

# Canadian Impact Assessment: Gender-Based Analysis Plus and Intersectionality in Natural Resource Policy

by  
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## Contents

Abstract	3
Self-location	3
1. Introduction	4
Rationale	4
Research Question and Methodology	7
Limitations	12
2. Background and Literature Review	13
Intersectionality and GBA+ in Canada	13
Canadian Impact Assessment	26
Literature Review: The Case for GBA+ in Impact Assessment	38
3. Findings	50
Respondent Group 2	50
Respondent Group 3	57
Discussion	70
4. Conclusion	81
5. Bibliography	84
Appendix I – Data Collection	88

## Abstract

This study seeks to examine how the federal government of Canada is applying Gender-Based Analysis Plus to Impact Assessment of natural resource projects, and to consider whether this constitutes an adequate application of intersectional policy analysis. Gender-Based Analysis Plus (GBA+) is a policy tool that seeks to “assess how diverse groups...may experience policies, programs, and initiatives”<sup>1</sup>. It is explicitly branded as a tool for applying intersectional analysis to Canadian federal policy, and its use in impact assessment is a legislated requirement.

Intersectional analysis, briefly, can be defined as a tool used to explore power dimensions and structures associated with how people are positioned, and position themselves<sup>2</sup>, according to categories such as gender, race, class, and ability, among others.

Through a review of secondary literature and open-ended semi-structured interviews with key informants, this project examines the use of GBA+ in federal impact assessment, ultimately concluding that although improvements have occurred, much more work remains to be done to better align GBA+ with intersectional theory and practice.

## Preface

### *Self-location*

My name is Stephanie Siddon and I am a white settler writing and living on the unceded lands of the W̱SÁNEĆ people. I am a cisgender woman who uses the pronouns she/her. Before I was here, I lived and grew on the unceded territories of the Algonquin people, the Syilx people, and the Haida people. My family and myself have benefited, both directly and indirectly, from

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<sup>1</sup> “Gender-based Analysis Plus (GBA+),” Status of Women Canada, Canada, last modified April 14, 2021, <https://cfc-swc.gc.ca/gba-acis/index-en.html>.

<sup>2</sup> Ann-Dorte Christensen and Sune Qvotrup Jensen, “Doing Intersectional Analysis: Methodological Implications for Qualitative Research,” *Nordic Journal of Feminist and Gender Research* 20, no. 2 (2012): 110, <https://doi.org/10.1080/08038740.2012.673505>.

the violent practices of colonization. We have participated in it as resource workers and as representatives of colonial government, and I am the recipient of that theft.

I do not believe that I can carry out this work – work that deals with matters of state and gender-based violence, work steeped in intersectional theory – without identifying my privilege in this framework. I do not believe that this work will be perfect, but I do hope that it will be a valuable contribution. I hope that it will represent further emphasis on the need for antiracist, feminist, intersectional responses to the challenges we face. I hope that it will amplify voices other than my own and provide a resource for others moving forward. That is my intention.

But this work is also conducted through a colonial post-secondary institution that has served as a gatekeeper of knowledge. This work is small in scope, examining how a colonial institution can better replicate itself through policy. That in itself is another brick in the construction of colonialism: that this work does not focus on Land Back, or abolition, is the flaw in its foundation. This work also will grant me credits towards a master's degree, a personal benefit to a person with distinct privilege.

## Chapter 1: Introduction

*Rationale: Why this is important?*

This study seeks to examine how the federal government of Canada is applying Gender-Based Analysis Plus to Impact Assessment of natural resource projects, and to consider whether this constitutes an adequate application of intersectional policy analysis. Gender-Based Analysis Plus (GBA+) is a policy tool that seeks to “assess how diverse groups...may experience policies, programs, and initiatives”<sup>3</sup>. It is explicitly branded as a tool for applying intersectional analysis to Canadian federal policy, and its use in impact assessment is a legislated requirement. Through a review of secondary literature and open-ended semi-structured interviews with key informants, this project examines the use of GBA+ in federal impact assessment, ultimately concluding that although improvements have occurred, much more work remains to be done to better align GBA+ with intersectional theory and practice. Intersectional analysis, briefly, can be defined as a tool used to explore power dimensions and structures associated with how people are positioned, and position themselves<sup>4</sup>, according to categories such as gender, race, class, and ability, among others.

Within the context of natural resource policy the effective, meaningful application of intersectional analysis is critical. Like other policy areas, such as health or housing, natural resource policy has diverse, complex impacts on different groups and identities. But in Canadian discourse and practice, natural resource policy has often overlooked the complexity of these social impacts, contributing to a knowledge gap where natural resource policy and social

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<sup>3</sup> “Gender-based Analysis Plus (GBA+),” Status of Women Canada, Canada, last modified April 14, 2021, <https://cfc-swc.gc.ca/gba-acis/index-en.html>.

<sup>4</sup> Ann-Dorte Christensen and Sune Qvotrup Jensen, “Doing Intersectional Analysis: Methodological Implications for Qualitative Research,” *Nordic Journal of Feminist and Gender Research* 20, no. 2 (2012): 110, <https://doi.org/10.1080/08038740.2012.673505>.

intersections overlap. A recent report by the Feminist Northern Network (FemNorthNet), for example, examined the gendered, intersectional impacts of resource development in the Canadian North<sup>5</sup>. Researchers identified that few groups and researchers are working to identify and address the gendered, intersectional impacts of resource extraction, resulting in the perpetuation of negative impacts on marginalized groups<sup>6</sup>. FemNorthNet further concluded that regulatory mechanisms, including environmental (impact) assessment and GBA frameworks, are failing to provide systemic, comprehensive analyses of these impacts, a problem that is compounded by the uneven application of these tools across sectors and jurisdictions<sup>7</sup>. Other studies imply that GBA+ is little more than a “box-ticking” exercise across the federal apparatus<sup>8</sup>. Furthermore, studies concerning resource extraction have a tendency to focus on Indigenous Nations and communities broadly, without identifying or analyzing intersectional impacts that might vary according to gender, age, income, ability, and other factors<sup>9</sup>. These findings highlight the existing knowledge gap and urgent imperative for research in this area.

It is also essential to consider the gravity of natural resource policy within the context of rapid climate change. Experts have established that Canada is warming at twice the rate of the rest of the globe and that unmitigated, the repercussions of these changes will be (and in some places already are) disastrous for human and ecosystem health<sup>10</sup>. Climate change as a result of

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<sup>5</sup> FemNorthNet, *Feminist Northern Network Project: Project Overview* (Ottawa, ON: Canadian Research Institute for the Advancement of Women), <https://www.criaw-icref.ca/wp-content/uploads/2021/05/FemNorthNet-Overview.pdf>.

<sup>6</sup> FemNorthNet, *Project Overview*, 3-4.

<sup>7</sup> Ibid.

<sup>8</sup> Francesca Scala and Stephanie Paterson, “Gendering Public Policy or Rationalizing Gender? Strategic Interventions and GBA+ Practice in Canada,” *Canadian Journal of Political Science* 50, no. 2 (June 2017): 436, <https://doi.org/10.1017/S0008423917000221>.

<sup>9</sup> Susan Manning et al., *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women* (Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2018), 17, <https://www.criaw-icref.ca/publications/impacts-of-resource-extraction-for-indigenous-women/>.

<sup>10</sup> Elizabeth Bush and Donald S. Lemmen, *Canada’s Changing Climate Report* (Gatineau, QC: Environment and Climate Change Canada, 2019), 5-6, [https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/energy/Climate-change/pdf/CCCR\\_FULLREPORT-EN-FINAL.pdf](https://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/energy/Climate-change/pdf/CCCR_FULLREPORT-EN-FINAL.pdf).

the development of natural resources, namely fossil fuels, disproportionately impacts marginalized groups; the axis of gender alone increases vulnerability to climate change<sup>11</sup>. When other identity factors are present and layered, this vulnerability intensifies.

The rationale for this project is therefore threefold. First, it is relevant because it seeks to understand how to structure more equitable public policy. Second, it addresses an area of public policy that is rapidly developing as policy makers try to mitigate an intensifying global emergency (climate change). Third and finally, this project builds into a pre-existing knowledge gap. As previously mentioned, there is plenty of scholarship on natural resource management. There is also a substantial amount of literature discussing intersectionality and the inequities that public policy tries to address (and sometimes exacerbates). The overlap between natural resources and intersectionality remains a marginal area of study, but one of mounting importance.

### *Research Question and Methodology*

This project examines the use of Gender-Based Analysis Plus (GBA+) in federal environmental assessment in order to assess whether this amounts to an adequate application of intersectionality. Intersectionality is a contested theory, but for the purposes of this project I want to know whether GBA+ expands from the gender mainstreaming toolkit identified by policy scholars<sup>12</sup> to meaningfully incorporate and deconstruct relationships of power and marginalization. In doing so, this analysis seeks to answer the following questions:

1. Where and how in the impact assessment process is GBA+ used?

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<sup>11</sup> Kathleen McNutt and Sara Hawryluk, “Women and Climate-Change Policy: Integrating Gender into the Agenda,” in *Women and Public Policy in Canada: Neoliberalism and After?*, ed. Alexandra Dobrowolsky, (Don Mills: Oxford University Press, 2009), 107-124.

<sup>12</sup> Sonia Mazey, *Gender Mainstreaming in the EU: Principles and Practices* (London: London European Research Centre, 2001).

2. Do participants and stakeholders familiar with the process report that GBA+ is impacting the decision-making process? How, and to what extent?
3. Are there indications in select impact assessment reports that GBA+ has been used? How, and to what extent?
4. Is the application of GBA+ to impact assessment an adequate use of intersectionality in public policy, and if not, why?

To answer these research questions, the data collection is structured according to two key techniques: open-ended semi-structured interviews with key informants, and a review of secondary literature.

#### *Key Informant Interviews*

This project sought to interview three different groups of respondents. The first targeted group included individuals who participate directly in the federal impact assessment process (as identified by the Impact Assessment Agency) through participation on review panels or integrated review panels. These panels “conduct the impact assessment...consider the evidence provided...[and] engage Indigenous groups and the public”<sup>13</sup>. Panellists gather and consider evidence from public hearings, federal, provincial, territorial and Indigenous authorities, and ultimately compile the Impact Assessment (IA) Report, which is then submitted to the Minister<sup>14</sup>. As publicly appointed panellists, these individuals are identified in the IA reports and

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<sup>13</sup> “Phase 3: Impact Assessment,” Impact Assessment Agency of Canada, Canada, last modified November 21, 2019, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase3.html>.

<sup>14</sup> Ibid.

serve 6-year terms on the federal IA roster<sup>15</sup>, which is how they were identified as potential interviewees and invited to participate.

Unfortunately, it was not possible to set up an interview with a respondent who fit into this initial group. Due to a variety of factors, including a lack of publicly available contact information and individual constraints during the COVID-19 pandemic, review panellists who were contacted declined to participate. This is a key limitation of the study.

The second group of targeted respondents was public servants within the Impact Assessment Agency. These individuals were sought as respondents in order to ascertain how the Impact Assessment reports are considered and to what extent the considerations made by the panels influence the decision and mitigation requirements set out by the Agency in approvals or refusals. This group is also able to shed light on how the application of GBA+ may have changed following the formal legislated requirements that came into effect in 2019, and on the Impact Assessment process more broadly. The federal public service has additional non-legislative requirements for GBA+ application, and I was curious to see how those requirements impacted the IAA process. One individual was interviewed from this respondent group.

The third group targeted for this study includes experts in intersectional policy analysis, such as academics and activists who engage with GBA+ and other intersectional policy tools. For this group I sought out GBA+ experts who work at the federal level and in Impact Assessment, but also included gender analysts from other jurisdictions and departments to broaden the scope of participants. Additionally, throughout this body of work ‘expert’ is used broadly to refer not only to bureaucrats or academics, for instance, but also to individuals with

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<sup>15</sup> Impact Assessment Agency of Canada, “Review Panel Roster – Call out for Potential Members of the Impact Assessment Roster for Review Panels under the Impact Assessment Act,” *Impact Assessment Agency*, October 22, 2020, <https://www.canada.ca/en/impact-assessment-agency/news/2020/10/review-panel-roster--call-out-for-potential-members-of-the-impact-assessment-roster-for-review-panels-under-the-impact-assessment-act.html>.

lived experience<sup>16</sup>. By interviewing this latter group I hoped to identify several key tenets that adequate intersectional policy analysis should include, to articulate a clear assessment rubric for the use of GBA+ in Canadian impact assessment. This third group of participants was identified through the literature review and by referral from key contacts within the academic and public spheres. Three individuals were interviewed from this respondent group.

The scope of this project is Canada-wide and specific to federal impact assessment; subsequently interview requests were submitted to the three respondent groups in various provinces and territories. The interviewees were provided the option of interviewing via videoconference or phone, depending on accessibility and individual preferences. In accordance with ethics approval, the data from videoconferences was stored on Canadian servers. The interviews were recorded with consent, transcribed, and then returned to the participants for clarification and review. Once reviewed by participants, the recordings of the interviews were deleted, and the transcripts relied upon for the purposes of the project. All documents and records were stored in a password-protected encrypted external hard drive in a secure location in my own home. All participants were offered a choice of pseudonym, though some elected to have me choose a pseudonym on their behalf. These pseudonyms have been attached to the transcripts and are relied upon to maintain the privacy of participants.

Additionally, given my own personal privileged positioning within an intersectional framework, I have tried to conduct this work in a way that honours protocols established by Indigenous thought leaders<sup>17</sup>. Rather than replicating the harmful results of settler research “on”

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<sup>16</sup> Ladner (2009) and Christensen and Jensen (2012) argue that life story narratives are of critical value for researching identity and social structures, which is why ‘expert stakeholder’ refers not only to colonial or capitalist accreditations but to the lived experiences of individuals.

<sup>17</sup> Karen Lawford and Veldon Coburn, *Research, Ethnic Fraud, and the Academy: A Protocol for Working with Indigenous Communities and Peoples* (Yellowhead Institute, 2019), <https://yellowheadinstitute.org/2019/08/20/research-ethnic-fraud-and-the-academy-a-protocol-for-working-with-indigenous-communities-and-peoples/>.

Indigenous people and other marginalized communities, I have centered my own positionality and ensure free, prior, and informed consent, in all components of the research process. Furthermore, I aimed to establish a reciprocal relationship with respondents; although constrained by the limitations of geography and the ongoing COVID-19 pandemic, I endeavoured to make my labour available to respondents, as a way of thanks and acknowledgement of the burden of engaging with this work. For instance, and in keeping with the sponsorship of this project by the Social Innovation Fellowship Award, the culmination of the project has been not only represented in a formal thesis defense, but in the publication of write-ups and a short video presented in accessible language and with open access for participants and the public to use.

All respondent groups were interviewed in one-on-one settings. The interviews were recorded and later transcribed; then, the transcriptions were back to the respondent for clarification and consent. Once the participant had approved the transcription, their feedback was examined for common themes.

### *Secondary Literature Review*

The literature review included journal articles, books, reports and web content. I specifically reviewed government literature, including reports and legislation, to better understand the current impact assessment legislation, its evolution, and its use in practice. I examined analyses of GBA+, including a thorough background of literature on intersectionality in an effort to nuance its operationalization outside of the branding that the Canadian government has prescribed via the GBA+ initiative. I also thought it was necessary to examine the

background of intersectionality to validate its roots in Black feminist theory and activism and critiques of the theory.

The literature review was not formally coded, but instead serves to provide background, deeper understanding, and a foundation upon which to base the feedback from the interview participants. It also allowed me to identify authors as possible respondents for the third participant group.

### *Limitations*

The limitations of this study are, first and foremost, its scope: only four individuals were interviewed. As a result, the feedback provided must be considered with this in mind. It is not a broad and representative study; but, that does not mean that the information provided and the conclusions of the study are not valuable. This is especially true when considering the limited available research on the overlap between intersectionality, natural resource development, and Canadian public policy.

Another limitation is my own positionality and the location of this work. As a privileged individual pursuing this research through a post-secondary institution, I bring to the project my own set of perspectives which may unduly impact the analysis of the results. In other words, as a researcher undertaking a qualitative study, my role is to interpret and reflect on the feedback of the study respondents. This interpretation is unavoidably impacted by my own perspective.

## Chapter 2: Background and Literature Review

This chapter has three major components. The first section outlines the roots of intersectionality, its usefulness to public policy, and the development of GBA+ in Canada. This discussion uncovers the tension between the concept of intersectionality and its use by institutions that are antithetical to its very premise, but chooses to assume that intersectionality *can* be used for public policy. The second section of this chapter discusses the development of impact assessment in Canada, including the statutory requirements, the intention behind the governing legislation, and the current assessment procedures. The final section of this chapter braids GBA+ with impact assessment by laying out the arguments for GBA+ in impact assessment specifically and discusses critiques of this application.

### *Intersectionality and GBA+ in Canada*

The term “intersectionality” was first coined by Kimberlé Crenshaw, a Black lawyer, civil rights advocate, and legal scholar, in the late 1980s. Noting the legal difficulties faced by Black women claiming workplace discrimination on the basis of sex *and* race, Crenshaw emphasized that multidimensional experiences of discrimination were not adequately addressed by single-axis frameworks such as feminism or anti-racism<sup>18</sup>. In response she introduced intersectionality as a way of naming and analyzing the experiences of groups and individuals who are multiply-disadvantaged. Specifically, she argued that because the intersectional experience is “greater than the sum” of racism and sexism combined, analyses must take intersectionality into account to sufficiently address the discrimination faced by Black women<sup>19</sup>.

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<sup>18</sup> Kimberlé Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *University of Chicago Legal Forum* 1, no. 8 (1989): 139-140, <https://philpapers.org/archive/CREDTI.pdf>.

<sup>19</sup> *Ibid*, 140-149.

Crenshaw provided a name to a complex experience of marginalization that had been discussed, particularly by Black women, for generations. Crenshaw herself pointed this out by citing Sojourner Truth’s speech “Ain’t I a Woman,” delivered in 1851 to a Women’s Rights conference<sup>20</sup>. Truth delivered this speech, arguing for her rights as a Black woman, despite protestations from the white women’s rights activists present. This is demonstrative of the foibles of contemporary feminism, Crenshaw argued, which fails to represent the experiences of Black women – which again, are more than the sum of racism and sexism combined<sup>21</sup>. In another 19<sup>th</sup> century example, Anna Julia Cooper’s *A Voice from the South* (1892) details the complexities of racialized, gendered personhood, representing what Jennifer C. Nash calls “an early articulation of intersectionality theory”<sup>22</sup>. Nash goes on to discuss the development of intersectionality from its roots in Black feminism to institutionalization<sup>23</sup>. In its institutionalization, Nash argues that intersectionality has become both “overdetermined and emptied of any specific meaning,” a virtue-signalling concept representing an institution’s dedication to diversity and inclusion<sup>24</sup>. Indeed, since Crenshaw’s first introduction of intersectionality, the term has “gone viral”<sup>25</sup>. It left the lexicon of legal scholarship and, particularly over the last decade, entered the realm of politics and activism; the Oxford English Dictionary formally incorporated the term in 2015<sup>26</sup>. As a result, there are a variety of interpretations and critiques of intersectionality, though they vary in scope: its adoption by proponents of progressive politics has firmly entrenched the term as a flashpoint<sup>27</sup>, particularly in an era of political polarization.

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<sup>20</sup> Ibid, 153-154.

<sup>21</sup> Ibid, 154-155.

<sup>22</sup> Jennifer C. Nash, *Black Feminism Reimagined: After Intersectionality* (Durham: Duke University Press, 2019), 7.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid, 18; 25.

<sup>25</sup> Jane Coaston, “The Intersectionality Wars,” *Vox*, May 28, 2019, <https://www.vox.com/the-highlight/2019/5/20/18542843/intersectionality-conservatism-law-race-gender-discrimination>.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

The widespread adoption of intersectionality, even if “emptied of specific meaning,” can also be understood as evidence of its flexibility<sup>28</sup>. I contend that this flexibility represents usefulness to a variety of spheres outside the scope of the academy or post-secondary institutions, particularly with regard to public policy. As expressed by US Congresswoman Ayanna Pressley in Stephens’ *Diversifying Power* (2020), “The people closest to the pain should be closest to the power, driving and informing policy making”<sup>29</sup>. Although the association between experiences of multiple marginalizations with pain warrants problematization outside the scope of this project, Pressley’s incorporation of *power* is important. Intersectionality fundamentally deals with power structures that overlap to create distinct experiences that are, as Crenshaw writes, “greater than the sum” of different “isms” combined<sup>30</sup>. Just as these power structures overlap to burden certain groups, they also magnify the influence of those who benefit from them. Although Crenshaw and Pressley speak within the American context, these discussions are pertinent to Canada. Like the United States, Canada is a country founded on colonialism in which the beneficiaries of power are disproportionately white and male (one has only to look at the white, male representation within the Canadian public service<sup>31</sup> and elected officials)<sup>32</sup>. Canadian scholar Desmond Cole, for example, argues that “the Canadian government and its institutions are the products of a white supremacist ideology that claims this

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<sup>28</sup> Nash, *Black Feminism Reimagined*, 25.

<sup>29</sup> Jennie C. Stephens, *Diversifying Power: Why we need Antiracist, Feminist Leadership on Climate and Energy* (Washington DC: Island Press, 2020), 16-17.

<sup>30</sup> Crenshaw, “Demarginalizing the Intersection,” 140.

<sup>31</sup> Canada, Treasury Board Secretariat, Joint Union / Management Task Force on Diversity and Inclusion in the Public Service, *Progress Update* (Ottawa, 2017), <https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/diversity-inclusion-public-service/task-force-diversity-inclusion/progress-update-task-force-diversity-inclusion.html#toc2>.

<sup>32</sup> Jolson Lim and Victoria Gibson, “Gender, Minorities, Parenthood: Here’s How the Next Parliament Compares to Canada Today,” *iPolitics*, October 24, 2019, <https://ipolitics.ca/2019/10/24/gender-minorities-parenthood-heres-how-the-next-parliament-compares-to-canada-today/>.

land as the property of a white European colonial government”<sup>33</sup>. Cole highlights that this white supremacist ideology is a type of power that works “in concert,” with other forms of power to produce inequitable experiences, including violence, based on positionality<sup>34</sup>. This analysis echoes the tensions articulated by American policy makers and intersectional theorists, and is reiterated by the multitude of organizations and scholars who have applied the concept of intersectionality to the Canadian context. Cited throughout this work, they include the Canadian government, Amnesty International, Hankivsky, Mussell, Levac, Manning, Scala, Paterson, and Stienstra, among others. There is a well-established practice of applying intersectionality to the Canadian context.

Intersectionality may be useful to public policy; but it is important to note that its very use in this realm is criticized by some scholars as an appropriation or colonization of the concept itself<sup>35</sup>. Intersectionality is a concept used to understand and complicate power relations; a framework built by and for Black women and other marginalized individuals. It was developed not as a complement to white feminism, but in opposition to it<sup>36</sup>. The claim of institutions such as the Canadian government to operationalize intersectionality is therefore inconsistent with the role that Canada continues to play in the lives of marginalized individuals. These critiques hold merit: Canada is a white, colonial, patriarchal construction. I say this not to erase the important contributions and experiences of women, gender-diverse, racialized communities and Indigenous people, but rather to highlight where wealth and power was and remains concentrated in this

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<sup>33</sup> Desmond Cole, *The Skin We're In: A Year of Black Resistance and Power*, (Canada: Penguin Random House Canada Limited, 2020), 7-8.

<sup>34</sup> Ibid.

<sup>35</sup> Nash, *Black Feminism Reimagined*, 45.

<sup>36</sup> Ibid, 40.

country. The concentration of wealth and power is reflected in government representation<sup>37</sup>, wealth statistics<sup>38</sup>, and other socio-economic inequities (many of which have been thrown into stark relief by the events of the COVID-19 pandemic<sup>39</sup>). Built on this foundation, how could it ever meaningfully use a concept that might demand its own deconstruction?

And yet, the Canadian government continues to exist, just as it has been claiming intersectional analysis as a policy tool for years. This suggests that the Canadian government is not interpreting intersectional analysis as a concept demanding the deconstruction of its own power. There is a clear gap between the normative goals of intersectional theory and the application of GBA+; the former is complex and seeks redress for power imbalances, something that perhaps cannot be adequately addressed without changing our system of government from the inside out. The latter is a set of policy tools applied to the existing power structures to improve equity in outcomes. But I think it is important to pursue both, and for the purposes of this project I assume that intersectionality can be used for public policy by government institutions. There is a clear need to assess how policy decisions can better move towards equity and justice for marginalized people, and even if a tool such as GBA+ can only move the needle slightly, having the ideal of intersectionality in mind can help us not only to improve our policy practices, but to have a clearer sense of what we want our government and society to look like.

With this in mind, the next part of this section turns to the establishment of Gender-Based

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<sup>37</sup> Lim and Gibson, “Gender, Minorities, Parenthood: Here’s How the Next Parliament Compares to Canada Today,” *iPolitics*, October 24, 2019.

<sup>38</sup> Sheila Block, Grace-Edward Galabuzi, and Ricardo Tranjan, *Canada’s Colour Coded Income Inequality*, Ontario, Canada: Canadian Centre for Policy Alternatives, 2019, <https://policyalternatives.ca/sites/default/files/uploads/publications/National%20Office/2019/12/Canada%27s%20Colour%20Coded%20Income%20Inequality.pdf>.

<sup>39</sup> Iglia Ivanova, *Inequality, Employment, and COVID-19*, Vancouver, BC: Canadian Centre for Policy Alternatives, 2021, [https://policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2021/07/ccpa-bc\\_Inequality-Employment-COVID\\_full.pdf](https://policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2021/07/ccpa-bc_Inequality-Employment-COVID_full.pdf).

Analysis Plus (GBA+) in Canada and attempts to construct a criterion for what an adequate application of GBA+ as an intersectional tool would look like.

GBA+ in Canada finds its origin in the development of Gender-Based Analysis (GBA) (note the lack of the '+') in the 1990s. In 1995, the federal government of Canada signed the UN Beijing Platform for Action, which included the adoption of a gender mainstreaming strategy<sup>40</sup>. Gender mainstreaming was a one-dimensional model in that it focused solely on the binary distinction between the experiences of men and women, rather than incorporating the multiple layers and inherent complexity of intersectionality. Nonetheless, it was still viewed as a “potentially radical strategy,” when it was first introduced<sup>41</sup>. In Mazey’s discussion of gender mainstreaming in the European Union (EU), she asserts that the “principal intellectual justification” for gender mainstreaming was founded on a feminist critique of liberal democracy and its problematic distinction between the private (female) sphere and the public (masculine) sphere<sup>42</sup>. The gender mainstreaming model set out to improve the participation of women in the public sphere by utilizing analytical, educational, and consultative tools<sup>43</sup>. Analytical tools included comprehensive gender disaggregated statistics, surveys, cost-benefit analyses with a gender lens, gender studies research, guidelines and terms of reference about gender mainstreaming, assessment methods to evaluate policy proposals, and continuous monitoring for effectiveness<sup>44</sup>. Educational tools included awareness and training courses for policy makers, the hiring of gender specialists, the publication of manuals, and incorporation of educational material

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<sup>40</sup> Scala and Paterson, “Gendering Public Policy,” 431.

<sup>41</sup> Sonia Mazey, *Gender Mainstreaming in the EU: Principles and Practices* (London: London European Research Centre, 2001), 8.

Mazey, 2001, 8.

<sup>42</sup> *Ibid*, 9.

<sup>43</sup> *Ibid*, 16-17.

<sup>44</sup> *Ibid*, 16

for schools<sup>45</sup>. Consultative tools included working groups, directories and databases with contacts, participation of men and women in decision-making, and the facilitation of public participation through conferences, seminars, and hearings<sup>46</sup>. Taken together, these three toolkits (analytical, educational, and consultative) surmise a list of traditional policy tools (training sessions, education, working groups) redirected to what was a novel subject: gender equity in liberal democratic institutions. With the assets of hindsight and intersectional theory, however, the major fallibilities of the strategy of gender mainstreaming are clear: it was a (white) feminist project insofar as it failed to consider other aspects of identity and upheld the status quo. Mazey acknowledged this, writing that gender mainstreaming was adopted because it was a politically feasible strategy that was attractive to European governments because it “applied equally to men and women and...*appeared* to be cost free” (Mazey’s emphasis)<sup>47</sup>.

In the Canadian context, gender mainstreaming was branded from the start as Gender Based Analysis (GBA). As Scala and Paterson write, GBA was an expert-bureaucratic approach organized through Status of Women Canada, which played a key role in structuring, implementing, and evaluating GBA<sup>48</sup>. Status of Women Canada was initially established within the Privy Council in 1971, but became a standalone government agency in 1976 tasked with improving gender equality in Canada. It played a key role in the development of GBA, though it has since (in 2018) been renamed and restructured as the Department for Women and Gender Equality (WAGE).

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<sup>45</sup> Ibid, 16.

<sup>46</sup> Ibid, 17

<sup>47</sup> Mazey, *Gender Mainstreaming*, 31-32.

<sup>48</sup> Scala and Paterson, “Gendering Public Policy,” 431.

GBA became a required inclusion for all Cabinet submissions to the Treasury Board Secretariat in 2007<sup>49</sup> under the Conservative Harper government, but in spite of this its adoption across government departments was limited. In 2009, the Office of the Auditor General (OAG) reported that most federal departments were not using GBA to assist in the design of public policy, despite the government commitment to do so<sup>50</sup>. The report also highlighted that even when GBA was used, the capacity of the department or agency to utilize GBA varied<sup>51</sup>. For example, the audit found that the Department of Justice had in 1997 adopted a Policy on Gender Equality that required gender equity analysis be included in all departmental work and established a departmental advisory committee; in 2004 this committee was disbanded, as the ultimate goal was to “integrate” gender equity work<sup>52</sup>. Following this “integration,” the department had ceased to offer GBA training and could provide the Auditor General no evidence of GBA analyses<sup>53</sup>. This trend (initial uptake of GBA followed by a tapering off and little evidence of GBA analyses) is echoed throughout the OAG 2009 report through examples from other departments and agencies. Health Canada, for example, adopted a Women’s Health Strategy in 1999, and in 2003 put a 5-year plan in place for the implementation of GBA<sup>54</sup>. The OAG reported evidence that GBA tools still existed within the agency but noted that there was no GBA champion (or file lead) within Health Canada, and that Health Canada had not carried out the scheduled 2008 evaluation of their 5-year strategy<sup>55</sup>. Overall, the report indicated ongoing challenges to the implementation of GBA across federal departments and agencies.

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<sup>49</sup> Ibid, 432.

<sup>50</sup> Canada, Office of the Auditor General, *2009 Spring Report of the Auditor General of Canada: Chapter 1 – Gender-Based Analysis* (Ottawa, 2009), [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_200905\\_01\\_e\\_32514.html#hd3c/](https://www.oag-bvg.gc.ca/internet/English/parl_oag_200905_01_e_32514.html#hd3c/).

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

In 2011 GBA was officially rebranded as Gender-Based Analysis Plus (GBA+), the focus of this thesis. GBA+ is now defined by Women and Gender Equality Canada (formerly Status of Women Canada) as “an analytical process that provides a rigorous method for the assessment of systemic inequalities...”<sup>56</sup>. The rebranding was, at least in part, a response to critiques of GBA as limited by its focus on gender, and demonstrated an “explicit” attempt to integrate intersectionality into GBA<sup>57</sup>. Based on subsequent reports and literature, however, it is clear that strategies and challenges remained similar even as GBA became GBA+. The strategies used for GBA+ seem to follow the European Union’s gender mainstreaming toolkit (as outlined by Mazey) in that they emphasize analytical, educational, and consultative tools<sup>58</sup>. This is highlighted by an inter-departmental action plan formulated by WAGE (then still known as Status of Women Canada), the Privy Council Office, and the Treasury Board Secretariat in 2016<sup>59</sup>. This Action Plan represents a government response to a 2015 Auditor General report on GBA+ implementation, which echoed the 2009 report in its findings that government departments have not always “adequately performed gender-based analysis (GBA) to inform government decisions,” and that application was inconsistent<sup>60</sup>. Notably, this Auditor General report uses the terms GBA and GBA+ interchangeably.

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<sup>56</sup> “Gender-based Analysis Plus (GBA+),” Women and Gender Equality Canada, Canada, last modified April 14, 2021, <https://women-gender-equality.canada.ca/en/gender-based-analysis-plus.html>.

<sup>57</sup> Olena Hankivsky and Linda Mussell, “Gender-Based Analysis Plus in Canada: Problems and Possibilities of Integrating Intersectionality,” *Canadian Public Policy* 44, no. 4 (December 2018): 305, <https://www.jstor.org/stable/10.2307/26585555>.

<sup>58</sup> Mazey, *Gender Mainstreaming*, 16-17.

<sup>59</sup> Status of Women Canada, Privy Council Office, and Treasury Board Secretariat, *Action Plan on Gender-based Analysis (2016-2020)* (Ottawa, 2016), <https://women-gender-equality.canada.ca/en/gender-based-analysis-plus/resources/action-plan-2016-2020.html>.

<sup>60</sup> Canada, Office of the Auditor General, *2015 Fall Reports of the Auditor General of Canada: Report 1 – Implementing Gender-Based Analysis* (Ottawa, 2015), [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201602\\_01\\_e\\_41058.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201602_01_e_41058.html).

The 2016-2020 Action Plan responds to specific findings of the 2015 OAG report by setting out specific responses to remedy them. These responses include actions such as “Expanding GBA+ training for major sectors and functional communities,” the strengthening of ongoing GBA+ focused networks and committees, the implementation of a “policy considerations checklist,” and the publication of “guidance” on how to use GBA+ by the Treasury Board Secretariat<sup>61</sup>, to name a few. Without exception, the tools all fall into the categories and subcategories of gender mainstreaming strategies discussed by Mazey<sup>62</sup>, representing the attempted application of intersectionality to a traditional institutionalized public policy model.

Since the election of Justin Trudeau in 2015, the focus on GBA+ became more explicit. Not only did the mandate of the Trudeau’s newly appointed Minister of Status of Women include explicit reference to the ongoing implementation of gender-based analysis, but every ministerial mandate letter included reference to realizing gender equality<sup>63</sup>. Relevant here are the mandates set for the Ministries of Natural Resources, Environment and Climate Change, Indigenous and Northern Affairs, Status of Women, and Fisheries and Oceans; but, the specific focus will be the Impact Assessment Agency of Canada, formerly the Canadian Environmental Assessment Agency, which administers federal Impact Assessments. The symbolic commitment was further emphasized by the appointment of a gender-balanced cabinet that also showcased racial, linguistic, and regional diversity. The federal government then pursued tangible policy changes targeting women, including the adoption of the *Canadian Gender Budgeting Act*. Different from the requirement for GBA inclusion in TBS submissions, the *Canadian Gender*

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<sup>61</sup> Status of Women Canada, Privy Council Office, and Treasury Board Secretariat, *Action Plan*.

<sup>62</sup> Mazey, *Gender Mainstreaming*, 16-17.

<sup>63</sup> Justin Trudeau, *Ministerial Mandate Letters: Sent by Prime Minister Justin Trudeau to the Cabinet of Canada’s 42<sup>nd</sup> Parliament* (Ottawa, ON: desLibres Chapbooks, 2015).

*Budgeting Act* placed new responsibilities on the Minister of Finance to analyze gender and diversity in resource allocation and taxation decisions, meaning that every spending item in a federal budget must have GBA+ applied to it<sup>64</sup>. Under the Justin Trudeau government, a public inquiry was also launched into Missing and Murdered Indigenous Women, marking a notable shift from the Harper administration's blatant statement that this problem was not a priority of theirs<sup>65</sup>. And, the Trudeau administration increased access to medical abortion by approving Mifegymiso, the 'abortion pill' that is especially important for reproductive healthcare in rural and northern communities<sup>66</sup>. These examples all demonstrate a shift in federal policy since 2015 to explicitly incorporate GBA+ in policy decisions.

Another development was the convening of a Standing Committee on the Status of Women, which undertook a study on the implementation of GBA+ in the federal government.<sup>67</sup> Twenty-eight witnesses provided testimony between February and May of 2016, and in summary the parliamentary committee found that the implementation of GBA+ made a positive difference in the "quality, responsiveness, and effectiveness" of federal public policy<sup>68</sup>. The findings, however, reiterated many of the findings of the 2009 and 2015 Auditor General's reports; namely, that the federal government's commitment to utilizing GBA+ remained unfulfilled. For example, the committee found that only 29 of approximately 110 federal organizations had committed to GBA+ through the 2009 Departmental Action Plan<sup>69</sup>. Among the criticisms raised

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<sup>64</sup> Canadian Gender Budgeting Act, 2018 S.C., ch. 27.

<sup>65</sup> Canadian Centre for Policy Alternatives, *Unfinished Business: A Parallel Report on Canada's Implementation of the Beijing Declaration and Platform for Action* (Ottawa, ON: Canadian Centre for Policy Alternatives, 2019), 119.

<sup>66</sup> *Ibid*, 85.

<sup>67</sup> Canada, Parliament, House of Commons, Standing Committee on the Status of Women, *Implementing Gender-Based Analysis Plus in the Government of Canada* (1st sess., 42nd Parliament, 2016), <https://www.ourcommons.ca/DocumentViewer/en/42-1/FEWO/report-4>.

<sup>68</sup> *Ibid*, 1.

<sup>69</sup> *Ibid*, 4.

were the lack of accountability mechanisms for failure to implement GBA+ and arguments that legislation alone was not enough; it need to be paired with leadership from political leaders and public servants alike<sup>70</sup>.

The uptake and development of GBA and GBA+ in Canada has taken place under successive governments of different political leanings, with the most notable changes happening under Harper's Conservatives (the Treasury Board requirement, the move to GBA+), and Justin Trudeau's Liberals (the 2016-2020 Action Plan, the *Canadian Gender Budgeting Act*). In spite of these developments, the extent to which GBA and GBA+ are embraced seems to oscillate depending on the government of the day. One study in particular, which interviewed federal government workers, academics, and Non-Governmental Organization (NGO) personnel, reported that participants described "challenges doing equity-advancing work" under the 2005-2015 Conservative leadership, despite the fact that GBA+ was implemented as a federal government strategy under that administration<sup>71</sup>. Indeed, despite GBA+ developments during the Harper administration, the federal government of the day undertook changes that were harmful to the goals of GBA+, including removing the word "equity" from the Status of Women Canada mandate, major funding cuts, and explicit statements that the government did not consider issues affecting Indigenous women as major concerns<sup>72</sup>. This is consistent with the findings of the 2016 Standing Committee on the Status of Women that GBA+ developments must be paired with leadership to be meaningful<sup>73</sup>.

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<sup>70</sup> Ibid, 34.

<sup>71</sup> Olena Hankivsky and Linda Mussell, "Gender-Based Analysis Plus in Canada: Problems and Possibilities of Integrating Intersectionality," 305-307.

<sup>72</sup> Anne Kingston, "Why Stephen Harper doesn't want to talk about 'Women's Issues'," *Maclean's*, September 11, 2015, <https://www.macleans.ca/politics/ottawa/why-stephen-harper-doesnt-want-to-talk-about-womens-issues/>.

<sup>73</sup> Canada, Parliament, House of Commons, Standing Committee on the Status of Women, *Implementing Gender-Based Analysis Plus in the Government of Canada* (1st sess., 42nd Parliament, 2016), <https://www.ourcommons.ca/DocumentViewer/en/42-1/FEWO/report-4>.

The parliamentary committee was also informed of the criteria used by Status of Women Canada for ‘completed’ application of GBA+. In order for a department or agency to have successfully applied GBA+, they had to have reviewed qualitative and quantitative gender-related information relevant to the initiative under review; to have considered the perspectives of stakeholders; to have examined the gender considerations raised in data and by stakeholders; and proposed options or risk mitigation measures where necessary<sup>74</sup>.

In the final report submitted by Chair Marilyn Gladu (of the Conservative Party of Canada), the parliamentary committee laid out 21 recommendations for improved application of GBA+. These recommendations included the promotion of GBA+ as an intersectional framework, as well as multiple recommendations targeting increased and sustained resourcing for GBA+ work, and recommended training for public servants<sup>75</sup>. Recommendation 17 called for federal legislation requiring that GBA+ analyses are applied to all proposals before they arrive to cabinet for decision-making<sup>76</sup>, which means that every decision placed before the executive branch of the federal government contains consideration for impacts on diverse communities. That said, just because the GBA+ impacts are listed in a decision document does not mean that a government is required to make their decision based on those impacts. The authority of the executive branch appears wholly intact, suggesting that power is not distributed in the way that intersectional theory would recommend.

The recommendations of the committee report helped to inform the aforementioned *Canadian Gender Budgeting Act*, as well as the *Department for Women and Gender Equality Act*<sup>77</sup>, which came into force in December of 2018. This legislation transformed Status of

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<sup>74</sup> Ibid, 5-6.

<sup>75</sup> Ibid, 43-47.

<sup>76</sup> Ibid, 46.

<sup>77</sup> Department for Women and Gender Equality Act, S.C. 2018, c. 27, s. 661.

Women Canada (SWC) into a full department, known as the Department for Women and Gender Equality (WAGE).

Altogether, these developments represent an ongoing commitment to apply GBA+ to federal public policy in Canada. The efforts are similar to Mazey's discussion of tactics used for gender mainstreaming in the European Union in that they utilize analytical, educational, and consultative tools to incorporate GBA+ into traditional public policy practices<sup>78</sup>. The question remains as to whether or not intersectionality can be meaningfully institutionalized without its radical usefulness being diminished, but it is clear that at least at a symbolic level, the Canadian government has been attempting to do so.

This application has expanded to Canadian impact assessment, as the 2019 *Impact Assessment Act*<sup>79</sup> explicitly requires analysts and review panels to consider “the impact...on any Indigenous group and any adverse impact that the designated project may have on the rights of the Indigenous peoples of Canada,” in addition to how resource projects will impact “the intersection of sex and gender with other identity factors”<sup>80</sup>. This subsection is meant to account for (and require) GBA+ in impact assessment, though the GBA+ program is not explicitly named. The broad language around “other identity factors” paired with “sex and gender” hints at the critiques that GBA+ prioritizes gender considerations at the expense of other factors of marginalization.

The next section of this chapter discusses the purpose and practice of Impact Assessment at the federal level, the various iterations of impact assessment legislation, and the eventual inclusion of GBA+.

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<sup>78</sup> Mazey, *Gender Mainstreaming*, 16-17.

<sup>79</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

<sup>80</sup> Ibid.

Natural resource development is foundational to the Canadian project. Gaining access to the wealth of natural resources was a driving factor in colonization and jurisdiction over those resources is a fundamental component of the 1867 British North America Act<sup>81</sup>. Today an expansive regulatory regime exists to maintain and manage these natural resources, which include everything from forest products and fisheries to minerals, fossil fuels, and freshwater. Though there was an assessment process not enshrined in legislation prior to (discussed in more detail below), the first federal legislation requiring environmental assessment was only passed in 1992.

In 1969, Pierre Trudeau proposed the White Paper, which would have removed the legal recognition of Indigenous peoples' treaty rights<sup>82</sup>. As such, it was considered an assault on Indigenous identity and land rights, and in response many Indigenous communities intensified advocacy for acknowledgement of their rights. Over the following years this activism resulted in landmark legal decisions and the inclusion of Indigenous rights in the 1982 Canadian Constitution via Section 35's language "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed"<sup>83</sup>. The environmental assessment process was birthed as these conversations were growing at a national level, but that does not mean it was immediately reflective of Indigenous rights and title.

The precursor to environmental assessment in Canada – and, despite the lack of a statutory requirement at the time, the first well-known environmental assessment itself – was the

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<sup>81</sup> Steven J. Cooke et al., "The Canadian Context for Evidence-Based Conservation and Environmental Management," *Environmental Evidence* 5, no. 14 (2016): 3, <https://doi.org/10.1186/s13750-016-0065-8>.

<sup>82</sup> Manuel and Grand Chief Derrickson, *Unsettling Canada*, 30.

<sup>83</sup> *Ibid* 35, 74.

Mackenzie Valley Pipeline Inquiry, conducted between 1974 and 1977<sup>84</sup>. This inquiry assessed the proposed construction of a gas pipeline in the Yukon and the Northwest Territories and culminated with the Berger Report, wherein Justice Berger argued for a 10-year moratorium on development because of its potential for adverse socio-ecological effects and due to the unsettled Indigenous land claims in the region<sup>85</sup>. The Berger Report constituted the “first major challenge” to the broad assumption that all resource development was good development for the local Indigenous communities<sup>86</sup>. Berger did not only look at the environmental impacts but considered the potential social impacts on Indigenous communities, including specific impacts on women, social inequalities, and negative impacts from loss of Indigenous identity<sup>87</sup>. He also highlighted that very little of the economic stimulus from the project would remain in the North<sup>88</sup>. The Berger Report illustrated the importance of engagement prior to development, particularly with the communities affected.

The Mackenzie Valley Pipeline Inquiry was not standard practice for natural resource projects at the time. It was a specific response commissioned by the federal government as a pre-emptive response to a looming conflict between petroleum companies and Indigenous nations over a major development proposal<sup>89</sup>. Addressing this conflict before it escalated was no doubt a political calculation on the part of the government of the day (Pierre Trudeau’s Liberals), especially considering the fallout over the White Paper and growing economic interests in oil and

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<sup>84</sup> Shaun Fluker and Nitin Jumar Srivastava, “Public Participation in Federal Environmental Assessment under the *Canadian Environmental Assessment Act 2012*: Assessing the Impact of “Directly Affected,” *Journal of Environmental Law and Practice* 29 (2016): 66.

<sup>85</sup> Ibid, 66; Chris Southcott et al, “Beyond the Berger Inquiry: Can Extractive Resource Development Help the Sustainability of Canada’s Arctic Communities?” *Arctic* 71, no. 4 (December 2018): 394, <https://doi.org/10.14430/arctic4748>.

<sup>86</sup> Southcott et al, “Beyond the Berger Inquiry,” 394.

<sup>87</sup> Ibid, 396.

<sup>88</sup> Ibid, 396.

<sup>89</sup> “Berger Inquiry,” University of British Columbia, Indigenous Foundations, last modified 2009, [https://indigenousfoundations.arts.ubc.ca/berger\\_inquiry/](https://indigenousfoundations.arts.ubc.ca/berger_inquiry/).

gas development in the Mackenzie Valley region. The Mackenzie Valley Pipeline Inquiry and the resulting Berger Report would ultimately act as precedent for environmental assessments to follow, but it did not constitute established government policy.

During the period in which the Berger review was taking place (1973), an Order-in-Council of the federal cabinet established the Environmental Assessment and Review Process Guidelines (EARP Guidelines)<sup>90</sup>. The EARP Guidelines were administered by the Federal Environmental Assessment Review Office and were explicitly intended as a planning process rather than a regulatory one<sup>91</sup>. Guiding documents from the era demonstrate little to no mention of Indigenous title, or indeed of any impacts aside from the environmental and economic<sup>92</sup>. This oversight is possibly a result of siloed responsibilities and the historical context – at the time, conversations about Indigenous rights were taking place within the broader context of the 1982 Constitution writ large (the document cited was written the same year as the Meech Lake Accord) rather than as something to be considered in every policy area in the interests of Reconciliation.

Guidance for policy-makers published in 1987 demonstrates that the bones of the assessment process remain the same: although more heavily weighted towards policy-maker discretion from the outset, allowing for broad exemptions of projects that ‘will not’ have adverse impact, projects that were deemed by the responsible government department to have possible adverse impacts were to be referred to the Minister of Environment for review by panel<sup>93</sup>. These panels were appointed by the Minister of Environment, and panellists were required to be “free

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<sup>90</sup> Michael I. Jeffrey, “The Canadian Environmental Assessment Act,” *The Urban Lawyer* 24, no. 4 (Fall 1992): 775.

<sup>91</sup> Canada, Minister of Supply and Services Canada, *The Federal Environmental Assessment and Review Process*, Ottawa, ON: 1987, [https://publications.gc.ca/collections/collection\\_2017/acee-ceaa/En106-4-1987-eng.pdf](https://publications.gc.ca/collections/collection_2017/acee-ceaa/En106-4-1987-eng.pdf).

<sup>92</sup> Ibid.

<sup>93</sup> Ibid, 3.

of potential conflicts of interest or political commitments,” with “special knowledge or relevant experience,” to the assessment at hand<sup>94</sup>. The necessary requirements for the panel process according to the archived documentation are an independent panel, opportunity for public involvement, and a specific mandate for each panel<sup>95</sup>. The role of the panel and the public continue through to contemporary assessment processes, but what is important to note, especially given the context of the Berger Inquiry and the White Paper, is the lack of acknowledgement of the social impacts, and particularly, the impacts a project might have on Indigenous people.

An independent 1992 report prepared for the Canadian Environmental Assessment Research Council, struck with assessing the effectiveness of the EARP planning process, found several key problems with the regulatory process<sup>96</sup>. The foundational flaw was that the EARP Guidelines were not enshrined in legislation and therefore more of an “academic exercise” than a useful tool; but importantly, the report found that there was little provision for public consultation or involvement, since there was no such explicit requirement in the Guidelines<sup>97</sup>. The report also stated that there was little to no consideration of the social impacts in the EARP-guided process<sup>98</sup>. Indigenous perspectives were not even included in the critical review of the EARP guidelines, which only mentioned Indigenous groups in a single reference to what was then known as the Department of Indian and Northern Affairs<sup>99</sup>. In other words, the Indigenous mobilization of the 1970s and the important considerations of the Berger Report had not yet been incorporated into the policy process of environmental assessments. National conversations

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<sup>94</sup> Ibid, 3-4.

<sup>95</sup> Ibid.

<sup>96</sup> Sandra M. C. Weston, *The Canadian Federal Environmental Assessment and Review Process: An Analysis of the Initial Assessment Phase*, Canadian Environmental Assessment Research Council, 1991, [https://publications.gc.ca/collections/collection\\_2017/acee-ceaa/En107-3-21-1992-eng.pdf](https://publications.gc.ca/collections/collection_2017/acee-ceaa/En107-3-21-1992-eng.pdf).

<sup>97</sup> Ibid, 50.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid, 13.

notwithstanding, Indigenous perspectives and consultation remained siloed from impact assessment.

The EARP Guidelines were adjusted by Cabinet during the latter quarter of the twentieth century, but they remained vulnerable to litigation given their status as policy direction not formally enshrined in statute. Two subsequent rulings of the federal court found that the EARP Guidelines were a legally enforceable obligation of the government<sup>100</sup>, and these rulings prompted the federal government to table the *Canadian Environmental Assessment Act* in 1992 (CEAA, 1992).

CEAA 1992 was the first of the three significant iterations of environmental assessment legislation, all of which play an important role in the current statutory requirements and institutional practices of impact assessment. CEAA 1992 established environmental assessment as a statutory requirement, but it built on the EARP Guidelines by emphasizing public participation in the assessment process<sup>101</sup> - which was included, but clearly underutilized, by the EARP Guidelines. CEAA 1992 also clarified what types of projects required assessment, and how those assessments should be undertaken<sup>102</sup>. Like the EARP Guidelines, the new environmental assessment legislation provided a “planning tool” to gather information about the socio-ecological impacts of a proposed development<sup>103</sup>; but its clarification in federal statute brought it under the regulatory purview of the government. It became “anticipatory” legislation related to planning and prevention, rather than responsive legislation tasked with combatting pollutive events once they had already occurred<sup>104</sup>. The former Canadian Environmental

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<sup>100</sup> Ibid.

<sup>101</sup> Carol Hunsberger, Sarah Froese, and George Hoberg, “Toward ‘Good Process’ in Regulatory Reviews: Is Canada’s New System any better than the Old?” *Environmental Impact Assessment Review* 82 (2020): 1, <https://doi.org/10.1016/j.eiar.2020.106379>; Jeffrey, “The Canadian Environmental Assessment Act,” 776.

<sup>102</sup> Jeffery, “The Canadian Environmental Assessment Act,” 776.

<sup>103</sup> Fluker and Srivastava, “Public Participation,” 66.

<sup>104</sup> Jeffery, “The Canadian Environmental Assessment Act, 775.

Assessment Agency (now the Impact Assessment Agency of Canada, or IAAC) was tasked with applying CEAA 1992.

The second iteration of federal environmental assessment legislation occurred 20 years later, when the Harper administration brought CEAA 1992 forward for amendment. The new legislation, known as the CEAA 2012, was controversial. It limited the type of projects that required review, narrowed the scope of the assessments, shortened the time limits for assessment, and restricted participation in the assessment process to those who were ‘directly affected’ by the proposed project<sup>105</sup>. The ‘directly affected’ requirement meant that anyone who wished to participate in the environmental assessment process had to demonstrate how the proposed project affected them personally or had to specify what expertise they could provide<sup>106</sup>. This allowed development projects to go ahead more quickly, with less review, and less opportunity for public consultation. The burden of proving ‘direct affect’ was a barrier for those who wished to participate, either because ‘direct’ was interpreted so narrowly, or because of the additional barrier in preparing submissions for consultation.

Some scholars found that the critiques of CEAA 2012 were indeed borne out by the implementation of the new legislation. Fluker and Srivastava, for example, examined CEAA 2012 and its influence on public participation in the environmental assessment process through case studies of specific project assessments<sup>107</sup>. They found that although the extent of public involvement varied depending on jurisdiction (federal environmental assessment overlaps with different provincial environmental assessment acts, as well as different provincial infrastructure related to public participation), under CEAA 2012 public participation was less of a “right” and

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<sup>105</sup> Hunsberger, Froese, and Hoberg, “Toward ‘Good Process’,” 1.

<sup>106</sup> Fluker and Srivastava, “Public Participation,” 65.

<sup>107</sup> Ibid.

more of a “privilege”<sup>108</sup>. Their research also uncovered that environmental panels were exercising “significant discretion,” in how the public participation process was structured, producing inconsistent results between different project assessments<sup>109</sup>. Similarly, Sinclair and Diduck, writing in 2017 (two years prior to the third piece of legislation, which will be discussed shortly), considered how to reconceptualize public participation in environmental assessment<sup>110</sup>. Consistent with the terminology of CEAA 2012, they found that public participation was only offered to individuals ‘directly affected’, and this participation tended to be “passive” engagement, such as letter-writing to the assessment panel<sup>111</sup>. Since the assessment process vests decision-making authority with the Minister, and the public were only offered an opportunity to influence the outcome of those decisions, Sinclair and Diduck argued that the lack of power-sharing mechanisms constituted a lack of *meaningful* public consultation<sup>112</sup> (emphasis added). This interpretation of ‘meaningful consultation’ is especially interesting: it requires the power to be distributed, rather than vested in a single discretionary authority. Or, meaningful consultation is only present insofar as those consulted can tangibly influence the outcome.

In response to the criticisms of CEAA 2012 and growing awareness of environmental impacts, the Justin Trudeau government passed the *Impact Assessment Act 2019*<sup>113</sup> (IAA 2019), the third and current iteration of environmental assessment legislation in Canada. The IAA removed the “directly affected” clause, broadening the scope of who was able to participate in the assessment process<sup>114</sup>. IAA 2019 also established a participant funding program, to further

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<sup>108</sup> Ibid, 66-68.

<sup>109</sup> Ibid, 81.

<sup>110</sup> John A. Sinclair, and Alan P. Diduck, “Reconceptualizing Public Participation in Environmental Assessment as EA Civics,” *Environmental Impact Assessment Review* 62 (2017): 174, <http://dx.doi.org/10.1016/j.eiar.2016.03.009>.

<sup>111</sup> Ibid, 174.

<sup>112</sup> Ibid, 180-181.

<sup>113</sup> “CER Acts and Regulations,” Canada Energy Regulator, last modified March 14, 2020, <https://www.cer-rec.gc.ca/bts/ctrgr/index-eng.html>.

<sup>114</sup> Hunsberger, Froese, and Hoberg, “Toward ‘Good Process’,” 4.

promote public engagement, and established an Indigenous advisory committee. Finally, it also, included the requirement that “intersection[s] of sex and gender with other identity factors,” be considered in the Impact Assessment, whether it is carried out by the Impact Assessment Agency or a review Panel<sup>115</sup>.

### *Impact Assessment in Practice*

This requirement is the crux of this study. Although it would be worth analysis regardless of its inclusion, the presence of “sex and gender [and] other identity factors,” in the legislation establishes a legal imperative for consideration. There are caveats; the recommendations of review panels (discussed more below), for instance, are not legally enforceable unless imposed as conditions by the necessary authorities<sup>116</sup>, and the independence of the review panel is important<sup>117</sup>. But the review panels must be informed of their duties and are supported by Impact Assessment Agency staff, and ultimately, the government is responsible for ensuring its legislation is upheld. Therefore, the government is responsible for ensuring that review panels and the Agency consider the intersection[s] of sex and gender with other identity factors.

Comparisons of CEEA 1992, CEEA 2012, and IAA 2019, tend to position CEEA 2012 as the most regressive of the three insofar as it limited public participation. This is not surprising given the changes CEEA 2012 made: it limited the requirements that set out which projects must undergo approval, thereby reducing the number of projects assessed. CEEA 2012 also relaxed sustainability safeguards, though it did improve efficiency for proponents seeking timely approvals<sup>118</sup>. This in context, important considerations must be made for the directives of

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<sup>115</sup> Ibid; Impact Assessment Act, S.C. 2019, c. 28, s. 1.

<sup>116</sup> Jesse J. Usher and Frances Abele, “Environmental Assessment, Independent Review Panels, and Due Process: Turning Principle into Practice,” in *How Ottawa Spends*, ed. Katherine A.H. Graham and Allan M. Maslove, 85.

<sup>117</sup> Ibid, 86.

<sup>118</sup> Hunsberger, Froese, and Hoberg, “Toward ‘Good Process’,” 6-8.

governments. CEAA 2012 operated under both the Harper and Trudeau administrations, and given the timeline for implementation, decisions under IAA 2019 are only just starting to occur. And, regardless of the iteration of the environmental assessment legislation a project submits to, the decision-making authority has remained vested with the Minister.

According to information provided by the Impact Assessment Agency, the current impact assessment process occurs in five key phases (Figure 1). These phases retain elements of the previous Acts, as well as the Berger Inquiry. The first phase of the process is planning, wherein the proponent determines if their project meets the legislative criterion and must undergo



Figure 1: *Impact Assessment Process*. Image by Impact Assessment Agency of Canada, November 8, 2019.

review<sup>119</sup>. The proponent must submit a project description to the Impact Assessment Agency of Canada (IAAC), and if the IAAC affirms that review is necessary, the IAAC will instigate a number of actions, including but not limited to: identifying Indigenous groups that must be consulted, contacting involved jurisdictions (for instance,

provincial and territorial governments), initiating engagement activities, and preparing a summary of issues<sup>120</sup>. The IAAC will post a Notice of Commencement to the public IAAC registry, and within 45 days of this, the Minister may refer the project to a Review Panel, if the

<sup>119</sup> “Impact Assessment Process Overview,” Impact Assessment Agency, Canada, last modified November 8, 2019. <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview/phase1.html>.

<sup>120</sup> Ibid.

Minister deems it is in the public interest to do so<sup>121</sup>. The IAAC falls within the portfolio of the Minister of Environment and Climate Change, who must make this decision.

The second phase is the Impact Statement, which the proponent produces and contains technical information about the proposed project<sup>122</sup>. During this phase the IAAC will establish the Terms of Reference for a review panel<sup>123</sup>. The individuals on the review panel may be selected from a roster of candidates held by the Minister<sup>124</sup>; the names of the individuals on this roster are publicly available. The review panel must submit a report on the proposed project to the Minister, typically within a 600-day time frame<sup>125</sup>.

The third phase is the Impact Assessment itself. In this phase, the review panel will assess the information in the Impact Statement provided by the proponent, will hold public engagement, engage Indigenous groups, and prepare an Impact Assessment Report<sup>126</sup>. This report will “recommend potential conditions, potential mitigation measures and follow-up programs”<sup>127</sup>. The IAAC will prepare a Consultation Report with impacted Indigenous groups<sup>128</sup>.

Under phase four, decision-making, the Impact Assessment Report and a Consultation Report will be brought to the Minister. The Minister must decide whether the adverse effects of the project are first, federal jurisdiction, and second, are in the public interest<sup>129</sup>. The Minister will post the Decision Statement publicly, and this statement may include mitigation measures and enforceable conditions which the proponent must comply with<sup>130</sup>. Compliance and

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<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

<sup>126</sup> Canada, “Impact Assessment Process Overview.”

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Ibid.

enforcement measures are then left with the IAAC<sup>131</sup>, and this falls under the fifth phase; post-decision<sup>132</sup>. In keeping with open government measures, the major decisions and reports of the impact assessment process are all publicly posted on the IAAC registry.

All three iterations of impact assessment legislation since 1992 have included a section titled “Factors to be considered.” These sections (Section 16 in CEAA 1992, Section 19 in CEAA 2012, and Section 22 in IAA 2019)<sup>133</sup> list what factors the impact assessment must examine. They include differing references to environmental impacts to be considered, as well as public consultation, but only IAA 2019 explicitly lists “the intersection of sex and gender with other identity factors”<sup>134</sup> as one of the factors for consideration. Within the context of the impact assessment process, consideration of these factors, including GBA+, occur at step 3, the Impact Assessment, and are the duty of the IAAC or the Review Panel (under IAA 2019) who compile the assessment.

Ultimately, however, the assessment is brought to the Minister, who must make the final decision on whether to proceed with the project. The Minister is bound by their own list of factors to consider: namely, whether or not the project will have significant adverse effects, and whether or not it is in the public interest<sup>135</sup>. Specific to the public interest there is a second list of factors for the Minister to consider in the decision: these include the extent to which the project hinders or contributes to Canada’s climate and environmental obligations, and the extent to which it may impact an Indigenous group and Indigenous rights under section 35 of the

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<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> Canadian Environmental Assessment Act, 1992 S.C., c. 37.; Canadian Environmental Assessment Act, 2012 S.C., c. 19, s. 52.; Impact Assessment Act, S.C. 2019, c. 28, s. 1.

<sup>134</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

<sup>135</sup> Ibid.

*Constitution Act, 1982*<sup>136</sup>. Under this section there is no consideration for the Minister to make vis-à-vis sex, gender, or other identity factors.

In sum, the assessment of natural resource development projects in Canada has a long history, though it has only been a legislated requirement for the past thirty years. As a legislated requirement there have been three key changes to the governing legislation, shifting the extent to which environmental assessment is a streamlined process for proponents, an accessible tool for public engagement, and consistent with protecting environmental impacts and upholding Indigenous rights. The requirement to consider gender, sex, and other identity factors is recent to the legislation, but given the previously discussed evolution of GBA+ in Canadian public policy, it is not too soon for an examination of how GBA+ has been applied to the impact assessment process. As demonstrated by the Berger Inquiry, it is clear that social impacts, especially those particular to Indigenous communities, have been present in impact assessment discourse, if not the formal legislation, for quite some time. This hardly constitutes the articulation of intersectionality, but it is not as if considering the human impacts of a natural resource project is a new phenomenon.

The next section of this chapter discusses arguments for GBA+ in impact assessment specifically (why it is important) and discusses critiques of its application to this area of study.

#### *Literature Review: The Case for GBA+ in Impact Assessment*

In certain circles, the relationship between resource development and nuanced social impacts – the impacts that are exacerbated for marginalized groups and especially the impacts felt by Indigenous women and Two-Spirit individuals in particular – has been common knowledge for a long time. Here, it is important to draw a distinction between when these

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<sup>136</sup> Ibid.

impacts were first acknowledged in a western setting, and when those impacts were first acknowledged by those who felt them. The Berger Inquiry was, in the Canadian context, the watershed moment that acknowledged the social impacts of resource extraction projects<sup>137</sup>; but arguably, the impacts have been known by those who felt them since Canada's initial colonization<sup>138</sup>. The state's acknowledgement of those impacts and public awareness are far more recent than the arrival of Europeans and the proliferation of resource extraction across what is now known as Canada.

In the contemporary context, the literature review revealed evidence describing the social implications of resource extraction. I considered separating these impacts into distinct themes, such as violence, health, and poverty, but ultimately the impacts are deeply related to one another, and separating them would be to reduce ultimate effects of the multiple impacts. Most of the literature discussed the impacts of resource extraction on Indigenous communities, and Indigenous women and girls in particular. This is essential and important nuance; as discussed earlier in this chapter, the tenets of intersectionality assert that the multiple axis of oppression – in this case, race and gender – create unique experiences of marginalization. But, it is also limiting to focus simply on this intersection, as there are other aspects that can and do contribute to distinct impacts. This includes disability, poverty, sexuality and gender identity; all of these factors and more are important areas of consideration, but for the most part, the literature overlooks them.

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<sup>137</sup> Southcott et al, "Beyond the Berger Inquiry."

<sup>138</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Canada, 2019), 234, <https://www.mmiwg-ffada.ca/final-report/>.

There are national statistics, internationally reported on, that cite the much higher rates of violence faced by Indigenous women and girls compared to other groups in Canada<sup>139</sup>. A 2016 report by Amnesty International, for example, examined the impacts of resource extraction in north-eastern British Columbia. The report found that these rates of violence are more acutely felt in the northeast of BC, which is a region with many extractive development projects underway<sup>140</sup>. The impacts were not limited to experiences of violence; the wages of resource workers drove up local food and housing prices, while wages for women in the area remained stagnant (and well below the average wages for women elsewhere in Canada)<sup>141</sup>. Life got more expensive for people living near resource development, and these expenses hit vulnerable communities (those already experiencing marginalization) the most. The areas in BC that this report examined were isolated from key urban infrastructure and government supports that may have been found in cities to the south; as a result, Indigenous women and girls could not access adequate supports to reduce or respond to the outsized risk of violence they face<sup>142</sup>.

The National Inquiry into Missing and Murdered Indigenous Women and Girls reiterated these findings. The Inquiry heard from expert witnesses, institutional witness, and Knowledge Keepers that resource extraction can drive violence against Indigenous women in multiple ways<sup>143</sup>. These include harassment and assault in the workplace, as well as increased experiences of violence at the hands of transient or non-Indigenous workers, or within Indigenous communities themselves<sup>144</sup>. In grappling with this violence, Indigenous people have drawn lines

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<sup>139</sup> Amnesty International, *Out of Sight, Out of Mind: Gender, Indigenous Rights, and Energy Development in Northeast British Columbia, Canada* (London, UK: Amnesty International, 2016), 4, <https://www.amnesty.ca/what-we-do/no-more-stolen-sisters/out-of-sight-out-of-mind-report/>.

<sup>140</sup> Ibid, 4.

<sup>141</sup> Ibid, 4.

<sup>142</sup> Ibid, 4-5.

<sup>143</sup> National Inquiry, *Reclaiming Power and Place* (Canada, 2019), 584.

<sup>144</sup> Ibid.

connecting the similarities between rape culture and resource extraction: the industrial resource extraction as a literal system of exerting power over the earth and pillaging the resources, and gender-based violence as a system of exerting violent power over women and girls and hurting them<sup>145</sup>.

Another report, which reviewed approximately 400 research articles published between 2006 and 2018, found that northern and Indigenous women experienced increases in gender-based violence, as well as racialized violence, compromised food and water security, substance use, sex work, and a lack of access to spiritual and cultural sites, because of natural resource development in their communities<sup>146</sup>. The report also found that assertions of economic benefits brought by the resource development projects were complicated by a lack of access to childcare and the feminization of labour<sup>147</sup>. If women were able to find employment in these resource projects, they were most often employed in the cafeteria or housekeeping, for example. These positions tend to be paid less. A second summarizing report built on these findings, outlining that not only are women typically relegated to feminine roles that are paid less, they are more likely to have temporary or causal contracts, rather than permanent jobs<sup>148</sup>. This report also discussed the particular challenges faced by Indigenous women with disabilities in obtaining employment in resource projects, as well as the experiences of women who become pregnant in these roles and have trouble obtaining parental leave<sup>149</sup>.

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<sup>145</sup> Ibid, 586.

<sup>146</sup> Leah Levac and Susan Manning, *The Importance of Indigenous and Northern Women's Experiences and Knowledges in Impact Assessments* (Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2019), 2-3, <https://www.criaw-icref.ca/publications/the-importance-of-indigenous-and-northern-womens-experiences-and-knowledges-in-impact-assessments/>.

<sup>147</sup> Ibid, 3.

<sup>148</sup> Susan Manning et al., *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women* (Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2018), 5-6, <https://www.criaw-icref.ca/publications/impacts-of-resource-extraction-for-indigenous-women/>.

<sup>149</sup> Ibid, 6.

Additionally, the experiences of racialized and sexualized violence extended to the worksites for women who were able to obtain jobs on the resource projects. Indigenous women reported racialized and sexualized violence and harassment at job sites, as well as tokenization and micro-aggressions promoted by employers, who explicitly encouraged code switching and vested the responsibility to stay safe from violence with the women themselves (for instance, through telling them to dress a certain way so as not to ‘tempt’ sexualized violence)<sup>150</sup>. Comments like this from colleagues and leadership shape a work environment that is unsafe and in turn enact their own kind of violence. In one analysis of mining in particular, the authors highlighted a “strong association” between mining and masculinity, which is then institutionalized by gendered behaviour by supervisors, workers, and communities<sup>151</sup>. These practices in turn contribute to practices of harassment, sexualization, and gendered-job assignments, which impede women from entering the industry<sup>152</sup>. These same authors identified environmental assessments as a means (though, an insufficient one) to increase the participation of Indigenous women in mining employment, since they provide a forum for communities to assert their concerns<sup>153</sup>.

Health impacts caused by natural resource projects were also far-reaching with disproportionate effects. Downstream from the tar sands in northern Alberta, for example, cancer rates are elevated particularly for women, and women are more susceptible to radiation harms than men<sup>154</sup>. Mental health concerns were also elevated by the projects, due in part to the

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<sup>150</sup> Ibid, 7.

<sup>151</sup> David Cox and Suzanne Mills, “Gendering Environmental Assessment: Women’s Participation and Employment Outcomes at Voisey’s Bay,” *Arctic Institute of North America* 68, no. 2 (June 2015): 248, <http://dx.doi.org/10.14430/arctic4478>.

<sup>152</sup> Ibid.

<sup>153</sup> Ibid, 248, 257.

<sup>154</sup> Susan Manning et al., *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women*, 10-11.

associated increases in substance use and abuse, violence, and economic stress<sup>155</sup>. The health impacts are clearly intertwined with the environmental and economic factors. In some cases, project development has poisoned drinking water<sup>156</sup>. Inflation makes healthy food and affordable housing inaccessible, and access to traditional food and medicine is infringed upon by impacts on the landscape. All of these factors exacerbate and cause a variety of health problems; but the evidence also shows that the influx of resource workers strains regional healthcare infrastructure, making it more difficult for locals to access<sup>157</sup>.

The list of impacts goes on, but ultimately they are overlapping factors. When a natural resource project is developed, there are economic, environmental, health, and social impacts. All of them make the others worse, and it can be unclear which prompted the outcomes. And all are experienced differently by different individuals and groups, though as the literature expresses, the negative impacts are disproportionately harmful for Indigenous women and girls.

There have been pushes for a response to mitigate these negative effects, some of which overtly highlight environmental assessment as a possible solution. In calling for a more cohesive response to the negative impacts of these development projects, the aforementioned report by Amnesty International drew on the international human rights standards that Canada has committed to uphold at all levels of government. In particular, the report cited the responsibility to “take every reasonable precaution,” to address the harm<sup>158</sup>. Amnesty acknowledged that Canadian government had explicitly stated that environmental assessments were a key way it intends to uphold Indigenous rights; but, according to the literature, Indigenous people are

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<sup>155</sup> Ibid, 11-12.

<sup>156</sup> Ibid, 11.

<sup>157</sup> Susan Manning et al., *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women*, 10.

<sup>158</sup> Ibid, 5.

routinely denied “any meaningful role” in determining how these assessments unfold<sup>159</sup>. Instead the decision-making authority – the right to decide whether or not a project may be approved – remains vested with cabinet, where decisions are “cloaked in secrecy”<sup>160</sup>. The report looked at the decision made for the Site C hydroelectric project in British Columbia, which was assessed under CEAA 2012. It found that the decision made to approve the dam did not refer to treaty rights or explain the rationale for the decision, simply stating that in the eyes of the decision-makers, the “concerns of Aboriginal groups have been reasonably balanced with other interests”<sup>161</sup>. This statement is vague, not constituting an explanation or providing anything for those affected to hold up as a means to measure accountability.

Decision making authority aside, this report also offered criticism of the GBA+ framework. It found that the regulatory mechanisms, including impact assessment (under CEAA 2012, given the time of the report’s writing) and GBA+, failed to provide a “systemic, comprehensive analysis of the gendered and intersectional impacts of resource extractions, nor any guidance on how to mitigate these impacts”<sup>162</sup>. The authors highlighted that these regulatory mechanisms were not (and to date, are not) integrated across sectors or jurisdictions, producing different opportunities for and barriers to engagement depending on the region, province, or territory<sup>163</sup>. The authors did not find these processes without promise, but rather concluded that they failed on consistent and meaningful implementation<sup>164</sup>.

The criticism of gender-based analysis plus extends to the impact assessment process. As Kennedy Dalseg et al. write, “the planning that results from [environmental assessments]...is

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<sup>159</sup> Amnesty International, *Out of Sight, Out of Mind*, 68.

<sup>160</sup> *Ibid*, 69.

<sup>161</sup> *Ibid*, 69.

<sup>162</sup> *Ibid*, 69.

<sup>163</sup> *Ibid*, 69.

<sup>164</sup> *Ibid*, 69.

often focused on whether or how to integrate (often industrial) development into local communities and societies rather than starting with community visions”<sup>165</sup>. Framing resource development as the only option limits impact assessment by focussing on direct impacts such as employment, rather than extending to the impacts that a project may have on traditional economies<sup>166</sup>. Furthermore, the study found a “foundational” problem with environmental assessment processes in Canada insofar as they are “pre-defined, narrow, Eurocentric, and patriarchal in scope,” which results in systemic exclusion for Indigenous women in particular<sup>167</sup>.

So how then, to improve the impact assessment process? Several publications from FemNorthNet highlighted a range of improvements that the federal government could take. One of these publications was the submission of FemNorthNet to the Canadian Senate on the proposed legislation that would become the 2019 Impact Assessment Act<sup>168</sup>. The submission supported the inclusion of the language in the drafted legislation that is the basis of this project: the requirement of impact assessments to consider “the intersection of sex and gender with other identity factors”<sup>169</sup>. The authors highlighted that this was particularly important in ensuring that Indigenous women’s voices were elevated in consultation mechanisms, as well as an opportunity for more meaningful linkages between western science and Indigenous knowledges for informing resource project assessments<sup>170</sup>. Particular problems with the existing process, which the authors hoped Senators would pay heed to, included unreasonably short timelines for

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<sup>165</sup> Sheena Kennedy Dalseg, Rauna Kuokkanen, Suzanne Mills, and Deborah Simmons, “Gendering Environmental Assessments in the Canadian North: Marginalization of Indigenous Women and Traditional Economies,” *The Northern Review* 47 (2018): 153, <https://doi.org/10.22584/nr47.2018.007>.

<sup>166</sup> *Ibid*, 153.

<sup>167</sup> *Ibid*, 158.

<sup>168</sup> Leah Levac and Susan Manning, *The Importance of Indigenous and Northern Women’s Experiences and Knowledges in Impact Assessments* (Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2019), <https://www.criaw-icref.ca/publications/the-importance-of-indigenous-and-northern-womens-experiences-and-knowledges-in-impact-assessments/>.

<sup>169</sup> *Ibid*, 2.

<sup>170</sup> *Ibid*, 2-3.

participation that conflict with competing priorities, consultations that are power-driven, and the invalidation of Indigenous women's experiences<sup>171</sup>. These latter two factors are particularly interesting insofar as they highlight one of the foundational tenets of intersectional analysis: power dimensions. When there is consultation or a relationship between two actors, a power difference between the two – wherein one has the ability to force their wishes regardless of the outcome of the discussion – it is difficult, and some might argue impossible, to ensure that consensus is ever reached. Intersectionality is a tool that looks at power dimensions and names them. Naming the power dimension does not eliminate it, but it does help to redistribute some of the power to the marginalized actor.

Could naming the fact that Indigenous consultation happens on unequal footing be key to improving the process? Not necessarily. It would depend on whether or not the actor holding the power – in this case, the Canadian federal government – concedes their power. This year we have seen that the federal government has both the figurative public policy tools and the literal tools (such as guns leveled at Wet'suwet'en Land Defenders on several occasions) to achieve its resource development aims, regardless of the consultation process. Vesting hope for improvement with naming the power inequity also overlooks the ongoing advocacy of individuals and groups, including Indigenous women and the researchers quoted throughout the literature review, who continue to point out the difference in who holds the power. In other words, it is not enough just to name that the existing power dimensions exist. If it were, the problems with resource development and environmental assessment would already be solved. Instead, Indigenous people continue to assert their rights, both within the institutions of

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<sup>171</sup> Ibid, 4-5.

government and external to them. In turn we continue to see government institutions exert their power rather than relinquishing some of it.

In considering how to improve the impact assessment process, it is essential to shed light on the invalidation of Indigenous women's experiences in particular. As discussed by Cox and Mills, impact assessments are encapsulated by institutional environments that affect the ability of participants to meaningfully impact the outcomes<sup>172</sup>. This foundational limitation is especially felt by Indigenous women; as Kennedy Dalseg et al. conclude, environmental assessments are “characterized by a systemic disregard for Indigenous women's input and contributions as full members of their communities”<sup>173</sup>. A potential remedy could be found in a consultation process that validates the lived experiences of Indigenous women – perhaps by placing them as the focus, rather than the proposed project – and establishes that the Indigenous participants have the power to determine the outcomes.

Similarly, the FemNorthNet submission recommends that the federal government provide more funding for research on the relationship between identity factors and resource extraction<sup>174</sup>. There is a caveat to their recommendation, however: the current attempts to include Indigenous knowledges are hindered by the aforementioned power differentials, in turn contributing to intersectional exclusion<sup>175</sup>. They define intersectional exclusion as what occurs when processes fail to consider unique experiences, in this case the experiences of Indigenous women<sup>176</sup>.

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<sup>172</sup> David Cox and Suzanne Mills, “Gendering Environmental Assessment: Women's Participation and Employment Outcomes at Voisey's Bay,” 247.

<sup>173</sup> Sheena Kennedy Dalseg, Rauna Kuokkanen, Suzanne Mills, and Deborah Simmons, “Gendering Environmental Assessments in the Canadian North: Marginalization of Indigenous Women and Traditional Economies,” 157.

<sup>174</sup> *Ibid*, 3-4.

<sup>175</sup> *Ibid*, 5.

<sup>176</sup> *Ibid*, 6.

Two other possible ways to improve upon and mitigate the impacts of resource extraction on communities were identified in the literature as follow through on monitoring and investment in research. On the former point, one author examined the Muskrat Falls hydroelectric development in Labrador, and found that the process was lacking in follow through<sup>177</sup>. Once the assessment process was finished and the project greenlit, there was a lack of monitoring of the impacts that unfolded, and subsequently a lack of effort devoted to mitigating them<sup>178</sup>. In this case, the fallout perpetuated structural inequalities, negatively affecting diverse groups of women and girls, including those with disabilities<sup>179</sup>. The lack of follow-through was documented elsewhere, with recommendations for the government to integrate follow up and monitoring into the impact assessment process<sup>180</sup>. This was accompanied by a call for the recommendations of impact assessments to be enforced; as it stands, this enforcement is lacking. In other words, the current application of impact assessment legislation is still echoing the intentions of its predecessors as an anticipatory planning tool<sup>181</sup>. The actual impacts of a project, once approved and developed over the course of years, appear to fall to the analysis of researchers rather than the Impact Assessment Agency.

In that vein, the final recommendation was to better support research. This recommendation was tied to better funding, but also highlighted the need to incorporate principles of participatory research in the impact assessment process itself<sup>182</sup>. This report

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<sup>177</sup> Deborah Stienstra, "Northern Crises: Women's Relationships and Resistances to Resource Extractions," *International Feminist Journal of Politics* (2015): 15, <http://dx.doi.org/10.1080/14616742.2015.1060695>.

<sup>178</sup> Ibid, 15.

<sup>179</sup> Ibid, 2.

<sup>180</sup> FemNorthNet, *Requiring Gender Based Analysis Plus (GBA+) and Participatory Research Principles in Environmental Assessments* (Ottawa, ON: Canadian Research Institute for the Advancement of Women, 2016), 1-5, <https://www.criaw-icref.ca/publications/requiring-gba-and-participatory-research-principles-in-environmental-assessments/>.

<sup>181</sup> Jeffery, "The Canadian Environmental Assessment Act, 775.

<sup>182</sup> FemNorthNet, *Requiring Gender Based Analysis Plus*, 5.

describes participatory research as a process wherein diverse local communities are not just notified or consulted, but rather active participants in the review of project proposals and the follow-up should the project get approved<sup>183</sup>. This is more consistent with the theory-based literature on intersectionality, especially its emphasis on lived experience and its inherent complexity. It is too reductive to look at a particular community and identify how precisely they will be impacted by certain events, unless you are a member of that community with the unique lived experience. By including diverse communities in the entirety of the impact assessment process in a meaningful way, it is less likely that the impacts of a project on a marginalized group will be overlooked: in this way, there can be more and better evidence to inform decision-makers and mitigation requirements.

In conclusion, the literature review outlined the many different shapes that the impacts of resource extraction projects can take. These impacts include social, economic, environmental, and health related affects, all of which disproportionately harm marginalized groups. The literature predominantly focussed on the unique impacts faced by Indigenous women and girls, and pointed out that the different impacts exacerbate one another. The literature also raised possible solutions to mitigating the harms associated with resource extraction projects, one of which was the impact assessment process itself.

Having now characterized the history and theory of intersectionality, the evolution of impact assessment in Canada, and the literature covering the impacts of resource extraction projects, I will now move onto the findings of the semi-structured interviews.

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<sup>183</sup> Ibid, 4.

## Chapter 3: Findings

This study sought to interview three respondent groups, but as previously discussed, no respondents who fit the description of the first group (individuals who participate directly in the federal impact assessment process through participation on review panels or integrated review panels) consented to participate. Instead, one individual was interviewed from the second respondent group (federal public servants who work on Impact Assessments), and three individuals were interviewed from the third group (experts on intersectionality). This chapter is separated into three sections: first, a discussion of the feedback gathered from the second respondent group, followed by the feedback gathered from the third respondent group, and finally, a discussion of the themes that emerged from the interviews with both of these groups. A list of the interview questions, which were used to guide the semi-structured interviews, can be found in Appendix I (p. 85).

### *Respondent Group 2*

The first interviewee, and the only representative from the second respondent group, is an individual who I will call Jesse. Jesse has worked on impact assessment for about five years and has experience with CEAA 2012 and CEAA 1992. As the only representative of this respondent group, I have summarized Jesse's feedback below. Although limited by the scope of only one respondent, it is useful to characterize this feedback against that of the other respondents, given that Jesse is an individual who works to operationalize the legislation this project reviews. Jesse did not feel comfortable disclosing personal information in their self-location, preferring to be identified as a federal public servant who works on impact assessment. Given Jesse's experiences with the Impact Assessment Agency, the fact that they are only one individual is partly compensated by the depth of their insights.

At the time of their interview, Jesse was working on policies and practices required to implement the 2019 Impact Assessment Act. When asked if they had perceived notable changes between the 2012 and 2019 legislation, Jesse pointed out that it was difficult to see the results yet, as the first impact assessments under 2019 had yet to be finalized. But Jesse stated that part of the Impact Assessment Agency’s preparatory work involved developing assessment tools for those impact assessments, including specifically how the Agency will “assess the quality of the GBA+ analysis.” So, although no assessments have been completed or publicized under IAA 2019, the Impact Assessment Agency (henceforth ‘the Agency’) has been actively working on its implementation.

Despite the early stages of the implementation process, Jesse reflected that so far, the 2019 legislation seems to be “meeting its policy intent.” As examples of this, Jesse cited a greater focus on planning in advance of the assessment, more tailoring to specific projects, and a more robust designation process – which is the process that identifies what projects must undergo assessment. For instance, Jesse highlighted a specific project that previously would not have undergone assessment, but the Minister chose to designate it due to its anticipated impacts. Under previous iterations of the legislation, this project would have gone ahead without assessment. Altogether, Jesse found the IAA 2019 process was “more rigorous” than its predecessor. This reflection is consistent with the findings of Chapter 2; namely, that CEAA 2012 was a less rigorous tool than its 2019 successor.

Jesse did highlight some areas of concern however: for example, the strategic assessment of climate change impacts. Under IAA 2019, the federal government committed to identifying the climate-related effects of projects, and whether a project will help or hinder Canada in

meeting its climate change commitments<sup>184</sup>. Jesse shared that it is unclear how those impacts will be considered, as the initial strategy for assessing climate impacts published by the government had recently undergone revisions and public comment. Jesse anticipated that more revisions would be coming, so they were uncertain what the final policy would look like.

When asked how the impact assessment process weighted economic, social, and environmental issues, Jesse stated that although there is often “some discussion” of economic issues, the process was “more heavily weighted to the environment.” Jesse was clear that they saw this not as a flaw, but as evidence of the legislation meeting its policy intent. Jesse identified that older generations of impact assessment were focussed on understanding environmental impacts, and that the economic data wasn’t “kicked around by the [review] panel in the same way that the environmental effects are.” That said, Jesse reiterated that under IAA 2019, “environmental, social, health and economic factors are all given effectively equal weight in the assessment... There’s no reason to focus on environmental factors at the expense of the other factors.” But, due to the planning phase of the assessment, Jesse found that “you will see more interaction between the environmental and social issues by design.” Here, the respondent seemed to be saying that although the IAA 2019 legislation weights the different factors equally, the issues that emerge as the most important to the planning stage of the assessment were environmental and social factors.

In addition to this, the IAA 2019 has sustainability listed as a key goal. As Jesse stated, “the purpose of the Act is to foster sustainability... the definition of sustainability includes not just environmental sustainability but also health, social, and economic sustainability.” In Jesse’s experience, every practitioner seemed to have a different definition of the term “sustainability,”

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<sup>184</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

which presented a tension with what Jesse saw as a “holistic” definition of sustainability in the Act.

Jesse also reflected on the “decision requires reasons” aspect of the IAA 2019. This language is in the preamble of the Act, and states that the public “should have access to the reasons on which decisions related to impact assessments are based”<sup>185</sup>. In theory, this inclusion should mitigate the problems outlined by one of the sources in the literature review with the Site C hydroelectric project in British Columbia, which had a very vague explanation given for its approval under CEAA 2012. Jesse shared that their understanding for this inclusion in IAA 2019 was due to many practitioners and academics who commented on CEAA 2012 and opined that the decision-making process should be rules-based, with clear guidelines on how the decision makers will “assess trade-offs between different factors.” Jesse shared that they understood the rationale, but found this model restrictive when applied to the Westminster system of government, wherein ministers have to be accountable for their decisions. Jesse stated that the decision-making authority (the minister) is told “how they’re supposed to behave and how they have to think,” by the IAA 2019 legislation. Jesse found that this restricted the minister’s accountability for the decision, positioning themselves instead as a simple signatory.

When asked about GBA+, Jesse emphasized that they have been familiar with Gender Based Analysis Plus since the outset of their career in the Canadian public service, stating that “GBA+ has been a part of my practice and my training since the first days of my career...it’s been a pretty systematized part of public policymaking since the early 2000s at least.” When applied to impact assessment, Jesse’s experience was that industry, professional associations, and other stakeholders the Agency worked with, were generally very interested in learning more

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<sup>185</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

about GBA+. They stated that “[proponents and practitioners] seem to be taking the inclusion of [GBA+] in the Act seriously and preparing to do good assessments.” This, alongside the sustainability piece they mentioned, were in their view the two top issues in terms of interest and questions posed to public servants at the Agency.

Jesse was moderately familiar with the history of GBA+ in the federal government, citing its implementation in the early 2000s and its move to what they termed “institutionalization” over their career. This included “more interests and dedicated practitioners.” Jesse also noted that even though GBA+ wasn’t explicitly included in CEAA 2012 or CEAA 1992, it was included in the public service more broadly, and therefore “relevant to decision-making.” To address GBA+ considerations in their own work, Jesse cited that their team had a “lead for GBA+ issues,” although this individual was also tasked with other factors under the Act, and so GBA+ was not their sole focus. This is similar to what Jesse shared about the consideration of resource extraction on Indigenous people: that there was a “separate” Indigenous policy team focussed on Indigenous issues, so it was not one of Jesse’s day-to-day focuses. Although the legislation had been drafted with Indigenous perspectives in mind – including, as Jesse drew attention to, a shift in language from “traditional Indigenous knowledge” to “Indigenous knowledge,” to dispel notions that Indigenous knowledge is static or locked in time – the consideration of impacts on Indigenous people was delegated to a specific branch of the Agency.

Jesse spoke to intersectionality, defining it as the “intersection of sex and gender with other identity factors,” and highlighted that in their professional career, GBA+ was a tool that had evolved from a singular focus on gender to one that considers “all the things you do with intersectional analysis.” On GBA+, they went on to discuss how ministers, staff, and other stakeholders sometimes express skepticism about GBA+ - but if you speak to these individuals

and share anecdotes of lived experience, they find it easy to connect with those experiences. As an example, Jesse highlighted how easily politicians connect with stories, and how story-telling is a key facet of the electoral process. Jesse found that although those same politicians might not be comfortable or familiar with GBA+ and intersectionality, they naturally recognized it through conversation and relationship-building. Jesse went on to say that “the concept of intersectionality, when it’s described in...academic or dry terms, is off-putting to some people...but when I poke at that on occasion, you realize that this is very natural to people, this is how we look at issues.”

As a researcher, I found this statement very interesting, and one that can be thought of in two ways. First, accessibility: it is true that language vested in academic circles loses some of its effectiveness, as it can reach and be used by only a small group of people – and often a group of people who have the privilege to access academic spaces. Jesse’s insight that many people value lived experiences, even if they do not value or understand intersectionality, highlights this and suggests that perhaps the application of intersectionality can be improved by reframing it in language and spaces that are more broadly accessible.

The second way of understanding this is with the recognition that intersectionality is the creation of Black Feminism and Black women, and Black women have been historically and systemically excluded from academic institutions. To tie back to Chapter 2, although Kimberlé Crenshaw coined the term, and Crenshaw is an academic, the foundational ideas of intersectionality have been expressed by Black women for centuries. Is intersectionality then something inaccessible and vested in academia, as Jesse suggests, or did it come from grassroots and end up in this academic space? The evidence seems to suggest both; perhaps the value of

intersectionality as a tool for public policy is in ensuring it is accessible and communicable to all practitioners and stakeholders.

Finally, Jesse spoke to a trend towards considering the perspectives of Indigenous people including more than just governance bodies. They mentioned a tendency of the Agency to assess impacts on Indigenous peoples with a quote from a single governing body, such as the Assembly of First Nations, rather than a recognition of diverse Indigenous perspectives and voices. Jesse said that the trend is moving towards broader inclusivity from a variety of Indigenous people: for instance, government documents citing opinions of Indigenous people shared via social media. This has been one trend in the assessment process that Jesse felt was a positive step and hoped to see more of. This should, Jesse added, include that “intersectional analysis is incorporating into other analyses, rather than being viewed as its own separate thing,” or, an end to the silo-ing of intersectional or GBA+ tools.

To summarize Jesse’s feedback, they found that the newest iteration of impact assessment legislation is “meeting its policy intent,” and that GBA+ and Indigenous issues, as well as issues surrounding sustainability, are receiving more attention under the new legislation. Jesse raised concerns regarding a lack of a consistent definition of “sustainability,” as well as challenges with the new requirement for the Minister to establish reasons for their decisions to approve or reject a project. Jesse mostly spoke to IAA 2019, but had experience working for the Agency and the Canadian public service under CEAA 2012, which informed their discussion of how the new legislation differs – though, as Jesse stated several times, IAA 2019 has yet to have final project decisions emerge from its assessment process. In this vein, Jesse stated that they could not provide feedback on how the makeup of review panels impacted the process, saying that to their knowledge, no panels had been appointed yet under IAA 2019.

Regarding the delegation of GBA+ and Indigenous consultation to specific teams and individuals within the Impact Assessment Agency, it stands to reason that given Canada's duty to consult on a nation-to-nation format, dedicated public servants are necessary to facilitate consultation. That said, this is different from considering the intersectional impacts of resource extraction projects. The literature review made clear that these projects have different impacts for Indigenous women and girls, disabled people, and people with other identity factors – and these unique experiences may not be adequately addressed through a single lens. That there is only one team member tasked with explicitly considering GBA+, and that this team member also has other duties, is concerning. Intersectionality is complicated in theory and in practice. The Impact Assessment Agency deals with many assessments on an annual basis, and this raises the question of how many resources are dedicated to the application of GBA+ to these projects.

### *Respondent Group 3*

The third respondent group target for this study includes experts in intersectional policy analysis, such as academics and activists who work with GBA+, intersectionality, or other similar tools. The role of these respondents was to shed light on what a meaningful application of intersectionality can look like in impact assessment.

Anne was one of the three experts interviewed for the project. Anne identifies as a white cisgendered heterosexual woman, a first-generation Canadian and middle-upper class professor, a mom, and a woman with disabilities. Anne opted to have her self-location included, saying that “it's important to understand some of the complexities of who we are to understand why we say what we say.” The other two respondents in this participant group consented to have their self-locations included as well. Jill identifies as an older, white, professional woman, and identifies

her community as feminist and left-leaning. Maggie identifies as a privileged, heterosexual white woman, and identifies her community as a rural community in southern Canada. All of these individuals elected to have pseudonyms chosen for themselves.

The obvious similarity between these respondents, and indeed the major hole in this study, is its whiteness. Despite invitations to participate, possible participants from other groups declined to participate or were unavailable. Given my own positionality, it is important to consider that this work is built on the theory of Black and Indigenous women in particular, but none of them were interviewed for this project. For that reason, it is important to note that the feedback of these respondents, while useful, is not representative of the full breadth of experiences and perspectives on this subject.

Anne's role with regards to impact assessment in Canada is as an academic and co-lead of a community-university research alliance founded to look at diverse northern women's experiences of resource development in their communities. In this role, she worked with communities of settler and Indigenous women in different parts of Canada, in some cases working with local women to support their participation in environmental assessments. Specifically, she worked with researchers and activists to support women in making statements to the environmental assessment review panel. This was Anne's first experience being so closely involved with the environmental assessment process. Anne was also clear that her involvement in environmental assessment was as a member of a collective, both the formal network she worked with and a more informal group of interested activists, academics, and practitioners.

Reflecting on this experience, Anne said that it was clear that resource development was critical in the communities she worked with, although the impacts were felt at different points in the cycle of resource extraction, especially given the boom-bust cycle characteristic of resource

extraction developments. When asked what she learned from this process, Anne stated that she learned how important the review panel was. In a specific case she worked on under CEAA 1992 (the assessment occurred around 2010), there was a woman on the review panel who was an activist eager to support the local women. This panellist spoke with the community and shared precise recommendations on how the local community could target their statements in such a way as to be reflected in the impact assessment report. With advice on how to target their statements, the local women in this community found their specific recommendations were included in the review panel's report. This seemed a significant step, and the help of the panellist had been invaluable.

Jill's experience with regards to impact assessment is similar to Anne's; she participated in the same community-university research alliance and worked on the same case under CEAA 1992 that Anne discussed. Jill also felt that the makeup of the review panel impacted the assessment process, citing the same individual who advocated for the local women. Both Anne and Jill felt they could not provide feedback on whether all members of the panel were held in equal esteem, but Jill highlighted that when it came to having the panel consider Indigenous knowledge, it took a hunger strike by local advocates to have Indigenous knowledge considered. The hunger strike extended the time frame for the assessment, but eventually the assessment went ahead as originally intended. Although the community-university research alliance that Anne and Jill participated in was able to have their concerns tailored to and heard by the review panel, local Indigenous people were not granted the same consideration

With the advice of the advocate review panellist, Anne and Jill were able to ensure that the local women's feedback was heard by the panel and included in their report. But Anne pointed out that the recommendations of the local women, though included in the report, were

never implemented by either the provincial or federal government. In this case, the recommendations were the responsibility of the provincial government, and a new federal government stated they would not force the province to implement them. Jill noted this as a fundamental limitation of review panels: all they could do was make recommendations, not *require* governments to fulfil those recommendations.

One of the recommendations suggested but not implemented in this case was to create a baseline set of indicators for the community before the project construction began. The local women wanted these indicators to include social well-being, environmental well-being, and a recognition of the unique and diverse communities in the area. To establish these baseline indicators, the local women wanted to do a baseline survey. This would help to get a measure of the conditions in the community prior to the development of the project, and as the conditions could be monitored over time, there would be clear indications of where mitigation resources should be dedicated. The government failed to develop these baseline indicators, and so Anne and her network worked with the locals to identify a series of “community vitality indicators,” specific to the community.

Anne felt strongly that the makeup of the review panel had a large impact on the assessment process. If that advocate had not been on the panel in the case she worked on, an advocate who understood gender and intersectional analysis, she didn’t think the feedback of the local women would have seen the same reception (even though their recommendations were not implemented in the end). Anne went on to state that “there are a real politics around who gets put on these panels.” It was unclear if Anne was referring to impact assessment overall or a particular iteration of IA in Canada (her most in-depth experience was with CEAA 1992, applied in 2010), but it is worth noting that experts stress review panels must not be, nor be perceived to

be, agents of government or politically motivated<sup>186</sup>. The independence of the panels is important – though it has not been explicitly stated in any of the governing pieces of legislation<sup>187</sup>.

Jill echoed Anne’s sentiments insofar as the individual panellist impacted their engagement but outlined that there needed to be infrastructure present in order for this engagement to occur in the first place. She defined infrastructure as “people who were supportive, sympathetic, could write a submission.” The community was not aware of the assessment until the hearing was happening; if it were not for the work of Anne and Jill’s network, the community’s awareness and ability to participate (for instance, capacity to draft recommendations and present them in a comprehensive manner to the review panel) would have been significantly limited.

The third respondent, Maggie, had a slightly different role with regards to impact assessment. She had previously participated in the same network as Anne and Jill, but had also received a contract for the Impact Assessment Agency regarding IAA 2019 specifically. At the time, IAA 2019 was proposed legislation, and Maggie was tasked with researching how to strengthen impact assessments for Indigenous women. As lead researcher on that project, she developed recommendations that in her words “were theoretically supposedly adopted by the IAA and have informed their guidance and practice of GBA+.” Maggie was unsure whether the recommendations she worked on were actually incorporated by the Agency to the depth that she had hoped. Maggie had also undertaken PhD research on historical impact assessments, evaluating to what extent they attended to community concerns, particularly for Indigenous people, women, people with disabilities, and low-income people. In this research she examined

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<sup>186</sup> Peter J. Usher and Frances Abele, “Environmental Assessment, Independent Review Panels, and Due Process: Turning Principle into Practice,” in *How Ottawa Spends*, ed. Katherine A.H. Graham and Allan M. Maslove, 85-86.

<sup>187</sup> *Ibid*, 86.

four large projects in detail, although noted the caveat that those particular assessments had occurred prior to IAA 2019.

With this context and significant familiarity with the three iterations of impact assessment legislation, Maggie had found that the context of the impact assessment legislation was “incredibly important,” to the outcomes. She found that it was “quite clear” that without requirements for in-depth consultation with diverse and marginalized communities, there was no incentive for those conversations to occur. Without the legislative requirement to consider diverse impacts, the onus falls on community members and non-profit organizations to advocate for themselves – and Maggie noted that this could be quite restrictive, given the resources of time, capacity, and expertise needed to participate in impact assessment. Additionally, if there is no legislative requirement, the courts are ruled out “as an avenue of redress,” when harms occur as a result of a resource extraction project.

Maggie also found that the makeup of a review panel can “have a huge influence” on the assessment process, depending on how the panellists choose to engage. In her PhD research, she found that the panellists had been very influential. In one specific case, which she provided as an example, the panel set the terms of reference and held extensive scoping sessions with the community, creating a “two-part consultation model.” This particular panel was notable for another reason: two of the panellists had been nominated, each by an Indigenous nation. As panellists, these Indigenous individuals were able to drive the panel to specifically look at the concerns of women, as per their own request. This case being a historical example, the governing legislation at the time did not require the inclusion of diverse voices, but even in the absence of legislative requirements the two nominated panellists were able to make it happen.

When considering whether all members of the panel provided expertise that was held in equal esteem, Maggie pointed out that the review process was structured in such a way as to keep those discussions behind the scenes. The publicized aspect of the review process tends to involve the panel asking questions, but mostly listening – so it is difficult to ascertain what the internal dynamics between panellists look like. As a result, Maggie could not speak to the question.

In response to the question of how economic, environmental, and social issues interact, Anne thought that the environmental and economic impacts of resource projects were considered more important than social and cultural impacts. She said “cultural [impacts] were neglected and invisible...we were really the only people that brought it up.” Jill highlighted that all of the factors were “mentioned, raised, discussed in front of the board and the joint review panel...and I think the panel did try to take all of these issues into consideration in its report,” but that when it came to action, it was evident that the economic impacts outweighed other considerations. She found that the creation of jobs was “valued above all else,” and was unsure if the economic impacts were even adequately assessed, given that the project has since been widely considered a financial disaster. Maggie thought the environmental issues and community impacts get the most attention, and found that given the escalating environmental crises, environmental considerations were pushing aside the associated economic concerns. She found “less intentional seeking out” of the social and economic concerns, but identified that the hierarchy of concerns would be in the order of environmental factors followed by economic factors, with social factors at the bottom (valued the least). Though, noting the emphasis on job creation as also referenced by Jill, Maggie felt that sometimes the social and economic considerations would be intertwined in the job creation discourse. In sum, all three respondents differed on specifically how these factors were

prioritized, but acknowledged that environmental affects seemed to rank near the top of the priority list, and social issues near the bottom.

In terms of Indigenous consultation, Anne had noticed a shift between CEAA 2012 and IAA 2019. In the example case she cited, there had been consultation with multiple affected Indigenous nations, one of which already had a settled land claim and a self-governance structure. For that nation, the engagement seemed to work because the nation had mechanisms that the colonial government understood. She also acknowledged that for Indigenous nations, engagement in impact assessment is deeply linked not only to a recognition of land claims, but to a recognition of Indigenous rights. She articulated that the engagement looked different depending on where the Crown and the specific nation were at in their relationship; another nation without a settlement agreement was not engaged in the same way. Maggie said the same thing: in her experience the consultation differed greatly depending on the unique jurisdictional context.

Jill, on the other hand, did not feel that many Indigenous perspectives were taken into account. Instead it seemed to her that Indigenous people who favoured the development had their voices elevated, and those opposed were not offered the same opportunities to speak to the possible impacts of the project. Similarly, Maggie stated that although the government has been taking Indigenous perspectives into account, it did not seem that this consideration was at the scale that Indigenous governments and organizations would like it to be. In context, however, it is important to note that the comments of Jill and Maggie are limited to their own experiences, and not necessarily representative of the impact assessment process and interactions with review panels across the country.

When asked about how the perspectives of alternate social groups were considered, Anne felt that although there was a “more intersectional approach,” in the case she worked on, this was due to the mobilization of the local women’s center and its allies. There were very few groups involved in the process organized around other perspectives. Maggie offered the example of a “best practice,” she studied, wherein women’s concerns, and specifically Indigenous women’s concerns, were emphasized. But, this was “to a large extent but not exclusively,” because the provincial women’s policy office and several other organizations participated. That participation allowed their concerns to be taken seriously in the review process; though when it came to implementation, Maggie found that the follow through “definitely leaves something to be desired.” This is similar to the case that Anne and Jill worked on, wherein recommendations were heard and incorporated into the review panel’s report, but not operationalized once the project was greenlit. Maggie also pointed out that in her experience, people with disabilities were “completely absent from impact assessments in Canada,” and that whether those voices were heard tended to depend on the resources and capacity of advocacy organizations. With that in mind, she stated that “You shouldn’t have to wait for [advocacy organizations] to have the resources or choose on their own. You should actively seek their input and then they can choose to participate or not.” This poignant statement underscores the power dimensions inherent to impact assessment, and suggests that not enough is being done to remedy them in a meaningful way.

As for GBA+, Anne noted the “high level commitment” of having GBA or GBA+ as a requirement for cabinet decisions, but pointed out that when applied to impact assessment, this tended to only focus on employment – such as requiring resource extraction projects to hire a certain number of women and a certain number of Indigenous people, without consideration for

the broader implications of shift work or childcare. In Anne’s words, GBA+ should not be “just the bodies that need to be there, but what makes it possible for the bodies to work and how do they participate?” She felt that many of these factors were not taken into account.

Speaking to IAA 2019, Anne stated that it “has the potential to be more adequate,” but she was uncertain that this potential would be fulfilled. In her research, she found that the federal government had improved on its duty to consult Indigenous communities, but remained uncertain of how the requirement to engage Indigenous communities and value Indigenous knowledge would be operationalized. She also highlighted that gender is often defined as “women,” and not “women, men, and gender diverse people.” Gender has more consideration under IAA 2019, but Anne felt that it adhered to an additive clause focussed on women rather than something holistic. She also identified gaps in IAA 2019 when considering the LGBTQ2S+ community, disabled folks, youth, and the overlap between these and other identities, calling it “a complete silence,” – though that silence was not unique to Canada, but “pretty universal.”

Jill had similar concerns with IAA 2019, calling it a “significant improvement,” but “still inadequate.” It includes the elements of valuing Indigenous knowledge and improving outreach, but Jill noted the very tight timelines as a “colonial legalistic framework,” that can be difficult for Indigenous communities to engage with, especially given the ongoing repercussions of colonialism that result in ongoing crises in Indigenous communities.

IAA 2019 was not without promise; Anne identified that the simple inclusion of the language to consider the “intersection of sex and gender with other identity factors,”<sup>188</sup> was cause itself for hope for a more representative assessment process. Noting the “backlash” the language caused among companies and contractors, Anne suggested the federal government has

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<sup>188</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

a responsibility to develop concrete, useful tools to guide engagement. Of note, this “backlash” she cited is a direct contradiction to the feedback Jesse provided in their interview, as Jesse felt that practitioners were eager to learn more about “the intersection of sex and gender with other identity factors”<sup>189</sup>. Anne outlined a few key scenarios that would make the assessment process better. The first is community-based impact assessment, wherein rather than putting the onus for assessment with a proponent, the funding is given to a community to do an impact assessment process themselves. Anne did not feel that the proponent lead would be weakened by this, but rather that a different voice would frame the conversations. Additionally, she felt that funding community voices, and changing time frameworks, would provide for much more fulsome engagement for diverse communities, encouraging better feedback to the review panels and better panel recommendations.

Maggie said the same thing, recommending community-based impact assessments as a critical means of improvement. To do so she noted that communities needed to be properly resourced, but she was not certain if it should be the responsibility of the government or the project proponent to provide those resources. But, she felt that community-based impact assessments were “much more likely” to identify the key concerns and potential mitigation measures.

Jill felt that IAA 2019 could be improved with co-decision making. A co-decision-making process could address the time frame challenges, improve community engagement and awareness, and provide more resources to develop mitigation plans in advance or decline projects. She did not provide specifics of how this co-decision-making model would function,

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<sup>189</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

but stated that it would need to include an “obligation to implement” the recommendations of review panels, so that the case of recommendations being ignored would not be replicated.

The latter part of the respondent interviews turned to focus on intersectionality and GBA+ and began by asking the respondents how they would define these tools (again, the specific phrasing of the questions can be found in Appendix I).

Anne described intersectionality as “both a theory and a practice...that looks at power relationships.” These power relationships grant power and privilege and cause situations of oppression, as well as embed social structures to facilitate the longevity of those power discrepancies. She highlighted that she works “really hard” to ensure that intersectionality is not a gender-first framework that makes invisible other power relationships. This was underscored, she said, by her own experience as a disabled woman. In terms of GBA+, though, Anne felt that it was the government’s attempt to address power relationships, but not the same thing as intersectionality, which provided more promise.

Jill also saw “a bit of difference,” between intersectionality and GBA+, though she acknowledged that the federal government “is adopting the language of intersectionality,” which she was happy about. Her definition of intersectionality also focussed on power relations, saying that “intersectional analysis looks more at structures and power relations,” whereas GBA+, as a tool of the federal government, “focussed a lot on individual identity politics,” which failed to recognize, understand, and address structures of unequal power. For Jill, intersectional analysis was more about understanding what has created the inequality and addressing it “at a more systemic level.”

Maggie defined intersectionality as “attending to the ways the different aspects of identity interact with the different power relations in our lives to shape our experiences,” and identified

those power relations as large institutional structures as well as interpersonal interactions. Like Jill, Maggie also stated that intersectionality tended to focus on identity analysis rather than power, when power should be the central focus. For Maggie, GBA+ was an effort to mainstream intersectionality in policy making and programming, but she found that “what it is and what it’s meant to be are two different things.” This difference she found depended a great deal on who is doing the analysis and their level of comfort and familiarity with the concepts.

These responses are quite similar: intersectionality is fundamentally defined as a way of analyzing power relationships, consistent with the findings of the literature review. Two of the three respondents clearly identified GBA+ as the Canadian government’s attempt to operationalize intersectionality in policy making, and all three acknowledged that in practice, GBA+ is falling short of the standards of intersectionality.

This in context, Anne noted improvements and other explicit work to include intersectionality in government practice, such as the “feminist foreign policy” headlined by Global Affairs Canada<sup>190</sup>. Anne found these were promising, but ultimately government dependent. She voiced concerns that if there were a change in federal government, all of those developments could be undone. When asked if intersectionality is a useful tool in natural resource policy more broadly, Jill said nearly the same thing, and added that though intersectionality is a useful tool, “much more needs to be done to explain it and for federal government bureaucrats to understand how to apply it.” Instead she found that it was often used as a “box-ticking exercise”, only being championed by a “nucleus” of advocates embedded in government institutions who had a better grasp of intersectionality. This reiterates Maggie’s

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<sup>190</sup> Canada, “Canada’s Feminist International Assistance Policy,” Government of Canada, last modified August 24, 2021, [https://www.international.gc.ca/world-monde/issues\\_development-enjeux\\_developpement/priorities-priorites/policy-politique.aspx?lang=eng#wb-cont](https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/priorities-priorites/policy-politique.aspx?lang=eng#wb-cont).

point that the effectiveness of the analysis depends on who is applying it, leaving its application inconsistent across agencies and teams, and is also consistent with scholarly reviews of GBA+ in the federal public service<sup>191</sup>. Jill also highlighted that intersectionality tends to overlook class analysis, which she would like to see incorporated more robustly. In the same vein, Maggie identified that the name “gender-based analysis plus” itself prioritizes gender and positions all other experiences as additive, underscoring the criticism that GBA+ is too one-dimensional. Overall, all respondents stated that the concepts of intersectionality and GBA+ do not seem consistently well understood by governments and policymakers alike, and this lack of understanding limits the power of the GBA+ framework.

In a perfect world, Jill hoped to see intersectional analysis used with more clarity, and tangible changes to outcomes, policies and practices, to demonstrate that its inclusion is making a difference. That includes “actually listening to the impacts on marginalized people,” and choosing to redistribute benefits where necessary. Maggie’s perfect application of intersectionality would centralize power relations and actively work against the “whitewashing” of intersectional analysis. She also hoped to see it applied to all areas of decision-making, not just impact assessment.

### *Discussion*

The purpose of this study was to examine the use of GBA+ in federal environmental assessment to assess whether it amounts to an adequate application of intersectionality. As intersectionality is a complex theory, I specifically wanted to know whether the use of GBA+ in federal impact assessment expands from traditional gender mainstreaming tools, as identified by

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<sup>191</sup> Scala and Paterson, “Gendering Public Policy.”

scholars such as Mazey<sup>192</sup>, to meaningfully incorporate and deconstruct relationships of power and marginalizations. Within this framework, the following questions led the study:

1. Where and how in the impact assessment process is GBA+ used?
2. Do participants and stakeholders familiar with the process report that GBA+ is impacting the decision-making process? How, and to what extent?
3. Are there indications in select impact assessment reports that GBA+ has been used? How, and to what extent?
4. Is the application of GBA+ to impact assessment an adequate use of intersectionality in public policy, and if not, why?

To answer these questions I relied on the literature review and semi-structured interviews with key informants. Given the limited scope of the interviews, with only four informants, it is important not to overly generalize or draw concrete conclusions from their feedback. Taken together with the literature, the information gathered was certainly illuminating and helped to contextualize the impact assessment process and the use of GBA+ in it, but it is hardly ironclad. The answers to my research questions, discussed below, still hold value in thinking about how to better the impact assessment and GBA+ tools, but I am cautious to accept them as decisive conclusions. They provide valuable observations within the context of this project, but further study is warranted.

In addressing the first question, where and how GBA+ is used in the Impact Assessment process, it appears from the study that GBA+ is used at several places throughout, though this application shifts depending on who is applying it. The Impact Assessment Agency (the Agency) has at least one individual tasked with applying GBA+, among their other duties, and GBA+ is

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<sup>192</sup> Sonia Mazey, *Gender Mainstreaming in the EU: Principles and Practices* (London: London European Research Centre, 2001).

explicitly required in the guiding legislation – which, as a respondent pointed out, makes a large difference and provides an avenue of redress if it is overlooked. That said, the section of the legislative framework that sets out the requirement for consideration of “sex and gender [and] other identity factors,” establishes the requirement as something to be “[taken] into account,” by the Agency or a review panel, regardless of who conducts the assessment<sup>193</sup>. The onus for consideration is then tasked to the Agency or the panel, but the panel is in practice independent, though resourced by the Agency<sup>194</sup>. Furthermore, and as discussed in the literature review, the recommendations of review panels are not legally enforceable unless imposed as conditions by the necessary authorities<sup>195</sup>, and compliance and enforcement measures are left with the Agency<sup>196</sup>. In other words, GBA+ *should* be used in the assessment process by the Agency and the panel alike, but a clear accountability mechanism for its inclusion is lacking unless it results in explicit mitigation measures to be enforced by the Agency. This finding is consistent not only with the feedback of the respondents from the third respondent group, but also with evidence from the literature review; for instance, the Amnesty International Report on the impacts of resource development on Indigenous women, which found that the GBA+ practices of the Canadian government were not “without promise,” but failed on consistent and meaningful implementation<sup>197</sup>.

When it comes to impact assessment, GBA+ can be found at least as a paragraph inclusion, even if the rest of its application is less clear from a public perspective. *How* GBA+ is used, however, seemed to vary greatly depending on who is tasked with it. All the respondents from

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<sup>193</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

<sup>194</sup> Ibid, 86.

<sup>195</sup> Jesse J. Usher and Frances Abele, “Environmental Assessment, Independent Review Panels, and Due Process: Turning Principle into Practice,” in *How Ottawa Spends*, ed. Katherine A.H. Graham and Allan M. Maslove, 85.

<sup>196</sup> Canada, “Impact Assessment Process Overview.”

<sup>197</sup> Amnesty International, *Out of Sight, Out of Mind*, 68.

the third respondent group (experts in intersectionality) highlighted that there is a large distribution of understanding of GBA+ and intersectionality more broadly. A lack of clarity around its definition and how it should be used contribute to a tendency to highlight just “women’s issues,” particularly surrounding job creation. This subverts the intention of GBA+ and the requirement in the *Impact Assessment Act 2019* to consider identity factors other than gender, limiting the effectiveness of the tool.

Whether participants and stakeholders report that GBA+ is impacting the decision-making process is similarly limited. The respondent who works within the Agency found that it was impacting the process, though noted that the implementation of the new legislative requirements was still under development. The experts in intersectionality found that the impact of GBA+ varied, consistent with the distribution of understanding of the concept. If an individual was appointed to a panel or working within the Agency and had an in-depth understanding of GBA+, they could, the respondents found, serve as a “nucleus” for furthering GBA+ and intersectionality; but without such an individual, there was little promise that the GBA+ tool would be meaningfully applied. And ultimately, the decision-making authority in the impact assessment process continues to rest with the Minister and cabinet. Although the Agency employee found that the Minister was (in some cases unduly) bound by rules on how they should make their decision, the third respondent group highlighted this as a power differential, their feedback suggesting that until the power discrepancy is remedied and power distributed more equitably to diverse and marginalized communities, meaningful change would be lacking.

This critique is also consistent with the information gathered from the literature review, which identified challenges insofar as there is varied understanding of what GBA+ and intersectionality mean, in addition to a lack of distributed power (or, influence over outcomes).

On the former point, Dalseg et al. highlight a “general lack of knowledge and understanding of gender-based analysis,”<sup>198</sup> just as Hankivsky and Mussell emphasize “conceptual confusion” between GBA and GBA+ frameworks and point out that the frameworks are not “as well understood as they should be”<sup>199</sup>. Even in cases where experts within the bureaucracy champion GBA+ frameworks, Scala and Paterson argue that these “micro-level acts of resistance, on their own, cannot bring about emancipatory change”<sup>200</sup>. Considered within the context of the interview respondents’ feedback, it seems clear that simply adding GBA+ or intersectionality “experts” to the equation cannot change the institutional structure; an improvement of knowledge of intersectionality and GBA+ is broadly required across the public sector – and, as Jesse pointed out in their interview, it is essential to ensure that this knowledge is presented in an accessible and communicable manner.

On the lack of distributed power, Dalseg et al. distinguish between merely improving consultation with Indigenous women and meaningfully ensuring that the feedback of Indigenous women can make a “significant difference,” in the outcomes of an assessment process<sup>201</sup>. Mannell, Palermo and Smith argue in favour of an “urgently” needed community-based planning that guides “every policy, project, and action over the long-term”<sup>202</sup>. The literature synthesis project compiled by FemNorthNet highlighted concerns that consultation has “little effect” on development decisions, and that project proponents have “much more power” than Indigenous

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<sup>198</sup> Sheena Kennedy Dalseg, Rauna Kuokkanen, Suzanne Mills, and Deborah Simmons, “Gendering Environmental Assessments in the Canadian North: Marginalization of Indigenous Women and Traditional Economies,” 157.

<sup>199</sup> Olena Hankivsky and Linda Mussell, “Gender-Based Analysis Plus in Canada: Problems and Possibilities of Integrating Intersectionality,” 307-308.

<sup>200</sup> Scala and Paterson, “Gendering Public Policy,” 440.

<sup>201</sup> Sheena Kennedy Dalseg, Rauna Kuokkanen, Suzanne Mills, and Deborah Simmons, “Gendering Environmental Assessments in the Canadian North: Marginalization of Indigenous Women and Traditional Economies,” 160.

<sup>202</sup> Laura Mannell, Frank Palermo and Crispin Smith, “Community-Based and Comprehensive: Reflections on Planning and Action in First Nations,” in *Reclaiming Indigenous Planning*, ed. Ryan Walker, Ted Jojola, and David Natcher, 113-140.

Nations<sup>203</sup>. These points suggest that the decision-making power should be distributed more equitably, allowing more agency to communities, especially Indigenous communities, who are impacted by resource development projects. This is a direct contradiction to the point of Jesse, who felt that under the IAA 2019, the decision-making authority of the Minister was overly restrictive; but, it would complement the feedback of the other three respondents, whose experiences reflected a lack of agency and power provided to the communities involved.

The third research question asks whether or not there are indications in select impact assessment reports that GBA+ has been used, and to what extent. There are no impact assessment reports that have come out yet under IAA 2019, and as a result it is not possible to clearly identify the use of GBA+ in the assessments; but, the Agency employee respondent provided indications that GBA+ was a central topic of discussion within the Agency, and a frequent point of contact between the public service, project proponents, and practitioners. This is an indication that GBA+ has been used, as is the feedback of the third respondent group in highlighting specific projects they reviewed or participated in under previous iterations of the Act. Those experiences, however, provided the respondents with a perception of uneven application: sometimes GBA+ was more present, sometimes less, and this depends in large part on who was on the review panel or participating elsewhere in the process. In attempting to answer this question, I come back to its immediate predecessor: is GBA+ impacting the decision-making process? Based on the literature review and the feedback of the respondents, it would seem that although GBA+ is *present* in impact assessments, it is not having *enough* of an impact to distribute power in the way that intersectionality requires. Truly answering this question,

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<sup>203</sup>Susan Manning et al., *A Literature Synthesis Report on the Impacts of Resource Extraction for Indigenous Women*, 15.

however, is not possible at present. We must wait to see impact assessments under the new legislation, and the feedback of those who participated in the process and are impacted by the project(s) in question.

The fourth and final question underpinning the purpose of this study is broad: is the application of GBA+ to impact assessment an adequate use of intersectionality in public policy, and if not, why? To answer this question I will touch on three central themes that emerged from the literature review and respondent interviews. The first two establish clear courses for improvement, but the third is less tangible, and therefore difficult to apply to an institutional format of policy delivery.

The first theme that emerged is a need for a more consistent understanding of the concepts of GBA+ and intersectionality, as well as other newer concepts such as sustainability. The respondent who works for the Agency stated that every practitioner seemed to define “sustainability” differently, leading to confusion and inconsistent application of the requirement. This was consistent with feedback on GBA+ and intersectionality. Evidently, if a concept and legal requirement is poorly and inconsistently understood, it will not be effectively applied. This can be remedied, with more dedicated education for public servants, practitioners, and stakeholders, as well as with extremely clear guidelines for application, which so far seem to be lacking. These guidelines must be presented in accessible language rather than vested in academic jargon, and accountability mechanisms must be in place to measure outcomes and enforce recommendations.

This ties into the second theme, which is a need for more resources. This was discussed with particular emphasis by the third respondent group, who found in their experiences that local communities, especially diverse and marginalized groups, were lacking in sufficient resources to

participate meaningfully in the assessment process. Resources include not only financial support, but capacity, time, and communication. There were examples cited wherein local communities would not have known about the assessment process at all, much less how to effectively participate, if not for the engagement of external experts. Indigenous groups in particular required more time for engagement and consultation in impact assessments, especially as Indigenous nations are frequently overburdened by the ongoing impacts of colonialism and may face community crises that must be attended to before engagement on a proposed project. Respondents also cited that these resources could help to destabilize the power discrepancies that inform the assessment process. The project proponents and federal government enter the process with a vast wealth of resources, whereas local communities and Indigenous nations have limited access to such funds and infrastructure. It is difficult then for these groups to effectively communicate their concerns. If the resources were provided, and stakeholders were better positioned for engaging with the behemoths of the proponent and federal government, it is possible that the assessment process and final decisions could be altered.

The deeper theme that emerged, and the key finding of this study, is the disconnect between GBA+ and intersectionality. The literature on the theory of intersectionality describes a grassroots and complex idea that is not only a theory, but a tool for practice. This theory-tool is fundamentally premised on power, and seeks to identify and destabilize power structures that form around overlapping experiences such as gender, race, sexuality, ability, socioeconomic status, and more. The respondents who were experts in intersectionality all provided similar definitions of the concept, identifying it as “attending to the ways the different aspects of identity interact with the different power relations in our lives to shape our experiences,” related both to the power relations inherent to institutions, and inherent to everyday interpersonal interactions.

The respondents described these power relationships as granting privilege and causing oppression, as well as self-perpetuating systems that embed social structures to facilitate the longevity of the power dimensions.

GBA+, on the other hand, was clearly identified by the respondents as “disconnected” from intersectionality. They found that it focussed too much on identity, and not enough on power – feedback that is implied by the language in the *Impact Assessment Act 2019*, which calls for consideration of “the intersection of sex and gender with other identity factors”<sup>204</sup>. “Identity factors,” are named, but the power differences between experiences of those identity factors are not. Similarly, the respondents and literature alike underscored concerns that GBA+, despite the addition of the “+”, remains a tool that prioritizes gender issues (or, just women’s issues) at the expense of others, such as race and ability. This misses the mark that intersectionality seeks to address, and though respondents found its inclusion in IAA 2019 and other parts of the federal government important, they found a need for improvement if it is to better encompass the ideas and practice of intersectionality.

Unlike the other two themes, this third finding is difficult to address. It underscores a need for more research and resources, but also brings to light the question of if intersectionality and institutional public policy are like oil and water: fundamentally opposed, impossible to integrate. That is not to suggest that attempts should not be made, and indeed, even GBA+ is having an impact (though imperfect) on the assessment process. Rather, it underlines that it is essential to continue work in this area, to produce better policy outcomes for diverse and marginalized voices.

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<sup>204</sup> Impact Assessment Act, S.C. 2019, c. 28, s. 1.

Here I think it is prudent to identify that the problem may not be whether or not GBA+ and intersectionality can be applied to public policy, but whether or not the system as a whole is flawed. As discussed at the outset of this project, Canada is a colonial, patriarchal construction. It is also a set of institutions predicated on capitalist resource expansion that is represented by the relationship between Indigenous communities in particular and the capitalist interests (by way of natural resource projects) that expand into their territory. Hall describes this as a “parasitic relationship,” in which capitalism destroys Indigenous communities for its own self-preservation<sup>205</sup>. If this is true, Hall argues, it cannot simply be remedied by policy changes or different institutional leadership<sup>206</sup>. Hall concludes that if equity were truly the goal of the Canadian state, there would have to be an option for Indigenous communities to “say no to resource extraction”<sup>207</sup>. Presently this option does not exist; after all, when it comes to Impact Assessment, the purpose is not to say ‘yes’ or ‘no’ to a project (that authority remains with the Minister) but to make a proposed project “better” by mitigating impacts<sup>208</sup>. With this in mind, to improve outcomes for Indigenous communities and other marginalized groups government cannot simply amend legislation: it must transform the entire system that Canada and indeed the hegemonic Western global economy is premised upon. This is leagues beyond applying intersectionality to a piece of legislation or an institutional practice; it is foundational Canada’s governing institutions.

Within the scope of the present institutional context, however, the decision-making power continues to rest with the Minister. Based on the literature and other respondents, I am

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<sup>205</sup> Rebecca Hall, “Diamond Mining in Canada’s Northwest Territories: A Colonial Continuity,” *Antipode* 45, no. 2 (2012): 382. 10.1111/j.1467-8330.2012.01012.x.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid, 389.

<sup>208</sup> Usher and Abele, “Environmental Assessment, Independent Review Panels, and Due Process: Turning Principle into Practice,” 84-85.

unconvinced by the concerns of the agency employee that the Minister's decision-making authority is overly restricted by the new legislation. Instead, it seems that this authority remains vested in high federal office, far removed from the local communities who feel firsthand the nuanced and overlapping effects of resource extraction projects. If this were turned on its head, and the authority vested with the local communities, I think the decisions may turn out differently, or at least that the mitigation recommendations would be implemented more thoroughly.

## Chapter 4: Conclusion

This study sought to identify whether the application of GBA+ to federal impact assessment constitutes a meaningful application of intersectionality. From the outset of this

project, I wanted to know if GBA+ in impact assessment has expanded from a simple use of traditional policy levers, as identified by scholars<sup>209</sup>, or if it is helping to reflect on and deconstruct relationships of power and marginalization.

I conducted a secondary literature review and semi-structured interviews with key informants. Overall, the evidence suggests that no, the current use of GBA+ in impact assessment is not a meaningful application of intersectionality. There are suggestions that could improve the process of applying GBA+ to policy – which, I will note, has already improved significantly since it first emerged as “gender mainstreaming” in the 20<sup>th</sup> century. These suggestions include making intersectionality more accessible to people who might recognize the act of storytelling, but be unfamiliar with the academic jargon; improving education, not only for policy makers but for proponents and local communities; providing sufficient resources for local community groups to fully engage in the impact review process; improving follow-through, or compliance and enforcement, to ensure that baseline operating requirements are met by proponents; and empowering communities to develop baseline community indicators to measure their ongoing wellbeing and the impacts of a project. The Canadian government would also do well to expand on GBA+ with a more concerted emphasis on other identity factors, such as disability, race, gender identities outside the binary, poverty, geography, and more, for despite the GBA+ title, gender (in the binary sense of the word) remains the primary axis of analysis. These changes could improve the process of applying GBA+ to public policy within our current government framework.

Even with these improvements, however, the changes would not constitute the system-wide reconsideration and destabilization of power dynamics that would be necessary to close the

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<sup>209</sup> Sonia Mazey, *Gender Mainstreaming in the EU: Principles and Practices* (London: London European Research Centre, 2001).

gap between GBA+ and intersectional theory. Intersectionality primarily questions power dynamics, and in the Canadian impact assessment process, the minister still has the ultimate decision-making authority, despite factors that they are required to consider. If intersectionality were meaningfully applied here, the decision-making authority – the choice to approve or deny a project once the review has been completed – would be shared with those closest to the impacts of the project.

It is evident that resource extraction projects have massive impacts. These impacts are environmental, economic, health, and social. They range from simplistic accounts of job creation to nuanced experiences of rising living costs, sexual and racial violence, and loss of way of life. With such massive impacts, and such clear disproportionate effects for diverse groups, I would argue that the Canadian government has a duty to better not only the assessment process, but the decision-making process. Even the most comprehensive, inclusive impact assessment is meaningless if the decisions continue to proliferate the status-quo, and the mitigation recommendations are never implemented or enforced.

Stakeholders, experts, and advocates will continue to advocate for these changes – they have been advocating for improvement for decades, and I am certain that work will continue, especially as the fossil-fuelled climate crisis continues to intensify. This study, though flawed by its scope and limitations, serves as an addition to that advocacy. Let it be an added voice calling for improvement – not only the kind of improvement that tinkers around the edges of an established public policy system, but the kind of improvement that destabilizes power dynamics and better embodies the tenets foundational to intersectional theory.

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## Appendix I: Interview Questions

The below questions were used for the project Intersectional Analysis in Canadian Impact Assessment in conducting open-ended semi-structured interviews with key informants.

Respondents were asked these questions in a private 60-minute interview with the lead researcher. Respondents were able to choose not to answer any given question, or to withdraw consent and terminate the interview at any time. In some cases respondents provided feedback that was not specific to any of the questions included, but deemed relevant by them for inclusion.

1. Introductory questions:

- a) How would you describe yourself (i.e., if comfortable, how do you identify in terms of gender, race, socioeconomic level, career, etc.)?
- b) How would you describe your community? This can include your family, place of residence, and social aspects of who you are.
- c) Would you like your self-location to be included in your interview (although we will still ensure the protection of your information through a pseudonym of your choosing) or would you like it to be excluded?

2. Impact Assessment:

- a) What is your role, or has been your role, with regards to impact assessment in Canada?
  - I. Have you participated in impact assessment prior to or after the passage of the *Impact Assessment Act 2019*?
  - II. Depending on which iteration of the Act you engaged with, how do you feel that the legislation impacted the assessment and decision-making processes?
- b) In your opinion, did the makeup of the review panel impact the process?
  - I. What was the makeup of the panel?
  - II. Did all members of the panel provide expertise that was held in equal esteem? To what extent?
- c) In your participation in the impact assessment process, how did economic, environmental, and social issues interact?
  - I. Did all these issues hold equal weight?
- d) How were Indigenous perspectives taken into account?
  - I. Was Indigenous knowledge valued in the impact assessment process?

- II. Did feedback from Indigenous stakeholders influence the decision that was ultimately reached?
  - e) How were perspectives from alternate social groups (for instance, local communities, women, disabled folks, etc.) included? Was GBA+ used? To what extent?
    - I. If so, did this feedback influence the decision that was ultimately reached?
  - f) Do you feel that the federal government assessment process is adequate in representing the perspectives of diverse communities more broadly? Why or why not?
  - g) If you could picture a perfect world, what would impact assessment look like? How would you like to see its decision-making processes altered?
- 3. Intersectional analysis and representation in decision making:
  - a) Are you familiar with the concept of intersectionality? What about GBA+? If yes, how would you describe it, in your own words?
    - I. Do you feel that intersectionality is a useful tool in natural resource policy? Why or why not? Are there different frameworks that you prefer, and if so, what are they?
    - II. Do you see intersectionality, or other similar frameworks, being used by the Canadian federal government? If yes, to what extent? If no, why not?
  - b) If you could picture a perfect world, what would intersectional analysis (or other frameworks for analyzing marginalization) look like? How would you like to see them reflected by governments and decision-makers?