# If Gender Mattered: A Case Study of Inuit Women, Land Claims and the Voisey's Bay Nickel Project

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Status of Women Canada is committed to ensuring that all research produced through the Policy Research Fund adheres to high methodological, ethical and professional standards. The research must also make a unique, value-added contribution to current policy debates, and be useful to policy makers, researchers, women's organizations, communities and others interested in the policy process. Each paper is anonymously reviewed by specialists in the field, and comments are solicited on:

- the accuracy, completeness and timeliness of the information presented;
- the extent to which the analysis and recommendations are supported by the methodology used and the data collected;
- the original contribution that the report would make to existing work on this subject, and its usefulness to equality-seeking organizations, advocacy communities, government policy makers, researchers and other target audiences.

Status of Women Canada thanks those who contributed to this peer review process.

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## PREFACE

Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports independent policy research on issues linked to the public policy agenda and in need of gender-based analysis. Our objective is to enhance public debate on gender equality issues, and to enable individuals, organizations, policy makers and policy analysts to participate more effectively in the development of policy.

The focus of the research may be on long-term, emerging policy issues or short-term, urgent policy issues that require an analysis of their gender implications. Funding is awarded through an open, competitive call for proposals. A non-governmental, external committee plays a key role in identifying research priorities, selecting research proposals for funding and evaluating the final reports.

This policy research paper was proposed and developed under a call for proposals in August 1997 on *factoring diversity into policy analysis and development*. Researchers were asked to identify new questions and new policy solutions with a strong emphasis on policy relevance.

Status of Women Canada funded four research projects on this issue. They examine the situations of Canadian women in need of housing options, women with disabilities, women affected by First Nations' land claims and women in correctional institutions. A complete list of the research projects funded under this call for proposals is included at the end of this report.

We thank all researchers for their contribution to the public policy debate.

## ACKNOWLEDGMENTS

Working with the authors of this report, Tongamiut Inuit Annait organized a workshop for Inuit women of the north coast of Labrador to discuss a variety of issues related to the proposed Voisey's Bay Nickel Project. We wish to thank Status of Women Canada for their financial contribution to this workshop. We also wish to acknowledge the contributions of the following women who donated their time to participate in the workshop:

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## LIST OF ACRONYMS

| | |
|---|---|
| AIP | Agreement-in-Principle |
| CEAA | Canadian Environmental Assessment Agency |
| DIAND | Department of Indian Affairs and Northern Development |
| EIS | Environmental Impact Statement |
| IBA | Impact and Benefit Agreement |
| LIA | Labrador Inuit Association |
| LIHC | Labrador Inuit Health Commission |
| MOU | Memorandum of Understanding |
| TFN | Tungavik Federation of Nunavut |
| TIA | Tongamiut Inuit Annait |
| VBNC | Voisey's Bay Nickel Company |

**LABRADOR INUIT, LAND CLAIMS AND THE VOISEY'S BAY PROJECT**

**CHRONOLOGY OF EVENTS**

1975 Labrador Inuit begin their land use and occupancy study.

1977 Labrador Inuit Association (LIA), on behalf of the Inuit, submit the statement of claim for the comprehensive claim, including the land use and occupancy study, *Our Footprints are Everywhere.*

1990 LIA, Government of Canada and Government of Newfoundland and Labrador sign a framework agreement to begin substantive agreement-in-principle negotiations. The framework agreement sets a four-year target date to complete negotiations. The federal Cabinet mandated the Minister of Indian Affairs and Northern Development to complete the negotiations in 18 months.

1991 Government of Newfoundland and Labrador rejects LIA negotiation process and proposes its own discussion paper on an accelerated approach to Aboriginal land claims settlements.

1992 Canada suspends LIA land claims negotiations because of the expiration of the Minister's 18-month mandate to negotiate.

1993 LIA attempts to maintain and accelerate the negotiation process by tabling a settlement proposal in the form of an agreement-in-principle.

1993 Government of Canada tables its response to LIA's proposed agreement-in-principle.

1993 Two prospectors, Chislett and Verbiski, discover the Voisey's Bay nickel deposit.

1993 Government of Newfoundland and Labrador tables a counterproposal to LIA's proposed agreement-in-principle.

1993 LIA responds in detail to the provincial government's counterproposal.

1994 Chislett and Verbiski stake 288 claims for themselves, 8,000 claims for Diamond Fields Resources and then announce the discovery.

1996 Voisey's Bay Nickel Company (VBNC), a subsidiary of INCO, purchases the Diamond Fields Resources interests in Voisey's Bay.

1997 The VBNC begins Impact and Benefit Agreement negotiations with the LIA. These negotiations are to be confidential and not open to the public.

1997 A Memorandum of Understanding (MOU) between the Government of Canada, Government of Newfoundland, LIA and Innu Nation establishes a single, comprehensive environmental assessment review process for the Voisey's Bay nickel mine/mill and smelter project. A panel of five members is appointed to conduct the review.

1997 The VBNC submits its Environmental Impact Statement to the Panel.

1998 Panel releases its deficiency statement, outlining where the EIS submitted by the VBNC is deficient.

1998 Public hearings — the community, general and technical hearings — on the EIS and the project commence in September and conclude November 5, 1997. The panel has 90 days from that last date of hearings to complete its report.

1998 LIA reaches an agreement-in-principle with the federal and provincial governments in December 1998.

# EXECUTIVE SUMMARY

## Background

The Inuit of Labrador have been engaged in a struggle to resolve their Aboriginal land claims for over 20 years. The pace of negotiations accelerated following the discovery of the world's largest nickel deposit at Voisey's Bay—an area to which the Inuit, along with the Innu of Labrador, hold an Aboriginal title. When the Voisey's Bay Nickel Company (VBNC), a subsidiary of INCO, purchased the mineral claim in 1994, VBNC began to take steps to develop a mine and mill on these lands. This put into motion a legal requirement to undertake an environmental assessment of the proposed project and also led the federal government to fast track the land claims negotiations.

## Purpose of the Report

Gender is not an obvious component of either land claims or environmental assessment policies. Yet, these policies and the processes they initiated are greatly influencing the lives of Inuit women in Labrador. The connections among Aboriginal land claims, major resource development projects and environmental assessment form the sub-text of the report. The purpose, however, is to examine the gender issues hidden within these policies and their by-products.

In September 1998, the researchers met with women from the Labrador communities of Nain, Makkovik, Postville, Hopedale and Rigolet. This workshop was organized by Tongamiut Inuit Annait (TIA), the organization representing Inuit women in northern Labrador. The workshop agenda included an examination of the environmental assessment and land claims processes under way in Labrador, with a particular focus on the socio-economic components of the Environmental Impact Statement issued by the Voisey's Bay Nickel Company. The exploration and analysis of the federal land claims and environmental assessment policies contained in this report incorporate the perspectives of the Inuit women who participated in this workshop.

## Summary of Conclusions and Recommendations

There is considerable work to be undertaken regarding land claims and environmental policies within the federal government, when it comes to addressing gender equality. It is essential to ensure these policies and the processes and products evolving from them promote and support self-reliance and equality of Inuit and other Aboriginal women within their own societies and the larger Canadian society.

## Gender-Based Analysis

It is recommended that:

- gender-based analysis of the federal land claims policy, including the self-government policy, be undertaken with the full representation and participation of Aboriginal women's organization;

- gender-based analysis be an integral component of evaluations or reviews of specific comprehensive land claims agreements;

- consideration be given to the development of Canadian Environmental Assessment Agency (CEAA) guidelines on the use of gender-based analysis in the environmental assessment and review process;

- those undertaking gender-based analysis be required to include detailed explanations of the methodology used; and

- the CEAA and the Department of Indian Affairs and Northern Development (DIAND) work in partnership with Status of Women Canada and Statistics Canada to identify the work required to undertake a gender-based analysis of comprehensive land claims and environmental assessment policies.

**Aboriginal Women's Representation and Participation**

It is recommended that:

- governments, Aboriginal land claims organizations and organizations representing Aboriginal women enter into a discussion on how to remedy Aboriginal women’s absence in land claims and environmental assessment policies and processes;

- Aboriginal women’s organizations at the national, regional and local levels be provided with adequate resources as well as time to conduct research and prepare their recommendations, in order to participate as equals and be fully represented in such a discussion;

- secure and clear commitments be made regarding assurances for funding to allow for Aboriginal women’s organizations affected by a particular land claims agreement or environmental assessment, to undertake research and have representation independent of the primary Aboriginal organizations involved in these matters;

- equal representation of Aboriginal women and men be promoted on all of the institutions being established pursuant to land claims agreements;

- Status of Women Canada facilitate discussions with the CEAA and DIAND to discuss gender equality, land claims and environmental assessments.

## AUTHORS' PREFACE

In September 1998, the researchers met in a workshop with women from the Labrador communities of Nain, Makkovik, Postville, Hopedale and Rigolet. This workshop was organized by Tongamiut Inuit Annait (TIA), the organization representing Inuit women in northern Labrador. Its purpose was to explore issues related to land claims and environmental assessment in light of the events taking place in northern Labrador since the discovery of nickel at Voisey's Bay. The workshop took place in Nain, the most northerly community along the coast and the Inuit community closest to Voisey's Bay. Workshop costs were, in part, covered by Status of Women Canada through an Independent Research Grant awarded to Linda Archibald and Mary Crnkovich of Archibald and Crnkovich Consultants.

This workshop occurred in the midst of public hearings by the Environmental Assessment Panel mandated to examine the proposed nickel mine and mill at Voisey's Bay. Community hearings had taken place in Nain the previous week, with the remaining communities being scheduled throughout October. On November 2 and 3, 1998, technical hearings on the socio-economic impacts and women's issues were to take place in Goose Bay. Tongamiut Inuit Annait prepared a brief on socio-economic and women's issues and presented it at the hearings in Goose Bay.

The Nain women who attended the workshop decided to make a presentation in the general sessions, also taking place in Goose Bay at the same time. They made this decision following the workshop and after women from the other communities determined to make presentations to the Panel when it travelled to their home communities. This was an exciting development: while TIA was already committed to participating in the technical hearings, none of the women had planned to speak publicly at hearings in their own communities. After two days of discussing the impact of the proposed nickel mine and the Environmental Impact Statement released by the Voisey's Bay Nickel Company, they were eager to make their views known, even women from Nain where the public hearings were over.

In financially supporting a workshop that brought Inuit women together at a crucial stage in the environmental assessment project, Status of Women Canada contributed significantly to the increased participation of women in this process. Furthermore, the Board of Directors of the Labrador Inuit Association (LIA), the body representing all Inuit in land claims, self-government and Voisey's Bay development negotiations, was meeting in Nain at the same time. The TIA president — who also sits on the LIA board as the elected member for her community — was thus able to bring issues which the women raised at the workshop directly to the attention of this board.

Following the terms of the Independent Research Grant, this report examines the gender equality concerns and issues of Inuit women in Labrador in relation to the federal land claims and environmental assessment policies and processes. The original proposal envisioned working with Innu women from Labrador as well as Inuit women, but women

from the Innu Nation chose not to participate. This is not surprising given the long history of Innu and Inuit peoples and organizations pursuing distinct and separate approaches to land claims and political development. However, the researchers had hoped to be able to work with both groups of women because of their experiences within an earlier project sponsored by WITTINNUINUIT (see discussion on WITTINNUINUIT under section (c) of Part II of this Report). In the end, only Inuit women, through TIA, were involved and participated in this research project.

LIA reached a comprehensive land claims agreement-in-principle with the governments of Canada and Newfoundland-Labrador in December 1998. At the same time, Inuit were awaiting the report of the Panel on the environmental assessment of a development project of the largest nickel deposit in the world. If these initiatives are approved, they will forever change the land and communities in which Inuit live. In a sense, this story is incomplete — the report of the Voisey's Bay Mine and Mill Environmental Assessment Panel and the LIA comprehensive land claims agreement will be made public after this paper is completed. The researchers sincerely hope that Inuit women in Labrador will see their input reflected in the pages of the land claim agreement and in the report of the Panel.

Linda Archibald
Mary Crnkovich
March 1999

## INTRODUCTION

The connections among Aboriginal land claims, major resource development projects and environmental assessment form the sub-text of this report. They are the processes and policies that are, at this moment, profoundly influencing the lives of Labrador Inuit women and their families. However, when one examines these policies and processes, gender does not emerge as an obvious component. This report attempts to expose the gender issues hidden within the land claims and environmental assessment processes under way in Labrador.

The Inuit of Labrador never signed a treaty with either European sovereigns or Canada.[1] Because of this, the Inuit of Labrador, like the Innu Nation, retain their Aboriginal title to the lands they have traditionally used and occupied. This paper addresses the Inuit situation.

Inuit of Labrador are one of Canada's most impoverished Aboriginal peoples, living in one of Canada's poorest provinces. They have been engaged in a struggle to resolve their Aboriginal land claims for the last 20 years. The Labrador Inuit Association (LIA) is the Inuit organization responsible for negotiating the comprehensive land claim agreement with the federal and provincial governments. LIA's membership includes all Inuit and Kablunangajuit[2] of Labrador, including the Inuit women who are members of Tongamiut Inuit Annait (TIA). In 1975, LIA entered into an agreement with the Government of Canada to prepare a statement of claim providing the evidence necessary to have their land claim accepted for negotiation. A major part of the statement was a land use and occupancy study entitled *Our Footprints are Everywhere*,[3] completed in 1977. The statement of claim was accepted by the federal government in 1978.

Even though the claim was accepted for negotiation, the federal government was unwilling to begin negotiations without the involvement of the province.[4] The province agreed to enter the negotiations in 1980. Still, the LIA claim was one among many comprehensive claims in Canada and remained at the bottom of the list. In the 1990s, further delays were attributed to the provincial government's reluctance to agree to a cost-sharing arrangement with the federal government regarding financial compensation to the Inuit. The federal government was not prepared to negotiate until it had secured this cost-sharing agreement with the province.

During these on-again, off-again negotiations, the government continued to allow development and the creation of other interests on the lands and resources in question. Not until 1993, with the discovery of the world's largest nickel deposit at Voisey's Bay — an area to which the Inuit, along with the Innu of Labrador, hold an Aboriginal title — did the pressure mount on governments to negotiate seriously for a resolution to Inuit and Innu land claims. Voisey's Bay is approximately 50 kilometres southwest of Nain, the most northerly Inuit community. When the Voisey's Bay Nickel Company (VBNC), a subsidiary of Inco Limited, purchased the mineral claim in 1994, it began to take the necessary steps to develop a mine and mill on these lands. This triggered a legal requirement to undertake an

environmental assessment of the proposed project, and also led the federal government to drop its precondition of a cost-sharing agreement and to fast-track the land claims negotiations.

LIA reached an agreement-in-principle (AIP) with the two levels of government in December 1998. Generally, an AIP contains most of the provisions that make up the Final Agreement such as the land, resources and environmental management regimes in the areas traditionally used and occupied, the harvesting rights, identification and management of protected areas, any compensation payment and loan repayment schedules, eligibility and enrolment provisions, ratification and implementation provisions. The Final Agreement also includes the outstanding issues which have not been agreed to at the AIP stage — amount of compensation to be paid, the land tenure and actual parcels of lands to be identified for Aboriginal ownership as well as the self-government and extinguishment provisions. Once these documents are completed and agreed to by the parties, copies are usually available for public review. In this particular case, the AIP has not been made available to the public. It appears that, unlike other land claims negotiations, the LIA AIP includes certain aspects that have been agreed to verbally but not been committed to writing.[5]

Concurrent with the land claim negotiations, the VBNC initiated negotiations with LIA on an Impact and Benefits Agreement (IBA). IBAs are negotiated to mitigate some of the negative impacts of the development and provide benefits to the Aboriginal peoples of the region. They normally address such issues as hiring preferences, training, working conditions, health and safety, and business opportunities. In agreeing to negotiate, LIA also accepted the VBNC's condition that these negotiations be confidential.

The pace and manner in which the land claims and IBA negotiations have been undertaken are a cause for concern for Inuit women. Due to a number of factors, Inuit women's involvement in these negotiations has tended to be incidental rather than planned, equal or formal. Since TIA is not officially part of either LIA negotiating team and the women involved are few in number, many Inuit women are not familiar with the contents of the AIP or the progress of IBA negotiations. The unique situation of having parts of the AIP agreed to verbally and not available in writing, and of the IBA provisions being kept secret, means that the Inuit women are entirely dependent on the LIA negotiators to keep them informed and apprise them of what the negotiators are doing.

It was actually through the public environmental assessment process that Inuit women had the greatest opportunity to speak out on their concerns with the project as well as on the underlying issues of land claims. Ironically, the public environmental assessment process created the opportunity for Inuit women to examine their land claims process in new ways. Prior to the Voisey's Bay environmental assessment, Inuit women's concerns regarding land claims were not as openly discussed.

This report is divided into three parts. First is an overview of Aboriginal land claims and the federal land claims policy. The impacts of the federal policy on Aboriginal women, including the absence of a gender-based analysis, are examined. The second part examines

the federal laws and policies on environmental assessment and, in particular, focusses on the Voisey's Bay nickel mine/mill project environmental assessment. Also in this part, the impact of environmental assessment policies and processes in relation to Inuit women and the Voisey's Bay project is presented. The paper concludes with recommendations of possible policy options and directions to address the issues identified and discussed.

**Notes**

1. Contact with non-Inuit began in the 1500s with the arrival of French fishing fleets. In the 1700s, the Moravian missionaries moved into the territory traditionally used and occupied by the Inuit. In the 19th century, some European fishers along with non-Aboriginal people from the island known as Newfoundland settled on the north coast of Labrador to hunt, fish and trap. The arrival of the settlers and their continued use and occupation of the lands did not appear to result in any significant conflicts.

The settlers developed distinctive patterns of land and resource use, but these were complementary and harmonious with those of Inuit. The ties between these two groups grew through intermarriage and bilingualism. For more information, see Hugh Brody, "Permanence and Change Among the Inuit and Settlers of Labrador," in *Our Footprints Are Everywhere, Inuit Land Use and Occupancy in Labrador* (Nain, Labrador: LIA, 1977).

2. LIA defines this Inuktitut word as meaning the people who are considered Kablunangajuit according to Inuit customs and practices, have Inuit ancestry and were living along the Labrador north coast before 1940, and their descendants who were born before November 1990.

3. LIA, *Our Footprints Are Everywhere.*

4. Canada insisted on the province's involvement since it is the province, not Canada, that holds legal title to most of the lands and resources where Inuit assert their Aboriginal title.

5. Comprehensive claims negotiations involve three stages and three agreements: a framework agreement, an agreement-in-principle and a final agreement. The framework agreement sets out the subject matter and procedures or ground rules for negotiation. In the case of LIA, certain AIP provisions were not put in writing, e.g., the self-government provisions. At the time of writing, no agreement had been reached between the parties on the wording for these particular provisions.

## I. ABORIGINAL LAND CLAIMS AND THE FEDERAL POLICY

Well over a hundred years ago, the Nisga'a people, in what is now British Columbia, sent a delegation of Chiefs to Victoria to press for recognition of their rights, including those to the lands and resources that their ancestors had used and occupied for centuries. It was not until 1973, however, that the modern treaty-making process was introduced.

A turning point in the history of Aboriginal rights occurred in 1973 with the Supreme Court of Canada's decision in *Calder* v. *the Attorney General of British Columbia*,[1] a case again involving the Nisga'a people. In *Calder*, the Supreme Court recognized the Nisga'as' Aboriginal title to lands they traditionally used and occupied. Six of the seven Supreme Court judges put to rest any argument concerning the existence of Aboriginal title. While recognizing the Nisga'a held an Aboriginal title to the lands, the court fell short of describing the nature of this right and split on whether the Nisga'as' title, as recognized, had been extinguished.

Prior to the *Calder* decision, governments in Canada would not recognize the existence of Aboriginal title.[2] However, in 1973 and in response to the *Calder* decision, the federal government introduced its first land claims policy. It dealt with both the claims associated with unfulfilled treaty rights (specific claims) and the claims of groups such as the Nisga'a and other First Nations and Inuit who could demonstrate their traditional use and occupancy to their homelands had not been extinguished by a treaty or superseded by law (comprehensive land claims). Comprehensive claims are the focus of this report.[3]

The 1973 comprehensive land claims policy signified the new importance government accorded Aboriginal rights. The importance of the claims policy was rooted in government's recognition that the lands and resources to which Aboriginal peoples asserted their Aboriginal rights — rights which were now recognized by the courts — included lands rich in non-renewable resources (minerals) and renewable resources (timber and fisheries).

### (a) Purpose of Land Claims

The primary purpose of comprehensive land claims, as stated in the 1973 federal policy is:

> . . . to conclude agreements with Aboriginal groups that will resolve debated and legal ambiguities associated with the common law concept of Aboriginal rights and title. Uncertainly with respect to the legal status of lands and resources, which has been created by a lack of political agreement with Aboriginal groups, is a barrier to economic development for all Canadians....[4]

The policy requirement to extinguish all Aboriginal rights ("blanket extinguishment") in exchange for the rights contained in the comprehensive land claims agreements closely patterned the surrender provisions of post-Confederation treaties.[5] Government considered

blanket extinguishment a necessary precondition for the development of major resources in the areas where Aboriginal peoples were living. The motivating factor to conclude a comprehensive claims agreement was not unlike that which drove most of the historic treaties — the government's commitment to economic development through the exploitation of natural resources. When government's purpose and motivating factors are contrasted with those of Aboriginal peoples, fundamental differences are evident.

At first, the 1973 policy was welcomed by Aboriginal peoples because it finally offered an alternative to using the courts to settle unresolved Aboriginal rights issues. Land claims negotiations and the agreements provided the opportunity to reconcile the past and establish a new relationship with government. For Aboriginal peoples, land claims negotiations and the agreements are the starting point of a new relationship with government:

> We view comprehensive claims as the main vehicle to promote our social, political, economic, and cultural development, and settlements must provide us with the ability to make decisions about our future. The national interests will be served through settlement of comprehensive claims, aboriginal peoples become confident, distinctive and self-sufficient societies within Confederation. We share with government the goal of encouraging economic growth and job creation throughout Canada, including areas occupied by aboriginal peoples . . . A renewed relationship with Canada is required: one that respects our rights to self-government and allows us to become self-sufficient and to participate effectively in the future of our country.[6]

The fundamental differences between Aboriginal peoples and government extended beyond the purpose of comprehensive claims negotiations to include the scope of negotiations and the process undertaken to reach comprehensive claims agreements.

**(b) Scope of Land Claims Negotiations and Agreements**

Not unlike the historic treaties, the scope of land claims agreements negotiated under the 1973 policy included limited ownership of lands (and resources), cash compensation, economic development, wildlife harvesting rights and self-government at a community level. Accordingly, the self-sufficiency of Aboriginal peoples advanced through land claims agreements is also dependent on major commercial exploitation of natural resources.

For the Aboriginal groups who enter negotiations with a view to seeing these negotiations and the land claims agreements as an opportunity to settle past injustices, establish a new relationship of shared responsibility for resources and lands and better the lives of their people, this narrow focus falls short of their expectations and desires. This is especially true when it is realized what the Aboriginal peoples have to give up — Aboriginal rights — in order to secure an agreement.

When negotiating, the government would cite the policy when refusing to negotiate alternatives to blanket extinguishment, political rights, decision-making powers for the

management of lands and resources (including wildlife and environment assessments), revenue sharing of resources, offshore rights, interim measures (e.g., freezing land to prevent development until land claims are resolved) and guarantees regarding implementation timing, funding and other obligations.

These refusals, and the policy itself, became insurmountable barriers to Aboriginal peoples' achieving fair and equitable land claims agreements. In response to the growing backlash of Aboriginal peoples to the policy, the Task Force to Review Comprehensive Claims Policy (the Coolican Task Force) was established in 1985. Many of the Aboriginal land claims organizations engaged in protracted and unsuccessful land claims negotiations made submissions to the task force. This was the first time Aboriginal peoples in Canada had an opportunity openly to critique, and advance alternatives to, the federal policy and its processes. While extinguishment remained a major concern, the task force review also dealt with the policy's short comings related to the scope of negotiations. Among the many recommendations made by the Coolican Task Force, on issues regarding the scope of negotiations it was recommended that:

> . . . governance provisions be open for negotiation and that these receive constitutional protection . . . that resource revenue sharing be open for negotiations. This was recommended in the context that this could provide a basis for building self-sufficiency. . . . that arrangements for joint management of land and resources be open for negotiation. . . . to provide a way of recognizing and respecting the traditional relationship of Aboriginal peoples to their lands. . . . [and] an independent commission to monitor the negotiation process . . . to redress the massive power imbalance of bargaining power.[7]

The government responded to these recommendations with a revised policy in 1986. Again, this revised policy failed to advance alternatives to extinguishment that would allow for recognition of Aboriginal rights rather then their extinguishment.[8] Limited, self-government provisions could now be negotiated. For example, the government would not negotiate self-government arrangements beyond municipal-style, community-based models that reflected approaches tried and rejected under the *Indian Act* and other initiatives. As well, resource revenue sharing between Aboriginal peoples and government could now be negotiated, but limitations or caps of some kind could also be included. The role for Aboriginal peoples in the management of lands and resources would remain advisory with some ability to fetter, in a very limited way, the discretion of the responsible government ministers, and in place of an independent commission to monitor the negotiation process, the government was now prepared to negotiate implementation plans to accompany land claims agreements.

In part, the federal government's unwillingness to make fundamental changes to the policy may be attributed to the constitutional status afforded to these agreements. At the 1993 First Ministers' Conference on Aboriginal Rights, it was agreed that section 35 of the *Constitution Act, 1982*, which recognizes and affirms existing Aboriginal and treaty rights, would be amended to allow comprehensive claims agreements to be recognized as treaties

and thereby have the rights contained within them constitutionally protected. It is also important to note that in the same First Ministers' Conference, it was further agreed to amend section 35 to ensure the equality rights of Aboriginal women.[9] While on one hand these amendments marked significant gains for Aboriginal peoples, the constitutionally protected status may have contributed to limiting the scope of these modern treaties.

It could be argued that the legal protections afforded to modern treaties through section 35 prevented government from restricting or limiting land claims rights through other pieces of legislation, as it had in the past or might have attempted. Therefore, government would now be careful to ensure that what was included in land claims agreements would not create impediments to its underlying purpose for negotiating these claims and the goals it sought to achieve through them — greater economic development for all Canadians through the major resource developments. Furthermore, it would ensure the agreements contained the necessary provisions to encourage third parties to develop the natural resources they have claimed or staked without fear of legal challenges from the Aboriginal groups.

Since 1986 the federal comprehensive land claims policy has undergone further revisions. However, it remains heavily focussed on facilitating the exploration and commercial exploitation of natural resources. For the most part, the revisions reflect a change in approach by government. The current policy now encourages and facilitates Aboriginal peoples' participation in its economic development agenda.[10]

Under the policy, there are opportunities to negotiate greater economic benefits associated with major resource-exploitation development and specific funds to assist groups in commercial wildlife propagation schemes (e.g., fish farming enterprises). As well, the 1995 federal self-government policy permits the municipal-like, self-government provisions in a land claims agreement to receive constitutional protection where the provincial or territorial government concurs, and these provisions may include revenue generation opportunities for the Aboriginal government through limited taxing powers.

As noted above, the Labrador Inuit AIP provisions are not available to review. It is understood, based on discussions with the parties concerned, that the LIA AIP components dealing with land and resource management and economic benefits may closely mirror the components of the *Nunavut Land Claims Agreement*[11] dealing with the same subject matter.

Specifically, in addition to cash compensation, the LIA AIP will likely include provisions for some form of resource revenue sharing and other economic benefits associated with major resource development. For example, it is expected that before any development begins where Labrador Inuit own surface rights to lands, IBAs with the Inuit will have to have been concluded by the developer.[12]

The policy's Aboriginal-inclusive approach may be considered by some as a means of co-opting the Aboriginal organizations. For example, the debate at the negotiating table now becomes focussed on how much of the "pie" Aboriginal people will get, accepting that these major developments are going to go ahead and that this is the extent of the topics suitable for

land claims agreements. This is problematic for women, as noted by the president of the Inuit Women's Association (Pauktuutit) in her presentation to the (Nunavut) Inuit land claims organization annual meeting in 1993:

> In the [Nunavut Land Claims] Agreement, it describes the objectives of the land claims agreement and its implementation process. I would like to remind you about one of these five objectives. It is the one that states the Agreement is intended to encourage self-reliance and cultural and social well-being of Inuit.
>
> I think this objective is perhaps much more important than the land ownership rights and the billion dollars Inuit receive as compensation. If we cannot preserve our culture and our dignity as Inuit throughout this process, we will not survive as a people.
>
> . . . For example, we have a concern that Inuit Impact and Benefit Agreements may be negotiated too narrowly. We would like to see the contents of these agreements broadened to include more requirements on the developer to support community development initiatives in communities affected by the specific development project. This is possible under the provisions of the Final Agreement. In our meetings, we have heard what women have said about development and its effects on the environment, their lives and their families, the delivery of goods and services, transportation, and housing. This information can help ensure Impact and Benefit Agreements address the needs of all Inuit in the community, not just those who will be working for the developer.[13]

In the *Nunavut Agreement*, there are benefits provided to Inuit should major developments take place on government-owned lands through IBAs negotiated between the Inuit and the developer. Past experience strongly suggests that jobs available through non-renewable resource exploitation are few, require little skill, provide few opportunities for advancement, are located away from the community and are usually taken by men. There are no provisions to promote training or preferential hiring of Inuit women or incentives to encourage Inuit women's involvement in the business opportunities that may be available through these IBA negotiations.

The Tungavik Federation of Nunavut (TFN)[14] did attempt to negotiate a wildlife harvesting income support program which would subsidize Inuit households who chose to support themselves by living off the land. This program recognized the lost opportunities for many Inuit families to live off the land due to increasing costs of harvesting. The government would not agree to this program being part of the constitutionally protected rights of a land claims agreement. However, the TFN did negotiate a side agreement for the Wildlife Hunters Income Support Program with the territorial government during the land claims agreement negotiations. To reach an agreement, the TFN agreed to narrow the focus of the program from the "household" to the "hunter" as this fit within an existing government initiative where hunters (primarily men) were provided with small amounts of funds to subsidize gas and repairs to machines used for harvesting.

If women and their concerns were included in the policy and process, the scope of negotiations would be much broader. However, in considering the government purpose for land claims agreements, negotiation of political rights that address racial and sexual inequality would not appear to have a place in an agreement designed to address legal uncertainty related to the ownership of land and resources.

The preoccupation of government with major resource development not only influences the scope of negotiations but also the nature and process of the land claims negotiations as well, which negatively affect Aboriginal women.

**(c) Nature and Process of Land Claims Negotiations**

Government interest in concluding a comprehensive claims agreement with a specific group appears to be directly associated with its immediate interest (or a third party's) to undertake a major development project on the lands in question. The Coolican Task Force report states that "[s]ettlements have been achieved only when the federal government was eager to facilitate an economic development project."[15] This would appear to have been the case for the LIA negotiations.

It was not until the Voisey's Bay nickel discovery and the VBNC's desire to develop a mine/mill that government fast-tracked negotiations that had been on and off for almost 20 years with no agreement-in-principle in sight. The 1998 deadline to conclude and ratify the Final Agreement has passed, and LIA is still awaiting the governments' proposed written expression of the verbally agreed on self-government AIP provisions, which is well overdue. It is hard not to wonder whether the sudden slowdown in the government's pace is related to the VBNC's decision to put its plans for the mine/mill project on hold. When there is no urgency or interest to develop, the threat of an Aboriginal title appears to diminish along with the need to conclude a land claims agreement.

Nonetheless, when there is a demand to develop, government looks to the land claims negotiation process and the agreement to address this threat. This land claims agreement sets out "the package of rights and benefits the Aboriginal group is exchanging for their undefined Aboriginal rights."[16] Accordingly, the process to accept a claim and negotiate the agreement is legalistic, technical and time consuming.

The comprehensive claims process and the work it demands necessitates the establishment of the Aboriginal group's organizational structure to respond to the Department of Indian Affairs and Northern Development (DIAND) and to participate in the land claims "business." As a starting point, the Aboriginal group asserting its title is required to prepare a statement of claim for which DIAND will provide funding.[17]

According to the policy, this statement includes a traditional, and continuing, land use and occupancy study of the specific areas claimed. In so far as government is most interested in

the extent of the land use and occupancy, the study focusses on what traditionally is recognized as the male sphere of activities — hunting, fishing and trapping.[18] Should the statement be accepted by government, a duly mandated Aboriginal organization is then eligible for a financial loan to support its participation in the negotiation process.[19] Keeping the Aboriginal peoples' purpose of land claims in mind, it is not uncommon that the same organization responsible for self-government and other political matters is mandated by the Aboriginal group to negotiate and implement a land claims agreement. In the case of the Labrador Inuit, the land claims organization is LIA.

On its face, this appears to be a flexible and open approach to resolving a complicated issue. However, when viewed from the perspective of its impact on Aboriginal women and their families, the shortcomings are apparent.

Aboriginal peoples must reorganize themselves to fit within the Euro-Canadian structures and processes established in the policy to deal with land claims. In so doing, the value and presence of Aboriginal structures and processes that, comparatively speaking, recognize gender equality are diminished.[20] The Aboriginal organization negotiating and implementing the land claims agreement must be prepared with its own cadre of technical advisers such as lawyers, economists, geologists and accountants. This structure and process manifest the public sector bureaucracy, including its systemic sexual and cultural discrimination, that designed the policy. Therefore, it is not unexpected that the composition of the negotiating teams, for the most part, is male-dominated and non-Aboriginal.

On one level, within the Aboriginal land claims organizations, the absence of women may not necessarily be considered a problem. With the negotiations being more akin to a real estate transaction — dealing with ownership of lands and resources, wildlife harvesting and management — these areas traditionally are not female spheres of decision making. For example, in traditional Inuit society, (economic) activities related to the lands and resources such as hunting fell primarily into the male sphere of decision making.[21]

Not having women participate in negotiations, ironically, reinforces the predominantly Euro-Canadian attitude that these agreements are anything but "women's issues." It also fails to recognize that women's presence may, in fact, force the scope of negotiations to be broadened to include the underlying fundamental political issues currently not addressed. As noted in its submission to the Royal Commission on Aboriginal Peoples, the Canadian Arctic Resources Committee stated:

> Land claims agreements would likely be broader in ambit and purpose if negotiating teams more accurately reflected both genders. We believe that a greater role for women in negotiations would heighten the contribution of agreements not only to social and cultural matters, but also to the promotion of sustainable development.[22]

The indirect consequences of the lack of women's participation in the land claims negotiation process extend beyond the actual contents of a land claim. The bodies mandated to hold and

distribute the compensation funds provided through an agreement, without guarantees of equal representation of women and men, will not ensure women have equal access to these funds. Likewise, without commitments of equal representation on the institutions created by land claims agreements — e.g., bodies that have a role in managing compensation funds, the environment or land management — women may also be excluded from participating in the implementation of the land claim agreement. Excluding women from these bodies precludes them from acquiring the experience necessary to fill the appointed and elected positions. This in turn gives "rise to male leadership elites that may define and exercise the collective rights defined in the agreements with growing distance from traditional cultural values and mores."[23]

The dislocation suffered by the predominantly male, Aboriginal land claims negotiators and those implementing the agreement is more than just physical. As the Pauktuutit president informed the TFN annual meeting, the problems suffered by negotiators are shared by the entire family:

> There are many women who have been left out and ignored in this land claims process. Yet, they have put in long hours and given their time freely to support our leaders and pick up the pieces when their husbands and fathers can no longer bear the burdens of the land claims process.[24]

This organizational approach promoted by governments undermines the informal and formal leadership roles within Aboriginal communities that are played by both men and women. The consequences of women's absence from these processes have not gone unnoticed by Aboriginal women and critics of the claims process.

For Inuit women in Greenland, the Inuit women's movement became a significant political force only after the Inuit men with whom they had collectively struggled to secure their own home rule government ignored them when it came to employment and leadership opportunities in the new home rule government. This shift in attitude among the Inuit men has been attributed to Danish paternalism imported into Greenland:

> Generally, it would appear that Danish paternalism still pervades the operational structures and attitudes of Home Rule government. Thus, women in Greenland must now address paternalism in their own structures, in addition to the discrimination inherent in Danish authority. . . . Greenlandic women, who were very patient and supportive during the initial preparations for the transfer of power from Denmark to Home Rule, were frustrated and disappointed to find themselves neglected by male politicians.[25]

Women's exclusion is being raised within Aboriginal communities by Aboriginal women. This is certainly appropriate; however, the federal government appears to view this as the only suitable avenue.

The federal government has not hesitated to determine outcomes and processes in relation to land claims agreements. Yet, when it comes to the sensitive issues of the exclusion of women and their concerns from land claims negotiations, the federal policy says nothing. Furthermore, the government does not raise representation issues during negotiations. One can only assume that, as with its self-government policy, the government's current position is that these are matters that should be dealt with by the Aboriginal groups themselves. DIAND's 1995 policy on self-government addresses the issue of representation in this way: "The Government believes that the onus to resolve any disputes regarding representation within or among groups should rest with the Aboriginal groups concerned."[26] This position is, to a certain extent, defensible in light of the argument Aboriginal peoples have made regarding their inherent rights to be self-determining peoples. However, the government appears to have disregarded Aboriginal self-determination when setting the parameters for the subject matter that could be considered for negotiation, the conditions on which funding would be provided to "the Aboriginal claimant group," the acceptance criteria of a claim and criteria for eligibility in the ratification vote for a land claim agreement. The contradiction between the government's actions in all of the above-mentioned aspects of the policy and process and its justification for not getting involved in women's representation and participation is evident.

As long as the focus remains on land and resources and the primarily male, non-Aboriginal culture dominates the negotiation process and its outcome, women and issues traditionally viewed as important to women, such as community development (as opposed to large-scale economic development), education, public and private safety, health and social issues are more easily overlooked in these negotiations. Only recently, in the self-government provisions of the *Nisga'a Final Agreement*, are issues beginning to surface that provide roles for Aboriginal governments in such areas as justice and the application of customary law, education, harvesting, policing, health, child welfare, and roads and highways. It is not clear, since the LIA AIP is not available, whether the self-government provisions are similar to those in the *Nisga'a Final Agreement*.

The bias of DIAND policy makers toward overlooking gender may be attributable to their tendency to view Aboriginal peoples as collective units. However, this misconception belies the complexity and many diverse layers that affect those who are marginalized within this collective unit. In this case, the Aboriginal male becomes the standard or norm while the Aboriginal female becomes invisible.

**(d) Gender and the Comprehensive Land Claims Policy**

Women's inequality is a likely outcome of a land claims policy that promotes large-scale resource development and ignores the socio-economic and cultural implications of such development. This type of policy masks the relationship between large-scale resource development and the disintegration of culture and its resulting social problems. Fundamental to a discussion of land claims policy is the link between gender equality and sustainable development. This relationship is understood in international circles by those working in developing countries. More recently, it has been recognized in Canada:

> Gender equality is seen as a fundamental means to the reconciliation of social imperatives with ecological and economic imperatives. The social costs inherent in certain forms of inequality and lack of access to decision-making that create yawning gulfs between winners and losers cannot be ignored. Gender equality, is therefore, one of the prerequisites to moving to a more sustainable Canadian society. Indeed, gender equality may well be the most important tool for the more rapid diffusion of sustainable practices throughout Canadian society.[27]

In poorer communities where the primary model of development has been a welfare model, any alternative that offers an increased standard of living will be welcome. Unfortunately, the land claims policy directly links economic development with initiatives that rely heavily on large-scale natural resource development. As a consequence, initiatives such as the proposed Voisey's Bay project are viewed as a realistic solution to economic problems, but they occur at a high cost, especially to the women.

Tongamiut Inuit Annait has attempted to inform policy and decision makers about the contributing factors of this type of development to the social problems in their communities. Despite the VBNC's elucidation in its environmental impact statement that existing social problems in communities along the north coast of Labrador will be lessened with the jobs and money flowing from the proposed mine and mill at Voisey's Bay, Inuit women are not so sure this will be the case. For example, in a submission to the Panel undertaking the environmental assessment, TIA explored Inuit women's views regarding the impact of full-time work and the two-week rotation work schedule:

> . . . the EIS clearly points out that communities are experiencing a wide range of social problems — alcohol abuse, family violence, crime, poor health status, high rates of STDs, high youth suicide rates. VBNC suggests that these problems will be addressed through a combination of higher incomes and the company's Employee Assistance Plan. An often used example is that an increase in income will make hunting more affordable. . . . In contrast, women expressed concerns that the two-week in/two-week out work schedule will possibly lead to less hunting. . . . Women also objected to the assumption that full-time work is, in itself, positive. Given people's seasonal land and sea-based activities, full-time work may seriously disrupt the lifestyle and economies of families and communities. These disruptions must be carefully weighted against the benefits of an increase in income, especially when it means losing a family member to the mine two weeks of every four.[28]

For the women, the potential loss of traditional economic activities such as hunting and spending time on the land must be weighed against the possible benefits of an increased income. Even if it is no longer a full-time activity, many families spend time together on the land hunting, fishing and picking berries, and they often move to their cabins or campsites for weeks at a time. In the Nain workshop, women spoke about the freedom and sense of

pride they experience on the land, the nutritional value of traditional foods, and the link between being on the land and passing on to children their culture and the Inuit way of life. One woman stated that for her, “going to the land leads to good mental health — the land is our therapist.” Furthermore, there were fears that a major development project would lead to increased levels of social and family disintegration, including family violence.

Women were addressing concerns that go much deeper than simply a fear of change: the changes they face as a result of the proposed nickel project threaten their personal and family lives, the integrity of their communities and the essence of Inuit culture. A significant aspect of this relates to the loss of control people feel with respect to the fast pace of change. Comments such as, “Voisey’s Bay is controlling us,” were made in connection with the fact that this major development project may proceed even in the absence of a land claims agreement. A completed claims settlement, in spite of problems women may have with the process, is viewed as an important means of increasing Inuit control. One of the comments recorded on flip charts during the workshop is particularly revealing: “Richness is rooted in the land, wildlife, Inuit culture and ways of life. Social problems are rooted in loss of language, culture and traditions. This loss leads to real poverty — poverty is not just a lack of money.” This comment is striking in its contrast to one of the major goals of the federal government’s land claims policy — to open the door to major resource development on Aboriginal lands.

The consequences of a gender-invisible land claims policy are far reaching. Inuit women hold out hope that their land claims agreement will provide all members of their community with greater control over their lives. In its written submission to the Panel’s technical hearing on socio-economic and women’s issues, TIA noted that concerns about the impact of the proposed development on the food chain, on the land, sea ice and wildlife, and the related threat to the Inuit way of life could, in part, be mitigated if Inuit had more control over development:

> The impact on the environment is a major concern because of the potential effect of the project on the food chain and, consequently, the effect on the Inuit way of life. For this reason, there is great concern for the impact on land and wildlife, especially around issues such as winter shipping . . . We strongly believe that without a land claims agreement in place, Inuit will not have an equal say in how the lands should be developed, nor will we have the ability to keep out development projects that could hurt the environment and Inuit.[29]

In 1995, the Government of Canada adopted a policy as part of its larger commitment to gender equality that requires “all federal departments and agencies to conduct gender-based analysis of future policies and legislation, where appropriate.”[30] However, the incorporation of this gender-based analysis into policy development has not yet occurred in the area of comprehensive claims. This may not be unusual given that the claims policy was formulated before the federal government’s formal commitment to undertake gender-based analysis of the impact of new policies. However, it is important to review the implications of the absence of gender-based analysis of the federal land claims policy.

With the pressure to settle land claims or to issue permits for mineral development, inclusion of issues addressing gender equality may not be obvious to those making the decisions. Alternatively, the issues may be acknowledged, but because they are antithetical to the outcome, they are ignored. Either way the omission results in detrimental consequences for Inuit women and their families.

As noted earlier, DIAND appears to be ignoring gender in the land claims policy and activities related to this policy. The departmental actions identified by DIAND in the *Federal Plan for Gender Equality*[31] do not include land claims which, in combination with "North of 60" programs of territorial governments, are the primary point of contact between Inuit and DIAND. The actions identified for gender analysis include programs targeting primarily First Nations peoples on reserve, such as funds for training and employment opportunities for Aboriginal women, including child-care initiatives, and commitments to fund community-based initiatives to prevent violence against women. As well, there are references to health, housing and culture. It is not difficult to see these initiatives as necessary steps to begin to address the injustices the department has perpetrated against First Nations women through the *Indian Act* and its successive amendments rather than action to promote gender equality.

This list of DIAND's actions regarding gender equality focusses primarily on activities that traditionally are identified within the realm of "women's issues," an odd approach that appears inconsistent with the goal of achieving gender equality.

This restrictive approach and the history of this particular department in overtly and systematically discriminating against First Nations women is problematic for all Aboriginal women. As long as each federal department is left to determine where gender-based analysis is appropriate, there is a serious failure of the policy in the case of DIAND.

DIAND's failure to undertake a gender-based analysis of its land claims policy (including the self-government policy) makes it difficult for policy makers to identify and assess the differential impact of the comprehensive claims policy on women and men. As noted in a guide prepared by Status of Women Canada, gender-based analysis ". . . makes it possible for policy to be undertaken with an appreciation of gender differences, of the nature of relationships between women and men and of their different social realities, life expectations and economic circumstances."[32]

Section 35(4) of the *Constitution Act, 1982* guarantees land claim agreement rights equally to men and women. From this law, one would hope that the comprehensive claims policy and subsequent land claims agreements would promote gender equality or, at a minimum, not extend the inequality of Aboriginal women.

Potentially, the inclusion of a gender-based analysis of the policy and any agreements negotiated under this policy, could lead to policies and agreements that factor in women's concerns and issues, and invite policy makers to reconsider the narrow focus of these initiatives. It may provide the opportunity to expand the policy and more readily identify the

impact of gender inequality in the process, the agreements and their implementation, and alternative models of development that address these inequities.

As a starting point, evaluations of existing agreements that include gender analysis could provide a basis for action by government and the Aboriginal land claims organizations to improve the implementation of agreements as they affect women.[33] It is worth noting that an evaluation was undertaken of the Hunters Income Support Program referred to earlier in this paper. As this is not an official part of the *Nunavut Land Claims Agreement*, a separate evaluation was undertaken. A draft copy of the evaluation report contains a section on women in harvesting, something which would not have been included if harvesting was viewed only in the non-Aboriginal context of hunting, fishing and other activities associated with the male sphere of harvesting activities. By interpreting harvesting in a broader, more culturally appropriate way, the report does not ignore the predominantly female activities associated with harvesting, such as the processing of skins. The report recommends that sewing machines be added to the list of subsidized items and that research be undertaken "... into the current situation and needs of [women as] processors of harvesting products to determine what aspects of current programs or what new programs would best meet their needs and provide appropriate support and benefits."[34] The report also documents the successes of the program from the perspective of Inuit families, and not just the hunter. For example, it is noted that one of the benefits of this program has been to enable families to return to the land, even though the funds are specifically directed to hunters' equipment and other needs. Prior to the program, hunters with limited financial resources and equipment could not afford to go out on the land, let alone take their families. Rather, they would have to rely on others with the resources to be willing to take them. So while the funds continue to be provided to assist the hunters to purchase equipment, families have acknowledged this as a considerable improvement because the entire family can now go on the land, as they would traditionally have done.

**(e) If Gender Mattered in the Comprehensive Claims Policy**

An analysis of the comprehensive claims policy, if gender mattered and Aboriginal women's difference was visible, would reveal the following:

- The policy was developed, formally reviewed, and amended without the involvement of Aboriginal women's groups. As late as 1985, organizations participating in a formal policy review of comprehensive claims policy focussed primarily on the Aboriginal organizations responsible for negotiating land claims agreements.

- Only the body duly mandated to negotiate land claims on behalf of an Aboriginal group has formal status at the negotiating table. An Aboriginal women's organization can only join the negotiating team by invitation of the duly mandated body.

- Aboriginal women's organizations are not eligible for funding to participate in negotiations, conduct independent research and undertake related activities as they are not duly mandated bodies recognized to negotiate land claims agreements.

- The policy excludes issues of concern to women related to land and resources, such as the impact of non-renewable resource development on the family, women, the community, Inuit culture, etc.

- The exclusion of social and cultural matters from the subject matter of negotiations ignores or devalues Aboriginal approaches and perspectives that are holistic in nature (including Aboriginal women's approaches) to the extent that the use and management of land and resources is integrally related to the social, spiritual, economic and political well-being of a people. This promotes a stereotype that land claims agreements are not a "women's issue," thereby reinforcing the view that women's absence from the process is not a problem.

- The policy and process supports male leadership elitism, thus promoting inequality between women and men.

- The policy promotes attitudes, values and practices that define development of Aboriginal peoples solely in terms of economic wealth.

- The policy ties Aboriginal self-sufficiency to economic activities which Aboriginal peoples have little control over and limited experience in (e.g., major financial investment of cash compensation funds, land ownership, resource exploitation and related economic opportunities such as IBAs and royalty revenue sharing generated from large-scale development of natural resources). This, in turn, promotes economic opportunities in male-dominated areas.

- The direct link between large-scale natural resource development and economic opportunities may undermine and preclude the promotion of smaller scale, community-based projects more likely to attract women entrepreneurs and support sustainable development.

- Women are unlikely to benefit directly from IBAs since they focus on employment equity provisions and participation in business opportunities for the Aboriginal group as a collective, thereby excluding provisions that redress disadvantages faced by women in these employment and business sectors.

- Women cannot benefit equally from the employment opportunities flowing from any large-scale development as most development requires relocation from communities to the work site or long work periods away from home and family responsibilities.

- Women's exclusion from the process creates further barriers for women who may choose to run for elected offices or seek meaningful employment in the Aboriginal organizations responsible for the negotiation and subsequent implementation of land claims agreements.

- The land and resource management regime usually affords the Aboriginal group a role in joint-management bodies but does not promote any form of gender equity regarding representation on these bodies.[35]

- The monitoring and evaluation of land claims agreements and their implementation are usually negotiated within the land claims process. Accordingly, it is not surprising, with women's absence from the process and DIAND's lack of commitment to gender-based analysis in these areas, that evaluation and monitoring do not include a gender-based analysis nor an examination of the socio-economic impacts of the implementation of the agreement on its beneficiaries.

These factors begin to illustrate, in a circumscribed way, some of the consequences experienced by Aboriginal women as a result of the policy. Unfortunately, the impact of a gender-based analysis of the land claims policy, agreements or process is left to the realm of forecasting until such time as it is actually undertaken. This is not the case, however, for environmental assessment policy and processes. As discussed in the next part, Inuit women and gender-based analysis both have a role in the Voisey's Bay environmental assessment process.

**Notes**

1. *Calder et. al*. v. *the Attorney-General of British Columbia*, [1973] S.C.R. 313.

2. In 1927, the *Indian Act* was amended to prohibit Indian people from either raising money for the advancement of a land claim, prosecuting claims to land or retaining a lawyer for these purposes. In 1951 this section of the act was repealed. In 1969, the federal White Paper advanced a concept of "equality" for Indians which would abolish treaties, the *Indian Act*, the Department of Indian Affairs and Northern Development and Indian status, and grant reserve lands to individual members of Indian bands or sell them. In this policy paper, the Government of Canada was not prepared to address, let alone recognize, the land claims and other rights of Aboriginal peoples who were never parties to an historic treaty or had their Aboriginal title superseded by law on the basis that these were "too vague and general to be capable of relief."

3. In addition to comprehensive claims, the 1973 policy dealt with specific claims. Specific claims deal with those relating to unfulfilled obligations of a treaty, illegal disposition of Indian land or breaches associated with government administration of Indian funds and other assets or government obligations under the *Indian Act* or other federal laws. Later, a third component was added to the policy called "other claims." Other claims address outstanding grievances of Aboriginal peoples against government that do not fit within the strict acceptance criteria set for a comprehensive or specific claim.

4. Department of Indian Affairs and Northern Development, *Federal Policy for the Settlement of Native Claims* (Ottawa: DIAND), March 1993, p. 5.

5. The treaties negotiated prior to Confederation only required extinguishment of the land rights of the First Nations peoples, not their other Aboriginal rights. This is what is now referred to as

"partial extinguishment" and an alternative to blanket extinguishment, which the federal government is now prepared to accept.

6. This statement was made in a submission prepared by nine Aboriginal land claims organizations to a task force examining the federal comprehensive claims policy. It is quoted again in Canadian Arctic Resources Committee (CARC), *Aboriginal Peoples, Comprehensive Land Claims, and Sustainable Development in the North. A Brief to the Royal Commission on Aboriginal Peoples* (Ottawa: CARC, October 1993), p. 14.

7. John A. Olthuis and H.W. Roger Townshend, *Is Canada's Thumb on the Scales? An Analysis of Canada's Comprehensive and Specific Claims Policies and Suggested Alternatives* (Ottawa: RCAP, November 1995). Prepared for the RCAP Research Program, it is an unpublished paper available on the RCAP Research compact disc.

8. The new extinguishment requirement would now require Aboriginal groups to agree to a "partial extinguishment" of their Aboriginal rights, which involved the exchange of their Aboriginal rights relating to lands for the rights contained in the Agreement and all other Aboriginal rights with no connection to lands and resources would remain intact (for example, Aboriginal rights dealing with customary adoption).

9. Section 35 of the *Constitution Act, 1982* states the following:

> 35(1) The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.
> (2) In this Act, "Aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.
> (3) For greater certainty, in Subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.
> (4) Notwithstanding any other provision of this Act, the Aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

10. The policy states that land claims agreements are intended to ensure the interests of Aboriginal groups in resource management and environmental protection are recognized, and that claimants share in the benefits of development. For example, in the *Nunavut Land Claims Agreement* the means of achieving self-sufficiency (seen only in economic terms) are cash compensation ($580 million 1993 dollars), revenue and other benefits generated from the exploitation of non-renewable resources and access to the wage economy for a limited number of beneficiaries through the employment opportunities in the business related to these developments, Aboriginal land claims implementation organizations and the Nunavut public sector. See the Tungavik Federation of Nunavut and Government of Canada, *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty in Right of Canada*, Ottawa, 1994.

11. Ibid.

12. If the nickel deposit at Voisey's Bay had been discovered after the LIA land claim agreement had been ratified, the developer would have been working under a different regime than the one at present. Where the Inuit own both the surface and subsurface (minerals) titles, the developer would deal directly with the Inuit to obtain the right to explore and stake the deposit. Where the Inuit hold only the surface title and the subsurface title is retained by the Crown, the third party would be

required to have an IBA concluded before development could begin. In the case of the *Nunavut Land Claims Agreement*, a list of items for negotiation in an IBA and procedures for dispute resolution during these negotiations was included in the Agreement. Surface title means the titleholder owns the lands in fee simple, saving and excepting the mines and minerals found and the right to work these, but it does include substances such as sand, gravel, construction stone, etc. Subsurface title means the titleholder owns the lands in fee simple including the mines and minerals. Surface title ownership makes up a significant majority of the Aboriginal-owned lands in these agreements. For example, in the *Nunavut Land Claims Agreement*, Inuit will retain ownership of only 16 percent of the lands traditionally used and occupied and only two of the 16 percent will be subsurface title.

13. Martha Flaherty, President, Pauktuutit, Speech to the Annual General Meeting of Tungavik Federation of Nunavut (now the Nunavut Tunngavik, Inc.), 1993.

14. This is the Inuit organization mandated to negotiate the Nunavut land claim on behalf of Inuit of Nunavut; it is now called the Nunavut Tunngavik Incorporated.

15. Task Force to Review Comprehensive Claims Policy, *Living Treaties: Lasting Agreements, Report of the Task Force to Review Comprehensive Claims Policy* (Ottawa: DIAND, 1986), p.13. The work of this task force, chaired by Murray Coolican, is discussed later in the report.

16. DIAND, *Policy for the Settlement of Native Claims*, p. 40.

17. The statement must contain information to demonstrate that the group making the application is, and was, an organized society and that this society occupied specific territory over which it asserts its Aboriginal title since time immemorial. The traditional use and occupancy by this society must have been sufficient to be an established fact at the time sovereignty was asserted by European nations. As well, the group must be able to demonstrate that its occupation of the specific territory was largely to the exclusion of other organized societies and that the group still has some continuing use and occupancy of the land for traditional purposes. Even if a group can provide the necessary evidence on these grounds, it must still be able to demonstrate that its Aboriginal title and rights to resources have not been dealt with by a treaty or eliminated by other lawful means. See DIAND, *Policy for the Settlement of Native Claims*.

18. Land use and occupancy studies do also document gathering activities (for example, berries and other flora) or harvesting activities undertaken primarily by women, but this is a very small portion of the research.

19. The monies loaned to the Aboriginal organization throughout the negotiation process are deducted from the monies paid by government as the cash compensation portion of the settlement.

20. For an interesting discussion on the complex issue of representation and the internal retrospection within Aboriginal organizations dealing with externally defined criteria of membership and status, see Patricia Monture-Angus, *The Familiar Face of Colonial Oppression: An Examination of the Canadian Law and Judicial Decision-Making* (Ottawa: RCAP Research Program, 1994). Prepared for the RCAP Research Program, it is an unpublished paper available on the RCAP Research compact disc.

21. For further information on this, please see Pauktuutit, *Arnait The Views of Inuit Women on Contemporary Issues* (Ottawa, Pauktuutit, 1991).

22. CARC, *Aboriginal Peoples, Comprehensive Land Claims*, p. 16.
23. Flaherty, Pauktuutit, Speech, 1993.

24. Ibid.

25. Marianne Lykke Thomsen, "Inuit Women in Greenland and Canada: Awareness and Involvement in Political Development," in Mary Crnkovich (ed.) *Gossip: A Spoken History of Women in the North* (Ottawa: CARC, 1990), pp. 242 and 250.

26. DIAND, *The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*, (Ottawa, 1995) pp. 24-25.

27. Ann Dale, "Gender Analysis" in Annotated Bibliography: Gender and Sustainable Development at http://www.sdri.ubc.ca/gender/AB_Tools.html.

28. Tongamiut Inuit Annait, "Submission to the Voisey's Bay Mind and Mill Environmental Assessment Panel Public Hearings," (Labrador, October 1998), p. 8, pp. 4-5.

29. Ibid., p. 7.

30. Status of Women Canada, *Gender-Based Analysis: A Guide for Policy Making* (Ottawa: Status of Women Canada, 1998), p. 1.

31. Status of Women Canada, *Setting the Stage for the Next Century: The Federal Plan for Gender Equality* (Ottawa: Status of Women Canada, August 1995).

32. Status of Women Canada, *Gender-Based Analysis*, p. 4.

33. At the time of writing this paper, the first five-year evaluation of the *Nunavut Land Claims Agreement* had begun. The terms of reference for this independent evaluation were set by the Implementation Panel, a body made up of an equal number of government and Nunavut Tunngavik officials. In discussions with a Nunavut Tunngavik official, it was acknowledged that the terms of reference for the evaluation did not include a requirement to undertake a gender-based analysis.

34. Qikiqtaaluk Corporation and Consilium, "Recommendation to the Board of Directors of Nunavut Tunngavik Inc. on the Nunavut Hunter Support Program," October 1998 (draft).

35. Pauktuutit took on a letter writing campaign, calling on government ministers and the Inuit land claims organizations responsible for implementing the land claims agreement to appoint an equal number of women and men to the institutions of public government established under the Nunavut Agreement. Following this, the governments and Inuit bodies did begin to appoint women; however, the women representatives remain a minority in all five of the institutions.

## II. ENVIRONMENTAL ASSESSMENT

Canada's first environmental assessment was in northern Canada in 1974 under the authority of the federal government. The Berger Inquiry was a public inquiry into the proposed Mackenzie Valley Pipeline.

> Headed by Justice Thomas Berger, the public inquiry reviewed what scientists, economists and native elders had to say about bringing more than $8 billion worth of progress to the Arctic, namely 1,100 miles of pipelines, 6,000 construction workers and 600 water crossings. Berger looked at alternatives such as diversifying the native economy and all the potential effects, good and bad, for caribou as well as the Inuit, Dene and Métis. After three years and $5 million, Berger found the environmental losses irreparable, the social impact devastating and economic benefits limited. He prohibited development in northern Yukon and recommended a 10-year postponement of industrial activity in the Mackenzie Valley until land claims had been settled.[1]

Like the Labrador case, the Berger Inquiry involved an unresolved land claim dispute and a major resource development project.

The federal responsibility for environmental assessments is addressed in the *Canadian Environmental Assessment Act, 1995*. In this act, the federal government is required to conduct an environmental assessment when it proposes a project, funds a project or allows a project to take place on federal lands. An assessment can also be initiated under other federal laws such as the *Fisheries Act* and the *Navigable Waters Act*. Provincial governments also have environmental assessment laws.

As noted throughout the previous section, progress on land claims negotiations appears to be directly associated with the pace of major resource development on lands to which Aboriginal title is being asserted. To compensate for the limited ownership rights to resources that government is prepared to concede, Aboriginal peoples attempt to negotiate decision-making roles in the management of lands and resource over the entire area traditionally used and occupied. Accordingly, more recent land claims agreements include requirements to establish joint management boards with some responsibility for environmental assessments.

In the absence of land claims agreements, projects such as the Voisey's Bay mine/mill development are subject to the assessment procedures set out in federal and provincial laws. The environmental assessment for the proposed mine and mill at Voisey's Bay was conducted pursuant to a Memorandum of Understanding (MOU) agreed to by the provincial and federal governments, LIA and the Innu Nation. This was an innovative development, and, as noted below, further innovations were undertaken by the Environment Assessment

Panel appointed under the MOU. In particular, the Panel instituted guidelines that are unprecedented in incorporating gender issues into the assessment process.

**(a) Gender and Environmental Assessment of the Voisey's Bay Nickel Project**

The MOU required the Panel to develop guidelines to be followed by the project developer — Voisey's Bay Nickel Company — when preparing its environmental impact statement (EIS). Draft guidelines were developed and distributed to the public for comments, then the final version of the guidelines was issued.

Under the section dealing with the study strategy and methodology, the guidelines state that, wherever possible, information should be differentiated by "age, gender and aboriginal status and by community." Furthermore, the "Proponent shall also explain how it has used feminist research to identify how the Undertaking will affect women differently from men. The Proponent shall indicate how the significance of effects was assessed and justify the criteria selected."[2] This appears to be the first time gender has been formally incorporated into the world of environmental assessment.

The guidelines also direct the VBNC to take a holistic approach to describing the socio-economic environment in its baseline studies. Socio-economic indicators were to include, but not be limited to the following items:

- demographics;
- employment;
- income;
- education and skills;
- use of land (including water and ice) and resources, including fish and wildlife harvesting;
- housing;
- quality of life;
- health;
- morbidity and mortality;
- diet, including country food; and
- the interrelations of all of the indicators listed above.[3]

This last point is particularly important with respect to presenting both the Inuit and the women's world views. For example, the guidelines provide considerable detail with respect to what the socio-economic descriptions must address: data to be presented on social and cultural patterns include not only the social relations between residents and non-residents — an important consideration given the likelihood that the project will result in increased numbers of migrant workers — but also between men and women, among generations and between Aboriginal and non-Aboriginal persons.

The extent to which the VBNC has complied with and satisfied the EIS guidelines is certainly questionable. For example, while data are differentiated by gender, there is little

analysis or insight into how the differential impacts affect Inuit women. Disaggregation of data by gender could have led to development of the gender-sensitive indicators useful in gaining a fuller understanding of women's realities. With this understanding, the company would then be better situated to develop its policies regarding such matters as working conditions, workplace policies, and assistance for families of workers in a way that factors in that impact on women. Unfortunately, the VBNC's EIS does little more than present some basic gender-differentiated data, and the conclusions they reach must be cautiously considered.

In work undertaken for a Canadian symposium on gender equality indicators, Margaret Dechman and Brigitte Neumann outline the "best practices" when using gender equality indicators. They state, "Adequate gender analysis demands more than disaggregation of statistics, more than 'gender breakdown.' It requires real strategic thinking directed toward the accomplishment of real goals and outcomes."[4]

The use of gender (equality) indicators and gender-based analysis, while a relatively new field, has a considerable depth of knowledge regarding the development of these tools, their purpose, application and limitations.[5] It is evident that the company failed to consider this research in its work on the EIS.

One of the most disturbing aspects of the EIS is the way it used studies produced by Inuit organizations over the years to support its portrayal of the dismal social and economic conditions of Inuit communities. The chapter on family and community (Volume 4, chapter 24) identifies social problems such as substance abuse, family violence, youth suicide, crime, child neglect, poor nutrition resulting in poor health status, substandard housing, unemployment, poverty and high incidence of sexually transmitted diseases. Among the documents cited in this chapter are reports by LIA, the Labrador Inuit Health Commission (LIHC) and Pauktuutit.

A Pauktuutit study on non-reported rates of crime in three communities without police services is referred to in the discussion on crime to substantiate a much higher crime level in these communities than reported by the Royal Canadian Mounted Police (RCMP). This study is referenced again in the discussion of family violence:

> . . . Pauktuutit (1996) estimates that the actual incidence of spousal assault in Makkovik, Postville and Rigolet is much higher than reported. For example, in 1994 they note a total of 11 reported incidents of spousal assault in Makkovik and Rigolet. Taking into consideration the fact that only an average 26 percent of women report spousal abuse, the actual number of spousal assault cases is estimated to be 42.[6]

What is not evident from the context in which this study is used is the incentive behind it and the reason it was undertaken. The non-reported rates of crime study was motivated by the murder of an Inuk woman by her spouse in one of the communities without police services. This woman had a history of being beaten by her partner, a history not unknown to

the RCMP stationed in Goose Bay. Those who knew her understood that she lived in fear. The community council's request to the RCMP to have police stationed permanently in the community was rejected on the basis that the crime rate was not high enough to warrant this service. Women in the community responded, with Pauktuutit's help, by undertaking a study of non-reported crime in the three coastal communities without police. The underlying issues of concern to the women were safety, violence against women and the inadequate police response to violence. The last thing the women involved in the study would have anticipated was its being used by the VBNC to suggest that rates of violence against women are so high already that the mining project could not possibly make things worse. Like the LIHC's review of health and health services for Labrador Inuit,[7] problems are identified to generate solutions and spur people, organizations and governments into action.

The EIS uses this information to make a different point:

> Without the Project, the population of the Labrador North Coast will continue to increase, leading to increasing demands for housing and related municipal services and infrastructure. Such increased demands will only compound the many existing family, social and health problems in the community.[8]

Obviously, development companies like the VBNC will present information in their environmental impact statements in a manner that supports their contention that a major development project will be good for people living in the region. However, there may be a need for more detailed guidelines in environmental assessments regarding not only the collection of baseline data but also the way in which research is presented. In spite of the progressive and groundbreaking guidelines developed by the Environmental Assessment Panel in Labrador, the VBNC's EIS represents, at best, a misleading use of research reports and, at worst, a depressing exploitation of the social and economic challenges facing the Labrador Inuit communities. The EIS carefully builds the company's case that it cannot be responsible for community social and economic problems for two reasons: the situation is already bad, and, further, it is probably even worse than the data suggest.

With respect to family violence, women anticipate the mine and mill project will result in an increase in violence against women. The women who participated in the Nain workshop identified a number of reasons for their concern: increased overall tension within families and communities, increased access to money leading to an enhanced ability to get more alcohol, and increased jealousy and general disruption caused by the camp schedule of two weeks in/two weeks out, thus raising the potential for violence. The women worried that existing community services were already stretched and would not be able to meet even a limited rise in demand by abused women and their families. There was also a concern for future generations related to the tremendous difficulty in breaking the cycle of violence once it begins — as one woman noted, "once you've been raised in a home of violence, it usually passes to the next generation."

Concerns like the ones raised above have not been incorporated into the EIS prepared by the VBNC. It remains uncertain, until such time that the Environment Assessment Panel

releases its report, whether or not they have been considered in the Panel's deliberations and recommendations.

### (b) Traditional Ecological Knowledge and Environmental Assessment of the Voisey's Bay Nickel Project

The EIS guidelines refer to Aboriginal knowledge and state that the Panel "recognizes that aboriginal knowledge and expertise is evolving with new experience and understanding, and therefore believes it would be inappropriate to limit Aboriginal peoples' contribution to this assessment to what is commonly known as 'Traditional Ecological Knowledge,' although this will be a very important component."[9]

There is currently no federal policy regarding the use of Aboriginal knowledge in environmental assessments. The development of a policy and guidelines on the inclusion of traditional knowledge in environmental assessments would provide an ideal opportunity to include gender-based analysis. In fact, this issue was raised by women in the Nain workshop. When the VBNC was preparing its baseline studies for the EIS, it dealt with LIA, but no attempt was made to contact or work with Inuit women through TIA. This reinforces assumptions about the nature of this kind of research being relevant only to Inuit men:

> . . . few women were included in the development of the reports used in preparing VBNC's EIS. Further [the Inuit women] noted that even on the traditional ecological knowledge study, it was a struggle to get those overseeing the research to acknowledge the importance of working with and interviewing women about their traditional knowledge. They concluded that much of women's knowledge and experience was ignored in the research methods and results.[10]

The requirement set out in the MOU and restated in the Panel's EIS guidelines for the VBNC to work with Aboriginal groups to determine how and what will be used in terms of "traditional ecological knowledge" is something relatively new.[11] If and when guidelines are developed, it will be important for Aboriginal women's organizations to be full and equal partners in the discussions.

### (c) Women's Participation

Inuit women's participation in the various stages of the Voisey's Bay environmental assessment process was limited to the public processes. They were not involved in any of the negotiations and decisions leading up the public review process of the project. For example, the absence of Inuit women from the negotiations leading to the environmental assessment MOU through to the development of the EIS and, ultimately, the Panel, left them to fit into a process they had little responsibility in shaping and where their issues were often rendered invisible or tangential. By simply being involved in a process, women can make a difference:

a difference most likely to be felt when the women are represented in sufficient numbers and are given decision-making authority.

In spite of these structural barriers, Inuit women did participate in the environmental assessment process. Early on, TIA established links with others interested in and willing to work with them on these issues. For example, the Ad Hoc Committee on Aboriginal Women and Mining in Labrador was formed by Inuit and Innu women leaders from Nain, Davis Inlet and Sheshatshiu. In 1997, TIA and the Ad Hoc Committee prepared a joint proposal for guidelines regarding the environmental and social impacts of the proposed mine on women. Their paper, entitled "52% of the Population Deserves a Closer Look," calls for revised guidelines based on the VBNC's failure, after two years of working on its EIS, to do "any original research on women and the potential impact of this mining development."[12]

TIA also worked in partnership with a national organization called Women in Trades and Technology (WITT). Through the Newfoundland and Labrador chapter, Inuit and Innu women joined forces to create WITTINNUINUIT. This group worked together and, with the assistance of outside researchers, prepared a report regarding IBAs.[13] This document was subsequently used by TIA to lobby and inform LIA on the need for gender equality provisions in the IBA. Most recently, members of TIA met in the Nain workshop to identify and discuss land claims, the IBA, environmental assessment concerns and issues regarding the Voisey's Bay project with the authors of this report. The workshop served as the basis of TIA's written submission to the Voisey's Bay environmental assessment technical hearings on socio-economic impacts and women's issues.

Even where policies are not addressing gender equality issues, Inuit women have attempted to redress this by their actual involvement in the processes. This was especially evident in the community hearings. As a result of the Nain workshop, TIA members from the five communities decided to raise their concerns and issues at the community hearings in addition to presenting them at the technical hearing held on women's issues.[14] In their view, their concerns were integral to all aspects of the project, not just the socio-economic impact. The community hearings were open to the public; thus the women had only to notify the Panel of their desire to make a presentation to be put on the list. The desire and willingness to participate in a process, however, is rarely brought to fruition so easily.

The decision to participate in these hearings was a direct result of being able to come together in a workshop with other women. Individually, the women were daunted by the idea of responding to the VBNC's EIS. The company had produced more than 9,000 pages in its EIS and supplementary reports, much of it technical in nature. The workshop helped the women demystify the masses of written material and gave them the confidence to address the issues of importance to them publicly. Status of Women Canada, through the Independent Research Grant awarded to the researchers, made this workshop possible. The importance of providing resources for the women to meet and prepare a response to the EIS cannot be overstated.

As an offshoot of its work with WITTINNUINUIT — and in a similar blending of funding and purposes as noted above — TIA was able to have gender equality provisions drafted for the Labrador Inuit Association to include in its impact and benefits negotiations with the VBNC. However, TIA was not at the negotiating table when LIA and the VBNC dealt with the gender equality provisions.[15] TIA was informed that the VBNC rejected the provisions; however, the women have no sense of the dynamics surrounding the negotiations, nor any details as to why these provisions were rejected. Were there opportunities to negotiate alternative wording or to have some of the provisions included at the expense of others? A related issue is legal representation: women's representatives, if present — could have advanced the arguments on their own behalf, but they would also have been at a disadvantage as they did not have a lawyer to challenge and deal with the company's lawyers around legal wording.

Inuit women have not been physically present in significant numbers on the land claims or IBA negotiating teams, nor is there a significant mass of women sitting as Board members on the Labrador Inuit Association.[16] The absence of women directly affects the type of issues, and how these issues are addressed. Without question, the level of funding received by women's organizations can determine both their ability to participate and the quality of their participation in any of the processes.

In response, it might be argued that LIA is not fairly and adequately representing the women members. However, an alternative argument could be made that TIA should have had independent status in the negotiations as well as the resources to develop fully and present the members' positions. The Report of the Royal Commission on Aboriginal Peoples acknowledges the problem of women's underrepresentation in the following recommendation, that:

> 4.2.1 The government of Canada provide funding to Aboriginal women's organizations, including urban-based groups, to
> (a) improve their research capacity and facilitate their participation in all stages of discussions leading to the design and development of self-government processes; and
> (b) enable them to participate fully in all aspects of nation building, including developing criteria for citizenship and related appeal processes.[17]

While this deals specifically with self-government, it addresses similar issues, including the need for independent financial resources to facilitate women's participation in processes that Aboriginal peoples are collectively involved in.

In the particular case of the Voisey's Bay environmental assessment, the Panel members were responsive to women's issues and made efforts to ensure their voices were heard. The explicit recognition of the need for a technical hearing on women's issues no doubt assisted in TIA's receiving some funds to participate in the technical hearing. The funds provided were sufficient to assist in travel expenses and minimal research.

However, in the absence of a formal commitment to include Aboriginal women and their issues in environmental assessment or land claims processes, there is no guarantee that this will be the case. Rather, it becomes ad hoc and dependent on the willingness of those who have a formal role to play in these processes — such as the Panel in the Voisey's Bay environmental assessment — to be sensitive to gender.

It was the Panel, through its EIS guidelines, that incorporated gender-based analysis into the EIS process. It does not appear that the Canadian Environmental Assessment Agency, despite its requirement as a federal agency to use gender-based analysis, has substantive or procedural requirements that incorporate this analysis.[18] How the Panel came to include this analysis in the process is not clear. The combination of experiences and knowledge of the Panel members no doubt contributed to interpretation of the mandate in a way which was supportive of women and their concerns. Two of the five appointed Panel members are women, one of whom has experience working on issues related to women's inequality.[19]

The opportunities Inuit women took advantage of to participate in public hearing, the links TIA forged with other individuals and organizations and the limited funding it received, and the opportunities to address gender issues provided by their inclusion in the EIS guidelines served to increase the overall participation of Inuit women in the environmental assessment of the Voisey's Bay nickel project. The final section of this report contains recommendations aimed at expanding such opportunities for Aboriginal women to participate formally in environmental assessments, land claims and other processes relevant and open to Aboriginal peoples, such as self-government processes previously referred to by the Royal Commission on Aboriginal Peoples.

**Notes**

1. Andrew Nikiforuk, *The Nasty Game: The Failure of Environmental Assessment in Canada* (Toronto: Walter and Duncan Gordon Foundation, January 1997), p. 15.

2. Voisey's Bay Environmental Assessment Panel, "Environmental Impact Statement (EIS) Guidelines For the Review of the Voisey's Bay Mine and Mill Undertaking" (Ottawa: Canadian Environmental Assessment Agency, June 20, 1997), p. 8.

3. These are summarized categories of the items identified in the Voisey's Bay Environmental Assessment Panel's EIS Guidelines.

4. Margaret Dechman and Brigitte Neumann, *Using Gender Equality Indicators: Steps to Best Practices*, (Halifax, Nova Scotia Status of Women, 1998), p. 7.

5. The papers and publications prepared for the Symposium on Gender Equality Indicators: Public Concerns and Public Policies, held in Ottawa, March 26-27, 1998, are an excellent example of the type of research that is available in this area. For example, see symposium background papers such as Marika Morris, "Harnessing the Numbers, Potential Uses of Gender Equality Indicators for the Performance, Measurement and Promotion of Gender-Based Analysis of Public Policy" (Ottawa: Statistics Canada, 1998); Mike McCracken and Katherine Scott, *Social and Economic Indicators:*

*Underlying Assumptions, Purposes and Values* (Ottawa: March 1998); Dechman and Neumann, *Steps to Best Practices*, 1998.

6. Pauktuutit, *More Than They Say: Unreported Crime in Labrador*, 1996. Quoted in Voisey's Bay Nickel Company Limited, *Voisey's Bay Mine/Mill Project Environmental Impact Statement*, Vol. 4, *Socioeconomic Assessment*, (St. John's, Nfld.: VBNC, December 1997), p. 24-11.

7. See M. Baikie, *Health and Health Services for the Labrador Inuit: A Review* (North West River, Labrador: LIHC, 1992).

8. VBNC, *Environmental Impact Statement*,Vol. 4, p. 24-16.

9. Voisey's Bay Environmental Assessment Panel, "Environmental Impact Statement Guidelines," pp. 2-3.

10. Linda Archibald and Mary Crnkovich, *Inuit Women and the Voisey's Bay Nickel Project: Workshop Report* (Ottawa: Archibald & Crnkovich, 1998), pp. 9-10.

11. At the time of writing this report, the researchers learned that the Canadian Environmental Assessment Agency (CEAA) is drafting guidelines on "traditional ecological knowledge" and providing staff training on this subject. This, no doubt, is in response to the problems arising from the requirement of the Panel undertaking the BHP diamond project environmental assessment in the NWT to have "full and equal consideration of traditional knowledge." BHP, the company involved in that particular assessment, asked DIAND what traditional knowledge was and noted that DIAND was "pretty unhelpful." Further the company noted that "not a single federal department had regulations or guidelines for traditional knowledge. Not a single department has yet incorporated it. Even CEAA doesn't have a pamphlet on what it means." These comments are taken from Nikiforuk's report, *The Nasty Game*, cited earlier in this report.

12. Tongamiut Inuit Annait and the Ad Hoc Committee on Aboriginal Women and Mining in Labrador, "52% of the Population Deserves a Closer Look," April 16, 1997, p. 1.

13. Linda Archibald and Mary Crnkovich, "Inuit and Innu Women and the Voisey's Bay Nickel Project: A Report prepared for WITTINNUINUIT," November 1997. WITTINNUINUIT is a group of Inuit and Innu women in the Labrador communities of Sheshatshiu, Rigolet, Postville, Makkovik, Hopedale, Davis Inlet and Nain working with WITT (Women in Trades and Technology) Newfoundland and Labrador.

14. The technical hearing on socio-economic impacts and women's issues was held November 2, 1998, in Goose Bay, Labrador. Community hearings were held at intervals throughout September and October 1998.

15. LIA offered to bring TIA to the negotiating table but the timing was such that no TIA representative was available to participate at that time. TIA has only one staff member and the organization's president has a full-time job in her home community.

16. Currently, there are 21 members on the LIA Board, of whom two are women.

17. Report of the Royal Commission on Aboriginal Peoples, Volume 4, *Perspectives and Realities* (Ottawa: Minister of Supply and Services Canada, 1996), p. 53.

18. The researchers contacted the CEAA to inquire whether any work had been undertaken to include gender-based analysis in its environmental assessment and review process guidelines. A policy analyst with the CEAA indicated that nothing was being done in this area at the present time.

19. The chair of the Panel, Leslie Griffiths, and Lorraine A. Michael are the two women appointed to the five-member Panel. Ms. Michael is noted in the CEAA media backgrounder as "a Toronto-based leader in the Canadian social movement with extensive regional, national and international experience. She is currently Program Co-ordinator, Women and Economic Justice for the ecumenical Coalition for Economic Justice."

## CONCLUSIONS

By the fall of 1998, Labrador Inuit, through LIA, were in the final stages of reaching a land claim settlement and negotiating an impact and benefits agreement with the VBNC. At the same time, the Environmental Assessment Panel was conducting the final set of public hearings. Decisions were pending on all fronts, decisions that could forever change northern Labrador — for better or worse, depending on the outcome of negotiations and, in some cases, on judgments being made in Ottawa, St. John's and the Toronto headquarters of Inco Limited. It was a time of frenetic activity and also, of great uncertainty. Inuit women have many concerns about the impact this would have on their families, their communities and their lands.

Conflicting feelings of hope and fear came to the surface during the Nain workshop with these women. They participated in an exercise where they were asked to assume that one of primary arguments contained in the VBNC's EIS was true — that the proposed project would, in fact, lead to jobs for Inuit and, in turn, to more money within families and communities plus a corresponding decrease in social problems in the communities. The women worked with flip charts in small groups to identify the impact of having more money on individuals, the family and the community.

At first, there was a great deal of laughter as women considered the impact of a windfall on their lives. The spoke about buying new skidoos, boats and motors, clothes, houses and lots of food. Higher self-esteem was mentioned early on, and yet the final point raised related to unjustified confidence, feeling "pesetungi" (roughly translated in English to "big").

By the time the groups considered the impacts on families and communities, they were greatly subdued. They added other things to the list: more alcohol and beer, more smokes and drugs, more loans, more bingo and less hunting. Families could expect to experience higher levels of tension and stress, more fighting and more bills (the prospect of money can lead to more spending). Some mentioned that the parent at the work site would be lonely during the two- or three-week shift in the mine while the parent at home would be overworked. The women were surprised to recognize that when they thought about jobs at the mine, they imagined them going to their husbands and sons rather than to themselves and their daughters.

The projected impacts on communities suggested a mixture of positives and negatives. On the positive side was more money for local businesses, less unemployment and less stress on town councils to provide jobs. The negative impact included stress on local resources, for example, water and sewage if people were building new houses; more alcohol and drug use; more crime; undermining of community values and traditions combined with loss of traditional skills as they weren't passed on to younger generations; possible increases in bad credit; and the potential that traditional foods would be replaced by "fast" food and southern food.

While the women at the workshop also had a great deal to say about issues related to the environment and land claims, their wide-ranging discussion illustrates the difficulties in incorporating women's perspectives into technical processes such as environmental assessments, even when those assessments include socio-economic impacts and requirements to address women's concerns. There is a fear that the issues women raise will be treated as petty, domestic and irrelevant — private, rather than public concerns. Yet, behind the discussion of the impact of increased wealth on individuals, families and communities are issues vital to the cultural survival of a people.

The Inuit women of Labrador have protested the establishment and operation of the Voisey's Bay nickel mine and mill project before resolution of land claims. In their presentations to the Panel, Inuit women from TIA joined with LIA in calling on the Panel to recommend the project not be approved until land claims are settled. The women also addressed a variety of environmental issues as well as challenging the way the VBNC conducted and used research on how the project will affect women, families and communities.

Evident from their comments, Inuit women believe that the land claims agreement will address many of their concerns. Specifically, it will have sufficient safeguards and Inuit decision-making authority to ensure any development taking place on lands which Inuit depend on for their way of life is sustainable. In its submission to the Voisey's Bay Environmental Assessment Panel, TIA reported on a workshop held to discuss the Voisey's Bay project, the EIS and land claims.

> The women at our workshop insisted that the project should not proceed until Inuit are ready. In this case "until Inuit are ready" means when the people are ready; when the people are satisfied with the measures taken to "mitigate" negative impacts of the mine; when land claims are settled; when the IBA is agreed to; and when issues like shipping are addressed to the satisfaction of Inuit.[1]

This comment was also made with respect to "the pace of events confronting the communities, including the fast pace of the environmental assessment process."[2]

There is a need for both the Department of Indian Affairs and Northern Development and Canadian Environmental Assessment Agency to re-evaluate their policies through a gender lens. This will benefit those Aboriginal women affected by future land claims agreements and environmental assessments.

**(a) Gender-Based Analysis**

In keeping with the government-wide commitment to gender equality, it is recommended that a gender-based analysis[3] of the federal land claims policy be undertaken with the full representation and participation of Aboriginal women's organizations. This analysis should be an integral component in the monitoring and evaluation stages of policy implementation.

It is also recommended that evaluations or reviews of specific comprehensive land claims agreements include within their terms of reference a gender-based analysis component. To date, government has not been overly supportive of Aboriginal groups' desires to undertake independent evaluations of their comprehensive claims agreements. However, it is recommended, where such evaluations are undertaken independently or by government and the Aboriginal group in question, that gender-based analysis be an integral component of the evaluation.

In the context of environmental assessments, it is recommended that consideration be given to the development of CEAA guidelines on the use of gender-based analysis in the environmental assessment and review process. With guidelines in place, the application and use of gender-based analysis would not be something left to the discretion of each panel. Such guidelines should set out the obligation for the panel to incorporate gender-based analysis as an integral part of the process. Also the guidelines should provide direction regarding how gender-based analysis and gender-equality indicators are to be incorporated into the development proponent's work in the process (i.e., the EIS, including baseline data, monitoring, evaluation and mitigation).

Further, as is evident from this report, the CEAA should develop, in partnership with Aboriginal peoples and, in particular, with the full participation of Aboriginal women, policies and guidelines related to the inclusion of Aboriginal knowledge, including traditional ecological knowledge, in environmental assessments and land claims.

Incorporating gender-based analysis and applying gender-equality indicators in the programs and processes that evolve out of the policies discussed does not always mean this work or its outcomes will be gender-sensitive or inclusive. The VBNC EIS demonstrates what can happen when an organization unfamiliar with this type of analysis uses it and uses it badly.

To conduct a useful analysis and apply the gender-equality indicators appropriately, a full understanding of these tools, including their limitations, is required by both the policy makers responsible for the work and those actually undertaking the work. It is recommended that the CEAA and DIAND in partnership with the departments working in these areas such as Status of Women Canada and Statistics Canada, identify the tasks required to undertake the gender-based research and analysis identified above. As well, such partnerships could assist in setting the terms of reference for undertaking such work and providing assistance in an area in which both departments seem to lack experience. In particular, the work undertaken to incorporate gender-based analysis, including the use of gender-equality indicators, into the federal policies and related processes, programs and guidelines must be sensitive to the fact that not all Aboriginal women are the same. Accordingly, an understanding of how gender intersects with culture and race is prerequisite. To ensure the unique circumstances and concerns of the particular group of women affected are factored in, the variety of women potentially affected by the policy should be given the means to participate in this work.

Likewise, it is recommended that those undertaking gender-based analyses of land claims agreements, IBAs and the by-products of environmental assessment policies and processes (i.e., EISs, baseline data, etc.) be required to include detailed explanations of the methodology to be used. The type of information provided for this requirement should include the extent and nature of women's participation in the process from beginning to end; the type, application, purposes and limitations of gender-equality indicators to be used; and anticipated gaps or limitations in the research and any other work undertaken.

**(b) Women's Representation and Participation**

Without question, a discussion is required on how to remedy Aboriginal women's absence in land claims and environmental assessment policies and processes. The myriad of Aboriginal women's organizations at local, regional and national levels must be included in this discussion. To participate as equals and to be fully represented in such a discussion, these groups should be provided with adequate resources and time to research their needs and prepare their recommendations.

It is recommended that secure and clear commitments be made for funding to allow Aboriginal women's organizations affected by a particular land claims agreement or environmental assessment, to undertake research and have representation independent of the primary Aboriginal organizations involved in these matters. For example, where land claims or IBA negotiations are taking place, the specific Aboriginal women's organization should have the necessary resources not only to develop negotiating positions but also to participate in the negotiations.

As already noted, Aboriginal women's participation in the gender-based analysis of policies is also an important step that must be taken.

Steps are required in both the short term and the long term to remedy the gender inequities of the policy. It is recommended that government promote equal representation of women and men on all of the institutions being established pursuant to land claims agreements. In meeting this goal, an initial step recommended is that governments ensure appointments to these boards include an equal number of women. Consultations with Aboriginal women's organizations to improve women's representation and to have women recommended for these positions are encouraged.

The work necessary to address the systemic barriers of the structure of land claims negotiations will be a long-term process. While this is essential, and highly recommended, in the short term, women presently excluded from the negotiation process need to gain experience and knowledge about the process and substance of land claims. Again, with the participation of Aboriginal women's organizations and Aboriginal land claims organizations, it is recommended government provide resources to fund workshops to give Aboriginal women a working knowledge of the land claims process and the agreements.

This report has shed some light on the gaps of both the environmental assessment and land claims policies and processes when it comes to gender equality. In particular, a review of the circumstances of the Inuit women in Labrador provided a glimpse of how these policies are affecting their lives, their families and communities. A final recommendation is that Status of Women Canada facilitate discussions with the CEAA and DIAND to discuss the issues raised in relation to gender equality, land claims and environmental assessments.

In conclusion, there is considerable work to be undertaken regarding land claims and environmental policies within the federal government, when it comes to addressing gender equality. It is essential to ensure that these policies, and the processes and products evolving from them, promote and support self-reliance and equality of Inuit and other Aboriginal women within their own societies and the larger Canadian society.

**Notes**

1. Tongamiut Inuit Annait, October 1998, p. 5.

2. Ibid., p. 5.

3. While it was not the subject of review for this paper, a gender-based analysis of DIAND's inherent self-government policy is also necessary. This policy is integrally related to land claims, from the perspective of Aboriginal women. As well, since self-government agreements can now be negotiated within the context of land claims negotiations, it would be short-sighted not to include a gender-based analysis of this policy.

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