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Graduate School of Public and International Affairs  
Supervisor: Sarah Morales

Assessing Value: A Comprehensive Study of Impact Benefit Agreements on Indigenous  
Communities of Canada

Drew Meerveld

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## **Abstract**

Impact Benefit Agreements are formal contracts between Aboriginal bands and private industry outlining the obligations of each party throughout the business relationship. This mechanism for negotiation settlement is principally characterized as having no federal/provincial/territorial involvement. While Impact Benefit Agreements date back over 40 years, recent economic and social developments have led to an increased prevalence in the use of this type of agreement by the Canadian extractive industry. The economic data suggests that these types of agreements are beneficial to communities. Conversely, the socio-cultural outcomes may be seen as predominately negative. This is especially true for women as often marginalized actors within Aboriginal communities. Understanding the relative weight of each factor is underlain with considerations of sovereignty and the Canadian government's duty to protect. Policymakers have a responsibility to create a negotiating environment which empowers the Aboriginal actors while allowing them the agency to develop in an autonomous manner.

## **Introduction**

Economic and social development of Canada's north have long proved elusive to governing authorities. In the face of logistical challenges associated with physical geography, isolated communities struggle with poverty-induced social ills. Far from simple, responses must demonstrate equal parts pragmatism and respect for autonomy. At the foundation of any such response lies a painful colonial legacy. Government relations with Indigenous groups are defined by this past. But recent decades have seen the emergence of new response. As the thirst for Canada's subsurface natural resources grows on the world market, these seemingly forgotten communities find themselves at the centre of the business development discussion once again. Extractive industry firms are eager to make physical and cultural inroads despite the contentious legal apparatus by which these communities are surrounded. Impact Benefit Agreements (IBA) have emerged as the standard practice in such negotiations. These agreements offer a hopeful new chapter in the narrative of the north. Yet, little is known about the long-term effects of these contracts or the extent to which they benefit different segments of the stakeholder populace. Foremost among them are Indigenous women. Despite continued examples of leadership and strength, the broader demographic remains vulnerable.

In this context, the following study will seek to do four things. First, survey the history of Impact Benefit Agreements in Canada. Second, outline the current economic and social situation for Indigenous people in Canada. Third, examine the direct and indirect impact IBAs have on this demographic, including economic and socio-cultural implications. Finally, present basic recommendations for policy makers within the context of these findings. In doing so, we will see that IBAs have considerable effects on Indigenous peoples, specifically women, in Canada. Confronting these issues means wrestling with broader questions of sovereignty, duty to protect, and the trade-offs between quality of life and way of life. Given the immense opportunity natural resource extraction offers in the future and the painful legacy of atrocities committed against Indigenous people in the past, the emerging field of IBA negotiation is deserving of unique considerations.

## **Topic and Methodology Justification**

Impact Benefit Agreements are formal contracts between bands and private industry outlining the obligations of each party throughout the business relationship. Through the inclusion of an IBA clause, the crown cedes responsibility to the Aboriginal authority for engagement with a prospective enterprise. A justification for the study of IBA development in the extractive industry is predicated on the increasing relevance of both this mode of agreement and the broader resource sector. More specific than simple land claim agreements, IBAs are worthy of specific attention because they represent an increasingly accepted means of conducting business in which more general trends of increased business/band autonomy is permitted. While IBAs exist in many contexts, the discussion in this paper will be limited to the extractive industry.

Resource extraction, by nature of its environmentally degradative effects and large revenue streams, represent unique challenges worthy of study. The renewed relevance of Canada's north is a product of the revenue-generating possibilities it now represents.

The intersection of these themes within the context of Aboriginal women's development presents a unique lens. Aboriginal women represent both the fastest growing and one of the most marginalized demographics in Canadian society. The hopes for quality of life improvements resulting from IBA agreements cannot be realized without the empowerment of these women. Therefore, understanding the way in which they are impacted by IBAs presents an essential component of future Aboriginal welfare as a whole.

The following discourse will review the historical and legal context of IBAs before examining its typical composition in present form. Next, it will seek to broadly illuminate the current state of Aboriginal peoples in Canada. Having established the foundational elements necessary for an evaluation of these agreements, analysis will be divided into two distinct components. First, we will examine the economic implications of such agreements on communities and women as a distinct demographic. These include pragmatic concerns such as compensatory distribution, community health, income levels and infrastructure development. Next, we evaluate the broader socio-cultural impacts. These include philosophical questions about Aboriginal relationships with the land, the evolution of cultural, and societal embeddedness within western capitalism. Finally, we will use these findings to develop policy considerations and recommendations for the use of IBAs in the future.

In western academic literature, the philosophical and pragmatic are often assigned distinct realms of examination. The compartmentalization of perspectives is itself a distinctly un-Indigenous worldview. If our goal is to evaluate the merits of these agreements from the perspective of the ones most affected by them, we must be willing to adopt the lens through which they see the world. A holistic approach which simultaneously regards Aboriginal peoples as both citizens of a modern economy and adherents to a conception of the world distinct unique from western values is important. The challenge in evaluating the modern IBA stems from the importance of giving voice to both perspectives. Despite a vogue for value-based reconciliation between these two world views, in reality they are often mutually exclusive and zero-sum in their totality. Therefore, using both quantitative and qualitative data as complementary, economic and socio-cultural considerations have been included as the basis for the evaluation of IBAs.

## **Language**

There exists significant debate as to the most culturally sensitive title to assign the groups of people which lived here prior to European colonization. Far from semantics, titles can shape identity and the way we think about individuals and groups. Researchers of yesteryear have come a long way since the days of measuring the

amount of millet seed various skulls could hold as a way to compare mental capacity of groups native to North America (Smith 1996). Nevertheless there is still a tendency to portray groups as 'the other'.

A whole host of titles ranging from First Nations to Fourth World Peoples have been used in academic literature and the common vernacular alike. For this paper, I have chosen to use the title of "Indigenous peoples" and "Aboriginal peoples". These choices warrant some justification. The former term emerged out of the 1970 American Indian Brotherhood Movement and acknowledges the shared hardships endured by the colonized people of many countries (Smith 1996). It asserts priority of ownership by nature of longstanding oneness with the surroundings. The latter term, represents the most widely used reference in Canadian scholarly literature. Lastly, choosing the term *Peoples* over *People* recognizes that there is an individuality of culture between bands and nations.

Another important distinction to be made is found within gender labels. Too often in academic history has the title of Indigenous "female/male" been given priority over "man/women". Such linguistic mechanisms subliminally distance the reader from the humanness of Indigenous experience. By dehumanizing the subject we desensitize the reader and enter a dangerous place where research neglects human experience. Undoubtedly there are significant worldview differences between (and within) those of European dissent and Indigenous Peoples. Only when we recognize the common humanity that exists between groups can we appreciate the beauty that is inherent within their differences.

## **Legal and Historical Context of Land Claims and IBAs**

Enhancing our understanding of the historical and legal context of IBAs serves a necessary basis for further topical discussion. These agreements exist in three related but notably distinct categories:

First, IBAs are featured in the broader context of comprehensive land claims. Comprehensive land claims seek to establish treaties for previously unaddressed claims to land from Aboriginal groups. Since their inception in 1975, there have been 26 completed land claims established. Each claim includes details of land ownership title (both surface and subsurface) and the degree of Aboriginal autonomy in governmental, social and economic regulation. These agreements include clauses stipulating the circumstances under which IBAs should be negotiated.

Second, IBAs are increasingly common in instances where grievances exist stemming from historic treaties. Treaties signed with the crown in the 19<sup>th</sup> and early 20<sup>th</sup> century have come under increasing scrutiny in recent decades. They are criticized for being both unfair and unrepresentative of verbal negotiations. This social development has been coupled with legal precedents. Section 35 of Canada's 1982 Constitution Act was first to acknowledge a unique set of existing rights for First Nations, Inuit and Metis

peoples *sui generis* - as a distinctive class (Constitution Act 1982). Together, these developments have broadened federal/ jurisdictional consultation and compensation beyond contractual obligation. IBAs represent one such way a government may choose to recognize the local rights to an area.

Finally, IBAs can be formed even in the absence of existing treaties. Recent legal history has underscored the Canadian government's special duty of care owed to Aboriginal peoples. The 1990 *R. v Sparrow* clarified Aboriginal constitutional rights as deserving of consultation and fair compensation in the event of government expropriation (Sparrow 1990). It also stated that Indigenous peoples have a right to natural resources for subsistence. The subsequent 1997 *Delgamuukw v BC* outlined Indigenous land title and articulated land use negotiations as requiring dialogue "in good faith" generally exceeding "mere consultations" (Delgamuukw 1997). While there remains substantial ambiguity about what these consultations entail, it is accepted that the level of accommodation given should be proportional to the impact experienced by the land claimant, regardless of land claim negotiation status. However, Indigenous land treaty rights are not synonymous with absolute ownership. Much debate still surrounds the ownership of subsurface resources, particularly in instances where extraction threatens traditional land use activities.

The duty to consult has historically been the responsibility of government. However recent trends of neo-liberalization in the area of northern development are obvious (Cameron & Levitan, 2014). We will further examine the ramifications of this trend on community cultural development later. For now it is sufficient to submit that, in instances of prospective development, the government has increasingly reduced its involvement. Impact Benefit Agreements exclusively between extractive industry firms and local bands now represent jurisdictional fulfilment of fiduciary duty through consultation. While there is no legal basis for IBAs as a substitution for government consultation, it remains a widely accepted alternative provided the developer makes "all reasonable efforts" to consult (Aboriginal Consultation 2011). Failure to do so can result in the stoppage and revocation of development permits as seen in *Taku River Tlingit v BC* (Gibson & O'Faircheallaigh 2010).

This new trend has spawned 63 IBAs in various stages of development (NRCAN 2015). The rise of these agreements has been met with much positivity. Broadly speaking, it is part of a greater movement towards respect for Indigenous land claim rights (O'Faircheallaigh 2013). In a sphere wrought with a painful colonial past of paternalism through interventionism, IBAs provide a previously unseen level of self-determination. More specifically, they provide a host of benefits ranging from social programming to economic stimulus. We will examine the characteristics of these agreements now.

## Typical Features of IBAs

While no two Impact Benefit Agreements adhere to identical same shape or form, there are six areas of provision; labour, economic development, community, environmental, financial and commercial (Sosa and Keenan 2001). While accessing any single IBA is prohibited due to contractual confidentiality examples within each category may include but are not limited to the following:

- *Labour Provisions* ensure employment accessibility for the local Indigenous population through preferential hiring, Indigenous staffing quotas, and seniority in the event of layoffs.
- *Economic Development Provisions* fosters the relationship between local indigenous-owned enterprises and the extractive firm. This includes engaging with local entrepreneurs to meet the supply needs of mine through priority bidding.
- *Community Wellbeing Provisions* can be assisted through capacity building programs. These include addressing societal ills through education, social programming and physical infrastructure. Such programs also include cultural recognition efforts enacted through work-site language protection and local dietary provisions for Indigenous workers.
- *Environmental Provisions* may be decided on in concert with Environmental Impact Assessment (EIA) results. Monitoring committees can be established to oversee environmental commitments and contractual obligations.
- *Financial Provisions* determine the timeline, amount and specific means of compensation for stakeholders. Community payments, individual claims, and demographic specific trust funds represent common examples.
- *Commercial Arrangements Provisions* include legal and logistical provisions such as dispute resolution, confidentiality and long-term community obligations.

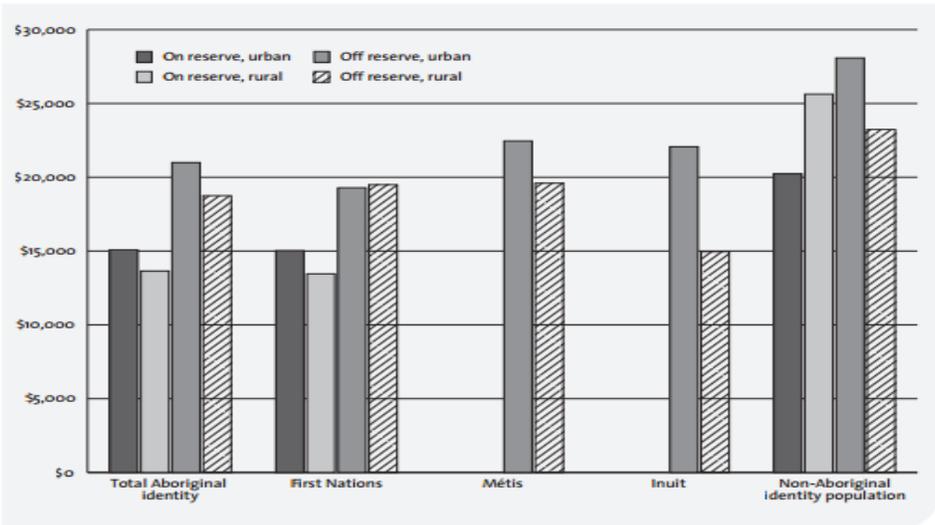
While the examples stated here are not exhaustive, they represent many of the ways in which IBAs can benefit the community. It should, however, be noted that the benefits accrued by such an agreement do not always meet the expectations set out in the contract. There exists significant space for interpretation, corporation-based exit clauses, and unforeseen community impacts. Therefore, the benefits of IBA contracts require scrutiny on a number of different levels.

**Current Realities: Indigenous Peoples in Canada**

Having outlined the legal environment in which IBAs are typically formed, we may now move our examination to the broader socio-economic landscape of Indigenous peoples in Canada. Understanding the relative disadvantages which exist serves as an important foundation to further discussion evaluating the impact of IBAs of Indigenous life. Given that most IBAs are applicable to rural reserve settings, we will focus our discussion on these key segments.<sup>1</sup>

Indigenous people represent the fastest growing segment of Canadian society. According to the 2011 National Housing Survey, 697 510 people declared Aboriginal status. This 4.3% of the population marks a dramatic increase from 2.3% calculated for the 1996 survey. Almost half of these individuals (324 780) live on reserves. For working age Indigenous peoples (25-60) the general employment rate for those living on reserves is 51.9 % compared to 65.8% off reserve and 81.6% of the broader Canadian population. The median income for on-reserve Aboriginal peoples is just over \$14 000 compared to \$33 000 by the average Canadian. It is worth noting that the income figure varies greatly between Aboriginal status and location as seen below in Figure 1 (Wilson and Macdonald 2014). Within the urban Aboriginal population there have been improvements in closing the existing gap with the Canadian society (Cingano 2014). Conversely, the march towards income equality between on-reserve Aboriginal peoples and the general Canadian public has shown virtually no progress over the last two decades (AANSI 2013).

**Figure 1:  
Median Income by Aboriginal Identity and Reserve Status (2006)**



Source: Wilson and Macdonald 2014

<sup>1</sup> All figures are drawn from Statistics Canada 2011 unless otherwise noted.

In 2015 Indigenous and Northern Affairs Canada had a budget of \$8.2 billion for Aboriginal spending. 70% of this budget was allocated for education, social assistance, community development and infrastructure (AANSI 2015). These funds are targeted at addressing some of the dire needs existing for those living on reserves. On-reserve income assistance dependency rates are 33.6%. Houses deemed in need of major repairs total 42.5% with 20% of Indigenous people deemed in need of additional housing. 32% of Aboriginal peoples have not completed high school compared to only 14% of the rest of the Canadian population. Similarly only 8% of Aboriginal men have a university degree. As we shall see the numbers are more promising for women.

The Community Well Being Index (CWB) seeks to incorporate the aforementioned criteria into a broader measurement with the intent of developing a holistic comparison. The index takes into account four criteria; income, housing, labour market involvement and education. While the measurement is imperfect, its results are nonetheless telling. According to the 2011 National Household Survey, the 644 Indigenous communities averaged a 24% lower index score than 3784 Non-Aboriginal communities. We will return to the topic of CWB in greater detail when evaluating the economic effect IBAs have on communities.

These large disparities have led some to question the way in which figures are tabulated. On-reserve residency can hold substantial benefits. Harvested meat, produce and wood burning capacity as a source of heat add to the economic wellbeing of many bands, but are largely unquantifiable. However, environmental degradation and increased costs associated with goods consumption beyond food and warmth necessities exacerbate the problems of income inequality within the subsistence lifestyle of these communities.

Negative economic determinants caused by spatial factors are evident in daily life. For many on-reserve Indigenous peoples these include challenging transportation logistics and climatic realities. Both factors increase cost of living expenses, limit agricultural productivity and limit connectivity with major markets. However, locational disadvantages for on-reserve Aboriginal people are not the sole basis for their income inequality. Rural non-Aboriginals Canadians earn \$4492 more than rural on-reserve Aboriginals and \$2250 more than urban Aboriginals (Wilson and Macdonald 2014). Therefore the answer to solving the question of income disparity between on reserve Aboriginals and the rest of Canada exists outside of exclusively locational considerations.

The argument that there is something inherently detrimental to earning income while living on-reserve seems to be false. Although there exist many social issues on-reserve, the earning capacity potential is not drastically reduced simply by working there. Non-Aboriginals working on reserves earn twice as much as Aboriginals in the same locations.

## **Current Realities: Indigenous Women in Canada**

Statistics would suggest that Aboriginal women are marginalized participants within the context of their own community and the broader Canadian landscape. Despite a diverse set of cultural practices and community roles throughout Canada, identifying the general social and economic realities is important in adopting a gender based lens to evaluate the impact of IBAs. At present, on-reserve Aboriginal women have a 20.6% unemployment rate and median income of \$12,466. Education gaps are evident with only 59% Indigenous women who hold post-secondary education compared to 77% of non-Indigenous women (Statistics Canada 2006). These inequalities reflect a low Community Well Being standard which exists across Indigenous communities.

Occupational responsibilities for women in isolated communities are typically complex. They include professional occupations, along with childrearing and agricultural activities. The percentage of teenage and single mothers is substantially above the Canadian average. Family size is also larger with four or more caregivers commonly reported (National Household Survey 2011).

Indigenous women experience employment levels and educational attainment figures which exceed their male counterparts at the high school, college and university level (Wilson & McDonald 2013). Despite this, they face a disproportionate amount of poverty, health and safety concerns (Adelson, 2005). They are four times as likely to experience violence as non-Aboriginal women and the severity of this abuse is more likely to be extreme in nature (Brownridge, 2008). Finally, they are significantly more susceptible to physical abuse and psychological distress as the result of substance abuse (Jacobs & Gill 2002).

## **Economic Implications of IBAs: Existing Studies**

As described in the introduction, IBAs are often part of larger self-governing treaties. These “modern” treaties first emerged within the Canadian context during the 1970s. Prior to their formulation, Aboriginal bands land rights were often unclear in a variety of respects. This included questions about governance autonomy, land use rights and, of particular interest to this analysis, rights to subsurface resources. The impacts of these modern treaties have been the focus of significant analysis in recent years. Studies by Pendakur & Pendakur (2015), Aragon (2015) and Beauregard and Flanagan (2014) each seek to identify the benefit of government granted autonomy.

In *The Effect of First Nations Modern Treaties of Local Income*, Fernando Aragon (Aragon 2015) evaluates the effects of modern treaties which give greater (though not total autonomy) to Aboriginal groups. Canada has 22 self-government agreements involving 36 communities across the country. He finds that since their respective signings, modern treaty agreements have increased real income in participating Indigenous communities by 17% since 1991. Given the large numbers of systematic differences between treaty and non-treaty (or historic treaty) bands, Aragon refrains from directly comparing the two. Instead the study compares the performance of groups

before and after, against those who have yet to sign an agreement. This 17% increase represents a \$3000 yearly supplement. Additionally, treaty signing bands are less dependent upon government transfer payments for their income.

The effect of treaty implementation specific to the mining sector is even greater. Workers in the mining industry experience a 41.2% increase in income. Aragon hypothesizes that such a substantial increase is largely owed to the reduction of transaction costs associated with the development of extractive industries. Costs such as the legal obligation to consult and jurisdictional disputes between Aboriginal, federal and provincial governments present large obstacles in the absence of modern treaty agreements. More broadly, the number of mines has increased greatly (Figure 2). This is due to an expedited negotiation process and increased incentive for Aboriginal bands able to accrue greater benefits.

**Figure 2: Average Number of Mining Agreements in Treaty and Non-Treaty Bands**



Source: Aragon 2015

In *An Analysis of the Socio-Economic Outcomes of Aboriginal Peoples Living in Communities Associated with Self-Government Agreements, 1991-2011* Pendakur and Pendakur (2015) offer a more rigorous analysis of the impact various types agreements have on quality of life outcomes. Of particular interest are results stemming from Comprehensive Land Claims (CLCA) and Self-Governing Agreements (SGA). As outlined in Legal Context above, the majority of CLCAs and SGAs feature a contractual demand by the government that IBAs be used as a negotiation mechanism between band and extractive industry. The study yields many positive findings. SGAs and CLCAs increased Community Well Being scores by three and four points respectively. However, this benefit may not be equally shared by all. While CLCAs led to a 44% increase in Aboriginal female income, SLAs had no discernable impact. A useful observation may be that IBAs play a crucial role in economic benefit but unless they are

surrounded by complementary policy supports there is a potential for unequal dispersion of wealth.

In the Centre for Aboriginal Policy Studies' *Wealth of First Nations*, Beauregard and Flanagan (2014) analyze the extent to which property rights and autonomy impact Community Well Being. Given that property rights and autonomy comprise two key features of any IBA, understanding its impacts are useful. In addition to treaty signing the authors use three other factors as indicative of autonomy: Certificate of possession (*can an individual own land?*), on-reserve taxation (*does the governing authority have the ability to generate independent tax revenue?*) and level of financial management assistance (*does the governing authority have the skills based capacity to administer these programs?*).

The study measured 463 reserves and found that each of the aforementioned variables was correlated with a higher CWB even after controlling for cultural background and the remoteness of location. Questions persist about the direction of causation. Do good governance and property rights lead to a higher level of wellbeing or does a higher level of wellbeing lead to better governance and property rights? Despite these uncertainties, there remains value for the scholar studying IBAs which reinforces the findings of previous studies; greater autonomy is correlated with greater prosperity.

Each of these studies adds a unique layer of understanding to the trends of autonomy and self-governance. IBAs represent a major component of this emerging trend. However, as seen in Pendakur and Pendakur's work, there are other factors policy mechanisms at work in each of these studies which renders the effectiveness of our IBA specific analysis limited.

### **Economic Implications of IBAs: A Focused Lens**

Given the importance of this field and the limited research conducted, there is value in conducting new research using already existing data. In response to this need, the author conducted analysis which is specific to IBA participating communities. The data collected in the following pages, is the first attempt to measure differential advantages, through CWB index statistics, accrued by IBA specific communities above the non-IBA participating communities.

There are some obvious limitations with this approach. First, IBAs are relatively new phenomena with the some of the benefits and costs taking years and even generations to become visible. Investment in education, a common component of many IBAs, is a good example of this. Second, the sample does not control for already existing differences between local communities. It is possible that the communities who have the capacity to negotiate an IBA are already better off. A higher CWB score may have been achieved regardless of contract outcome. Finally, CWB indices feature limitations by nature of their simplicity. Four measurements are insufficient to capture the quality of an individual's life. More importantly, census subdivisions are not always divided along reserve lines. This dilutes the data by occasionally capturing non-

Aboriginal inhabitants. Despite these concerns, the following data analysis provides us with a useful baseline by filtering results in a unique fashion. Nevertheless examining each category will serve as a useful basis for developing preliminary hypothesis and further research.

While contractual details of IBAs are confidential, the list of benefitting parties are publicly available. As of 2013 there were 42 IBAs in Canada. These agreements are often found to have multiple community beneficiaries. Likewise, a community may be signatories for multiple IBAs. For instance, the northern Quebec community of Uashat is featured in four different IBAs with two different companies. As a result, 63 communities are identified as receiving some compensation from extractive firms. Of these communities 9 have a global non-response rate of 50% or greater and have therefore been excluded from analysis.

The 54 remaining communities yielded some interesting results against the national averages. The disparity between Aboriginal communities and non-Aboriginal communities have been well documented. Non-Aboriginal Canadian communities have an average CWB of 79 while Aboriginal communities have a mean of 59. For obvious reasons then, our analysis compares the 654 Aboriginal communities to the 63 Aboriginal communities receiving IBA benefits less the nine communities with insufficient data.

The characteristics of these communities compared to the larger set of Aboriginal communities are fascinating. T-tests were conducted on each of the five categories listed below. All relationships were determined to be statistically significant up to a confidence interval of 95%. In the area of income, the score is defined in terms of total income per capita, using a logarithm to give greater weight to account for the diminishing marginal utility of wealth accumulation. Aboriginal IBA communities demonstrated a 13.7 point improvement over Aboriginal communities at large. The spread between these communities and the average Canadian community was reduced to single digits. The success of IBAs in raising a community's income may be partially expected due to the influx of income in a given area. This result should not be taken for granted. Mines are often hundreds of kilometers from any communities. In many cases, 'foreign' mine workers have very little affiliation with the reserve which the IBA benefits. Therefore, while the data may be partially skewed as a result of non-aboriginal people living in a given census area, the existence of the agreement is nevertheless producing positive results for Indigenous inhabitants.

**Figure 3: CWB Income Comparison**

Community Type	Aboriginal IBA	Aboriginal
Income	73.9	60.2
Standard Deviation	12.9	13.58
Sample Size	54	644
Confidence interval	73.9 +/- 3.521	60.2 +/- 1.051

p-value	> 0.001
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More surprising than income disparities are that of educational attainment levels. The education component of the CWB index includes two elements. The first and most significant element is high school certification. The second element relates to having a university degree (bachelor's degree). Education overall scores will tend to be low because only a minority of the adult population has a university degree in Canada. Given that IBAs prevalence is a relatively new phenomenon, it is somewhat surprising that the average score is almost five points higher than Aboriginal communities without an IBA. Again, the influx of non-Aboriginal on-reserve workers undoubtedly contributes to this improvement. Nonetheless a community with better education facilities and readily available local jobs upon graduation incentivizes prospective workers.

**Figure 4: CWB Education Comparison**

Community Type	Aboriginal IBA	Aboriginal
Education	40.8	36.1
Standard Deviation	11.7	12.86
Sample Size	54	644
Confidence interval	40.8 +/- 3.193	36.1 +/- 0.995
p-value	0.00651	

The housing results mirror aforementioned education findings with just under a five point improvement. The housing component comprises indicators of housing quantity and quality. Housing quantity is defined as the proportion of the population living in dwellings that contain no more than one person per room. Housing quality is defined as the proportion of the population living in dwellings that are not in need of major repairs. As housing shortages represent one of the most of oft-cited social issues in Aboriginal communities, any improvements are noteworthy. Many have posited that the lack of shelter contributes to a decreased sense of security and independence from which other social ills begin to emerge.

**Figure 5: CWB Housing Comparison**

Community Type	Aboriginal IBA	Aboriginal
Housing	74.9	70.7
Standard Deviation	12.4	14.95
Sample Size	54	644
Confidence interval	74.9 +/- 3.385	70.7 +/- 1.157
p-value	0.0217	

Labour Force Activity, like income, yields expected yet exciting results. Labour force participation is calculated by determining the proportion of the population, aged

20-65, that was involved in the labour force in both the week and day prior to census collection. This shows us that, more than just income, Aboriginal communities with IBA agreements have a substantially larger portion of their population engaging in meaningful, fulltime labour.

**Figure 6: CWB Labour Force Activity Comparison**

Community Type	Aboriginal IBA	Aboriginal
Labour Force Activity	76	68.8
Standard Deviation	7.9	10.08
Sample Size	54	644
Confidence interval	76 +/- 2.156	68.8 +/- 1.146
p-value	> 0.001	

The improvement in every one of these categories for Aboriginal groups with IBAs is telling. Even when acknowledging the limitations of CWB data collection, there remains an obvious benefit for those participating in these agreements indicated by a 12.7% increase in average scores. While the results fall short of the Canadian average, one could plausibly hypothesize that the gap will continue to close. Most of the IBAs listed here are less than a decade old with resource body life often expected to be greater than 50 years.

**Figure 7: CWB Overall Comparison**

<i>Community Type</i>	Aboriginal IBA	Aboriginal
CWB	66.5	59
Standard Deviation	8.5	10.4
Sample Size	54	644
Confidence interval (95% confidence)	66.5 +/- 2.32	59 +/- 0.805
p-value	> 0.001	

These figures are even more encouraging when one considers anecdotal testimonies of success. The Osoyoos band in southern British Columbia was an impoverished First Nation in the 1980s. Thanks in large part to an IBA, the band was declared self-sufficient in 2005 and posted a 2.6 million dollar profit in 2013 (Macdonald 2014). Similarly, the Qikiqtani Inuit Association is reaping the royalties from its Mary Bay Iron mine as outlined in its IBA. In 2014 the association posted a surplus of 18.7 million dollars and larger figures are expected in the years to come (Qikiqtani 2015).

The economic upside to these agreements is undeniable. Furthermore, the rationale behind the use of these metrics seems almost second nature. These are not

the only ways to conduct a cost benefit analysis. Before we identify other critical lenses, we must ask 'how did we arrive here?'

### **The Influence of Social Undercurrents: Neoliberalism**

When evaluating the merit of IBAs, one needs to recognize the external influences which shape our value judgements. Surface-level movements towards greater respect for culture are dwarfed by larger social undercurrents. Foremost among these is Neoliberalism.

As with any theoretical language there exists some ambiguity surrounding particular definitions. Nonetheless, the process involves the “policies and practices which seek to extend the market mechanism into areas of community previously organized and governed in different ways” (Bargh 2007). Much larger than a single political orthodoxy it is the underlying shift in beliefs harkening back to Smith’s notion that what is good for the baker is also good for the butcher. As Povinelli states “Neoliberals do not merely argue that the market should be left alone. They argue that the market should be the general measure of all social activities” (Povinelli 2010).

Implicit in the neoliberal view, are a number of assumptions. First, there is an inherent pureness in the free market. Second, the betterment of the individual is the chief focus. Finally, determining what constitutes the aims of such betterment can be calculated numerically. These range from crude GDP calculations to broader quality of life statistics.

Applying such a view to Aboriginal policy is convenient for politicians and well received by the public. It “empowers” the Aboriginal peoples by both giving them autonomy and integrating them into the “real economy”. For previously stagnant, isolated communities, IBA mining negotiations using this approach are seen as the “perfect panacea for development” (Howett 2011). Governments turn the social and physical infrastructure development responsibilities over to extractive industry firms, and the band is left to negotiate the terms and conditions. As we shall see, these decisions to utilize the corporation as a provider of social services have real implications.

To this point we have discussed a number of economic considerations, which favourably reflect the changes an IBA can produce. However, less quantifiable considerations remain important in evaluating the strengths and weakness of this business framework. These include understanding the costs and benefits through the lens of community impact, cultural integrity and gender. We now turn our attention to these considerations.

### **Alternative Considerations: The Economic Cost**

The increasingly frequent use of IBAs represents a broader movement towards neoliberalist approaches in the area of governmental involvement (Cameron & Levitan 2014). The federal and provincial jurisdictions’ willingness to cede control to Indigenous

governments in extraction negotiation has been met with significant support. Such a move seemingly signals greater autonomy and a less paternalistic strategy. The appropriate level of optimism is less clear. Having previously examined the composition and positive clauses of an IBA, a discussion of the potentially negative externalities of these agreements is required.

### *Social Supports*

Section 91(24) of the Constitution Act, 1867 (Constitution Act 1867) outlines the provision of protection and welfare for Indigenous peoples. Given the relative infancy of IBAs it remains to be seen if the provision of welfare provided by companies is simply augmenting or entirely replacing government social services. Issues of provision notwithstanding, the responsibility to protect Indigenous peoples has been significantly compromised (Cameron & Levitan 2014).

Historically, the assumption has been that welfare payments restricted local autonomy and acted as a barrier to individual independence. When private enterprise assumes this role it is viewed as a more 'natural' progression originating from the purity of the market. In such situations an impoverished Aboriginal community may end up no better off. The reality is they have received an influx of private cash while losing access to government funds (O'Faircheallaigh 2004).

### *Legal Supports*

The majority of IBAs contain a confidentiality clause for all external parties. Insisted on by companies, these clauses only benefit local bands in their ability to conceal additional remunerations and thus reduce government claw backs<sup>2</sup>. If the government is unable to see the contents of the agreement, they are unable to guarantee their constitutionally bound role as protector. Small bands with relatively little experience in the process of negotiation are vulnerable to corporate exploitation. Once signed, such clauses significantly limit the power of bands in two ways. First, no formal engagement in the legal process is permitted by outside parties. Second, the ability to appeal to the public for support on matters of injustice is paralyzed (Gibson & O'Faircheallaigh 2010).

### *Environmental Supports*

Present legislation asserts the need for Environmental Impact Assessments (EIA) prior to the commencement of any major mining operation in Canada. Components of EIA are often included in IBAs and represent a related institution in the bargaining process. While public participation and stakeholder involvement is common,

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<sup>2</sup> The Northwest Territories residents of Ekati mine spent over 10 years in court following their 1991 IBA agreement with BHP to address the issues of government claw backs on benefits received. Eventually a settlement was reached which limited "gifts" between industry and band to \$1200 per person. Governmental limitations on benefits increases the inclination for aboriginals to sign confidentiality clauses. (Cameron & Levitan 2014)

issues of concern persist. Presently, there are only limited requirements for the scope of EIAs beyond a duty to complete. This has led many to question the value of a report where procedure is emphasized over content (Cole et al. 2004). Efforts to standardize requirements for EIAs have been fiercely resisted by mining associations on the grounds that each situation warrants unique consideration. Another concern is Indigenous peoples' lack of involvement which Ritter (2000) posits can more accurately be labeled as "pseudo participation". While best practices suggest corporations maintain an Indigenous community member quota, there is skepticism about the extent to which their worldview is considered. Finally, provincial and territorial funding is not provided to these communities as a means to conduct independent assessments (Hipwell et al. 2002). Given that Indigenous knowledge of the local land is extensive, the inability to meaningfully contribute can lead to issues of decreased esteem (O'Farchaellaigh 2013).

Another aspect of the unequal power dynamic between companies and local bands is evident in the time horizon of utility in an area. The duration of a typical resource body is between 15-50 years and is only relevant to the company above a given price. Conversely, those who live in the community beyond the mineral body's life are left to deal with the long term ramifications. According to Bradbury's Dependency theory, Canadian firms construct mines at a specific price point and show no hesitation to leave in the event of profit losses (Bradbury 1980). This imbalance of power between community and firm is further exacerbated when limited labour development is exchanged for high value resources (O'Fairchealliegh 2013).

### *Human Resource Supports*

Human capital plays a crucial role in the economic considerations of any mining development. Local staffing initiatives represent good corporate social responsibility practices by firms. As previously discussed, these practices are further encouraged by staffing ratios articulated in the community/firm contracts. Yet, the opportunity cost of this approach is the most highly skilled workers are no longer available for their previous job. Often this includes some form of local governance or capacity building. Over the last decade, this issue became apparent at least twice. The Northwest Territory Reserve of Lutsel k'e lost a number of their local governance employees to the De Beers diamond mine over the course of a few years. Similarly, Selkirk First Nation had a large scale immediate departure when people left for the nearby Minto mine.

The destruction of land is not only costly at the level of economic exchange but also identity. Much of Indigenous discourse identifies interconnectedness of community with the land on which it resides. If identity is inherently tied to an area, then the degradation of that region may simultaneously destroy a sense of self. Marxist literature builds on these threats to culture. It posits that whole Indigenous communities now function within the context of a capitalist system (Taussig 1980). Agreements mean that wages embed workers in capitalist system abruptly and leave them poorly situated for success. The rapidity of these changing economic arrangements presents severe changes in the cultural integrity of a group. We will now explore this aspect more closely.

## Alternative Considerations: The Cultural Cost

To this point in our examination of IBAs, we have taken some form of Aboriginal title as the foundational building block on which all other considerations are predicated. Questions of ownership are fundamentally imbedded into our understanding of relationships. The extent to which Aboriginal Peoples can seek remuneration is tied to their ability to demonstrate historical ownership. Under this pretext, property is contingent on the existence of both a subject and an object. Eurocentric preoccupation with Man's dominion over the land is as old as the Genesis text on which it is based.

The problem with this view it is fundamentally different than traditional Indigenous conceptions of relationships to the land. Land is not just a commercial asset, it is a cultural asset (Howlett 2011). This understanding can best be described as a "complex web of reciprocal relations and obligations with the land and the animals upon it" (Nadasdy 2002) in which humans "belong to the land" (Akiwenzie-Damm 1996). Often categorized as animistic beliefs, this holistic worldview anthropomorphizes all objects and develops a relationship with them (Sapiens 2014). Land, sea, knowledge, laws, relationship and reverence for ancestors are all viewed as a single entity. To damage a site is to harm people and their relations (O'Faircheallaigh 2008). While there is diversity in beliefs among Indigenous groups, fundamental themes of reciprocity and interconnectedness remain pervasive. (Poonwassie & Charter 2001). This holistic view of land can be best understood through a firsthand account:

*Indigenous people may talk about country in the same way they would talk about a person: they speak to country, sing to country, visit country, worry about country, feel sorry for country, and long for country. People say that country knows, hears, smells, takes notice, takes care, is sorry or happy ... country is a living entity with a yesterday, today and tomorrow, with a consciousness, and a will towards life. Because of this richness, country is home, and peace; nourishment for body, mind and spirit; heart's ease.*  
(Rose 1996)

Despite greater mainstream understanding of Indigenous social organization, attempts to acknowledge the diametric trajectories between Western and Indigenous views of the land have largely fallen short (Ermine 1995). In decades past, pervasive Western opinion judged Indigenous Peoples' inability to develop property rights as a primitive stage of the continuum of modernization. While it is true that individualized claims to tracts of land did not exist, broadly defined communal concepts of ownership were present. The early 20<sup>th</sup> century anthropologist, Frank Speck, sought to demonstrate these nuanced complexities to a largely inattentive western audience. Following in the tradition of their ancestors, Speck believed the Algonquin people had an understanding that:

*“as [the] population [of hunters to an area] grows, and, in addition remains in the new area , increased band concern with the new territory and its wild denizens will take place. The band will grow ever more conscious of its dependence on a particular area and food supply... intrusion of new people will be resented.” (Nadasdy 2000)*

Speck observed the Algonquin’s tacit awareness of the lands finite capacity. The illustration is telling in its ability to demonstrate the larger Indigenous worldview. Despite the absence of clearly defined borders, there is nonetheless a general understanding of social engagement with the “other” on issues of territorial incursions. This interpretation provides a temptation to categorize these arrangements as communal living. The existence of communal property provides ample legal precedent and can exist more or less harmoniously with capitalist notions of ownership. Under this pretext, identification of the subject is transferred from person to group with all other rules holding constant.

### *Beat by Alignment*

Unfortunately, this simplistic classification misses a subtle but hugely important nuance illuminated by Speck’s observation; in the power hierarchy, land is above man. There is recognition among the Algonquins that areas of land have a natural occupational capacity. Humans as subservient actors must acknowledge this and organize accordingly. Far from dominant mastery of a land tract, the beings are “conscious of their dependence”. The earth is not something that can be owned, but rather it is representative of a system in which humans are a single dependant cog.

The range of responses as to whether the development of private property has been positive or negative is very much dependant on the experience of those claiming it. In one way, the claiming of individualized ownership has provided a safeguard against western incursion. By speaking the language of western ‘colonialists’ many have successfully laid claim property for themselves. But many others have lost out in the process. More importantly, it fails to respect the efforts of Indigenous autonomy. Self-determination is not predicated on economic success under the control of self-governance. Instead, it is having the prerogative to choose the systematic rules of the game under which one plays.

With a western outlook undermining the essence of the Indigenous worldview from the outset, bands have nevertheless demonstrated a willingness to engage in discussion on western terms. This is because the language of property is one that these groups must speak in order to be taken seriously in a western capitalist context (Nadasdy 2002). Despite a more holistic approach with nature coming into vogue in recent decades, few born into capitalist culture can begin to completely reconcile animistic beliefs, with a culture of gain. Economic development approaches produce Aboriginal capitalists who thirst for economic profit comes to outweigh their ancestral obligations to the land and others (Coulthard 2006). As a hegemonic prerogative with the allure of materialistic gain, the latter is inevitably aligned for success from the outset.

Two examples highlight this disconnect. The first is a repeated inability on the part of federal/jurisdictional governments to effectively combine Traditional Ecological Knowledge (TEK) with science-based wildlife management practices (Houde 2007). In 1992, a Northwest Territory court tried two Yup'ik males with illegal hunting practices. Having consulted with village elders for guidance after an unusual muskoxen sighting, the boys were advised to shoot the animal because "it had offered itself to them and may be offended if [the boys] did not" (Nadasdy 2000). The resulting meat was distributed in a culturally acceptable practice throughout the village. The action violated seasonal hunting regulations, and while the charges were eventually dropped, the case remains indicative of the ongoing fractious nature of two distinctly different types of worldviews.

Second, the legal apparatus of IBAs often require elders to disclose the location and significance of sacred sights as the first step in determining appropriate protection measures. While this seems a necessary step to adherents of a western socio-economic system, it often violates a sacred Indigenous way of life. In the liberal tradition knowledge is viewed as a public good. Conversely, for many Indigenous elders the dissemination of knowledge is a time sensitive and sacred activity. The integrity of the spiritual process is compromised if the younger generation receives information before they demonstrate readiness (O'Faircheallaigh 2008). Being forced to publicly disclose these secrets devalues the position of honour that seniors hold. To compromise the integrity of this position is to compromise a cornerstone of social organization (Rose 2001).

### **Alternative Considerations: The Gender Cost**

As we have discussed, the relative marginalization of Aboriginal women in already impoverished communities is widespread. The principle purpose of an IBA is to establish legal criteria for the compensation of individuals in exchange for the rights to extract resource bodies. As land rights belong to the collective, so too do the benefits accrued from them. This is not the reality for many Indigenous women. It is worth acknowledging the danger of purveying universalisms and essentialisms (Lahiri-Duitt 2011), when describing the Indigenous experience. Each societal situation is uniquely complex and therefore deservedly exempt from homogenization (O'Faircheallaigh 2013). The following gender-based analysis, like all other lenses already employed, is meant to provide only a general summation of the potential implications for IBAs on the Indigenous women demographic.

Indigenous women "stand to gain the least and lose the most" from mineral development (Porter & Judd 1999). Through both race and gender, the plight of the these woman has come to be identified as the "double bind" (Gibson & Kemp 2008). Despite historically limited research, the proliferation of northern mining activity has drawn attention to the impact negotiated agreements have on women. Whiteman and

Blacklock (2000) suggest that these effects fall under three broad categories; women's traditional roles, gender inequality, and health.

### *Traditional Roles*

Logistical realities limit female mining employment participation within the context of traditional social roles. With large families and time-intensive agricultural responsibilities, Indigenous women are expected to be active contributors in the domestic sphere. The inaccessibility of northern Canadian mines often requires 'fly-in, fly-out' employment demands. Therefore, the pursuit of occupations which demand domestic absence for extended periods of time may be discouraged.

Environmental degradation can jeopardize the prosperity of traditional social roles. Historically, Indigenous women have been tasked with preparing medicine, food and cultural materials (Gibson & Kemp 2008). The direct and indirect impact of extraction operations can drastically reduce the availability of flora and fauna essential for such activities. It can also present socio-cultural implications. Parlee, Berks & the Teetl'it Gwich'in Renewable Resource Council (2005) created a report outlining the traditional intricacies of local berry harvesting. The nine benefits attributed to this activity ranged from spiritual practice to community social development (Mills et al. 2013). Notably, a financial impetus was not listed.

As Post-Modernist Cultural theorists, Lahiri-Dutt (2006) has argued that a range of socially constructed factors discourage IBA benefits from transferring to women. Language associated with mining employment such as "dirty" and "dangerous" reinforces traditional gender roles thus discouraging female participation. Women entering the workplace are likely to find varying levels of sexualisation which work to reinforce the male dominated position. These "misogynistic forms of differentiation" range from nude pinups to segregated social activities (Eveline & Booth 2002).

### *Gender Inequality*

Another externality of negotiated agreements is gender inequality. Wealth flows from IBAs are disproportionately accrued by men (Status of Women Council NWT, 1999). Gibson (2008) has found that in the Northwest Territories women have higher education level attainment averages and 46% employment rate, yet make up only 16% of the diamond mining industry. More broadly, while IBAs decreased unemployment in affected areas by up to 20%, male income and employment rates rose disproportionately (Mills et al. 2013).

The relative exclusion of women from emerging industries has significant consequences on gender inequality. Marxist-Feminists theorists have posited that institutions of marriage and Indigenous household power dynamics are reinforced when employment is vastly unequal (Gibson & Kemp 2008). When women do gain employment in mines, the social structure of the community and the home is radically altered. As a reaction to decreased relative earning capacity, men may struggle with a

sense of belonging, leading to gender violence as an alternative means of demonstrating power (Miewald and McCann 2004).

### *Health and Safety*

Finally, a number of negative social behaviours and related health concerns have been observed with the introduction of resource extraction to a region (Sosa and Keenan 2001). Increased disposable income and shifting living patterns associated with travel requirements for mining employees can lead to the proliferation of substance abuse. These are reported to include increased drug and alcohol consumption, physical and sexual abuse, and gambling addictions (Mills et al. 2013). As noted, a changing power dynamic may further exacerbate problems of abuse. Jacobs and Gill (2002) have shown that increases in substance usage within the Aboriginal populace are correlated with physical abuse. Furthermore, victims of abuse have a higher likelihood of substance abuse themselves (Liebschutz 2002). This cyclical causation has profound implications for future generations.

## **A Roadmap for Future Success**

### *Protecting Cultural and Gender-Based Vulnerabilities in IBA Negotiation*

Legislative initiatives to preserve the cultural heritage of Indigenous groups have proved generally ineffective (Bell 2001). As we have seen, the private firm/band relationship developed through an IBA provides a level of autonomy otherwise unattainable in government-adjudicated land and resource development arrangements. This means that IBA agreements have the potential to protect cultural heritage should the Indigenous bands determine the level of importance assigned to protecting a given way of life (O'Faircheallaigh 2008).

Determining the value of IBAs to the protection of Indigenous culture is predicated on a number of factors. In his 2008 study, Ciaran O'Faircheallaigh identified six legal provisions of an IBA that may assist in the preservation of cultural heritage:

- a. Maximize Aboriginal control of site clearance and heritage management processes.
- b. Provide financial and other resources for cultural heritage identification and management.
- c. Support Aboriginal community's capacity for cultural heritage protection.
- d. Protect of any cultural knowledge provided by Aboriginal people as part of the cultural heritage protection regime.
- e. Allow traditional owners to temporarily stop project activities to protect previously unknown sites.

- f. Enhance general measures designed to support a *system* of cultural heritage protection

Each of these provisions represents a unique way that contracts can better protect the cultural integrity of Indigenous groups. O’Faircheallaigh has examined the extent to which these principles have been included in Australian Aboriginal-mining company agreements. He found that the greater the number of these provisions employed in a given IBA, the more likely the achievement of cultural protection.

Acknowledging the national differences, many of these learnings can be applied to the Canadian IBA landscape due to similar legal landscapes, Indigenous goals of cultural preservation, and mining firms (O’Fairchalleaigh 2008). The study quantifies the number of aforementioned features included in 41 Australian IBAs:

**Figure 8: Ratings for activities applied to securing cultural heritage protection between Aboriginal Peoples and mining companies**

Elements Included	n=41	Number of Agreements
0		4
0.5		1
1		2
2		9
2.5		4
3		4
3.5		3
4		11
5		3
6		0

Source: O’Fairchalleaigh 2008

Combined with broader analysis, this data can be used to infer two notable features (O’Faircheallaigh and Corbett, 2005). First, there is no relevant correlation between the negotiation result of cultural clauses and other features in the agreement. An Indigenous group able to secure a high number of contractual cultural protection elements is no less likely to successfully negotiate other components of an IBA. In other words, negotiated trade-offs are not a significant explanatory factor the outcome.

Additionally, the companies featured are engaged in multiple agreements with a wide variance in the number of elements included. In this study it was not uncommon for a single company to have an ‘elements included’ variance of three. This suggests that the CSR mandate of the firm has little impact on the outcome. These deductions may suggest that it is absolute bargaining power which determines cultural protection outcomes. In the final section we will explore the policy solutions and their implications.

## *Accepting Trade-offs*

The widespread use of IBAs in recent years highlights the disjuncture between Western and Aboriginal culture. These contradictory values create an almost impossibly complex cost-benefit analysis from which to measure the utility of IBAs. Viewed conventionally, there is a legitimate opportunity to provide jobs, stable revenue inflows, and infrastructure to long-impooverished communities. Through this lens, a wide variety of economic indicators are used to progressively assess the quality-of- life (QoL) gains realized. Developing policies which ensure that revenue translates to QoL increases for all citizens is itself a daunting task. As we have seen, corruption, addiction and geographical logistics dramatically complicate the situation.

These challenges, difficult as they may be, represent only half the picture. Impact assessments on the destruction of cultural values are harder to quantify. This is particularly true when the vulnerable worldview is inherently disjointed with that of the policymaker. Throughout history, a seemingly infinite number of cultures have vanished as a result of, among other factors, external influence. While we do not mourn the unknown disappearance of the unknown past, modern liberal thought upholds multiculturalism (and thus the protection of cultures) as one of the greatest goods. However, cultures and identities are inherently fluid by nature. This presents a dual challenge; to define the culture in need of preservation without limiting its evolution. Undoubtedly influenced by western beliefs, Indigenous people still hold a unique set of beliefs. As capitalism becomes ever more pervasive in Indigenous communities, it seems the fundamental incompatibility between spheres of cosmology and Aboriginal attitudes towards modern capitalist socio-economic systems are ever more pronounced (O'Faircheallaigh 2008).

The governing authority has the unenviable task of reconciling economic prosperity with cultural preservation. For the jurisdictional governments this means recognizing history as the root of Indigenous privilege, while permitting it the space for ongoing independent development. Governments do not have the right to define what are authentic Aboriginal practices, but they do have the responsibility to nurture a cultural growth that stems from the constant wrestling with forces past and present.

This means it is also up to the negotiating band to determine which aspects of their cultural heritage are valued. Given that the introduction of capitalist undercurrents and land degrading practices are often mutually exclusive from Aboriginal traditional values, determining the trade-offs of this fixed pie may be necessary (O'Faircheallaigh 2008). Again, law makers must institute legislative mechanisms to increase the bargaining position of Indigenous groups in relation to cultural heritage. As autonomous actors, it will be up to these groups to decide what, if any, price can be put on the loss of a traditional way of life.

Public policy makers have another important role to play in the general context of these agreements. There are various legal reasons for the confidentiality clause written into all IBAs but few of them are beneficial to the Aboriginal negotiating party. The most notable implication of this is that it deprives the group of public recourse through the media in the event of unfair dealings. Companies with high CSR standards should welcome the publication of such information as a promotional tool for their contributions in otherwise economically depressed communities. Those actors interested in only profit will be held to task.

### *Leaving No One Behind*

As demonstrated, Impact Benefit Agreements have direct and indirect consequences, both positive and negative, for communities. Comprising the most vulnerable demographic in these agreements, women require gender specific considerations throughout the negotiation process. In 1998, the Tongamiut Inuit Annait (TIA), a Labrador-based association representing Inuit women, made a formal submission to the Voisey's Bay Environmental Assessment panel. The group noted the lack of a gender-specific methodology for examining impact of agreements on women (Archibald and Crnkovich 1999). Subsequent reports such as *Breaking New Ground* (Mining Minerals and Sustainable Development Report) and company policies (Moretti 2006, Rio Tinto 2010) are beginning to view women as a unique stakeholder group. Nevertheless more work is still needed in this area.

Two courses of action will help to ensure rights recognition and positive outcomes for Indigenous women: First, firms and jurisdictions need to ensure female participation in bargaining-related activities. In an analysis of the Voisey's Bay agreement, O'Farheallaigh (2013) cites the presence of a female lead negotiator as one reason for the inclusion of gender sensitivity training, employment equality, and the inclusion of women on trust allocation boards.

Second, corporate social responsibility needs to emphasize the inclusion of women's rights as an internal goal. Developing CSR targets can be difficult when searching for common ground between two distinct value sets. Companies are expected to respect the traditional culture of their Indigenous partners while promoting western gender norms. This double sided responsibility is challenging but necessary. All too often extractive firms have employed tenets of cultural relativism as defense for maintaining the status quo (Gibson & Kemp 2008). However, respecting the rights of women against the backdrop of local cultural norms are not mutually exclusive aims. One example is found within the Haudenosaunee (Iroquois) Confederacy where women exercise a veto right over any decisions that they feel run counter the needs of the community (Alfred 1995). Only when companies negotiate with band councils (notably, a Canadian government constructed institution originating from the Indian Act) rather than the broader community structure, are the voices of women are lost (Hipwell et al. 2002).

Engaging with the broader community through traditional structures and recognizing women as individual stakeholders are two keys to improved corporate

social responsibility practices. In designing the specifics of an agreement, firms should include clauses which will both respect local traditions and the rights of women. Potential solutions may include female hiring quotas, gender sensitive workplaces, female specific trust funds, gendered impact assessments and domestic violence mitigating social programs.

By its very nature, mining activity often disrupts local ways of life. In the event that bands decide to accept such disruption, companies must strive for two goals. First, work with local bands in mitigating the impact of mining activities on cultural, social and economic arrangements to the greatest extent possible. Second, ensure the safety and opportunity of Indigenous women is promoted within the context of local tradition. If employment opportunities necessitate leaving the home for long periods of time, a greater emphasis should be put on alternative localized employment development. When gender mainstreaming through employment reaches a critical mass, it has been shown to be both self-sustaining and positive for development (Gibson and Kemp 2008)

Impact Benefit Agreements have immense effects on the Indigenous Peoples of Canada. Among these is a truly transformative economic opportunity. The development of the North provides a long-awaited opportunity to empower these largely marginalized groups and improve quality of life for Canada's most impoverished communities. To achieve this, the autonomous band should be aware of the inevitable cultural and economic costs that are inherent in the very nature of these agreements. Second, all levels of government need to provide a protective policy apparatus to minimize these effects and maximize the benefits for all segments of participating communities.

The Government's response the quandary between the duty to protect and a respect for Indigenous autonomy is not a mutually exclusive decision. By illuminating the legal, economic and social ramifications of such contracts on this demographic, policy makers can develop balanced solutions. This means providing an educated environment in which bands are free to choose their direction while legislating against harmful contractual provisions. Only when policy makers take both of these responsibilities seriously can communities benefit and social transformation begin.

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## Appendix A: 2011 CWB Scores for Towns Participating in Impact Benefit Agreements

CSDCode	Census subdivision (CSD) name	2011 Income Score	2011 Education Score	2011 Housing Score	2011 Labour Force Activity Score	CWB Score	Global Non-Response	Province	NHS Population
1307012	Dorchester	71	53	91	74	72	27%	New Brunswick	470
5923008	Port Alberni	81	54	94	77	77	25%	British Columbia	17395
5943023	Port Hardy	87	58	94	87	81	37%	British Columbia	3960
5943837	Alert Bay	64	36	85	68	63	21%	British Columbia	530
5907802	Osoyoos 1	77	48	88	80	73	39%	British Columbia	585
1010022	North West River	89	60	88	85	80	29%	Newfoundland and Labrador	550
1011035	Nain	73	38	73	69	63	8%	Newfoundland and Labrador	1185
1010802	Sheshatshiu 3	61	20	67	69	54	21%	Newfoundland and Labrador	1300
1010801	Natuashish 2	64	22	70	78	58	3%	Newfoundland and Labrador	940
1011030	Hopedale	74	39	74	69	64	13%	Newfoundland and Labrador	555
2497806	Kawawachikamach	64	28	69	74	59	21%	Quebec	585
2499135	Salluit	76	31	52	79	59	3%	Quebec	1350
2499130	Kangiqsujuaq	80	31	58	82	63	20%	Quebec	690
2499804	Mistissini	74	33	72	77	64	17%	Quebec	3405
2499120	Puvirnituq	75	29	45	81	58	7%	Quebec	1680
2499816	Whapmagoostui	77	41	63	80	66	10%	Quebec	865
2499812	Wemindji	76	36	70	84	66	17%	Quebec	1380
2497802	Uashat	61	28	73	68	57	22%	Quebec	1475
2499802	Waswanipi	67	41	65	79	63	26%	Quebec	1840
2499806	Waskaganish	69	37	67	77	63	19%	Quebec	2205

2499818	Oujé-Bougoumou	73	47	67	84	68	34%	Quebec	715
2499808	Nemaska	80	43	74	84	70	19%	Quebec	720
2499804	Mistissini	74	33	72	77	64	17%	Quebec	3405
2499810	Eastmain	77	43	66	85	67	14%	Quebec	765
2499814	Chisasibi	74	32	65	78	62	15%	Quebec	4470
4705034	Whitewood	92	46	95	86	80	45%	Saskatchewan	920
4706051	Fort Qu'Appelle	85	48	91	87	78	44%	Saskatchewan	2230
6106023	Yellowknife	100	69	92	92	88	15%	Northwest Territories	18830
6103034	Whatì	76	30	75	65	62	34%	Northwest Territories	490
6103052	Wekweètì	no value	no value	no value	no value	66	15%	Northwest Territories	140
6103049	Gamètì	80	28	81	76	66	23%	Northwest Territories	255
6103031	Behchokò	79	35	59	70	61	22%	Northwest Territories	1910
6105020	Lutselk'e	83	34	76	70	66	23%	Northwest Territories	275
6106021	Detah	no value	no value	no value	no value	64	8%	Northwest Territories	210
6104010	Nahanni Butte	no value	no value	no value	no value	63	17%	Northwest Territories	85
6104038	Fort Simpson	95	48	85	84	78	11%	Northwest Territories	1300
1217008	Membertou 28B	63	63	90	75	73	11%	Nova Scotia	910
1215008	Whycocomagh 2	48	55	83	64	62	15%	Nova Scotia	810
1218003	Wagmatcook 1	46	49	73	64	58	9%	Nova Scotia	520
1217020	Eskasoni 3	48	49	72	63	58	8%	Nova Scotia	3305
1216014	Chapel Island 5	60	50	80	65	64	3%	Nova Scotia	480
6208073	Cambridge Bay	91	43	74	82	72	15%	Nunavut	1585
6204011	Hall Beach	70	22	62	64	54	16%	Nunavut	540
6204018	Arctic Bay	72	26	67	67	58	37%	Nunavut	825

6204020	Pond Inlet	73	28	57	68	57	24%	Nunavut	1560
6204003	Iqaluit	100	57	83	88	82	18%	Nunavut	6600
3560054	Cat Lake 63C	42	23	52	68	46	20%	Ontario	485
3556106	Moosonee	79	49	91	82	75	29%	Ontario	1735
3553040	Wahnapitei 11	no value	no value	no value	no value	72	20%	Ontario	105
3554057	Matachewan 72	no value	no value	no value	no value	73	41%	Ontario	85
3557071	Sagamok	58	42	75	62	60	14%	Ontario	1030
3556042	Cochrane	84	49	90	81	76	38%	Ontario	5295
3556014	Black River- Matheson	87	53	90	80	78	44%	Ontario	2470