with the information within them are much less likely to be taken seriously and thoughtfully weighed at the major points of decision-making or are easy to dismiss as 'outside the scope' of the IA, as we will see in Chapter 7.

Barriers to access exist in both obtaining information about the project and in participating in public comment periods and forums. Barriers to inclusion also exist for many members of communities who try to participate in these comment periods and public forums. Their social locations, and the barriers to access and inclusion tied to them, shape the extent to which members of marginalized groups can participate in IAs on an equitable basis. In this section, I discuss different social locations individually, while reminding readers of the importance of keeping in mind the intersections between social locations and how they shape experiences of resource extraction. We know that many members of marginalized groups face oppression and exclusion based on multiple social locations or parts of their identities, given the interconnections of the different systems and structures of power that shape their lives. For example, "most people with disabilities are almost twice as likely to be poor than non-disabled people" and Indigenous people with disabilities are even more likely to be poor than non-Indigenous people with disabilities (Stienstra 2020, 69).

The levels of formal education attained by members of communities shape their participation in IAs in several ways. Community members with lower levels of formal education often have lower levels of literacy, lower levels of writing skills, and may not have developed high-level computer skills when compared to those with higher levels of

education. These individuals may experience barriers to first navigating the project registry to find the information that they need,[94] and then to understanding the highly technical information and language that characterizes many of the documents prepared for IAs. As one interview participant stated: "These are projects that produce thousands of pages of information and can also involve [a] highly technical complex of issues across multiple disciplines that no one person is an expert in. That can be challenging for people to get through that Western scientific language to really understand how their concerns are potentially being considered and addressed" (anonymous interview). Community members who have lower levels of education will also likely experience challenges in crafting a persuasive and formal written comment or effective spoken presentation for a public forum. A 'politics of articulateness' shapes which voices are taken seriously in policy processes like IA, and favours those with high levels of formal education, good grammar, and sophisticated vocabulary (Young 2000).

An individual's income can also determine the extent to which they can participate in IA. Internet rates in Northern Canada are on average more expensive than Southern Canada (CRTC 2019).[95] This means that the accessibility of project information stored online can be limited, and especially for people with low incomes living in those communities. Income can also affect which individuals within communities have the luxury to take the time to carefully review the IA documents and prepare an extensive comment or lengthy presentation. People who have low wage jobs often work long hours and take on multiple jobs in order to make enough money to get by. They are less likely to have large amounts of time available to review, make sense of, and comment on project documents. Income also affects participation in public forums, such as

[94] I speak from personal experience in conducting this research when I say that it can be quite hard to find the specific information that you want for a proposed project without wading through many (sometimes more than a thousand) documents that are irrelevant to you.

[95] For example, the CRTC's (2019) report found that *lowest monthly price* for medium-speed broadband internet access (25/3 Mbps – lower than the 50/10 Mbps national standard for highspeed internet access) in the territorial capitals in 2018 was equivalent to or higher than the *highest monthly price* for all the southern cities surveyed. Highspeed broadband internet access that meets the national standard was not available in the territorial capitals in 2018. It is reasonable to assume that the smaller rural and remote communities in Northern Canada would have even less access and higher prices than the territorial capitals.

hearings and open houses, especially when they are not held at times that take into account community members' working schedules. As the case study analysis in Chapter 6 will show, despite policy commitments in many jurisdictions to holding public forums in the evening or on the weekend to allow working individuals to participate, this is far from standard practice in all jurisdictions. Individuals who work in low wage jobs are less likely to be able to afford to take time off during the day to participate in an IA forum.

The geographic location of the community in which they live can also shape the extent to which marginalized members of communities can participate in IA. Many rural and remote communities in the North have limited internet connectivity and slow internet speed (CRTC 2019), limiting the ability of individuals who live in those communities to access and download project information stored in large files on online project registries. There are few guarantees that the documents members of communities need to access to become informed about the project will be physically available in their community, although British Columbia, as noted above, has taken some steps towards options for offline access to IA information (Environmental Assessment Office 2018). There are likewise few guarantees that public forums will be held in all potentially affected communities, especially those with smaller populations. Some community members may need to travel to another community if they wish to participate in an open house or review hearing. This can be an expensive trip in the North, where travel costs (e.g., gas, flights) are already much more expensive on average than in Southern Canada, public transportation options between communities are limited or non-existent, and many communities are not connected by roads (Statistics Canada 2015; 2020; Simonsen 2016). This is one example of how two social locations (geographic location and income) intersect to limit opportunities for some community members, namely those who live on low incomes in small and isolated Northern communities, to participate in IA.

The languages members of communities use and the competency with which they read, speak, and write in different languages shapes the extent to which they can access project information and be included in public forums. In all the jurisdictions

studied, English was the primary language used in both IA documents and participation in public forums. The dominance of English disadvantages members of communities who do not speak English at all or who speak other languages as their first language and have less competency in English. In the North, these members of communities are most likely to be Indigenous people, and Indigenous elders are the group within Indigenous communities most likely to be unilingual or speak Indigenous languages as their first language (Statistics Canada 2017c). Nunavut is the only jurisdiction studied that has made consistent efforts to improve access for speakers of Indigenous languages to IA information and to standardize measures to ensure their inclusion and equitable participation in public comment periods and participation forums. With regard to public comment periods, all IS guidelines and summaries released for public comment must be made available in Inuktitut (and often Inuinnaqtun) as well as English (NIRB interview). The NIRB employs interpreters in their central office who can answer questions and accept comments from Inuktitut and Inuinnaqtun speakers during comment periods (Nunavut Impact Review Board 2013a). It also allows for oral submission of comments in certain circumstances: "where an Elder or other resident of Nunavut cannot provide a letter of comment, the Board may permit that person to file a submission orally" (Nunavut Impact Review Board 2009, sec. 12.2). The NIRB is also notable for embracing many measures that can contribute to inclusive hearing processes. Some of these measures emerge from the NCLA and *NUPPAA*, especially those around Inuit language rights in IA. When requested, hearings will either be conducted in Inuktitut, or evidence can be given in Inuktitut and the necessary Inuktitut and English interpretation will be provided (Government of Canada 2013). No person giving evidence can "be placed at a disadvantage by not being heard in" English (Inuit and Government of Canada 1993, sec. 37(4)). Other jurisdictions have much to learn from Nunavut about what inclusion of members of communities who speak different languages could look like in IA.[96]

[96] This is one of the reasons Nunavut has been retained within the policy scan chapters, despite not having a case study project from Nunavut.

A person's gender is also likely to affect access and inclusion in IAs. Gendered patterns of care responsibilities, where women bear a disproportionate share of the work of providing childcare, eldercare, and care for people with disabilities within their families and communities, can limit women's participation in IA. Women who engage in high levels of carework are less likely to have the time necessary to review large amounts of project information and prepare a comment or presentation. When the timings of public meetings and hearings coincide with the times that women have to engage in carework, it is unlikely those with care responsibilities will be able to participate. I found no evidence of efforts or mechanisms to provide equalizing access supports (e.g., childcare at a meeting or a pot of funding for home-based caregivers) to allow those with care responsibilities to participate in these public IA forums in any of the jurisdictions studied. Gendered patterns of communication, particularly the ways that women's "speech culture… often is, or is perceived to be, more excited and embodied, values more the expression of emotion, [and] uses figurative language" (Young 2000, 39–40), also create barriers to inclusion of women's voices and views in IA.[97] Like in other democratic policy processes, decision-makers in IAs tend to privilege the unemotional, logical, and 'objective'[98] forms of speaking and communicating that are more typical of the speech culture of "white, middle-class men" (Young 2000, 39). Evidence about impacts that is communicated in a way that fits that particular norm of democratic communication is much more likely to be taken seriously in IAs.

An individual's disabilities – the barriers they experience because of their impairments – can affect their participation in IA. Because people with disabilities are very diverse, and experience many different kinds of barriers depending on their impairments and the supports available (Jones 2011; Stienstra 2020), only a few examples will be discussed here. The move to online project registries can remove some barriers to accessing information for some people with disabilities. If the documents on

[97] Similar patterns also characterize the speech culture of "racialized or ethnicized minorities, and working-class people" with similar patterns of exclusion (Young 2000, 39–40).
[98] Decision-makers "tend to falsely identify objectivity with calm and the absence of emotional expression" (Young 2000, 39).

the project registries, and the registry websites themselves, meet accessible formatting requirements, they may be more accessible to some people with disabilities, particularly those that use screen reading software, than paper documents. However, if they do not meet online accessibility standards, if alternative formats (e.g., Braille or large print) are not available, or if a person does not have or cannot afford internet access, then the information will remain inaccessible for many people with disabilities (anonymous interview). Some people with disabilities, especially those with learning or intellectual disabilities, may experience particular barriers in understanding the highly technical information in IA documents. As one interview participant noted: "A lot of those sectors have their own kind of vocabulary and their own kind of technical areas of expertise that create a pretty high barrier for the layperson, that would often tend to be magnified in the context of someone living with a disability" (anonymous interview). People with physical disabilities who may use wheelchairs, scooters, or walkers likewise will experience barriers to participation and may not be able to participate at all when public meetings or hearings are held in physically inaccessible buildings or rooms. No jurisdiction studied had published standards or guidelines about accessibility and inclusion in IA public participation opportunities, and as discussed in the section on accountability, the standards and policies that exist in other parts of the government are not well-integrated in IA.

Indigenous people often experience IAs as exclusionary (Manning et al. 2018b). The fact that "the foundations of the EA process itself are developed entirely from the vantage point of a dominant Western worldview" and thus "cannot easily or fully accommodate Aboriginal values, traditional knowledge, and interests" (Gibson, Galbrath, and MacDonald 2016, 164, 165) shape these experiences of exclusion. For example, the common scoping practice of identifying distinct factors (often called 'valued components') to be individually assessed in order to determine the significance of individual project impacts are not easily reconcilable with Indigenous values of relationality and an understanding of "all of creation [as] interdependent and interconnected" (Levac et al. 2018, 11). The dominant ways in which IA hearings are

conducted in many of the jurisdictions studied can also create barriers to inclusion for some Indigenous people. They are frequently critiqued for being adversarial forums and for being colonial and culturally inappropriate, with little respect for the consensus-based forms of decision-making which are the norm in many Indigenous governance systems (Bagelman 2016; Bedard 2013; Manning et al. 2018b). As will be discussed in Chapters 6, the timing chosen for public participation does not always take into account Indigenous harvesting seasons or times where community members have other cultural responsibilities. In most jurisdictions, IA hearings are formal processes, often involving lawyers and consultants participating in the same hearings as individual community members. These more formal hearings can have negative impacts on "people's level of comfort, willingness to participate and ability to absorb information and engage in discussion" (Sinclair and Diduck 2016, 83). Nunavut stands out as a jurisdiction that has taken steps to adopt more inclusive hearing forms that can reduce the barriers to participation experienced by Indigenous people. The NIRB's policies allow for different models of hearings, including more informal community-based sessions where "interested persons and Elders [have] the opportunity to communicate their views about the project proposal in an informal environment," as well as the more technical sessions that are dominant in other jurisdictions (Nunavut Impact Review Board 2009, sec. 36.1). All hearings open and close with a prayer as a matter of policy (Nunavut Impact Review Board 2009). Within the hearing process, and reflecting Inuit cultural priorities, "Elders have a special standing that allows them to speak at any time during formal proceedings, and the NIRB will ensure they are heard" (Nunavut Impact Review Board 2013b, 14; 2009).

While not a social location in the traditional sense, levels of interest also shape the participation in IA by marginalized members of communities. In the absence of requirements for direct consultation[99] and formal recognition in policy and legislative frameworks,[100] the onus is on members of marginalized groups to demonstrate an

[99] Discussed in detail in the consultation section below. In all jurisdictions studied except Nunavut, there are not requirements for direct consultation with any marginalized group other than Indigenous people.
[100] Discussed in the recognition section above.

interest in the project and its outcomes, and choose to participate in the IA, in order to have their concerns accounted for within the process. Several interview participants suggested that part of the participation problem is that some groups within communities do not necessarily see a connection between a resource project, its impacts, and their lives. For example, people with disabilities are one of the groups least likely to participate and be accounted for in IA. One interview participant suggested that the reason for that might be more than just a lack of recognition and the disability-specific barriers to access and inclusion discussed above, but the nature of the issue itself: "I think natural resource development is one of those areas where there is, I have no doubt, interest from some people in the disability community, but… not galvanizing the entire community in ways that other economic and social issues may tend to" (anonymous interview). To me, this suggests two things. The first concerns Lukes' (1986) third face of power – that the embedded power relations at work in shaping marginalized groups' experiences of resource extraction remain largely invisible to them. For example, people with disabilities are especially likely to experience negative project impacts in relation to access to care supports and wait times for medical services, challenges in finding affordable and accessible housing, and increases in gender-based violence (Manning et al. 2016; Stienstra, Baikie, and Manning 2018), but might not predict those impacts or, when they do occur, link them to the new pressures and challenges that the mine or dam project has created for their community. The second highlights the importance of intersectional research on the impacts of resource extraction that specifically attend to experiences of disability and resource extraction in order to make the impacts likely to be experienced by people with disabilities more visible. While I have relied on the example of people with disabilities in this paragraph, similar challenges related to levels of interest arguably shape the participation of members of other marginalized groups in IA.

This section has demonstrated the many types of barriers that constrain the participation of individual marginalized members of communities in the IA scoping and review stages. Given these barriers, the participation of other community actors –

Indigenous Nations and governments and equity-seeking civil society organizations – that represent marginalized groups becomes even more essential to ensure their views and concerns are taken into account in the IA. As discussed earlier in this chapter, through participation in the scoping and review stages, community actors play an essential role in contesting the narrative of the project created by the proponent, pointing to gaps and deficiencies in the proponent's identification and analysis of community impacts, and advocating for binding obligations that will result in a more just distribution of costs and benefits.

Participation of Other Community Actors

Many types of barriers shape the participation of Indigenous Nations and governments and equity-seeking civil society organizations in IA. Some of the barriers are the same as those faced by individual members of marginalized groups. Others are more likely to be experienced by these organization-level community actors specifically because of their collective representative function and the multiple mandates held by many (including representation, advocacy and service provision). These barriers include the need for substantial capacity and issue-specific expertise, short timelines, and insufficient funding supports.

Many Indigenous governments and civil society organizations that represent marginalized groups are stretched for both capacity and expertise, which can affect their participation in IAs. They often have a small number of staff (or perhaps no staff at all in the case of some non-profits), small budgets, and several important yet competing priority areas (Scala 2019), given that the inequities that shape marginalized community members' experiences with resource extraction also shape their experiences of education, healthcare, access to justice, and many other policy areas. Many also have mandates to deliver essential services to community members, further reducing the capacity available to engage in the advocacy work required by IAs. Participating in an IA – the work of finding and reading project documents, conducting research, consulting the communities they represent, and preparing thoughtful and persuasive comments,

submissions and presentations – is a substantial time commitment for these organizations and Indigenous governments (Gibson, Galbrath, and MacDonald 2016; Sinclair and Diduck 2016). As discussed in the previous section, participating in an IA also requires a high level of technical and subject matter expertise to make sense of the project information and persuasively illustrate the implications of the project for the community. Unless they frequently participate in IAs, few Indigenous governments and civil society organizations have the level of in-house expertise required for effective IA participation. Many have to hire consultants and lawyers to facilitate their participation (Gibson, Galbrath, and MacDonald 2016). Nunavut was the only jurisdiction studied that recognized the barrier to participation for community actors created by the need for extensive expertise. A NIRB representative stated: "We do try to ensure that the package organizations [e.g., Inuit organizations, women's organizations, hunters and trappers' organizations] receive from the proponent includes a non-technical summary." However, they also recognized that this solution has substantial limitations: "that doesn't always provide you with all the information or [enough information] for someone to be able to provide a well-written response" (NIRB interview). Most community actors in Nunavut still hire consultants to assist their participation in the IA process.

Timelines for IAs in general, and for public participation in particular, can be quite short. The time windows to submit submissions during the public comment periods for most jurisdictions is typically no more than three months at most, and sometimes as short as three weeks. Only comments that arrive within the designated comment periods are required to be considered in the project review process in most jurisdictions. These time windows create a significant challenge to doing the extensive community-based research or consultation to inform an impactful and effective civil society submission – the kind more likely to be taken seriously by IA decision-makers. Short timelines can present challenges for community actors to find consultants to assist their participation in the IA process. A NIRB representative noted that in Nunavut, where 21 days is the standard public comment period, "some of the organizations might

share consultants and so if we have more than one project going on, the consultant might actually be working on several projects" (NIRB interview), making it difficult to meet timelines. Short timelines combined with the highly technical nature of IA information create an additional barrier to community actors' participation (NIRB interview). For Indigenous Nations and governments, these timelines present additional barriers, as noted in some of the literature on Canadian impact assessments (Manning et al. 2018b; Archibald and Crnkovich 1999; Gibson, Galbrath, and MacDonald 2016), as well as in my interviews with the NIRB and the federal Consultation and Accommodation unit of Crown-Indigenous Affairs. In addition to the consultation fatigue discussed at length in the consultation section below, Gibson et al. (2016, 168) note that Indigenous "community decision-making processes [which may involve multiple rounds of internal meetings, consultation, and research] are rarely understood or accommodated in the regulatory time frame." Short timelines make multiple rounds of discussion impossible, and Indigenous governments do not have the same power to 'stop the clock' that settler governments and proponents do (Gibson, Galbrath, and MacDonald 2016).

Adequate funding is essential to support the participation of community actors[101] in the IA process, given the need to hire consultants and lawyers and the financial resources needed for community consultation and research. However, there is limited funding available in Canadian IA processes and there are strict eligibility criteria that not all community actors are able to meet (see Table 17 below). A NIRB representative described the importance of funding as "something that organizations…need to have access to so they can participate fully in the IA process" (interview). The amounts of funding available are insufficient to support the equitable participation of representatives of marginalized groups, given the capacity, expertise and timeline constraints outlined earlier in this section. Impact assessment scholars have noted that "these funds rarely cover the full cost of participation and engagement"

[101] Individuals are sometimes eligible to apply for funding (see Table 17), but the data from the case studies shows that very few individuals applied for participant funding. The vast majority (over 95%) of funding applied for and awarded went to Indigenous governments and civil society organizations.

(Gibson, Galbrath, and MacDonald 2016, 168). The amount of funding available is a determining factor in the depth and frequency of a community actor's participation in IA, the amount of research and consultation they can do with their constituents, and the quality of the consultants and lawyers they can hire and the amount of work they can hire them for. When funding supports are insufficient "important voices and issues, reflecting critical yet valid points of view, are often silenced in formal EA processes" (Sinclair and Diduck 2016, 81). For community actors already experiencing capacity challenges, the reporting requirements of funding awarded to support IA participation can be complex and onerous, further adding to those challenges (Gibson, Galbrath, and MacDonald 2016). Funding is also closely linked to consultation as a process of power, as discussed in the next section. Providing sufficient funding to Indigenous Nations to facilitate their participation in consultation processes is one of the requirements for adequate consultation that fulfills the honour of the Crown according to court jurisprudence (CIRNAC interview).

Table 17: Funding Available in IA Processes

	Federal	British Columbia	Manitoba	Newfoundland and Labrador	Nunavut
Name of Funding	Participant Funding – Regular and Aboriginal Stream	Capacity Funding	Participant Funding[102] (Hearing Participation Only)	Capacity Funding	Participant Funding
Who Provides?	Federal Government	Provincial Government	Provincial Government, Proponent[103]	Proponent	Federal Government
Maximum Amount	Regular: $12,300 (if no review panel); $21,800 (if review panel) Aboriginal: not disclosed	$10,000 (in 2015)	Not disclosed	Not disclosed[104]	Not disclosed[105]
Standard Eligibility Criteria	Must have "a direct, local interest… [or] community knowledge or Aboriginal traditional knowledge… [or] provide expert information… on environmental effects… [or] an interest in the potential impacts… on treaty lands… traditional territories and/or related claims and rights." (CEAA 2012d)	Must be an Indigenous Nation	Must have 'demonstrated interest' in the impacts of the project; "representation of the interest that the applicant represents would assist the panel in its investigations… and would contribute substantially to the hearing" (Government of Manitoba 1991, sec. 6(c)).	Must be an Aboriginal group	Must be an organization
Additional Eligibility Criteria	Regular: individuals, non-profit organizations, Aboriginal groups Aboriginal: Aboriginal groups	N/A	N/A	N/A	N/A

Sources: NIRB interview; anonymous interviews; CEAA 2012; Government of Manitoba 1991; Gibson, Galbrath, and MacDonald 2016; Government of Newfoundland and Labrador 2013.

[102] Only for projects that are "of significant public interest" (Government of Manitoba 1991, sec. 2(1)).

[103] A clause within the impact assessment legislation also states that the Minister can order the proponent to provide funding to "any person or group participating in the assessment process" (Government of Manitoba 1987a, sec. 13.1), though it is not clear how often the clause is used in practice.

[104] The policy states "reasonably necessary capacity-funding" (Government of Newfoundland and Labrador 2013, 3).

[105] My interview with a NIRB representative suggested that organizations typically receive the full amount of funding they ask for.

Consultation

Consultation as a process of power is closely linked to participation, although I conceptualize them as separate processes of power in this framework. What I call 'participation' is an open opportunity for community actors to become involved in IAs and express their views to proponents and decision-makers. In contrast, 'consultation,' especially in the context of Canada, is a process of power further up what Arnstein (2019, 26) refers to as the "ladder of citizen participation."[106] Consultation is a duty of the state to ensure that particular views and voices are heard within the IA. In this discussion, I limit the boundaries of consultation to direct or targeted consultation – the active seeking out of specific voices and input from specific segments of society. I acknowledge that many would consider the more passive forms of receiving public input as a form of indirect 'consultation,' but would classify that as more indicative of participation in this framework. Direct and targeted consultation is important to ensuring the views of marginalized members of communities inform the IA. It increases the likelihood that the impacts they are likely to experience can be identified and mitigated within the IA, especially in light of the considerable barriers to participation discussed in the previous section.

Requirements for targeted or direct consultation show which citizens' voices are valued and perceived as important to decision-makers in informing policy decisions. Embedded requirements for consulting with particular identity groups in legislation and policy frameworks are one way that the process of recognition informs consultation in IA. All jurisdictions require consultation with Indigenous Nations and communities when proposed projects might affect Indigenous and treaty rights or take place within Indigenous territory. The duty to consult, required by Section 35 of the *Constitution Act, 198*2 and affirmed by considerable jurisprudence on consultation, is the driving force

[106] Although it should be noted my division between participation and consultation in this chapter does not map neatly on Arnstein's (2019) ladder model. Both would be considered part of Arnstein's "consultation" rung of the ladder. My focus on direct or targeted consultation in this section is perhaps best understood as a half step higher up the ladder than 'open to anyone' participation opportunities.

behind these direct consultation requirements. The duty to consult is triggered in specific circumstances: "it has to be Crown conduct and it has to have an adverse effect on Indigenous rights that are asserted or established" (CIRNAC interview). Initiating an IA for a proposed project would count as Crown conduct for the purposes of the duty to consult.

Only British Columbia and Nunavut have specific requirements for direct consultation with members of marginalized groups beyond Indigenous people. British Columbia's technical guidance encourages proponents to engage with "local and regional community service organizations… [and] community and interest groups" in the scoping process (Environmental Assessment Office 2013, 8). If interpreted broadly, this could include equity-seeking civil society organizations that represent or provide services to historically marginalized groups within communities, such as disabled peoples' organizations or women's shelters and transition houses. In Nunavut, the *NUPPAA* requires the NIRB consult with "appropriate designated Inuit organizations, affected municipalities, interested corporations and organizations, Inuit and other residents of the designated area and the general public" (Government of Canada 2013, sec. 120(5)). The NIRB's policy guidance interprets this legal requirement quite inclusively. Their policy guidance directs proponents to consult with Inuit organizations, hamlet councils (local governments), hunters and trappers organizations, women's groups, youth groups, elders committees, school officials, housing associations, health centres, and police services, among others, in identifying potential impacts of proposed projects (Nunavut Impact Review Board 2018b). Other policy documents produced by the NIRB emphasize that "special efforts are made to ensure Inuit voices are heard in the impact review process" (Nunavut Impact Review Board 2013a, 3), and link that obligation to the aims of the NLCA. This wide interpretation of direct consultation requirements has good potential to result in the identification of many of the impacts likely to be experienced by historically marginalized groups within communities (if done well), but is far from standard practice in any of the other jurisdictions studied. One interview participant suggested that this finding should not be terribly surprising. They

suggested that there is a hierarchy of 'who matters' in public consultation for the purposes of government decision-making in IA. They placed Indigenous Nations at the top of that hierarchy, followed by local governments, and then "community groups, not for profits, women's organizations, that sort of thing, they're probably lower on the list. It's just the way governments operate and that's too bad" (anonymous interview). This suggests that the importance of consulting with the diversity of the community has not yet been recognized by many government actors in IA.

Who is responsible for the doing of consultation contains important clues about how consultation operates as a process of power. In the introduction of this section, I argued that consultation is the duty of the state. For Indigenous consultation required by the duty to consult, the ultimate responsibility for consultation lies with the Crown (including both federal and provincial settler governments). However, as much as possible, the Crown "integrat[es] its Aboriginal consultation activities into the environmental assessment and regulatory process" (Government of Canada 2011, 25). This means that in practice, the majority of the procedural (the doing) aspects of Indigenous consultation in all jurisdictions are assigned to proponents as part of their responsibilities during the IA process. This delegation of consultation is particularly troubling because the duty to consult is held by the Crown, not the proponent. Many of the concerns that members of Indigenous Nations and communities have about proposed resource projects relate to longstanding conflicts over rights and territory that extend far beyond the individual project the proponent is responsible for. These conflicts, and the grievances that emerge from them, can only be fully addressed by the Crown. This common practice is an example of the privatization of the duty to consult (Cameron and Levitan 2014), and one of the reasons that many Indigenous communities experience consultation fatigue (discussed below) and feel that consultation is not effective in addressing their concerns about proposed projects.

In most jurisdictions, proponents are also expected to consult the public, and (in BC and Nunavut only) the groups specifically recognized in legislation and policy guidance, during their project planning process and when preparing the IS. Nunavut is

the only jurisdiction studied where an IA agency, the NIRB, does its own targeted direct consultation.[107] Without doing their own direct or targeted consultation, the IA agencies in other jurisdictions rely on the proponent to relay the views and concerns expressed by members of the public, including any views or perspectives specific to marginalized groups. Fundamentally, as discussed in Chapter 1, it is in the interests of the proponent that the project proceeds, and critics argue that proponents may inaccurately represent or downplay important public concerns about disproportionate and negative impacts in order to achieve that outcome (Sinclair and Diduck 2016).

If consultation is to be effective in allowing marginalized groups within communities to share their views in IA, who must be consulted needs to be understood broadly and consultation needs to reflect the diversity of the community or group being consulted (Manning et al. 2018b; Stienstra, Manning, and Levac 2020). However, there are few measures in place in the jurisdictions studied to ensure that happens in practice. For Indigenous consultation required by the duty to consult, consultation is often done directly with the leadership of the Indigenous Nation or government. One settler government official in British Columbia described their approach to consultation this way: "The approach that we take to working with Indigenous Nations has been for a long time consistent with the UN Declaration [on the Rights of Indigenous Peoples] ... we will always consult with and engage directly with representatives of the Nation's own choosing" (anonymous interview). Another government official in BC suggests that, in practice, consultation sometimes goes deeper than just the representatives of communities: "We make agreements with local governments as representatives of communities. But where I gather information, that's up to me. I could have conversations with sub-groups to better understand different perspectives. But we always have to go back to 'who holds the authority in that?' [for agreements]" (anonymous interview). This suggests two things in particular about consultation as a process of power. The first is that the depth and quality of consultation within

[107] The British Columbia's EAO will sometimes hold public open houses, but those are best classified as a process of participation in this 'processes of power' framework because they are events with open invitations to participate rather than targeted consultation.

communities may well depend on the practitioner doing the consulting.[108] This is a finding that has been confirmed by previous research on consultation with Indigenous communities (Snyder 2016; Manning et al. 2018b), and points to the question of 'who is doing the consulting?' as an important one in meeting the standard of meaningful consultation. Secondly, it reaffirms that 'leadership agreement' is the baseline standard for 'ticking the consultation checkbox' in proponent and settler government consultations with Indigenous Nations and governments (Cameron and Levitan 2014), in the absence of specific requirements for broader consultation. As discussed earlier in this chapter concerning representation as a process of power, the leadership does not necessarily represent the views of all members of the community. While federally, "[CIRNAC] encourage[s] departments to think about how we can have balanced consultation…[e.g.,] Can you make sure it's not just during the day? Can you provide childcare? Are there ways that you can reach different community members and rights holders?" (CIRNAC interview). However, there are no strict requirements that those things must happen in practice.

Nunavut is unique in that it engages in a more extensive direct consultation process within the IA than any other jurisdiction studied, with targeted consultation for representatives of marginalized groups. For the community roundtable sessions that are part of Nunavut's IA process, the NIRB, as a matter of policy, tries to ensure that a representative of the community's women's, youth, elders' and [Inuit] hunters and trappers' organizations are involved to represent the views of their members: "we give community members that might be affected by the project an opportunity to sit face to face with our Board members and actually express their concerns about the project [in this form of consultation]" (NIRB interview). However, the time allocated for consultation was also recognized by the NIRB as a limitation that has implications for the depth of consultation with marginalized members of communities: "We only have four days to do a hearing and sometimes in order for them [representatives of elders, women, youth, hunters and trappers] to provide more of their input, we would need

[108] There are no standard requirements for training and education on consultation among IA practitioners.

more time and really just sit one on one with each representative" (NIRB interview). In addition to being a barrier to inclusion in participating in the IA, short timelines are also a barrier to inclusive consultation.

How power operates and who holds power in consultation is also made visible through the determination of the standard of 'adequate' consultation. In all jurisdictions studied, the determination of adequacy is made by the state no matter the type of consultation – both the more general targeted consultation and the consultation required by the duty to consult, both the consultation done by an IA agency or other settler government actor and the consultation done by the proponent (anonymous interviews; CIRNAC interview). For consultation required by the duty to consult, there is a considerable amount of court jurisprudence on what precisely constitutes adequate consultation, because "for a long time this is something that has been inconsistently applied, and as a result it makes it very litigious" (CIRNAC interview). Important court decisions that have shaped the standard for the duty to consult in Canada include *Haida v. BC* (2004), *Taku River Tlingit v. BC* (2004), and *Mikisew Cree First Nation v. Canada* (2005) (Gibson, Galbrath, and MacDonald 2016). As the Senior Director of the Consultation and Accommodation Unit in CIRNAC said in one of my interviews:

> We provide the standard across Canada for guidance, so the litmus test almost…. At the end of the day, there's always an adequacy assessment on consultation…There are some general elements we would always assess… Did you provide participant funding? Did you have two-way dialogue? Did you have transparent timelines? Is there a role for decision-making? Was there accommodation? How did it relate to the assessment of the impact on rights? Anything above and beyond that or in more detail would be situational.

That the determination of adequacy rests with the state and that there are standards determined by the courts for some types of consultation is positive in that it serves as a check on the power of the proponent to shape the result of consultations to their interests. However, from the perspective of members of marginalized communities, it is

often experienced as a negative, because what is adequate in the eyes of the state (and as defined by the courts in the case of the duty to consult) is often very different than what community members, especially Indigenous people, consider adequate (Manning et al. 2018b). Some Indigenous Nations and governments[109] have negotiated consultation protocols with settler governments that may be specific to a particular resource project or may be applied to all Crown consultation with that government (Indigenous and Northern Affairs Canada 2019). While a process of negotiation (a process where Indigenous governments hold less power than settler governments), these protocols establish how consultation should take place and define what 'adequate consultation' means. These protocols bring us much closer to a treaty federalism relationship than the dominant approach to the duty to consult, which prioritizes settler governments' interests. There are currently only a small number in place in Canada, and only one in the North, with the Dene Tha' First Nation in Treaty 8 territory (Alberta).

A particular challenge to meaningful consultation with community actors in the North, particularly members of Indigenous Nations and communities, is the increasingly large numbers of consultations and engagements occurring there. Several interview participants noted that this increase is leading to consultation and engagement fatigue within many communities. With the increased attention to reconciliation and Indigenous rights, "we're [settler governments are] not just consulting when the legal requirement kicks in. We're also engaging for good governance and policy development purposes" (CIRNAC interview). This volume of consultations, combined with the capacity, time and funding challenges raised in the participation section, creates a substantial barrier for Indigenous Nations and governments to effectively participate in IA processes. Also contributing to this fatigue is the multilevel political nature of the Crown. "The duty [to consult] applies to the Crown and the Crown is interpreted as federal, provincial, and territorial. There's a big requirement for coordination between not just federal departments, but federal, provincial and territorial partners to be able

[109] As of 2019, there were 11 consultation protocols in place between Indigenous governments and the federal government (sometimes with the provincial government as an additional party) in 6 provinces (Indigenous and Northern Affairs Canada 2019).

to go to a community and not be sending 20 letters a month that are not linked, or they are – and no one has made those links" (CIRNAC interview). Federally, Crown-Indigenous Affairs has appointed a Senior Consultation Advisor in each region to play a coordinating role across multiple levels of government, but their effectiveness is limited by the size of the job and the small number of people in those roles, as well as a lack of 'buy-in' by some provinces (CIRNAC interview). The high volume of proposed projects in the North also contributes to the consultation fatigue problem. The NIRB representative said that, for communities in Nunavut:

> There are so many projects that have been recommended to go forth that communities are being over-consulted. They're being consulted by us, they're being consulted by the proponent, but they're also being consulted by other agencies about other stuff. So sometimes a community rep[resentative] will show up to a meeting and sit down and ask 'So which one are we talking about? What project are we talking about?" (NIRB interview)

One model that provides a potential answer to this challenge is the resource centre model being piloted by the Consultation and Accommodation Unit at Crown-Indigenous Affairs. Imagined as a "kind of broker…based on the Indigenous groups' needs," resource centres can remove some of the fatigue associated with high volumes of consultation and engagement requests, by filtering to help Nations to decide where to focus their energy and who needs to be at the table for consultations (CIRNAC interview). However, this model has yet to be widely adopted across the country. It also does little to address consultation and engagement fatigue that may be experienced by non-Indigenous organizations in those Northern communities.

Conclusion

This chapter and the previous one have analyzed the nine processes of power at work in IA legislative and policy frameworks in the five jurisdictions studied. This chapter has focused on how four processes of power affect the inclusion of community actors

and their concerns in IA. While there are some differences between jurisdictions that provide opportunities for greater representation, recognition, participation, and consultation for some members of marginalized groups and make space within the IA process to account for some of the negative socio-economic impacts they are most likely to experience (e.g., the recognition of multiple marginalized groups in NL and Nunavut's IA policy frameworks or the inclusion of representatives of Indigenous Nations and governments in project working groups or advisory committees in BC and Nunavut), these opportunities are piecemeal at best. Even in the jurisdictions that do 'better' with regard to inclusion in relation to the four processes of power – Nunavut most generally, but certainly BC and NL in some respects – other processes of power at work in that jurisdiction often undermine the potential and impact of those more inclusive measures. Further, significant barriers to access and inclusion built into the institutional frameworks in all jurisdictions studied likely prevent the equitable participation of individual members of communities, particularly those that are marginalized, Indigenous Nations and governments, and equity-seeking civil society organizations.

Together with the findings of the previous chapter, these implications of the nine processes of power at work in IA suggest that IA processes as currently structured do little to prevent the conditions associated with the Canadian variation of the resource curse for marginalized members of Northern communities. It is important to emphasize that power works in ways that are both cumulative and uneven in IAs in the jurisdictions studied. The processes of power are at work in particular moments within IAs and their implications are for marginalized members of communities in that moment depend on a number of contextual factors including the stage of the IA,[110] the jurisdiction(s), the concern or impact to be recognized or assessed, and who is (or is not) raising that impact or concern. An experience of inclusion or exclusion of a community actor in IA or an experience of having a community concern about socio-economic impacts

[110] As Table 6 in Chapter 4 demonstrated, different and often multiple processes of power shape the various stages of IA.

disregarded or ignored is rarely the result of just one process of power. For example, the widespread exclusion of people with disabilities and their concerns from reviews and decision-making in all jurisdictions studied (documented throughout this chapter and in the previous one) is not simply a result of barriers to access and inclusion that shape their (lack of) participation. Several other processes of power are also in play, including consultation (there are no requirements for direct consultation with people with disabilities or disabled peoples' organizations in any jurisdiction studied), recognition (there is no distinct recognition of experiences of disability or the knowledges of disabled people in IA frameworks), accountability (commitments to disability rights and accessibility or inclusion policies have not been integrated into or enforced within IA policy and practice), and decision-making (people with disabilities and the organizations that represent them are not invited or included in vital IA decision-making structures), among others. Pursuing an IA process where people with disabilities and their concerns can be taken seriously would involve working to counter the multiple intersecting inequities that shape each of these processes of power – no small task, and one not likely to result in transformative change if the piecemeal or incremental approach to improving IA used to date in the jurisdictions studied remains the norm.

In the next two chapters, I explore the ways that the processes of power identified in IA legislative and policy frameworks have shaped the impact assessments for the four project case studies. I illustrate what some of the implications of these processes of power are for achieving environmental justice for members of marginalized groups.

Chapter 6: Limiting Space in IA: Procedural and Recognition Injustice

The previous two chapters used the lens of intersectionality to analyze how nine inter-related processes of power create both opportunities and limitations in IA institutional structures and policy frameworks to account for the concerns of marginalized members of communities and facilitate their equitable participation and inclusion in IA processes. This chapter and the next turn the analytical focus to questions of environmental justice, following Malin et al.'s (2019) call for research that engages deeply intersectional environmental justice. This chapter and the next use the four-part framework of environmental justice (discussed in Chapter 3 and laid out in Appendix 1) to analyze the data from the four project IA case studies: the Voisey's Bay and Red Chris mines, and the Keeyask and Site C hydroelectric dams.[111] The case study contexts are described in more detail in the first part of this chapter. In particular, I examine the extent to which the opportunities and limitations shaped by the processes of power I identified in the previous chapter are realized in the practice of impact assessment in these four case studies. The goal of these two chapters is to set forth a set of norms[112] for procedural, recognition, distributive and restorative environmental justice in impact assessment and evaluate the extent to which those norms are met within the project IA case studies. In doing so, I recognize that environmental justice is "a dynamic process as well as an objective, a process of working towards environmental justice objectives and against forces which are serving to produce or sustain patterns of injustice, in short as 'work in progress'" (Walker 2012, 221).

While these four different types of justice are discussed separately in these chapters, it is important to remember that "conceptions of justice, and, more importantly, the experience of injustice are experienced in numerous ways at once" (Schlosberg 2009, 73). I have chosen this somewhat artificial separation to give structure

[111] See Table 3 in Chapter 3 for an overview of the case study contexts.
[112] I use norms in the sense of normative criteria of 'what ought to be' which serve as a set of standards against which policies, programs, concepts, etc. can be assessed or evaluated.

to the analysis that follows. It should be emphasized, however, that addressing environmental injustices within IA processes necessarily requires working towards the four types of justice simultaneously, as "different forms of injustice tend to maintain and reinforce each other" (Bell and Carrick 2017, 102), much like advocates of intersectionality recognize that oppressions are interconnected and cannot be contested in siloes. As these chapters will also show, elements of one type of justice shape experiences of other types of justice as well.

In embracing Malin and Ryder's (2018) call for 'deeply intersectional environmental justice,'[113] I have made two deliberate choices in my analysis in these two chapters. First, I resist interpretations of the data that position disparities or inequities "as 'just how things normally are', [or] as the [inevitable] outcome of how the market economy works" (Walker 2012, 4). Instead, I seek to make visible how power, including power rooted in capitalism and extractivism, shapes and sustains these inequities and determines which people and ways of knowing and being are valued within IA. Second, I acknowledge that resource extraction, like other experiences of environmental injustice, results in "impacts on, and limitations to, individuals and their communities simultaneously" (Schlosberg 2013, 43). While early theories of social and environmental justice limited discussions of justice and injustice to experiences of individual groups (Schlosberg and Carruthers 2010), I draw on experiences of individuals within communities, multiple and intersecting social groups within communities, and the collective experiences of communities as a whole to demonstrate the dynamic nature of environmental (in)justice in IA.

After providing a detailed context for each of the case study projects, this chapter argues that procedural and recognition justices and injustices structure who can participate in project-level impact assessments and the extent to which their knowledges, experiences, and concerns are recognized and taken seriously in various stages of decision-making (Walker 2012; Schlosberg 2009). Communities' experiences of recognition and procedural injustices support institutional explanations of the resource

[113] See discussion in Chapter 2.

curse. They show how deeply institutionalized inequities are embedded in the IA process in ways that severely limit its ability to account for many community concerns about socio-economic impacts. While there are some examples of IA processes meeting the norms of procedural and recognition justice, which are promising in themselves, many parts of the case study IA processes do not meet these norms.

Case Study Contexts

This section provides a more detailed overview of each of the case study projects in chronological order. It discusses the relevant parts of the local, provincial, and historical context of the development, describes what was involved in each IA process, and identifies why each case is notable or unique with regard to the inclusion of community members or the attentiveness to community concerns within IA. While outside the period studied in this dissertation, I also briefly reflect on insights about community outcomes post-IA offered by other research and publicly available data on each case study project. The remainder of Chapter 6 and Chapter 7 then engages in cross-case comparative analysis.

Voisey's Bay Nickel Mine

Located in the territory of the Inuit and Innu Peoples, the Voisey's Bay Nickel mine is situated on the North Coast of Labrador between the communities of Natuashish and Nain in a place known as Tasiujatsoak to the Inuit and Emish or Kapukuanipant-kauashat to the Innu. The proponent, Voisey's Bay Nickel Company (VBNC), is a subsidiary of the multinational corporation Vale Inco.

The population of the North Coast of Labrador is over 90 percent Indigenous, with the majority of residents having Inuit or Innu heritage (Statistics Canada 2017a). Five of the North Coast communities (Rigolet, Makkovik, Postville, Hopedale and Nain) are Inuit communities and are now part of the self-governing Inuit region of

Nunatsiavut. At the time of the Voisey's Bay IA, the Labrador Inuit's land claim agreement was still under negotiation,[114] therefore these communities were legally provincial municipalities, with the majority of residents being Inuit people. Nain is the largest and most northern community in the region. Residents of two more northern Inuit communities, Nutak and Hebron, were forcibly resettled by the provincial government in the late 1950s (CBC News 2012). This resettlement is an important part of the history of colonization in the region. The Labrador Inuit Land Claim Agreement was ultimately finalized in 2005, and the area surrounding the Voisey's Bay mine was carved out of the territory granted to the Inuit under the treaty – a condition of the provincial government (Government of Canada 2005; Alcantara 2007).

The remaining North Coast community, Natuashish, is the home of the Mushuau Innu First Nation, a band government under the *Indian Act* since 2002,[115] and one of the two communities represented by the Innu Nation.[116] At the time of the IA, the Mushuau Innu lived in the community of Utshimassits (Davis Inlet). Many of the Innu were persuaded to give up their seasonally nomadic lifestyle and settle year-round in Utshimassits by the provincial government and missionaries in the late 1960s, with the promise of good housing and the ability to access provincial government benefits and services. Many of those promises were not met – the housing was poorly constructed and inadequate for Innu needs, the community did not have a reliable water supply or a sewage system, and its location on an island rather than the mainland meant that the Innu experienced considerable barriers to hunting. The community has experienced very high rates of suicide and substance abuse. In the late 1990s, the provincial government agreed to help the Mushuau Innu build and move to their new community of Natuashish on the mainland part of the coast to improve Innu wellbeing and fulfill the promises of more adequate housing and infrastructure. Like the LIA's, the Innu Nation's land claim

[114] The land claim had been filed in 1977 and negotiations began in 1989. A Framework Agreement was reached the following year. Progress on negotiating an agreement-in-principle moved very slowly between 1990 and 1996 (Alcantara 2007).
[115] Canada chose to ignore its fiduciary duty towards Indigenous Peoples in the province when Newfoundland first joined Confederation in 1949. See Manning (2018) for further discussion on this point.
[116] The other being Sheshatshiu Innu First Nation.

had also been submitted in 1977 (Alcantara 2007),[117] but a final agreement was not ratified until 2011.[118] It also excludes the territory claimed by the Innu around Voisey's Bay.

The Voisey's Bay mine is the first major resource extraction project on the North Coast of Labrador. There is a much longer history of mining in Labrador's western region, near the large communities of Labrador City and Wabush. Hydroelectric development is also an important part of the story of Labrador and Voisey's Bay. The construction of the Churchill Falls Generating Station in central Labrador (beginning in 1967) is a sore spot for the provincial government and a devastating development for the Innu. The power from Churchill Falls was sold to Quebec in a 75-year contract at a fixed price far below current market value. Cadigan (2009, 255) writes that: "'Churchill Falls' became symbolic of Newfoundland's weak position within Confederation and Newfoundland politicians' propensity to sign bad deals with capitalist interests from outside the province." In light of this legacy, making sure the benefits of the Voisey's Bay mine stay in the province[119] was a priority of the provincial Tobin government, as will be discussed later in this chapter and the next. For the Innu, the Churchill Falls development proceeded without any consent or consultation, and flooded over 5,000 square kilometres of their territory, including vital hunting grounds and ancestral burial sites (CBC News 2020). The Innu have been very active since that time in opposing developments and activities in their territory that proceed without their consent, often mobilizing substantial international support.[120] For example, the Innu were at the forefront of protests against low-level flying by NATO forces in the Labrador interior during the 1980s and early 1990s. In 1995, the Innu occupied the Voisey's Bay exploration site after delivering an eviction notice to the proponent's employees,

[117] Negotiations began in 1991. A Framework Agreement was not reached until 1996 and negotiations stalled in 1999 (Alcantara 2007).
[118] Arguably mostly due to the need to reach an agreement to allow the Lower Churchill Hydroelectric Project to proceed.
[119] Although not necessarily in Labrador as will be discussed in Chapter 7.
[120] One of the most interesting parts of sorting through the collection of Voisey's Bay IA documents at the Centre for Newfoundland Studies was finding seven written submissions about the Voisey's Bay project from Innu allies in the USA who had supported their earlier activism in relation to low-level flying.

sparking a two-week standoff with the RCMP. There were several subsequent protests by both Innu and Inuit at the site, including during the IA itself, as well as multiple attempts to get a court injunction. While they did not stop the project, they were effective in making community concerns about the project widely heard (Innu Nation and Mining Watch Canada 1999).

The Voisey's Bay IA was a multi-jurisdictional joint assessment, conducted under an agreement outlined in a Memorandum of Understanding (MOU) between the federal and provincial governments, Labrador Inuit Association (LIA – now Nunatsiavut Government), and the Innu Nation (CEAA 1997a). The Innu Nation credits their protests and court challenges with the development of the MOU partnership (Innu Nation and Mining Watch Canada 1999). This MOU is particularly remarkable because neither the Innu nor the Inuit had a treaty at that time with either settler government (Gibson and Hanna 2016). The proponent submitted its project description in 1996. A five-member Joint Environmental Assessment Panel ('the Panel') was appointed in January 1997, with each of the MOU parties nominating at least one member of the Panel. The Panel members included: Lesley Griffiths (a community planning consultant), Samuel Metcalfe (a retired Inuk public servant and former resident of Nain), Lorraine Michael (a Newfoundland-born feminist and social justice activist), Dr. Charles Pelley (a Newfoundland-born mining engineer), and Dr. Peter Usher (an IA and land claim consultant who has worked with many Indigenous communities in the North). The scoping phase of the IA lasted from March to June 1997 and included a series of Panel-led public meetings in ten Labrador communities as well as opportunities to submit written comments. The proponent released its impact statement (IS) in December 1997, triggering the review phase of the IA, which again included public hearings in ten communities in Labrador and one on the island of Newfoundland and multiple opportunities to submit written comments. The Panel released its report in March 1999. They recommended the project proceed but made 107 recommendations about terms and conditions, including that the settler governments finalize the Inuit and Innu land claims and require IBAs to be signed with both before mine construction began (Joint

Environmental Assessment Panel 1999). The federal and provincial governments issued their decisions in August 1999, thereby allowing the project to proceed, although they ignored many of the Panel's recommendations, including the ones about the land claims agreements and IBAs (see Chapter 7 for further discussion). The first ore was extracted in 2005.

The Voisey's Bay IA has been widely recognized as being one of the most inclusive IAs in regard to Indigenous and gendered concerns in Canada's history, and particularly attentive to the experiences and concerns of Inuit and Innu women in the North Coast communities (Manning et al. 2018b; Kennedy Dalseg et al. 2018). Panel member, Lorraine Michael, credits the early and robust participation of women's organizations, and particularly organizations of Inuit and Innu women, and the Women's Policy Office with making sure that gender was firmly on the table in the IA (Cox and Mills 2015). Several reasons explain this high level of engagement. First, there is a strong history of women's organizing in the province, among both Indigenous and settler women, and many examples of inter-organizational collaborations. The provincial government's Women's Policy Office was created in 1985 as a result of the efforts of members of the province's feminist movement and retained close ties to the more grassroots feminist organizations. For example, Dorothy Robbins, the Director of the Women's Policy Office at the time of the Voisey's Bay IA and participant in the IA, was the former president of the Provincial Advisory Council on the Status of Women and a founding member of the grassroots Labrador West Status of Women Council (Pope and Burnham 1999). Second, there is also a strong history of women's leadership and activism in the Innu and Inuit communities in Labrador. For example, Katie Rich was the chief of the Mushuau Innu during the first part of the IA and the President of the Innu Nation for the latter part. In December 1993, Chief Rich and the women of Utshimassits evicted the fly-in provincial court judge because the settler government criminal justice system was not resulting in just outcomes for Innu people (Jack, Rich, and Byrne 2000). Innu women, including Elizabeth Penashue, have been the leaders of Innu protest actions against settler governments and efforts to build international solidarity and

awareness (Penashue 2000). Women in Inuit communities formed a number of active community-level women's organizations, many of whom participated in the IA, and the regional Inuit women's organization, Tongamiut Inuit Annait (TIA), which was arguably the most vocal advocate for the inclusion of Indigenous women's concerns in the Voisey's Bay IA and the related LIA land claim and IBA negotiations (Cox and Mills 2015; O'Faircheallaigh 2013). Charlotte Wolfrey, the TIA President, was also the mayor of the Inuit community of Rigolet during the IA. An Inuit woman was appointed as the chief negotiator for the LIA during the IBA negotiations with the proponent post-IA (O'Faircheallaigh 2013). A potential third reason is that the Voisey's Bay IA took place shortly after the landmark Beijing Conference, where international attention was brought to the need for gender mainstreaming in government and policy decisions. Canadian governments committed to fulfilling that commitment and many Canadian women's organizations took a greater advocacy role in ensuring those commitments were met. Notably, NL's gender-inclusive analysis tool (their version of GDA) was first developed in 1998, during the same timeframe as the Voisey's Bay IA (Women's Policy Office 2003).

The Voisey's Bay is also notable because "it introduce[d] a new and more demanding test for environmental assessment in Canada. The public review panel require[d] the proponents to show…that the proposed activities would contribute positively to local and regional sustainability" (Gibson and Hanna 2016, 22). The extent to which that has been achieved in terms of outcomes is debatable. While certainly bringing new sources of income to both the Nunatsiavut Government and Innu Nation and jobs to some members of Inuit and Innu communities, there is less evidence that the Voisey's Bay mine primarily benefits local communities, and that marginalized members of communities can access benefits. For example, Cox and Mills (2015, 255) write: "Despite the strong participation by women's groups through the EA process, and the inclusion of women in the IBA, the experiences of women working at Voisey's Bay in our sample were not notably different from those reported in other studies of Indigenous women in mining workplaces." In 2009, Indigenous women only represented

13.9 percent of mine employees, and non-Indigenous women represented only 3.6 percent (Cox and Mills 2015). More recent data from 2014 (Belayneh et al. 2018) shows that the majority of Inuit women at Voisey's Bay were employed in the lower-paid housekeeping, catering and administrative positions. There were far fewer Innu employees than Inuit employees and far fewer Indigenous women than Indigenous men. Only 15 percent of mine's employees that year resided in Nunatsiavut communities, indicating that jobs primarily benefit residents of other parts of the province rather than local communities. Community-based research, including research done in partnership with local women's organizations, shows that some of the negative socio-economic impacts, such as gender-based violence, racialized violence, increases in substance use and abuse, and strains on local services like childcare, associated with the Canadian variation of the resource curse have been linked to the Voisey's Bay development (Labrador West Status of Women Council and Femmes Francophones de l'Ouest du Labrador 2004; Cox and Mills 2015).

Red Chris Porphyry Copper-Gold Mine

Located in the territory of the Tahltan Nation, the Red Chris mine is situated on the Todagin Plateau in Northwestern British Columbia. The proponent at the time of the IA was the Red Chris Development Company Ltd. (RCDC), owned by bcMetals.[121] The mine is now operated by Newcrest Red Chris Mining Ltd., which is 70 percent owned by Newcrest Mining Ltd. and 30 percent owned by Imperial Metals Corp.

The nearest community is Iskut, home of the Iskut First Nation, a band government under the *Indian Act*. Members of the Tahltan Nation, including those living in Iskut, Telegraph Creek,[122] Dease Lake, and other communities in the territory, are collectively represented by the Tahltan Central Government.[123] The Tahltan Central Government considers Tahltan territory to include "95,933 km² or the equivalent of 11%

[121] bcMetals was acquired by Imperial Metals Corp. in 2007.
[122] Home of the Tahltan First Nation, also a band government under the *Indian Act*.
[123] Formerly the Tahltan Central Council and Tahltan Tribal Council.

of British Columbia" (Tahltan Central Government 2021a). Over 50 percent of the residents of Tahltan territory are Tahltan people. The Tahltan Nation has never ceded any of its territories to the Crown through treaty. This was affirmed by the *Declaration of the Tahltan Tribe* in 1910, which today serves as the guiding principles for Tahltan governance (Tahltan Central Government 2021b). The Tahltan Central Government is currently negotiating with British Columbia outside the treaty process (Government of British Columbia 2021).

At the time of the Red Chris IA, there was considerable division within Tahltan communities about resource extraction, despite the Tahltan leadership signing an MOU with RCDC in early 2004. In 2005, Tahltan elders declared a moratorium on resource development in the territory (although that did not stop ongoing projects, nor the Red Chris IA), sustained an almost nine-month-long occupation of the Tahltan First Nation's band government offices in Telegraph Creek, and used blockades to prevent proponents from accessing sites they had chosen for future mines (Hume and Stueck 2005; McCreary 2005; Paulson 2006). At the core of the community division was the fact that the pro-development elected chief of the Tahltan First Nation band, Jerry Asp,[124] was also the founding president and Chief Operating Officer of the Tahltan Nation Development Corporation (a band-owned corporation). He was actively involved in negotiating many contracts to supply workers, catering, and construction services to multiple new mining and dam developments in the territory that were opposed by many local Tahltan citizens (Stueck 2006; Paulson 2006). Tahltan women elders, including Terri Brown,[125] Lucy Brown and Lillian Moyer, were at the forefront of these protest actions (Paulson 2006). They advocated for a more sustainable approach to resource development in their territory, "a 'one mine at a time' strategy" (Paulson 2006).

The Red Chris mine underwent a single cooperative federal and provincial IA process, with the BC Environmental Assessment Office (EAO) leading the IA. The

[124] Asp himself has acknowledged that 90 percent of his electoral support comes from off-reserve Tahltan members, not members who live in the reserve community (Paulson 2006).
[125] She is the former NWAC President and first Indigenous woman to serve as the President of the National Action Committee on the Status of Women.

proponent submitted its project description in October 2003. The scoping phase of the IA lasted from March to June 2004. It consisted of proponent-led open houses in four communities,[126] working group meetings, and one opportunity for the public to submit written comments to the EAO. The proponent submitted its IS (called application in BC) in September 2004, with the review phase including proponent-led open houses in the same communities, working group meetings, and one public opportunity to submit comments to the EAO. No public hearings were held. There was very little participation from individual members of the Tahltan Nation or civil society organizations in the formal IA process. The EAO published its report in July 2005. The provincial government approved the project in August 2005, amid the Tahltan elders' occupation of the band office and just five months after Premier Campbell's government had drafted their vision for a "New Relationship" between the province and Indigenous Nations.[127]

The federal assessment screening (a limited form of IA review) was led by the Department of Fisheries and Oceans and the Department of Natural Resources. It relied on documents submitted to the EAO and participation and consultation led by the EAO. The federal agencies provided no opportunities for public participation. The federal agencies released their screening report in April 2006, with federal government approval following in May 2006. Shortly after, Mining Watch Canada brought a court case against the federal government alleging that the public's right to participate in IA had been infringed by the decision to limit the scope of the federal IA in such a way that a less rigorous 'screening' review rather than a more substantive 'comprehensive study' review was required. In 2010, the Supreme Court of Canada (*Mining Watch Canada v*

[126] Including Iskut, Dease Lake and Telegraph Creek.

[127] This decision is perhaps not terribly surprising for those familiar with Premier Campbell's relationship with Indigenous Nations in the early years of his term and during his time as leader of the Opposition. As Opposition Leader, Campbell was one of the most vocal critics of the Nisga'a treaty, arguing it "established taxpayer-funded special status for a racial minority" (MacDonald 2007). During his first year as Premier, Campbell launched a very controversial referendum on treaties and reconciliation that was boycotted by the majority of British Columbians and "which pollster Angus Reid dubbed the greatest act of 'political stupidity' he'd seen in his entire career" (MacDonald 2007). His government also fought and lost two high profile court battles related to duty to consult – *Haida Nation* (2004) and *Taku River Tlingit* (2004) – the year before the Red Chris IA approval. During both his first and second election campaigns, Premier Campbell promised to open northern British Columbia to resource extraction (Paulson 2006).

Canada) ruled that the project should have undergone a comprehensive study review with public participation, but the project would be allowed to proceed without a further federal IA process. This ruling had important implications for the practice of IA in Canada because, for the first time, the court unequivocally ruled that "the federal government may not divide [large mega-]projects into smaller parts to avoid conducting substantive environmental assessments [with public participation]" (Gibson and Hanna 2016, 25). Following the conclusion of this court case, construction of the mine began in 2012.

The Tahltan Nation signed a shared decision-making agreement with the Province of British Columbia in March 2013, which creates a government-to-government negotiation forum and process for collaboration in land and resource management decisions, including new resource extraction projects (Tahltan Nation and Government of British Columbia 2013). Following the 2014 Mount Polley mine disaster,[128] members of the Tahltan Nation (including many who led the protests and occupation almost a decade earlier) participated in two separate blockades of the Red Chris construction site, worried that similar disaster might happen in their territory. This was the 'spark' that was needed to persuade the proponent to negotiate a co-management agreement with the Tahltan Central Government. In April 2015, members of the Tahltan Nation voted overwhelmingly to approve a co-management agreement between the Nation and the proponent for the mine's operations and environmental management (Hume 2015). The mine began producing ore in February 2015.

The Red Chris mine is one of several ongoing resource extraction projects in Tahltan territory and contributes to shaping the cumulative impacts of resource extraction for members of local communities. There have certainly been some positive impacts for some Tahltan people from the mine. The Tahltan Nation receives royalty income from the mine and Tahltan businesses supply goods and services to the mine.

[128] The Mount Polley mine was owned and operated by the same proponent as the Red Chris mine and the tailings dams for both mines used a similar design. In August 2014, a "four square kilometre sized tailings pond full of toxic copper and gold mining waste breached, spilling an estimated 25 billion litres of contaminated materials into Polley Lake, Hazeltine Creek and Quesnel Lake, a source of drinking water and major spawning grounds for sockeye salmon" (The Narwhal 2021).

The most recent employment data available shows that "129 employees representing about 28% of the Red Chris workforce, identify as Tahltan" (Tahltan Central Government 2020, 21), however, it is not clear how many of those are residents of local communities nor what the gender, age, or occupation breakdown is. The most recent census data available (Statistics Canada 2017a) shows that the median total income among Iskut residents is only 70 percent of the median total income for British Columbians on average. Looking only at lone-parent families (the majority of whom are headed by women),[129] those who live in Iskut report a median total income that is only 34.4 percent of the median total income reported among all lone-parent families in the province. Census data also shows employment rates in the community are low compared to the provincial average (45.5 versus 59.6 percent) and unemployment rates are starkly higher (35.5 versus 6.7 percent). This indicates that mine employment is not benefitting all Tahltan communities and many members of communities. While I was not able to obtain recent data on the other socio-economic impacts associated with the Canadian variation of the resource curse, the Tahltan Socio-Cultural Working Group and social service providers in 2006 identified many cumulative impacts for the Tahltan Nation resulting from "a combination of resource development; colonization; residential school syndrome; racism; and insufficient social, health, and education services" (RTEC 2010, 12.5). These include high suicide rates for youth and many concerns about substance use and abuse contributing to social problems within the communities. There are a women's shelter and crisis counselling support service in Dease Lake (RTEC 2010), indicating that gender-based violence is one of those social problems – one we also know from research (e.g., Manning et al. 2018b; Stienstra et al. 2019) is often exacerbated by resource extraction projects.

[129] The Tahltan communities also have a very high proportion of lone-parent families. For example, the 2006 census showed that "In Iskut, 17% of census families were female single-parent families and 11% were male single-parent families. In Dease Lake reserve, 50% of census families were female single-parent families" (RTEC 2010, 4–8).

Keeyask Generation Project

Located in Treaty 5 territory, the Keeyask Generating Station is situated at a place known as Gull Rapids, or Keeyask to the Cree people, on the Nelson River near Gillam in Northern Manitoba. The proponent is Keeyask Hydropower Limited Partnership (KHLP), a joint venture[130] of Manitoba Hydro (a Crown corporation and the majority owner of 75 percent in the partnership) and four Cree First Nations – Tataskweyak Cree Nation (TCN) and War Lake First Nation (represented by a collective entity called the Cree Nation Partners), Fox Lake Cree Nation, and York Factory First Nation (KHLP 2012a). These are the four First Nations closest to the dam site. The Joint Keeyask Development Agreement (JKDA) which created the KHLP was signed in May 2009 (KHLP 2012a).

Keeyask is the seventh dam built on the Nelson River between Lake Winnipeg and Hudson's Bay, with more dams planned for the future and currently undergoing feasibility assessments. Large-scale hydroelectric development has been very controversial in Northern Manitoba, despite provisions for Indigenous-first and Northern-first hiring provided by the Burntwood Nelson Agreement. The first dam on the river, Kelsey, was built in 1957, dramatically altering the way of life for Indigenous people in the region.[131] In 1974, five First Nations (including two Keeyask partner Nations, TCN and York Factory) formed the Northern Flood Committee (NFC) to negotiate compensation for flooding and other dam impacts, as well as a more just arrangement for future hydroelectric development in Northern Manitoba. In 1977, the Northern Flood Agreement (NFA) was signed between the five NFC members, Manitoba Hydro and the provincial and federal governments. Tataskweyak Cree Nation describes the importance of the NFA in this way: "Our efforts resulted in a legal framework to give us a voice with respect to future Hydro developments. This was a monumental

[130] This is actually the second joint venture with an Indigenous Nation created by Manitoba Hydro to build a dam project in Northern Manitoba. The agreement creating the Wuskwatim Power Limited Partnership was signed in 2006 between Manitoba Hydro and Nisichawayasihk Cree Nation.

[131] Many Nations who participated in the Keeyask IA stated that they were not consulted (or even informed in some cases) before the Kelsey dam was built.

accomplishment because it was the first recognition of our modern legal rights as First Nations in our homeland ecosystem" (Cree Nation Partners 2012, 13).

However, the implementation of the terms of NFA on the part of Manitoba Hydro and enforcement by the settler governments in the two decades after 1977 was greatly lacking. Four of the five NFC Nations (including both TCN and York Factory) later signed individual NFA Implementation Agreements between 1992 and 1997 to better put the NFA principles into practice. The 1992 TCN agreement "contains provisions protecting TCN's rights and interests in relation to any future hydroelectric development and formal recognition of TCN's governance and authority" (Cree Nation Partners 2012, 13). The Chief and Council of TCN used the terms of this agreement in 1998 to propose a co-proponent model with Manitoba Hydro for the planned Keeyask development. They also made it clear to Manitoba Hydro that if they "couldn't achieve partnership status for the project at Gull Rapids [Keeyask], then we [TCN] would oppose any future development with every means at our disposal" (Cree Nation Partners 2012, 14). An Agreement-in-Principle (AIP) for the co-proponent model was signed between Manitoba Hydro and TCN in 2000. War Lake First Nation joined TCN to form Cree Nation Partners (CNP) in 2001 and later became a party to the TCN AIP in 2003. Both Fox Lake Cree Nation and York Factory First Nation declined the invitation to join the CNP partnership and later negotiated their own individual partnership agreements with Manitoba Hydro (Cree Nation Partners 2012; Fox Lake Cree Nation 2012; York Factory First Nation 2012). This process culminated in the 2009 Joint Keeyask Development Agreement.

During the Keeyask IA, all four First Nation partners (and many non-partner Nations) were unequivocal that Manitoba Hydro's intrusions in their territories to pursue hydroelectric development is *the* defining feature of their experiences of colonization.[132] In addition to flooding large portions of their ancestral territories and regular river fluctuations that affect fishing, water quality, and boat safety, the dams also brought newcomers to the territories in the form of Manitoba Hydro workers.

[132] Other especially significant events include being forced to attend residential schools and the forced resettlement of York Factory First Nation from the community of York Factory (on the Hudson's Bay coast) to the current community of York Landing (on the Nelson River) in 1957 (York Factory First Nation n.d.).

Many allegations of systemic racism, physical violence, and sexual assault (especially of young Indigenous women) committed in both the workplace and communities over six decades were made by local people during the Keeyask IA. These experiences were a prominent subject in a second CEC hearing process not examined in this dissertation – the Regional Cumulative Effects Assessment for the Churchill, Burntwood and Nelson River Systems (see CEC 2018), which focused on documenting the cumulative impacts of the multiple dam projects in the region, including decades of racialized and sexualized violence disproportionately affecting Cree women.

The Keeyask dam underwent an innovative 'two-track' IA process (discussed more thoroughly later in this chapter) with a cooperative federal and provincial IA process to receive settler government approval, and three separate Cree community-based impact assessments (CBIA) to receive Cree governments' approvals. It was the first in Canada to use this type of dual approach in IA. The right to conduct their own CBIA based on their Cree worldview and also participate in the formal settler government IA was something TCN had fought for and won in the negotiation for the 2000 AIP at the very beginning of their partnership with Manitoba Hydro (Cree Nation Partners 2012). The three Cree CBIAs were completed between 2009 and 2012. The scoping phase for the federal and provincial IA began in December 2011 when the proponent submitted their proposal and a proposed scoping document for the IS. The public and the technical advisory committee (TAC) submitted written comments on both documents and the IS Guidelines were prepared by federal and provincial IA agencies following two public comment periods. The Cree Nations' CBIA results were incorporated within the IS prepared for the federal and provincial IA and released in July 2012. The public submitted comments on the complete IS during a third public comment period in late 2012. The provincial review phase of the IA was referred to the Clean Environment Commission (CEC) in November 2012. A CEC Panel was appointed and included four panel members: Terry Sargeant (a lawyer and the Chair of the CEC), Edwin Yee (a retired environmental consultant), Reg Nepinak (a member and program manager of Pine Creek First Nation), and Judy Bradley (a retired teacher and union

head). The Panel held public hearings in five communities in Northern Manitoba and Winnipeg between September 2013 and January 2014. The CEC Panel published its report in April 2014, recommending the project proceed and making 26 recommendations (CEC 2014a). The provincial government approved the project in July 2014. The federal IA review consisted of a comprehensive study led by the Canadian Environmental Assessment Agency (CEAA), which incorporated comments made during the three public comment periods coordinated with the provincial IA. CEAA published its report in April 2014 and a fourth comment period followed (CEAA 2014a). In June 2014, the federal government approved the project. Construction started in July 2014 and the first power is expected later in 2021.

Despite the innovative IA and co-proponent model, the Keeyask project has been the subject of considerable criticism during the construction phase by both the leadership of the four partner Nations and residents of local and Indigenous communities. Arguably, this demonstrates that the IA has not been successful in countering many of the outcomes associated with the Canadian variation of the resource curse or previous dam developments in Northern Manitoba. Some Indigenous people and some members of partner communities have received jobs through the Keeyask project. Nevertheless, the most recent employment data shows that only 19 percent of the project's total hires since 2012 have been residents of the four partner Indigenous communities (KHLP 2020). This may be in part due to the workplace environment. Workers have given the project the unflattering nickname of "Keeyask-atraz" and in a 2017 report described numerous workplace problems: "a prison-like environment plagued by fear, intimidation, drug and alcohol abuse...[and] a culture of discrimination… Indigenous employees reported hearing racial slurs and derogatory comments, and complained that they were not given work they were qualified to do" (CBC News 2018). There were nine sexual assaults reported at the worksite in less than four years between 2015 and 2019, and many more likely went unreported (von Stackelberg 2019). Despite being co-proponents, CNP and York Factory members who sit on the KHLP Board have said that their views have not been taken seriously by

Manitoba Hydro and that they have very little control over project decision-making (Botelho-Urbanski 2018; von Stackelberg 2019). In 2017, Martina Saunders, the York Factory First Nation representative and vice-president of the KHLP, resigned her seat on the board after what she described as sexist and racist "bullying from Hydro employees" (Botelho-Urbanski 2018). In 2019, all four partner Nations called for a provincial inquiry into Manitoba Hydro and the conduct of its workers in their communities, following the release of the 2018 CEC report on the cumulative impacts of hydroelectric development in the region (CBC News 2019). Despite Manitoba Hydro's insistence that "the Keeyask project is different" (CBC News 2019), the representatives of some of the partner Nations have a different story. For example, in their testimony before the Senate Standing Committee on Energy, the Environment and Natural Resources, Chief Leroy Constant and former Chief Louisa Constant of York Factory First Nation noted that their community is still seeing substantial and devastating impacts[133] from the Keeyask project, not unlike their previous experience with Manitoba Hydro's dams (Senate of Canada 2019).

Site C Clean Energy Project

Located in Treaty 8 territory, the Site C dam is situated on the Peace River, near the city of Fort St. John in Northeastern British Columbia. The proponent is BC Hydro, a Crown corporation. The IA examined in this case study is the second time BC Hydro attempted to build a dam at Site C. An earlier review by the British Columbia Utilities Commission (BCUC) in the 1980s rejected the dam proposal. The current dam proposal

[133] An excerpt from their statement makes these impacts clear: "Families experience strain and struggle with the extended separation that the work schedule demands. There is a stark increase in the substance use and addictions and introduction of hard drugs into our community that correlates with the Keeyask camp…. Sexual and gender-based violence directly related to hydro development is a burden that gets inflicted on our community every time there is a project… We hear from our women working at Keeyask consistently about sexual assaults, harassment and even gang rapes. Our two-spirited community members have faced homophobia, transphobia that have made them and their families fear for their safety while working at Keeyask… We must protect the land, the water, the animals that sustain us and that are currently threatened by development, which in turn threaten our own cultural practices" (Senate of Canada 2019).

was initially exempted from BCUC review and was approved following the standard IA process.[134]

The Site C dam is the third major dam development on the Peace River. The W.A.C. Bennett dam began generating power in 1968 and the Peace Canyon dam was completed in 1980. Both are upriver from Site C, near the town of Hudson's Hope. Like in Northern Manitoba, dam development in the Peace region is quite controversial. There was (and is) significant opposition by many First Nations who are signatories to Treaty 8 in both British Columbia and Alberta, some of whom were represented collectively by the Treaty 8 Tribal Association (T8TA)[135] and others who represented themselves during the IA process. The terms of Treaty 8 guaranteed First Nations people the "right to pursue their usual vocations of hunting, trapping and fishing throughout the [territory]" (Treaty 8 Tribal Association n.d.). They raised many similar concerns about the historical and contemporary colonial implications of dam development in their territory, including forced displacement,[136] the flooding[137] of hunting, trapping and gathering grounds, an influx of temporary workers, racism, and sexual and physical violence. For the Indigenous Nations in the region, "the [Peace River] Valley is the most pristine natural area within easy reach of these communities. Many of the other areas that remain relatively intact are much more remote and therefore difficult for community members, especially elders and youth, to access" (Amnesty International 2016b, 4).

There was (and is) also significant opposition from settler residents of the Peace River Valley and many residents of the province of BC as a whole, who often expressed support for the position of Indigenous Nations and organizations. They were also particularly concerned about the cost of building the dam, socio-economic impacts (e.g.,

[134] Due to a change in legislation since the initial proposal. It was later required to go through a BCUC when a new provincial government was elected.
[135] During the Site C IA, the Treaty 8 Tribal Association represented Doig River, Halfway River, Prophet River and West Moberly First Nations.
[136] The Bennet dam "forcibly displaced hundreds of people from the Tsay Keh Dene and Kwadacha First Nations" (Amnesty International 2016b, 8).
[137] When completed, "the Site C dam [will] turn an 83 km long stretch of the Peace River Valley into a reservoir. More than 20 km of its tributaries [will] also be flooded" (Amnesty International 2016b, 3).

housing, crime, impacts on services) in the city of Fort St. John and surrounding communities from the influx of temporary workers, and the flooding of a significant portion of the province's prime agricultural land.[138] Northeastern British Columbia, in addition to being a hub for hydroelectric development, is also a region shaped by extensive oil and gas development. It is estimated that at any given time, there are between ten and twenty thousand[139] temporary workers living in over 1500 work camps at resource extraction sites (Amnesty International 2016b). Many local residents, both settler and Indigenous, are worried that Site C will exacerbate already disproportionate socio-economic impacts that affect marginalized members of local communities.

The dam underwent a cooperative federal-provincial impact assessment, including a review by a joint panel appointed by the federal and provincial governments. The proponent submitted their project description in May 2011 and a federal-provincial agreement on the IA was reached in February 2012. The scoping phase, which included a public comment period, open houses, and review by a working group, occurred from March to September 2012, when the Environmental Assessment Office (EAO) and Canadian Environmental Assessment Agency (CEAA) released the IS guidelines. The proponent submitted the IS in January 2013. The IA agencies received written comments on the IA and verbal comments at open houses between February and April 2013. In July 2013, the Joint Review Panel was appointed. It included: Dr. Harry Swain (consultant and retired public servant from BC), James S. Mattison (a BC-based engineer), and Jocelyne Beaudet (a communications and public participation consultant). The Panel held public hearings in 11 communities in Northeastern British Columbia in December 2013 and January 2014. The Panel published its report in May 2014, with 50 recommendations. They concluded that the project would have significant environmental and social effects, with particularly negative consequences for Indigenous Peoples. They acknowledged that BC will someday need the energy that Site

[138] The dam will flood 31,528 acres of Class 1-7 agricultural land in a unique microclimate where fruits and vegetables that do not normally grow that far north flourish (Peace Valley Environmental Association n.d.).

[139] For comparison, the population of the city of Fort St. John is approximately 20,000 people.

C will provide, but they were not persuaded that the project was needed immediately, nor that the proponent had presented sufficient evidence to rule out other potentially less destructive alternatives to generate that energy (Joint Review Panel 2014). Despite the Panel's findings, both settler governments gave their approval for the project in October 2014. Construction began in mid-2015. Premier Christy Clark had stated that she considered the Site C project part of her political legacy and one of her goals while she was in office was to "get it past the point of no return" (Palmer 2017). She arguably succeeded. The new NDP government formed in 2017, who were vocal critics of the project while in the opposition and ordered a BCUC inquiry as one of their first actions in office, ultimately chose to keep construction going. The first power is currently expected in 2024, despite six lawsuits and court challenges launched by First Nations and local landowners, alleging errors within the IA process and violation of Aboriginal and treaty rights. No cases against Site C launched so far have resulted in a victory for these community actors.

The Site C IA is quite remarkable for its high rates of community participation compared to the other cases studied. This is in part due to national awareness campaigns by Leadnow, the Yukon to Yellowstone Conservation Initiative, and the Sierra Club, which generated thousands of submissions[140] during the public comment periods. The IA resulted in high rates[141] of participation from members of local communities and representatives of local governments and Indigenous Nations and organizations during both the public comment periods and hearing process. There was also much more alliance building and collective mobilization between different interest groups

[140] Most often these were in the form of slightly personalized form letters. Due to the high volume of submissions and the way the project registry was set up (with large PDF files combining multiple submissions received on the same day through the CEAA central project email or website submission form), it was not uncommon when I was collecting and sorting case study documents to have to scroll through 100 to 500 form letters from one of these campaigns to find the more useful (to my dissertation research at least) comments submitted by local residents and civil society organizations buried in the same large PDF file.

[141] For example, there were no community or general hearing sessions where no one had signed up to speak (as happened in both the Voisey's Bay and Keeyask cases). The Panel had to add additional sessions due to the high degree of interest expressed and requested that participants combine or shorten their presentations.

represented by CSOs than happened in the other cases studied. For example, the T8TA, Peace Valley Environmental Association (PVEA), and local landowners often spoke to each other's concerns in their submissions and presentations. They also collaborated on some joint submissions and presentations.

Two investigations completed by Amnesty International (2016a; 2016b) in cooperation with local First Nations and community service providers show that the communities around the dam site are already experiencing many of the impacts associated with the Canadian variation of the resource curse. As feared, the new influx of workers for Site C is resulting in substantial cumulative impacts (compounding impacts already present from the multiple other ongoing resource extraction projects) that disproportionately affect marginalized members of communities. These include barriers to employment for women and Indigenous people (especially Indigenous women), unaffordable housing prices, strained childcare and medical services, high rates of violence and crime, and new challenges with substance use and abuse. For example, Indigenous women and girls living in Fort St. John report high rates of "domestic violence as well as encounters with strangers that ranged from aggressive harassment to brutal violence, including unsolicited offers of drugs and money for sex, attempts to coerce them into vehicles with groups of men, sexual assault, and gang rapes" (Amnesty International 2016b, 14). In 2015, the Fort St. John Women's Resource Society had an average of 500 clients a month, 75 percent of whom were Indigenous women and girls. Housing prices in Fort St. John have risen to be the second-highest in the province.[142] This has particularly negative impacts for people living on low incomes. Amnesty International (2016a, 45) reported that "A woman relying on government assistance payments intended to cover rent, food and other necessities, pointed out that these payments amount to only one-third the average rent in Fort St. John." The high housing prices have forced many First Nations people to move back to their reserve communities, compounding the already existing on-reserve housing shortage problems.

[142] Only Vancouver is more expensive.

With the case context provided, the chapter now turns to the central questions of procedural and recognition justice.

Examining Procedural Justice

When examining procedural justice, "justice is defined as fair and equitable institutional processes of the state" (Schlosberg 2009, 25). Applying the concept of procedural justice to impact assessment requires recognizing the multilevel political nature of IA spaces, where actors within and beyond the state have control of various parts of the IA. Procedural injustices can and do occur in government-, proponent- and community-led consultation and participation mechanisms used throughout the IA process. Much of the literature on IA positions the turn to increased opportunities for participation within IAs as "'opening-up' decision making and empowering stakeholders who were formerly excluded or otherwise marginalised" (Cashmore and Richardson 2013, 1). An analytical lens rooted in intersectionality and procedural justice shows this is certainly true in some instances within the case studies but is less true in many others. As Bell and Carrick (2017, 101) argue "gross inequalities of political authority, power and influence remain the norm in environmental decision-making" and contribute to procedural and other forms of injustice for communities as a whole and particularly for members of marginalized groups.

As a component of environmental justice, procedural justice is concerned with how environmental decisions are made, including "who is involved and has influence" (Walker 2012, 10). The scholarship on procedural justice in general, and about environmental justice specifically, identifies some common criteria that I argue should be considered norms of procedural justice in IA in relation to Northern communities. These include: ensuring opportunities for meaningful and equitable participation of members of communities (Malin, Ryder, and Lyra 2019; Schlosberg 2009); sustained opportunities for participation over time (Bell and Carrick 2017; Walker 2012; Hunold and Young 1998); providing accessible and useful information to communities (Malin,

Ryder, and Lyra 2019; Kojola 2019); allowing members of communities to 'speak for themselves' (Schlosberg 2009); ensuring data reflects the diversity of the community (Stienstra, Manning, and Levac 2020); respecting the contributions of community members (Ottinger, Hargrave, and Hopson 2014); and, ensuring the process allows for the participation of the diversity of the community (Schlosberg 2009). Every effort should be made to ensure inclusiveness within the IA process, including "a concerted effort to reach out to minority communities" (Bell and Carrick 2017, 105), and providing the financial and other supports needed to counter power inequities and enable their participation (Bell and Carrick 2017; Walker 2012; Hunold and Young 1998; Ottinger, Hargrave, and Hopson 2014; O'Faircheallaigh 2009).

In this chapter, the parts of the IA process that are assessed in relation to procedural justice include opportunities for public participation, funding to support public and Indigenous participation, timelines, boundary-setting, and evidence of accessible and inclusive IA practices. Procedural justice within IA is important for its own sake because when community members feel that they have been treated fairly with IA and other policy processes, they are much more likely to accept the legitimacy of the decision (Smith and McDonough 2001). Procedural justice is also important because it is closely tied with the other forms of justice, particularly recognition and distributive justice (Schlosberg 2009; Young 2011). The ways that power works within IA institutional structures and processes and the ways that inequities are resisted or reproduced shape the participation of community members in IA and their ability to raise their concerns and express their preferences within IA. When the standards of procedural justice are not met, IA processes are unlikely to adequately account for community concerns in a way that can prevent the conditions associated with the resource curse.

Public Participation Opportunities

The minimum prerequisites for procedural justice within IA are: (1) that there are plenty of opportunities for community actors to participate, and (2) there are

multiple ways to participate (Jagers et al. 2018; Hanna 2016). The IA processes for each of the case studies except the Red Chris mine were successful in this regard, in that they provided multiple opportunities for public participation. The Voisey's Bay IA provided the most opportunities for public participation within the review process of the cases studied. There were seven distinct opportunities for members of the public to provide input to the regulatory authorities and the Panel. These included five opportunities to submit written comments[143] as well as two opportunities to speak directly to the Panel in hearing sessions during the scoping and review phase. Additional public consultation and participation opportunities were provided directly by the proponent to local Indigenous and settler communities in Labrador, such as public information sessions and open houses, presentations in schools, and meetings with Indigenous and local governments and leaders. In comparison, the Red Chris IA only had two opportunities for public participation (attending an open house or the submission of written comments on the IS) under the provincial IA process and none under the federal IA process, thus failing to meet the minimum prerequisite for procedural justice.

For communities to feel that the IA process (or any other policy process that encourages participation) is procedurally just, they need to believe that their participation will influence decision-making, rather than representing "a meaningless formality" (Smith and McDonough 2001, 245). The extent to which this is shown in the case studies is discussed more thoroughly in relation to recognition and restorative justice in this chapter and the next; however, for now, I will note that some members of communities felt that their participation in the case study IAs was not likely to make a meaningful difference in the outcome of the decision, despite the multiple participation opportunities available within the process. For example, during the Site C Panel hearings, Chief Willson of West Moberly First Nations told the Panel: "We have a number of community members that feel that this process is irrelevant, as if their voices aren't being heard, so they've chosen not to come today out of protest" (CEAA 2013d,

[143] On the draft MOU, the draft IS guidelines, the IS, the additional information requested by the Panel to supplement the IS, and during the review hearing process.

26). This demonstrates that the criteria beyond simply providing opportunities for public participation are important to achieving procedural justice in IA.

Funding

The provision (or lack thereof) of funding to support participation in IA is a frequently raised concern of Indigenous Nations and governments, community members and equity-seeking civil society organizations who wish to participate in IA (Manning et al. 2018b; Bernauer 2011b; Udofia, Noble, and Poelzer 2017; Sinclair and Diduck 2001). Funding is a major determinant of the ability of an IA process to achieve procedural justice for marginalized members of communities, as it affects the degree to which these community actors can participate in IA in a meaningful and equitable way compared to government and industry participants.[144] Funding is one of the supports included in IA as a way of countering power inequities to fulfill that standard of procedural justice (Bell and Carrick 2017; Walker 2012). Funding was frequently raised in the case studies as an example of injustice because the levels of funding available were perceived by community actors as insufficient to overcome other barriers and inequities.

Many of the concerns about funding expressed in the case studies relate to the large amount of information to be reviewed during an IA relative to the amount of funding made available to participants – especially the IS, which can be thousands of pages long. For example, in their submission to the Panel on the Voisey's Bay IS, the Labrador Métis Association (LMA) wrote that they had asked for $113,000 in participant funding and received only $21,000. They stated: "The CEA Agency has acknowledged that the amount provided to the LMA is not sufficient to accomplish a thorough review of the EIS, let alone of the 45 technical documents released by the proponent in January 1998" (Labrador Métis Association 1998, 2). The high technical level of the information contained in documents created by the proponent, including the IS, was also identified

[144] See further discussion on this point in relation to participation as a process of power in Chapter 4.

by many participants to be an issue related to funding. Like the community actors discussed in Chapter 5, the community actors in the case studies needed funding to hire experts and consultants to review these documents and appear at hearings on their behalf. Many non-profit organizations and Indigenous Nations and governments who participated in the case study IAs argued that the funding they had been awarded under participant funding schemes was inadequate to fulfill this purpose. For example, lawyers for three First Nations participating in the Site C IA stated: "The Crown has not provided Duncan's, Horse Lake or Swan River First Nations with sufficient funds to obtain an independent technical review of BC Hydro's Environmental Impact Statement ('EIS') or to participate in any consistent manner in the upcoming hearings" (Woodward & Company 2012, 2). As proponents are responsible for drafting ISs (discussed in Chapter 4), and community actors who participate in the IA are meant to identify gaps and problems with the proponent's analysis and presentation of facts, insufficient funding to support their participation has direct implications for the quality of a project review and its legitimacy in the eyes of communities.

In each IA case study, many participants noted an injustice in the amount of money invested by the proponent in the preparation of the IS and other parts of the IA process, and the amount of funding made available to community actors to support participation. For example, one Labrador resident argued during a Voisey's Bay hearing that:

> An adversarial system depends for fairness and effectiveness on a balance of capabilities in the hands of the various participants, but who other than a very big Proponent can afford to spend 21 million dollars on his case?...participant funding from the Government is no match for the Proponent's resources. (CEAA 1998l, 40)

Some participants say that this injustice undermines their faith in the legitimacy and independence of the IA process. The Yukon to Yellowstone Conservation Initiative (Y2Y) stated bluntly during the Site C IA: "$140,000 for participant funding represents .002% of the project cost…This inequity in resources on the side of the proponent as opposed to participants appears to be another indication of the bias in favour of approval of this

project" (Yukon to Yellowstone Conservation Initiative 2011). The disparities in financial resources available to different actors reinforce beliefs held by many community actors, documented in other studies (e.g., Jagers et al. 2018; Sinclair and Diduck 2001) and discussed in relation to multiple processes of power in Chapters 4 and 5, that the proponent is the most powerful and influential actor in resource extraction decision-making. It also shapes the perception held by many community members that the IA process is just a formality in the path towards greater capitalist accumulation.

Some participants argued that the amount of funding awarded was unjust because it did not take into account the realities of research and consultation costs in the North. During the Voisey's Bay IA, the Tongamiut Inuit Annait (TIA)[145] was awarded only $1,000 of the $10,000 they had requested to participate in the scoping stage of the process. Their president, Charlotte Wolfrey, was clear in explaining to the Panel that this amount was insufficient to do the consultation required to represent the diversity of Inuit women's voices from multiple communities on the North Coast: "In case you don't know how far $1,000 will go [speaking in 1997], let me tell you. It will probably take you return from Goose Bay to Nain and to spend a few nights in a hotel providing you don't get stuck for bad weather. If you get stuck for bad weather, you're going to have to look somewhere else for the rest of the money to pay the hotel bill" (CEAA 1997g, 11). During the Site C IA, the cost of funding experts primarily based in Southern Canada was raised as an injustice disproportionately affecting organizations with already limited resources (i.e., non-profit and advocacy organizations and Indigenous Nations and governments): "With this amount of funding, public interest participants who are concerned about the proposed dam's many impacts will be unable to mount an effective case, which will involve the hiring of lawyers and expert witnesses, along with the high travel costs associated with attending the hearings" (Yukon to Yellowstone Conservation Initiative 2011). As discussed in Chapter 5 concerning participation as a process of power, hiring outside experts and lawyers is a common practice in IA used by Indigenous governments and civil society organizations that represent marginalized

[145] An organization representing Inuit women in Labrador.

groups in an attempt to equalize some of the power imbalances between communities and proponents, including to "gain access to the technical expertise needed to [effectively] challenge proponents and regulators" (O'Faircheallaigh 2009) and present community concerns in ways that are recognized as credible by proponents and regulatory authorities (Ottinger, Hargrave, and Hopson 2014). This need to render community and Indigenous knowledge in forms that are more 'credible' speaks to the ways that recognition as a process of power shapes the politics of expertise in IA. It also illustrates the way that settler colonialism and other systems of power, including sexism, have shaped the (de)legitimacy of particular types of knowledge (Baker and Westman 2018; Hoogeveen 2016) in the practice and institutions of IA.[146]

Indigenous participants in the case studies frequently stated that funding amounts prevented comprehensive and thorough consultation with members of their Nations and communities. For example, in the Voisey's Bay IA, the Labrador Métis Association (LMA) noted that funding limitations prevented them from consulting with all Métis communities in Labrador during their review of the IS guidelines in the scoping phase: "Eight of our isolated coastal communities were accessible only by air … With the limited time and resources available, and in order to reach the largest number of our members as possible, we were only able to visit the three largest Métis coastal communities" (Labrador Métis Association 1997, 12). This example shows clearly that when difficult choices have to be made in the context of financial constraints, members of smaller rural and remote communities are more likely than those in bigger and less remote communities to not be consulted about potential projects and their impacts. During the Site C IA, multiple Indigenous Nations and organizations, including Fort Nelson First Nation, the Treaty 8 Tribal Association, and the Métis Nation of British Columbia, argued that they were not awarded sufficient funding for their traditional land use studies and to participate fully in all aspects of the IA process. Lawyers for three First Nations pointed out that dedicated funds were not available to all Indigenous

[146] See the section on recognition as a process of power in Chapter 4 for a further discussion of how power relations shape the delegitimization of particular types of knowledge.

Nations to which the Crown owed a duty to consult "to participate in the Working Group, which the Crown intends as a key avenue for Crown-Aboriginal consultation. As a result, the possibility of meaningful consultation is already severely compromised for our clients, perhaps fatally" (Woodward & Company 2012, 2). While providing funding is an accepted standard of the duty to consult, as discussed in Chapter 5, it is the settler government that determines what adequate funding is, not the Indigenous government or organization.

Injustices were also noted in the different levels of funding awarded to various groups. During the Voisey's Bay IA, Ad Hoc Committee on Women and Mining member Rosina Holwell stated that "The two women's organizations which applied for funding received the least amount of money" (CEAA 1997b, 17). She and other representatives of women's organizations who participated in the IA related this outcome to wider structural inequities based in sexism.[147] For example, Holwell speculated that the fact that "the funding administration committee which made these decisions was represented only by men" had contributed to an undervaluing of women's organizations' contributions to the IA process (CEAA 1997b, 17). Joyce Ford, the president of the Rigolet Women's Association and a member of the TIA, said: "I saw that [small amount awarded] as a slap in the face. Here we are representing Inuit women of northern Labrador and we weren't even given the time of day…I thought that once again women are ignored. We never seem to be taken seriously. We always have to fight to even get to the table…" (CEAA 1997l, 13). In the Keeyask IA, representatives of the Manitoba Métis Federation argued that the Métis were given much less funding by the proponent than First Nations (CEC 2013c). The Métis Nation of British Columbia (MNBC) raised similar concerns about the amount of funding available to Métis actors compared to First Nations in the Site C IA. They stated: "MNBC observes that BC Hydro provided $1.5 million to Aboriginal groups to support traditional land use studies and the actual amount MNBC received for that purpose was very minimal" (Government of

[147] Although interestingly not to settler colonialism or racism, although both women's organizations who applied for funding were organizations headed by and composed of a majority of Inuit and Innu women.

Canada 2014, Appendix A-7, 4). These concerns allude to a wider tension, discussed more thoroughly in relation to misrecognition later in this chapter, about the place of the Métis in relation to First Nations and Inuit Peoples in Canada, where the Métis have historically been viewed as less legitimately 'Indigenous' and therefore less deserving of rights and recognition within settler state governance structures (Andersen 2014), including IA. An important caveat on this point of tension is that, arguably, the Métis in Manitoba are given a higher level of recognition compared to the Métis who live in other provinces and territories, given the centrality of the Métis Nation to Manitoba's founding and the path to joining the Canadian federation (Métis National Council 2020).

The only potential success story concerning funding is the Keeyask IA. It demonstrates the importance of adequate funding to support the meaningful participation of at least some Indigenous Nations. This IA was unique among the case studies (and unique in Canada at the time of the IA) in that four Indigenous Nations[148] (the co-proponents of the dam) were able to conduct community-based impact assessments (CBIAs) in the form of 'environmental evaluation reports' that became part of the IS. The funding to support these CBIAs was provided by Manitoba Hydro[149] (KHLP 2012a). Throughout the IA process, representatives of the four partner First Nations spoke frequently of the importance of being able to share their perspective on the project in their own voices in this format, reflecting the wider procedural justice principle of allowing marginalized groups to speak for themselves (Schlosberg 2009). Manitoba Hydro also covered the Nations' costs to hire community members and experts to negotiate the project's joint ownership agreements and IBAs (Welch 2009). In response to public criticism for this extensive spending by the Crown corporation, the president of Manitoba Hydro spoke frankly about the financial inequities that require

[148] The partner First Nations are: Tataskweyak Cree Nation, War Lake First Nation, York Factory First Nation, and Fox Lake Cree Nation

[149] While it is beyond the scope of this dissertation to examine the links between Crown corporations and participant funding, it is interesting to note that this is the only example from the case studies where such extensive funding was provided by the proponent and the proponent was a Crown corporation. Similar funding was not available to Indigenous organizations participating in the Site C IA, where the proponent is also a Crown corporation.

this amount of funding: "Nobody likes to pay that kind of money, but we're dealing with First Nations people who have zero resources, like, zero…We've got to make sure they don't feel duped and that they aren't duped" (Welch 2009). Implicitly, this acknowledges the long legacy of distrust among Indigenous Nations surrounding hydro development in Northern Manitoba (discussed earlier in this chapter) and the efforts the proponent has made to build better relations. A limitation of this example is that some costs must be repaid by the First Nations once their portion of the revenue from the project begins to flow (Kusch 2012), and comparable funding was not made available to other, non-partner, First Nations.[150]

Despite the many assertions of inadequate funding by IA participants, only some of the participant funding supports provided by the federal government was applied for and awarded in the case studies. For example, the public funding envelope[151] for the federal part of the Keeyask IA was $35,000. Only $7,200 was requested by one organization and only $2,000 was awarded (CEAA 2012e). For the Site C public funding envelope, only $123,953 was requested of the $140,000 available (CEAA 2012f). I observed a similar pattern in the Aboriginal funding envelopes[152] (CEAA 2012b; 2012c). While others may interpret this as evidence that the concerns expressed about the inadequacy of funding are invalid or 'just complaining,' taking the voices of community members seriously means searching for alternative explanations. Looking more deeply, and accounting for the insights about funding policies and structures from Chapter 5, reveals several alternative explanations with implications for procedural justice. First, government funding programs have a maximum amount that can be awarded to

[150] This concern was raised in the CEC hearing transcripts by representatives of Peguis First Nation, Shamattawa First Nation and Pimicikamak Okimawin.

[151] The federal government provides two pots of funding (called 'funding envelopes' in the policy documents) to support public participation in most IAs for major projects that fall within federal jurisdiction. These funds are provided through CEAA and the allocation of funding is determined by a funding committee which reviews applications made by potential participants who meet the eligibility criteria. For each IA, one funding envelope (the 'public funding envelope') is designated for members of the public in general (individuals, civil society organizations, etc.) and one funding envelope (the 'Aboriginal funding envelope') is specifically designated for Indigenous communities, governments, and organizations.

[152] See previous footnote for discussion of the different between public and Aboriginal funding envelopes.

individual participants, and in most instances, funding recipients applied for and received those maximum amounts. Second, eligibility further limits many funding programs. Not all activity components used by Indigenous governments or civil society organizations to consult with communities or support the participation of marginalized individuals are considered eligible expenses. Third, access to information and tight timelines for submitting funding applications can affect who knows about the opportunity and has sufficient time to apply. Finally, as the Keeyask numbers above demonstrate, jurisdictional gaps that have implications for procedural justice are sometimes created by the ways funding is structured in Canadian IA. Federal funding supports do not cover participation costs for the provincial parts of the IA process when separate public participation opportunities are provided by different levels of government. For example, in the Keeyask case, federal funding was available to support participation in public comment periods solely for the federal parts of the IA process (e.g., providing comments on draft comprehensive study report) and the joint federal-provincial parts of the process (e.g., providing comments on draft IS guidelines and completed IS) (CEAA 2014a). However, this federal funding could not be used to support participation in the solely provincial parts of the IA process, particularly the CEC hearing process, which was the main forum for community participation in the Keeyask IA. Nevertheless, comments from community members and representatives of Indigenous Nations that were raised in the CEC hearings were used by CEAA officials as evidence for their conclusions about the adequacy of the proponent's mitigation plans for most community impacts in the federal Comprehensive Study Report (CEAA 2014a). No information was available about the amount of provincial funding (if any) that was awarded to support participation in the CEC hearing process or who received it.[153]

[153] Neither the CEC nor the Government of Manitoba includes documents concerning participant funding decisions and allocations in their project registries as is common practice in the other jurisdictions studied where funding supports are available.

IA Timelines

Members of communities and civil society organizations who participated in the case study project IAs and the academic literature all suggest timelines for the IA process are a concern (Manning et al. 2018b; Udofia, Noble, and Poelzer 2017; Noble and Hanna 2015; Alan Bond et al. 2014). Procedural injustices are noted by community actors in the case study IAs in the choices made about when or what the timeline is and the impacts of those choices on communities. Without both the state and proponent attending to procedural justice in making choices about timelines, it is unlikely that IAs can create the conditions that allow for meaningful, inclusive, and equitable participation of marginalized members of communities and the organizations that represent them.

Procedural injustices can be seen in the choices made by IA agencies and proponents (and sometimes by policymakers in legislation) concerning timelines. Regulatory authorities often allow only short timelines for members of the public, Indigenous governments and civil society organizations, to provide comments and prepare written submissions or hearing presentations within IA processes. Sometimes the choices made result in timelines that overlap with times and seasons that community members have other important responsibilities (see Table 18). For example, during the Voisey's Bay IA, the proponent chose to release the IS shortly before the Christmas holiday, triggering the beginning of the time-restricted public comment period to overlap with the holiday season. In the words of a Nain resident: "We all thought it was a very insensitive time to do that" (CEAA 1998k, 15). The Panel hearings for both the Keeyask and Site C IAs also overlapped with the holiday season. In other cases, the choices made about timelines created conflicts between IA participation opportunities and the schedule of work commitments in Northern communities and cultural responsibilities such as harvesting in Indigenous communities also limit public participation. For example, Richard Pamak, speaking on behalf of the Town of Nain, said of the review hearings for the Voisey's Bay IA: "This is a very busy time of the year for the residents in our community, especially those people employed in seasonal

occupations. To make a presentation to the Panel or even to observe these hearings is almost impossible for most people at this time of the year" (CEAA 1998j, 23). Multiple First Nations people participating in the Site C Panel hearings also said that the community hearings were held at an unsuitable time for their communities. Adele Chingee, a member of McLeod Lake Indian Band, said: "the schedule of this hearing made it difficult for current users like our younger current users to be here today to speak in front of you because we do have individual members that go out on a regular basis every year and practising and doing our Treaty right to hunt" (CEAA 2013b, 100). These deliberate choices about timelines have specific effects that advantage the proponent and disadvantage community actors, particularly marginalized members of communities.

Table 18: Public Participation Timelines

Stage/Project	Voisey's Bay	Red Chris	Keeyask	Site C
Funding Applications	5 – 7 weeks	No information available	Federal only: 7* weeks	4 – 8 weeks
Scoping	4 – 8 weeks	4 days[154]	4 – 7* weeks	4 – 6 weeks
Review IS	11* weeks	9 weeks	Federal: 4 weeks Provincial: 4 – 30 weeks[155]	8 – 9.5 weeks
Prepare for Hearings[156]	5 weeks	No hearings held	Provincial: 4 – 22 weeks[157]	2.5 – 4 weeks
Participate in Hearings	8 weeks	No hearings held	Provincial: 16* weeks	6.5* weeks

* The period specified overlaps by two or three weeks with the Christmas holiday break.

[154] The information available indicates that only option for public participation in scoping during the Red Chris IA in BC was attending proponent and EAO hosted open houses, which happened over four days in four communities and/or submitting a written comment at one of the open houses.

[155] Different standards and timelines apply depending on the type of commenting and reviewing (e.g., information request vs. general written comment) and the status of the individual or group (e.g., hearing 'Participant' vs. ordinary member of the public).

[156] This refers to the time between when the hearing schedule was released and when the hearings began.

[157] The shorter part of this range refers to the time between when the hearing schedule was publicly released and the start of the hearings. Organizations registered as 'Participants' with the CEC and the proponent were able to take advantage of the longer timeline, because they were told much earlier in the process that the hearings would likely start in mid-late September 2013.

Short timelines (see Table 18 above), combined with the funding limitations described above and capacity challenges described in Chapter 5, make it virtually impossible for many individuals, civil society organizations, and Indigenous governments to perform the in-depth review of IA documents that would contribute to a robust public review process. For example, during the Red Chris IA, the Tahltan Central Council (2005, 1) indicated that their comments were necessarily limited "due to the short turnaround time allowed by the EA process for the Red Chris mine proposal [and therefore] this assessment is not a detailed technical review of the project but is rather an overview assessment of the EA documents provided." Short timelines also contribute to community distrust of the IA process in accounting for community concerns and respecting the participation of community actors. This point was eloquently made by Charlotte Wolfrey while representing the town of Rigolet during the Voisey's Bay review panel hearings: "The time to prepare for the hearings was too fast, given the amount of reading there was to do. There is a feeling that politics and money are ignoring the real concerns of the people" (CEAA 1998f, 7). Like concerns about funding, short timelines for public participation represent yet another way that settler colonial and capitalist interests (proponents and federal/provincial governments) control and structure the IA process to their benefit.

In the case studies, organizations representing women, youth, and Indigenous Nations and governments identified short or rushed timelines as particular barriers to the participation of their organizations and members. During the Voisey's Bay IA, Lorna Clark, representing the Cartwright Métis Youth Council said that the scoping hearings were not "advertised very well to the community, especially the members of the youth…we didn't have enough time to prepare a formal presentation" (CEAA 1997k, 18). A written submission by the TIA stated that "…the rushed nature of the process, including the hearings as well as the complicated nature of the process has limited the involvement of many [Inuit] women. For many of the women, to review a four-volume report along with the additional information that amounts to more than 9000 pages is a very threatening process" (TIA 1998b, 18). While the TIA did not elaborate more on how

this was a "threatening process" for Inuit women, accounting for some of the insights from the discussion in Chapter 5 related to participation as a process of power suggests that individual Inuit women likely would have encountered one or more overlapping barriers related to language, the technical nature of IA documents, disability, gendered care and cultural responsibilities, and a lack of recognition for their knowledges. During the Site C IA, Kwadacha First Nation likewise argued that short timelines create impossible barriers for Indigenous governments to meaningfully consult their communities:

> First Nations Governments are required by Canadian law to consult their community members through internal consultation processes, including community meetings and workshops. This effectively requires Kwadacha to perform its own consultation process during the comment period, make written submissions and still allow time for the Working Group to receive and appropriately incorporate such submissions. 45 days[158] is simply insufficient for two consecutive consultations to occur. (Kwadacha First Nation 2011, 1)

Other Indigenous Nations, including Saulteau First Nations, argue that short timelines contribute to the consultation and engagement fatigue discussed in Chapter 5: "Saulteau is already flooded with proposals on other projects. BCH then gives us 18,000 pages to comment on in 60 days.[159] The Province and BCH should be ashamed. No one can comment in this timeframe" (CEAA 2013e). This fatigue is further exacerbated by the inadequate funding described in the previous section.

Choices to hold parts of the IA that require public participation at times that conflict with community commitments also advantage the proponent. These choices effectively shorten the already short public participation timelines, as community members have less time available to review project documents and preparing their comments or presentations. When choices made about timelines conflict with the times Indigenous communities are known to exercise their treaty rights and engage in

[158] This was referring to one of the comment periods during the scoping phase in Table 18.
[159] This is referring to the time to review the IS in Table 18.

traditional practices, these choices arguably benefit not only the current proponent but also future extractive agendas as well. The ability to demonstrate contemporary use of land for traditional purposes is vital to having concerns of Indigenous Nations and Peoples taken seriously in future IAs. As discussed in Chapter 4, settler colonial governance structures regularly attempt to limit the definitions of Indigenous rights to those associated with traditional practices, like harvesting (Procter 2020), requiring Indigenous people to document and maintain those practices so that they can be used in future IAs to limit infringements on Indigenous rights and use of their territories. Thus, choosing to have parts of the IA process that require participation overlap with those obligations represents an impossible situation and is understandably seen as unfair within Indigenous communities. This is especially so in the case of the Site C IA where the agreement governing the joint IA explicitly required that in setting the dates for Panel hearings, "the timing of traditional activities in Aboriginal communities" be taken into account (Government of Canada and Government of British Columbia 2012, 17). These choices only reinforce communities' perceptions that the intent of the IA process is not to facilitate meaningful and deliberative dialogue on the impacts of a proposed project, but instead to hurry the process along as fast as possible, limiting the opportunities for community opposition to be expressed through IA participation.

A procedural injustice can also be seen in relation to the shortness of the timeline imposed by the regulatory authorities or the proponent with both the weight of the decision to be made and the potential impacts of making the wrong decision for the community. Illa Disbrowe, a Tataskweyak Cree Nation (TCN) member, told the CEC Panel about the pressure she felt during the community vote on the Joint Keeyask Development Agreement (JKDA): "at the time of the voting we were given three months to vote yes or no, to think about it. Whereas they took eight years to compile this big document. And, you can tell…it was written by lawyers…and they want, expected us to make that decision within three months" (CEC 2013g, 101). A Councillor for Fox Lake Cree Nation spoke about how the timeline pressures with the Keeyask project contributed to community tension: "We are dealing in millions of dollars here, and they

[Manitoba Hydro] keep shoving everything down our throat and we are choking on them. Our communities are being separated. And it is not right" (CEC 2013g, 93). Stress associated with timeline pressures was also raised by Innu people during the Voisey's Bay IA. For example, Lyla Andrew of Innu Uauitshitun[160] told the Panel during the scoping hearings:

> Already because of the incredible speed of this process there is impact. There is stress which comes from being told that you need to make decisions now for something that your children are going to experience in 20 years' time or experiences that may be felt in 50 years… As a result of this stress, we see on a day-to-day basis a kind of tearing down of cohesiveness between families. (CEAA 1997j, 8)

These examples show how timelines can cause impacts beyond the perceptions of the fairness or unfairness of IA procedures themselves. Long before ground is broken for a mine or hydroelectric dam, negative impacts on community wellbeing are being experienced and there is little acknowledgement from the proponents and regulatory authorities in control of the IA process that these impacts are happening. Cree participants in the Keeyask IA pushed back against this lack of acknowledgement, frequently reminding the proponent and Panel that many members of partner communities "are deeply anguished about what [the] partnership decision means to [their] sacred, respectful relationships with the land and how [they] are now party to adding to the damage to the land and water" (York Factory First Nation 2012, 13), continually pointing to the difficulty of the decision to become project partners.

There are select examples within the case studies of regulatory authorities hearing these concerns about timelines and making extensions. For example, during the Red Chris IA, the provincial government suspended the legislated timeline and gave an additional 2.5 months to provide extra time to address Tahltan concerns (EAO 2005b, v). In the end, the Tahltan still opposed the project. In response to criticism during the Voisey's Bay IA, the four parties to the MOU extended one public comment period by 30

[160] An Innu community organization.

days (CEAA 1998a). In the Site C IA, "Aboriginal groups received the EIS before the public comment period and were provided an additional 10 days to provide written comments" (Government of Canada 2014, 62). While it is promising that these extensions were made, many IA participants emphasize that these minimal extensions fall far short of procedural justice in their eyes. One unidentified Indigenous organizational representative made it clear during the Site C Working Group discussions that a much higher standard is expected in terms of Indigenous consultation required by the duty to consult: "No timelines equals meaningful [consultation]" (CEAA 2013e). Short extensions to timelines do little to assure communities that their concerns can be adequately addressed or that dominant relations of extractivism can be meaningfully disrupted.

Boundary Setting

As discussed in Chapter 4, setting temporal and spatial boundaries for the project review is an important part of IA scoping decisions that determine the extent to which the process can account for impacts experienced by members of communities. In both the Voisey's Bay and Site C IA, how these boundaries were set, and the structural inequities embedded in those scoping decisions were raised as examples of procedural injustices by community actors, especially representatives of Indigenous and local governments.

In all case study IA processes, the temporal baseline to assess project impacts was set as the pre-construction point. During the Site C IA scoping stage, numerous Indigenous governments and allied civil society organizations argued that the baseline for the assessment of cumulative impacts should be the pre-industrial baseline – before the construction of the Bennett Dam[161] in 1961, an important point in time that dramatically altered the lives of Indigenous Peoples in the region. BC Hydro argued that

[161] The W.A.C. Bennett Dam was the first dam built on the Peace River. Site C will be the third dam built within an 80 kilometre stretch of the river.

this was unnecessary because “the accumulated effects of all past projects and activities that have been carried out will necessarily be reflected in the current baseline conditions” (BC Hydro 2012, 3). While the proponent was successful in convincing the regulatory authorities to keep their suggested pre-construction baseline, Indigenous IA participants, such as representatives of the Treaty 8 Tribal Association, persuasively argued this decision was a procedural injustice because “ignoring these past effects does not acknowledge that their use of lands and resources for traditional purposes has already been affected, and that the Project would exacerbate these losses” (Joint Review Panel 2014, 114). The Panel was also extremely critical of BC Hydro’s reasoning and the agreement of the regulatory authorities in their report: “if each successive project used a new baseline, assuming that prior impacts were reflected in that baseline, then entire Aboriginal cultures and practices of Aboriginal and treaty rights could become effectively extinct before there is adequate appreciation for what has been lost” (Joint Review Panel 2014, 119). Similar arguments about the need to account for cumulative impacts of past projects to understand the wider structural inequities facing Indigenous people in the present were made by members of the Innu Nation during the Voisey’s Bay IA. For example, Lyla Andrew said at the scoping hearings: “When you consider the issue of social impacts, you cannot look at what life is like now for Innu as the baseline against which to measure possible negative impacts, because life now is the result of so many negative experiences already” (CEAA 1997j, 9). The standard practice of using the immediate pre-construction conditions as the temporal baseline for assessing project impacts lacks legitimacy in the eyes of many members of communities and undermines the ability of IA processes to account for structural inequities, particularly those based in long histories of settler colonialism, that shape both community wellbeing and socio-economic impacts for members of marginalized groups.

The setting of spatial boundaries for assessing impacts on Indigenous rights and the use of land by Indigenous Peoples is also a particularly contentious issue within the case study IAs. For example, in the Site C IA, the Crown determined it had a duty to

consult with Indigenous Nations downstream from the dam (such as Dene Tha' First Nation, Mikisew Cree First Nation, and Athabasca Chipewyan First Nation) and outside the immediate project area. However, the spatial boundary set by the proponent in the IS for many downstream impacts[162] meant lawyers representing downstream First Nations and Métis peoples argued persistently that important impacts for Indigenous Nations and Peoples who use the Peace-Athabasca Delta and downstream area of the Peace River were effectively "scoped out" of the draft and final IS (Janes Freedman Kyle Law Corporation 2013, 2). The narrow spatial boundaries for the Voisey's Bay IA were likewise criticized by the Labrador Inuit Association for ignoring "how Inuit use and understand the area" and understand impacts on the environment (CEAA 1997d, 27). The dominance of settler colonial understandings of geographic spaces within IA and understandings of environment rooted in Western science knowledge systems in setting spatial boundaries are less well documented than other aspects of procedural justice in the IA literature, with only a few examples (Whitelaw, McCarthy, and Tsuji 2009; Procter 2020). However, understanding this dominance is critical to appreciating the limited effectiveness of the IA process in taking account of potential impacts for Indigenous communities and thereby its ability to mitigate the socio-economic impacts associated with the resource curse.

Boundary setting also has implications for other kinds of Northern communities. In the case studies, a common practice in the preparation of impact statements (ISs) is to assess potential socio-economic impacts such as employment, housing availability, and cost of living on a regional basis. Often this decision is justified by the availability of data from key sources, such as the national census or administrative regions for the

[162] The spatial boundary depended on which VEC was being assessed. For example, in assessing impacts to the current use of lands and resources for traditional purposes, the downstream limit of assessing impacts on fishing for traditional purposes was the Many Islands Area in Alberta, near the western provincial border and 207 km downstream from the dam site (BC Hydro 2013). The spatial boundary for assessing impacts on wildlife harvesting for traditional purposes was set at the BC-Alberta border (BC Hydro 2013). However, the Peace-Athabasca delta and the territories of First Nations to whom the Crown owed a duty to consult (such as Dene Tha' First Nation, Mikisew Cree First Nation, and Athabasca Chipewyan First Nation) are many more hundreds of kilometres downstream past those spatial boundaries set by the proponent.

delivery of provincial government services. In the Site C IA, one local government pointed out an often-overlooked implication of this practice for smaller communities in the region. In their submission, the District of Hudson's Hope, a small district of approximately 1150 people within the Peace region wrote that this approach: "has the effect of downplaying the impact and, particularly, downplaying the impact on Hudson's Hope, specifically… where the EIS may describe an impact as not significant in the context of the larger region, the impact can in fact be very significant for Hudson's Hope" (District of Hudson's Hope 2013, 3). This means that any impacts experienced by Hudson's Hope community members that are deemed 'not significant' in the wider regional context are unlikely to get the same amount of attention as impacts experienced by more people in larger population centres in the region. This practice particularly disadvantages smaller, and often more rural or remote, communities in having their concerns related to socio-economic impacts given adequate attention and weight in project decisions. Arguably, these are also the communities least likely to have the capacity and resources to weather the boom-bust cycle associated with new resource projects, making the identification of impacts likely to be experienced within these communities even more important.

Accessible and Inclusive Practices

Inclusivity is a widely acknowledged norm of procedural justice (Schlosberg 2009; Bell and Carrick 2017; Hunold and Young 1998). The case studies contain examples of some practices that are accessible and inclusive of marginalized members of communities and also many examples of practices that are inaccessible and non-inclusive. Within the case studies, special efforts towards accessibility and inclusion were made on a project-by-project basis, often as a result of considerable community efforts, rather than being a consistent and mandated part of institutional IA processes (see Table 19 below).

Table 19: Inclusive Practices in Case Study IAs

Practice	Voisey's Bay	Red Chris	Keeyask	Site C
Share or Present Information in Multiple Formats	Electronic & physical copies of IS (P) Videos (P*)	No evidence	Electronic & physical copies of IS (P) Videos (P*) CBIA Using Drawings & Quotes (P*)	Electronic & physical copies of IS (P) Play (C)
Community Control of Hearings	Prayer/ceremony (C) Set agendas for community sessions (C) Establish rules for hearings (C)	No hearings held	Prayer/ceremony (C) Set agendas for community sessions (C)	Prayer/ceremony (C) Set agendas for community sessions (C)
Indigenous Language Interpretation	IS Summary (G*) Hearings (G*)	No evidence	Hearings (C)	Hearings (G*)
Evening Community Hearing Sessions	Yes (G)	No hearings held	Some (G*)	Some (G*)
Plain Language in Proponent IA Documents	No	No	No	No

P = Proponent initiated or provided
P* = Proponent provided (but community encouraged, requested or insisted)
C = Community initiated or provided
G = Settler government or IA agency/Panel initiated, required, or provided
G* = Settler government required or provided (but community encouraged, requested or insisted)

Providing information about the IA process and project information in multiple formats was an accessible practice used in multiple case studies. In addition to standard practices of providing translated documents and making electronic and physical copies of the IS available, videos were used in both the Keeyask and Voisey's Bay IA to increase the accessibility of information. The Cree partners for the Keeyask project made a video, *Keeyask: Our Story*, summarizing their CBIA results and community perspectives on the project. This video was shown at the start of most community hearing sessions. The proponent in the Voisey's Bay IA produced a video version of the EIS summary in English, Innu-aimen, and Inuktitut to make the information more accessible to people with low literacy skills, which is a significant portion of some affected communities

(CEAA 1997h). Videos have been noted in previous research (O'Faircheallaigh 2009) as a format that is particularly useful for sharing information with Indigenous people because of their oral and visual narrative format.

Accessible formats were also used by communities to present information during the IA review process in a way that was authentic to their knowledge systems and worldviews. For example, the Treaty 8 Tribal Association produced a play called 'Dreamers' Prophecy' which they described as "a one hour theatrical performance aimed at sharing the story of Dane-zaa/Dunne-Za spiritual values and about knowing a good place" (Treaty 8 Tribal Association 2013c, 1), and performed it during one of the Site C public hearing sessions. In their CBIA, York Factory First Nation explained their chosen format, which featured many individual quotes from members of their community rather than a long single narrative, in this way:

> In the rest of the Keeyask Environmental Impact Statement we see a great deal of technical information and description by professional, technical, western-trained biologists, social scientists, Manitoba Hydro officials, lawyers and consultants. Our aim here is to return to our oral tradition and give voice to how we feel about Keeyask; what it means to us. By telling our story in Kipekiskwaywinan (Our Voices) we are continuing our oral tradition in a new way. (York Factory First Nation 2012, 12)

They also chose to include drawings from children in the community showing their wishes for the future with the Keeyask dam. By not using a written format, the youth were able to show the importance of retaining their culture and traditional practices, such as fishing, even with the potential benefits in the forms of much needed new services and community infrastructure.

Ceding a significant amount of control to communities in the design and conduct of hearings held in the community was also an example of a practice that promoted inclusivity, and partially disrupted settler government and proponent dominance of the IA process. For example, many sessions in Indigenous communities during the Voisey's Bay, Keeyask, and Site C IAs opened and closed with a prayer or ceremony at the

request of community leaders or Elders. Former Chief Oker of the Treaty 8 Tribal Association described the importance of doing a song ceremony at the start of one Site C hearing session: “We want to be able to help set the tone about what we feel is important to us” (CEAA 2013a, 22). Some Indigenous leaders took control of the hearing schedules, including establishing the order of speakers and when to take breaks. Others issued very strict directions to the Panels and proponents about what was and was not acceptable conduct as guests in the community. For example, Mushuau Innu Chief Katie Rich, during the Utshimasits scoping hearing session stated at the beginning of the session: “I would like to advise the company officials not to take notes at this time because the transcripts will be available when it is time for you to look at them. The Innu will not be taking notes, so we prefer that you do not as well” (CEAA 1997f, 2). Allowing communities this level of control is one way of democratizing the IA process and countering power inequities, consistent with the norms of procedural justice (Bell and Carrick 2017; Hunold and Young 1998).

Even with some significant efforts to promote accessibility and inclusivity, however, it is clear that there is work to be done. One issue flagged in the Voisey’s Bay and Keeyask IAs is how the composition of participants in the room affects the degree of welcome felt by Indigenous community members in particular, and their comfort level in participating in IA proceedings. In the Voisey’s Bay scoping sessions, one Inuk participant observed: “What happens though is when you have a lot of Kablunaat [white people, non-Inuit people] around, they [Inuit community members] are shy to speak even though this should not be the case” (CEAA 1997b, 26). Flagging the same issue again in the review hearings held the next fall, the same participant said: “there were a number of people who did try to come in when we just started, but I think sometimes they may have seen too many Kablunaks [white people, non-Inuit people] here and it seemed to them, you know, that the Kablunaks were just meeting together and a lot of people were thinking along these lines” (CEAA 1998k, 28). Being mindful of the number of non-community members present at community hearing sessions is one way to work towards addressing this issue and increasing participation among Indigenous community

members. That this is raised as an issue limiting participation by community actors speaks to the extent that structural racism, and its associated under-representation of Indigenous and racialized persons, shapes inclusion and participation in IA.

The case studies also contained some startling examples of non-inclusive practices. The most surprising to me was that there was no consistent offer by regulatory authorities to provide interpretation into Indigenous languages for IA review hearings in any of the case studies except the Voisey's Bay, where it was built into the Memorandum of Understanding from the beginning of the IA process. For the Site C hearings, Indigenous participants were asked to request interpretation by registering in advance (Joint Review Panel 2013). The result of this practice was that interpretation into Indigenous languages for both speakers and listeners was offered at only two community hearings (Saulteau First Nations and Doig River First Nation) and only after a formal request by the Nations' government in both cases. During the Keeyask IA, those wishing to present in their language were directed to "identify an interpreter and contact the Commission Secretary to make the appropriate arrangements" (CEC 2013a, 23). These requirements place a substantial burden on participants, require significant planning, and create an extra barrier that could greatly reduce the likelihood that unilingual community members, particularly Indigenous elders, will come to share their views. In some cases, these requirements place an extra burden on Indigenous governments, who must use their already stretched capacity and financial resources to arrange interpretation for community sessions. For example, during the Keeyask community hearing session in Split Lake, TCN arranged to have a Cree interpreter available to participants. In the session in Cross Lake, Pimicikamak Okimawin recorded when Cree was being spoken, arranged interpretation post-hearing, and provided the English version to the CEC a week later (CEC 2013h).

A similarly startling finding was that the default scheduling of community hearing sessions for the two most recent IAs was still on weekdays during the day, when many people have work and care commitments and are unable to take time off to participate in an IA session. While there are examples of communities requesting, and Panels

readily agreeing to, evening sessions to improve accessibility, it was surprising that evening sessions were not common practice. After all, holding public engagement sessions during non-working hours is a minimal requirement for procedural justice and a basic inclusive practice (Smith and McDonough 2001; Ottinger, Hargrave, and Hopson 2014).

The volume and technicality of information produced by the proponent is a persistent example of inaccessible and exclusionary practice in IA generally (O'Faircheallaigh 2009; Bernauer 2011a), and one that impedes procedural justice because accessible and useful information is a norm of this type of justice (Malin, Ryder, and Lyra 2019; Kojola 2019). In the case studies, it was raised not only by community participants but by members of review panels as well. During the Site C IA, the Chair of the Panel was frank about his frustration with this practice and the lack of clear, concise information in proponent documents: "'I can't stand it. I've read more material here than you could believe…The EIS (environmental impact statement) and its supporting documents are many times longer than the Bible. And the plot is not as good, nor is the language'" (Morton 2014). A York Factory First Nation member pointed to how the practice can generate distrust among members of communities, especially Indigenous people who often already experience high levels of distrust of the proponent and settler gpvernments: "We don't have information given to us to understand it, only a book and high-level information and it's not simple, direct answers to our questions. We got a big book to read and we can't take it in, so it's the same as not communicating" (York Factory First Nation 2012, 99). Accepted good practice within IA is that the IS should be written in plain language as much as possible (O'Faircheallaigh 2009; Sinclair and Diduck 2001), and guidelines produced during the IA process in the case studies typically have this as a requirement. However, submissions and hearing testimony make clear that the majority of community members and civil society organizations feel proponents fall far short of these requirements.

From Procedural to Recognition Justice

These findings about procedural injustices within the IA processes demonstrate that – while there are some examples of promising practices within some parts of individual cases, which should be celebrated and replicated in future IAs – these processes generally fall far short of meeting the norms of procedural justice in a way that will ensure the equitable participation of communities and members of marginalized groups. Procedural injustices in the case studies are shaped by a lack of attention to how inequitable power relations shape financial resources, capacity, and process and scoping decisions in ways that constrain the participation of many community actors, especially women, Indigenous people, people living on low incomes and people with disabilities (and the organizations that represent them) in IA. This intersectional environmental justice lens makes visible a lack of commitment on the part of settler federal and provincial governments, regulatory authorities, and proponents to meaningfully work against these inequities.

Impact assessments that come closer to meeting the norms of procedural justice are vitally important for two reasons. First, without procedural justice, it is unlikely that other forms of justice, including the recognition justice discussed in the next sections, will be realized. Second, procedural justice is important as a goal in itself: "We should…be concerned about an unfair decision-making process even if, hypothetically, it produced fair outcomes. Political equality requires that institutional structures that have profound effects on our lives are fair" (Bell and Carrick 2017, 102). Advancing intersectional equity in IA requires significant improvements in terms of procedural justice.

Dimensions of Recognition Justice

To achieve recognition justice, "policies and programs must meet the standard of fairly considering and representing the cultures, values, and situations of all affected parties" in a decision-making or policy process (Whyte 2011, 200). Contemporary

theorizing of recognition justice as an aspect of environmental justice draws heavily on the work of Nancy Fraser (1995; 1999) and Iris Marion Young (2000; 2011). A major concern of recognition justice is experiences of misrecognition, which include: experiences of cultural domination; the invisibilization or marginalization of particular groups or knowledge systems; and acts of discrimination, stigmatization, and stereotyping (Fraser 1995; 1999; Schlosberg 2009; Walker 2012). Walker (2012, 50) argues that "at the core of misrecognition are cultural and institutional processes of disrespect which devalue some people in comparison to others, meaning that there are unequal patterns of recognition across social groups." Because Young (2011) argues that misrecognition emerges from institutionalized patterns of oppression and domination, environmental justice scholars often situate misrecognition in the context of structural inequities, including those created through the interconnection of racism, colonialism, sexism, and ableism, among others (Schlosberg 2009; Walker 2012). For recognition justice to be realized, acts of recognition, especially with Indigenous Peoples, have to go beyond the liberal, colonial politics of recognition discussed in the previous chapter. Coulthard (2016, 454) argues that this form of misrecognition "promises to reproduce the very configurations of colonialist, racist, patriarchal state power that Indigenous peoples' demands for recognition have historically sought to transcend." Forms of recognition that are consistent with recognition justice work to resist these structural inequities within IA.

In the context of IA, recognition justice is particularly important because it is arguably the form of justice that is most closely related to the other three types of justice. Procedural justice and recognition justice are sometimes described as having a 'chicken and egg' relationship: "If you are not recognized, you do not participate; if you do not participate, you are not recognized" (Schlosberg 2009, 26). Of course, as this chapter will show, sometimes you do participate (against the odds), and you are still not recognized. Recognition justice also shapes the extent to which distributive justice can be achieved (Young 2011), as "a lack of recognition and validation of identity [are] a central factor in the distribution of environmental risks" (Schlosberg 2009, 59). In terms

of restorative justice, recognition is an important pre-condition for giving communities a meaningful role in decision-making[163] and supporting the self-determination of Indigenous Nations and governments.

In this part of the chapter, I examine what I argue should be the four norms of recognition justice regarding impact assessment for resource extraction projects. These include: recognizing marginalized groups as distinct members of 'the public' (Fraser 1999; Young 2011; Whyte 2011); valuing the contributions of Indigenous knowledges in IA (Walker 2012; Cashmore and Richardson 2013; Mascarenhas 2007); recognizing how structural power relations shape inequities in IA processes, structures, and impacts (Young 2011); and communities' expectation that their concerns are being heard and taken seriously by other IA actors (Schlosberg 2009). There are many examples of recognition injustices in the case study IA processes, and few positive examples of recognition justice being achieved. These injustices, disproportionately experienced by marginalized members of communities and sometimes Indigenous and rural communities as a whole, support the maintenance of the resource curse since IAs are unable to address many socio-economic impacts experienced by Northern communities.

(Mis)recognition of Marginalized Groups in Impact Assessment

As already alluded to in Chapter 1 and will be discussed in-depth in Chapter 7, members of historically marginalized groups within communities are likely to experience disproportionately negative impacts from mines and hydroelectric dams. In accepting that recognition and distributive justice are linked, I argue that when historically marginalized groups are recognized within the IA process, it is much more likely that these impacts will be recognized and addressed in IA. Across the case studies, Indigenous Nations, governments, and communities are those most frequently recognized in IA processes by the proponent, regulatory authorities, and other settler

[163] A meaningful role in decision-making is achieved when a community actor is taken seriously – where their concerns are listened to and addressed and where they have at least some power to make, change, or otherwise affect IA decisions.

government actors. However, this recognition is certainly not perfect, as is discussed below, and reflects wider inequities based in multilevel politics and settler colonialism, frequently resembling the very forms of misrecognition that Coulthard (2014) critiques. All other non-Indigenous social groups, including those who are marginalized, are recognized within IA in the case studies as part of 'the public,' within very little disaggregation of data or separate recognition of diversities among 'the public.' Some Indigenous people, especially those who live in urban centres or larger hub communities, are sometimes also treated as part of 'the public' in IAs.

The Indigenous Peoples most frequently recognized by the proponent and settler governments within the IA case studies are First Nations and Inuit governments whose reserves or communities are located close to the project and those who have settled land claims (or strong claims that have been accepted for negotiation) that overlap with the project area. In the case studies, these Nations and governments are typically afforded a 'deep' level of consultation by the Crown. They are most likely to be involved in early proponent consultation efforts and to have their knowledges and concerns recognized, at least in a limited way, within the IA. Many of these First Nations and Inuit governments regularly express concerns about the level of recognition they are afforded within the IA process. For example, the Tahltan Central Council (2005, 11) wrote that "The socio-economic assessment [of the Red Chris mine, prepared by the proponent,] fails to look at impacts to Tahltan lands and culture in any kind of meaningful way." There are multiple similar comments about inadequate recognition made by other Nations and governments in all the case studies, even where the Crown has determined that the duty to consult has been adequately fulfilled. These examples show the limitations of the duty to consult as a model for recognition justice and how consultation as a process of power is linked to recognition injustice. It is very much a recognition injustice because in its limited and colonial form (Coulthard 2014) it does little to disrupt dominant colonialist and extractivist relations of power when used in IA.

Indigenous Nations or governments whose communities are further away from the project site or whose settled land claims are outside the immediate project area are

much less likely to be consulted early and deeply by the Crown and proponent, and less likely have their concerns recognized within the IS or other parts of the IA. Despite this lesser level of recognition by the Crown and proponent, many of these Indigenous Nations and governments are frequent participants in different parts of the IA process including being members of working groups (where they exist), submitting written comments, and participating in hearings. Through participating, they often push for greater recognition within the IA than they are first afforded, by arguing that members of their communities and Nations use the lands and waters that will be affected by the project, that the lands and waters that will be affected by the project are part of their ancestral and unceded territories, or that the project will otherwise affect their members or communities in terms of socio-economic impacts. However, these efforts are not always successful. During the Keeyask IA, Shamattawa First Nation argued that they were "left out of all aspects of the Keeyask consultation, planning and involvement process" (CEC 2013e, 2442). Similar concerns were raised by Peguis First Nation and Pimicikamak Okimawin. Some Indigenous participants in the Voisey's Bay IA, including representatives of the Naskapi Band of Quebec and the Nunavik Inuit, suggested that there are political reasons why their concerns were not adequately recognized and addressed in the IA, namely that the Newfoundland and Labrador government refused to recognize their (and all other Indigenous groups in Quebec) claims to territory in Labrador.[164] For example, Zebedee Nungak of the Makivik Corporation representing the Nunavik Inuit asked during a scoping hearing: "that people don't pretend that we don't exist and we are not affected only because we live on the other side of an artificial political boundary…. we have unresolved, unextinguished Aboriginal claims which pre-date political boundaries, pre-date European settlement in the country" (CEAA 1997i, 5). This is a clear example of how disputes over territory, rooted in settler colonial governance structures, land claims policy, and artificial spatial boundaries, shape the

[164] This issue has long historical roots, with notable 'flashpoint' moments including the 1927 Labrador boundary decision and the Churchill Falls development discussed earlier in this chapter. For further discussion of this history and these events, see Cadigan (2009). For a discussion about the implications of this history for Indigenous Peoples on both sides of the border, see Procter (2020).

extent to which Indigenous concerns are recognized within IA (Procter 2020) and contribute to recognition injustice.

Settler colonial governance structures also contribute to the misrecognition of Métis peoples in the IA case studies. In the Voisey's Bay and Site C IAs, representatives of the Métis Nation and Métis-identified organizations routinely argued that they were not adequately recognized by proponents, or by settler governments. In British Columbia at the time of the Site C IA, the provincial government "[did] not recognize the existence of [Section 35] rights held by any Métis groups in BC" (CEAA 2011, 7). While the federal government did recognize the Métis as being owed a duty of consultation regarding the Site C project and directed the proponent to consult with them, both the Métis Nation of BC and the Kelly Lake Métis Settlement Society attribute the provincial government's position as contributing to a lack of proper consultation by the proponent (a provincial Crown corporation) and the undervaluing of their concerns and experiences with the IA process as a whole (Métis Nation British Columbia 2013; CEAA 2014c). During the Voisey's Bay IA, the Labrador Métis Association (LMA)[165] argued that its members were "systematically ignore[d]" by the proponent during the IA process, and in particular that the IS "fails to recognize the Labrador Métis as an aboriginal people" (Labrador Métis Association 1998, Appendix 2, 1). In his testimony before the Panel, Todd Russell, the LMA president, noted that, despite the proponent being directed to document differential impacts on Aboriginal groups in the IS guidelines, only "three hundred odd words [in the entire IS was] dedicated to the concerns and interests of the Labrador Métis" (CEAA 1998i, 49). Members of the LMA who participated in the IA argued that this was due in part to the provincial government's stance, namely that "the provincial government does not recognize the Métis Association as a legitimate Aboriginal body" (CEAA 1997g, 10). Some also argue that this is the reason they were not included as a party to the MOU with the Inuit and Innu.

[165] The LMA is now the NunatuKavut Community Council, whose members now identify as Southern Inuit. See Procter (2020) and Andersen (2014) for a discussion of the complex dynamics underlying the shift in identification from LMA to NunatuKavut and Métis to Southern Inuit.

In the Keeyask IA, the Manitoba Métis Federation (MMF) argued that they also experienced injustices based in misrecognition. The MMF continually asserted the position that "the Nelson River system to York Factory was one of the historic highways for the Métis…[and that] the Métis, as a distinct Aboriginal people, fit into that historic narrative in that region. They continue to be part of that narrative today" (CEC 2013k, 50). Both the provincial and federal governments in the Keeyask case did acknowledge the need to consult the MMF about the potential impacts of the dam for Métis people, unlike the other two cases discussed above. Arguably, as referenced above in the procedural justice section, this reflects the differential historical status of the Métis in Manitoba (Métis National Council 2020) compared to Métis people who live in other parts of the country. However, the MMF's position was that impacts on Métis land use and rights were not adequately recognized in the Keeyask IS prepared by the proponent. The MMF (2012, 3) argued that their efforts to discuss Métis land use and rights with the proponent "ha[d] been rejected because they do not align with the claims of the First Nation Keeyask Partners who deny the existence of a distinct aboriginal group – the Métis – with the Project assessment area." The roots of the misrecognition experienced by the MMF in the Keeyask IA are therefore somewhat different than the experiences of Métis organizations in the Site C and Voisey's Bay IAs.

These examples of misrecognition of the Métis demonstrate how the wider institutionalization of settler colonialism in Canadian governments and society shape recognition justice in IAs. Government policies which grant "different levels of state recognition to Indigenous groups" (Procter 2020, 7) and engage in a process of "repressive authenticity" (Veracini 2010, 40), construct some Indigenous Peoples and practices as more 'authentic' and 'legitimate' than others. Settler colonial governance structures, including the modern comprehensive land claims frameworks, also typically confine settler government recognition of Indigenous land rights to claims made for exclusive territories,[166] usually a fraction of their original total size (Irlbacher-Fox 2009).

[166] Ignoring longstanding relationships of cooperation, sharing, and mutual use of territories between Indigenous Nations and Peoples.

The inequities within these policies are reproduced in the IA case studies, creating tensions between Métis and First Nation actors, as in the Keeyask IA, and limiting recognition of Métis identities and rights by settler governments, as in the Site C and Voisey's Bay IAs.

The recognition of members of other marginalized groups within the IA is much more limited – not surprising given their lack of recognition in IA legislation and policy frameworks discussed in Chapter 5 concerning recognition as a process of power. The Voisey's Bay IA stands out as an exception in this regard, particularly with the recognition of gender, at least in its binary form. The Guidelines, prepared by the Panel following public consultation and scoping hearings required that the proponent "differentiate information regarding the baseline description, impact predictions and the effectiveness of mitigation measures by age, gender and aboriginal status and by community…[and] explain how it has used feminist research to identify how the Undertaking will affect women differently from men" (Joint Environmental Assessment Panel 1997, 7). While these are far more inclusive and direct guidelines than any of the other case studies, the participants that represented the provincial Women's Policy Office, the Women in Resource Development Corporation (WRDC), and Innu and Inuit women were largely unsatisfied with the proponent's fulfillment of this guideline (Women's Policy Office 1998; TIA 1998a; WRDC 1998; Innu Nation 1998), arguing that "women receive scant mention in the EIS" (WRDC 1998, 7) despite strict directions to include them. Dorothy Robbins of the Women's Policy Office argues that there are many examples of "gender differences being noted without a real analysis of what these differences are likely to mean" within the proponent's IS (CEAA 1998b, 9), particularly in terms of the distribution of costs and benefits. There is also very little acknowledgement and no analysis in the IS of how the diversities among women might shape their experiences. For example, Innu and Inuit women's experiences were not differentiated in any consistent way, nor the differences in the experiences of Indigenous and settler women. Similarly, there was no acknowledgement or analysis of the differences in

experiences between women with disabilities (especially Indigenous women with disabilities[167]) and non-disabled women.

However, the Voisey's Bay case study (the earliest case study) was also unique because one of the Panel hearing sessions was dedicated to the topic of women's issues, indicating a greater level of recognition of the importance of women's perspectives by the Panel at least. This session was well-attended by both settler and Indigenous women's organizations, and the presentations in the session made some of the diversities among women and gendered analysis missing in the proponent's IS more visible. For example, the presentation by the provincial government's Women's Policy Office during this session noted that the proponent's discussion of impacts for single parent families was faulty because it failed to include a gendered analysis. The majority of single parents in Labrador are women and more women in the primarily Inuit and Innu communities of the North Coast are single parents than women in other regions of Labrador (CEAA 1998b).

Even the noting of gender differences, let alone other forms of social differentiation, is rarely done in the other case studies in directions given to proponents by regulatory authorities or in the proponents' ISs, despite the large body of evidence on differential impacts experienced by women and members of other marginalized groups. One participant in the Site C IA (the most recent project assessment of the case studies) wrote: "I am shocked that impacts for women were not studied as an independent category in the assessment." She also noted that the IS "fails to sufficiently address the differential social impacts for different social demographics," including low-income families, children, and temporary foreign workers (Dumoulin 2013). The lack of recognition of marginalized groups within the IA case studies points to the important contribution that better integration and mandatory application of gender and diversity analyses, disability lenses, and other intersectional policy tools discussed in Chapter 4

[167] Indigenous people are more likely than non-Indigenous people to experience disabilities (Stienstra 2020). More Indigenous women than Indigenous men have disabilities. While disability rates are generally lower among Inuit people compared to First Nations and Métis people, Nunatsiavut has the highest disability rates of the four regions of Inuit Nunangat (Hahmann, Badets, and Hughes 2019)

can make to accountability in IA, particularly in reducing intersectional invisibility and shaping the potential for distributive justice to be realized.

Recognition of Indigenous Knowledges

In addition to the recognition of identities, the recognition of different types of knowledge is an important part of recognition justice in IA. The environmental justice literature recognizes that knowledges and evidence are never neutral when used in environmental decision-making. They are "constructed and produced in ways that reflect the routines, epistemological predispositions, cultures and values of those doing the producing" (Walker 2012, 41). In particular, we must be concerned about what types of knowledge are recognized as legitimate within the IA process, the power relationships that shape that recognition, and which knowledges are used as a basis for decision-making (Cashmore and Richardson 2013). Recognition of knowledge within IA is connected to procedural justice because "those that have respect, are able to participate and have the resources to collect, analyse and present evidence are able to make their knowledge and knowledge systems count in the way that others are not" (Walker 2012, 63). It is well recognized within the IA literature that those who are most often able to make their knowledges 'count' are proponents and experts who have based their evidence in Western science, while Indigenous, local and community knowledges are much less likely to be granted the same level of respect and acceptance (Manning et al. 2018b; Baker and Westman 2018; Angell and Parkins 2011; Bedard 2013; Wilkes 2011). There are many examples of this pattern within the case studies, some of which discussed below. However, both the Keeyask and Site C cases show that this pattern does not always hold. There have been admirable, although imperfect, efforts on the part of the proponent (in the Keeyask case) and the Panel (in the Site C case) to respect Indigenous knowledges (IK) in at least some parts of the IA process.

There are numerous examples of Indigenous knowledges being undervalued or ignored by proponents, settler governments and regulatory authorities in the IA case

studies, despite requirements in three of the four case studies[168] that Indigenous knowledge is considered. During the Voisey's Bay IA, Indigenous Nations, governments and organizations argued that the proponent made very little effort to collect and incorporate knowledges from any Indigenous Peoples other than the Labrador Inuit Association (LIA) and the Innu Nation. For example, the Naskapi Band of Quebec (1998) noted that the proponent claimed to have sent them a letter (which they did not receive) requesting they provide IK very late in the IS preparation process – a mere three months before the proponent submitted its IS. The proponent did not follow up when they did not receive a response. For the Naskapi Band of Quebec (1998, 6), this demonstrates that "there was never a serious intention to incorporate knowledge from other Aboriginal groups in the EIS." The Innu Nation (1998, 6) raised several concerns about the proponent's epistemological assumptions in writing the IS, including that they adopted a western framework for describing Innu communities and family structures, without taking into account their "distinct social organization and cultural values." The Innu Nation (Innu Nation 1998, 4) also noted that:

> The Proponent has made an explicit assumption that employment and income will increase self-esteem, thereby resulting in improved social conditions in Labrador North Coast communities…The basis for the assumption 'jobs = self-esteem' is never explained, although one might argue that this belief is so implicit in non-Aboriginal western society that the Proponent has simply applied this ideology to the assessment.

The TIA likewise raised concerns that the researchers hired to write the (then labelled) traditional ecological knowledge studies often failed to "acknowledge the importance of working with and interviewing women about their traditional knowledge" (TIA 1998b, 10). This is a recurring problem in impact assessment, rooted in the intersection of patriarchy and colonialism (Coulthard 2014), and reduces the likelihood that impacts most frequently experienced by Indigenous women will be identified (Manning et al. 2018b; Femmes Autochtones du Québec 2017; LaBelle 2015; Kermoal 2016). During the

[168] Through MOUs, harmonization agreements, IS guidelines, etc.

Red Chris IA, Tahltan representatives argued that their knowledge was not adequately considered, however, the BC EAO disagreed and determined it was adequate (EAO 2005a).[169] In particular, the Tahltan Central Council argued that scientific knowledge was given more weight than their knowledge and that the proponent did not respond well when Tahltan people and representatives raised concerns during the public meetings (Tahltan Central Council 2005; EAO 2005b).

The secondary status of Indigenous knowledges in IA relative to Western knowledges reflects the knowledge hierarchy implicit in settler colonial governance in Canada and recognition as a process of power in IA. In the Canadian system of multilevel politics, "the coercive power of the state forms a backdrop" to Indigenous and settler government interactions and is intimately tied to what knowledge is considered legitimate in policy processes (Nadasdy 2004, 264). Indigenous knowledges are often undervalued, "described as views and perspectives" instead of knowledges by non-community actors (Bedard 2013, 193). They tend to be included only to the extent that they serve (or at least, do not profoundly disrupt) dominant interests. In the case of IA, those dominant interests are typically the extractivist interests of the proponent and settler federal and provincial governments. As Irlbacher-Fox (2014, 148) reminds us, "using, respecting, and making space for Indigenous Knowledge constitutes a fundamental challenge to power relations…[and has] transformative potential with respect to confronting settler colonial norms within institutions." It is therefore not surprising that efforts to recognize IK within IA are often limited, as doing so more fully would disrupt dominant power relations based in settler colonialism and capitalism. However, this also points to the importance of pushing for greater inclusion of Indigenous knowledges in IA as a way to challenge structural inequities and work towards environmental justice.

One example that comes closer to meeting the standards of recognition justice concerning Indigenous knowledges is the report of the Site C Joint Review Panel. During

[169] Unfortunately, not an unexpected outcome given how consultation as a process of power operates in IA (see discussion in Chapter 4).

the Site C IA, many Indigenous Nations and governments were critical of the proponent's repeated insistence that "Aboriginal traditional practices can readily be reproduced elsewhere and are therefore adaptable" (Joint Review Panel 2014, 96). This ignored not only the cultural importance of particular places raised by many Indigenous people during the IA but also the many statements about the cumulative impacts of multiple developments in the region as greatly limiting the land available within Treaty 8 territory to engage in hunting, fishing and trapping. The proponent argued in their IS that this 'adaptability' meant that effects on Indigenous traditional practices (hunting, fishing, and trapping) were low or moderate in magnitude for all Indigenous Nations and governments that the proponent was required to consult with, and therefore the effects were not significant. The Panel disagreed with the proponent, having heard multiple Indigenous people share their knowledge about how the dam would disrupt their traditional practices, and that the proponent's methodology and determination of magnitude and significance in regards to Indigenous use of lands for traditional purposes was flawed (Joint Review Panel 2014). In particular, the Panel "consider[ed] a moderate or high magnitude effect to be significant" (Joint Review Panel 2014, 96), and therefore that the project would have a significant impact on many First Nations in the region. The Panel's findings show the importance of a panel[170] as an actor in recognizing the importance of IK in understanding impacts when the proponent has failed to do so.

The 'two-track approach' to IA used in Keeyask was the most promising example of the incorporation of IK in the case studies and is a promising model for achieving recognition justice in future project assessments. Joe Keeper, on behalf of the partnership, described this approach as follows: "individual Keeyask Cree Nation environmental evaluation reports [a type of CBIA] would be included in a completed EIS with equal weight and recognition given to the environmental reports, as the western technical science report, which was the response to the EIS guidelines completed by the partnership" (CEC 2013f, 458–59). Indigenous knowledges were incorporated in some

[170] See the representation section in Chapter 4 for a discussion of how panels are constituted in the different jurisdictions studied.

parts of the Western science components of the IS, based on a set of nine co-developed principles on how IK should be treated in the IS including "giving equal weight" and "ensuring visibility…[Indigenous knowledge] will not be melded with western science so as to become invisible" (KHLP 2012b, Appendix 2A). In particular, the two-track approach was meant to recognize that the typical process and structure of formal project-level IA, using Valued Environmental Components (VECs) to determine impacts, is inconsistent with Cree and other Indigenous knowledge systems, "which places equal importance on all components of the environment, as all parts are important and interrelated" (KHLP 2012a, 20). It should be noted that Innu and Inuit participants in the Voisey's Bay IA also raised this inconsistency between worldviews as an issue of concern. In the Keeyask case, the partnership suggested that placing a high emphasis on monitoring impacts using both types of knowledge could begin to resolve the tension (KHLP 2012a). In their CBIAs, both Fox Lake Cree Nation and York Factory First Nation note that the process of integrating IK in the IS and IA process as a whole was challenging. For example, York Factory First Nation (2012, 94) stated: "While we still feel that many of the details need to be worked out with our partners, we acknowledge that our perspectives and knowledge have been brought into some parts of the EIS."

During the CEC hearings for the Keeyask project, other Indigenous IA participants raised concerns about the extent to which IK had been meaningfully integrated. For example, Flora Beardy, a member of Kaweechiwasihk Kay-tay-a-ti-suk, a group representing York Factory elders in the IA, said: "We are very concerned that our eninesewin[171] is not being treated with equal value and importance with western science" (CEC 2013b, 6226). Kate Kempton, a lawyer representing Pimicikamak Okimawin, argued that the equality of knowledges promised by Manitoba Hydro was not realized in practice: "What happened, when the Aboriginal perspective called for one thing and Manitoba Hydro in its reliance on western science called for another, was that Manitoba Hydro's perspective won out, western science won out" (CEC 2014b, 6800). Pimicikamak Okimawin, along with other Indigenous IA participants who were

[171] Cree word for knowledge held by Cree people.

not partner Cree Nations, also repeatedly argued that the knowledges of their Nations and members were not given the same weight as the knowledges of the partner Cree Nations in the IA. While the two-track approach is a promising model that in theory is consistent with the standards of recognition justice, this evidence suggests that its transformative potential in the Keeyask case was limited by the same types of inequities that plague the integration of IK in the other case studies. Further study could determine if this model is an effective foundation for meaningful recognition of IK in IA.

Recognizing Power in Resource Extraction

The third norm for recognition justice, and one that also shapes distributive justice for marginalized members of communities in particular, is the recognition that power shapes the distribution of environmental harms. Much of the environmental justice literature has historically focused on racism, but more recently has explored other systems of power including colonization and sexism (Schlosberg 2013; Schlosberg and Carruthers 2010). Malin and Ryder (2018, 4) argue that specific environmental injustices, including those resulting from resource extraction, "are embedded in, inseparable from, and often exacerbated by particular conditions of social inequality, injustice, and oppression that precede environmental justice concerns." Within the case studies, the interconnected power relations that shape socio-economic impacts for marginalized groups are raised frequently by community members, Indigenous Nations and governments, and civil society organizations, but are rarely recognized by proponents, settler governments, or IA regulatory authorities.

How sexism and racism shape socio-economic impacts (particularly in terms of access to employment and experiences of violence) for women and Indigenous people, especially Indigenous women, are most well-documented in the literature (e.g., Pauktuutit Inuit Women of Canada et al. 2014; Nightingale et al. 2017; Koutouki, Lofts, and Davidian 2018; Garvie and Shaw 2016). Those systems of power are certainly raised by multiple community participants in the case studies and are discussed in more detail in relation to distributive justice in the next chapter. These are also the systems of

power most likely to be recognized by proponents and IA regulatory authorities. For example, the Voisey's Bay IS guidelines directed the proponent to create anti-racism and anti-sexism policies (Joint Environmental Assessment Panel 1997) and the completed IS states that "harassment of all types, including sexual and racial, will be strictly prohibited" (VBNC 1997, 3–135). In the Keeyask IA, Manitoba Hydro acknowledged racism among hydro workers directed against Cree community members and workers in Gillam and in the workplace. They committed to doing better in the Keeyask project (CEC 2013i).

Much less recognized by non-community actors is how colonialism and extractivism shape both the IA process and Northern communities' experiences of resource extraction as a whole. During the Keeyask IA, Indigenous Nations, including Keeyask partners, were explicit in stating that Manitoba Hydro's past dam developments were a defining feature of the experience of colonization for their communities. York Factory's (2012, 66) CBIA stated: "Our perspective on hydro-electric development is that it has been a destructive, exploitive form of neocolonialism, imposed from outside on our lands and community… Some of our community members continue to consider Keeyask as another form of neocolonialism [even with the co-partnership model]." Fox Lake Cree Nation wrote: "Though other colonial and marginalizing events had occurred in FLCN, none had the total impact on the people (their way of life, meaning, purpose, value frameworks) as did the arrival of Manitoba Hydro. Hydro development was, in and of itself, an event powerful enough to fray the community fabric" (Fox Lake Cree Nation 2012, 72).

Indigenous Nations, governments, and community members also recognize the role of existing inequities based in colonialism in shaping social impacts for their communities. During the Site C IA, Alana Watson of Saulteau First Nations told the panel about the challenges her community already experiences due to colonialism, which they fear will be exacerbated by the Site C dam: "We are seeing gang violence in our community, drug and alcohol dependency, depression, and suicide" (CEAA 2014d, 102). In the Voisey's Bay IA, Innu people frequently raised the ways that colonization shapes

wellbeing in their communities. “Innu deal directly with the fallout of cultural disintegration, and this fallout might be characterized by sexual abuse, violence, alcohol and other substance abuses, …prison, suicides and tremendous grief and loss. This is not the way Innu choose to live. These are the symptoms…they are the cumulative impacts of colonization” (CEAA 1997j, 8). When an expert hired by the proponent suggested that giving Innu people jobs at Voisey’s Bay will decrease substance use in Innu communities, Daniel Ashini of the Innu Nation argued that that was an erroneous assumption that did not recognize the impacts of colonization and the capitalist drive for resources in shaping current conditions, particularly:

> that people become dispossessed…become colonized by other governments like the Newfoundland government and the Canadian government…They displaced them off their lands and continue to exploit our lands without our consent. When people start to lose control over their lives and their future and so forth…that puts people in a situation where, you know, they try to find a solution and where they try to find a solution is in the bottle.” (CEAA 1998e, 14)

Both proponents and settler governments in the case studies rarely recognize their roles and responsibilities in shaping these experiences of community impacts or, as should now be abundantly clear, acknowledge their relationship to and complicity within the system of settler colonial and extractivist governance. Communities’ understandings of IA and resource extraction as tied to the pursuit of profit, (neoliberal)[172] capitalism and settler colonialism point to the relevance of the extractivist explanation of the resource curse for understanding the outcomes of resource extraction in Northern Canada.

Community actors, proponents and settler governments within the case studies are largely silent on the other systems of power that shape IA and community experiences of resource extraction. There is no sustained attention paid to the ways that

[172] Community actors tend to talk about relationships of capitalism in general as shaping project outcomes. They do not use the language of neoliberalism. However, as discussed in Chapter 2, these patterns of capitalism in resource extraction in Northern Canada fit with scholarly analysis of the neoliberal model of capitalism.

ableism shapes project impacts, nor the ways that disability itself can be seen as "an outcome of [the] political economy" of capitalism (Russell and Malhotra 2019) or how ableism contributes to the continuity of Canadian settler colonialism (Hutcheon and Lashewicz 2020). This lack of recognition of these systems of power likely explains some of the absence of the experiences of people with disabilities in the case study IAs.

Do Communities Believe Their Concerns Are Taken Seriously?

For recognition justice to be achieved in IA, communities – especially members of marginalized groups – need to feel that proponents, panels, government regulatory authorities, and decision-makers have listened to their concerns and taken them seriously – meaning the communities' concerns affect the decisions that are ultimately made about the project. Ottinger et al. (2014, 663) write that this aspect of recognition is linked to procedural justice because "decision-makers need to acknowledge the legitimacy of community members' participation and respect their input as an important and relevant contribution to decision-making." This recognition or lack of recognition also shapes communities' willingness to participate in the IA process, as was discussed briefly above with regard to procedural justice. For those who cannot participate in IA, be present in hearings, or easily use written submissions to bring their concerns forward, achieving recognition justice is more difficult, if not impossible. This points to the importance of direct and targeted consultation by both the state and proponents with members of marginalized groups who are likely to experience disproportionately negative impacts, in order to ensure their concerns are included in decision-making (see discussion on this point in Chapter 5). In the case studies, communities are generally skeptical of the extent to which their concerns are taken seriously within the IAs. However, there is evidence that review panels have a better track record with community concerns than other non-community actors, including proponents and federal and provincial governments.

In the IA case studies, many members of communities say that they feel that their concerns are not or will not be taken seriously by proponents and most

government regulatory authorities. The submissions made by community participants during IA comment periods are peppered with remarks expressing doubt, including: “you don't read these” (Abell 2013, 1); “ordinary citizens have little hope of having their voices heard” (Darnall 2011); and “I hope my letter will be considered wisely and not just brushed aside with the usual government attitude” (Sowa 2005, 2). Some community members make similar comments at other stages of the IA process, such as in the Keeyask CBIAs – "I worry they’re taking us through this process and not really listening" (York Factory First Nation 2012, 108) – or panel hearings – “I guess I'm wasting my time to come here because I'm no further ahead now than if I had stayed home and kept that to myself. I come up here and tell you my concerns. It hasn't gone anywhere… Voisey's Bay [Nickel Company] are not addressing the concerns of the people” (CEAA 1998g, 26). Some IA participants link their lack of faith to the proponent’s methods of responding to community comments. For example, Fort Nelson First Nation (FNFN) writes: “Based on BCH’s [BC Hydro’s] answers or avoidance of answers, FNFN is given the impression that they are changing very little from their original position taken in the EIS and that this review process is nothing more than a formality that BC Hydro must perform in order to get project approval” (Fort Nelson First Nation 2013, 9). Deep skepticism is expressed by some Indigenous community actors about proponent’s and governments’ efforts to engage with Indigenous Peoples and the motives driving that engagement. For example, during the Site C hearings, a representative of the Treaty 8 Tribal Association stated: “A lot of us say it's just lip service… It's always just all about the project. It's not about relationship building” (CEAA 2013c, 84). Others, including Jane Calvert of Doig River First Nation, note the role of government decision-makers in shaping communities’ lack of faith in the IA process: “[Our] members are not used to having their voices heard, because even when they oppose a particular development due to significant impacts on their Treaty Rights, it is always approved by government at the end of the day” (CEAA 2014b, 166). These examples of community pessimism are troubling because community participation is essential to a robust review process and to ensuring community impacts are identified.

The possible exception to community pessimism is review panels. The joint panels in the Voisey's Bay and Site C IAs were recognized by Indigenous organizations for taking their communities' concerns seriously. For example, Liz Logan, Tribal Chief of the Treaty 8 Tribal Association, spoke very highly of the Site C Panel's report and recommendations saying, "'The Panel came to our communities, we told them our stories, they listened and they heard us'" (Treaty 8 Tribal Association 2014). Similarly, following the release of the Voisey's Bay Panel report, an Innu Nation representative stated that their major concerns were addressed by the Panel. David Nuke, President of the Innu Nation, told the media: "'The Innu people are very pleased that the panel not only listened to us, but heard what we had to say'" (Wright 1999). My review of the panel reports in the Voisey's Bay, Keeyask, and Site C cases shows that the panels do recognize and discuss the majority of the concerns regarding socio-economic impacts raised by community actors in IA comment submission and hearings.[173] This points to the importance of panels as IA actors that can amplify communities' voices, especially concerning the socio-economic impacts most likely to be experienced by members of marginalized groups that are largely missing or inadequately analyzed in proponent's ISs in the case studies. While they discuss many socio-economic impacts, it is notable that the Keeyask and Site C panels made very few recommendations concerning those impacts. While it is impossible to definitively say why that is the case without speaking to panel members, one reasonable interpretation is that the panels were limited by the legislative and policy frameworks described in Chapter 4 – where socio-economic impacts are afforded much less recognition than environmental impacts and different jurisdictions recognize different types of impacts – and presumed it futile to issue recommendations that would later be ignored by government decision-makers.

[173] Unfortunately, there was no evidence that direct and targeted consultation happened with any group other than Indigenous people (and typically only community leadership and Indigenous government departments) in any of the case studies. This indicates that the perspectives of members of communities who were not able or willing to participate in the IA likely remained invisible. The Panels were only able to consider the evidence and perspectives of those who chose to participate in the hearing process.

Conclusion

As this chapter shows, within Canadian IA, "the 'gap' between ideal principles and actual institutions is very large" (Bell and Carrick 2017, 108). To some extent, these findings of the gap between policy promises and procedural and recognition justice norms, on the one hand, and practices within specific project-level IAs, on the other hand, are not surprising. As Bell and Carrick (2017, 106) write:

> In contemporary representative democracies with (neo)liberal political cultures and capitalist political economies, we are not likely to see authoritative environmental decision-making processes that are fully inclusive from agenda setting to decision-making and in which resources are provided to 'weaker parties' to eliminate 'gross power disparities.'

This chapter shows that inequities, emerging from interconnected systems of power including the dynamics of capitalism that Bell and Carrick (2017) acknowledge, but also settler colonialism, extractivism, sexism, racism, ableism, and others, are key to understanding the failures of IA institutions and processes to meet the norms of procedural and recognition justice for marginalized members of communities and account for community impacts.

There are many examples of procedural injustices in all the cases studied. Members of marginalized groups and their representative organizations point to the substantial challenges to their participation created by institutional policies and practices surrounding funding and short IA timelines. That there was still substantial community participation in three of the four case study IAs (Voisey's Bay, Keeyask, and Site C) demonstrates the dedicated commitment shown by community actors to making the potential impacts of the proposed projects in their communities visible to the proponent, IA agencies, and settler government decision-makers. This chapter has also shown that the accessible and inclusive practices used in the Voisey's Bay, Keeyask and Site C IA were also largely due to the efforts of community actors, particularly Indigenous governments and Indigenous organizations, rather than commitments to

inclusivity and supporting equitable participation on the part of the proponent or settler governments.

One of the success stories of this chapter is the recognition of the Cree knowledge held by the four Keeyask partner Nations during the IA for the dam. The 'two-track' approach used in Keeyask case shows how Indigenous communities can conduct their own CBIAs (when they can access sufficient funding supports)[174] and how this knowledge can be integrated into the settler government IA process in a way that appears to be far more effective than any of the other cases studied. While this chapter has also acknowledged some significant limitations with the Keeyask process, including doubts expressed by some community members about the depth of integration of IK from the CBIAs in the settler government IA process and concerns that similar opportunities and supports were not available to other Indigenous Nations who would be affected by the project, it is certainly a model worthy of further study for working towards recognition justice in IA.

Despite the successes, this chapter demonstrates the persistent intersectional invisibility of some marginalized groups in communities. The experiences of people with disabilities and people living on low incomes remain largely invisible in all the case study IAs. The Voisey's Bay IA was remarkable in that women's experiences (at least non-disabled and non-poor women) were recognized much more significantly than in the other cases studied, particularly the experiences of Indigenous women (although not Indigenous women with disabilities). In this case, this recognition is arguably largely due to women's organizations' (including Indigenous women's organizations)[175] persistent

[174] In this case, arguably available due to the provisions built into agreements with Cree partners (see earlier discussion in case study context section) and contingent on repaying some of those costs to Manitoba Hydro when the dam is profitable.

[175] There are several potential explanations for the absence of an analysis of disabled women's experiences in general, and Indigenous women with disabilities' experiences in particular, in the presentations and submissions of the several women's organizations who participated in the Voisey's Bay IA. The absence of disability is especially puzzling considering these organizations were very attentive to illustrating the implications of other kinds of intragroup differences among women, such as age, education level, family status, and Indigenous/settler identities. The mainstream core of the Canadian women's movement (including in NL) has historically been less attentive to the experiences of women with disabilities and less inclusive of disabled women that should be expected given that almost one-

advocacy efforts despite the many barriers to participation and the receptiveness of the Panel members[176] to that advocacy, rather than genuine efforts toward inclusion on the part of the proponent or the federal or provincial government. Across all four case studies, Indigenous people (but again not Indigenous people with disabilities)[177] as a group are more likely than other marginalized groups to have their experiences recognized in IA. Again, arguably, this is due in large part to the obligations inherent in Canada's constitutional order, and advocacy on the part of Indigenous Nations and Peoples, rather than altruistic concern or commitments to meaningful reconciliation on the part of the actors who hold the most power in IA. As this chapter has discussed, there are also many deficiencies in Indigenous inclusion in IAs and settler colonialism permeates many parts of IA processes. As a whole, and despite many opportunities for public participation in the case study IAs, the analysis in this chapter shows that there is actually very little space in IA for community actors to have their concerns about proposed mines and hydroelectric dams recognized and addressed. In the next chapter, I show how these same systems of power shape prospects for distributive and restorative justice in IA.

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quarter of Canadian women live with disabilities (Israel and Odette 1993; Statistics Canada 2017b). There are also significant tensions between some parts of the Canadian feminist and disabled peoples' movements related to issues such prenatal testing and selective abortion (Manning, Johnson, and Acker-Verney 2016), which have limited women with disabilities' engagements with more mainstream women's organizations. Finally, there is also a different understanding of 'disability' in Labrador, especially among Indigenous Peoples, than the social model of disability that is more common among settler people with disabilities in Southern Canada. Claiming the label of 'disability' and thus, of difference, is in many ways at odds with Indigenous relational ontologies which emphasize inclusion. For further discussion on this point, see Stienstra, Baikie, and Manning (2018).

[176] The composition of the panel is discussed earlier in Chapter 6 but notably included one Inuk man, a feminist and social justice advocate, and a consultant who has worked with many Indigenous communities in the North.

[177] See Stienstra, Baikie, and Manning (2018), Stienstra and Ashcroft (2010), and Shackel (2008) for a discussion of Indigenous ontologies around disability and inclusion that may explain the absence of recognition of Indigenous people with disabilities within the case study IAs.

Chapter 7: Limiting Change Through IA: Distributive and Restorative Injustice

The previous chapter argued that inequities built into the IA process result in procedural and recognition injustices, which restrict the space and supports available for community actors to participate in IA. In turn, these injustices undermine their abilities to have their concerns taken seriously in the IA and ultimately in the decisions being made about the future of the project. This chapter examines distributive and restorative (in)justices within the case study IAs. In this chapter, I argue that distributive and restorative injustices limit the ability of the IA process to result in a meaningful change to communities' experiences of resource extraction. While there are some examples of limited successes regarding particular elements of distributive and restorative justice in the case studies, these successes are not sufficient to alter the wider pattern of poor outcomes associated with the resource curse in Northern communities, because they do little to unsettle the deeply rooted inequities within the IA and relationships between communities on the one hand, and corporations and settler governments on the other.

Dimensions of Distributive Justice in IA

When we talk about environmental justice in relation to impact assessment and resource extraction more generally, it is often to distributive justice that we are referring. Implicitly and sometimes explicitly, distributive justice has been the focus of most social science research on the impacts of resource extraction for marginalized groups in Canada and internationally (see Manning et al. 2018; Stienstra et al. 2016, 2019; Stienstra, Manning, and Levac 2020). The three core concerns of distributive justice in environmental decision-making are: who can benefit, who will face increased burdens, and how that distribution occurs (Walker 2012). The equitable distribution of

benefits and burdens is the generally accepted norm for distributive forms of environmental justice (Walker 2012). Distributive justice in policy processes is intimately connected to procedural and recognition justice (Bell and Carrick 2017; Young 2011), in particular, because "broad, inclusive and democratic decision-making procedures are a tool, or indeed a precondition, for achieving distributional justice" (Walker 2012, 47). Distributive justice can also be linked to restorative justice[178] in that "one of the reasons for the unfair distribution of environmental benefits and burdens is that the decisions that transform the environment are usually made by people who enjoy the benefits rather than the burden" (Bell and Carrick 2017, 101).

The basic question of distributive justice in relation to resource extraction is one of the benefits versus costs and the distribution of positive and negative impacts from projects situated near communities. Examining distributive justice in IA shows how relationships of community inclusion and exclusion as well as those shaped by settler colonialism and capitalism explain the persistence of the resource curse in Northern Canada. The inequitable distribution of costs and benefits that is the focus of distributive justice is also one of the primary ways that the resource curse manifests in this context. In discussing the dimensions of distributive justice within IA in this chapter, I begin with an analysis of the benefits and costs made visible in the case study IA processes, including how the proponent's understanding of the distribution of benefits and burdens and (lack of) attention to structural power inequities shapes how costs and benefits are considered. I then examine how the inequitable distribution of power between communities and corporations, and between Northern and Southern parts of the provinces, shape distributive justice within IA. Finally, I argue that a substantive (re)envisioning of benefits is needed for some communities to feel that distributive justice has been achieved in IA.

[178] As the latter section of this chapter will discuss, allowing local communities a meaningful role in decision-making is one of the norms of restorative justice.

Examining Benefits

Benefits from mines and hydroelectric dams come in multiple forms. Some represent benefits to individuals, such as new employment and training opportunities, and new business opportunities. Others represent benefits to communities, which typically come in the form of revenue sharing or equity arrangements with primarily Indigenous (but occasionally other) communities, as discussed in Chapter 4, and funding for community services, programs and infrastructure. Proponents make the case that mines and hydro dams also result in provincial or national level benefits through increased government revenues through royalties or taxation on the project – in theory translating to improved public services for communities – and increased revenue through project profit when the proponent is a Crown corporation, which is the case with most major dam projects in Canada.

In each of the four case studies, promises of each of these types of benefits were made during the IA process and were received favourably by many members of communities and representatives of all levels of government. Space does not allow a comprehensive discussion of the many different types of benefits promised for each project, but I will discuss a few examples to demonstrate how benefits can be concrete and meaningful to individuals and communities. In the Voisey's Bay case, the proponent contributed $15 million (half the cost) to building a new hospital in Happy Valley-Goose Bay (CEAA 1998h; VBNC 1997), where many members of Innu and Inuit communities receive care and services not available in their North Coast communities. In the Red Chris case, a Memorandum of Understanding between the proponent and the Tahltan Nation[179] included commitments for Tahltan employment at the mine (EAO 2005b). In the Keeyask case, each of the partner Cree Nations has the opportunity to buy equity in the project, and therefore "the potential to receive ongoing income from this investment" (KHLP 2012a, 30). Members of these Nations can also take advantage of directly negotiated contracts for Indigenous businesses to provide services to the

[179] Signed by the Tahltan Central Council, Iskut First Nation, and Tahltan Band Council.

project, rather than engaging in a tendering process with larger firms, where they would be placed at a disadvantage (KHLP 2012a; 2012b). Through the Keeyask Adverse Effects Agreements,[180] partner Cree Nations receive funds to build infrastructure and deliver programs and services that they have determined to be important in helping their communities cope with the effects of the project. For example, War Lake First Nation received funding for a community fish program, traditional learning and lifestyle program, Cree language and oral history programs (KHLP 2012b). In all the project case studies, preferential hiring for Indigenous and Northern residents was promised through either IBAs, company policies, or existing government agreements[181] (CEAA 1997d; Joint Environmental Assessment Panel 1999; KHLP 2012b). In the Site C case, several municipalities negotiated agreements directly with BC Hydro to receive some benefits, such as a fund to support non-profit organizations and improve emergency preparedness infrastructure (The Canadian Press 2014).

Acknowledging Disproportionate Impacts

The distributive costs of mines and hydroelectric dams, in terms of negative socio-economic impacts, are raised frequently by community actors,[182] including individual members of communities, Indigenous Nations and governments, and civil society organizations within the IA process as shaping their communities' experiences of resource extraction. They are also often raised repeatedly, beginning in the very early stages of the IA when scoping decisions are being made, carried through in comments on the proponent's IS, and brought up again and again in the public hearings and written submissions to review panels and IA agencies. That these costs are made visible by non-government and non-proponent actors and that they need to be raised

[180] A community-company agreement similar to an IBA.
[181] Such as the Burntwood-Nelson Collective Agreement in Northern Manitoba.
[182] Interestingly, the majority of the issues raised by community actors in the case studies were very similar to the socio-economic impacts identified in the research done by me and my colleagues over the last seven years as part of FemNorthNet and subsequent related projects (Manning et al. 2018a; 2018b; Stienstra et al. 2016; 2019).

repeatedly reinforces the vital contributions that these citizen and civil society participants make when participating in IAs.

Women (as a homogenous group)[183] are widely acknowledged, both in the case studies and the Canadian research in this area (e.g., Stienstra et al. 2019; Nightingale et al. 2017; Cox and Mills 2015), as a group that often bear a disproportionate share of negative socio-economic impacts. Indigenous women who participated in the hearings for the Voisey's Bay mine made this point very clearly. For example, Elizabeth Penashue, speaking of the Innu experience with past developments, said "the pain and the hurt will be bigger in the woman than in the man" (CEAA 1997f, 28–29). Charlotte Wolfrey, representing the TIA, pointed to how cultural responsibilities and structural inequities that create barriers to women's participation in decision making combine to shape Inuit women's experiences of impacts of the mine: "As primary caregivers with respect to their families and communities, women end up coping with the results and effects of development decisions made by men. They may in fact bear the brunt of these impacts" (CEAA 1997g, 14). Across the case studies, negative impacts identified as disproportionately affecting women, and particularly young Indigenous women, include increases in gender-based and sexual violence, increases in transactional sex work, and increases in sexually transmitted infections and unplanned pregnancies (Fox Lake Cree Nation 2012; Government of Canada 2014; TIA 1998b). New stresses from resource workplace schedules (often x weeks on, x weeks off) and new substance use and addictions concerns as a result of new income are most frequently identified as

[183] In the submissions and presentations within the case study IAs, women are often discussed as a homogenous group, with some limited discussion of the specific and differential impacts experienced by Indigenous women. The assumption of sameness among women and their experiences with resource extraction has the effect of excluding women whose experiences may differ significantly from the majority and rendering invisible additional mitigation measures that might be needed to deal with the different ways these excluded women may experience gendered impacts. For example, using the homogenous category 'women' often carries an unspoken presumption that 'women' are able-bodied. When putting mitigation measures in place to deal with the concerns about increases in violence against women, women with disabilities may not be able to access the supports and services put in place if the assumption underlying these services and supports are that women are able-bodied. For example, shelters may not be accessible to women who use mobility devices or require interpreters. Similarly, crisis counselling supports may be available only to women who experience intimate partner violence, while women with disabilities are also likely to experience violence from caregivers or service providers (DisAbled Women's Network of Canada 2014).

contributing to gender-based and sexual violence within families, while the sudden influx of a primarily male workforce, many away from home for long periods with high levels of disposable income, combined with pressures from the rising costs of living for local people, shape these impacts for women within the community at large (TIA 1998b; Jardine 2013; Treaty 8 Tribal Association 2013b; Fox Lake Cree Nation 2012; EAO 2005b). While not acknowledged in any of the case studies, women with disabilities are much more likely to experience violence than non-disabled women (DisAbled Women's Network of Canada 2014), and Indigenous women experience higher rates of disability than non-Indigenous women (Hahmann, Badets, and Hughes 2019). Wider structural inequities shaped by sexism and patriarchal relations, ableism, racism and colonialism also contribute to these impacts, particularly sexual violence experienced by Indigenous and disabled women (Nightingale et al. 2017; Koutouki, Lofts, and Davidian 2018; K. M. Campbell 2007; Arruda and Krutkowski 2017).

Seniors and elders are another group that often bear disproportionate impacts as a result of resource development (Stienstra et al. 2019; Ryser and Halseth 2013). Many live on low and fixed incomes, which creates substantial challenges when the cost of living increases during a resource project's construction phase.[184] Several participants in the IA processes for Voisey's Bay and Site C pointed to increased cost of housing as a particular issue of concern. For example, a representative of the Labrador West Status of Women Council voiced a concern that the new Voisey's Bay mine would place too much pressure on a local housing market already facing substantial pressure from existing mines: "The housing situation has changed and it's much more difficult to find housing and I know from personal experience that the rents in local apartment buildings….that they were increased and that's already created quite a problem for some of the seniors here" (CEAA 1998l, 9), particularly women seniors who rely on fixed pension incomes and who live alone. During the Site C IA, Shona Nelson from the Treaty 8 Tribal Association, pointed out that the problem of housing for Elders is often

[184] This pattern is well documented in previous research across communities in the North (e.g., Manning et al. 2018a; Stienstra et al. 2016; 2019; Young 2016; Goldenberg et al. 2010; Buell 2006).

compounded in the region's reserve communities due to systemic underfunding rooted in settler governments' dealings with Indigenous Nations and new pressures created by resource extraction:

> In terms of housing, the current situation on reserve can be characterized by the following: a shortage of housing on reserve; overcrowded housing on reserve; lack of appropriate housing for Elders; some young families are moving back to the reserve due to the high rents and costs of houses in Fort St. John [due in large part to an influx of workers for resource extraction developments]; …and funding for housing on reserve is insufficient. BC Hydro's mitigation measures will not sufficiently address the increased demand on community services by the in-migration of new workers. (CEAA 2014e, 120)

Indigenous people (again as a homogenous group) are most frequently identified in the IA process as likely to experience disproportionate impacts as a result of resource extraction. Many of these impacts are linked to structural inequities with deep roots in racism and settler colonialism, where many Indigenous people and Indigenous communities already experience a lower standard of living than most non-Indigenous Canadians (Coulthard 2014). New mines and hydroelectric dams often work to deepen these existing inequities and result in disproportionately negative impacts for Indigenous people (Manning et al. 2018a). These concerns were raised by representatives of the Treaty 8 Tribal Association during the Site C hearings: "the Treaty 8 First Nations are already experiencing challenges to accessing social services, health services, and housing. And are, therefore, more susceptible to the effects of the Site C project on health, social services, and housing" (CEAA 2014b, 118). Indigenous people also experience different and more severe impacts in terms of culture and traditions, subsistence economies, the transmission of intergenerational knowledges, and harvesting, than non-Indigenous people as a result of resource extraction (Hall 2013; Kuokkanen 2011). The Site C Panel made this point explicit in their final report: "The Project would significantly affect the current use of land and resources for traditional purposes by Aboriginal peoples…It would not, however, significantly affect the harvest

of fish and wildlife by non-Aboriginal people" (Joint Review Panel 2014, iv–v). Other specific points raised about disproportionate impacts likely to be experienced by Indigenous people and communities within the case studies are largely consistent with existing Canadian literature in this area (e.g., Buckland and O'Gorman 2017; Calder et al. 2016; Dylan, Smallboy, and Lightman 2014; Shandro et al. 2017; Manning et al. 2018; Stienstra et al. 2016, 2019). Like with discussions of women in the case study IAs, effects for Indigenous people are often discussed in ways that ignore that Indigenous women have qualitatively different experiences than Indigenous men (although the Inuit and Innu women who participated in the Voisey's Bay IA are an important exception to this pattern), while also mostly ignoring how the high rates of disability in Indigenous communities might shape project impacts and the mitigation measures needed.

Other groups that research shows experience disproportionate impacts are much less visible in the IA processes of the case studies. Impacts disproportionately experienced by people who live on low incomes, as a group, are rarely discussed in the same ways that impacts on women, seniors/elders and Indigenous people are. Some community IA participants do acknowledge the intersection of class or socio-economic status with other identity categories when discussing impacts. For example, they acknowledge women, Indigenous people, and seniors/elders are groups more likely to live on low incomes than others. The disproportionate impacts experienced by people with disabilities (and diverse people with disabilities as discussed throughout this section) are likewise mostly absent in the case study IA processes, except to the very limited extent that experiences of disability intersect with age (some seniors experience impairments that are labelled as 'disability' in the medical model[185]), Indigeneity (in that intergenerational trauma and its associated effects, including mental health challenges

[185] "The medical model says people are disabled because they have an impairment or disease. The goal of the medical model is to identify what makes individuals different from what is considered normal, whether that is a variation in their body or difference in how their bodies or minds function. Once the 'abnormality' has been identified and labelled, the work is to treat, fix or rehabilitate the individual to maximize their functioning. Interventions most often involve medical or health professionals. Historically, this model has also been linked to eugenics, which distinguished 'the fit' from the 'unfit.'" (Stienstra 2020, 3).

and substance use, could be categorized as disability), and health status (respiratory conditions, such as asthma, being mentioned most frequently). This absence of dedicated impact analysis for particular groups within communities likely to be significantly affected by the socio-economic impacts of a mine or dam points to the importance of ensuring better integration of accountability mechanisms, such as GDA, disability, and other diversity lenses within IA.[186]

Disproportionate impacts are sometimes made visible in IA in relation to the burden of participation by members of marginalized groups in IA itself. These include the funding and timeline concerns that also represent procedural injustices and are discussed in detail in Chapter 6. In the case studies, civil society organizations that represent members of marginalized groups, such as women's, disabled peoples', and anti-poverty organizations, rarely participate in IA. No disabled peoples' organizations or anti-poverty organizations participated in any of the case study IAs. Women's organizations participated only in the Voisey's Bay IA.[187] An important distributive justice question is why? I suggest that pertinent reasons include the capacity, time, and funding limitations built into the process that create barriers to participation, the many other pressing policy issues on their organizations' political agendas, [188] and the lack of legislative and policy recognition noted previously. However, for some marginalized groups, including people with disabilities and LGBTQ2S+ people, in particular, it is also in part that there is a lack of dedicated research on their specific experiences of resource extraction (Manning et al. 2018a; Stienstra, Manning, and Levac 2020), which can be a barrier to effective IA participation. To participate effectively in IA and be taken seriously by proponents and IA agencies, community participants need to demonstrate impacts based on both research and lived experience.

[186] See discussion of 'Underutilized Mechanisms of Accountability' in Chapter 4.
[187] During the Site C IA, the British Columbia Women's Institute (BCWI) was a civil society participant in the IA. However, they did not offer a gendered analysis of project impacts; thus, I have not classified them as a women's organization. Instead, they supported and echoed the more general agenda and position (largely focused on environmental and agricultural impacts) of the Peace Valley Environmental Association (PVEA).
[188] See the discussion of participation as a process of power in Chapter 4 for a more fulsome discussion of these limitations.

For Indigenous Nations and governments, the burden of participation in IA is particularly acute. The engagement and consultation fatigue discussed in Chapter 5 was frequently raised as a challenge in the case studies as well. For example, Diana Abel of West Moberly First Nations said:

> There is a handful of us in our community and in our coordinating lands office that deal with all of those referrals… they come into our office in the hundreds on a daily basis….Industry and government, they have whole departments to deal with their referrals, and, you know, maybe make it easier for them to be more focussed, but we have to deal with all of this all at once… it's just really tiring, and it's really frustrating because we are always fighting. (CEAA 2013d, 156–58)

This problem is not easily addressed, in part because it is caused by new commitments to meaningful fulfillment of the duty to consult with Indigenous Nations and governments, which is positive in comparison to previous lackluster efforts. However, adequately funding and supporting Indigenous Nations and governments to build their capacity to address this multitude of engagement requests is necessary for distributive justice to be realized. There was no evidence within the case studies of innovative consultation management models like the resource centre model discussed in Chapter 5 being used.

Critical Questions About Access to Benefits

Proponents are quick to emphasize the positive benefits of mineral and hydroelectric development discussed above when communities ask critical questions about negative impacts. However, many community actors are quick to counter that these benefits are not accessible to all, and in particular to members of marginalized groups – one way the resource curse is sustained in the North. The community voice on this point during the Site C IA was so strong that the Panel stated unequivocally in its report: "the Project would be accompanied by significant environmental and social

costs, and the costs would not be borne by those who benefit" (Joint Review Panel 2014, 308).

Members of the same marginalized groups that experience disproportionately negative impacts are also least likely to be able to avail themselves of the primary type of benefit that accrues to individuals: new employment and training opportunities. This is well-documented in the Canadian literature on impacts of resource extraction (e.g., Manning et al. 2018; Stienstra, Baikie, and Manning 2018; Stienstra et al. 2019; Nightingale et al. 2017; Pauktuutit Inuit Women of Canada et al. 2014; Koutouki, Lofts, and Davidian 2018), and indeed is amply demonstrated by members of marginalized groups as they bring their knowledges based on their lived experiences to bear in the IA process case studies. Many argue that jobs are of little benefit to seniors and elders beyond their working years (CEAA 1998k; 2014f). The TIA submission to the Voisey's Bay hearings clearly shows that Inuit women were under no illusions that the new jobs from the mine would be theirs:

> Many women who participated in the workshop visualized the jobs to be created going to men, to their partners, brothers and sons rather than themselves, their sisters and daughters. This assumption reflects the degree to which developments to date have excluded women. It is also indicative of the nature of the project and the work schedule being proposed – two weeks at the camp working twelve hour shifts, then two weeks in the community – [which] prohibit women with children from working. (TIA 1998b, 13–14)

They were right. Very few Inuit women have been employed at the Voisey's Bay mine (anonymous interview; Cox and Mills 2015). Systemic barriers to employment for women identified across the case studies include a lack of childcare and eldercare supports in communities and at the worksite, sexual harassment and violence in the workplace, lacking the required training and not being able to access vital supports (like childcare) to allow them to pursue that training, and stereotypes based in sexism about the masculine nature of the field (WRDC 1998; TIA 1998b; Treaty 8 Tribal Association 2013b). Indigenous people also experience systemic barriers to employment in resource

industries. These include: racialized harassment in resource workplaces, lower than average levels of formal educational attainment in Western-dominated educational systems, few training opportunities being offered in their home communities, and experiencing high levels of racism when they go to bigger centres to pursue the needed education or training (CEAA 1998c; 1998k; 2014d; Treaty 8 Tribal Association 2013b). Potential workers with substance addictions face additional challenges with employment and training (CEAA 2014e). Indigenous women experience unique combinations of these barriers due to the interaction of systemic sexism, racism and colonialism in shaping their opportunities for and conditions of employment. Indigenous women are also much more likely than non-Indigenous women to experience disabilities, meaning that ableism also shapes their employment prospects. In addition, most of the jobs made available to members of Indigenous Nations are for the construction phase of resource developments, representing a short-lived boom in local economies (CEAA 2014c; CEC 2013d). For dam projects especially, the number of permanent jobs is very small. For the Site C dam, only 35 long-term job opportunities were expected to be available during the operations phase, with no guarantees for equity in hiring for those positions (CEAA 2012a).

To their credit, proponents have generally addressed some community concerns about barriers to employment for some women and Indigenous people. Nevertheless, it is debatable if the actions taken in these areas were prompted by the proponents' wider employment equity-related commitments or are a result of community engagement in the IA process. In all of the case studies, proponents made at least some commitments to providing dedicated funds and programs for training, attempting to increase women and Indigenous representation in the workplace, and implementing measures to retain these workers. However, communities often have little faith that these measures can overcome pre-existing barriers. Indigenous communities draw on their past experiences of resource employment and express doubts that these are high-paying and sustainable jobs, even if Indigenous workers can overcome barriers to being hired. Speaking of residents of the primarily Inuit community of Rigolet, Elise Wolfrey noted during the

Voisey's Bay IA that "The very few that have gone [to Voisey's Bay for pre-construction work] have been into the lowest paying menial jobs. That appears to be the trend" (CEAA 1997l, 5). Others point out that Indigenous workers are often the first to be let go (CEAA 1998d; Gray 1997). Women's organizations who participated in the Voisey's Bay hearings pointed out that proponents have a similarly poor track record with women's employment. Dorothy Robbins of the Women's Policy Office told the Panel:

> While statements in the EIS about attracting and retaining talented men and women, support diversity as well as initiatives like the harassment policy and gender sensitivity training are very encouraging, the outcomes for women will depend on how they are implemented…there's no real indication that they will work towards improving the representation of women in the workforce beyond the current Canadian average. (CEAA 1998b, 11)

It is also well-documented in the literature that the majority of women's jobs in resource industries are in low-paying, low-skilled positions in traditionally feminine sectors (Manning et al. 2018a; Nightingale et al. 2017; Bernauer 2011a). While the Panels and regulatory authorities in three of the case studies were generally content with proponents' promises of employment equity, funding for training, and IBA hiring commitments to address these concerns about the inequitable access to benefits, the Voisey's Bay Panel stands out for taking these concerns seriously. They made several substantive recommendations to address these challenges in their final report that were attentive to community suggestions (Joint Environmental Assessment Panel 1999).[189] However, the federal and provincial government decisions contained no firm commitments to ensure those recommendations were enforced (Government of Canada 1998; Government of Newfoundland and Labrador 1999).

A related concern is that promises of regional or group benefits do not always translate to tangible and long-term benefits for the communities closest to the project sites, yet another way the resource curse manifests. In the Voisey's Bay case, the

[189] These recommendations are discussed in more detail in the latter part of this chapter in relation to restorative justice.

proponent acknowledged that the majority of new business opportunities generated by the project would be located in the hub community of Happy Valley-Goose Bay in Central Labrador (VBNC 1997), rather than the North Coast Innu and Inuit communities nearest the project site. Community members pointed out the unjust nature of this distribution: "We have…one of the richest mining areas close to Nain and we still are the poorest. It is hard to believe that we are so close to such a rich mine…their businesses are going down fast, people here in Nain…they seek employment and they can't get it" (CEAA 1997c, 14). Similar comments about inequities in business opportunities among communities, especially semi-urban, predominately settler *versus* smaller and more rural Indigenous communities, were raised in the Site C IA (Treaty 8 Tribal Association 2013b). Significant investments in supports are needed to allow small businesses in rural and Indigenous communities to take advantage of the local procurement policies that many proponents emphasize as important benefits of the project. In both the Site C and Voisey's Bay IAs, supports of this nature were either missing altogether or perceived as inadequate by communities during the IA process (Treaty 8 Tribal Association 2013b; ACOA 1998). As project partners, the Cree Nations closest to the Keeyask dam were able to negotiate directly awarded contracts for businesses owned by their governments or community members, which allayed this particular concern in this case. However, these direct contracts were only for the construction phase of the dam, which is very short (less than 5 years) compared to the dam's 50+ year operating life (CEC 2013d). Concerning benefits promised to specific marginalized groups, such as Indigenous employment targets, these are not always as beneficial as proponents present them to be. Some practical math by Charlotte Wolfrey, representing the town of Rigolet in the Voisey's Bay IA, shows that the proponent's promise that "half [of the 420 potential jobs] are going to be for Aboriginal people" actually only translates to about seven or eight jobs per Inuit community. As she states, this is "not the answer to unemployment everyone thought that it would be and that Voisey's Bay Nickel in the EIS really puts some emphasis on" (CEAA 1998f, 6).

One-Dimensionality of Understanding Impacts

The disproportionate distribution of negative socio-economic impacts is rarely acknowledged by proponents within their ISs. This is notable because there are numerous requirements for proponents to consult with the public in general, and Indigenous people specifically, before preparing the IS, as Chapter 5 shows, and a not-insignificant amount of research on these impacts. Except for the Voisey's Bay IS, proponents in the other three case studies rarely acknowledge that some types of impacts are more likely to be experienced by particular groups of people. In the Keeyask IS, the proponent engaged in a process of actively de-gendering, de-racializing and de-Indigenizing some types of socio-economic impacts, particularly those related to the 'public safety and worker interaction' valued environmental component (VEC)[190] (KHLP 2012b). Reading more deeply, it becomes clear that the 'worker interaction' VEC is code for negative impacts associated with an influx of mostly white male workers in local communities, including sexually transmitted infections, sexual assault, sexual and racialized harassment, crime, and issues related to alcohol and drugs. We know from the research (e.g., Manning et al. 2018; Stienstra et al. 2019; Nightingale et al. 2017; Koutouki, Lofts, and Davidian 2018) that several of these impacts disproportionately affect women and Indigenous people, and particularly young Indigenous women. However, this is not acknowledged in relation to the VEC within the proponent's IS, although this point is certainly raised by other IA participants in their comments and within the hearings. A similar process is used when the proponent discusses barriers to employment in partner Cree Nation communities within the IS. They include "family responsibilities, [and] lack of day care" (KHLP 2012b, 6–142), but there is no accompanying acknowledgement that these barriers are much more likely to prevent Cree women from obtaining jobs on the project than Cree men, or specific commitments to countering the gendered nature of barriers.

[190] A standard way of assessing both environmental and socio-economic impacts in IA is by using VECs to establish the scope of factors to be considered. Examples of other VECs in the Keeyask IA include 'infrastructure and services' and 'heritage resources' (KHLP 2012a).

The Voisey's Bay IS is notable because the proponent did acknowledge the disproportionate nature of several negative impacts. The IS guidelines for this project were much more specific than the others in requiring disaggregation of data, explicitly requiring the proponent to use "feminist research"[191] in preparing the IS and discussing impacts for women (Joint Environmental Assessment Panel 1997). This points to the importance of IS guidelines in shaping the quality of the IS submitted. The strong and early participation of women's organizations during the IA scoping phase is credited by one of the Panel members, Lorraine Michael, as directly contributing to the specificity about gender in the IS guidelines issued by the Panel (Cox and Mills 2015). Within the IS, the proponent acknowledged that cost of living increases disproportionately impact people living on low incomes, "in particular seniors and lone parents, who are mostly women" (VBNC 1997, 24–22); that women face substantively different barriers to employment than men, including childcare; and that housing cost increases in Upper Lake Melville will mean that "people dependent on fixed and low incomes, who disproportionately include the elderly, women, lone-parents and their dependents, may experience a decline in their standard of living" (VBNC 1997, 24–47). While it is promising that this disproportionality is acknowledged in the IS, several women's organizations and the provincial government's Women's Policy Office note that the proponent offers very little information about how they will be addressed or prevented (TIA 1998b; Women's Policy Office 1998). In all the case studies, the proponents assume that benefits will counter negative impacts and that IBA provisions, providing employment and business opportunities, and housing the majority of workers in camps near the worksite will be sufficient to mitigate most negative socio-economic impacts disproportionately experienced by members of marginalized groups (BC Hydro 2013; TIA 1998b; KHLP 2012b; RCDC 2004), despite calls from community actors for them to do more. The implications of this default response are discussed more thoroughly in the restorative justice sections of this chapter.

[191] The Panel did not however define what counts as "feminist research."

Community and Corporate Disparities in Benefits

In the previous chapter, disparities between communities and corporations were discussed in terms of procedural justice, particularly the financial and time disparities in amounts that the proponents dedicate to preparing ISs and the amounts given to community actors preparing to participate in the IA. Significant power disparities between communities and corporations that shape benefits are also raised as a matter of distributive injustice by community participants during IAs and help to explain why the resource curse persists in the North.

In the Voisey's Bay case, one of many conflicts between the Innu Nation and the proponent concerned the royalty amount within the IBA for the smelter that will process the nickel mined at the site. The proponent offered the Innu Nation only one percent in IBA negotiations but offered the company run by the two white settler men who originally 'discovered' the deposit three percent.[192] Meanwhile, several years earlier, the investor who financed the claim staking and discovery of the deposit had received $500 million directly from the proponent when they acquired the ownership of the mine site from Diamond Field Resources (Flanagan 1997). The Innu wanted the same three percent royalty because it is their land and they will live with the ongoing impacts of the mine; however Innu Nation President Katie Rich said, "'they [the proponent] said was way too much since they will be offering the same deal to the Labrador Inuit Association'" (Hebbard 1997), implicitly implying that it was too expensive. However, this would only represent a total of 6 percent as a royalty to two Indigenous Peoples who are being dispossessed of their land by the mine, and dealing with many negative socio-economic, cultural, and environmental impacts. It is only one of many examples from the case studies of how the intersection of extractivism, capitalism and colonialism shapes distributive outcomes for Indigenous Peoples and Nations in relation to resource extraction, as the proponent holds the most powerful role during IBA negotiations.[193] Because IBAs are largely seen as a goodwill gesture and

[192] At the time, it was expected to be a $300 million payment.
[193] This point is also discussed in relation to negotiation as a process of power in Chapter 4.

a private contract between companies and communities by settler governments and there are no legislated requirements about their content or even that one be signed, proponents often threaten to terminate negotiations to get the terms they want (Cameron and Levitan 2014).

In the Keeyask case, members of multiple First Nations communities in Northern Manitoba raised the high cost of electricity provided by Manitoba Hydro as a distributive justice issue with the development of future dams. One person estimated that the monthly cost of electricity for one family in Cross Lake, home of Pimicikamak Cree Nation, ranges from $400 to $600 a month (CEC 2013h). They pointed out that this is dramatically higher than the cost of electricity in Southern Manitoba. Some members of York Factory First Nation said families living in York Landing regularly cannot afford to pay their bills and their electricity gets cut off. As one member put it: "We are still in limbo, poor, struggling, while these Hydro people…living rich off our land. We are right smack dab in the middle of the dams and we have got nothing to show for it" (CEC 2013j, 26). Community participants also point out that Manitoba Hydro is a profitable corporation, estimated to make over $3 million a day from the multiple dams in the Northern region of the province (CEC 2013h; Braun 2012), yet some members of Northern communities living with devastating cumulative impacts[194] of those dams cannot afford this electricity. This example shows how the stark inequities created through extractivist development represent a distributive injustice, but also that the participation of community actors helps to make these injustices visible within IAs.

North-South Disparities

Wider structural relations, including those based in settler colonialism and extractivism (Cooke 2016; Willow 2016), that shape North-South disparities within

[194] Indigenous community members speak at length in the Keeyask case study documents about the many negative impacts of earlier dam developments, including impacts on their cultures and livelihoods, access to harvesting areas, country food contamination, new experiences of racialized and sexualized violence and substance use, and mental health challenges, among others.

Canada are also sometimes raised as an example of distributive injustice by members of communities and Indigenous governments during IA processes. During the Voisey's Bay decision-making process, some Labrador residents, the Innu Nation, and the Labrador Inuit Association argued that a "double standard" existed within the provincial government and the Premier's Office concerning benefits for the island part of the province versus Labrador (Johansen 1999). One example is that the Premier refused to issue an approval for the mine without the proponent promising to build a smelter in Argentia (a town on the island) to process the Voisey's Bay nickel. However, he was perfectly content to ignore the Panel's recommendations that an IBA and land claims agreement be finalized with both the LIA and the Innu Nation before the project be allowed to proceed. As one journalist put it:

> Argentia, it seems, is dear to the heart of the government. Labrador, apparently, is less so. The benefits needn't spread north of the Strait of Belle Isle. Well, at least not all of them, or not right away. Inco can dig up the nickel, take it out of Labrador, smelt it on the island, and sell it all over the world. The government's decision means that only then should the company worry about how much of the money it has made it should send back to the Innu and Inuit in Labrador. (Johansen 1999)

Many point to this decision as yet another example of the people of Labrador being deemed less important to the provincial government than residents on the island, a theme raised frequently by community participants during the IA. This pattern is consistent with the literature on the Provincial North where Northern residents feel they are citizens of 'internal colonies' (Coates and Morrison 1992), and the settler colonialism literature where resource extraction in the North "is part of Canada's project of internal colonization" (Hall 2013) with the wellbeing of Indigenous and Northern communities being less important than the Southern and settler majority.

With both the Keeyask and Site C dams, North-South disparities are also raised in the IAs concerning who benefits the most when hydroelectric dams are built in the Northern parts of the provinces. Once Keeyask is operational, dams on the Nelson River

in Northern Manitoba will "produce over 70 percent of Manitoba Hydro's electricity. The Project will provide Manitoba homes and businesses, as well as customers in U.S. export markets, with renewable energy" (KHLP 2012a, 7). The Site C dam will represent "a large and long-term increment of firm energy and capacity at a price that would benefit future generations" (Joint Review Panel 2014, iv). However, in both cases, these benefits will primarily benefit the larger mostly settler populations in the Southern portions of the provinces, rather than the people of the North who will have to deal with the dams' immediate impacts. Most of the revenues from the Crown corporations who are the proponents of these large dam projects also flow south. Ted Bland, a member of York Factory First Nation, made this point during the Keeyask CEC hearings:

> These four projects [existing dams on the river] have generated billions, billions of dollars that went down south, billions. It has gone into all different sectors of the south. It has gone into education, business, health, social, infrastructure. Manitoba Hydro is a Crown corporation. And how did that impact us? You know, it took away our livelihood, it took away our way of life. (CEC 2013j, 52–53)

He and other members of the partner Cree First Nations are hopeful that Keeyask might be different as the First Nations are project partners, with more of the financial investments staying in the North, but that remains to be seen once the dam is operational. Even if Keeyask is different, a distributive injustice still exists in relation to the cumulative effects of the past dam projects.

(Re)envisioning Benefits

Listening deeply to what some members of Northern communities, especially Indigenous communities, have to say on the issue of benefits within IA processes shows that the dominant current understanding of benefits as jobs, revenue and growth is inconsistent with the worldviews and priorities of some community members. Indigenous governments and members of Indigenous communities who participated in each of the IAs continually made the point that choosing to participate in resource development was not an easy decision. As Chief Louisa Constant of York Factory First

Nation told the Keeyask CEC Panel: "We also know that the benefits will not come without…a lot of consequences…for us as a people" (CEC 2013j, 10). While the dominant narrative of proponents, and many in Southern Canada, that resource development will bring prosperity and development in the North is very much present in the IA case studies, many Indigenous IA participants problematize this narrative and point to a need to undergo a substantial (re)envisioning of what benefits that accrue from resource development should be. Paying attention to these different understandings of benefits beyond money and jobs helps to make visible what might be needed to avoid the continued reoccurrence of the resource curse.

Some Indigenous people argue that no amount of financial or material benefits will make up for the loss of important cultural and spiritual places that will be forever changed because of a mine or hydroelectric dam. For example, Tabea Murphy, an Inuit resident of Nain told the Panel: "I will not get benefit from [a] mining company. I will get benefits from Franks Brook and Two Mile Bay [places that will be harmed by the development]. I ask you again from the bottom of my heart remembering my ancestors, remembering my grandfather, my grandmother, think about Labrador people" (CEAA 1997e, 27). During the Site C IA, some Treaty 8 First Nations, including West Moberly, Halfway River, and Prophet River, maintained that "it is simply not possible to adequately compensate our community for the permanent destruction of the Peace River Valley" (Government of Canada 2014, 67). The Panel's (2014, 121) report summarized the view of all Indigenous groups who participated in the Site C IA: "The desire to continue to fish, hunt, trap, and harvest was a basic request heard from all Aboriginal groups; financial compensation was never a preferred solution." In this view, a benefit from resource extraction is perhaps best understood as a less destructive form of project development, rather than relying solely on the types of 'benefits' guaranteed in IBAs and other benefit agreements.[195]

[195] This is of course a very difficult objective to achieve given the dominance of extractivist development agendas. However, there are options for less disruptive forms of extraction that do not have the same scale of environmental and cultural impacts (although these forms of development may be more

Some Indigenous participants in the IAs pointed out that the dominant understanding of benefits is Western-centric and inconsistent with Indigenous knowledges and understandings of community. This is consistent with the wider literature on Indigenous understandings of environmental justice where injustice is understood as "a set of conditions that remove or restrict the ability of individuals and communities to function fully — conditions that undermine their health, destroy economic and cultural livelihoods, or present general environmental threats" (Schlosberg and Carruthers 2010, 18). The Fox Lake CBIA prepared for the Keeyask IA shows how the balance of benefits is understood differently in some Indigenous knowledge systems compared to Western knowledge systems:

> Benefit is such an overused and unappreciated term. Benefit! Will we benefit from hydro development? Materially, probably. Physically or mentally, I don't know. We haven't dealt with the issues of the past. Until you can deal with those, until you can bring back a sense of community… I don't see how we can benefit though certainly there will be those that benefit as individuals. (Fox Lake Cree Nation 2012, 35–36)

Elsewhere, they state: "Employment and material wealth are not determinants of mino pimatisiwin[196] and greater material wealth has not translated into better living conditions for our people. Our people are connected to the land and a subsistence way

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expensive for the proponent). For example, smaller run-of-river hydro dams do not require the flooding and large reservoirs that is common for conventional hydro dams. They better preserve the flow of the river. Similarly, underground mines generally require a much smaller geographic footprint than open pit mines.

[196] Fox Lake Cree Nation (2012, 26) summarizes the meaning of 'mino pimatisiwin' this way: "Few words can summarize the relation between our people and the land as effectively as mino pimatisiwin. Literally translated it means 'living the good life' but in Inninimowin, the language of our people, the meaning contains values, belief, expectations, relationships and behaviour that culminates in:

> The practice of daily living and by the balance of human relationships is intrinsic to Cree lifestyles. 'Being alive well' means that one is able to hunt, to pursue traditional activities, to eat the right foods, and (not surprisingly given the harsh northern winters) to keep warm. This is above all a matter of quality of life. That quality of life is linked, in turn, to political and social phenomena that are as much a part of the contemporary Cree world as are the exigencies of 'being alive well' (Adelson 2000; 15).

Mino pimatisiwin draws from and is imbedded in a complex network of activities, attitudes and relationships. In our ways of knowing all things are related, and all things are equal. Everyone and everything exists in relationship."

of life, and balancing development and mino pimatisiwin will always be a challenge" (Fox Lake Cree Nation 2012, 74). These examples suggest that the most useful community benefits from resource extraction would be those that assist in communities' healing and coming together, address harms from existing projects, and do a better job in balancing important and longstanding responsibilities to the land and community with the form of development chosen.

When examining benefits through the lens of distributive justice, it is also important to recognize that many of the 'benefits' offered through IBAs and other types of community-proponent benefit agreements are actually just patching gaps in chronic under-servicing and under-resourcing of the North in general, and Indigenous communities in particular. This point is rarely acknowledged within the IA processes for the case studies but is integral to making sense of distributive justice in resource extraction. As private agreements between proponents and Indigenous governments, IBAs that provide funds for training, community services and infrastructure are often welcomed by Indigenous governments precisely because they have not succeeded in their many requests to settler governments for funding to provide these things to an adequate standard for their communities (Cameron and Levitan 2014). In recognizing this, we also must acknowledge that benefit agreements also are fundamentally about compensation for harm, rather than a goodwill gesture rooted in a sense of distributive justice. As Kate Kempton, a lawyer representing Pimicikamak Okimawin, argues: "the Adverse Effects Agreements aren't designed to make the communities better than if Keeyask wasn't there, they are designed to address impacts from Keeyask through the provision of funding for various programs that are needed because Keeyask is going to cause damage" (CEC 2013d, 2161). To go beyond this compensation model to embrace a wider understanding of benefits consistent with distributive justice and the worldviews of communities will require both proponents and settler governments to accept additional responsibilities concerning the community impacts of resource extraction, and thus a greater role in countering the effects of the resource curse.

Impact Assessment and Restorative Justice

Of the four types of justice, restorative justice is least well theorized in relation to environmental justice. As an approach to criminal justice, restorative justice seeks to have offenders make amends for the harms they have inflicted against individuals and communities, through sharing and deliberation with all affected parties to decide an appropriate outcome (McCauley and Heffron 2018). This approach has been adopted as a method of environmental enforcement in some contexts, for example by using a restorative justice process to deal with industrial pollution (McCauley and Heffron 2018). For Dorsey (2009, 69), "the notion of restorative environmental justice provides opportunities for corporate decision-makers and public officials to rectify or ameliorate situations that disenfranchised or harmed particular communities in the past." Malin et al. (2019, 111) state that restorative environmental justice "focuses on the historical exclusion and displacement of Native and Indigenous peoples…To recognize these affronts and begin repairing them, this aspect of environmental justice asks these historically excluded groups to lead us in addressing injustice."

This section examines the extent to which impact assessments can meet the objectives of restorative justice. Applying the above principles to impact assessment, I argue that norms for restorative justice should, at a minimum, include: 1) giving communities a meaningful role in resource decision-making, 2) supporting the principles of reconciliation and self-determination for Indigenous Nations and Peoples, and 3) federal and provincial governments and corporations accepting responsibilities for the harms that approved projects are likely to cause and making good on commitments to mitigate or avoid those harms. Each of these is examined in turn within this section. Some environmental justice scholars (Bell and Carrick 2017; Walker 2012) argue that a role for communities in decision-making is a standard of procedural justice. Others (Whyte 2011) argue that respecting the principle of consent for Indigenous Nations and governments, an integral part of self-determination, is likewise a component of procedural justice. However, I am contesting these categorizations, and argue that, in

the context of impact assessment for mines and hydroelectric dams in Northern Canada at least, these principles are best understood as components of restorative justice. By positioning these three standards as part of restorative justice, I recognize them as tools essential to changing the disenfranchisement and oppression that have characterized most Northern communities' experiences with resource extraction in the past, and to confronting settler colonialism and other structural inequities that frequently shape resource extraction decision-making and its impacts.

I also argue that the failures in achieving restorative justice discussed in this part of the chapter reflect the prevalence of extractivism in shaping IAs in Northern Canada. As raised in Chapter 1, project approval is the ultimate goal of IA for both proponents and the Canadian settler state. In theorizing the North in Chapter 2, I discuss settler colonialism as an integral part of the story of resource extraction and exclusion in the region. I also explain that extractivism, as a concept, acknowledges that the pursuit of profit through extractive industries and extractive forms of development often relies on systemic exclusion, dispossession, racism, and colonialism (Fast 2014; Harvey 2005; Preston 2017; Willow 2016). Contemporary extractivism in Northern Canada plays an important role in sustaining the white Canadian settler colonial project (Preston 2017; Willow 2016). Impact assessments in their current form – favouring proponents over community actors, and project approval over equitable benefits and effective socio-economic impact mitigation – are thus part of the extractivist development agenda. Moving towards a form of IA that meets the standards of restorative justice will require significant changes that disrupt the dominance of extractivist and settler colonial interests in Northern Canada. While certainly a difficult task, it is a necessary to pursue more equitable resource extraction relationships with Northern and Indigenous communities to meet wider Canadian commitments to reconciliation and self-determination for Indigenous Nations and Peoples. The case studies provide both examples of promising practices and practices to avoid in pursuing restorative justice.

Meaningful Roles for Communities in Decision Making Structures

The case studies provide mixed evidence on the extent to which communities are given a meaningful role in decision-making[197] structures in IA. There are certainly examples of communities being given some power in the IA process, and of their feedback and concerns being addressed in the proponent's plans or the IA process. However, there are also many examples of community concerns being ignored, and decision-making structures that are meant to provide communities with a meaningful role failing to achieve that goal. This suggests that proponents and settler governments still maintain tight control over most aspects of the IA process, with communities given a role in decision-making only to the extent it does not disrupt the ultimate goal of project approval. Arguably, this represents a type of minor tinkering with the IA process to make the extractivist development agenda more palatable to communities, rather than a fundamental challenge to dominant power relations. At the same time, however, the limited successes provide openings for members of marginalized groups to use their agency to affect project decisions in small ways that can be significant (although not sufficient) in mitigating some of the negative impacts of mines and dams. Both the successes and failures in meeting this norm of restorative justice are discussed below.

In the Voisey's Bay IA, both the Innu Nation and the Labrador Inuit Association were partners in designing the IA process from the beginning. The IA process for the mine was established through a four-party Memorandum of Understanding (MOU) between the federal and provincial governments and the two Indigenous organizations. Commitments within the MOU to recognizing the precautionary principle and sustainability, a first in Canadian IA, were made due to the direct involvement of the LIA and Innu Nation in the agreement negotiations (Gibson and Hanna 2016; Muscheid 1998). Each of the parties, including the Innu and Inuit, nominated and appointed

[197] This is defined earlier in the dissertation: "A meaningful role in decision-making is one when a community actor is taken seriously – where their concerns are listened to and adequately addressed and where they have at least some power to make, change, or otherwise affect IA decisions" (Footnote 164 on page 240).

members for the Joint Review Panel (Gibson and Hanna 2016; Muscheid 1998), an important decision-making structure within IA for the reasons discussed in Chapter 4.

While I did not find any examples of this norm of restorative justice being met during the Red Chris IA itself, after the IA the proponent seems to have done better with regard to giving Tahltan communities a role in decision-making. As was discussed in Chapter 6, the proponent signed a co-management agreement for the mine with the Tahltan Nation in 2015, which "ensures Tahltan oversight and control of environmental issues surrounding the mine" (Tahltan Central Government 2015).

The Keeyask IA is particularly notable because four Cree First Nations are partners with Manitoba Hydro as co-proponents on the project. This is not a precisely equal partnership, in that the four Cree Nations together represent only five seats on the Board of the KHLP, while Manitoba Hydro holds the majority of nine (KHLP 2012b). However, the protocol embedded in the JKDA "established committees for collectively developing the assessment process and for strategic decision-making among all of the partners"(CEC 2013f, 470). Despite the seat disparity, there are multiple examples of the concerns of Cree Nations being taken seriously within the project planning and IA. For example, Vicky Cole of Manitoba Hydro credits "the insistence of our Cree partners" (CEC 2013f, 473) with the decision to reduce the electrical capacity of the dam from 1150 megawatts to 695 megawatts, which meant that the flooded area would be over 75 percent less than originally planned. When asked directly during the CEC hearings if Manitoba Hydro respected their worldviews and input in decision-making, representatives of the three partner Cree Nations who answered the question said yes (CEC 2013e). This is reflected in the two-track approach to IA requiring two separate sets of approvals – "the Keeyask Cree Nations process and the government process" (KHLP 2012b, 1–9) introduced in Chapter 6. In addition to demonstrating the Nations' processes of arriving at consent within their communities, the CBIA reports that were part of the Cree Nations' approval process were recognized by the CEC Panel as having "added immeasurably to the ability of Panel members to consider the holistic nature of impacts to the environment of the Lower Nelson River…The viewpoint of the three

reports, which takes a long view of the region and does not distinguish impacts on a project-by-project basis, is especially worthwhile in understanding the cumulative effects of hydroelectric development in northern Manitoba" (CEC 2014a, 59).

In the Site C IA, the proponent made some incremental changes to the project design and their mitigation plans in response to concerns voiced by Indigenous governments and members of Treaty 8 First Nations. For example:

> Saulteau First Nations and the T8TA [Treaty 8 Tribal Association] expressed concern about the potential effects of the proposed Project on rare and medicinal plants. As a way to accommodate these effects, the Proponent has committed to supporting the indigenous plant nursery at Moberly Lake owned by the West Moberly and Saulteau First Nations, and to using the nursery as a source for plant stock in reclamation work. (Government of Canada 2014, 48)

The proponent also listened and responded to Indigenous concerns about the location of a proposed bridge in an area of the river where members of several First Nations regularly exercise their treaty rights to hunt, fish and harvest. BC Hydro ultimately removed the bridge from the project plan altogether. The Crown also invited Indigenous governments to give input on their preferred process for consultation relating to the Site C project and extended several IA timelines after feedback from Indigenous governments (Government of Canada 2014).

These examples from the case studies are certainly promising and demonstrate the significant work that has been done by both proponents and settler governments to decentralize power in at least some aspects of IA, to allow at least Indigenous communities, through Indigenous governments or other representative organizations, to have a meaningful role in some aspects of decision-making. This is important for the objectives of reconciliation and self-determination discussed in the next section, but also because Indigenous communities are likely to bear a disproportionate share of negative impacts (O'Faircheallaigh 2009). However, there is very little evidence that non-Indigenous communities in the North (e.g., municipalities or hamlets represented by local governments) are given the same degree of power. Particularly important from

a deeply intersectional environmental justice perspective is that there is similarly very little evidence that members of marginalized groups, including women, people living on low incomes and people with disabilities (those most likely to be negatively affected), within both Indigenous and non-Indigenous communities are given any meaningful role in IA and resource decision-making in the case studies. The actors who engage with proponents and settler governments and make decisions on behalf of communities in these types of negotiations are typically the Indigenous or local government and their lawyers. Evidence from previous research shows that, while some communities certainly do a better job in representing the diversity of the community in decision-making processes than others, members of marginalized groups and their concerns often remain invisible in these negotiations, especially when dedicated efforts are not made to include them (Manning et al. 2018b; Charles and Thomas 2007; Joly and Westman 2017; Native Women's Association of Canada 2014; LaBelle 2015). This indicates that there is still considerable work to do in ensuring diverse members of communities are included in local decision-making structures to address this element of restorative justice in Canadian IA processes.

Also indicative of the considerable work left to do are the multiple examples within the case studies where the partnerships with communities described above were undermined or where Indigenous governments argued that their suggestions and concerns were ignored by the proponent regulatory authorities. A persistent issue voiced by Indigenous Nations in both the Voisey's Bay and Site C IA processes was that settler governments and regulatory agencies were still largely dictating the design and practice of IA, despite commitments to do otherwise. For example, despite the promising potential of the Innu Nation partnering in the Voisey's Bay MOU, multiple Innu requests during the scoping phase of the IA to conduct their own Innu-designed CBIA of the mine incorporating Innu knowledges were never agreed to by the proponent or the settler governments (CEAA 1997j; Clément and Innu Nation 1997). Innu representatives argued that an Innu-led assessment was needed because past "environmental assessment processes have often failed to identify the cultural,

ecological and economic issues presented by projects in ways that are respectful of Innu values or meaningful to Innu people" (Muscheid 1998). However, they were not provided sufficient time and resources to do so in conjunction with the settler government-based formal IA process (CEAA 1997j). During the Site C IA, multiple Treaty 8 First Nations and several civil society organizations (Kwadacha First Nation 2011; Joint Review Panel 2014; West Coast Environmental Law 2011) argued that the IA process designed by BC Hydro and approved by the provincial and federal governments with minimal changes based on public and Indigenous feedback was a violation of the Honour of the Crown under Treaty 8. This decision also ignored pre-existing commitments to shared decision-making found in collaborative management agreements signed between several First Nations and the provincial government in the region. In a letter to CEAA and the EAO, the Treaty 8 Tribal Association stated:

> Treaty 8 [Tribal Association] has consistently expressed our desire to work cooperatively with your governments in designing both the environmental assessment and consultation processes. So far, your governments have attempted to impose a process through the proposed draft Joint Review Panel Agreement, and to dictate a funding arrangement through your recent offers of participant funding. (Treaty 8 Tribal Association 2011, 1)

These examples show that, even where promises exist to do otherwise, federal and provincial governments often only allow communities a limited role in the design of IA processes. These efforts are far from a community co-designed or co-led IA process that would be consistent with restorative justice or that has the potential to challenge the dominance of extractivist agendas. Even in the Keeyask case, where the partner Cree Nations did their CBIAs before the settler government IA process commenced, those CBIA reports were ultimately incorporated into the settler government-imposed IA process, rather than the IA process being co-led by the communities, or giving communities a meaningful decision-making role in the formalized government IA.

In Chapter 4, I argue that working groups and technical advisory committees are limited forums for Indigenous Nations and governments to exercise decision-making

power in the IA, contrary to the position of settler governments. Evidence from the Site C case study suggests that Indigenous actors also perceive these forums as limiting the scope of their involvement in decision-making. While both CEAA and the EAO (2013, 2) maintain that Indigenous governments' involvement in the working group "constitute[s] deep consultation, and…facilitate[s] consultation with First Nations regarding potential adverse effects of the Project on proven or asserted Aboriginal and treaty rights within the appropriate scope relative to the current decision under consideration," this is not a view shared by the First Nations represented by the Treaty 8 Tribal Association. They argued: "participation in the working group under the current process is a waste of First Nations' time and resources…the Working Group functions to assess technical minutiae, and is particularly ill-equipped for First Nations constitutional and legal issues" (Treaty 8 Tribal Association 2013a, 8). Certainly, as one of 35+ members[198] of this working group (including multiple Indigenous Nations, local governments, provincial and federal officials, and the proponent and their consultants), it seems that the Site C working group was at best a forum for limited consultation with individual Indigenous Nations, with limited potential for significant decision-making power. Notes from working group meetings available on the project registry show limited engagement with concerns raised by Indigenous attendees and no evidence that concerns raised in the working group were incorporated into other parts of the IA process (CEAA 2011; 2012a; 2013e). This points to a wider pattern, as discussed in Chapter 5 concerning consultation as a process of power, where processes of consultation, even those judged as meeting the standards of 'meaningful consultation' by the settler government, do little to disrupt the settler colonial status quo. There are no guarantees that any of the communities' concerns raised during consultation will result in changes to the proponents' plans or to settler government decision-making. This pattern substantially contributes to ongoing conflicts, legal challenges, and protests about resource development.

[198] While I did not find a comprehensive list of working group members, minutes from different meetings of the working group over three years show a different number of attendees. A meeting in 2011 was attended by representatives of 36 distinct organizations (CEAA 2011), while a 2012 meeting was attended by representatives of 51 organizations (CEAA 2012a), and one in 2013 was attended by representatives of 42 organizations (CEAA 2013e).

Other Indigenous governments see dishonesty on the part of the proponent as undermining their faith that they are being given a meaningful role in decision-making or that their input would sway the project's direction. There are many examples of efforts labelled as 'consultation' by the proponent resembling little more than tokenism, a common critique of consultation and related opportunities for public participation in policy and planning processes (Arnstein 2019). For example, during the Site C hearings, Councillor Norma Pyle of Blueberry River First Nation pointed out that BC Hydro maintained that it had met with them 65 times during the IA process and that this demonstrated significant consultation (CEAA 2014f). However, that figure included members of the Band Council participating in BC Hydro's technical advisory committee meetings. Councillor Pyle told the Panel:

> Well, I participated in that technical advisory committee, myself…it was clear to me that that was not part of consultation, that that was information gathering to ensure that BC Hydro, during their process…of putting these studies together that they were collecting the appropriate information. Now, that does not – should not be classified as meaningful consultation with regard to our Treaty and Aboriginal Rights. (CEAA 2014f, 28)

When members of Indigenous communities see their participation in IA decision-making structures as being misrepresented as efforts towards fulfilling the Crown's duty to consult that have been delegated to the proponent, it is understandably very frustrating.

Tensions related to consultation were also present in the Red Chris IA and are directly related to the common Canadian practice of delegating the procedural aspects of the Crown's duty to consult to proponents. Some Tahltan people expressed distrust of the motives driving the open house public participation opportunities in the Telegraph Creek community. The proponent describes the situation in this way:

> Some representatives of the Tahltan expressed concern that if they formalized their attendance it would be considered consultation [under the duty to consult]. Then, having thus satisfied consultation requirements, the Company and

> government would have no obligation to consult with them further, and they would have no further input into the decision making process. As a result, attendees expressed reluctance to sign the Guest List and fill in the survey questionnaires. (RCDC 2004, 7–7)

These examples show how Indigenous engagement efforts by the proponent can be undermined by distrust emerging from the delegation of the duty to consult. This is unfortunate because proponent-community engagement is very important in ensuring that the IS addresses key community concerns about the proposed project. Direct Crown consultation is likewise very important for members of Indigenous communities as it is one of the only (albeit limited) forums for Indigenous Nations to have pressing concerns about impacts on territory and rights raised directly with settler government officials, in hopes of affecting the final decision. However, this consultation is far short of consent. Many projects are ultimately approved even if Indigenous Nations and governments object to the project proceeding during Crown consultation (Garvie and Shaw 2016).

Supporting Reconciliation and Self-Determination

Giving Indigenous Nations, governments and communities a meaningful role in decision-making can enable the IA to serve the processes of reconciliation and self-determination. Murphy (2008, 251) writes that reconciliation is "a forward-looking relationship among equals who will seek to establish bonds of trust and mutual respect by working to rectify the injustices of the past and who are committed to governing the terms of their coexistence in a spirit of reciprocity and mutual respect." This definition is consistent with a treaty federalism understanding of the relationship between Indigenous Nations and Peoples and the Canadian settler state. Self-determination of Indigenous Nations and Peoples refers to their rights to make decisions for themselves and "freely pursue their economic, social and cultural development" (United Nations 2007, art. 3) without coercion from the settler state or other actors. Both reconciliation and self-determination are essential objectives if IA processes are to meet the standards

of restorative justice and support a vision of development that is consistent with Indigenous worldviews and values and resists extractivist tendencies. Like the evidence of roles in decision-making, the case studies provide mixed evidence of efforts to support reconciliation and self-determination of Indigenous Nations and Peoples within the IA process, with some examples of promising practices, and other examples of abject failures to translate policy or promises into practice. Ultimately, even the promising practices do not sufficiently challenge the dominance of settler colonialism within the IA process that underpins the persistence of the resource curse.

One way that some project IA processes support reconciliation and self-determination is by making space for Indigenous governments to speak directly to decision-makers in settler governments. For example, in the decision-making phase of the Site C IA, "Aboriginal groups were given an opportunity to provide a submission outlining any outstanding concerns, issues or fundamental views in respect of the proposed Project that would…be provided directly to the respective provincial and federal decision makers" (Government of Canada 2014, 11). During the Voisey's Bay IA, the LIA and the Innu Nation were equal partners with the federal and provincial governments in negotiating the MOU. An LIA representative called it "'a fair and balanced MOU…It reflects the way that the Voisey's Bay project can respect the Inuit and be a win-win for everybody'" (CEAA 1997m). These examples are in contrast to a more typical consultation processes in IA, where Indigenous governments' positions are interpreted by settler government bureaucrats and given to decision-makers primarily in the form of consultation reports (CEAA 2014b, 25).

The Cree Nations who are partners in the Keeyask project frequently state that the co-proponent model used in the project (despite its faults discussed later in this chapter) goes a long way in supporting the self-determination of their Nations. The CBIA process embedded in the IS preparation is recognized by all partners as particularly important. The Cree Nation Partners (CNP), Tataskweyak Cree Nation (TCN) and War Lake First Nation (WLFN), state:

> Self-government is an inherent component of our Aboriginal rights. In part, this means being able to advance our socio-political relationships with the larger Canadian society by using our own traditional structures and values. It also means not having decisions imposed upon us. The process of assessing the impacts of the Keeyask Project is a major milestone in reasserting our inherent right to self-government. (Cree Nation Partners 2012, 22)

The role in decision-making for Cree Nations provided by the partner model is also recognized by these Nations as contributing to the objective of self-determination. York Factory First Nation, in their CBIA report, writes: "Our hope is that it will allow us to take control of our destiny; that it will help us to find roles for our members as contractors, workers, managers, and environmental stewards; that it will offer a first step away from resignation, towards self-determination" (York Factory First Nation 2012, 121). This is in stark contrast to their previous experiences with Manitoba Hydro, where no attention was given to how a dam project could support reconciliation or self-determination. During the Site C IA, some members of both Doig River First Nation and Blueberry River First Nation suggested that an equity partnership or co-proponent model would be a preferable way to pursue dam development in the Peace River region that is more consistent with reconciliation (CEAA 2014b; 2014f).

In both the Keeyask and Voisey's Bay IAs, Indigenous organizations and governments point to the revenues provided through equity agreements or as a condition of revenue sharing provisions in modern treaties and IBAs as particularly important to supporting their self-determination, because they provide income that is independent of settler governments. This argument is also made in much of the literature on Indigenous people and resource extraction (Whyte 2011; O'Faircheallaigh 2006; 2010a; Hall 2013; Cameron and Levitan 2014). Chief Spence of Fox Lake Cree Nation put it this way: "[The Keeyask Project] will be producing a stream of income which is ours to deal with as we see fit, not subject to overriding rules and regulations of governments other than our own" (CEC 2013i, 6). Similar statements were made by many other members of partner Cree Nations during the IA. During the Voisey's Bay IA,

the Panel stated in their report, reflecting points frequently made by members of the LIA and Innu Nation, that revenue sharing from land claims agreements or IBAs will allow Innu Nation and Labrador Inuit Association to "obtain financial resources with which they can address their own concerns according to their own priorities" (Joint Environmental Assessment Panel 1999, 27).

In some cases, the Panels played an important role in amplifying the voices of Indigenous IA participants and the many concerns they voice during the IA process by making recommendations that support reconciliation and self-determination, even though those objectives are outside the Panels' terms of reference. For example, the Voisey's Bay Panel recommended that both land claims agreements and IBAs be concluded with both the Innu Nation and LIA before the mine proceeded (Joint Environmental Assessment Panel 1999). This was a key demand of both organizations, as they viewed these agreements as essential to their self-determination in relation to Voisey's Bay and future resource extraction projects. In the Site C IA, the Panel recommended "that the Province set aside the hunting, fishing and trapping rights in the Peace Moberly Tract for people holding Section 35 rights under the *Constitution Act, 1982*…[and] that the Province and affected First Nations enter discussions on the Area of Critical Community Interest with a view to the harmonious accommodation of all interests in this land" (Joint Review Panel 2014, 315). Following this recommendation could support reconciliation efforts. Setting aside dedicated geographic spaces for Aboriginal and Treaty rights would partially help to address Indigenous concerns (expressed throughout the IA) about the effects of past and current encroachment of settlers and resource development projects on their abilities to exercise these rights. While these particular recommendations were largely rejected by settler government decision-makers (undermining their influence), they do demonstrate the Panels' responsiveness to Indigenous concerns and acknowledgement of the importance of reconciliation and self-determination in resource extraction.

While these are promising examples of ways that IAs can support reconciliation and self-determination, there are also many examples of these norms being

undermined through IAs in the case studies. Some Indigenous governments raise concerns about the commenting process that is often meant to serve as part of the duty to consult. They argue that there is little evidence that the considerable effort they put into providing these comments is taken seriously by the Crown and affect the decision being made. During the Site C IA, lawyers for three First Nations likened this process to "comments appear[ing] to go into 'black holes'" (Janes Freedman Kyle Law Corporation 2013, 3). Others argue that proponents treat Indigenous Nations more or less homogeneously with IA. For example, Saulteau First Nations (SFN) argued that BC Hydro's assessment of impacts on their rights was flawed because:

> The proponent's assessment of potential impacts on the exercise of established treaty rights is identical or virtually identical for a number of First Nations, located in BC and Alberta, both upstream and downstream from the proposed dam site... This identical analysis fails to reflect the unique position of SFN – being the largest First Nations community and also the closest to the proposed project – virtually all of the inundated areas and infrastructure associated with the proposed project are located near to the SFN community and within core areas of SFN traditional territory. (Saulteau First Nations 2013, 10)

Supporting reconciliation and self-determination necessarily requires recognizing that each Indigenous Nation and government has unique concerns and priorities that need to be reflected in IA (Whyte 2011). While a difficult task to achieve in practice, it is necessary for IAs to meet the norms of restorative justice.

A particular concern expressed in all the case studies that undermines the potential of IA supporting reconciliation is that the harms caused by past resource projects are not sufficiently addressed in current IAs. In the Site C and Keeyask IAs, legacies of past dams on the Peace and Nelson Rivers were frequently discussed by members of Indigenous Nations and Indigenous governments because they have negatively affected life in their communities, and their ability to exercise their Aboriginal and treaty rights, while shaping the cumulative impacts of the Site C and Keeyask dams. In the Voisey's Bay IA, the impacts of past dam development on the Churchill River and

low-level military flying in Labrador were frequently raised by Innu people in expressing their concerns about the potential impacts of the proposed mine. In articulating these harms within the IA process, many Indigenous people advance the position that redress for these harms must take place before new projects can be approved. For example, Councillor Kelvin Davis of Doig River First Nation stated during the Site C hearings: "There has not been any attempt of reconciliation for the impacts, ongoing damage from existing two dams today. Nothing. You have never given us a penny for those two dams you built that – the impacts that you have on our lands. And still today you come back with another project. That's not right" (CEAA 2014b, 28). Reconciliation consistent with restorative justice necessarily requires redress for past harms.

There are also several examples of decisions made by settler governments during IA processes violating the principle of free, prior and informed consent (FPIC). During the Site C IA, numerous Treaty 8 First Nations were clear that they did not consent to the project proceeding. However, the provincial government at the time quickly announced that the project was approved after the Panel delivered their report. Chief Willson of West Moberly First Nations described this decision as "'basically a spit in the face'" for members of his Nation (Hume 2014). The Innu Nation and LIA were clear throughout the Voisey's Bay IA that settled land claims and signed IBAs were basic prerequisites for their approval of the project (CEAA 1997j; TIA 1998b; Labrador Inuit Association 1998). Yet the Panel's recommendations on those issues were ignored by settler governments. As George Henriksen stated for the Innu Nation: "The bottom line is that the Innu must have their rights to their land recognized, and that the Proponent must obtain the consent of the Innu before the Project is developed" (CEAA 1998c, 76). During the Keeyask IA, a lawyer for Pimicikamak Okimawin pointed out that Indigenous approval in the context of the project was not the same as FPIC:

> It is not ever the case that the First Nations consent or veto of this project was ever on the table. It was not. It was not as if the four First Nations or Pimicikamak or any other Aboriginal people could, from Hydro's perspective, say

> we don't want this, do not build it, and such that it would not get built. That was not the option on the table. (CEC 2014b, 6785)

This is a wider limitation of Canadian IA processes more generally: it is very rare for a project to not receive approval to proceed despite objections expressed by Indigenous governments (Garvie and Shaw 2016; Manning et al. 2018b), although it is certainly not surprising given the dominance of extractivism in Canadian resource extraction. For IA to embrace the norms of restorative justice, the principle of FPIC must be respected. This is a complex undertaking that will necessarily require compromise and change to dominant patterns of decision-making on the part of settler governments and proponents.

While they can support self-determination, the partnerships between Manitoba Hydro and the Cree Nations in the Keeyask project also contain many tensions that may limit the extent to which partner Nations can exercise their rights to self-determination within that structure. Members of several partner Keeyask Cree Nations (KCN) spoke out during the hearings about their perceptions of a type of censorship built into the partnership agreement which affects the independence of the IA and the ability of their Nation's representatives to share dissenting views expressed by community members about the project. Conway Arthurson, a Councillor for Fox Lake Cree Nation, alleged that Manitoba Hydro approved the statements of KCN Chiefs and Councillors before they were read in the IA hearings in their communities, which is why he chose to appear before the Panel in a community that was not his own (CEC 2013g). Several journalists likewise report that "KCN leaders are contractually required to speak in favour of the dams" (Braun 2014). As discussed in Chapter 4, clauses such as these are common in community-company agreements, as their primary goal is to secure approval for the project (Cameron and Levitan 2014). The CBIA report produced by York Factory First Nation acknowledges that the path to the partnership was not always without tensions between partners and between York Factory and Manitoba Hydro. For example, they write:

> When we held our vote to decide whether or not to sign the JKDA [Joint Keeyask Development Agreement], Tataskweyak Cree Nation and War Lake First Nation had completed their vote. A majority of TCN voters voted in favour of their Chief and Council signing the JKDA, thereby establishing sufficient support among the Keeyask Cree Nations, as defined in the JKDA as the 'KCN Majority', for the Project to proceed to its next phase and the preparation of the Environmental Impact Statement [because TCN has the largest membership]. (York Factory First Nation 2012, 24)

Even if the majority of York Factory members had voted no, the KCN Majority would have still been secured. They also discuss how Manitoba Hydro issued a sudden ultimatum during their negotiation of the Adverse Effects Agreement (AEA) that undermined their faith in the partnership. “The aggregate value of the settlement proceeds…was capped at $8,500,000 and was presented to us as a ‘take it or leave it’ proposition. Manitoba Hydro would not conclude an AEA with us for any greater amount; but we needed to sign an AEA to retain our option to participate as a partner in Keeyask. This created a real dilemma for us” (York Factory First Nation 2012, 104). This imposed cap meant that sufficient funds were no longer potentially available for permanent, all-season road access to their community, which could have been an enduring benefit of the project and mitigated some negative socio-economic impacts (York Factory First Nation 2012). While York Factory and other Cree Nations explicitly argue that they view this partnership model as “an important step towards self-determination” and dismiss criticisms raised by expert witnesses hired by other Indigenous Nations and organizations during the hearing that the Keeyask partners had no choice but to agree to the model as “judgemental, incorrect and paternalistic” (CEC 2014c, 7001), these examples do show that tensions exist in the practice that need to be addressed to realize a fuller vision of restorative justice consistent with the standard of self-determination that can resist extractivist development agendas.

Similar tensions were also raised in the context of the Voisey's Bay MOU partnership by representatives of the Innu Nation. As Daniel Ashini told the Panel during the IA scoping phase:

> The Innu Nation signed the MOU even though the Innu Nation and the Innu people are opposed to the environmental assessment of the proposed Voisey's Bay project proceeding at this time. The reason we did so is clear and uncomplicated. We knew that under federal and provincial legislation the environmental assessment would proceed regardless of our objections, so we were faced with a very difficult situation and we tried to make the best of it. As in the case of many situations for the Innu Nation. (CEAA 1997j, 27)

Here Ashini makes visible the way his Nation's decision-making within IA (and many other policy areas) are constrained by wider structural inequities based in extractivism and settler colonialism, where settler governments retain the final decision-making power despite making greater efforts to recognize Indigenous Nations and Peoples than in the past (Coulthard 2014).

Impact Assessment as Colonialism

One thing that became apparent from my examination of the case study documents, and that represents a considerable barrier to the participation of members of Indigenous communities, in particular, is that, in addition to being shaped by settler colonialism, the IA itself is seen as a contemporary colonial process by many community members. Thus, IA "can reinforce the mistrust and alienation generated by the historical marginalization of indigenous peoples from 'mainstream' governance institutions" (O'Faircheallaigh 2009, 96). That this perception was voiced by some participants within the IA process arguably points to a much wider sentiment among members of communities who have refused or chosen not to participate in the IA on that basis. Within the Panel hearing process for the Voisey's Bay, Keeyask and Site C projects, several participants spoke to Panel members as if they were representatives of the proponent or government bureaucrats or decision-makers. Consider, for example, this

exchange between a resident of Nain and the Panel Chairperson during the Voisey's Bay scoping hearings:

> MR. JOHN IGLO: I just want to come about our land, that is our land Labrador. You come in here -- you come in here in Labrador. What do you come in here for? I don't come in your land and ask you for nothing. I never asked you nothing. You ask me, you come in here, in Labrador...
>
> THE CHAIRPERSON: I just want to stress in case you do not understand who we are. We are not anything to do with Voisey's Bay Nickel Company… We are not part of the company.
>
> MR. JOHN IGLO: No. Why you come in here in Labrador then?" (CEAA 1997d, 10–11)

To me, this exchange and others like it in the transcripts suggests two things. First, it suggests that Mr. Iglo and many other residents of communities[199] are confused about the Panel's relationship to the proponent and the government within the IA process. In part, this may be due to the Panel's actions (see footnote), but it also arguably indicates that public education on the IA process and the independence and decision-making power of the Panels has not effectively reached all community members. This is an issue of both procedural and restorative justice, as community members need to have faith in the independence of panels to believe the IA process is fair and has the potential to legitimately address their concerns. Second, it alludes to a wider problem with IA in that the process is easily seen by members of communities as part of a wider extractivist system of people from the South, with little or no stake in the outcome, coming in to make decisions about resource development for Indigenous and Northern communities.

[199] I noted at least 10 similar comments in the hearing transcripts during my analysis. Concerns about the Panel's relationship with the proponent, the Panel's use of the proponent's resources, and the effects of these actions on community members' perceptions were raised by Katie Rich, president of the Innu Nation, in a letter to the other three parties to the MOU: "I am very concerned that the fairness of the scoping sessions is in question because the Panel has travelled by helicopter, courtesy of VBNC, to conduct its sessions while other 'weathered in' persons are prevented from attending the sessions. This practice has led to the public perception that the Panel is accepting favours from the proponent. In my view, it is improper for VBNC to offer and for the Panel to accept assistance from VBNC that is not available to all participants… VBNC's ad hoc selective assistance is improper" (Innu Nation 1997).

As discussed in Chapter 4, members of local communities are rarely provided opportunities to serve on panels or are rarely part of the political and bureaucratic decision-making structure. Among the case studies, only the Voisey's Bay panel had a member of a local community appointed to the panel: Sam Metcalfe, an Inuk resident of Nain, who was the LIA-nominated member under the MOU (CEAA 1997m). Further, the government decision at the end of the IA process rarely results in a project not being permitted to proceed, even if there is much local opposition to the project expressed in the IA (Garvie and Shaw 2016).

The colonial nature of the IA process, even when Indigenous governments have relatively more decision-making power like the Voisey's Bay IA, was explicitly called out by Innu participants during the Panel hearings. Chief Paul Rich of the Sheshatshiu Innu First Nation spoke directly to the Panel members during the opening for the hearing in his community about the problems with the structure of decision-making in the IA:

> You have an important role in determining the Project which will impact our future as Innu. It is not a role that we, as Innu, gave you. You do not have our authority to make these decisions on our behalf but you will anyway. Since you will make these decisions and recommendations, it will be very important for you to listen carefully to our people. (CEAA 1998d, 1)

In his comments, Chief Rich points to the IA as yet another tool of settler colonialism, where the Innu people are once again not able to make their own decisions about their future and the mine. Instead, the decision will be imposed on them by the settler federal and provincial governments. In the same hearing, an Innu Nation representative, Ben Michel, was frank in stating that for many Innu people, the IA itself represented an impact, for the very reason raised by Chief Rich: "What are the impacts? … the systematic intrusion of our believes [*sic*] or values and the continued erosion of those values are these impacts. The systematic intrusion is – and I don't want you to take offence to this because it's the system... It's right here. It's the Panel. Not the Panel members necessarily but the Panel, that very structure" (CEAA 1998d, 27). These comments from Innu members about the colonialism built into one of the most

important decision-making structures within IA demonstrate the importance of being attentive to restorative justice in resource extraction decision-making and creating IA decision-making structures that allow communities to make decisions about projects that will affect their lives, rather than a distant settler government.

Related to perceptions of the colonial nature of the IA process, members of Indigenous communities and Indigenous Nations and governments sometimes point to situations where they were treated as just another public stakeholder within the IA process and project consultation. They point to their unique rights, as recognized within the Constitution, as well as the disproportionate impacts experienced by members of Indigenous communities. Chief Willson of West Moberly First Nations emphasized this point in his closing statements to the Site C Panel on behalf of his Nation: "We have a Treaty right that is much different than everybody else having an interest" (CEAA 2013d, 198–99). In rendering this distinction invisible, an action frequently used in settler colonial societies to undermine the validity of Indigenous interests and claims (Veracini 2010), and allowing corporate and settler government interests to dominate the final decisions that are made, IA processes support the maintenance of settler colonialism in resource extraction, and in turn the resource curse.

Limitations of Corporate and Government Responsibility

The case studies also demonstrate the limitations of what corporations and settler federal and provincial governments see as their responsibilities in mitigating socio-economic impacts for marginalized members of communities and thus in avoiding the outcomes associated with the resource curse. These limitations undermine the persistent, often heroic efforts on the part of community actors, including community members, local and Indigenous governments and civil society organizations, to make these impacts visible in the IA. They also contribute to communities' general lack of faith that the IA process can help to ensure the mitigation of negative impacts.

In the case of the corporations that serve as project proponents, the limits to their responsibility regarding most socio-economic impacts are interpreted quite

narrowly within the case studies. For proponents, "the major purpose of SIA [social impact assessment] is to obtain project approval…[therefore] negative findings regarding the potential social effects of a project or activity are unlikely to be welcomed" (O'Faircheallaigh 2009, 97). The case study proponents discuss their responsibility for impacts and their mitigation in terms of five components: 1) providing services to their employees (and sometimes their families); 2) documenting the socio-economic impacts that occur within the workplace (and sometimes the wider community); 3) attempting to sign an IBA or revenue-sharing agreement with the closest Indigenous Nations or governments to the project site or whose rights and lands are likely to be affected; 4) signing benefits agreements with local or provincial governments (if they are required to); and 5) providing government revenue in the form of taxes and royalties. Many community participants state that this acceptance of responsibility for project impacts and mitigation is too narrow. For example, during the Site C IA, Mayor Lori Ackerman of the City of Fort St. John argued that the proponent's accounting for socio-economic impacts is flawed:

> BC Hydro concludes…that their role is to document and communicate the project impacts on services, facilities, revenues, and expenditures to the local government or agency that has the responsibility for that function…[there is] a whole menu of city services that require a direct off-setting contribution by BC Hydro for Site C impacts. Examples include:…our already stressed health services, [and] city RCMP services. (CEAA 2014d, 179–80)

The City wants the proponent to take a more active role in mitigating impacts and acknowledging their responsibilities in creating those impacts, however (unsurprisingly), that is not consistent with the proponent's extractivist agenda of project approval at the lowest cost possible.

When concerns about socio-economic impacts for communities are raised within the IA, proponents commonly reply that negative impacts can be dealt with through their employee benefits programs or IBA provisions. For example, when members of communities raised concerns about increases in substance use and addictions during

the Voisey's Bay IA, the proponent argued that counselling services available through its employee assistance program would mitigate that impact. However, that program is only available to employees and their families. It does little to mitigate the impact for other members of the community (TIA 1998b). When communities press for commitments within the IA process to fund services and supports that can mitigate socio-economic impacts, such as affordable housing units, addiction treatment centres, or sexual assault crisis centres, proponents often insist that that is either beyond the scope of their responsibility (and therefore should fall on the community or government) or that funds provided through an IBA can support these services. While the latter is sometimes true for Indigenous communities where services are or can be provided by the Indigenous governments who sign the IBA, this is not true for Indigenous and non-Indigenous people who live within municipalities or regional districts where a local or provincial government is responsible for providing these types of services and is separate from an Indigenous government. As discussed in Chapter 4, very few jurisdictions require proponents to sign benefits agreements with non-Indigenous governments. A secondary problem with the IBA answer being provided within the review process is raised quite clearly by a lawyer for Saulteau First Nations during the Site C hearings: "until such day that an agreement is reached, if an agreement is reached, there is no assurance that any of the provisions or content of the potential agreement would, in fact, occur or be available to Saulteau First Nations" (CEAA 2014e, 164). It is for this reason that many community actors ask for binding obligations for the proponent to be created during the decision-making stage of the IA to counter the power inequities present in negotiation processes for IBAs.

The case studies also clearly demonstrate that federal and provincial governments interpret their obligations regarding project impacts and mitigation very narrowly in the decision-making phase of the IA, particularly concerning recommendations made by review panels. While recommendations about biophysical impacts are typically readily accepted, they often appear unwilling to make the socio-economic recommendations that are most likely to mitigate negative impacts for

marginalized groups similarly enforceable conditions of project approval. For example, the Keeyask CEC Panel report included a recommendation for a licensing condition relating to Indigenous training and employment (CEC 2014a). Manitoba's provincial government, in its decision letter to the proponent, only wrote that it "encourage[d] the Partnership to continue to work toward expanding opportunities for Aboriginal skills training and employment," with no mention of skills, training or employment in the licence conditions (Government of Manitoba 2014, 3). Similarly non-committal language is found in relation to almost all the socio-economic recommendations in Newfoundland and Labrador's response to the Voisey's Bay Panel report. A variation of "the Province will encourage VBNC to… [implement or respond to this recommendation] as appropriate" was the official response to twelve separate socio-economic recommendations. A slightly different, but still disappointing, response was given by the provincial government in response to one of the few socio-economic recommendations in the Site C case. The Panel (2014, 317) recommended that "that, should the Project proceed, BC Hydro must include in its agreement with the City of Fort St. John expenses for Project-related costs of child and family welfare services." However, the BC EAO director recommended against making this a condition of project approval because "child and family welfare services are the responsibility of the Province and not BC Hydro" (EAO 2014, 9). There was no commitment on the part of the province to address this recommendation, even though BC Hydro is a Crown corporation. There are a small number of exceptions to this trend, where governments do accept panel recommendations relating to socio-economic impacts and create an enforceable condition. These are most often related to protections for Indigenous harvesting, including ensuring the health of country food sources. Notably, these are the socio-economic impacts that are most closely related to biophysical impacts, which likely explains why those recommendations received a higher degree of support.

As discussed in Chapter 4, there are generally far fewer panel recommendations relating to socio-economic impacts than biophysical impacts. An important observation from the case studies relating to this point is that I found no evidence in the decision

documents that either level of government imposed any socio-economic conditions that had been suggested by communities during the IA as part of the project licensing process. This suggests that the civil society lobbying opportunities discussed in Chapter 4 as an opportunity for intervention either did not happen in these cases or, if they did, were not successful. O'Faircheallaigh (2009, 97) argues that institutional support for corporate interests and "an 'ideology of development'"[200] within governments is a common reason why they are reluctant to allow concerns about socio-economic impacts to sway or delay project approval decisions. The prioritization of profit and ongoing capitalist accumulation over Indigenous or other marginalized groups' interests is, as Coulthard (2014) reminds us, essential to the reproduction of settler colonialism as a system of power and the dominance of extractivist development agendas. In the case of IA, this prioritization further reinforces communities' perceptions that participating in the IA process is unlikely to make a substantive difference to the final decision.

In considering the results of public and Indigenous consultation, responding to panel recommendations, and generating conditions for project approval, federal and provincial governments also tend to strictly adhere to their jurisdictional responsibilities under the Constitution. However, many of the community concerns raised in the case studies, particularly those related to socio-economic impacts, do not fall neatly into either federal or provincial jurisdiction. The case studies provide evidence that the jurisdictional gaps I theorized in Chapter 2 do occur in relation to IA outcomes and disproportionately impact marginalized members of communities. The Voisey's Bay case provides the most visible evidence of this phenomenon. In part, this is because the Panel put considerable effort into amplifying community voices and issued far more socio-economic recommendations than the panels in the other IAs. In part, it is also because the federal and provincial governments both issued decision statements that responded to each panel recommendation individually, making their acceptance or denial of responsibility concerning specific recommendations explicit. I will discuss just

[200] While O'Faircheallaigh does not define this term specifically, it is reasonable to assume (based on his arguments in the rest of the article) that he is referring to the neoliberal, capitalist, and arguably extractivist ideologies underlying state understandings of the norms of 'development.'

three of the many examples from the Voisey's Bay case study to highlight the ways that community concerns can get lost in the jurisdictional gap.

Recommendation 77 concerns a multi-party training plan. The Panel was admirably specific in recommending what should be included in the plan, such as providing training opportunities in coastal communities, "developing formal and informal support programs, such as support groups, counseling or mentoring, for aboriginal students who have to leave their home communities for training; [and] providing extra supports, such as child care, to give women, especially single-parent women, equal access to training" (Joint Environmental Assessment Panel 1999, 188–89). In making this recommendation, the panel recognized the many barriers to obtaining training that marginalized members of communities face and proposed practical solutions that came directly from community actors who participated in the IA, with the potential to minimize those barriers. The provincial response to this recommendation was: "The Province accepts the principle which seeks to ensure that all residents of Labrador and in particular northern residents have appropriate access to project specific training and job opportunities, with the federal and provincial governments, LIA, Innu Nation and VBNC to continue discussions on how best to achieve this objective" (Government of Newfoundland and Labrador 1999, 21). This response includes no commitments on the part of the province to ensure that the supports recommended by the Panel are implemented and no recognition of which 'northern residents' most need those supports to ensure 'appropriate access,' even though employment, training, and education is an area of primarily provincial jurisdiction. Because this also involves Innu and Inuit communities, it is arguably partially federal jurisdiction as well,[201] at least in relation to supports and opportunities available within Indigenous communities. The Government of Canada issued a similarly non-committal response, saying it will participate in the plan "in the context of federal programs and resources in consultation with relevant Aboriginal groups" (Government of Canada 1998, 46), also failing to

[201] Although it should be noted that the federal government has long ignored its fiduciary responsibilities to Indigenous Peoples in Labrador (see discussion in Ch. 6).

commit to ensuring the supports recommended by the panel are implemented. As a result, it is very unlikely that these supports can or will be provided in the comprehensive and coordinated manner required to ensure that members of marginalized groups can benefit from project employment.

Recommendation 88 recognizes the concerns raised by Nain residents regarding housing. It "recommends that the Town of Nain, LIA, the Newfoundland and Labrador Department of Municipal and Provincial Affairs, and Indian and Northern Affairs Canada jointly develop a five-year housing strategy for Nain, including funding sources, to meet the housing needs of existing and potential residents" (Joint Environmental Assessment Panel 1999, 190–91). This is especially important for people who live on low incomes, who are more likely to become homeless or live in overcrowded housing when the cost of living rises. The provincial government stated that it "accepts the principle of this recommendation… subject to the availability of provincial resources" (Government of Newfoundland and Labrador 1999, 23), while the federal government says it has received a report on the housing situation in Inuit communities and "consultations are planned at the community level" (Government of Canada 1998, 50). Again, these fall short of commitments to address these pressing issues for Nain and mitigate the predicted negative impact of the Voisey's Bay mine on the cost of living and housing stresses in the community. They also ignore the government's fiduciary responsibilities for ensuring sustainable community infrastructure in Northern Indigenous communities (Cameron and Levitan 2014).

Finally, Recommendation 94 "recommends that, before construction begins, Canada, Newfoundland and Labrador, LIA and the Innu Nation negotiate an environmental co-management agreement to address both biophysical and socioeconomic aspects of mineral resources development in northern Labrador" (Joint Environmental Assessment Panel 1999, 191–92). This chapter has demonstrated the importance of mechanisms that give communities a meaningful role in decision-making, and those that support reconciliation and self-determination, in countering the impacts associated with the resource curse. A co-management agreement, like the one the

Panel suggests, is one mechanism that has the potential to achieve both objectives and support a nation-to-nation relationship consistent with treaty federalism. This recommendation was not particularly well-received by either the provincial or federal government, with both ignoring the vital co-management part of this recommendation. The federal government agreed to negotiate "appropriate consultation protocols" before federal permits are issued for the project (Government of Canada 1998, 6), while the provincial government only agreed to "expedite discussions on the development of a project-specific environmental consultation arrangement…but does not agree to make project approval or commencement of construction conditional on resolution of this matter" (Government of Newfoundland and Labrador 1999, 25). As is made clear from both the case studies and the literature on the subject (Coulthard 2014; Garvie and Shaw 2016), promises of consultation are no guarantee that the concerns of Indigenous Nations and governments will be adequately addressed in a way that is consistent with restorative justice. Consultation agreements do not give the same level of decision-making power as co-management agreements.

In light of the self-assigned limitations of responsibility on the part of both proponents and provincial and federal governments discussed so far in this section, members of Northern communities are left with few avenues to pursue restorative justice at the conclusion of the IA process when enforceable conditions that address their concerns are not included with project approvals. They are largely left to depend on the goodwill of the proponent in living up to the promises made to communities during the IA, and within an IBA or other benefits agreement if one exists. When proponents do not live up to their promises or respond appropriately to impacts that are not accounted for within the IA, communities have very few options for recourse. Some could try to challenge the issue within the legal system.[202] This process, aside from being expensive and time-consuming, is often complicated by the confidential nature of most IBAs as the primary mechanism to deliver benefits directly to communities

[202] I am not aware of any case where an Indigenous Nation, community or government that has signed an IBA has used the courts to challenge the proponent's performance in fulfilling of the terms of the IBA.

(Cameron and Levitan 2014), as discussed in Chapter 4 in relation to accountability as a process of power. Some communities, such as members of the Tahltan Nation in the Red Chris case, have found limited successes through direct action in the form of protests, blockades and public shaming campaigns – when such actions are not restricted by the terms of community-company agreements (O'Faircheallaigh 2010a; Cameron and Levitan 2014). Again, there is no guarantee that community concerns will be addressed in a way that meets the objective of restorative justice.

Conclusion

At the beginning of Chapter 6, I discussed environmental justice as a "'work in progress'" (Walker 2012, 221). As this chapter and the previous one show, that is certainly true regarding impact assessment in the Canadian North. Limited attention is given to distributive justice by non-community actors in IAs, particularly proponents and government decision-makers, which demonstrates little potential to change the unequal patterns of distribution of the costs and benefits of resource extraction for members of Northern communities. Understandings of 'benefits' for communities are largely limited to jobs and additional revenues for local and Indigenous governments. While certainly beneficial to some communities and some members of communities, this chapter has also pointed to the many barriers that prevent many marginalized members of communities from accessing these benefits. These kinds of benefits also do little to mitigate the many negative socio-economic impacts associated with the Canadian variation of the resource curse and disproportionately experienced by women, Indigenous people, people with disabilities, people who live on low incomes, and those at the intersections of multiple of those groups.

Restorative justice in IAs is also a work in progress. There are some promising examples of the standards of restorative justice being met in parts of the case study IAs, such as the Innu Nation and LIA being given some roles in decision-making through the Voisey's Bay MOU and the Indigenous Nations as co-proponents model used in the Keeyask project. On the whole, however, formidable barriers to achieving restorative

justice through IA remain, including actions on the part of the proponent and settler governments that undermine reconciliation and self-determination, community perceptions of IA as colonial processes, and limited acceptance of responsibility for socio-economic impacts by proponents and federal and provincial governments. Systemic and structural inequities, including those based in settler colonialism, capitalism, sexism, racism and ableism, shape both the IA process and experiences of environmental injustice for members of Northern communities. Even the examples of promising practices, such as the Panel amplifying Indigenous Nations' concerns in the Site C IA (raised in this chapter), and the limited recognition by the proponents in the Keeyask and Voisey's Bay IAs of how sexism and racism shape the impacts of projects (raised in the previous one) represent at best incremental changes and improvements, rather than transformational practices that disrupt the status quo. The ways that systemic and structural inequities that support extractivist development agendas are embedded in almost every part of the IA process suggests that moving to a community-centred IA process will be very difficult.

One of the most important lessons to take away from these chapters is the extent to which the four types of environmental injustice examined in these chapters are interconnected and overlap. Members of Northern communities rarely experience just one type of injustice at a time. As the case studies show, each of these types of injustice is present in all four of the IA processes examined. Given that these cases span four jurisdictions, 15 years, and two different resource industries, I suggest that similar experiences of overlapping injustices, shaped by systemic inequities, will occur in the project IAs for many other resource projects as well. That many of these injustices have roots in systems of oppression highlights the essential work of using an intersectional lens to analyze the impact of systemic inequities on policy processes, including in impact assessment, and in shaping our policy responses.

In the next and final chapter of this dissertation, I reflect upon the analysis thus far and offer my suggestions for what a community-centred IA process that is consistent with the standards of deeply intersectional environmental justice could entail. I also

briefly examine the extent to which key provisions in the newly introduced federal *Impact Assessment Act (IAA)* and BC's new *Environment Assessment Act 2018* are consistent with a community-centred IA process built on those standards, before concluding with some thoughts on what the study of IA and resource extraction in Canada's North tells us about the structural inequities that shape inclusion and exclusion in Canadian policy processes.

Chapter 8: Conclusion

In this dissertation, I have argued that the experiences of Canadian Northern communities with mines and hydroelectric dams should be conceptualized as a variation of the resource curse. While it is not a concept typically applied to Canada (as I discuss in Chapter 2), the resource curse is an accurate descriptor of the phenomenon where many members of Northern communities experience disproportionately negative socio-economic impacts when mines or dams are situated nearby, while being able to access few economic or other benefits. Marginalized members of communities – particularly women, Indigenous people, people with disabilities, people living on low incomes, and those who are members of multiple of those groups – are most likely to experience the conditions associated with this variation of the resource curse.

I have argued that an important part of the explanation for why the resource curse persists in Northern Canada is found in studying the extent to which impact assessments (IAs) fail to account for the concerns and experiences of members of marginalized groups and to allow for their participation. In applying the lens of intersectionality to IA legislative and policy frameworks, I have documented (in Chapters 4 and 5) the ways that nine inter-related processes of power shape persistent and systemic inequities within IAs in the five jurisdictions studied. In Chapters 6 and 7, I have shown that these processes of power and the inequities they shape have important implications for community members' experiences of justice and injustice in the practice of project-level impact assessments for mines and dams in Northern Canada. By way of conclusion, I will briefly draw together some of the key findings and implications of the dissertation, before turning to the question of what a more community-centred impact assessment process might entail.

In this dissertation, I have argued that inequities within the IA process work to privilege the position of the proponent and the extractivist agenda of the state while simultaneously limiting the ability of marginalized members of communities to participate and have their concerns recognized and addressed in IAs. The analysis in

Chapter 4, in particular, illustrates that proponents are given a significant amount of control in defining a proposed project's impacts and defining and negotiating its 'benefits' for community members. They also exercise a substantial degree of control in establishing the spatial and temporal boundaries of the IA, and thus what community concerns fit (or do not fit) within the scope of the assessment. The dominance of the state's extractivist agendas can be seen in how definitions of Indigenous rights are limited to those that are compatible with the settler colonial state, how hierarchies of impacts are created within legislative and policy frameworks placing community concerns at the bottom, how community members are given limited roles in decision-making, and how arguments about a proposed project being in the national, provincial, or regional interest can be used to override substantial community concerns about the project's local impacts or Panels' recommendations about mitigating socio-economic impacts. In the case study IAs, the proponents did what was required by the rules and guidelines created by the IA agencies and the wider legislative and policy frameworks – but no more than was necessary to pass the IA. While Crown corporations, as state-owned entities, arguably have a greater 'duty to care' with regard to community impacts in IA, the case studies demonstrate few meaningful differences in their conduct or efforts to ensure community inclusion during IAs compared to non-state-owned proponents. While it might at first appear that Keeyask is an outlier in this respect, and that Manitoba Hydro as a Crown corporation went beyond what was required in embracing a co-proponent model with the four partner Cree Nations and 'two-track' approach to the IA, I would argue this is an incorrect assumption. The root of this decision is arguably found in the terms of the NFA implementation agreements discussed in Chapter 6 that guaranteed First Nations a role in future hydro developments and the threats by some Nations, including Tataskweyak Cree Nation, that they would oppose the development if their request to be a co-proponent was not granted. Arguably, Manitoba Hydro had few other choices if they wanted the Keeyask project to proceed.

The analysis in this dissertation also shows that for those concerned about socio-economic impacts disproportionately borne by marginalized members of communities, hearings are important spaces for these concerns to be heard in IAs and panels are important actors in addressing them. Among the cases studied, the Red Chris IA was the only case that did not involve hearings by a review panel. While there were certainly many concerns about the project within the Tahltan communities, as can be seen through the occupation of the band offices and blockades discussed in Chapter 6, very few of those concerns were made visible in the IA process itself. This is the main reason the Red Chris case is discussed less frequently than the other cases in Chapters 6 and 7. Very few members of Tahltan communities participated in the two public participation opportunities available in the IA (an open house and a public comment period). While several reasons can explain this lack of participation, including the substantial barriers to participation discussed in Chapters 5 and 6 and the perceptions that IAs are colonial processes discussed in Chapter 7, the lack of hearings is another potential explanation. In the other three case studies, the hearings were the part of the IA process that the more marginalized members of communities and the organizations that represent them participated in most frequently. The more open and informal 'community sessions' that were built into the Voisey's Bay, Keeyask and Site C hearing schedules saw quite high rates of participation from individual community members, and many Indigenous Nations and governments and equity-seeking civil society organizations participated in both community sessions and the 'technical sessions' dedicated to specific topics or VECs. The Panels played an important role in amplifying community concerns in all three cases, and particularly the concerns of the most marginalized members of communities. For example, in the Voisey's Bay IA, the Panel made many important recommendations concerning IBAs, land claims, barriers to employment, and community services and infrastructure that responded directly to the concerns that Indigenous governments and women's organizations had raised in the IA. If these recommendations had been enforced, the distributive impacts of the Voisey's Bay mine may have been different. The Panels are also arguably the IA actors that community members trust most to hear

and take their concerns seriously in the IA process, especially compared to the state, other regulatory authorities, and the proponent. In both the Voisey's Bay and Site C IA, representatives of Indigenous governments and organizations spoke very highly of the Panels' attentiveness to their concerns and consideration of community impacts in shaping their final report recommendations.

Despite the promise of hearings as a forum for participation and the Panels as an actor that take community concerns seriously, this dissertation has demonstrated that dominant IA practices often result in procedural, recognition, distributive and restorative injustices for marginalized members of Northern communities when they attempt to participate in IAs and have their concerns accounted for. In general, Canadian impact assessment practices fall far short of meeting the norms of environmental justice. These injustices mean that several marginalized groups in communities – people with disabilities and people living on low incomes, women and some Indigenous people to a lesser (although still considerable) extent – and their experiences and concerns remain largely invisible in IAs, and indeed in policy processes and political decision-making in Canada more generally. As I discuss in relation to the nine processes of power in Chapters 4 and 5, dominant institutional relationships based in multilevel politics contribute to this intersectional invisibility and experiences of exclusion. There is little distinct recognition of any marginalized group other than Indigenous people (notably the only recognition required by the Canadian constitutional order) in IAs for mines and dams. While there has certainly been some progress in relation to the recognition of some rights for some Indigenous Nations and Peoples, institutional practices that embrace a nation-to-nation relationship based in treaty federalism remain elusive in the North, undermining Indigenous Nations' and Peoples' agency in IAs specifically and in making decisions about resource extraction in their territories more generally. As the analysis in Chapter 7 shows, jurisdictional gaps, combined with the settler state's general unwillingness to impose stricter conditions on project proponents, results in the measures that might prevent or mitigate some of the negative socio-economic impacts most likely to be experienced by marginalized groups

in Northern communities falling through the cracks or being left as subject to the goodwill of the proponent.

However, there are some sparks of hope for the future. In particular, the case studies demonstrate that many community actors are committed to making visible the impacts of proposed resource extraction projects for the people they represent or serve despite these larger trends of exclusion and a lack of recognition. Even when facing substantial barriers to participation and procedural injustices such as a lack of funding and short timelines, community actors like the Innu and Inuit women and women's organizations who participated in the Voisey's Bay IA and the many Indigenous governments and organizations who participated in all four case study IAs demonstrated high levels of persistence and dedication. They fought for the recognition of socio-economic impacts experienced by members of marginalized groups even when policy frameworks did not require their investigation, made the distributive justice implications of the project visible in their presentations and submissions when the proponent and regulatory authorities were reluctant to acknowledge the disproportionate nature of the burdens in other parts of the IA, and advocated for greater roles for their communities in project decision-making. They have shown that an often heroic level of commitment can help to reduce some of the recognition, distributive and restorative injustices for members of Northern communities present in the process and policy frameworks. However, the burden of reducing these injustices should not rest on these community actors. Reducing these injustices so that participation of community actors and the recognition of community concerns does not require a heroic level of commitment is part of the state's 'duty to care' in impact assessments.

A persistent problem identified in this dissertation is that some marginalized members of communities are still left out even when some community actors, such as Indigenous and women's organizations, are highly involved in IAs. When IA frameworks and agencies rely solely on these actors to make community impacts visible, some impacts experienced by members of marginalized groups, particularly people with

disabilities and people living on low incomes, are likely to remain invisible. The analysis in Chapters 6 and 7 has shown that despite the involvement of women's organizations and Indigenous governments and organizations in the case study IAs, there is very little attention paid to how proposed projects might differentially affect the lives of women with disabilities, Indigenous people with disabilities, or women and Indigenous people who live on low incomes, nor to how different mitigation measures might be needed to counter those distinct impacts. As discussed in relation to representation as a process of power in Chapter 5 and recognition and distributive justice in later chapters, this intersectional invisibility reflects longstanding patterns of exclusion of people with disabilities and poor people in community representative structures (such as Indigenous governments) and social movement organizations.[203] This problem of invisibility points to inequities within communities themselves as shaping both exclusion within the IA process and the conditions associated with the Canadian variation of the resource curse, where these groups are likely to experience disproportionately negative impacts.

Despite the inequities between communities and the proponent, communities and the state, and within communities themselves, hope can also be seen in the potential of well-crafted policy and legislative requirements to reduce some of the injustices present in IA frameworks and processes and better account for the conditions associated with the Canadian variation of the resource curse. In particular, the analysis in Chapter 4 has shown that while existing accountability mechanisms such as gender and diversity analysis, accessibility policies and legislation, and human rights are currently underutilized, deeper integration of these tools in IA could help to account for the impacts likely to be experienced by marginalized members of communities and ensure a more inclusive policy environment. In Chapter 5, I argued that greater recognition of marginalized groups in legislation and policy, as well as greater recognition of the value of Indigenous and community knowledges, would allow IA processes to better account for socio-economic impacts. Among the jurisdictions

[203] Although it is important to acknowledge that some members of communities may have 'behind the scenes' roles that are not reflected in formal participation in IA processes or community representative structures.

studied, Nunavut unquestionably does best with both of these types of recognition. While certainly not perfect, they have made substantial efforts towards recognition and inclusion in their IA legislation and policy frameworks. Nunavut also shows how requirements for targeted consultation and measures that reduce the barriers to participation for members of marginalized groups have been effectively integrated into IA policy and practice in a Canadian jurisdiction, and are not merely aspirational goals. In the context of strained community resources and many competing priorities on the part of community actors such as Indigenous governments and civil society organizations, strengthening IA legislative and policy frameworks in ways that reduce some of the power imbalances and assign greater responsibility to the proponent and the state in identifying and addressing a broader ranger community impacts are positive steps forward in the pursuit of environmental justice in IA.

Finally, while this research demonstrates that the state has generally been reluctant thus far to take a more active role in preventing the conditions associated with the resource curse or reducing the inequities and injustices present in IA processes, I argue that for meaningful change to occur the state has to embrace a greater 'duty to care' in IA. This requires working actively against extractivist, settler colonialist and capitalist development agendas and reforming the IA process to become more community-centred – reducing the barriers to participation and creating more space to account for community concerns, experiences, and knowledges. While certainly not easy, it is vital work that must be done if Northern communities are to gain more equitable benefits from mines and dams and the conditions associated with the Canadian variation of the resource curse are to be prevented or mitigated.

In the remainder of this chapter, I begin to imagine what a more community-centred impact assessment (CCIA) process could entail. I then assess the extent to which the provisions within the new federal *Impact Assessment Act (IAA)* and British Columbia's *Environmental Assessment Act, 2018*, the two newest IA legislative frameworks in Canada, are consistent with the principles of CCIA. I then explore some

potential areas for further research flowing from this dissertation before concluding with some broader reflections on the implications of this work for the field.

Moving Toward a Community-Centred Impact Assessment Process

Malin and Ryder (2018, 4) write that "the goal of deeply intersectional environmental justice research is to identify sustainable, community-based, policy-relevant, and procedurally equitable solutions at the nexus of drivers creating the injustices." In this section, I reflect on the lessons of the previous chapters to offer some initial thoughts on what a more community-centred IA process that is consistent with the principles of deeply intersectional environmental justice would require. I argue that a community-centred IA (CCIA) process would embrace each of the four types of environmental justice and be particularly attentive to the ways that relationships and processes of power shape the IA process for marginalized groups within communities.

Procedural Justice

Supports for community participation are vital to a CCIA that is consistent with the norms of procedural justice. As I discuss in both Chapters 5 and 6, the provision of adequate funding supports is necessary to facilitate the participation of members of marginalized groups in IA, and particularly to ensure the effective participation of Indigenous Nations and governments and equity-seeking civil society organizations. The current amounts of participant funding (where available) do not reflect the realities of the costs of doing research, community consultation and travelling in the North, nor the other costs of participation in IA (especially lawyers' and consultants' fees). In the case studies, many community actors said the amount of funding awarded was insufficient for them to complete a robust review of the proponent's IS. Moving toward a community-centred IA process would require significant increases in participant funding supports compared to those currently available. Longer IA timelines are also necessary

to better support community participation and ensure adequate consideration of community impacts. This includes both the timelines for the public participation opportunities within the IA process (e.g., public comment periods, the time between submission of final IS and hearings), but also the timelines for the IA process as a whole. The short, often legislated timelines that currently exist in most jurisdictions studied, as discussed in Chapter 5, result in inappropriate timing for IA participation opportunities that prevent the participation of many community members. Short timelines, as discussed in Chapter 6 in relation to the case studies, also ignore the immense weight of the decision being made for many Northern community members, particularly those who are Indigenous, and the ways that the timeline itself causes trauma for some members of communities. Both increased funding supports and longer timelines can be implemented through IA legislation or policy provided sufficient political will is available to make those changes.

This dissertation has also shown that community-centred IA will require adjustment to the dominant practices in constructing temporal and spatial boundaries for project-level IA. Temporal boundaries need to expand further into the past than the current practice of using the immediate pre-construction baseline, as discussed in Chapters 4 and 6, to adequately account for the cumulative impacts of multiple resource extraction projects in a region, as is the context in Labrador, Northern Manitoba and Northern British Columbia. This will also help to better account for the cumulative impacts of other sorts of settler colonial interventions in the North that have affected members of Indigenous communities in particular, such as resettlement, the establishment of reserves, and many decades of systemic discrimination. The Indigenous Nations and governments who participated in the case study IAs were clear that those experiences play an important role in undermining both communities' capacities to both participate in IA and respond to negative socio-economic impacts should the mine or dam proceed. Expansions are also needed to the spatial boundaries used in project-level IAs in order to meet the norms of procedural justice. Spatial boundaries must be set in ways that create space for all communities in the region that

are likely to be affected by a mine or dam to have their concerns accounted for in IAs and must not disadvantage smaller communities in the region, as the town of Hudson's Hope argued happened to them due to the setting of regional boundaries in the Site C IA. A common complaint in the Voisey's Bay, Keeyask and Site C IAs was that the spatial boundaries set by the proponent to assess many VECs excluded several Indigenous Nations and Peoples to whom the Crown owed a duty to consult. Therefore, their experiences and concerns were largely excluded from the IA and the decision-making process.

The final norm of procedural justice is accessibility and inclusion. Community-centered impact assessment would require accessible and inclusive practices and the provision of inclusivity supports as a consistent and mandated part of IA processes. Ideally, these requirements would be legislated, to provide an additional accountability tool (the courts, as discussed in chapter 4) in the event that commitments to inclusivity are not met. These requirements should include standards related to the many practices and supports discussed in Chapters 5 and 6 (e.g., physically accessible locations for public participation opportunities, language interpretation, care supports, reimbursement for transportation expenses, alternative formats for project documents, etc.) that create more welcoming and inclusive spaces for Indigenous people, women, people with disabilities, and people living on low incomes and reduce the barriers to their participation in IA. Increased attention to questions of access and inclusion will likely have positive implications for the participation of members of marginalized groups in IA processes, thereby increasing the likelihood that the socio-economic impacts they experience can be accounted for and a mitigation plan put in place during the IA. I suggest that in a CCIA, an audit of the accessibility and inclusivity practices used in the IA would be integrated into the final decision-making stage, with access and inclusion being one of the factors weighed in deciding on whether the project has passed the IA or not. The creation of accessibility and inclusion standards and this final audit at the conclusion of the review would likely require the integration of new settler government actors in IA, such as the special policy agencies responsible for GDA and disability

policies. At the federal level for example, this could be a part of the mandates of Women and Gender Equality and Accessibility Standards Canada.

Recognition Justice

Community-centred IA consistent with recognition justice would include distinct recognition of the different marginalized groups in both legislation and policy. As discussed in Chapter 4, including distinct recognition in legislation is an important mechanism for accountability in the IA process, particularly in providing the option of other avenues of redress when IAs do not adequately account for the impacts experienced by members of marginalized groups. While similar distinct recognition in policy is also certainly useful, particularly in providing specific direction to proponents and IA agency staff, it does not serve as the same effective mechanism for accountability as legislation. As the cases studied in this dissertation show, in the absence of distinct, dedicated and valued recognition, the experiences and concerns of members of marginalized groups are unlikely to be adequately and consistently accounted for in all parts of the IA process. Across the case studies, the only consistently mandated type of recognition that occurred in practice was the experiences of Indigenous people and the project impacts that might affect their Indigenous and treaty rights or their use of their territories for traditional purposes – arguably because this recognition is the only type that is legally required in those jurisdictions. Although, as Chapter 6 discusses, there are certainly problems of misrecognition of some Indigenous Peoples within the case study IAs, despite these legal requirements, that would need to be resolved to achieve a fuller vision of recognition justice.

Equal recognition of Indigenous, community, and local knowledges with scientific knowledge is a particularly important principle for CCIA. Non-scientific forms of knowledge are often given a lower status in IA and taken less seriously by decision-makers in making decisions about a proposed project. This is reflected in their 'optional' inclusion in IA processes in all the jurisdictions studied except Nunavut. However, as

Chapters 5 and 6 show, Indigenous, community and local knowledges are situated forms of knowledge that have much to contribute to understanding the potential impacts of a proposed project for marginalized members of communities, and to the design of mitigation and prevention plans. Stricter, legislated requirements to include these types of knowledges (whether by requiring their integration in proponents' ISs, funding CBIAs, doing more targeted consultation, or reducing the barrier to participation for knowledge holders) are part of the state's duty to care in CCIA processes. Assessing if those knowledges have been included and given appropriate and equitable recognition within the IA would ideally be part of the Minister's final decision-making process.

Earlier, in Chapter 6, I suggest that achieving the norms of recognition justice in IA requires that the state recognize how structural relationships of power shape both current community conditions and the changes that will come to a community with a mine or dam. Integrating an intersectional lens in all stages of IA can help to do that work, as much research by myself and my colleagues over the last seven years has demonstrated (Stienstra et al. 2016; Stienstra, Manning, and Levac 2020; Manning et al. 2018b). Better integration of the tools of intersectional policy analysis that already exist in many jurisdictions, such as gender and diversity analysis requirements, can aid in achieving this objective, as long as they are implemented in a way that is more consistent with the principles of intersectionality than they have been in the past.[204]

Achieving recognition justice in CCIA also would require that community concerns be taken seriously in decision-making. In practice and at a minimum, this means that IA agencies must require that the concerns raised by community members, Indigenous Nations and governments, and equity-seeking civil society organizations during the IA be specifically addressed by the proponent, rather than sidestepped, buried in technical jargon, or ignored as is far too often the case in the current practice in IA.[205] The ways that proponents respond to community concerns should inform the final decision made on a proposed mine or dam. Vitally, the state needs to be prepared

[204] See Chapter 4 for an overview discussion of these implementation problems.
[205] See Chapter 6 for a discussion of how this happens in practice.

to deny the proponent their project approval at the conclusion of the IA if community concerns have not been sufficiently addressed. This would require a commitment on the part of the state to move beyond its historically dominant extractivist agenda.

Distributive Justice

A community-centred IA consistent with the norms of distributive justice would include requirements for local benefits that are accessible to the diverse members of the community. These would necessarily include more than the narrow understanding of benefits (usually limited to jobs, business opportunities and training) in current approaches to IA, which are discussed in Chapters 4 and 7. These types of benefits are not easily accessed by many marginalized members of communities, particularly women, Indigenous people, people with disabilities, and those who belong to multiple of those groups. To work towards distributive justice, understandings of benefits would also need to go further than the 'compensation for harm' model that underlies the current approach to many IBAs with Indigenous Nations and communities (discussed in Chapter 7). Requirements for benefits in CCIA would ideally be part of IA legislation. In order to counter some of the power disparities between communities and corporations raised throughout this dissertation, the state, in consultation with affected communities, would ideally provide specific direction to proponents as to how local benefits are to be decided and how benefit agreements are to be negotiated to ensure that the benefits can reach the most marginalized members of communities.

Conducting IAs in ways that are more attentive to the disproportionate nature of the negative socio-economic impacts experienced by Northern community members is essential to moving towards a community-centred IA process that is deeply intersectional. As this dissertation has made clear, different members of communities experience different types of impacts from resource extraction due to their positionalities. Adequately addressing and mitigating these impacts as they are differently experienced by members of communities is impossible without an IA process that systematically investigates and assesses how particular impacts are likely to be

disproportionately borne by particular groups within communities. Ensuring there are requirements for distinct recognition for members of marginalized groups and the impacts they might experience embedded in the guidance given to proponents by the IA agencies is one practical way this principle can be implemented in practice without excessive additional demand on state capacities.

Part of the state's duty to care in relation to distributive justice in resource extraction is actively working to reduce disparities in power between communities and corporations, and between the North and South in IA. In part, this is related to the principles of procedural and recognition justice, particularly the provision of adequate funding, extending timelines, and implementing requirements for the distinct recognition of the impacts experienced by members of marginalized groups. All of these will assist in reducing disparities in power between communities and proponents. Reducing disparities between the North and South can be accomplished through adopting some of the principles of restorative justice discussed in the next section, including by providing meaningful roles for local communities in decision-making and requiring a concurrent CBIA in addition to the settler government formal process. Both of these options return some decision-making power to the people of the North, ensuring the decision is not only made by distant Southern governments. The three CBIAs used in the Keeyask IA, and discussed in Chapters 6 and 7, are a model of community decision-making that could be potentially be adapted to other contexts, provided sufficient financial supports and resources are made available.

A CCIA process also necessarily requires corporations and settler governments to accept more responsibilities for the socio-economic impacts that result from the development of mines and dams. Mitigation measures recommended by review panels and essential services and supports to cope with community impacts cannot continue to get lost in jurisdictional gaps between different levels of government (discussed in Chapter 7 in relation to the Voisey's Bay IA). Likewise, to ensure distributive justice, settler governments cannot remain hesitant to impose stricter conditions on proponents that can help to mitigate socio-economic impacts, even when the measures

necessitated by those conditions are expensive or time-consuming, such as providing a wider range of local benefits than are currently standard practice in IA.

Restorative Justice

A central norm of restorative justice is that local communities are provided with a meaningful role in decision-making. In practice, this would necessarily include diverse local representation on review panels, as well as in working groups and technical advisory committees. It would be essential to make sure involvement in those forums actually has the potential to affect the final decision made, unlike current practice in most jurisdictions studied (see Chapter 4). A CCIA consistent with the principles of restorative justice would also require an additional level of project approval in the form of a community-based IA (CBIA). In Chapters 6 and 7, I discuss the 'two-track' assessment approach involving CBIAs used in the Keeyask Generation Project IA. While I also discuss several limitations of that particular CBIA model that undermined its restorative justice potential, the adoption of similar concurrent CBIAs would give communities more opportunities to identify the predicted impacts of a proposed project and develop mitigation plans for those impacts than are available in current non-CBIA approaches to IA. Requiring a CBIA in addition to the standard settler government IA process would also give communities an option to saying no to a project if it is not in their interests and if the proponent does not make adequate commitments to mitigate community impacts. To realize this potential, CBIAs would need to be adequately funded and inclusive of the diversity of the community (Levac et al. 2021).

Community-centred IAs that fulfill the norms of restorative justice would also support reconciliation and self-determination for Indigenous Nations and Peoples. This would necessarily include building opportunities into the IA process (or parallel to the IA process) to ensure redress for past harms experienced by members of Indigenous communities as a result of resource extraction (or other experiences of colonialism) that will shape their experience of the IA and the new project. This was a key concern of all

Indigenous Nations and Peoples who participated in the four case study IAs. Meeting this norm of restorative justice would also require supporting the FPIC principle in IA decision-making when the proposed project is located on Indigenous territories and would have impacts for Indigenous Nations and Peoples or the exercise of their Indigenous and treaty rights. This standard of consent is not currently required in Canada in any of the jurisdictions studied (see Chapter 5). These changes would necessarily require some deep reflection on the part of settler Canadians, significant political will, and a sustained commitment of human and financial resources directed towards the goals of decolonization and reconciliation.

Summary of CCIA Principles

Table 20: Principles of a Community-Centred IA Process

Procedural Justice	**Recognition Justice**
• Equitable and sufficient funding to support community participation • Timelines that enable community participation • Temporal boundaries that address cumulative impacts. • Spatial boundaries that include all communities that may be affected by a proposed project. • Mandate accessible and inclusive practices and supports for diverse individuals in the IA process	• Distinct recognition of marginalized groups in legislation and policy. • Equal recognition of Indigenous and community knowledges with scientific knowledge. • Recognize how power shapes current community conditions and changes that will come with mine or dam. • Take community concerns seriously in decision-making by requiring they be addressed by the proponent and inform the final decision made.
Distributive Justice	**Restorative Justice**
• Include requirements for local benefits that are accessible to the diversity of the community. • Acknowledge the disproportionate nature of many socio-economic impacts. • Mitigate disparities in power between communities and corporations and between the North and South in IA. • Corporations and governments accept more responsibility for socio-economic impacts.	• Provide a meaningful role for local communities in decision-making. • Require an additional level of project approval in the form of a community-based IA. • Support reconciliation and self-determination for Indigenous Nations and Peoples in IA through ensuring redress for past harms and supporting the FPIC principle in decision-making.

Table 20 above summarizes the principles that should guide the development of a community centred impact assessment (CCIA) process based on the analysis developed above. Moving to an IA process that is more consistent with these principles would be an important step in the Canadian state realizing its duty to care in relation to Northern communities' experiences of resource extraction and countering the conditions associated with the Canadian variation of the resource curse.

Assessing the Newest IA Legislation

Since the period studied in this dissertation, two jurisdictions have updated their IA legislation. In 2018, British Columbia passed the *Environmental Assessment Act 2018*. The Act came into force in December 2019 (Government of British Columbia 2020). In mid-2019, the federal government passed the *Impact Assessment Act (IAA)*, which came into force in August of that year. Both pieces of legislation were developed following extensive periods of public engagement. The process of developing both legislative frameworks was guided by a desire for an IA process that was more attentive to community concerns and experiences. For example, the Government of British Columbia (2020) states that the changes made to that province's IA legislation were guided by the following objectives (among others): "Enhancing public confidence by ensuring impacted First Nations, local communities and governments and the broader public can meaningfully participate in all stages of environmental assessment through a process that is robust, transparent, timely and predictable; [and] advancing reconciliation with First Nations." The federal government described the promise of the *IAA* in this way:

> By recognizing Indigenous rights, culture, and interests in project reviews, and working in partnership from the start, the Government of Canada will advance reconciliation, and arrive at better project decisions. This legislation increases opportunities for Indigenous peoples to be active partners and to be consulted in

impact assessments from the outset. (Impact Assessment Agency of Canada 2019)

This section assesses the extent to which the new legislative frameworks embrace the principles of a CCIA process that will fulfill both of those visions and sets of objectives.

In terms of the principles of procedural justice, both the BC *Environmental Assessment Act 2018* and the federal *IAA* meet few of the expectations of a community-centred IA process.[206] There is no evidence in either piece of legislation of any requirements for accessible and inclusive practices within the new IA processes (nor requirements for coherence with existing legislation or policies) or any details about how the temporal and spatial boundaries for the assessment are determined and which actor is responsible for making that decision. Regarding timelines, the *IAA* has no requirements for minimum timelines for public participation opportunities, while the *Environmental Assessment Act 2018* establishes a minimum timeline of 30 days for public comment periods on key project documents including the project description and draft IS guidelines. Even the thirty-day minimum timeline still represents a significant barrier to participation for many individual members of marginalized groups, Indigenous Nations and governments, and civil society organizations. With regard to funding, there is similarly little evidence that the norms of procedural justice will be fulfilled under the new legislation. British Columbia legislates funding supports only for Indigenous Nations and governments. While federally, the IAAC is required to create a participant funding program to support public participation under the *IAA*, there is no evidence to indicate that those funding supports would be more substantial than the funding supports in place under the previous legislation. As this dissertation has shown, these previous supports were insufficient to reduce the barriers to participation for members of marginalized groups and the organizations that represent them in IA.

[206] Certainly, these details are sometimes provided in regulations, which take longer to craft than the legislation. However, the legislation as it stands applies to all new IAs, whether or not the regulations are finished. Thus, examining what is and is not in the legislation has important implications for procedural justice.

In comparison to the other types of justice, the new federal and BC legislation comes closest to meeting the norms of recognition justice consistent with a CCIA process. Both legislative frameworks include distinct recognition for Indigenous Nations and Peoples, as well as requirements to consider impacts on Indigenous and treaty rights. They also include distinct recognition for sex and gender, triggering an accountability requirement for gender and diversity analysis (GDA) in IAs. These are the first pieces of legislation in Canada to require some form of GDA as a mandatory part of every IA conducted in those jurisdictions. Both pieces of legislation further state that Indigenous, local and community knowledges are required to be incorporated in all IAs, and the federal *IAA* recognizes the importance of the situated knowledges of Indigenous women. However, neither contains clauses specifying that these knowledges must be accorded equal status with Western scientific knowledge in the IA.[207] In theory, these changes should result in community concerns being taken at least somewhat more seriously than they tend to be in the IA processes studied in this dissertation. Of course, it remains to be seen how the outcomes of future IA processes may differ as the legislative frameworks are implemented in practice.

In terms of the principles of distributive justice, neither legislative framework holds much promise of meeting the requirements for a community-centred IA process, nor addressing the conditions associated with the resource curse. Only the British Columbia legislation requires an assessment of the disproportionate nature of project impacts within the IA process on different groups within communities. While this is a promising inclusion, it remains to be seen how the intent of that requirement is realized in practice, especially in light of the considerable barriers to participation that remain within the new legislation and are discussed in relation to procedural justice above. Neither legislative framework acknowledges the structural relationships of power that shape the outcomes of resource extraction and the IA process for Northern

[207] Adding these types of clauses would also likely require creating a set of standards or principles to guide equal recognition, such as those created during the Keeyask IA and discussed in Chapter 6.

communities, nor do they discuss any guarantees for local and accessible benefits within the IA process.

With regard to the principles of restorative justice, both pieces of legislation also fall short of embracing the requirements of a CCIA process. There are no expanded roles for local communities in decision-making, although the BC legislation does introduce new 'community advisory committees' as part of the IA process.[208] While an innovative new mechanism for community involvement in the IA process, their function is an advisory one, not a decision-making one, thus falling short of that principle of restorative justice. Within both the federal and BC legislation, some limited provisions could be used to facilitate community-based impact assessments with specific types of communities or governments. For example, British Columbia's legislation allows for substituted[209] or cooperative[210] assessments with Indigenous Nations or local governments (i.e., municipalities or regional districts).[211] In the federal legislation, a similar clause[212] exists for IA substitution for Indigenous Nations and governments, but

[208] The *Act* states: "For an assessment or a class of assessments, the chief executive assessment officer must, if the chief executive assessment officer considers that there is sufficient community interest in a project, establish one or more community advisory committees to advise the chief executive assessment officer on the potential effects of the applicable project or class of projects on the community" (Government of British Columbia 2018, sec. 22(1))

[209] Meaning the Indigenous government's IA process or the municipal government's IA process replaces the provincial one.

[210] This would likely work very similarly to the cooperative federal-provincial process that characterized most case studies in this dissertation

[211] The *Act* states: "41 (1) The minister may enter into an agreement with respect to any aspect of an assessment or of an assessment under section 35 or 73 with the following: (a) the government of Canada; (b) the government of one or more provinces or territories; (c) one or more Indigenous nations; (d) one or more municipalities or regional districts in British Columbia; (e) one or more neighbouring jurisdictions outside Canada; (f) any agency, board, commission, ministry or other organization of British Columbia or of another jurisdiction. (2) Without limiting subsection (1) but subject to subsection (5), an agreement under this section may (a) provide for a means to substitute another party's or jurisdiction's assessment for an assessment required under this Act, and (b) establish procedures with another party or jurisdiction to cooperatively complete an assessment of and regulate a reviewable project" (Government of British Columbia 2018).

[212] Sections 32-38 of the *IAA* allow for IA substitution with other jurisdictions, including "…(e) any body — including a co-management body — established under a land claim agreement referred to in section 35 of the Constitution Act, 1982 and that has powers, duties or functions in relation to an assessment of the environmental effects of a designated project; (f) an Indigenous governing body that has powers, duties or functions in relation to an assessment of the environmental effects of a designated project (i) under a land claim agreement referred to in section 35 of the Constitution Act, 1982, or (ii)

not for other types of communities. It will be interesting to see if these clauses are used to support CBIAs as the legislative frameworks are implemented. Within both pieces of legislation, there is little evidence of increased support for reconciliation and Indigenous self-determination within IAs. British Columbia's new legislation includes new language about trying to 'seek consensus' with Indigenous Nations in different parts of the IA process and decision-making. However, this remains far short of a requirement to obtain a standard of consent consistent with FPIC. Obtaining that standard of consent is only required when an agreement signed between the Nation and the settler government requires it (Government of British Columbia 2018, sec. 7). Of the only seven First Nations and tribal associations in British Columbia who have reached final agreements with the provincial and federal governments, only three (Maa-nulth First Nations, Tla'amin Nation, Yale First Nation) require First Nation consent in IA – and then only for projects proposed to take place on First Nation lands[213] as defined in the agreement, rather than the whole of their ancestral territory (Government of Canada 2019a). Despite references to UNDRIP commitments in the preamble of the federal *IAA*, there are no provisions to obtain the FPIC standard of consent required by UNDRIP in that legislation.

That the new legislative frameworks are not fully consistent with the principles of a community-centred IA process should not be surprising to the reader at this point. The changes made to IA processes discussed in this section represent largely incremental rather than transformative changes. While they do create additional opportunities in IAs for members of communities to exercise their agency and additional (although limited) space to have their concerns addressed, these changes alone are likely to do little to disrupt wider extractivist development agendas or the conditions associated with the Canadian variation of the resource curse.

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under an Act of Parliament other than this Act or under an Act of the legislature of a province, including a law that implements a self-government agreement; (g) an Indigenous governing body that has entered into an agreement or arrangement referred to in paragraph 114(1)(e)…" (Government of Canada 2019b).

[213] For context, Tla'amin Lands as defined in the Tla'amin Final Agreement constitute only "2.6 per cent of Tla'amin's traditional territory" (Government of Canada 2016a).

Areas for Future Research

Three promising areas for future research emerge from this dissertation. Two of these areas relate specifically to resource extraction and impact assessment, while the third is more broadly applicable to the study of public policy. This first area for future research relates to the monitoring of resource extraction projects. As Table 5 in Chapter 4 shows, monitoring and compliance is the last stage of the IA process. In this dissertation, I have not addressed the monitoring and compliance stage for two main reasons. First, there are comparatively very few policy documents and little policy guidance available in the jurisdictions studied that concern the monitoring and compliance stage. Second, monitoring of socio-economic conditions and impacts was generally not required by the project licence conditions in the case studies (or most mines and dams in Canada for that matter). The majority of monitoring conditions relate to biophysical impacts, such as requirements to collect data and monitor air and water quality during the construction and operation phases of a mine or dam. Therefore, there was very little monitoring data available within the case studies for the community impacts that are the focus of this dissertation. However, the monitoring stage of IA is very important in preventing, mitigating, and addressing the negative socio-economic impacts experienced by marginalized members of communities. In the Keeyask IA case study, Manitoba Hydro and the four co-proponent Cree First Nations suggested that a program of comprehensive and robust monitoring of a variety of biophysical, socio-economic and other impacts done in partnership with local and Indigenous communities would provide a potential path to resolving some of the tensions between the siloed approach to IA required by the settler government process and the more holistic approach to IA present in the community-based impact assessments (KHLP 2012a). Exploring the extent to which that predicted resolution of tensions between Western scientific and Indigenous approaches to IA can be achieved through the monitoring process is a promising scholarly and policy-relevant area of future research.

The second area for future research relates to continuing the analysis I began above relating to the newest IA legislation federally and in British Columbia. Both *Acts* have been in force for only a little more than a year and few project assessments have been completed under the new process thus far. As I discussed earlier in this chapter, both the new federal and British Columbia legislation introduce new features to the IA process that are not present in the legislative frameworks analyzed in this dissertation. While I suggest above that these changes are unlikely to have the transformative potential needed to create a community-centred IA process and resist the conditions associated with the Canadian variation of the resource curse, they do represent some limited steps forward towards a process that takes better account of community concerns and community agency. Examining the extent to which project IAs completed under these redesigned processes create more equitable outcomes for marginalized members of communities and are consistent with the norms of environmental justice is an important area for future research on resource extraction and impact assessment.

The third area for future research relates to the processes of power I identify and analyze in Chapters 4 and 5. In Chapter 4, I suggest that these processes of power likely shape the IA frameworks of other countries and contexts in similar ways to IAs in Canada's North. Determining to what extent that is true, how the processes of power operate in other contexts, and if additional processes of power shape IA in other places are all important objectives for future research. In Chapter 4, I also wonder about the extent to which these processes of power shape other policy areas beyond impact assessment. Public engagement and consultation are an important part of the policymaking process in many policy areas beyond resource extraction and IA. Discussions of who will benefit and who will bear the costs of particular policy decisions are also conversations applicable to many policy areas. Examining the processes of power at work in multiple policy areas also represents a promising area for future research, with the potential to lead to the development of a new theoretical model of how power works in policymaking to shape outcomes for marginalized community members.

Reflections for the Field

I want to conclude this dissertation by offering some reflections on what this work means for the field of Canadian politics. Many of the issues and concerns raised by members of Northern communities and identified and discussed in this dissertation raise political questions that are much bigger than this work's rather narrow emphasis on the community impacts of mines and hydroelectric dams and the impact assessment process. They represent persistent challenges in the social and political relationships between the citizens and the regions of the North and the rest of the Canadian federation, between Indigenous and settler peoples and governments, between communities and corporate actors, and between and within communities themselves. They are also issues with long historical roots. As Labrador Métis member Kirby Lethbridge told the Voisey's Bay panel, solving these issues requires addressing a multitude of past wrongs: "You need to undo or make recommendations that they undo the wrongs that were done in 1949 and 1927 and 1876 and 1809 [in] letters patent from an English privy council" (CEAA 1997k, 26). The core of the Canadian politics subfield has historically been largely silent on these issues and challenges,[214] although the subfield is slowly expanding to more critically address questions of structural relationships of power and inequity, and explore a wider range of empirical topics than its traditional narrow traditional institutional focus that emphasizes parliamentary and Crown governance.

The findings of this dissertation are clear that there is much work left to do to ensure greater inclusion in policymaking for marginalized members of communities, especially in the Northern region of the country. Considerable barriers exist within dominant policymaking processes that prevent the concerns of marginalized members of Northern communities from being taken seriously. Reducing these barriers and

[214] Although Canadian political economists have been grappling with these issues for a long time, they remain somewhat peripheral to the 'core' of the subfield.

moving toward more inclusive practice requires new attention to the ways that interconnected systems of power, including racism, sexism, and ableism among others, shape the policymaking process in ways that particularly disadvantage marginalized members of communities. The dominant approaches to the study of public policy and public administration in the Canadian politics subfield have not done well in the past in accounting for these inequities. More political science and public administration research that embraces intersectional and critical approaches to the study of public policy is essential to the creation of more equitable policy processes.

This dissertation also emphasizes the persistence of settler colonialism in shaping the sociopolitical context of the North. This is particularly clear with Northern communities' experiences of resource extraction as studied in this dissertation, but settler colonialism certainly shapes Northern communities' experiences with other policy issue areas as well. If Canadian settler governments are going to take actions that support reconciliation and allow for greater self-determination for Indigenous Peoples and Nations, then Canadian political scientists have important roles to play in researching ways to decolonize the policy and political decision-making processes and imagine new processes that are more consistent with the principles of reconciliation and self-determination of Indigenous Peoples. In particular, this dissertation demonstrates that the devastating intersectional and cumulative impacts of settler colonialism and resource extraction for Indigenous communities in the North greatly increases the magnitude and urgency of this task.

Finally, this dissertation acknowledges the role of dominant relations of neoliberal capitalism in shaping Canadian politics, particularly in relation to IA and resource extraction policy agendas. While the mainstream Canadian politics subfield has generally avoided critical examinations of how relations of capital and class influence the country's political institutions and policy processes, Canadian political economy scholars have always held these factors close in their analyses. In this dissertation, I show how the intersection of settler colonialism and capitalism have shaped an ideology of extractivism among settler governments, which undermines the state's 'duty to care'

in IA and has important environmental justice implications for community experiences of resource extraction and IA processes, particularly the experiences of the most marginalized members of communities. In doing so, this dissertation contributes to a small but growing body of Canadian political economy literature on how ideologies of extractivism shape the place of the North in Canadian politics (Hall 2013; Cameron and Levitan 2014; Willow 2016).

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Appendix 1: Supplementary Methods Information

This appendix contains supplementary information mentioned in Chapter 3, including the search sequence for the policy scan, the set of documents examined during the policy scan, questions for policy scan data extraction from policies and legislation, a list of steps used in narrowing down the documents for the case studies, an example of the code system, the intersectional policy analysis framework, and the environmental justice analytical framework.

Policy Scan Search Sequence

1. The office, department or board responsible for the environmental assessment (EA) of resource extraction projects.
2. The office, department or board responsible for environmental protection (if different than EA responsibility)
3. The office or department responsible for the regulation of natural resources (if different than EA responsibility)
4. Any other regulatory bodies responsible for EA of specific industries (for example, the Canada-Newfoundland & Labrador Offshore Petroleum Board)
5. The office or department responsible for Indigenous relations
6. The office or department responsible for the status of women or gender equality.
7. The office or department responsible for human rights and/or employment equity.
8. Scan a list of offices and departments to identify any others with the potential to affect the regulation of resource extraction (for example, disability issues offices and race relations offices).
9. Scan a list of all consolidated statutes and regulations for any relevant legislation that might not have been identified in previous steps.

Policy Scan Documents

The documents gathered for each jurisdiction included:

- impact assessment, natural resources, and environment legislation
- impact assessment, natural resources, and environment policy documents and guidelines
- memorandums of understanding related to resource extraction
- policy documents related to the duty to consult with Indigenous Nations
- relevant treaty texts, comprehensive land claim agreements, or bilateral agreements between settler governments and Indigenous Nations
- policy documents related to treaty, land claim or agreement implementation
- policy documents and guidelines related to gender-based plus analysis (GBA+)
- agreement texts, policy documents or regulations relating to impact-benefit agreements (IBAs) or community development agreements (CDAs)
- human rights legislation and policy guidance
- other tools and policies for considering diversity or communities in policy processes and resource extraction, especially employment.

Policy Scan Extraction Questions

1. What is the overall process for assessment?
2. How do they define environment or environmental effects?
3. What is the goal for impact assessment?
4. Are there provisions for considering socio-economic impacts? Which ones?
5. Are any identities or diversities singled out for special consideration?
6. What is said about consultation with Indigenous nations? When is consultation done? Who is required to be consulted?
7. How is the scope of the assessment determined?

8. Are the recommendations of review panels binding?
9. Who makes the final decision?
10. How are proponents held to account after assessment? What provisions for monitoring and enforcement exist?
11. Who is on the review panel? Is there reserved representation?
12. Are there provisions for considering Indigenous knowledge?
13. What is the proponent required to include in their initial impact statement or application?
14. How and when is public comment invited?
15. Are there provisions for employment equity? For whom?
16. What mechanisms are used to ensure community benefits from proposed projects?
17. Is gender analysis required? What does that look like?
18. Is any other form of diversity analysis required? What does that look like?
19. How are jurisdictions and sovereignties reconciled?
20. Are there Indigenous retellings of histories available in this jurisdiction?

Steps Used to Narrow Case Study Documents

For each case study data collection process, I followed these steps to prepare the document set for analysis:

1. I only downloaded or gathered documents from government project registries or IA document collections that appeared to be useful to answering the research questions from a quick scan of the title (and a short description where available). The only documents included were those that appear to address socio-economic impacts or community concerns about project or IA process and procedures, and those that are authored or commissioned by IA agencies, proponents, government actors, and community actors. In this stage, I also did not download the thousands of identical form letter email submissions (e.g., those from civil

society protest campaigns like leadnow.ca) made by members of the public for some projects.

2. I excluded all documents gathered from the IA registry/collection that were published before the proponent submitted their project description or application which triggered the IA process, and all documents published after the issuance of the government decision on the initial IA outcome (e.g., specific licences for construction, environmental monitoring reports, etc.).
3. I excluded particular types of documents where the information was almost certainly contained elsewhere in the document set. These included:
    a. Any draft impact statements (ISs) produced by the proponent, because the final IS is usually almost identical and is the one used for the rest of the IA review process. Any comments by community actors on the sufficiency or deficiency of the draft IS were included.
    b. Any written submissions or presentations created for hearings where the person who sent the letter also appeared at a hearing to present the same information, because the hearing transcripts would be included.
    c. Any duplicate documents in the cases where the same document existed on both the federal and provincial registries.
4. I excluded any documents that were gathered during Step 1 because they were authored or commissioned by IA agencies, proponents, government actors, and community actors, but did not in fact pertain specifically to socio-economic impacts or community concerns about the IA process itself upon a closer examination of document headings (for shorter documents) or the table of contents (for longer documents). This resulted in the exclusion of any documents which focused exclusively on biophysical impacts (for example, the many chapters of the IS and consultant reports that focus on air and water quality, wildlife populations, and other biophysical topics).
5. I excluded any hearing transcripts that were not one of the following:

a. a topic-specific session on a topic related to socio-economic impacts (e.g., sessions on socio-economic environment, labour, regional development, Indigenous rights, etc.)
b. a community session where community actors presented to the panel
c. a general session where community actors presented to the panel

6. With the remaining documents (in all cases 75 percent or more of the original number of gathered documents), I fully skimmed the contents of each of the documents and judiciously excluded all those that:
    a. Did not substantively discuss socio-economic impacts or community concerns about the IA process (e.g., was a passing comment or minor comment of only a few sentences).
    b. Did substantively discuss socio-economic impacts or community concerns about the IA process, but the same description of the socio-economic impacts or same concerns were captured in a document that was already included in the refined document set.
    c. Did substantively discuss socio-economic impacts or community concerns about the IA process, but the comments were general in nature. For example, there were many public comments praising or critiquing the availability (or lack thereof) of new employment opportunities in a generic sense, which I excluded because they added little to my analysis. Comments that were more specific about who is able or not able to access those opportunities and why that is the case were included.

Documents that remained after all these steps were included in the document set for analysis.

Code System

Given the high number of codes, it is difficult to provide a complete code system in an appendix. The image below (Figure 2) shows part of the code system for the Site C

case study under the main category of 'actors,' with the subcategories within the main category appearing furthest left, and the codes within each of the subcategories appearing the middle, and the number of code occurrences within the case study documents appearing on the right. All the code systems look very similar, with appropriate changes for jurisdiction- or case-specific names for organizations, municipalities, etc. integrated within the relevant categories in the code system.

Figure 2: Coding Example

Age			16
	Middle Age		0
	Youth		8
	Elder		7
Community Organizations			13
	Environmental Organization		8
		PVEA	8
	Consumer Protection		0
	Women's Organization		3
		BCWI	2
Consultant			0
Disability			8
	Maybe		4
Diversity			0
Gender			12
	Men		2
	Women		7
Government Actors			31
	Assessment Agency		0
	Provincial Member		0
	Federal Agency		3
	Provincial Agency		1
		Local Government	0
		Gender	0
		Health	1
	Provincial Minister		0
	Municipal / Local Government		27
		PRRD	1
		Taylor	3
		Hudson's Hope	9
		Fort St John	14

Impact Assessment Intersectional Policy Analysis Framework

Adapted from Manning (2014).

Purpose and Scope Questions

- What is the purpose of impact assessment?
    - What impacts are considered within the scope of the legislation and guidance? What impacts are missing?
    - Are some impacts prioritized over others?
    - What are the implications of the impacts that are considered for marginalized groups?
    - How are potential costs and benefits to individuals and communities determined? Who identifies them?
- What considerations of time and space are included?
    - Which geographic spaces are assessed? Where are boundaries of the project impact area? Who determines those boundaries?
    - Are there requirements to consider how impacts might be different on a local, regional, provincial/territorial, national, and international level?
    - What timeline is used to determine costs and benefits of the project?
    - When was impact assessment legislation written? How might that affect its content?

Inclusion Questions

- How are marginalized groups recognized in impact assessment?
    - Which groups are recognized in legislation, policy, and guidance?
    - In what roles are members of marginalized groups seen in impact assessment policy? For example, are women seen as employees, community members, community leaders, business owners, consumers, etc. in the context of resource extraction?

- To what extent do established procedures facilitate the inclusion of marginalized groups?
    - Who is allowed to participate in hearings or submit comments? Whose interests do they represent?
    - Is there funding to support participation in impact assessment processes? For whom? Is the funding adequate to support the participation of marginalized groups?
    - How is information shared with members of communities? To what degree is the way information is shared accessible and inclusive to members of marginalized groups?
    - Do process timelines allow adequate time for participation by members of communities?
    - What other barriers to participation might exist for marginalized groups?
- What are the requirements for consultation?
    - Which communities or groups are required to be consulted and which individuals within communities are involved?
    - At what stage(s) of the process does consultation happen? How might that shape outcomes and decisions?
    - Who does consultation? Which government actors are involved? What are their positions and contributions? What is the role of the proponent in consultation?
    - How and where is consultation done? Are accommodations made to facilitate the inclusion of diverse members of communities (accessible location, transportation, child care, translation, interpretation, etc.)?
    - How is the adequacy of consultation assessed?
    - What are some of the challenges with consultation?

Power Questions

- What types of knowledge and evidence are included in assessments and decision-making?
    - How is environment defined?
    - Is Indigenous knowledge included as well as Western and scientific knowledge? Is one considered more valid than the other?
- To what degree is power seen as structural in the context of resource extraction projects?
    - How are colonization, racism, sexism and other systems of power recognized and addressed?
    - What inequalities are recognized and addressed?
    - Whose histories are included and who tells those histories?
    - Are disparities in power between governments and communities and companies and communities recognized and addressed?
- How are conflicting or overlapping jurisdictions and sovereignties reconciled?
    - Are there observable differences between interactions between settler governments and between settler and Indigenous governments?
    - What is the relationship between Indigenous Nations and the government in relation to extractive industries? Is there a designated role for Indigenous Nations in impact assessment? Are Indigenous Nations recognized as self-determining Nations?
    - Is there a requirement for consent or consensus from Indigenous Nations?

Decision-Making Questions

- How are members of marginalized groups represented in institutional structures that shape impact assessment?
    - Which groups are represented in project working groups or advisory and assessment committees?

    - In the case of public hearings, who is on the review panel? Is there reserved representation for members of marginalized groups?
- How are decisions about projects made?
    - Who makes which decisions?
    - What information is required to be taken into account in final decisions?
    - Is it clear how decisions are being made and whose voices are taken into account in the process?

Outcomes Questions

- What do we know about the monitoring process?
    - Who designs the monitoring process? What type of consultation is done?
    - What impacts are included in the monitoring process?
    - Who monitors the long-term impacts and mitigation measures? Can the public be involved?
    - How are proponents held to account for their monitoring commitments?
- What mechanisms exist to ensure community benefits from proposed projects?
    - Which groups are likely to receive benefits?
    - Are there provisions for employment equity? For whom?
    - Are these mechanisms likely to result in positive outcomes for marginalized members of communities?
    - Do any of these mechanisms challenge dominant relations of power?

Political Environment Questions

- Is gender and diversity analysis required?
    - What does the gender and diversity analysis look like? Is it intersectional?
    - Is gender and diversity analysis integrated into impact assessment? Who is responsible for gender and diversity analysis?
    - What kind of 'work' is GBA+ expected to do? Does it achieve that?
- Is disability analysis required?

    - What requirements for accessibility and inclusion for people with disabilities exist?
    - How do those requirements intersect with the impact assessment policy and legislation?
- What parts of human rights legislation and policy might be related to resource extraction policy or impacts?
    - To what extent are human rights integrated into impact assessment?
    - To what extent might human rights processes provide an avenue for addressing social impacts? Are there barriers that might prevent them from being effective?

Environmental Justice Analytical Framework

This framework is used to analyze case study data about project-specific impact assessments (IAs).

Procedural Justice

- Is there sufficient funding to allow members of marginalized groups or organizations that represent them to participate in the project IA?
- Do timelines for assessment, consultation and participation within the IA allow the participation of members of marginalized groups?
- Are there opportunities for public participation at all stages of the IA process?
- Is there any evidence of accessible and inclusive practices being used in the IA?
- Are there any other procedural issues that enable or limit recognition of marginalized members of communities?

Recognition Justice

- Which members of communities are recognized within the IA?

- Are the concerns raised by members of communities taken seriously in IA decision-making?
    - Are they reflected in the scoping and IS guidelines?
    - Are they reflected in the IS prepared by the proponent?
    - Are they reflected in the IA report issued by the assessment agency, board or panel?
    - Are they reflected in the final decision made by the responsible government authority?
- What types of knowledge and evidence are recognized in the IA? Are some knowledges privileged over others?
- Are structural relations of power that shape outcomes for marginalized members of communities recognized in any stage or part of the IA?

Distributive Justice

- Which impacts likely to be experienced by marginalized groups are missing and which ones are addressed in the project's IA process?
- Is the disproportionate nature of project impacts recognized? For whom and which impacts?
- Who is likely to receive benefits from the project? Are benefits proportionate to negative impacts?
- Are the community benefits determined in the IA actually benefits for marginalized members of communities?

Restorative Justice

- Are members of marginalized groups given a meaningful role in decision-making structures?
- To what extent does the IA work towards reconciliation and support the self-determination of Indigenous Nations and Peoples?
- Does the IA challenge dominant power relationships in any meaningful way?