

# Strengthening Impact Assessments for Indigenous Women

by

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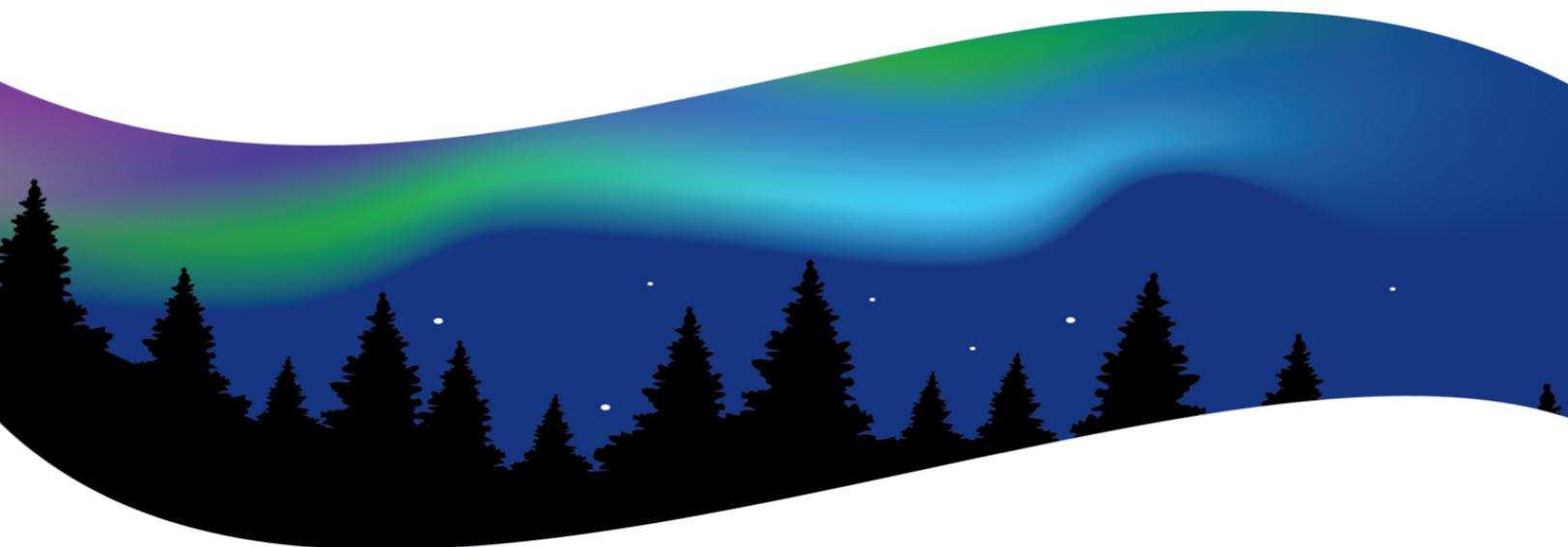
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## LIST OF ACRONYMS USED IN THIS REPORT

CBEM	Community Based Environmental Monitoring
CDA	Community Development Agreement
CEAA	Canadian Environmental Assessment Agency
CSR	Corporate Social Responsibility
EA	Environmental Assessment
EIS	Environmental Impact Statement
FNEHIN	First Nations Environmental Health Innovation Network
FNFN	Fort Nelson First Nation
FNN	Feminist Northern Network (FemNorthNet)
FPIC	Free, Prior, and Informed Consent
GBA+	Gender Based Analysis (plus)
IA	Impact Assessment
IAA	Impact Assessment Act
IBA	Impact Benefit Agreement
IK	Indigenous Knowledge
IQ	Inuit Qaujimagatuqangit
JBNQA	James Bay Northern Quebec Agreement
JRP	Joint Review Panel
NIRB	Nunavut Impact Review Board
SCC	Supreme Court of Canada
SIA	Social Impact Assessment
SPMS	Social Performance Management System
TEK	Traditional Ecological Knowledge
TK	Traditional Knowledge
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VBNC	Voisey's Bay Nickel Company
YESAA	Yukon Environmental and Socio-Economic Assessment Act
YESAB	Yukon Environmental and Socio-Economic Assessment Board

## 1. INTRODUCTION

This report provides guidance for implementing new requirements in the Government of Canada’s proposed *Impact Assessment Act*, specifically to consider “the intersection of sex and gender with other identity factors” when examining potential social, economic, and health impacts of major projects with a potential for environmental impact (Parliament of Canada, 2018). While there is shared responsibility between different government jurisdictions (federal, provincial, territorial, Indigenous Peoples), the focus here is on the federal government and proponents. The report draws on Indigenous women’s experiences surrounding resource development and considers how Indigenous Peoples’ knowledges can guide resource-related decisions. Indigenous women often carry different perspectives, backgrounds, and positions, which contribute to different priorities, concerns, and approaches to resource development (LaBelle, 2015).

This report focuses on how to strengthen impact assessment processes for Indigenous women. It identifies principles and practices to guide proponents and governments to do a better job with identifying the impacts of major resource and infrastructure developments on Indigenous women, including making impact assessment processes, and mitigation strategies, more attentive to the experiences of Indigenous women.

A companion literature synthesis to this report delves into the diverse social, economic, health and cultural impacts that may be experienced by Indigenous women in the context of resource development projects (Manning, Nash, Levac, Stienstra, & Stinson, 2018). It identifies some positive and many adverse impacts that major economic projects may have on Indigenous women and their communities. Key findings, summarized in this report, help to inform our proposals for developing better impact assessment practices that can help in mitigating adverse impacts on Indigenous women.

We begin this report by setting out the changing context of impact assessment in Canada (Section 3). Key findings on impacts for Indigenous women, concerns about the existing impact assessment process, and the role of Indigenous knowledge in impact assessment are presented in Sections 4, 5, and 6. Section 7 summarizes three key notable case studies that illustrate the importance of different aspects of environmental assessments for Indigenous women. Sections 8 and 9 document our recommended actions for improving the impact assessment processes for Indigenous women going forward. We conclude the report by identifying some key gaps that remain.

## 2. METHODOLOGY

This report draws on research gathered through a literature review and synthesis of academic and community research, as well as interviews with key informants who have expertise in Indigenous women's experiences of impact assessment and resource development.

### Literature Review & Synthesis

Our review of the literature to detail Indigenous and gendered impacts and responses to resource development drew from an existing (pre-2016) database of peer-reviewed literature collected by the Feminist Northern Network (FemNorthNet) research team, a new review of academic literature published since 2016, and a review of community-based (non-academic) publications. A more detailed explanation of the literature review and synthesis methodology can be found in our companion report detailing impacts (see Manning et al., 2018). A list of key terms were used in the literature searches and results were generally limited to Canada. All articles that matched our search terms were reviewed, and those that did not provide answers to any of our research questions (see list below) were excluded from the sample. Any examples of organizations/Nations/governments having experience with resource extraction were noted as potential participants for key informant interviews. Information from relevant articles was extracted based on eight questions:

1. What was the impact of resource extraction on Indigenous women reported in the literature? Identify major social, economic, health and cultural impacts.
2. What are the concerns of Indigenous women reported in the literature, even if impacts are not yet clear? Noting major social, economic, health and cultural impacts.
3. What policies, tools (e.g., IBAs, land claims), methods or actions (legal challenges) were used to respond to, influence or mitigate resource development impacts? Describe any tool or framework that was used. Did it identify or address gendered impacts?
4. Note the identification or suggestion of any new policies, tools or methods that could address gendered impacts.
5. Describe any examples of the consideration of Indigenous knowledge systems in accounting for: (a) implications in resource extraction; (b) gendered implications in resource extraction?
6. Describe any examples of existing guidelines, principles or actions to guide decisions/planning with attention to gender and Indigenous knowledge systems? Especially note names of documents/guidelines referenced.
7. Describe any examples of key factors that facilitate contribution to the Impact Assessment process by Indigenous women.

8. Describe any examples or proposals for developing capacity to identify and mitigate negative social, economic, health and cultural impacts of economic development projects on Indigenous women.

The accompanying literature synthesis report (Manning et al., 2018) summarizes findings on the impacts of resource extraction on Indigenous women (primarily focused on questions 1 – 2 above). This report focuses primarily on responding to the last six questions listed above (questions 3 – 8).

### Key Informant Interviews

Informants were identified through known networks, review of academic and community-based literature, and snowball sampling. Fifteen people were contacted to discuss their participation as key informants. Ultimately, seven interviews were conducted with women who had knowledge and involvement with Indigenous women and resource development projects. Key informants were representatives from national Indigenous women's organizations, Indigenous governments, a legal firm, and a national conservation organization. They included First Nations and Inuit women, and women who represented Indigenous Peoples from British Columbia, Ontario, Québec, Nunatsiavut, and Nova Scotia. Their collective experiences with resource extraction and development projects span many types of resources and developments (including mines, hydroelectric generation, and forest management). Brief key informant biographies, based on responses to their experiences with environmental impact assessments, are found in Appendix I.

The project was approved by the University of Guelph Research Ethics Board (REB# 18-07-008), and each participant was provided with a summary of the project and signed a consent form. No participant indicated the need to pursue additional Nation-specific ethics applications. The interviews were conducted by phone and took, on average, approximately 40 minutes to complete. The semi-structured interview consisted of the following eight questions:

1. Tell me a little about your experience with impact assessment for resource development projects.
2. What has worked well in the impact assessment processes that you have been involved with?
3. What has not worked well in the impact assessment processes that you have been involved with? Can you give us a specific example from one of the projects you have been involved with?
4. Are there important things that you think are often overlooked in the current impact assessment process? Can you tell me about them?
5. Are there things you have been trying to change so that the experiences of Indigenous women are better captured in the impact assessment process?

6. What are the key things that the Canadian Environmental Assessment Agency (CEAA) should think about when designing a new impact assessment process that is inclusive of Indigenous women?
7. How is Indigenous knowledge taken into consideration in the process right now? How could that be done better?
8. Do you have any examples of good practices that CEAA should consider in designing the new impact assessment process?

Interviews were audiotaped and transcribed, a summary report prepared, and information extracted for inclusion in the final report. Key informants are identified by name and their affiliation, according to their approval and preference.

### 3. THE CHANGING CONTEXT FOR IMPACT ASSESSMENT IN CANADA

The original concept of environmental assessment was developed in 1970, in response to increased public concern for environmental protection (Powell, 2017). The first Canadian Environmental Assessment Act was enacted in 1992, to identify impacts related to proposed resource development, and allow for public participation in decision-making (Government of Canada, 1992). At the same time, Canadian courts began to increasingly support Indigenous and treaty rights, with a clear duty for government to consult with Indigenous peoples affected by development in their territories.

In 2007, the United Nations Declaration on the Rights of Indigenous People (UNDRIP) was designed and adopted by 140 countries to recognize and protect the rights of Indigenous Peoples around the world (Indigenous and Northern Affairs Canada, 2017). UNDRIP recognizes the right of Indigenous people to make decisions about their traditional territory, the right to free, prior and informed consent, the right to maintain and protect Indigenous knowledges, and the right to financial assistance. Canada indicated its support for UNDRIP in 2016 as an important step toward reconciliation and defining its relationship with Indigenous Peoples (Indigenous and Northern Affairs Canada, 2017).

Comprehensive land claim agreements with Indigenous Nations now provide increased involvement in decision-making and provisions for economic development. In response to modern land claims and the duty to consult, Impact Benefit Agreements (IBAs) are increasingly being used by industry to negotiate and share benefits with Indigenous groups, especially in the areas of employment and economic development (Dylan, Smallboy, & Lightman, 2014). Due to the lack of transparency as a result of the confidentiality of IBAs, the real outcomes for many communities has yet to be effectively evaluated (Native Women's Association of Canada, 2015; O'Faircheallaigh, 2011).

The federal government introduced proposed legislation (Bills C-68 and C-69) in February 2018, which aims to better protect the environment and rebuild public trust in resource development decisions, while growing the economy and reaffirming its commitment to Nation to Nation partnerships (Government of Canada, 2018a). The proposed *Impact Assessment Act* (IAA) will expand the scope of impact assessment from primarily biophysical concerns to include impacts on health and socio-economic conditions for all people, with special attention to be paid to gender, intersectionality, and Indigenous Peoples. A new planning phase will help to facilitate earlier and inclusive consultation with Indigenous Peoples based on Indigenous rights, the use and protection of Indigenous traditional knowledges, and the principle of free, prior, and informed consent (Government of Canada, 2018a). These are all important developments given what we know about the wide-ranging consequences of resource development on the lives and communities of Indigenous women, a topic we turn to in the next section.

#### 4. IMPACTS OF RESOURCE DEVELOPMENT ON INDIGENOUS WOMEN AND COMMUNITIES

Our review of the academic literature revealed some positive, but largely negative, social, economic, health and cultural impacts of resource development projects for Indigenous women. Negative impacts are wide-ranging, related to health, substance use, violence, and housing. Positive impacts include possibilities for education and employment, though many Indigenous women face barriers to accessing these opportunities. These impacts, with corresponding references, are outlined extensively in a previous report prepared by our research team (see Manning et al., 2018), and highlighted in the table below. Additional information was included from community-based reports.

	<b>Impacts of Resource Extraction for Indigenous Women</b>
<i>Employment &amp; Business Opportunities</i>	Resource industries can provide important opportunities for employment for Indigenous women, which have positive impacts on self-confidence and financial independence. However, resource development projects usually exclude women and provide little support for their involvement. For example, IBAs and other agreements sometimes provide preferential hiring and business opportunities for Indigenous women, but jobs are often temporary, low-skilled and low-paying, in traditionally feminine sectors. The shift work and fly-in, fly-out nature of much resource development industries create childcare challenges for families, reduces the time necessary to carry out cultural practices, and has also been linked to gender-based violence in the home and within communities. Indigenous women also report racialized and sexualized violence and harassment at resource extraction job sites, and by off-site workers in the community. Indigenous women with disabilities face particular barriers to accessing employment in resource extraction industries, and the necessary training for those employment opportunities. There is also concern that resource development conflicts with Indigenous values generally.
<i>Education and Training</i>	Resource extraction projects often bring new opportunities for education and training for Indigenous women, especially training to prepare them to work in non-traditional jobs associated with resource development. ‘Ready for the job’ training programs are sometimes incompatible with Indigenous cultural values. Lack of awareness of the skills needed, finances and a lack of childcare create additional barriers for Indigenous women to access these education and training programs, especially those that are lone parents. There may also be need for related life skills

	training, including managing increased disposal income, budgeting and bank accounts.
<i>Socio-Economic Status</i>	Resource extraction projects can have a positive impact on the socio-economic status of Indigenous women and their families. However, they also can exacerbate previously existing social and economic inequality.
<i>Housing</i>	Nearby resource development projects further strain what are in many cases very limited housing resources in Indigenous communities and in northern municipalities with high numbers of Indigenous people. Indigenous women who experience intergenerational trauma, addictions, mental health crises, and who have low levels of education are especially vulnerable to becoming hard-to-house or homeless in these contexts. Others who work jobs with lower incomes than in resource development sectors can find it hard or impossible to afford housing.
<i>Childcare</i>	Accessible and affordable childcare is one of the most significant barriers to Indigenous women’s employment. It is essential to ensure Indigenous women’s abilities to benefit from the positive opportunities that accompany resource extraction projects. Because of persistent gender stereotypes, women typically bear the bulk of care work responsibilities in families and communities.
<i>Social Services and Infrastructure</i>	Other important social services such as physical and mental health care, housing and employment resource centres, food banks, and public transportation are non-existent or inadequately funded in some communities, or strained by the pressures of inflation and the influx of workers for resource extraction projects in other communities. Seniors/Elders and people with disabilities are likely to be particularly disadvantaged by inaccessible or inadequate services and infrastructure. Provisions in IBAs and community development agreements that provide communities with royalties or funds for social services can be important ways to counter some of these negative impacts, and the lack of government funding.
<i>Health</i>	Resource extraction projects have been linked to many negative health outcomes for Indigenous women and communities. Cancer, lung diseases and radiation poisoning have been credited to resource extraction contamination. Methylmercury production from hydroelectric dam construction is a particular concern for Indigenous women and children. Mental health concerns, such as depression, anxiety, addictions and suicide, are also health impacts associated with resource developments.

<i>Substance Use and Abuse</i>	Increases in substance use and abuse is one of the most common health impacts of resource development on Indigenous women and men. Substance use within Indigenous communities is in part increased due to zero tolerance policies for alcohol and drug use on resource job sites, effectively driving workers elsewhere to seek out and consume alcohol and drugs. Overindulgence within communities has been linked to increased rates of gendered and sexualized violence for women and girls.
<i>Sex Work</i>	Increases in sex work often accompany resource development industries and the mass influx of primarily male workers to resource towns and work camps. Some Indigenous women enter sex work as an alternative source of income for themselves and their families, while others are victims of human trafficking.
<i>Violence, Crime, and Safety</i>	Increases in violence and crime are common impacts of resource extraction for Indigenous women and Indigenous communities. Women in communities near resource extraction sites sometimes experience rapid increases in gender-based and sexual violence.
<i>Food &amp; Water Security</i>	Resource extraction projects can compromise food and water security, especially access to country food, for Indigenous women and their families. Pollution, construction and infrastructure development, employment in resource industries, and impacts from newcomers' harvest can all work to reduce access to country food. Environmental contaminants from extractive industries can also poison local drinking water sources, traditional foods, and community reservoirs. At the same time, new sources of income and new roads can have positive impacts on food and water security.
<i>Culture, Traditions, Rights &amp; Sovereignty</i>	Loss of access to land and parts of their traditional territory due to resource development projects can have far-reaching cultural and spiritual impacts for Indigenous women and communities. Indigenous Nations and communities have a number of critiques of current consultation and impact assessment practices, and their consequences for Indigenous culture, rights and sovereignty.

One issue highlighted by this summary of impacts is that **the use of a gender lens is largely missing from the process of identifying impacts**. When we turn to the information shared by key informants in our interviews, we find further evidence to suggest that these impacts are not well understood, researched or documented. Pauktuutit Inuit Women of Canada partnered with the School of Social Work at UBC in 2013 to conduct one of the first gendered resource development studies, “The Impact of Resource Extraction on Inuit Women and Families in Qamani’tuaq (Baker Lake), Nunavut Territory” (Pauktuutit Inuit Women of Canada et al., 2014).

Inuit women identified the top four problems in their community to be: (1) increase in the use of alcohol; (2) language conflicts; (3) disposable income spent on alcohol and drugs; and (4) a loss of traditional/cultural practices. Other serious issues identified for women included racism and sexual harassment at the mine site, increased harassment in the community, and more women becoming involved in sex work. Despite these impacts, the research found that 76 percent of women felt the mine provided good opportunities for their families. Witnesses have also testified at the Iqaluit expert hearing of the Missing and Murdered Indigenous Women and Girls on the subject of workplace sexual assault in the resource extraction industry (Ijtemaye, key informant interview, September 2018). One of the key informants (Pauktuutit) also stated that adequate mental and physical health services need to be put in place by mining companies before development starts. She explained that communities become dependent on the sole source of income provided by mining operations, but few plans exist to address the situation when mining ends. Inuit women need training and transferable skills such as financial literacy which can provide them with future opportunities in the community (Ijtemaye, key informant interview, September 2018).

**Work camps also have serious impacts on Indigenous women, but these are not regularly discussed or documented as part of the impact assessment process.** Factors such as increased traffic impacts on local roads from camps are standard considerations in impact assessment, but little attention is given to the influx of new and foreign workers and their impact on communities and specifically Indigenous women. Key informants spoke about the domestic stress created by the ‘two week on, two week off’ employment schedule which caused many partners to bring stress home and led to domestic violence and domestic abuse. Charlotte Wolfrey (Nunatsiavut Beneficiary) said, “They think they’ve been slaves in there for two weeks, so now they deserve to come home and be kings for two weeks. You had to have beer in the fridge when he come home, instead of coming home and hugging the kids” (Wolfrey, key informant interview, August 2018). Some men are known to demonstrate jealousy of their partners’ activities while they are away. However, she noted that there were benefits to this type of work and schedule as well, additional income permitted the purchasing and operation of skidoos [snowmobiles], and more time off to spend on the land hunting. However, she also cautioned that some families moved away to protect their children from the social changes in the communities taking place as a result of resource development (Wolfrey, key informant interview, August 2018).

**Overall, there is an increase in violence against women, and this real danger needs to be documented** (Courtois, Ijtemaye, Jiménez, Lorimer, and Wolfrey, key informant interviews, August to September 2018). Valérie Courtois (Indigenous Leadership Initiative) said women in Labrador are facing more violence now than before the Muskrat Falls hydroelectric and Voisey’s Bay mine developments. Innu women are a target of violence, however there have been no additional resources allocated, including no increase in RCMP staffing, no extra funds for Violence Prevention Labrador, and no additional capacity added to the hospital which is now strained dealing with these issues. There needs to be more than just identification of impacts –

the impact assessment process must deal with impacts experienced after project development (Courtois, key informant interview, September 2018).

It is fair to conclude that **insufficient attention is paid to the socio-economic, cultural, health, and other consequences for Indigenous women in the impact assessment process** given the clear evidence of Indigenous women's (largely negative) experiences in resource development and extraction contexts. This is not to say that no attention has been paid to current impact assessment processes, including with regards to their impacts on Indigenous women. The next section (Section 5) discusses components of current impact assessment processes and their shortcomings. In the subsequent section, we turn to one shortcoming in particular – the failure to adequately understand and respect Indigenous knowledges. Sections 7 to 9 offer examples of Indigenous women's inclusion, and highlight a range of principles and practices for better understanding and hearing the experiences and knowledge of Indigenous women.

## 5. EVALUATING EXISTING IMPACT ASSESSMENT PROCESSES

Researchers and practitioners have analyzed the effects of a number of assessment strategies and policies related to resource development. The academic and community literature reviewed discusses and critically evaluates several current policies that govern, and frame responses to, resource extraction and development. These include the federal environmental assessment process, sub-national review boards (e.g., the Nunavut Impact Review Board), co-management boards, and various types of assessment processes (e.g., provincial environmental assessments, social impact assessments). Insights from key informants provide further critiques and good practices. These findings set the stage for the following sections, focused on Indigenous women's inclusion, and related efforts that could be taken by project proponents, settler governments, and Indigenous Nations and communities. Key critiques of existing assessment strategies focus on environmental assessments; and impact benefit agreements (IBAs) and community development agreements (CDAs). We explore each of these areas below.

### Federal Environmental Impact Assessments

Much of the literature we reviewed provides a critique of current environmental assessment processes, although it rarely addresses Indigenous women or gender specifically. Further, key informants, in general, felt that **very little worked well** in the current environmental assessment model. This is particularly concerning as the Canadian model of environmental assessment is often being used, proposed or promoted across the globe (Jiménez, key informant interview, August 2018). Several dimensions of the process are identified as problematic. Key informants explained that there was little regard for the reasons for resistance from Indigenous communities. Many felt that the **process primarily served the proponents**, focusing on their opportunity to profit from having their projects approved. The lack of a gendered approach to identify impacts from development projects was also a significant concern. Many international environmental assessments seem to be doing a better job with gender analysis (Jiménez and Lorimer, key informant interviews, August 2018). The impact assessment process has been **largely technocratic** with the focus on science and economics, and less emphasis on cultural and social issues (Lorimer, key informant interview, August 2018). These experiences warrant attention.

The **structure** of the current impact assessment process **can reproduce colonial power relations**. Members of the Esketemc First Nation who participated in the impact assessment processes for the Prosperity Mine in British Columbia noted that “the power and control represented by the environmental assessment process and the Panel hearings echo other forms of power imposed on the community such as residential school” (Bedard, 2013, p. 183). The community provided counselling support for individuals who participated in the hearings, recognizing the potential for the process to incite trauma (Bedard, 2013). In addition, the

environmental assessment process can also be seen as another tool to assist with colonial land dispossession (Hoogeveen, 2016), despite the possibilities for leveraging local employment opportunities, such as for women in the case of agreements surrounding the Voisey's Bay nickel mine in Labrador (McCreary, Mills, & St-Amand, 2016). Lorraine Whitman (Nova Scotia Native Women's Association) spoke of the impact of colonialism on Indigenous women's participation in the impact assessment process. Communities need time to heal from damage inflicted on generations of Indigenous Peoples. Therefore, Indigenous communities and women often lack the capacity to deal with significant and competing issues. Even when resources are provided, time to build capacity in organizations and communities is essential. Unrealistic timelines imposed by government are not always compatible with Indigenous values and competing priorities (Whitman, key informant interview, September 2018).

A sustained problem in the current process is that the **mandate** of impact assessment is not sufficient to deal with the full grievances and concerns of Indigenous nations, and no alternative mechanisms exist to address those grievances. These concerns are typically "much larger than the direct and immediate effects of the project at hand. Because there are few other venues, the EA process is left to grapple with issues and drivers of change that are 'far larger than any one project'" (Noble, 2017, p. 10). The systemic legacies of colonialism, including historical land and resource dispossession, often shape Indigenous concerns about present-day projects (Amnesty International, 2016).

Our findings also highlight how the **definition and application of key concepts and terms** creates critical challenges for the just implementation of policies and legislation. What constitutes "**a balancing of interests**" in project development negotiations, for example, is critically important (Koutouki, Lofts, & Davidian, 2018, p. 70), and can be highly contested as the 'Fish Lake' case study in Section 7 demonstrates. Similarly, determinations of projects as being '**in the national interest**' can undermine legitimate critical concerns about extractive and development activities, especially when coupled with the persistent privileging of economic interests, as in the Ontario Mining Act (Campbell & Prémont, 2017).

A key challenge in identifying impacts for Indigenous women is that **different jurisdictions have different scopes** for their impact assessment processes. For example, in Manitoba, the potential loss of Indigenous language (as a result of the changes that come with resource development) is a common consideration in the impact assessment process. Communities can negotiate access to alternative areas for harvesting with governments and proponents if part of their territory is flooded by a hydroelectric dam, or their access is restricted. However, in northern Alberta, Baker and Westman (2018) assert that these considerations of the unique impacts for Indigenous communities are not standard practice for impact assessment in that jurisdiction.

Governments have a **duty to consult** when Aboriginal or treaty rights might be affected by a resource development project. How they have carried out this duty to consult has been

seriously questioned (Côté & Mitchell, 2018). Some authors believe that “the broad and meaningful intention of the legal duty to consult and accommodate has been narrowly interpreted and applied by the Crown” (Moore, von der Porten, & Castleden, 2017, p. 6). Many Indigenous people and scholars assert that the “duty to consult does not sufficiently empower communities to achieve sustainable economic and social development on their own terms” (Black & McBean, 2016, p. 5). Not adequately consulting with Indigenous women as compared to men can also be considered a failure of the Crown’s duty to consult (Kennedy Dalseg, Kuokkanen, Mills, & Simmons, 2018). Key informants described consultation strategies as being quite problematic. For example, key informants cited **difficulties communities face in accessing information about environmental assessment (EA) processes**. There is very little information available to Indigenous women and their communities regarding the actual EA process. Valérie Courtois (Indigenous Leadership Initiative) said, “There’s a different understanding between the different actors about what environmental assessment actually is, what it can do for you, and how you can actually prepare for it” (Courtois, key informant interview, September 2018). She described the circumstances for the Muskrat Falls development project, where both the Nunatsiavut and Innu Nation governments had gained experience from the Voisey’s Bay environmental assessment, and knew what they were getting into. There were differences in interpretation and expectation depending on who was testifying. She suggested that there needs to be more public education about what the tool of environmental assessment is and is not. The Muskrat Falls EA process divided the community and Indigenous groups, who had differing views on potential impacts, conditions of employment on the site, and Indigenous Title. “Nothing has destroyed the community fabric more than the Muskrat Falls development” (Courtois, key informant interview, September 2018). Relationships are not the same, and the community is more closed. This experience highlights an **often unacknowledged consequence of inadequate consultation**.

There seems to be **conflicting views on meaningful consultation and who is considered community**. Common practice is for the proponent and government to consult with provincial or regional Indigenous organizations, and often disregard Indigenous women and the communities most affected by a project. Lorraine Whitman (Native Women’s Association of Nova Scotia) felt strongly that the government needs to take a grassroots approach to consultation and build relationships based on the values of being sincere and genuine. She found that opposition by Indigenous People in Nova Scotia was successful in stopping proposed development projects. For example, the Native Women’s Association of Nova Scotia considered legal action following Phase I of the Alton Gas Storage Project. Lorraine Whitman said “We need the government involving themselves, being transparent coming to a community because it’s fine to sit at a desk and say ‘this, this, and yes we’re going to give you money,’ but have you ever really visited a First Nation community for more than an hour or two? Have you asked the questions of the community members? They’re asking questions of the elected Council” (Whitman, key informant interview, September 2018). The definition of community can mean different things to different people. For example, the First Nations community in Nova Scotia can include people who live in Cape Breton, Unama’ki, parts of

Acadia, and the Annapolis Valley, because being related is considered community (Whitman, key informant interview, September 2018). This is also true for the Innu who have a large territory spanning the provinces of Québec, and Newfoundland and Labrador. One group uses English as a second language and another French, but they are all Innu of Nitassinan (“Our Land”).

**Adequate resources to allow communities to participate in impact assessment are often lacking.** Even when funding is available, it is not always **distributed equitably**. For example, Charlotte Wolfrey (Nunatsiavut Beneficiary) spoke about her involvement in the Voisey’s Bay Women’s Committee, which consisted of Innu and Inuit women in Labrador. Initially the Committee did not receive any funding to participate in the assessment of the Voisey’s Bay Nickel Mine, despite funding being available for Indigenous groups (Archibald & Crnkovich, 1999). Wolfrey said: “I had to write a letter and say this is an old boys’ club. Come on, you know it's gonna affect women in a big, big kind of a way and you need to hear what we're concerned about” (Wolfrey, key informant interview, August 2018). Wolfrey said the process seemed to be biased, and women’s voices, especially those of Indigenous women, were not considered important. The Women’s Committee eventually received \$10,000 to conduct work for the entire region of Labrador (Wolfrey, key informant interview, August 2018). It is notable that their participation in the Voisey’s Bay development is one of very few positive examples of including gender in environmental assessment found in the academic literature. Even national organizations, such as Pauktuutit Inuit Women of Canada, identify that they do not have the resources required to participate in the impact assessment process, despite representing all Inuit women in Canada (Ijtemaye, key informant interview, September 2018). In Labrador, there continues to be a lack of funding for consultation with women in their communities. Common practice has been to take one or two women from each community and conduct consultation off territory in a larger urban centre such as Happy Valley-Goose Bay (Wolfrey, key informant interview, August 2018).

The **delegation of the Crown’s duty to consult** to industry and project proponents is concerning for many Indigenous Nations (Joly, Longley, Wells, & Gerbrandt, 2018; Moore et al., 2017). Others point out that the creation of arms-length government bodies such as British Columbia’s Oil and Gas Commission, and the codified processes created by these bodies to govern First Nations’ consultations, has limited the opportunities for First Nations’ participation (Garvie & Shaw, 2016). Complications arising from federalism and the delegation of some responsibilities to municipalities have also been noted as interfering with Indigenous peoples’ rights to be consulted (Campbell & Prémont, 2017).

**Treating Indigenous peoples and governments as one of many ‘stakeholders’** in assessment processes undermines their role in decision-making (Papillon & Rodon, 2017) and overlooks broader commitments to Nation-to-Nation relationship-building. This problem is compounded by a lack of assurances that the knowledge and contributions of Indigenous peoples and governments will have an influence on policy decisions (Papillon & Rodon, 2017), and by the

fact that impact assessment processes are seen by many to be rigid, adversarial and culturally inappropriate (Papillon & Rodon, 2017; Pun, 2016). Another problem in this regard is the failure to meaningfully take up traditional and Indigenous knowledges (Pun, 2016; Sandlos & Keeling, 2016). For example, the scholarly literature notes that Indigenous peoples who wished to appear before the Joint Review Panel (JRP) for the Northern Gateway pipeline first had to apply for intervenor status and were then limited to only 10 minutes to share their traditional oral knowledge (Bagelman, 2016). During the same JRP process, “the songs (limx oo’y) of the Gitksan people, which communicate an intricate worldview, were discounted as a legitimate form of testimony” (Bagelman, 2016, p. 1013). This problem is further complicated by the fact that the principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), including provisions for free, prior and informed consent, are not addressed as part of the existing *Canadian Environmental Assessment Act*. Key informants, including Charlotte Wolfrey (Nunatsiavut Beneficiary) argue that, Indigenous peoples should be **consulted, informed and agree** to developments on their lands and territories before resource projects begin (Wolfrey, key informant interview, August 2018).

Impact assessment is often seen as a very formal, one-sided, power-driven colonial process, and very **intimidating and adversarial toward Indigenous Peoples, especially women**. Anna Johnston (West Coast Environmental Law) gave the example of the Site C impact assessment hearing. Intervenors were asked to get up in front of a microphone in a giant conference hall filled with people and were recorded when they were asked to speak to the Panel who were elevated from attendees on a raised platform. There was only one woman on the Panel, and the Chair was a man. A similar experience was reported for the Jackpine Mine near Fort McMurray, Alberta. The venue was smaller due to the number of intervenors, but everyone was represented by a lawyer. Johnston stated: “It was the most unfriendly environment, even for a lawyer” (key informant interview, September 2018). The level of respect was based on the individual’s Indigenous status determined by the government, and there was no opportunity for Indigenous people to speak about how they felt about the project proposed in their community (Johnston, key informant interview, August 2018). The women felt intimidated when grilled by corporate lawyers. Scheduling was another issue, and was based on the availability of the proponent and panel members, with no consideration for the Indigenous community’s schedule, if people were on the land conducting subsistence harvesting or traditional practices, and no recognition of Indigenous laws (Johnston, key informant interview, August 2018).

A persistent problem identified by key informants is the **lack of oversight and compliance of impact assessment panels’ recommendations**, despite the efforts of communities and mindful members of review panels to provide recommendations in final reports. Valérie Courtois gave the example of the Innu Nation who developed a plan to clear the Muskrat Falls reservoir site where the most valuable trees in Labrador were located. They proposed an approach to utilize the wood which would create local jobs, use lumber to build much needed mobile homes for Indigenous communities across the north, the possible development of a bioenergy project (pellet plant), and provide firewood to heat homes in the vicinity of the project and the

Labrador coast. To ensure sustainability of the forest and in recognition of the limited operational capacity within the region, the Innu proposed a moratorium on harvesting in other areas within the district. Clearing the reservoir site would have also helped to alleviate fears of methylmercury contamination and prevented a number of construction site shut downs due to Indigenous and settler protests. This Innu Nation proposal was never considered by Nalcor Energy (the proponent) and a significant opportunity was lost (Courtois, key informant interview, September 2018). **Communities become disillusioned** when recommendations and provisions are not taken seriously, which can result in the environmental assessment process losing credibility and being perceived as a waste of time and financial resources (Courtois and Wolfrey, key informant interviews, August to September 2018). **Proponents are rarely held accountable for regulatory and oversight requirements** set out in the environmental assessment. Informants asserted that negotiated agreements for remediation and long-term monitoring were rarely implemented, and there were no considerations for cumulative effects. For example, Beth Lorimer (KAIROS) gave the example of the Mount Polley mine disaster that sent 24 million cubic meters of mining waste into nearby lakes and rivers in 2014. Contaminants still remain in the ecosystem and the company at fault for the breach has never faced charges (Lorimer, key informant interview, August 2018).

### Impact Benefit Agreements and Community Development Agreements

Impact Benefit Agreements (IBAs), sometimes called Community Development Agreements (CDAs), are agreements between Indigenous Nations, governments or organizations and private sector project proponents. They are intended to provide Indigenous communities impacted by resource development projects with economic and social benefits, and with influence over the project's development (Caine & Krogman, 2010; Craik, Gardner, & McCarthy, 2017). Craik et al. (2017) argue that some "the First Nations view IBAs as opportunities to generate legal commitments based on Indigenous values" (p. 386), by ensuring clauses that affirm Indigenous rights are included in the final agreement. Similarly, the Tlicho people use agreements with mining companies to create a relationship between the Nation and the proponent based in Indigenous values of "respect, reciprocity and exchange" (MacDonald, Zoe, & Satterfield, 2014, p. 58). However, they note that mining companies do not see these agreements in the same way and often do not uphold the same commitments to reciprocity (MacDonald et al., 2014).

IBAs have received a lot of attention in research but this lack of research calls attention to the experiences of women with IBAs. They are not required to have a gender lens, which results in no explicit attention being paid to the wellbeing of Indigenous women. Indeed, IBAs often overlook health and social considerations in general (Bernauer, 2011b), as well as considerations unique to women (Archibald & Crnkovich, 1999). There are some examples of IBAs that address gendered or social impacts. The Victor Diamond Mine IBA includes "specific chapters on women, Elder care and youth" (Craik et al., 2017, p. 381). The Voisey's Bay Nickel Mine IBA includes provisions that seem to have led to high rates of Indigenous women's

employment (O’Shaughnessy, 2011), though the quality of this employment is contested (Cox & Mills, 2015). The Meadowbank IBA focuses on wellness, requiring:

that an annual wellness report be developed to monitor the impacts of the mine on physical and mental health, drug and alcohol abuse, personal and family relationships, Inuit culture and language, and any other relevant aspects of wellness.... [but does] not specifically mention women, gender issues, or women’s concerns. (Nightingale, Czyzewski, Tester, & Aaruaq, 2017, pp. 370–371)<sup>1</sup>

The efficacy of these Agreements at ensuring Indigenous rights and benefits is heavily debated. This is partly because their contents are often confidential, making their meaningful assessment difficult (Bernauer, 2011b; O’Faircheallaigh, 2011). The lack of transparency makes it hard to hold industry accountable. Lema Ijtemaye (Pauktuutit) pointed out that provisions outlined in Impact Benefit Agreements (IBA) have not always been followed up on and industry is not being held accountable. For example, in the Meadowbank Gold Mine IBA, wellness reports were developed to identify needs and concerns that required action. However, these reports were not developed with a gender lens, and were limited to mental and physical health indicators identified by the proponent. Although a component of the IBA agreement, the Wellness Reports were never completed (Ijtemaye, key informant interview, September 2018).

IBAs may help to legitimize outstanding land claims (Caine & Krogman, 2010), but they can also be seen as a way “to circumvent [the] legal uncertainty [of the application of duty to consult and free, prior, and informed consent]” (Papillon & Rodon, 2017, p. 217). Concerns about the use of IBAs include that they serve to privatize (and therefore run the risk of abdicating) the government’s duty to consult (Dombrowski, Habecker, Gauthier, Khan, & Moses, 2016), exaggerate power asymmetries between project proponents and Indigenous Nations and governments depending on the latter’s internal capacity to respond and recognize treaty rights (Hodgkins, 2016), and provide limited follow-up to assess the extent to which impact mitigation commitments are being upheld (Caine & Krogman, 2010; Nightingale et al., 2017).

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<sup>1</sup> Pauktuutit Inuit Women of Canada has offered a different citation for this work: (Aaruaq, Czyzewski, Kudloo, Nightingale, Pauktuutit Inuit Women of Canada, & Tester, 2017)

## 6. INDIGENOUS KNOWLEDGES IN IMPACT ASSESSMENTS

Environmental assessments have been based largely on a Western worldview (Archibald & Crnkovich, 1999). This includes viewing knowledge as an object, rather than a process involving actions, experiences, and relationships (Jenjekwa, 2016), and taking a masculine and human-centric view of the world, where nature is considered something to be exploited. As a consequence of this foundation, and as noted above, there has been a broad failure to meaningfully take up, much less centre or foreground, traditional and Indigenous knowledges (Pun, 2016; Sandlos & Keeling, 2016) in impact assessments. For example, Stevenson (1996) suggests that the use of Indigenous Knowledge (IK) in impact assessment has been inconsistent due to confusion over its meaning, how it is constructed, its ownership, and its role in the assessment process. The current format often requires significant scientific and technical expertise as a prerequisite for meaningful participation, and is incompatible with many Indigenous knowledge systems, which see animals, landscapes, and relationships with the natural world in ways not easily reconciled with anthropocentric scientific measurements (Bernauer, 2011a).

Key informants reminded us, there are many factors that have contributed to the marginalization of Indigenous knowledges. For example, there is a long history of Indigenous Peoples being denied the right to speak their languages, and thus to have their knowledges recognized and valued. “My parents were very fluent, but because of the you know, the Indian residential school, the 60’s scoop, and prejudice, racism, and discrimination my parents were very leery in speaking the language because it wasn’t positive” (Whitman, key informant interview, September 2018). Lorraine Whitman (Native Women’s Association of Nova Scotia) also spoke about the loss of connections resulting from colonialism. In the past families spent more time together on the land and water, allowing the passing of traditions and knowledge from one generation to the next. There is a new emphasis on reclaiming the connection and teachings. Opportunities are being provided for Elders to spend time with youth to teach them about language, traditions, medicine, song and dance.

### Key Tensions

While we cannot fully explore the nuances of, and differences between, Indigenous knowledges and Western knowledges in this report, it is important to discuss some key differences between them, particularly in terms of how they create tensions in the impact assessment process. Through our analysis of the literature and key informant interviews, we suggest that these tensions can be grouped into four broad categories: differences in core priorities and understandings; procedural misalignment; intersectional exclusion; and promising but tenuous inclusion.

### *Differences in Core Priorities and Understandings*

One way that tensions between Indigenous and Western knowledges manifest in impact assessment processes is through basic differences in understanding. Indigenous Peoples have both physical and spiritual connections to the land, and take a holistic view of being part of, and in a respectful relationship with, nature. Indigenous worldviews rely on cumulative and dynamic information about environment and ecosystem relationships, a code of ethics which includes the values, beliefs and concerns of an Indigenous community (Foth, 2011), and direct observations transmission of information through oral traditions. In many Indigenous cultures, Elders provide insight on the use of knowledge. “Innu Elders say we have the responsibility to use the best available information, no matter where it comes from” (Courtois, key informant interview, September 2018). Innu place names have a whole geography and science associated with them, for example this is the brook where waters flow in a certain way which means you will find salmon laying their eggs here. Courtois (Indigenous Leadership Initiative) described how proponents lack the capacity to understand aspects of the Innu world such as animal masters that occupy physical locations, including Spirit Mountain at Muskrat Falls. At these locations, there is interaction between physical and spiritual dimensions, where stories come alive. This is an extremely important concept for Innu people. As a sign of their respect, Innu people never leave animal remains on the ground. Local practices and traditions need to be acknowledged, and integrated into environmental assessment protection plans (Courtois, key informant interview, September 2018).

This leads to the fact that Indigenous peoples often have different priorities than governments in impact assessment processes (Booth & Muir, 2013). For example:

Government officials are primarily concerned with what is economically important – focusing on improving access in a modern sense, e.g. building infrastructure and creating jobs. Indigenous people, on the other hand, think first about what is socially important and are primarily concerned with retaining access to what is Indigenous and to the traditional livelihoods that have defined their way of life for so long. (Arruda & Krutkowski, 2017, p. 281)

This is particularly concerning for Indigenous Nations because ultimately government holds the final decision-making power in impact assessment processes (Bedard, 2013; Wilkes, 2011).

Differences in core priorities and understanding manifest in a variety of ways. For example, reports from review panels undervalue the contributions of Indigenous people to the process by describing them as sharing their “views and perspectives” rather than established Indigenous knowledge (Bedard, 2013, p. 192), or by using Indigenous knowledges out of context to serve business and government agendas (Black & McBean, 2016). Key informants echoed this concern. Through her experiences, Beth Lorimer (KAIROS) has observed that colonial governments consider Indigenous Peoples unknowledgeable, and often dismiss or inaccurately represent their knowledges in the impact assessment process (Lorimer, key

informant interview, August 2018). Further, there is a tendency to homogenize Indigenous knowledges, rather than recognizing that Indigenous Peoples' knowledges are monolithic.

For example, Inuit Nunangat covers 35 percent of Canada's land mass, making Inuit Qaujimagatuqangit (IQ) wide-spread and crucially important, especially in the North (Ijtemaye, key informant interview, September 2018), and yet, IQ is typically collapsed with other Indigenous knowledges. Indeed, the standard use of the terms IK, TK, and TEK do not effectively capture either knowledges from different Indigenous Peoples, or the sophistication of knowledges gained from ancestors combined with contemporary observations, and/or integrated across physical and spiritual dimensions. Valerie Courtois (Indigenous Leadership Initiative) discussed how some components of Indigenous knowledge is science, being consistent with the theories and definitions of western science. It is important for impact assessments, and for reconciliation, that correct terms – Indigenous knowledge / Indigenous science / IQ – are used (Courtois and Ijtemaye, key informant interviews, September 2018), and that these diversities are captured.

### *Procedural Misalignment*

Another challenge is that there are often tensions between the Western, technically-oriented impact assessment process and Indigenous knowledge systems. As Arruda and Krutkowski (2017) write:

Western science puts emphasis on [empirical] facts, while Indigenous culture concentrates on relationships to spiritual and biophysical components as well as the mental conceptions of place that contribute to health and emotional well-being (p. 280).

Because of this, Indigenous peoples' relationships to place are not always easily reconciled within the framework of current impact assessment processes (Arruda & Krutkowski, 2017; Leddy, 2017). Key informant Charlotte Wolfrey (Nunatsiavut Beneficiary) spoke about her experience with the use of Indigenous knowledges as part of the EA process. She felt that if IK was truly valued, then land and people and other forms of life would be respected, and Indigenous communities would lead the process using an Indigenous worldview. She also believes that violence against the land is equal to violence against women. Indigenous led research and impact assessments have been used as an alternative to the CEAA process. It is important to consider different research approaches as part of the assessment process (Wolfrey, key informant interview, August 2018).

This procedural misalignment is also highlighted through studies that assert that Indigenous knowledges are "scientized" before being included in the impact assessment process, and only knowledge that can be made useful within a Western scientific frame gets included (Babidge, Greer, Henry, & Pam, 2007; Baker & Westman, 2018; Hoogeveen, 2016; Tester & Irniq, 2008). For example, "there are also other creatures that live in northern Cree territory that are not

recognized by western science: little people, sasquatch, dog-sized frogs, and a water snake/serpent to name a few” (Baker & Westman, 2018, p. 148). Consultants working for Cree Nations in that area were forced to call the sites where these creatures lived “spiritual or ceremonial sites [in their reports]...[in order to] convert the knowledge being shared into the western paradigm so that it has authority” in the impact assessment process (Baker & Westman, 2018, p. 148). Even in Nunavut, where Inuit Qaujimajatuqangit (IQ – Inuit knowledge) has been a required part of impact assessment in the territory since its founding, “the language used to define and promote IQ often serves to move IQ away from its cosmological implications and define it as a tool useful for filling gaps in scientific knowledge” (Tester & Irniq, 2008, abstract). In many ways, colonialism remains a powerful force in Indigenous peoples’ experience of the impact assessment process (Baker & Westman, 2018; Leddy, 2017; Wilkes, 2011).

Key informants offered examples of how the procedures typical of impact assessment processes fail to appropriately engage with Indigenous knowledges. Describing one review process, key informant Charlotte Wolfrey (Nunatsiavut Beneficiary) described Nalcor Energy’s ignorance towards Indigenous knowledge, and noted that only “experts” were acknowledged. People from her community of Rigolet live downstream of the Churchill River hydroelectric power developments. “It was a case of what Inuit call Pitsatume, people were big feeling and thought they were better than everyone else. They even rejected the science from Harvard University conducted in partnership with the Nunatsiavut Government. They had their minds made up from the start and were just going through the motions” (Wolfrey, key informant interview, August 2018).

Some scholars have asserted that the “traditional land use consultation [required for the inclusion of TK and TEK] functions as an extractive industry in the region [surrounding resource extraction sites]... extracting and refining specialized land-based knowledge from First Nations communities, while violating the existing laws of the land and principles of respect and reciprocity” (Baker & Westman, 2018, p. 144). In many cases, consultation is rushed, underfunded, and stretches the capacity of Indigenous communities and organizations, who may be being consulted on multiple potential extraction projects at any given time (Wilkes, 2011), not to mention dealing concurrently with complex and extensive social and economic challenges facing their Nations.

Finally, there is also often a problem of representation in these processes. For example, Métis communities are typically underrepresented in these traditional land use studies (Baker & Westman, 2018). Where discrepancies exist between environmental impact statements prepared by project proponents and Indigenous knowledges, the concerns of Indigenous people are frequently left unaddressed in final reports from review panels (Bedard, 2013). In some jurisdictions, Indigenous knowledges are only included in the latter stages of the impact assessment process, however many Indigenous people feel that Indigenous knowledges should inform every stage of a resource extraction project from design to the end of operations

(Bernauer, 2011b; Parkins & Mitchell, 2016). When Indigenous knowledge is included in impact assessments, it is “often generalized, depersonalized and separated from land, context and relationship” (Wilkes, 2011, p. 57). Much Indigenous knowledge is connected to particular people, sites, contexts and circumstances, but far too often incorporated into impact assessment processes in a generic, ‘one size fits all’ fashion and is treated as universally applicable (Haalboom, 2016). The lack of guidance in policy documents and legislation about precisely how to incorporate Indigenous knowledge in impact assessment and resource management only compounds this problem (LaBelle, 2015).

### *Intersectional Exclusion*

To compound lapses in understanding and procedural challenges, the knowledge held by Indigenous women is particularly underrepresented in impact assessments (Baker & Westman, 2018; LaBelle, 2015). In part, this is due to the focus on traditional land use studies, which as noted above, are the main way Indigenous or traditional knowledges are incorporated into the impact assessment process. Land use studies typically focus on uses such as hunting, fishing and trapping, which are considered to be traditionally men’s roles in many Indigenous communities (Femmes Autochtones du Québec, 2017; Kermoal, 2016). In other cases, women’s views are not solicited or included during the scoping phase of impact assessment, making it very difficult to address women’s concerns within a limited scope later in the process (LaBelle, 2015).

Indigenous women’s knowledge is very important to the impact assessment process as women in several Indigenous communities are responsible for the protection of water, administering medicinal plants, as well as harvesting, preparing and preserving food (berries vegetables, fishing) (Femmes Autochtones du Québec, 2017). Because of these roles they are the first to see changes in the quality of water and the loss of potency in medicinal plants, and the first to notice when food is contaminated with toxins. As well, Indigenous women often play a key role in governance (Femmes Autochtones du Québec, 2017) and hold primary care responsibilities within families and communities, and are thus well-positioned to contribute knowledge about family and community needs, changing family and community dynamics, and other social information that might otherwise be overlooked. Without including this knowledge, Indigenous women often bear a disproportionate burden of the negative effects of resource development because they are “left to cope with the results and effects of development decisions made by men” (LaBelle, 2015, p. 27). Some suggest that Indigenous knowledges may need to be gathered from women and men separately as they have different roles in Indigenous communities (Arnold & Hanna, 2017; Kioboe, Vinding, Salazar, Tuxen, & Munk-Ravnborg, 2005).

There are also persistent gendered barriers for the participation of Indigenous women. As O’Faircheallaigh (2011) notes “the primary unit of analysis in most of the literature [research, and government policy] is the ‘indigenous community’ or the ‘indigenous group’” (p. 87), which contributes to the invisibility of gender dynamics in shaping impacts of resource extraction and participation in impact assessment processes. A study by Nightingale et al. (2017) found that

gender “roles and expectations” are a barrier for Inuit women to be granted entrance or voice in decision making (p. 381). Sexism and patriarchal attitudes are also a barrier faced by some Indigenous women (Hovsepian, 2014). When Indigenous people are represented in impact assessment processes, it is often by community elites (e.g., elected leaders, business leaders, etc.), who are often not women and do not share the same concerns about the project that researchers hear at the grassroots level from women within communities (Bernauer, 2011b; Nightingale et al., 2017; O’Shaughnessy, 2011; Robitaille, Shahi, Smith, & Luckai, 2017). Some authors suggest that “within Aboriginal communities, male- dominated band councils have relegated women’s voices to the margins in negotiations with extractive companies” (Deonandan, Deonandan, & Field, 2016, p. 8; Femmes Autochtones du Québec, 2017; Whitman, key informant interview, September 2018). For all of these reasons, and because their specific knowledges are valuable, Indigenous women should “have representation independent of the primary Aboriginal organizations involved in these matters” (Archibald & Crnkovich, 1999, p. 35).

### *Promising but Tenuous Inclusion*

Of course, some jurisdictions require Indigenous knowledges to be part of environmental assessments (e.g., federally, and in Nunavut and the Northwest Territories), and Indigenous members serve on some review boards, such as the Northern Saskatchewan Environmental Quality Committee, the Nunavut Impact Review Board, and the Mackenzie Valley Environmental Impact Review Board (see Black & McBean, 2016; Gondor, 2016; Haalboom, 2016; Larsen, 2018). IQ drives all of Pauktuutit Inuit Women of Canada’s work. Pauktuutit’s work and projects are informed by initial discussions and consultations with the Board of Directors as well as feedback received directly from Inuit women and communities (Ijtemaye, key informant interview, September 2018). The fact that Indigenous knowledges must be included in some impact assessment processes is an important development for Indigenous Nations and communities, allowing them more input in decisions that will affect their lives and territories (Angell & Parkins, 2011). The impact assessment process for a proposed mining project near Teztan Biny (Fish Lake) in Tsilhqot’in Nation territory (British Columbia) is a good example of the inclusion of Indigenous knowledge in review panel hearings (Hoogeveen, 2016; Kunkel, 2017). Similarly, the impact assessment hearings for the Voisey’s Bay Nickel Mine in Inuit (Nunatsiavut) and Innu territory (Labrador) was very inclusive of Indigenous women’s concerns (O’Faircheallaigh, 2017). However, in both of these cases, this success is understood as having been due to the persistence of Indigenous leaders and Indigenous organizations, who insisted on culturally relevant opportunities for their members to participate in hearings, as well as on the amenability of review panel members to accommodate different formats and types of knowledge in community member presentations (Archibald & Crnkovich, 1999; Hoogeveen, 2016; Snyder, 2016). Both of these success stories are discussed in more detail in Section 7 below. These examples of the inclusion of Indigenous traditions, knowledge systems

and concerns are not typical of current assessment and review processes, and as the case studies reveal, are not without flaws.

### Proposed Legislation and Indigenous Knowledges

The proposed *Impact Assessment Act* is promising because it uses an inclusive definition of Indigenous knowledge (IK), which includes traditional knowledge and contemporary forms of Indigenous information. It also proposes to take IK into account equally with Western knowledge (Government of Canada, 2018b). The Expert Panel that was established to review the current environmental assessment processes recommended that impact assessment decisions be made consistent with Indigenous laws and customs (Expert Panel, 2017). With these changes, the proposed impact assessment process provides an opportunity to meaningfully involve Indigenous Peoples and incorporate their knowledges. Still, it warrants mention that critiques of the Crown's failure to uphold its duty to consult in the process of preparing the new legislation have surfaced (Crawford, 2018).

## 7. CASE STUDIES: ENGAGEMENT OF INDIGENOUS WOMEN AND CONSIDERING INDIGENOUS KNOWLEDGE

Three notable case studies illustrate key issues for Indigenous women and resource extraction. Voisey's Bay in Labrador was the first time that gender was formally incorporated into the environmental assessment process. The proponent was required to provide all impact statement data disaggregated by age, gender, aboriginal status and community. Technical hearings were held specifically on women's issues. Indigenous women received financial assistance to participate in the impact assessment process. It also prompted the province to require a women's employment plan for any mining development. The case study also shows how important issues for Indigenous women raised during environmental assessments need to be followed through in the development of project approval conditions and impact benefit agreements.

The case study of Meadowbank Gold Mine in Nunavut shows how a GBA+ analysis can identify impacts of resource development for Indigenous women. However, implementation is lacking since those issues were not addressed in the Meadowbank Impact Benefit Agreement. The case study points to a range of problems experienced by Indigenous women as a result of the mine and the fact no women were involved in negotiating the IBA. As well, the confidential nature of the negotiations prevented community oversight and evaluation long-term.

The final case study of Teztan Biny (Fish Lake) in British Columbia is known for the high level of community participation in environmental assessments that twice led to mining proposals being overturned. The case study also calls attention to the importance of including Indigenous knowledges, processes and values in the environmental assessment process.

### Voisey's Bay, Labrador Inuit (Nunatsiavut) and Innu Nation Territory (Labrador)

#### *The Project*

The Voisey's Bay Nickel Mine is a nickel mine operated by Vale (formerly Vale-Inco and Voisey's Bay Nickel Company Ltd.) on the north coast of Labrador in an area known as Tasiujatsoak to the Inuit and Kapukuanipant-kauashat to the Innu (Canadian Environmental Assessment Agency, 2016). This area is the traditional territory of both the Labrador Inuit (now represented by the Nunatsiavut Government) and the Innu Nation, however is excluded from the lands granted to both nations in their respective land claim agreements. The mine was approved following a Joint Review Panel (JRP) in 1999 (Archibald & Crnkovich, 1999). The mine commenced operations in 2005 and is expected to continue extracting ore until 2032 (Vale, 2018). Both the Nunatsiavut Government and the Innu Nation have signed impact-benefit agreements (IBAs) with Vale to ensure benefits for their members as a result of the mine's

development. The chief negotiator for the Nunatsiavut IBA was an Inuk woman (O’Faircheallaigh, 2011).

### *Emphasizing Indigenous Women’s Voices in Impact Assessment*

The Voisey’s Bay Joint Review Panel has been recognized in the literature as an important example of including women’s voices, especially Indigenous women’s voices, in the impact assessment process (Archibald & Crnkovich, 1999; Cox & Mills, 2015). However, women were excluded from the “negotiations and decisions leading up the public review process of the project” (Archibald & Crnkovich, 1999, p. 26), including those for the Memorandum of Understanding between the proponent, settler governments, the Labrador Inuit Association and the Innu Nation, which established the environmental assessment JRP.

The composition of the JRP in the Voisey’s Bay case was notable. It included an Inuk member from the Nunatsiavut community of Nain, a well-known feminist social justice advocate and community organizer, and an expert in social impact assessment in Indigenous communities in Northern Canada (Canadian Environmental Assessment Agency, 2016). The Panel members were responsible for developing the environmental impact statement (EIS) guidelines that the proponent was required to follow (Archibald & Crnkovich, 1999). The influence of the Panel members and their backgrounds becomes clear in the EIS guidelines that state that the proponent should “differentiate information...by age, gender and aboriginal status and by community. The Proponent shall also explain how it has used feminist research to identify how the Undertaking will affect women differently from men” (Canadian Environmental Assessment Agency, 1997, sec. 4.2). The extent to which the proponent followed through on the EIS guidelines is debated (Noble & Bronson, 2005). For example, Archibald and Crnkovich (1999) note that “while data are differentiated by gender, there is little analysis or insight into how the differential impacts affect Inuit women” (pp. 23-24). Nevertheless, these EIS guidelines represent “the first time gender has been formally incorporated into the world of environmental assessment” (Archibald & Crnkovich, 1999, p. 23).

The JRP also decided to hold a technical hearing specifically on women’s issues (Archibald & Crnkovich, 1999). Many Indigenous women and women’s organizations made public submissions and presentations to the JRP (Cox & Mills, 2015). The Inuit women’s organization, Tongamiut Inuit Annait (TIA), and the joint Innu-Inuit Ad Hoc Committee on Aboriginal Women and Mining in Labrador were especially active participants (Archibald & Crnkovich, 1999). Many members of Nunatsiavut and the Innu Nation, whether they agree with mining in principle or not, see the jobs and business opportunities generated by the mine as very important to maintaining the vitality of communities, and preventing migration to the south in search of work (Dombrowski et al., 2016; Procter, 2016). A research grant from Status of Women Canada and some funds from the JRP enabled Indigenous women to gather together to plan their response to the proponent’s environmental impact statements (Archibald & Crnkovich, 1999).

However funding was very limited, and the JRP recommendations were never implemented by the proponent. Women spoke of many concerns they had about the mine and its impacts in Innu and Inuit communities. These concerns included threats to their Indigenous ways of life; increases in crime, substance use, and gender-based violence; rising reliance on expensive store-bought food over country food; and further strains on already over-capacity community services. Women also highlighted the need to ensure mine employment opportunities, relevant education and job training, and a harassment-free workplace for Indigenous women (Archibald & Crnkovich, 1999; Cox & Mills, 2015; Noble & Bronson, 2005).

Despite the promise for Indigenous women to be represented by the environmental assessment process, many were disappointed with the outcomes once the mine began operations. Indigenous women working at the Voisey's Bay mine report significant gendered and racialized harassment, feeling as if they are 'token hires,' and gendered discrimination in relation to training and promotion opportunities (Cox & Mills, 2015). Cox and Mills (2015) suggest that poor outcomes for women – for concerns that were amply highlighted during the EA process – are at least in part due to “the ineffective translation of EA submissions into EA regulations and the IBA” (abstract). Despite the many concerns Indigenous women raised during the EA process, the JRP's final report only made three recommendations about women, and all those were about achieving employment equity. Of those three recommendations, only one – a women's employment plan – was made binding by the provincial government in its conditions for approval of the mine (Cox & Mills, 2015). Employment equity concerns were likewise the primary women's concern reflected in the Nunatsiavut IBA. However many of the unions and contractors responsible for hiring at the Voisey's Bay Mine were found in one study to be largely unaware of the precedence provisions for the hiring of Inuit women (Cox & Mills, 2015). For impact assessment to be successful for Indigenous women, it is important that women's concerns raised in submissions and presentations at public hearings not be lost in the latter stages of the impact assessment process and in the development of project approval conditions and impact-benefit agreements.

### Meadowbank Gold Mine, Qamani'tuaq (Baker Lake), Nunavut

#### *The Project*

The Meadowbank gold mine is operated by Agnico Eagle Mines Ltd. and is 100 kilometers north of Qamani'tuaq (Baker Lake), the nearest Inuit community. The mine began operations in 2010 and is expected to produce gold until 2026 if an extension is approved (Agnico Eagle Mines, 2018). The Nunavut Land Claims Agreement requires all proponents negotiate impact-benefit agreements with affected Inuit communities (Nightingale et al., 2017). All resource extraction projects that take place in the territory are reviewed by the Nunavut Impact Review Board (NIRB), where Inuit organizations and communities have significant power. Typically, four members of the NIRB are Inuit who have been nominated by Inuit organizations (Gondor,

2016). The NIRB also requires the proponent to consider Inuit Quajimajatuquangit (Gondor, 2016).

### *Doing a GBA+ Analysis to Identify Resource Extraction Impacts*

Several research projects conducted by or in partnership with Pauktuutit Inuit Women's Association of Canada and the Qamani'tuaq (Baker Lake) community have emphasized the need to do a gender-based (plus) analysis (GBA+) of the impacts of resource extraction for Inuit women. These studies (Nightingale et al., 2017; Pauktuutit Inuit Women of Canada, 2012; Pauktuutit Inuit Women of Canada et al., 2014; Rixen & Blangy, 2016) also provide excellent example of what good GBA+ research could look like in the context of resource extraction. Doing GBA+ in Indigenous communities requires analyzing "unequal relationships between men and women while acknowledging the ongoing socio-cultural and historical realities brought on by colonisation" (Nightingale et al., 2017, pp. 371–372).

These GBA+ studies have shown that Inuit women have had opportunities to seek employment at the Meadowbank gold mine and some have found good jobs. Preferential hiring provisions for Inuit workers were built into the terms of the mine's impact-benefit agreement with the Kivalliq Inuit Association (Agnico Eagle Mines, 2018; Nightingale et al., 2017). However, there were no mentions of gender or women's concerns in the impact benefit agreement (Nightingale et al., 2017). Looking deeper at Inuit women's experiences of employment reveals that they account for only "6.5 per cent of the permanent workforce, and 35.1 per cent of the temporary workforce, predominantly in unskilled positions as housekeepers and kitchen staff" (Nightingale et al., 2017, p. 375; Pauktuutit Inuit Women of Canada et al., 2014). A lack of childcare services in Qamani'tuaq (Baker Lake), as well as sexualized and racialized violence in the workplace, are significant barriers to Inuit women's employment at the Meadowbank mine (Bernauer, 2011a; Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014). Ensuring equitable access to employment for Inuit women (at a minimum) requires explicit hiring provisions and targets in IBAs and company employment plans, access to education and training programs, accessible and affordable childcare in home communities, and a workplace free of gendered and racialized discrimination.

Doing GBA+ in the context of resource extraction requires more than considering women's employment opportunities. For example, the fly-in, fly-out two week work rotations at the Meadowbank mine have been linked to a number of residual impacts in the Qamani'tuaq (Baker Lake) community, including family breakdown and increasing family and gender-based violence (Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014). Having many community members working away at the mine can mean less access to country food and disruptions to cultural traditions and the intergenerational transfer of knowledge (Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014). The increased average income due to mine employment and drug prohibition policies at the worksite have increased substance

use in the community, and has been connected to the increasing rates of gender-based violence (Bernauer, 2011b; Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014; Peterson, 2012; Rixen & Blangy, 2016). Services such as addictions counselling, shelters for victims of violence, and mental health supports are non-existent in the community, or inadequately funded and very strained due responding to these impacts (Pauktuutit Inuit Women of Canada et al., 2014).

Nightingale et al. (2017) argue that the IBA for the Meadowbank mine considered many of the impacts outlined above, albeit not from an explicitly gendered perspective. However, they assert that:

None of the needs outlined in the agreement have been regularly assessed and no comprehensive programmes or services implemented to address them despite transfers of funds from the mining company to the regional Inuit association...Political interests and limited organisational capacity at the local, regional, and territorial levels appear to have all played a role, as well as limited public accountability and transparency in the implementation of the agreement. (Nightingale et al., 2017, p. 380)

The confidentiality measures built into most IBAs make it difficult for communities to oversee progress and enforce the promises made between the company and Inuit regional associations (Bernauer, 2011b). The fact that no women were at the table in the negotiation of the agreement limited its effectiveness in mitigating gendered impacts (Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014).

### Teztan Biny (Fish Lake), Tsilhqot'in Nation Territory (British Columbia)

#### *Tsilhqot'in Nation & Resource Extraction*

Taesko Mines Ltd.'s proposed development of a gold and copper mine near Teztan Biny (Fish Lake) in Tsilhqot'in Nation territory in British Columbia. Taesko Mines brought two mine proposals to the CEAA, the Prosperity Mine (2009) and the New Prosperity Mine (2011) (Canadian Environmental Assessment Agency, 2017a, 2017b). The Tsilhqot'in Nation opposed both projects and mounted substantial public relations campaigns outlining their concerns about the mines' impacts on their culture, traditions, and way of life (Kunkel, 2017; Snyder, 2016). They also actively participated in the environmental assessment (EA) hearings of both mine proposals (Hoogeveen, 2016). Both mine projects were rejected by the Minister of the Environment following the environmental assessment, which were considerable victories for the Tsilhqot'in Nation.

The Tsilhqot'in Nation had an additional victory in 2014, when the Supreme Court of Canada (SCC) ruled in their favour in a 25 year lawsuit against the provincial government asserting that granting a commercial logging company a permit for Tsilhqot'in territory was a violation of their

Aboriginal title. The SCC granted the Tsilhqot'in Nation Aboriginal title to approximately 1750 square kilometers of their territory, but notably not the area surrounding Teztan Biny (Fish Lake) (Kunkel, 2017).

### *Recognize, Value & Incorporate Indigenous Knowledges in Impact Assessment*

The participation of members of the Tsilhqot'in Nation in the environmental assessment process for the Taesko Mines developments is cited in the literature as a major factor in the mine proposals being overturned twice by the federal government (Hoogeveen, 2016). Many Indigenous nations and scholars critique EAs and other impact assessment processes as being part of "a larger assimilation process, nested in settler state governance and based on the premise of extracting resources, often from unceded Indigenous land" (Hoogeveen, 2016, p. 358). At the same time, many recognize that the community and review panel hearings built into our current impact assessment regime provide important spaces for the voices (and dissent) of Indigenous communities to be heard by decision-makers, as happened in this case (Hoogeveen, 2016).

Western, scientific knowledge dominates the current impact assessment regime, which is in many ways incompatible with Indigenous ontologies and epistemologies. For example, Tsilhqot'in concerns about impacts of the proposed mine on the fish in Teztan Biny (Fish Lake), were rendered scientific during the EA process. Fish were spoken of in scientific terms, as 'numbers,' 'species' and 'populations.' Tsilhqot'in understandings of fish and 'fish-hood' – "the intrinsic value of fish, as living beings outside of the technical, scientific traits reported on in the environmental assessment hearings" and part of a web of relations (Hoogeveen, 2016, p. 357) – were rendered largely invisible in the EA process. Important Tsilhqot'in values connected to life on the land at Teztan Biny (Fish Lake), including "protection of land and wildlife, local accessibility, sustainability of wildlife, kinship relationships, ancestral connections to the land, spirituality and rituals at the location, and intergenerational knowledge transfer" (Kunkel, 2017, p. 9), were also given limited space in the technical orientation of the EA process. The proponent's mitigative measures for the loss of access to Teztan Biny (Fish Lake) was that they would build a replacement lake elsewhere in the territory (Kunkel, 2017). As Kunkel (2017) notes, this may be an adequate solution to the loss of access to fish as an accessible and affordable food source, but completely misses the cultural significance of the Teztan Biny (Fish Lake) site to members of the Tsilhqot'in Nation. Snyder (2016) reports that "one Elder said that making a lake is the Creator's job" (p. 108). Additionally, "the landscapes and mountains are living and are visual maps, each with its own unique legend or mythical story. The unique shapes of each mountain and its location formed natural borders between communities. These valuable landmarks are resources for teaching the history and telling stories from the past and ancient times. These stories are integral to the oral culture of the Tsilhqot'in people" (Kunkel, 2017, p. 12). Destroying the landscape around Teztan Biny (Fish Lake) to make a mine would have significant cultural impacts for the Tsilhqot'in people.

The Tsilhqot'in Nation was successful in encouraging the EA review panel to conduct the hearings in ways that ensure the inclusion of Indigenous knowledge systems and traditions. For example, they persuaded the panel that hearings should open with a traditional ceremony as the Elders had requested (Snyder, 2016). They also convinced the panel to hold community hearings in multiple Tsilhqot'in communities, not solely in the nearby predominantly settler community of Williams Lake (Snyder, 2016). This allow many members of the communities to attend hearings without having to worry about transportation to Williams Lake.

Xeni Gwet'in's chief, Marilyn Baptiste, is a great example of Indigenous women's leadership in the face of resource development (Perkins, 2017; Snyder, 2016). She encouraged members of her community to be present at environmental assessment hearings and assert that their stories were valuable sources of knowledge in the impact assessment process. The participation of the majority of youth in the community in EA hearings was particularly notable. Snyder (2016) writes:

All of the students from the Nemaiah Valley school (which includes all grades through to Grade 10) participated in the hearings. The senior class made submissions. The intermediate class created and performed a play for the panel in which some of the students wore masks representing wilderness animals that had died, while others were narrators who explained what was happening. The primary students were given the option of submitting their work but, as their teacher said, "they wanted their voices to be heard." Thus, each of the primary students did a brief presentation at the hearing. The chief described how her five-year-old niece spoke passionately with only quick references to her few notes. Two of the youth who are in their final years of secondary school in Williams Lake (where they face opposition from people who favour the mine) recited poems that they had written. (p. 109)

This persuasive participation of community members was a key factor in the Minister's decision to not allow the mines to go ahead.

## 8. RESPONSIBILITIES FOR KEY ACTIONS THROUGH IMPACT ASSESSMENTS PROCESSES

What is clear is that there are a number of ways that impact assessments can better engage with, and reflect the experiences of, diverse Indigenous women. The following table provides an overview of key actions, organized roughly sequentially to align with the work of impact assessments. The actor(s) responsible for each action are also indicated. While relevant literature also highlights important actions for Indigenous Peoples and governments, and non-governmental organizations, we have emphasized key actions for the federal government and project proponents as the primary audiences of this report. Explanations and supporting research for each action are detailed below in Section 9 of this report.

Stage	Key Actions to Identify Gendered Impacts and Increase Participation of Indigenous Women	Actor(s) Responsible	
		Federal Government	Proponents
Guiding Principles for All Stages of the Process	Recognize, Value and Incorporate Indigenous Knowledges	X	X
	Recognize and Value the Expertise of Indigenous Women	X	X
	Conduct GBA+ Analyses	X	X
	Include the Diversity of Indigenous Women	X	X
	Provide Resources so Indigenous Women can Engage in Impact Assessment Processes	X	X
	Recognize Resistance	X	X
Designing a New Process	A New Guiding Approach to Impact Assessment	X	
	Consider Different Procedures for Impact Assessment Consultations & Hearings	X	X
	Undertake GBA+ and Recognize Diversity in Consultations	X	X
	Increase Indigenous Women’s Engagement in Consultations	X	X
Preparing for Impact Assessment	Engage Meaningfully with Indigenous Communities	X	X

## Strengthening Impact Assessments for Indigenous Women

	Undertake GBA+ in Partnership with Indigenous Women	X	X
	Conduct Land Use Mapping and Assessments in Partnership with Indigenous Peoples	X	X
	Identify and Address Long-Term Cumulative Impacts	X	X
	Create Partnerships with Indigenous Peoples	X	X
	Establish Collaborative Governance Agreements	X	X
	Create Partnerships with Researchers	X	X
	Identify Opportunities for Community Planning and Monitoring	X	X
<b>Developing and Implementing Mitigation Strategies</b>	Follow Best Practices in Developing Impact Benefit Agreements & Community Development Agreements	X	X
	Ensure Inclusive Workplace Dynamics, Policies & Supports for Resource Development Projects	X	X
	Oversight and Enforcement of Panel Recommendations	X	X

## 9. KEY ACTIONS TO IMPROVE IMPACT ASSESSEMENTS FOR INDIGENOUS WOMEN

The Table in Section 8 summarizes who is responsible for key actions that should be taken at each Impact Assessment stage. This section of the report (Section 9) details these actions that could be taken by the federal government and proponents to improve impact assessments for Indigenous women. The Government of Canada, through the Canadian Environmental Assessment Agency, is responsible for establishing the review process including appointing the members of the review panel, determining how panel hearings will occur, setting guidelines for investigations, and more. Proponents are responsible for consulting with local communities, and for conducting impact studies, mitigation plans and, in some cases, negotiating Impact Benefit Agreements with Indigenous Nations. In some cases, there is shared responsibility between government and proponents to ensure a gendered approach to impact assessments. The proposed actions speak to the importance of both establishing underlying principles, and taking a different approach across all stages of the process. The broad goals associated with these actions include ensuring the Indigenous right to free, prior, and informed consent is upheld, supporting Indigenous women and their communities in preparing for and engaging in impact assessment processes, ensuring that Indigenous women can participate in and benefit from sustainable resource development projects if they are appropriately approved, and dramatically improving oversight and enforcement of EA panel recommendations after the impact assessment process concludes.

### Guiding Principles for All Stages of the Process

Building on the research in previous sections, we have identified six core elements that should be part of every stage of the Impact Assessment process:

1. Recognize, Value and Incorporate Indigenous Knowledges
2. Recognize and Value the Expertise of Indigenous Women
3. Conduct GBA+ Analyses
4. Include the Diversity of Indigenous Women
5. Provide Resources so Indigenous Women can Engage in Impact Assessment Processes
6. Recognize Resistance

### *Recognize, Value and Incorporate Indigenous Knowledges*

To value Indigenous knowledges means to **see Indigenous knowledge holders as experts**. Governments and proponents need to better understand and respect the differences between Western and Indigenous worldviews, to increase Indigenous women's participation in the impact assessment process (LaBelle, 2015). Recognizing community and Indigenous expertise

would likely lead to more collaborative solutions, and/or different starting points for project assessments and outcomes. In effect, Indigenous knowledges and proposed ways forward must be understood as viable alternatives.

Anna Johnston (West Coast Environmental Law) felt that recognition of Indigenous knowledges could be realized through the co-management of assessments, by providing Secretariat support under the Impact Assessment Act and delegating of portions of the assessment to Indigenous groups, accompanied by commensurate resources. The Chief Science Officer should play a role and look at establishing an Indigenous knowledge office to develop policies on how to better integrate western and Indigenous knowledge (Johnston, key informant interview, August 2018). In fact, key informants pointed out in various ways that perhaps the solution is to have Indigenous communities and leaders lead the process, in part to try and ameliorate the fact that currently, the EA process is seen as being a very one-sided, power driven process. There is also valuable Indigenous led research using Indigenous methodologies and community-led impact assessments have been completed in the absence of sufficient government processes. Therefore, different types of research need to be considered as part of the assessment process.

### *Recognize and Value the Expertise of Indigenous Women*

Indigenous women's voices are often missing in impact assessment processes, and proactive measures are needed to fill this gap. The first step is for all actors to **develop an awareness that Indigenous women's voices are often missing from consultation, planning, assessment and negotiation processes** (Baker & Westman, 2018; Caine, 2016). Indigenous women should be considered important **stakeholders** in all impact assessment processes (Jiménez and Lorimer, key informant interview, August 2018; Deonandan et al., 2016; LaBelle, 2015). Beyond consultation, it is important to **have Indigenous women at the table at every stage of impact assessment processes**, including representation on Joint Review Panels and advisory committees (Caine, 2016; Powell, 2017; Lorimer, key informant interview, August 2018). "Women must be directly involved in consultations, negotiations, and planning processes around resource development projects in order to bring forward their needs, and to plan for how these needs will be impacted by the project" (Nightingale et al., 2017, pp. 380–381). To **avoid tokenism** at decision-making tables requires having more than one Indigenous woman with a seat at the table (Natcher, 2012; Powell, 2017). In one study, **30 percent of seats** was identified as the minimum proportion that would allow the formation of a 'critical mass' or meaningful women's involvement in decision making (Staples & Natcher, 2015). The study also found that "women who served on boards with other female members experienced significantly fewer barriers to their participation than when they were the sole female representative" (Staples & Natcher, 2015, abstract). Having Indigenous women's participation also often requires going to where Indigenous women are. This means holding consultations and hearings in Indigenous communities or on the land, rather than in the nearest larger hub community (Snyder, 2016; Wolfrey, key informant interview, August 2018).

### *Conduct GBA+ Analyses<sup>2</sup>*

When asked for best practices for impact assessment or gender-based analysis, none of the informants could provide any examples. Lema Ijtemaye (Pauktuutit) felt that the lack of consultation with Indigenous women, has resulted in a lack of clear guidelines or a framework. Many times, for the benefit of expediency, the Federal government lumps all Indigenous groups together to develop policies despite their vast differences. Indigenous women must be included in the process and directly consulted to ensure culturally appropriate methods. Key factors to consider: cultural nuances of the region, perspective on development, and gender-based work that is meaningful (Ijtemaye, key informant interview, September 2018). A cookie cutter approach is not appropriate.

Doing **culturally-relevant gender-based analysis (GBA+)** at all stages of resource extraction projects is an important step in ensuring Indigenous women's voices and concerns are reflected in the impact assessment process (Amnesty International, 2016; Archibald & Crnkovich, 1999; Buell, 2006; Femmes Autochtones du Québec, 2017; Indian Affairs and Northern Development, 2006; Native Women's Association of Canada, 2007). "GBA gives voice to women when and where they may have been silenced, and seeks to rectify the situation when women's work, roles and perspectives have been rendered invisible through gender 'neutral' stories" (Pauktuutit Inuit Women of Canada et al., 2014, p. 16). Where gender is considered, the importance of incorporating the experiences of women across the process (e.g., developing baseline data, making project-related decisions, and undertaking monitoring, evaluation and mitigation) is noted (Archibald & Crnkovich, 1999). Researchers have also identified the need for those involved in impact assessments to: (1) provide detailed explanations of their approaches; and (2) understand the diversity of Indigenous women, as well as the unique intersections between gender, race, and culture (Archibald & Crnkovich, 1999). Pauktuutit has developed its own 'Inuit-specific gender-based analysis'. This tool involves an analysis of the issue as it relates to:

- (1) the Inuit way (Elders, culture, language, family, community, and spirituality);
- (2) traditional influences on the Inuit way (land, weather, animals, and country food);
- (3) contemporary influences on the Inuit way (institutions, policies, laws, climate change, globalised, and capitalist economies); and
- (4) assessing gender impacts in an Inuit cultural context (pulling it all together).

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<sup>2</sup> We use the language of GBA+ in this report but favour the application of feminist intersectional policy analysis which focuses on impacts for different groups of women, especially those who are disadvantaged by multiple, interconnected systems and institutions of power and oppression, and also seeks to make systems and institutions more responsive to the needs of diverse women.

This perspective was intended to honour Inuit self-determination, by respecting Inuit voices, upholding responsibility and community ownership of research. (Nightingale et al., 2017, pp. 371–372)

Examples of how to include GBA+ in specific steps are noted below.

### *Include the Diversity of Indigenous Women*

Different Indigenous women may experience resource development differently. **Consulting a wide spectrum of different groups within Indigenous communities** about their concerns about resource extraction projects can ensure maximum positive impacts for all members of communities (LaBelle, 2015; Peterson, 2012). Lema Ijtemaye (Pauktuutit) said Indigenous Peoples may have different perspectives on resource development. Their work shows that many Inuit women want to be involved in resource development projects because of the potential for economic development in their communities, whereas First Nations women may be more concerned about the protection of their land. Recognizing groups who have been traditionally absent in assessment processes and addressing these gaps is particularly important. Youth are particularly underrepresented in impact assessment research and processes (Joly & Westman, 2017). Women who have childcare responsibilities may not be able to participate in consultation and impact assessment processes if children are not welcome at meetings and hearings, or if childcare services and funds are not provided to enable their participation (Pauktuutit et al., 2014; Native Women’s Association of Canada, 2014; Lorimer, key informant interview, August 2018). Women who live on low-incomes might not have access to a car, so holding meetings in locations accessible by public transportation or providing funding for transportation is necessary to ensure their inclusion (Native Women’s Association of Canada, 2014; Lorimer, key informant interview, August 2018). The experiences and viewpoints of Indigenous women with disabilities are also frequently missing in conversations about resource extraction (Manning, Stienstra, Baikie, & Hutchinson, 2016; Stienstra, 2015; Stienstra, Baikie, & Manning, 2018; Stienstra, Manning, Levac, & Baikie, 2017). While the expertise of Elders is typically valued by proponents and review panels in impact assessment processes, necessary supports for unilingual Elders’ participation, such as translation of documents, meetings and hearings to Indigenous languages, are not always adequate (Arnold & Hanna, 2017; Bernauer, 2011a, 2011b; Parkins & Mitchell, 2016).

### *Provide Resources so Indigenous Women Can Engage in Impact Assessment Processes*

Providing **Impact study information in more accessible ways** would also facilitate Indigenous women’s engagement. Previously the reports prepared by proponents and provided to Indigenous women and Indigenous women’s organizations before impact assessment panels were often very complex (Arnold & Hanna, 2017). These reports are not typically written in ways that are accessible to community members without expert knowledge in the area, and

scientific concepts do not always translate well from English or French to Indigenous languages. For example, “translation of mining terminology from English to Inuktitut is difficult because there are no equivalent words for concepts, procedures and structures like ‘tailings pond’ or ‘radiation’” (Peterson, 2012). To bridge the knowledge gap, the Mackenzie Valley Environmental Impact Review Board took the initiative to develop “translated glossaries of words commonly used in EIA and relevant industries to facilitate interpretation of presentations and other information into aboriginal languages” (White, Christensen, & Ehrlich, 2007, p. 10). They caution that, “in Canada, ensuring appropriately authoritative decisions is complicated by the constitutional reality of overlapping jurisdictions...[including] federal, provincial or territorial and Indigenous authority” (Atlin & Gibson, 2017, p. 43).

Given the barriers identified, proponents and governments should, at every step, ensure Indigenous women and their organizations **have the necessary resources and capacity to participate in the impact assessment process** (Booth & Skelton, 2011; Kennedy Dalseg et al., 2018). To enable this, long-term funding needs to be provided to Indigenous women’s groups in place of individual grants for each environmental assessment (Anna Johnston, key informant interview, August 2018). Lorraine Whitman (Nova Scotia Native Women’s Association) is encouraged by the number of women who are becoming involved as traditional waterkeepers and the strong role they play in protecting the environment. “I think with the TRC you know, those calls to actions are really important and not only doing the action, but really recognizing and acknowledging it”. The Native Women’s Association of Nova Scotia is trying very hard to build on their past accomplishments, and are dealing with important priorities such as Murdered and Missing Women and Girls that requires long term support for the families involved. They lack capacity and long-term funding, need training in budgeting and communications, and survive from project to project. With no core funding or stability, it’s difficult to attract young women to the organization. “On a national level, I’m trying to go for core funding and we’re hoping it’ll come through, whether or not it does I don’t know, but I’ll continue going at a voluntary pace” (Whitman, key informant interview, September 2018).

While what is needed should be defined by each group or organization (BC Assembly of First Nations, 2018), some examples include: briefing documents well in advance of consultation meetings; training in the technical aspects of the impact assessment process and procedures; funding to hire consultants or additional staff members to provide support in preparing submissions and presentations; and, extending deadlines to allow input from often over-extended community organizations (Bernauer, 2011b; Pun, 2016; Udofia, Noble, & Poelzer, 2017).

**Addressing issues important to women and their families in scoping guidelines for impact assessments** will increase Indigenous women’s engagement (Kennedy Dalseg et al., 2018). Consulting Indigenous women when defining the scope of an impact assessment is an essential first step (LaBelle, 2015), as “the absence of women directly affects the type of issues [considered], and how these issues are addressed” (Archibald & Crnkovich, 1999, p. 28).

Many proponents continue to treat gender inequities as a side-issue (Powell, 2017) and neglect how women's intimate and familial lives (de Leeuw, 2016) are affected in resource development.

**Positive actions can be taken to engage Indigenous women** including: (1) requiring seats reserved for Indigenous women on impact assessment panels; (2) requiring that proponents consult with Indigenous women's organizations in preparing impact assessment statements; (3) requiring that data be disaggregated by gender and other diversities; (4) providing interpretation services; (5) holding women-only consultation sessions; and (6) ensuring Indigenous women are provided adequate and timely funding for the research and travel expenses involved in preparing submissions for impact assessment hearings (Archibald & Crnkovich, 1999; Arnold & Hanna, 2017; BC Assembly of First Nations, 2018; Hovsepian, 2014; Joly & Westman, 2017; Kioboe et al., 2005; Native Women's Association of Canada, 2014; Udofia et al., 2017; Wolfrey, key informant interview, August 2018).

### *Recognize Resistance*

Frustrations with inadequate consultation before development decisions are taken, disappointing and dangerous outcomes, a lack of monitoring and no enforcement of recommended actions have caused Indigenous people to take legal and protest actions. These acts of resistance are a signal that something is wrong. Governments and proponents need to reflect on the underlying reasons for these actions and address them.

The Fort Nelson First Nation has used a range of activist tactics including petitions, online activity, and soliciting media coverage, to:

[draw] support from concerned citizens and civil society organisations...[as part of an effort to] redefine power relationships at the local and provincial levels. The FNFN has worked to establish a network of supporters, including activists, academics, and consultants who support the Nation's right to determine what occurs within their territories. (Garvie & Shaw, 2016, p. 1021)

Some of these creative strategies are connected to more formal responses, as in the case of an effort to raise awareness and legal funds for Indigenous communities fighting resource extraction in BC, whereby "a four-day flotilla [travelled] through Canada's Gulf Islands as part of a collective action called Turning the Tide: A People's Paddle for the Salish Sea" (Bagelman, 2016, p. 1012). Another approach has been to participate in review processes as a way to publicly and persistently assert Indigenous title and sovereignty (Wood & Rossiter, 2017). Nations have also undertaken extensive organizing efforts to encourage diverse community members to participate in environmental assessment hearings, including by "[advocating] strongly for permission to open the hearings with a traditional ceremony because this is important to the healers and the Elders... [and having students] make submissions...[perform a play]...[and recite] poems" (Snyder, 2016, p. 109) about impact-related concerns.

Researchers have reported on a number of lawsuits launched by Indigenous people across present-day Canada, both in response to proposed resource projects, and in response to Canadian and provincial governments' decisions seen to be in violation with legal requirements, such as the duty to consult as established through jurisprudence, and provisions for Aboriginal and treaty rights laid out in s. 35 of the Constitution and in various treaty agreements. Two key informants noted that Indigenous communities sometimes use legal frameworks to mobilize with the hope that court rulings might work to their favour when impact assessments are not adequate (Lorimer and Jiménez, key informant interviews, August 2018).

Several Nations have been, or are, involved in lawsuits against provincial governments. One of the most prominent of these – regarded as precedent setting because of its declaration of Aboriginal title over a large swath of land – was the major victory of the Tsilhqot'in Nation in 2014. Ongoing cases include Blueberry River First Nation's (BC) lawsuit related to the Site C dam and related liquified natural gas (LNG) projects (Atlin & Gibson, 2017), and a lawsuit brought by Beaver Lake Cree Nation (AB) against Alberta and Canada for tar sands development, which identifies "over 16,000 infringements that negatively affect the environment and wildlife populations within Treaty territories, thus compromising the Nation's ability to exercise their Treaty Rights" (Davidov, 2016, p. 59). This case, which includes impacts on water, hunting and gathering, cultural practices, and many other activities, is identified as "the first ever large-scale litigation seeking to curtail industrial activity based on treaty rights in Canada" (Davidov, 2016, p. 59). Lawsuits are also ongoing in the tar sands region of Alberta (e.g., by the Athabasca Chipewyan First Nation (ACFN) and Fort McKay First Nations (FMFN); see Mills, 2017). The case by the ACFN "asks the court to declare that the [Alberta Aboriginal Consultation Office's (ACO's)] decision was incorrect, or, if the ACO does not have the authority to determine when the Crown's duty to consult is triggered, to declare that "the Crown's consultation regime is unconstitutional" (Athabasca Chipewyan First Nation 2016, 57)" (Mills, 2017, p. 171).

### Designing a New Process

#### *A New Guiding Approach to Impact Assessment*

Many key informants, scholars and Indigenous organizations suggest moving towards a **rights-based approach to impact assessment**. Informants felt it was important to recognize and acknowledge the legacy of colonialism on Indigenous women, respect the rights of Indigenous peoples, and involve Indigenous women in all levels of decision-making (Jiménez, Lorimer, Whitman, and Wolfrey, key informant interviews, August to September 2018). Implementing the provisions of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the impact assessment process would increase the capacity for Indigenous women and communities' concerns to be recognized (Wolfrey, key informant interview, August 2018; Baker & Westman, 2018; Black & McBean, 2016; Femmes Autochtones du Québec, 2017). The

implementation of the UNDRIP could resemble something like Black and McBean's (2016) "Indigenous-centred policy framework [which] include[s]: a. The recognition of Indigenous knowledge; b. The recognition of Indigenous Peoples' inherent right to self-determination; c. The use of inclusive and integrative knowledge systems; d. Reliance on community-based participatory approaches; and e. The use of circular and holistic viewpoints" (p. 12).

Valerie Courtois (Indigenous Leadership Initiative) felt strongly that proponents lack the expertise to collect Indigenous knowledge, and to speak on behalf of Indigenous knowledge holders. The expertise lies in the Nations themselves, and is an excellent opportunity for Indigenous peoples to build capacity collecting and documenting their own knowledge. Elders and Indigenous guardians play important roles in knowledge sharing. Guardians can contribute to all aspects of the EA process including evaluation, translation, and implementation. Many authors discuss **Indigenous-led impact assessment** as a potential mechanism for ensuring Indigenous concerns are included in the impact assessment process (Assembly of First Nations, 2011; Gibson, Hoogeveen, MacDonald, & The Firelight Group, 2018). Gibson et al. (2018) describe Indigenous-led impact assessment as:

A process that is completed prior to any approvals or consent being provided for a proposed project, which is designed and conducted with meaningful input and an adequate degree of control by Indigenous parties—on their own terms and with their approval. The Indigenous parties are involved in the scoping, data collection, assessment, management planning, and decision-making about a project. (p. 10)

In these types of assessment processes, holistic decision-making, oral discussion and flexibility are primary values. There is "more emphasis on proponents as information providers, and less on them as estimators of impact significance or acceptability" (Gibson et al., 2018, p. 13).

For Indigenous women, a rights-based approach to impact assessment may be beneficial in helping Indigenous women's concerns be heard in the impact assessment process. Koutouki et al. (2018) write that "a rights-based approach can enhance the equity and effectiveness of regulatory and related processes concerning resource development; increase the participation and inclusion of indigenous women in resource-related decision making; and help ensure a more coherent legal and policy framework for the management of natural resources that aligns with Canada's international and domestic obligations [in regard to human rights]" (p. 72). A rights-based approach also lends itself well to considering intersectional identities and impacts and gendered nature of colonialism and environmental injustices (Femmes Autochtones du Québec, 2017; Johnston, key informant interview, August 2018; Koutouki et al., 2018; Leddy, 2017).

### *Consider Different Procedures for Impact Assessment Consultations & Hearings*

**Changes can be made within the existing processes** to increase the engagement of Indigenous women. Even before an assessment starts, the federal government should sit down with

Indigenous governments, women, and communities and **co-design a customized process jointly for public participation and Indigenous engagement** (Johnston, key informant interview, August 2018). The existing CEAA toolbox used for engagement needs to contain a number of mechanisms that are subject to review and improvement to replace the customary public comments and formal hearings (Johnston, key informant interview, August 2018). A **more flexible approach that consults with Indigenous peoples on how, when, and where they want to be engaged** is recommended by key informants. Indigenous women in particular will likely benefit from this approach because they would feel comfortable and involved and have ownership over how conversations happen (Courtois and Johnston, key informant interviews, August and September 2018). The plan could then be endorsed by the Indigenous community and followed by the proponent and the Joint Review Panel. Some Panels with which key informants had been involved, held **both general and Indigenous sessions**, which was seen as being **important** (Anna Johnston, key informant interview, August 2018).

Further, receiving information from a respected individual who meets with people and educates them in their community, and providing adequate resources for participation, is also helpful. Using scenario-based approaches to impact assessment can help to identify socio-economic impacts for communities that might be missed in current impact assessment processes (Atlin & Gibson, 2017). Some authors suggest that an impact assessment process might need to look different for different Nations – “the diversity among...[Indigenous] Nations alone requires an understanding **that no single approach will suit all peoples and all problems**” (Arquette et al., 2002, p. 263). Anna Johnston (West Coast Environmental Law) recommended that the ideal process would be variable based on local laws, cultures and experiences.

Key informants offered that well-resourced EA consultations can be undertaken **effectively**. In some cases, this **hinges on the specific actors involved**. In the case of the Lower Churchill Hydroelectric Project, “the Nunatsiavut government had a really good director of environment at that time who understood the process and could **explain it to everybody** and I think that made a difference to people cooperating you know and getting involved” (Wolfrey, informant interview, October 2018). Similarly, some key informants described particular CEAA staff as being helpful with **assisting groups to navigate the process** (Johnston, informant interview, October 2018). Friendly Joint Review panels that interacted with members of the community, **had Indigenous members, respected local traditions and Indigenous government officials**, and took their jobs very seriously (Johnston, informant interview, October 2018) were important in more successful processes. This respectful approach helped to **set the tone for the hearings** and reinforced that the panel was there to listen, and provide an environment that was **open and non-threatening** (Johnston, informant interview, October 2018).

Government and/or proponents need to provide sufficient funding to allow Indigenous communities or Indigenous intervenors granted standing in the impact assessment process to adequately respond to the proponent’s environmental impact statement and produce their own reports and submissions to the IA panel (BC Assembly of First Nations, 2018). In the case of

the proposed Kiggavik uranium project in Nunavut, funding was provided to interveners, however as Bernauer (2011b) noted, “the travel expenses, consultant fees and other costs associated with properly analyzing and critiquing Areva’s Environmental Impact Statement will likely not be covered by this amount of funding” (p. 159). Some Indigenous organizations suggest that the government should bill the proponent for these capacity building costs for increasing Indigenous participation (BC Assembly of First Nations, 2018). The Assembly of First Nations asserts that “it is in the best interest of First Nations, the Government of Canada, and project proponents to allow enough time [and resources] for First Nations to engage properly and decide whether to grant or withhold free prior and informed consent” (Assembly of First Nations, 2011, p. 8).

Creative methods need to be considered **to enable community members to share their views on proposed projects**. Indigenous communities affected by the Mackenzie Valley Pipeline Inquiry [MVPI] used the related formal processes to open spaces for community deliberations (Roburn, 2018). Another outcome of this process was the creation of “a travelling interactive exhibit featuring the voices and faces of MVPI participants. The ways the exhibit is used in Northern communities as a teachable moment illustrates how Indigenous legal orders are at work long before and long after any given energy project ‘flashpoint’” (Roburn, 2018, p. 168).

Steps need to be taken to ensure accessibility in the impact assessment process. In the case of the Voisey’s Bay mine, Indigenous women pushed very hard to participate in the impact assessment process.

Individually, the women were daunted by the idea of responding to the VBNC’s [proponent’s] EIS [Environmental Impact Statement]. The company had produced more than 9,000 pages in its EIS and supplementary reports, much of it technical in nature. **A workshop helped the women demystify the masses of written material and gave them the confidence to address the issues of importance to them publicly**. Status of Women Canada, through the Independent Research Grant awarded to the researchers, made this workshop possible. The importance of providing resources for the women to meet and prepare a response to the EIS cannot be overstated. (Archibald & Crnkovich, 1999, p. 29; emphasis added)

A similar process could be very helpful in facilitating Indigenous women’s engagement in the impact assessment process (Pauktuutit Inuit Women of Canada et al., 2014).

### *Undertake GBA+ and Recognize Diversity in Consultations*

In the current EA process, band councils and Indigenous governments are considered to fully represent their nation’s views. However, the First Nation Native Women’s Association of Canada (2014) recommends that **consultations involve all members of community** not just Chief and Council. Consultation should take place from the very beginning of the impact

assessment process, including in determining the scope or terms of reference for the assessment (Noble & Udofia, 2015).

Many Indigenous governments are based on colonial governance systems, and do not always represent the views of women and other marginalized members of the community. For these reasons, and because their specific knowledges are valuable, Indigenous women should “have representation independent of the primary Aboriginal organizations involved in these matters” (Archibald & Crnkovich, 1999, p. 35).

To include more women in consultations, key informants gave concrete suggestions: (1) opening workshops to identify the process and build credible relationships (Whitman, key informant interview, September 2018); (2) speaking one on one (Johnston and Wolfrey, key informant interviews, August 2018), having a roundtable and building relationships with people over a cup of tea (Wolfrey, key informant interview, August 2018), and holding meetings for women in their home community to allow all perspectives to be heard. When holding a public consultation for women, it is important to develop the appropriate agenda, pick a setting that is safe and supportive of women, and provide childcare and transportation (Lorimer, key informant interview, August 2018). The consultation process has to be led by the community and allow them to determine how impact assessment should be led according to their own laws, cultures, and experiences. Refusal should be respected and accepted (Jiménez and Lorimer, key informant interview, August 2018).

### *Increase Indigenous Women’s Engagement in Consultations*

To engage Indigenous women in IA **requires them to have a better understanding of the process**. The importance of **providing resources, and training, to make the impact process more accessible** were highlighted by several key informants. Online training modules are not seen to be particularly accessible. Community-based meetings where government staff members travel to communities and work with Indigenous Guardians to design materials and tools that work for the entire community were suggested as an important way forward (Courtois, key informant interview, September 2018). The results would necessarily be more experiential and interactive.

**Separate processes for women** would be ideal for engagement. Women have different conversations when only women are present, but there is little space made for that (Native Women’s Association of Canada, 2009). For the Muskrat Falls hydro-electric generation project in Labrador, there were no women exclusive conversations (Courtois, informant interview, October 2018).

### Preparing for Impact Assessment

#### *Engage Meaningfully with Indigenous Communities*

Meaningful engagement of the federal government with Indigenous Peoples must be rooted in the federal government's commitment to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the principles of Free, Prior, Informed Consent (FPIC) for resource development. Reflecting on and applying this framework is essential to establish meaningful partnerships with Indigenous Peoples, based on Nation-to-Nation relationships. Below we provide suggested specific measures to work toward this ultimate goal.

A first step to meaningful engagement is **building trust**. Legacies of colonialism can make Indigenous people very mistrustful of representatives of government agencies and proponents. Dovers et al. (2015) argue that, in these contexts, "building trust at an individual level is central" (p. 440). Key informants also suggested **more appropriate consultative approaches to account for this power imbalance**, such as having roundtables and building relationships with people over a cup of tea (Whitman and Wolfrey, key informant interviews, August and September 2018). Others suggest, following the recommendations of the Truth and Reconciliation Commission, that **training on the history of Indigenous peoples and colonialism** in Canada, as well as the central role of women in Indigenous governance structures, is necessary for all people involved in the impact assessment process (Femmes Autochtones du Québec, 2017).

Meaningful engagement also requires building strong relationships with Indigenous communities. This could "be facilitated by **early and continuous communication** throughout the project" (McKay & Johnson, 2017, p. 21) and providing multiple opportunities and formats for community engagement. "Mutual education" on behalf of both Indigenous nations and proponents can help both parties better understand "the others' perspectives and needs" (Booth & Skelton, 2011, p. 55). This type of relationship can help proponents to craft accurate impact statements recognizing the importance of subsistence harvesting to Indigenous traditional economies which are closely intertwined with cultures (Arruda & Krutkowski, 2017, p. 282).

#### *Undertake GBA+ in Partnership with Indigenous Women*

Proponents of major projects are required to investigate and produce a report on the anticipated impacts of their development. Previously this was called an Environmental Impact Statement (EIS). The proposed *Impact Assessment Act* has a broadened mandate to consider "the intersection of sex and gender with other identity factors" in identifying potential social, economic, and health impacts of major projects with an environmental impact. **The CEAA**

**should require all proponents to conduct a GBA+ analysis in conjunction with Indigenous women's organizations** and include the results in its Impact Assessment statement. This analysis should include an intersectional analysis of the specific impacts on Indigenous women and girls.

Involve members of local communities in the GBA+ process (Saunders, 2006), recognizing that culturally-relevant GBA+ is a “living process that can readily adapt to changing cultures and realities” (Native Women’s Association of Canada, 2007, p. 3). **Indigenous women’s organizations**, including NWAC, Pauktuutit, and provincial Indigenous women’s organizations, are particularly well-suited to **conduct culturally-relevant GBA+**, but will require adequate funding and resources to carry out this work (Kennedy Dalseg et al., 2018; Kioboe et al., 2005; Native Women’s Association of Canada, 2007). Lema Ijtemaye (Pauktuutit) said that support from government would allow them to be at the table and be part of the conversation. Their organization brings a lot of gender specific content to a variety of issues, but unfortunately the federal government has not involved them, even though these topics relate to the well-being of Indigenous women.

Setting targets and monitoring engagement with Indigenous women can help to ensure that women are adequately consulted as compared to Indigenous men (Kioboe et al., 2005). Opportunities for women to participate without the presence of men may also generate different and important conversations (Courtois, key informant interview, September 2018).

GBA+ is a crucial element of Impact Statements in order to identify how Indigenous women may be affected differently than Indigenous men and to inform the development of effective mitigation strategies. The Voisey’s Bay and Meadowbank Gold Mine case studies in Section 7 demonstrate the value of conducting a comprehensive GBA+ to identify the likely and actual impacts of a resource development on local Indigenous women. The GBA+ studies conducted by or in association with Pauktuutit Inuit Women’s Association of Canada and women in the Qamani’tuaq (Baker Lake) community revealed a number of problems associated with the mine for Indigenous women (see Pauktuutit et al., 2014; Nightingale et al., 2017). Lema Ijtemaye (Pauktuutit) considers the use of a gender based and inclusive approach important to IA design.

Some key questions for proponents when gathering information for a GBA+ are:

- “Is available data disaggregated by gender at all levels of analysis? Is information regarding equity groups, including Aboriginal people, people with disabilities, and visible minority groups, disaggregated by gender? If not, where can this information be obtained?...”
- How will both qualitative and quantitative data be collected?
- Will you consult with women’s organizations and key women in the subject area about available resources and about women’s experiences of this issue? How will you compensate them for their time and expenses?

- If you are conducting primary research, are data collection questions appropriate and respectful of the dignity of the research participants? Have affected groups been invited to participate in developing the research plan?
- In what ways do the research findings you consult and the research you are conducting address the differential experiences of sex and diversity? Do the documents you are using or researchers to whom you are assigning tasks consider gender issues?
- If you are hiring consultants, have they demonstrated a capacity to perform a competent gender-based analysis? How?
- If you are using a computer-simulation model, are you using gender as a factor? Do you have access to the expertise of someone knowledgeable about gender issues to help interpret the results?" (Indian Affairs and Northern Development, 2006, p. 7)

A more extensive list of questions to promote a feminist intersectional, gender-based analysis, were identified recently through CRIAW's FemNorthNet research (Manning, 2014).

Questions are provided to ask in all stages of the project, about the assessment process, the decision-making process and the monitoring process, as well as reflexive questions at the end.

Specific questions include:

- "What are the social, economic and environmental costs of the project? Who bears the costs? Who benefits from the project?
- How are women and other marginalized groups recognized and included in the project? Which women are included?...Are women...in non-traditional gender roles (as tradespeople, managers, community negotiators, etc.)?
- Have Indigenous people, people of colour, people with disabilities, migrant workers, immigrants and newcomers, senior people, young people, and people living with low incomes been included? How?...
- How are colonization, racism, and other systems of power...recognized and addressed?...
- What types of knowledge were included...in assessments and decision-making?...Indigenous knowledge?...
- Who is the proponent and to whom are they accountable?
- Which communities were consulted and which individuals within communities were involved?...
- How and where was consultation done? Were accommodations made to facilitate the inclusion of diverse people (accessible location, transportation, child care, translation, interpretation, etc.)?...
- What stage is the decision-making process at? Who makes which decisions?...
- Is it clear how decisions are being made and whose voices were taken into account in the process? What is the final approval process?...
- What are the points where the public can intervene? How can they do that?...
- Who monitors the long-term costs and mitigation measures? Can the public be involved?...

- Was social justice a consideration in the policy or decision-making process?” (Manning, 2014, pp. 3–4)

### *Conduct Land Use Mapping and Assessments in Partnership with Indigenous Peoples*

Traditional land use mapping and assessments are one way of capturing Indigenous knowledges, and are important tools in preparing for impact assessment. Traditional land use mapping and assessments show the geographic extent of [Indigenous peoples’] land use, assert their Indigenous rights, and report the adverse impacts of resource extraction. Indigenous land use and occupancy mapping emerged in the Canadian North in the 1970s as a mechanism for communities to prove use of their territories in land claims and IA processes (Joly et al., 2018, p. 335). They can be both helpful and problematic. Helpfully, such maps can be used to push back against Western assumptions about the purely economic value of land. However, communities may “resist sharing certain land use information” (Joly et al., 2018, p. 336), and land use assessments have been described as, “an unchallenging hurdle for companies to pass over in the approvals process...that enable companies to develop on First Nations’ traditional territories unfettered, by claiming that their projects will have ‘no significant impact’” (Baker, 2016, p. 110). For traditional land use studies to work to highlight Indigenous knowledges and support Indigenous peoples’ claims to their territory, this “research must assume that all land in a community’s territory is used and important” (Joly et al., 2018, p. 341).

**Indigenous women’s perspectives on land use are often overlooked in these processes.** The Native Women’s Association of Canada has developed *Finding Your Voice: Environmental Toolkit for Aboriginal Women* (Native Women’s Association of Canada, 2009). This toolkit “provides examples of how Aboriginal women might influence the process of collection and presentation of [IK] data” (Hovsepian, 2014, p. 23). The Aboriginal Mapping Network is an Indigenous-organized network that provides resources to help with traditional land use studies and GIS mapping (Guirguis-Awadalla, Allen, & Phare, 2007).

### *Identify and Address Long-Term Cumulative Impacts*

**Expand the focus of impact assessments to include health, social, cultural and political impacts,** which often reflect issues of great importance to women and their families. Key informants mentioned the importance of **identifying long term and cumulative impacts** of resource development. “From an environmental management point of view, cumulative effect is the biggest issue for CEAA” (Courtois, key informant interview, September 2018). While not specific to Indigenous women, Atlin & Gibson (2017) offer five guiding principles for identifying cumulative impacts: assessments need to be multi-dimensional, take a long term perspective, be seen as credible by stakeholders, have authoritative (or legally-binding) weight, and be accountable to affected communities by providing clear timelines and plans for monitoring, evaluation and reporting.

Evaluation of impacts must be comprehensive and long-term, and not limited to the work site. Key informants emphasized the need for tools to identify and monitor impacts on the natural environment and communities. Valerie Courtois (Indigenous Leadership Initiative) was concerned that a monitoring program for the long-term impacts of the Muskrat Falls hydroelectric energy development project on endangered woodland caribou populations was never established. Lorraine Whitman (Nova Scotia Native Women's Association) also spoke about long-term cumulative impacts "Right now we're in a situation where within the next 10 years we won't be able to do any ash baskets because of the beetle that is killing our ash. The trees that we have now are for colder climate but we're noticing the environment changing so that starts to affect, you know, our trees. We have to be proactive instead of reactive because if we're reactive it's too late then". In Rigolet, Labrador, Charlotte Wolfrey (Nunatsiavut Beneficiary) worries about impacts to child bearing women in her community who eat seal contaminated by methylmercury from the Muskrat Falls hydroelectric development project. Their existence and culture are tied to seal meat, seal skins, seal fat. It's not always about the jobs, but it's about connection to the land, continuing cultural practices, and maintaining health and well-being. Being on the water hunting seals allows Inuit to rest their minds and allows them to be at peace (Wolfrey, key informant interview, August 2018).

Social impact assessment (SIA) can include many steps spanning time periods of several years (Gagnon, Hirsch, & Howitt, 1993; Parkins & Mitchell, 2016) such as in an unnamed case related to a mining development in the Northwest Territories which:

- hired a community relations coordinator from one of the communities;
- engaged through activities such as open houses, presentations, and meetings, including with leaders of the communities and government organizations;
- invited community leaders and representatives to visit the project site;
- built and displayed a project 3-D model for visual presentations;
- undertook traditional knowledge studies and listened to specific concerns and issues;
- made newspaper advertisements and articles (Parkins & Mitchell, 2016, p. 133).

This broader approach to understanding impacts, which still met resistance from some members of the community, is important. It should be guided by a community's vision of development and wellbeing, and must account for impacts that are relevant to affected communities (Parkins & Mitchell, 2016).

### *Create Partnerships with Indigenous Peoples*

The First Nations involved in the Keeyask hydroelectric dam project in northern Manitoba have taken a number of actions to ensure members of their communities can have maximum benefits from the dam. These include: (1) advocating for First Nations representation on the project's Board of Directors; (2) developing an employment and training initiative for First

Nations workers controlled by the First Nations; (3) signing revenue sharing agreements with the proponent that provide specific funds for “community-level initiatives such as Cree language support programmes, resource access programmes and oral history programmes” (Buckland & O’Gorman, 2017, p. 84). The Cree Nations who are partners in the Keeyask dam were also “**funded by Manitoba Hydro to conduct their own assessment of the project** using their own technical experts and based on their own knowledge system. The results of the First Nations’ assessments were included as separate sections in the project impact statement, even though the perspectives often conflicted with the results presented by the proponent” (Noble, 2016, p. 26).

The Namgis First Nation in British Columbia **worked closely with the proponent** at all stages of a proposed resource project and was able to influence much of the decision-making process. This involvement “went further than the typical provision of funding [by the proponent] to support additional studies and independent review. In this case the developer ensured the First Nation was involved in the environmental assessment process including the drafting of the Terms of Reference, incorporating Indigenous Knowledge, and the having a say in the selection of consultants including hiring a local biologist chosen by the First Nation for components of the assessment” (Guirguis-Awadalla et al., 2007, p. 20).

### *Establish Collaborative Governance Agreements*

Collaborative governance arrangements, including **co-management boards**, received mostly positive attention in the literature we reviewed, though these mechanisms often have an environmental foci, at the expense of broader socioeconomic considerations (Everett & Nicol, 2014). Land claims, which are regularly negotiated against a backdrop of imminent or ongoing resource extraction projects, can include provisions for establishing co-management boards (Buell, 2006; Moore et al., 2017). These can contribute to fulfilling the state’s range of international obligations related to meaningful consultation and engagement with Indigenous peoples, Nations, and governments (Buell, 2006). Co-management boards have been recognized as important bodies for integrating Indigenous knowledge into environmental decision-making (Castro & Nielsen, 2001). It is important to note that women have historically been underrepresented on co-management boards and gender equity on land claim-established boards is an ongoing problem. One study found that only 16 percent of all representatives on co-management boards in the Territories were women, and nine out of 34 co-management boards did not have any women representatives (Natcher, 2012). Some noted examples of successful collaborative governance agreements in the literature are The Paix des Braves and the Yukon Environmental and Socio-Economic Assessment Board (YESAB).

The Paix des Braves is an agreement negotiated between the Québec government and the Cree Nation to resolve historic disputes surrounding hydroelectric projects, and arising from inadequacies with the James Bay Northern Quebec Agreement (JBNQA). It includes:

a revenue-sharing formula for hydroelectric projects and Cree participation in forestry planning.... [as well as] negotiation concerning self-government with the Cree. The self-government agreement was signed with Québec in 2012 and established the Cree Nation Government and the Eeyou Istchee Bay James Regional Government, a mixed government between the Cree and the non-Aboriginal population living in the James Bay region. (Rodon, 2018, p. 126)

It also effectively ensures IBAs with the Cree Nation for surrounding projects such that they “enjoy a form of veto over development” (Rodon, 2018, p. 127).

The Yukon Environmental and Socio-Economic Assessment Act (YESAA) is also described as an example of effective collaborative governance, in part because it encourages more local accountability for project decisions (Alcantara, Cameron, & Kennedy, 2012). Among other contributions, YESAA includes explicit attention to socioeconomic impacts.

The new functions introduced by YESAA became the responsibility of the Yukon Environmental and Socio-Economic Assessment Board (YESAB). YESAB is a single, independent environmental and socio-economic assessment body created under the authority of the federal Act. YESAB comprises representatives from Yukon First Nations, the Government of Canada, and the Yukon government and is responsible for applications from across the entire territory, whether these relate to federal, territorial, First Nation, or municipal lands. (Alcantara et al., 2012, p. 335)

This process is also seen to provide some stability for industry proponents because all interested parties are integrally involved throughout (Alcantara et al., 2012).

### *Create Partnerships with Researchers*

Partnerships with academic researchers to plan and create research can benefit Indigenous communities. One example of this type of partnership is the First Nations Environmental Health Innovation Network (FNEHIN) which aims to “bring together environmental health researchers and experts with First Nations communities in order to help build research capacity and work towards improving the health of First Nations peoples” (Assembly of First Nations, 2009, p. 13). These types of partnerships can play important roles in **establishing baseline data that can inform monitoring of impacts for resource extraction projects** (Assembly of First Nations, 2009). Pauktuutit Inuit Women of Canada recently announced a new research project that they will lead in partnership with Oxfam Canada, Makivik Corporation, and the Saturviit Inuit Women’s Association. The research will investigate sexual harassment and violence in Inuit Nunangat. They will work with industry to make gender specific considerations part of the policies and procedures at mining developments. The policies developed will be used across all sectors of development in the future (Ijtemaye, key informant interview, September 2018).

### *Identify Opportunities for Community Planning and Monitoring*

An approach being used by Nations and other Indigenous governments and groups to prepare for impact assessment is community planning.

The Fort Nelson First Nation (FNFN) is one Nation that has successfully used **community planning**. In 2012, the FNFN released its **Strategic Land Use Plan** in order to clearly identify – for both industry and government – the areas that the Nation wants protected. In addition, the FNFN is working on several other strategic planning initiatives: a framework for water governance, an ecosystem restoration strategy, a community consultation framework, and a for-profit environmental monitoring programme. (Garvie & Shaw, 2016, p. 1020)

The FNFN has also **negotiated agreements with resource proponents** to include constant **monitoring of project work** by a monitor approved by FNFN, and who has the authority to issue a **stop work order** at any time (Garvie & Shaw, 2016).

Other **Indigenous Nations** have created their own **policies for natural resource development**, which reflect their own priorities. “The Tahltan Nation and the Wahnapiet Nation have, for example, developed community-based natural resource development policies that outline their approaches to negotiations on mining, emphasizing development principles that require projects to not threaten irreparable environmental damage” (Black & McBean, 2016, p. 6). In Alberta, the Beaver Lake First Nation has developed its own consultation policy for government and project proponents (Mills, 2017). Some researchers suggest that **having community land use plans and policies in place before being approached by a resource industry is helpful in enhancing participation in impact assessment**. “Commencing land use studies and determining development objectives only when approached by a project proponent results in participation in EA that is focused more on information gathering than genuine engagement, and meaningful land use studies are well beyond the scope of what can be achieved through EA participation” (Noble, 2016).

### Developing and Implementing Mitigation Strategies

Proponents and the review panel members have a responsibility to develop plans to mitigate any potential negative impacts of the resource development project that have been identified through the scoping and impact statement phase. Impact Benefit Agreements or Community Development Agreements are technically outside the scope of the Impact Assessment process but we include them here because they are a key element in mitigation strategies.

### *Follow Best Practices in Developing Impact Benefit Agreements & Community Development Agreements*

Community development agreements (CDAs) or impact benefit agreements (IBAs) are important tools which can allow Indigenous communities to maximize the benefits of resource extraction projects. However, to fulfill that potential, the negotiation process for these agreements needs to be inclusive. Loutit et al. (2016) offer some guiding principles for CDAs, including:

- identifying all relevant stakeholder communities and allowing them to choose who will represent them
- “develop a precursor agreement and provide appropriate support to allow the community to prepare for negotiations” (p. 75)
- ensure all members of the community are allowed to inform decision-making
- “ensure that benefits shared extend beyond financial compensation” (p. 81)
- plan for remediation and potential post-closure issues
- prohibit confidentiality in CDAs

Shandro et al. (2014) suggest that a Social Performance Management System (SPMS) may be effective in monitoring impacts and the implementation of IBAs and CDAs, gathering baseline data to facilitate this monitoring, and can accommodate community values, such as reconciliation. Others suggest that these agreements need “to be transparent and made publicly available to other affected communities, to review panels, and to decision-makers” (Noble & Udofia, 2015, p. 3).

The national Inuit women’s organization, Pauktuutit, considers an Impact Benefit Agreement (IBA) to be an effective tool between industry, Inuit communities and women to address many of the issues identified related to Indigenous women’s experiences in mining contexts. Pauktuutit is planning to make gender specific considerations part of the policies and procedures with the mines that they work with, hoping this will apply to all developments in the future. To ensure IBAs work to address women’s concerns in practice, Pauktuutit recommends that IBAs include “mechanism[s] for public monitoring to ensure parties are fulfilling their legal obligations as outlined in the agreement...[and] the assessment of community needs and planning to mitigate the impacts of mining...while the impact and benefit agreement is being negotiated” (Nightingale et al., 2017, p. 380).

Many Indigenous IBA negotiators argue that representatives of the proponent should take time to be out on the land and in the community, by spending time with members of the affected Indigenous nations. For example, an IBA adviser for the Innu Nation says: “In the Innu Nation, where stuff gets done is in the bush, away from the boardrooms. It actually does change outcomes” (cited in Gibson & O’Faircheallaigh, 2015, p. 120).

Other authors emphasize impact-benefit agreements (IBAs) or community development agreements (CDAs) are important tools to ensure Indigenous nations and communities receive benefits from resource extraction projects. To achieve success in IBA and CDA negotiations, there are a number of recommendations: (1) form a “well-structured team with a strong plan for managing information” which is informed by individual community context (Gibson & O’Faircheallaigh, 2015, p. 59); (2) ensure steering committees informing the negotiating team’s position reflect the diversity of the community or nation by including Elders, youth and women and representatives of different regions; (3) use interest mapping to determine key items for negotiation; (4) “adopt an approach appropriate to the desires, cultural priorities and values of a community, rather than following an unfamiliar or inappropriate template” (Gibson & O’Faircheallaigh, 2015, p. 91); (5) talk about the value of experiences on the land frankly and openly in negotiations (Gibson & O’Faircheallaigh, 2015). The *IBA Community Toolkit: Negotiation And Implementation Of Impact And Benefit Agreements* (Gibson & O’Faircheallaigh, 2015) provides many additional helpful suggestions for Indigenous Nations engaged in negotiating agreements with proponents.

The downside of Impact-benefit agreements (IBAs) is that there is no requirement for Indigenous women to be represented in the negotiations, there is no requirement for a GBA+ analysis and negotiations and terms of the agreement are confidential and therefore not transparent or subject to review.

Land claims can play a crucial role in ensuring that proponents of resource development negotiate Impact and Benefit Agreements with Indigenous communities. For example, the Labrador Inuit Land Claim, the New Dawn Agreement, and the Nunavut Land Claims Agreement required all proponents negotiate Impact Benefit Agreements with affected Inuit communities (Nightingale et al., 2017). However, securing land claims can also come at the cost of massive land losses in exchange for (sometimes temporary) economic benefits (Samson, 2016) such as employment that may only last a decade or so.

### *Ensure Inclusive Workplace Dynamics, Policies & Supports for Resource Development Projects*

Employment is usually the greatest benefit associated with resource development in remote northern locations. Specific targets for employment can boost the numbers of Indigenous women employed in resource industries and accurate reporting with disaggregated data can help to ensure those targets are being met (Gibson & O’Faircheallaigh, 2015). Scholarships can reduce the financial burden of education and training, as well as encourage Indigenous women to enter male-dominated trades (Gibson & O’Faircheallaigh, 2015). But as the case studies of Voisey’s Bay and Meadowbank Mine in this paper reveal, despite these initiatives, **Indigenous women do not benefit as much from resource-based jobs as men do**. The GBA+ studies found that some Inuit women found good jobs at Meadowbank Mine, but most were concentrated in

temporary unskilled jobs as housekeepers and kitchen staff (Nightingale et al., 2017; Pauktuutit Inuit Women of Canada et al., 2014). Indigenous women working at Voisey's Bay reported similar employment patterns and significant gendered and racialized harassment (Cox & Mills, 2015).

Frequently, accommodations are needed to make workplaces more inclusive of Indigenous peoples and Indigenous women in particular. "Where this is not done, alienation and loneliness arising from the unfamiliarity of industrial environments and distance from home communities can lead to failure to complete training and education programs, irregular work patterns and high turnover" (Gibson & O'Faircheallaigh, 2015, p. 151). **General measures to promote inclusivity in resource development workplaces** include (see Gibson & O'Faircheallaigh, 2015 for additional suggestions):

- Requiring all employees to undergo cross-cultural training
- Inviting Elders to conduct site visits, healing ceremonies and other cultural activities
- Providing access to or serving food that is familiar and commonly eaten by Indigenous people such as wild game and fish
- Arranging fly-in, fly-out schedules to ensure Indigenous workers can spend equal time in their home communities as they spend at the worksite. This has been noted to be especially beneficial for positive family dynamics.
- Arranging family accommodation onsite so families can visit workers and see what their life is like at the worksite.
- Ensuring efficient and reliable communication channels to allow workers to stay in touch with their families while at the worksite.
- Providing accommodations for Indigenous workers who are unilingual or not confident in English. "There can be provisions for English language training, bilingual signs, safety training in Aboriginal languages, and employment of bilingual Aboriginal employees who can serve as translators" (Gibson & O'Faircheallaigh, 2015, p. 151)

Other specific measures should be implemented to ensure that workplaces are inclusive of Indigenous women. **Childcare supports** in home communities or at the worksite are a key support required to allow many Indigenous women, especially those who are the primary caregivers in their families, to train for and work in extractive industries (Amnesty International, 2016; Gibson & O'Faircheallaigh, 2015; Native Women's Association of Canada, 2016). **Flexible working hours** are likewise necessary to accommodate these women's family commitments (Amnesty International, 2016; Gibson & O'Faircheallaigh, 2015). Employers should have **policies in place to address sexualized and racialized harassment**. One study suggests that "incidents where Inuit feel discriminated against or treated badly because they are Inuit should be reported to an Inuit Elder and/or committee that includes Inuit so that these matters can be dealt with in fair, empathetic and constructive ways" (Pauktuutit Inuit Women of Canada et al., 2014, p. 125). These policies and codes of conduct should also apply off the work site when employees live in or frequent local communities (Amnesty International, 2016). In addition to

the cross-cultural training advocated above, **gender sensitivity training** can reduce rates of sexual harassment faced by Indigenous women in male-dominated workplaces.

Employees and families of employees might need supports or services to cope with the effects of resource extraction on their lives. Having **health and wellness supports**, including counselling and addictions treatment, available at the worksite is essential for retention of employees and ensuring a positive working environment (Amnesty International, 2016).

**Company funded counselling services** in home communities are also an important support for “families in crisis to prevent problems such as marriage breakdowns as a result of workers being absent for long periods of time from home, due to their shift work at the mine [or other resource development work sites]” (Deonandan et al., 2016, p. 9).

Proponents are also encouraged engage in **corporate social responsibility (CSR) projects** in Indigenous communities near extraction sites. To ensure CSR initiatives benefit Indigenous women, proponents should “work with local service providers to ensure that corporate investment in the host community is aligned with local needs and priorities, paying particular attention to the specific needs of Indigenous women and girls” (Amnesty International, 2016, p. 76).

### *Oversight and Enforcement of Panel Recommendations*

As the Voisey’s Bay and Meadowbank mine case studies demonstrated, even when GBA+ analyses are conducted and Panel recommendations made, they are not always implemented, there is no oversight and there is no way to enforce a proponent’s failure to take action.

Ensuring that gender equity provisions recommended by assessment panels are enforced in hiring processes and workplace policies is one example of how giving these recommendations authoritative weight could benefit women (Mokami Status of Women Council & FemNorthNet, 2011). Another mechanism is to use government approval of developments to require proponents to meet specific conditions to mitigate negative outcomes and provide a greater share of the benefits to Indigenous women. An example of this exists in Newfoundland and Labrador where the provincial government requires companies to submit a women’s employment plan as a condition of approval of a mine (Cox & Mills, 2015).

The following examples of effective methods of **oversight and enforcement** are often undertaken by scarcely resourced Indigenous communities without any support or involvement from proponents. **Community based environmental monitoring (CBEM)** is seen to have several benefits, summarized by McKay and Johnson (2017) as including enabling community engagement, building community capacity, highlighting cumulative impacts, and facilitating future shared governance arrangements. It can also, however, seem to signify an inevitable move towards extraction (McKay & Johnson, 2017), which raises concerns amongst some

Indigenous peoples. Participatory and community based monitoring is generally linked to more sustainable outcomes from resource extraction projects for Indigenous communities (Kioboe et al., 2005). **Indigenous Guardians** have a large role to play in the evaluation and implementation of projects, along with Elders and other knowledge holders (Courtois, key informant interview, September 2018).

Another approach used in several communities has been to **develop local indicators of health** which can help “small, remote, northern communities respond to and resist the social, economic, and cultural pressures associated with natural resource development” (Parlee, O’Neil, & Lutsel K’e Dene First Nation, 2007, p. 112). In our work in this area, Indigenous and other northern women have identified five domains of wellbeing (cultural, spiritual, mental and intellectual, physical, and emotional) that can enable or hinder their wellbeing, and that can be enhanced, but more likely disrupted, by the effects of resource extraction (FemNorthNet, 2018). Other researchers have used similar processes to determine Indigenous women’s priorities for planning for the effects of resource extraction on their communities (Rixen & Blangy, 2016).

## 10. KEY LESSONS AND CONCLUDING THOUGHTS

Based on an extensive review of academic and community literature, and seven key informant interviews with Indigenous women and allies across present-day Canada who have been actively involved in impact assessment processes, this report highlights a number of serious impacts of resource extraction on Indigenous women and their communities (these are detailed in our companion report; see Manning et al., 2018). We then describe key shortcomings with existing impact assessment processes. Because of the critical need to better understand, engage with, and centre Indigenous knowledges in the process, we then suggest four key tensions that hinder such meaningful engagement. We go on to offer three examples of past projects where there is some hopeful evidence of considering Indigenous women's experiences and voices. The last two sections of this report provide an overview of (Section 8), and details about (Section 9), guiding principles, key factors, and best practices that could better attend to Indigenous women's experiences with resource development and extraction, and better enable their contributions during impact assessments. The summary that follows focuses primarily on key lessons for moving forward, but also highlights persistent gaps in our knowledge; gaps that should be targeted for research investment.

### How to Ensure Impacts for Indigenous Women are Identified

A key lesson learned from this research is that impacts for Indigenous women are unlikely to be identified unless Indigenous women are involved in the impact assessment process. Ensuring that the scope of impact assessment is broad, inclusive of social impacts, and incorporates areas important to Indigenous women's lives, such as family and community wellbeing, is essential. Gender based analysis (GBA+) is an important tool for identifying gendered impacts from resource development projects. It should be mandated in all impact assessment processes. Indigenous women's organizations have proposed guidelines to guide culturally relevant GBA+. If adequately resourced, these organizations could be engaged by proponents and settler governments to do GBA+ research that inform the impact assessment process. In attempting to identify gendered impacts, proponents and settler governments must resist the tendency to homogenize and recognize the diversity among Indigenous women. Different women might experience the costs and benefits of resource development in different ways.

### How to Improve Indigenous Women's Engagement Across the Process

Recognizing that Indigenous women's voices are often missing from the impact assessment process and developing commitments to ensure their presence is an essential first step for both settler governments and proponents. Recognizing the potential diversities among Indigenous women and taking steps to ensure they can access the supports they might need to participate fully in impact assessment processes would likely have a positive effect in this area. Considering

changes to impact assessment procedures and approaches to make them less adversarial and intimidating would also likely allow more Indigenous women to feel more comfortable in participating. Ensuring adequate funding to participate, sufficient time to respond to government and proponent reports and requests, and facilitating capacity building in the area of impact assessment for Indigenous women and their organizations would all contribute to positive outcomes.

There are also several opportunities for improving Indigenous women's engagement in mitigation strategies, including by ensuring their participation in developing work-site training, policies, and procedures, and in informing proponents' corporate social responsibility programs. Indigenous women should also be actively involved in developing and implementing community monitoring of project impacts. It is worth noting that Indigenous women's engagement will come regardless of – if not in the form of meaningful collaboration, than in the form of resistance through protest and lawsuits. When mistakes are made and Indigenous women are forced to protect their knowledges, lands, families, and communities, proponents and governments can take notice and shift their practices accordingly.

### Key Gaps

Despite all the ways to improve the impact assessment process based on what we do know, our research also reveals many things that we don't know. The first is that there is a persistent gender gap in our knowledge. Without a requirement for GBA+ analysis in environmental impact assessments, relatively little notice has been paid to the gendered nature of experiences with resource development, as key informants and the literature review confirmed. As a result, there are significant gaps related to impacts on, responses of, and engagement by, Indigenous women in formal and informal processes related to responding to resource development. This is concerning given the range of consequences for women identified in the literature, and highlighted in the companion report to this one (Manning et al., 2018). The critical importance is clear of requiring GBA+ analysis to identify and more carefully attending to women's experiences in resource developments, and of paying greater attention to women's forms of engagement.

Significant differences in worldviews, experiences and practices between Indigenous Peoples and dominant Western thinking creates another key gap that demands attention. Formally recognizing Indigenous Knowledges is an important step, but guidelines for how to incorporate Indigenous Knowledges into Impact Agreement processes are desperately needed. Reconciliation can be achieved by mutual learning from, between, and across Indigenous and Western knowledge systems, without privileging Western knowledge or appropriating Indigenous knowledge (Levac, Baikie, Hanson, Stienstra, & Mucina, 2018). It will be important to recognize and respect the diversity of Indigenous approaches, the contribution of each specific knowledge and perspective, and seek out the import and unique knowledge held by

Indigenous women. Understanding what we know about linking Indigenous and western knowledges – with attention to gender and other dimensions of diversity – is an important first step in this regard (Levac et al., 2018). Changes are needed in the way impact assessment processes occur, including by using Indigenous-led assessments in communities, holding separate discussions with Indigenous women, and using methods familiar to the community. Further, upholding the principles of Free, Prior and Informed Consent raises important questions about how to ensure Indigenous Peoples’ rights to stop development projects when FPIC has not been obtained. It is important to recognize the principles of Free, Prior and Informed Consent, as well as the fact that resource development should not infringe on the rights of Indigenous Peoples to cultural, economic and political self-determination.

Another key gap is in the capacity for Indigenous women to engage in impact assessment processes. This report has pointed out a number of specific measures that could be taken to facilitate the engagement of Indigenous women. Financial support is at the top of the list, according to key informants. But they also emphasized that the gap is much deeper than the measures outlined in this report. Despite the significance of economic development projects for their current and future wellbeing, other things going on in Indigenous women’s lives create major barriers to their engagement, like missing and murdered female family and friends, the challenges of inadequate housing, non-potable water, community poverty, looking after family members and ongoing trauma from colonization.

The last, but not least, key gap is in follow through, to ensure that negative impacts for Indigenous women are addressed. Currently there is a gaping chasm between recommendations made by Assessment panels and their implementation. Impact Benefit Agreements are the main mechanism to share benefits from development but it is hard to evaluate them since the agreements are private, confidential, have no requirement for GBA+ or for Indigenous women leaders to be involved in the negotiations. As well, there are significant gaps in IBAs since they often neglect health and social considerations, focussing on employment and business opportunities which don’t benefit Indigenous women as much as men. Governments need to play a greater role in ensuring implementation of recommendations such as by setting conditions for proponents to meet for project approval, with a mechanism for oversight and enforcement.

### Final Thoughts

This is an important moment in time. The federal government has signaled its commitment to improving the work of impact assessments, and also its commitment to undertaking gender-based analysis (GBA+). At the same time, there are concerns about the extent to which the federal government will be able to honour – through the proposed *Impact Assessment Act* – its responsibility to obtain free, prior, and informed consent (FPIC) from Indigenous Peoples, as is its commitment through the United Nations Declaration on the Rights of Indigenous Peoples

(King & Pasternak, 2018). In this context, there is a tremendous opportunity to develop new and meaningful ways forward in impact assessments, that do honour FPIC, and that are attentive and responsive to the experiences of diverse Indigenous women. We are pleased to offer our findings and recommendations to these efforts.

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## APPENDIX I: BRIEF BIOS OF KEY INFORMANTS

### **Valérie Courtois, Director, Indigenous Leadership Initiative**

Valérie is a member of the Innu community of Mashteuiatsh, Québec and a registered professional forester. She specializes in Indigenous issues, forest ecology and ecosystem-based management and planning. For close to ten years, Valérie directed the Innu Nation forestry and guardian program, and later was a consultant to the Innu Nation for the Muskrat Falls Reservoir Clearing Project, a component of the Environmental Assessment for the Lower Churchill Hydroelectric Development Project.

### **Lema Ijtemaye, Manager of Socio-Economic Development, Pauktuutit Inuit Women of Canada**

Lema spoke on behalf of Pauktuutit Inuit Women of Canada, the national representative organization of Inuit women in Canada. Pauktuutit works to foster greater awareness of the needs of Inuit women, advocate for equality and social improvements, and encourage Inuit women's full participation in the community, regional and national life of Canada. They conducted the first gender-based study on the impact of the Meadowbank gold mine on Inuit women in Bake Laker, Nunavut. This laid the foundation for a new three-year research project which will address workplace sexual harassment and violence in the resource extraction industry as barriers to economic and labour force opportunities for Inuit women across the four Inuit regions of Canada

### **Gabriela Jiménez, Latin America Partnerships Coordinator, KAIROS**

Gabriela's work focuses on gendered impacts of resource development in Latin America, Canada, and the Philippines. KAIROS has worked closely with Indigenous women and organizations in Canada including Pauktuutit Inuit Women of Canada, First Nations Women Advocating Responsible Mining (FNWARM), and Quebec Native Women Inc. (QNW).

### **Anna Johnston, West Coast Environmental Law, Vancouver, British Columbia**

Anna has provided legal advice and representation to First Nations communities on the Site C hydroelectric project in BC and mining and natural gas development projects, as well as non-status First Nations on an environmental assessment of the Jack Pine mine expansion project in Alberta. She also sits on a multi-interest advisory committee which provides advice to the Canadian Environmental Assessment Agency on the environmental assessment review, and co-chairs the environmental planning and assessment caucus at the Canadian Environmental Network.

### **Beth Lorimer, Ecological Justice Coordinator, KAIROS**

KAIROS is a joint ecumenical program that advocates for social change and is administered by the United Church of Canada. Beth works on ecological justice issues and has been compiling

concerns and identifying weaknesses regarding the proposed federal impact assessment act on behalf of their members and partners.

### **Lorraine Whitman, President, Nova Scotia Native Women's Association**

Lorraine is a Glooscap First Nation Elder, and daughter to the late Chief Joseph Peters. She is a member of the Native Women's Association of Canada Board and works to increase capacity and funding for the NSWA. Lorraine has worked in a number of fields, but her interest has always been in health care and healing and she graduated from Grant McEwan College at the University of Alberta, as a rehabilitation practitioner.

### **Charlotte Wolfrey, Rigolet, Nunatsiavut**

Charlotte is a Nunatsiavut Beneficiary, and has been involved in a number of environmental assessments including the Canadian Forces Base Five Wing Goose Bay low level flying, Voisey's Bay mine and mill, and the Lower Churchill River hydroelectric generation project. She also gathered information for an offshore oil exploration environmental assessment led by the Canada - Newfoundland and Labrador Oil Petroleum Board. Charlotte is the Secretary-Treasurer for Pauktuutit Inuit Women of Canada.