DEVELOPING AN IDEAL MINING AGENDA:
IMPACT AND BENEFIT AGREEMENTS AS INSTRUMENTS OF
COMMUNITY DEVELOPMENT IN NORTHERN ONTARIO

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ABSTRACT

DEVELOPING AN IDEAL MINING AGENDA: IMPACT AND BENEFIT AGREEMENTS AS INSTRUMENTS OF COMMUNITY DEVELOPMENT IN NORTHERN ONTARIO

Peter Siebenmorgen
University of Guelph, 2009

Mineral extraction in northern Canada has historically given little regard to the negative impacts experienced by local Aboriginal communities. In recent years, however, the emergence of Impact and Benefit Agreements (IBAs) negotiated between mining firms and would-be impacted Aboriginal communities has been cautiously celebrated as enabling improved impact mitigation and increased local capture of benefits. While improved outcomes have been substantiated by preliminary assessments of IBA effectiveness, some IBA-supported mining projects have recently met with community protests that reflect adversarial proponent-community relationships of old. It is argued, herein, that the limited success of some agreements has been caused by their failure to identify and thoughtfully address Aboriginal signatory’s implicit expectations and interests regarding long-term community development. Accordingly, this thesis conceptualizes, based on extensive empirical evidence from contemporary northern Ontario, an ideal IBA, sensitive to the particular socio-economic conditions, cultural interests and community development expectations of Aboriginal signatories in northern Ontario. This research suggests that IBAs can serve as instruments of community development and mutual benefit between project developers and their Aboriginal partners, which constitutes a significant improvement from mining’s exploitive history in the north.

Advisor: Dr. Ben Bradshaw
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I am deeply thankful for the participation of my Aboriginal research partners. I have learned much from my brief time in Ontario’s northern communities and look forward to returning soon. Many key informants went out of their way to assist me during the interview process and blessed me with their kindness and hospitality. Meegwetch.

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Chapter 1
INTRODUCTION

1.1 Research Context

Mineral exploration and extraction has historically been a significant source of economic development in northern Canada. This development has, however, long been associated with significant environmental degradation, alarming boom-bust cycles of economic development, as well as the transformation of traditional northern livelihoods (Viega et al., 2001; Hipwell et al., 2002; NRC, 2003; Chapin et al., 2004; NAHO 2008). Although mineral rents have been used to deliver vital economic benefits to many sparsely populated northern regions of Canada (Keay, 2007; NRC, 2008), many Aboriginal communities continue to suffer from disproportionate exposure to cumulative environmental, economic, and social impacts of mineral development projects (Tollefson and Wipond, 1998; Hipwell et al., 2002; Kapelus, 2002; NAHO, 2009). This is partly due to longstanding political neglect of Aboriginal concerns and the multidimensional creation of ‘new poverty’ – further marginalization of at-risk communities through loss of traditional livelihoods and cultures associated with mineral development (Dosman et al., 2002; Downing, 2002; Hipwell et al., 2002). As the setting for the majority of current mineral development projects, northern Canada is the venue for a conflict of divergent designs.

The harmful legacy of mining has recently motivated many Aboriginal groups, NGOs, and concerned citizens to lobby for regulatory and institutional change (see Sinclair, 1997; Hilson, 2000; Noble and Storey, 2005). While some mining legislation in Canada has been a subject of reform (e.g. MNDMF, 2006; 2008; 2009), mere compliance with
(often contested) legislation rarely garners acceptance of mining projects by Aboriginal communities proximate to a proposed mine site (see Globe and Mail, 2007; Sherk, 2007; Struzik, 2008). It is evident from the range of recent industry and policy initiatives such as the international Mining Minerals and Sustainable Development (MMSD) project, the Prospectors and Developers Association of Canada’s (PDAC) e3Plus framework for responsible exploration, and the Mining Association of Canada’s (MAC) Toward Sustainable Mining initiative that mining firms recognize that they cannot continue to practice ‘business as usual’ with Aboriginal communities.

In order to gain access to Aboriginal ‘traditional territories’ and obtain an auxiliary ‘social license to operate,’ it has become common practice for mining firms to negotiate private settlements such as Impact and Benefit Agreements (IBAs) with would-be impacted Aboriginal communities (Sosa and Keenan, 2001; Galbraith et al., 2007; O’Faircheallaigh, 2007; Prno, 2007; Lapierre, 2008). These legally-binding, private contracts are voluntarily initiated by resource developers and operate in addition to regulatory rules (Kennett, 1999a; Keeping, 2000).

Typical IBA provisions include direct and indirect economic incentives, employment and education opportunities, and measures for local cultural and environmental protection (Kennett, 1999a, Sosa and Keenan, 2001; Klein et al., 2004). Direct economic incentives include profit-sharing arrangements as well as cash payments and compensation funds to offset adverse local impacts of mining (Kennett, 1999a; Hodge and Killam, 2003). Local indirect benefits may include policies of selectively contracting local service providers
for mine facility construction and operations (Kennett, 1999a; O’Faircheallaigh, 2006). Local employment targets and funded training opportunities are a central topic of most IBA negotiations (Kennett, 1999a; Sosa and Keenan, 2001) and are among the most commonly reported benefits included within IBAs (see Goldcorp, 2006; Kinross, 2007; DeBeers Canada 2009). Provisions for environmental protection, site remediation, and preservation of locally-significant habitat or other natural areas are equally significant, if not more important, to signatory communities (Gibson, 2006; Galbraith et al., 2007; Fiddler and Hitch, 2007). Noting the unique capacity of IBAs to complement, and even to thoughtfully surpass, environmental assessment (EA) requirements, Fidler and Hitch (2007: 63) suggest, “where EA may be unsuitable or unable to accommodate the cultural and spiritual value Aboriginal communities have with the land, IBAs may serve a role.” Additionally, corporate funding for community environmental education and monitoring has become a common element of recent IBAs (O’Faircheallaigh, 2007). Funds may also be secured for ‘soft benefits’ such as local socio-cultural activities and facility development (Sosa and Keenan, 2001).

Notwithstanding few legislated requirements for IBAs in Canada, their use has become so common in hinterland regions (e.g. northern Canada, rural Australia) that Aboriginal communities adjacent to proposed mineral development sites simply expect that an IBA will be signed prior to project construction (Galbraith et al., 2007). Such was true of DeBeers Canada’s Victor diamond mine in northeastern Ontario; not only were IBAs established with each of Attawapiskat, Fort Albany, Kashechewan and Moose Cree First Nations (see Figure 1.1), but the regional council of which these Nations are a part,
recently established a resolution that prohibits mining projects within their traditional territory unless they are accompanied by an IBA (e.g. see Mushkegowuk Council Res. 2008-11-25). This official resolution reflects both the increasing Aboriginal interest in profit-sharing arrangements in support of resource development and an effort to strategically respond to high levels of mineral exploration and development pressure.

Figure 1.1 Location of DeBeers Canada’s Victor mine and Four IBA Signatory Communities

Consistent with Sosa and Keenan (2001), the growing Aboriginal interest in negotiating IBAs in support of mining projects is likely based on their perceived utility in not only delivering tangible benefits in a way never done by regulatory mechanisms such as environmental assessment (EA), but also in addressing the legacy of environmental and
social devastation that has long been associated with mining operations. Others have suggested that IBAs have the potential to enable project-specific EA follow-up, and build trust and capacity among stakeholders (Galbraith et al., 2007; Fidler and Hitch, 2009), while others have identified their utility in formalizing a relationship between a local community and a mining firm (Kennett, 1999a). This latter assertion by Kennett (1999a) is notable because it suggests some recognition within the private sector of Aboriginal sovereignty over non-reserve lands and natural resources despite the long-standing challenge of obtaining similar affirmation by the Crown (see ECO, 2007; Ross, 2008; MNDM, 2009).

Aboriginal interest in IBAs does not suggest an unequivocal embrace in them. Many Aboriginal communities and their leaders have expressed strong interest in mining projects as potential vehicles of community development, yet fear the negative impacts to traditional ways of life commonly associated with mining (see McCarthy, 2009). For example, in the case of the Lutsel K’e Dene First Nation’s opposition to uranium exploration in the Thelon region of the Northwest Territories, community members resisted further development, even if supported by an IBA, since it was felt that the cultural and spiritual significance of the region precluded any form of industrial activity (Jonasson, 2007).

Even in cases where an Aboriginal community has accepted local mineral development through the use of an IBA, Dreyer and Meyers (2004) have shown that if these relationships are to be meaningful to Aboriginal signatories, consistent delivery of
negotiated benefits is essential. If a corporation is perceived by locals to have violated its social license to operate by withholding benefits or failing to comply with other components of an IBA, public protests and other demonstrations causing project slow down or even shut down may ensue. For example, an 18-day community blockade was staged in February 2009 in protest of the terms of the IBA supporting the DeBeers Victor mine in Attawapiskat, Ontario (Feeney, 2009a). The roadblock was established when local frustrations erupted as community members felt DeBeers was not living up to the terms of their IBA (Feeney, 2009b). Evidently, abiding by terms of existing IBAs is in the best interest of corporations interested in fostering a positive or socially responsible image (Dreyer and Myers, 2004; Hitch, 2005; Lapierre, 2008) and, more importantly, meeting project deadlines and maintaining production levels (Prno, 2007). Due to the significant capital investment in mining operations, most companies appear to be committed to IBA policies (O’Faircheallaigh, 1999; Dryer and Myers, 2004; Hitch, 2005; Prno, 2007; Lapierre, 2008). This commitment to delivering local benefits, however genuine, is constantly under community scrutiny and its perceived validity is, therefore, highly contingent upon community interpretation.

Measurement of the outcomes or effectiveness of IBAs, whether based on Aboriginal community perceptions or more objective measures, has been undertaken by few researchers (see Dryer and Myers, 2004; NSI, 2006; Prno, 2007). Research to date has shown that some IBAs have indeed been useful in delivering tangible benefits to local communities, but has also revealed numerous limitations. For example, recent conflict between an IBA signatory community and DeBeers Canada regarding it’s Victor mine
(see Feeney, 2009a, b), has revealed both limited success in implementation of key IBA terms, and a perception among members of Attawapiskat First Nation that these terms are inadequate relative to their (implicit) expectations. These challenges are particularly salient given that the DeBeers – Attawapiskat IBA has been heralded as “a shining example of responsible development in northern Ontario,” and this agreement’s high level of community support, at least initially, garnered international acclaim (DeBeers, 2006).

This case is instructive as it draws attention to a critical research need evident within IBA-focused scholarship. Recent attempts to assess IBA effectiveness have done so in reference to the explicit terms of the agreement (see Prno and Bradshaw, 2008), yet it is likely that signatories hold a suite of implicit expectations not captured within the terms of the agreement. These implicit expectations typically relate to broader interests in sustainable community development and cultural continuity (Fiddler and Hitch, 2007; Kemp, 2009); hence, failure to meet them will have significant consequences for the perceived effectiveness of an IBA (Diges, 2008). This suggests that IBA effectiveness research needs to pay attention to, and ideally assess progress towards the fulfillment of, many of these implicit community expectations. More constructively, research could also be directed towards making explicit many of these implicit expectations, and giving thought to the terms of an ideal IBA that might better realize them. This latter task builds on recent thinking on IBA utility. While it is increasingly accepted that an IBA can serve as a novel “tool to recognize the assertion of aboriginal rights and title” to local resources, further mitigate mining-related environmental and social impacts, and enable
sharing of revenues generated through mineral extraction (Prno, 2007: 120), can an IBA, in some ideal form, do more? In particular, could it enable mining to contribute to sustainable community development? By what means might this be accomplished? These important questions have yet to be thoughtfully addressed and may yield valuable insights if the practice of mineral development can be re-conceived of from a highly exploitive industry to one that may facilitate positive community development for Aboriginals across northern Ontario.

1.2 Research Aim and Objectives

It is clear that mineral development, at least as historically practiced, has been incompatible with local development interests. However, it is conceivable that a community-sensitive mineral development agenda, making use of an ideal IBA, might facilitate community empowerment and long-term development through strengthening local governance institutions, developing community capacity, and capturing benefits; of course, such an IBA would need to be tailored to the particular needs of, and conditions experienced by, its Aboriginal community signatory. Therefore, the aim of this research is to identify the current context around mineral development in northern Ontario in order to formulate an ideal IBA for that region that could be used to achieve community development objectives among Aboriginal communities.

In order to achieve this research aim, three primary objectives are pursued:

1. to identify and describe the current context of mineral development in Northern Ontario, with a view to identify essential Aboriginal, private, and public interests;
2. to formulate an ideal IBA, based on Aboriginal expectations regarding process and content; and
3. to identify and address the primary challenges to implementing such an IBA.

These objectives reflect the largely prescriptive nature of this research. While IBA signatories often speak of a ‘next-generation IBA,’ this thesis extends this thinking to try to answer the question, ‘what might an ideal IBA look like?’ In doing so, the research seeks to direct thoughtful attention to this important question, which is likely a luxury that IBA signatories themselves cannot afford and is arguably a task well suited to the academy. This aim is conceptualized in Figure 1.2.

![Conceptualization of Research Aim](image)

**Figure 1.2** Conceptualization of Research Aim

### 1.3 Thesis Outline

This dissertation follows in seven further chapters. Chapter Two outlines the approach taken to conduct this research. Chapter Three reviews scholarly literature concerning IBAs, Aboriginal culture and economic development, socio-economic impact assessment,
the vulnerability approach, and two related mineral development debates. Following this, Chapter Four identifies contemporary mineral development and Aboriginal issues within northern Ontario, which makes evident the need for IBAs to serve not only as mechanisms to address various mining impacts, but to facilitate local development in deprived communities. Responding to this need, Chapter Five outlines an ideal IBA, purposefully designed to meet broad community development ends among northern Ontario’s Aboriginal communities. Given a key limitation of previous IBAs – the challenge of IBA implementation – Chapter Six reviews these challenges and offers some solutions. Finally, Chapter Seven provides a summary of the dissertation and outlines its scholarly and practical contributions, and offers some recommendations for further study.
Chapter 2
APPROACH TO THE RESEARCH

This brief chapter serves to outline the approach to the research. Previous assessments of IBA effectiveness have sought to provide an evaluation of a particular agreement (e.g. Dreyer and Myers, 2004; NSI, 2006), or a series of agreements within a particular region (e.g. Hitch, 2005; Prno, 2007). These studies, particularly Prno (2007), provide a significant initial step in the development of a protocol for assessing IBA effectiveness. This thesis seeks to complement these early efforts by conceiving of an ideal IBA that could achieve community development objectives within the particular context of northern Ontario. In other words, the research presented herein is largely conceptual, albeit supported and grounded by significant empirical evidence. By developing an ideal IBA, the research contributes to IBA effectiveness research by providing an end-point, or goal against which to evaluate the effectiveness of other agreements.

To achieve this broad aim and, more specifically, fulfill the research objectives outlined in Chapter 1.2, three sequential tasks were conceived and executed as illustrated in Figure 2.1. The first task was to review scholarship and contemporary secondary source documents (e.g. mineral development policy and related literature). Insights from this review were then drawn upon to develop questions for, and assess the findings of, interviews with a number of key informants from northeastern Ontario. Following this, interview findings were combined with results of a practitioner workshop and other empirical observations to formulate an ideal IBA. Finally, based on these same empirical sources, significant barriers to IBA implementation were identified and addressed with specific recommendations. The remainder of this chapter serves to provide the details of
these various tasks. The document review and data organization methods are outlined in the next section. Following this, the field surveying methods are described, including key informant interviews and the practitioner workshop. Finally, a brief summary of the chapter is provided.

Figure 2.1    Progression of Research Tasks

2.1     Document Review

To establish a critical understanding of many of the ongoing issues related to mineral development and Ontario’s Aboriginal communities, a broad survey of five related areas of scholarship was carried out. Chapter Three comprises a review of existing IBA-focused literature, supported by scholarship encompassing Aboriginal culture and
economic development, socio-economic impact assessment, vulnerability approach, and community mineral development. Familiarity with essential concepts within, and drawing connections among, these key bodies of literature is an essential scholarly foundation and vital requirement prior to grasping and thoughtfully engaging with the broad range of contextual issues and processes impacting Ontario’s northern Aboriginal communities as they seek to manage local mineral development.

In addition to academic scholarship, historical and contemporary primary documents were reviewed in order to contextualize and make sense of the current situation facing Aboriginal communities in northern Ontario. These documents included government reports, ministers’ statements, news media (including Aboriginal press), and corporate press releases. Each document was examined to identify common themes and contrasting perspectives. These key themes were documented (see Table 2.1) and then used to develop interview questions and later analyze interview responses.
<table>
<thead>
<tr>
<th>Document Type</th>
<th>Themes and Research Questions Identified</th>
</tr>
</thead>
</table>
| Legislation (current and proposed)     | • Mineral development framework designed to enable rapid exploitation of public resources  
                                 • Recent efforts to consider the needs of multiple stakeholder groups  
                                 • Which groups are favoured by current mining policy? Which are marginalized?  
                                 • Is mining policy consistent with other relevant legislation concerning Aboriginal Canadians?  
                                 • How might current policy be amended to better serve all stakeholder groups? |
| Policy Discussion Papers and Official statements | • Need to update mineral policy to reflect modern interests in sustainable development while remaining profitable  
                                 • How compatible are the Crown’s goals of economic development and environmental protection/cultural preservation in the north? |
| Corporate Policy and Promotional Releases | • Consistent reference to corporate-community partnership in mining  
                                 • Focus on the economic benefits of mining  
                                 • If mining is to be a partnership, will benefits be shared equitably?  
                                 • How interested in mining are Aboriginal communities?  
                                 • What other benefits are available to communities? |
| Mainstream News Media (e.g. Globe and Mail) | • Many cases of local conflict over resource use  
                                 • Mining firms unclear on appropriate consultation approach  
                                 • Public debate on how to move forward with improved mineral policy  
                                 • Who should have access to Crown resources? Does this change on Aboriginal traditional territory?  
                                 • If the duty to consult lies with the Crown, how should mining firms engage with Aboriginal communities?  
                                 • How can mineral development practice in Ontario be improved? |
| Interest Group Publications (e.g. Mining Watch Canada) | • Concerned with variety of impacts of mining on Aboriginal communities that are not well-understood  
                                 • Lobbying for regulatory reform  
                                 • How does mining impact local social and cultural well-being of Aboriginal communities?  
                                 • Can mining be used to improve local conditions? |
| Conference Presentations (e.g. Mining Act Consultations, Aboriginal Law Forum) | • Small steps are being taken to improve mining legislation, but many of these may have controversial impacts  
                                 • Aboriginal communities are increasingly prepared to protest unwanted mines  
                                 • What will be the long-term impact of increased executive office control of mining proposals?  
                                 • How will increased Crown focus on ‘protecting’ large areas of the north from development affect Aboriginal communities? |

**Table 2.1 Data Organization from Document Review**
The research was conducted from September 2007 to August 2009. During this time the Ontario Ministry of Northern Development, Mines and Forestry (MNDFM) conducted public consultations to guide the composition of Bill 173 – an amendment of Ontario’s Mining Act. These events created controversy among various public stakeholders, Aboriginal groups, and industry associations, thereby generating insightful discussion concerning all aspects of mining in Ontario. Accordingly, the document review was not limited to conventional mineral development topics, but purposefully included socio-economic and governance issues of particular local significance in northern Aboriginal communities (e.g. cultural and heritage preservation, land claim settlements, regional underdevelopment). By incorporating a broad variety of sources and range of subjects, document review offered an efficient means of surveying many related issues and is particularly gainful when analyzing the historical development of Aboriginal-government and Aboriginal-corporate relationships (Mitchell and Baker, 2005; Strickland, 2006; Stanley, 2008).

2.2 Field Surveying

Key informant interviews were conducted to solicit ‘expert’ opinions regarding the IBA needs of northern Ontario’s Aboriginal communities and the limitations of existing IBAs. Semi-structured interviews were used to allow the researcher to ask the same series of questions to all informants (see Table 2.2 for example questions), while providing a degree of flexibility to ask relevant follow-up questions (Hodge and Lester, 2006; Louis, 2007).
<table>
<thead>
<tr>
<th>Key Themes Derived from Data Collected</th>
<th>Example Interview Questions</th>
</tr>
</thead>
</table>
| Mining's history as an exploitive industry in Ontario                     | • What has been your communities’ experience with mining in the past?  
• Is this relationship common among other communities in your area?                                                                                                           |
| Conflict between Aboriginal communities and rapid mineral development     | • Have mining companies practiced adequate consultation and accommodation prior to development in your area?  
• Has mineral development helped or harmed your community? In what ways?                                                                                                        |
| Aboriginal communities bearing disproportionate share of costs and failing to share in benefits associated with mining | • What are your expectations of current/proposed mining developments?  
• How may mineral development bring positive change to your community?  
• Do you have any concerns about the local impact of mining?                                                                                                                     |
| Many existing IBAs are not meeting the expectations of Aboriginal signatories | • Do you have any concerns/interests related to a present or future IBA?  
• How should the mining company interact and negotiate an IBA with your community?                                                                                             |
| Successful IBAs may deliver a host of tangible benefits                   | • Why would your community pursue an IBA?  
• What would you expect an IBA to accomplish?                                                                                                                                            |

Table 2.2  Example Interview Questions

Twelve key informants were identified and solicited from the staff and leadership of IBA signatory communities, and senior staff of Aboriginal regional councils and political organizations within Ontario. Table 2.3 identifies these key informants along with their affiliations. Key informants were largely solicited from the First Nations of the Mushkegowuk Council in the James Bay lowlands of Ontario because of these nations’ recent experience with the negotiation and establishment of IBAs in support of the DeBeers Canada Victor Diamond Mine between 2004 and 2009. These communities are located along the western coast of James Bay (see Figure 1.1) and share not only a common Cree culture, but also socio-economic problems like systemic poverty and logistical challenges like a lack of year-round road access. Although northern Ontario is a
leading producer of other minerals and precious metals, with mines operating in Aboriginal territories across the province, the high-profile Victor mine IBAs became a key focus of the research as it progressed Signatory communities to other IBAs in Ontario, such as those party to Goldcorp’s Musselwhite Agreement, were contacted but never came through with a commitment to participate.

<table>
<thead>
<tr>
<th>Key Informant</th>
<th>Affiliation</th>
<th>Key Informant</th>
<th>Affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Theresa Hall</td>
<td>Attawapiskat First Nation</td>
<td>Chief Andrew Solomon</td>
<td>Fort Albany First Nation</td>
</tr>
<tr>
<td>Suzanne Barnes</td>
<td>Attawapiskat First Nation</td>
<td>Christopher Metatawabin</td>
<td>Fort Albany First Nation</td>
</tr>
<tr>
<td></td>
<td>-Lands and Resources Coordinator</td>
<td>-Economic Development Officer</td>
<td></td>
</tr>
<tr>
<td>Ernest Rickard</td>
<td>Moose Cree First Nation</td>
<td>Chief Glenn Nolan</td>
<td>Missanabie Cree First Nation</td>
</tr>
<tr>
<td></td>
<td>-IBA Negotiator/Lands and Resources Dept.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cheryl Tomatuk</td>
<td>Moose Cree First Nation</td>
<td>Cynthia Morriseau</td>
<td>Missanabie Cree First Nation</td>
</tr>
<tr>
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<td>-IBA Implementation Coordinator</td>
<td>-Community Mining Liaison</td>
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<td>Gilbert Cheechoo</td>
<td>Moose Cree First Nation</td>
<td>Job Mollins Keone</td>
<td>Mushkegowuk Council</td>
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<td>-IBA Implementation Coordinator</td>
<td>-Lands and Resources Director</td>
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<td>David Wesley</td>
<td>Kashechewan First Nation</td>
<td>Theresa Hollett</td>
<td>Nunatsiavut Government</td>
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<td>-IBA Negotiator/Lands and Resources Dept.</td>
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Table 2.3 Key Informants and Aboriginal Affiliation

In addition to representatives of the four Victor IBA signatories and the Muskegowuk Council, three other key informants were interviewed given their particular experience with IBAs. All informants but one represented Aboriginal communities in northern Ontario. The exception was Theresa Hollett of the Nunatsiavut Inuit Government who is the IBA implementation coordinator for the Vale Inco Voisey’s Bay nickel mine in Labrador. The successful implementation of this IBA has garnered international attention
(see Gibson, 2006; O’Faircheallaigh, 2007) and her expertise provided many useful insights, especially with respect to IBA implementation.

Interview responses were transcribed and organized by question (see Appendix A for interview guides), using each of the responses to first identify and confirm the IBA needs of northern Ontario’s Aboriginal communities and the limitations of existing IBAs. Following this, the responses were organized in reference to three categories that were evident throughout the interviews: IBA process; content; and implementation. Within each of these three categories, the responses were further organized into two groups of data: principles for an ideal IBA: and recommendations for applying these principles. Based on this organization of interview responses (see Figure 2.4), the data were combined with specific insights from other empirical and secondary source research methods to formulate an ideal IBA.

![Figure 2.2 Organization and Use of Interview Data](image-url)
In addition to conducting key-informant interviews, the author contributed to the organization of a workshop to discuss the challenges of implementing an IBA from the perspective of its Aboriginal signatories. This workshop was held as part of the Learning Together Conference in Montreal from April 8-9, 2009. During two 90-minute sessions, 29 participants (11 self-identified as Aboriginal) conferred regarding the Vale Inco – Nunatsiavut Inuit Voisey’s Bay IBA and their experience with IBAs in other regions. The summary notes from the discussion were organized according to the theme of participant comments, and were then used to complement data gathered during the key informant interviews. The identification of additional IBA implementation challenges and examples of strategies to address them during this analysis was crucial for the completion of Chapter Six. Summary notes from the discussion were circulated to all participants who requested them (see Appendix C for the summary notes).

This research was also significantly enriched by a measure of participant observation. During the twenty month research period, the researcher gained vital contextual insight from interacting with key informants, traveling to IBA signatory communities, attending mining and Aboriginal-focused conferences, and meeting with Aboriginal activists. These experiences served to complement other forms of data collection, and led to a better understanding of the range and impact of practical challenges that persist in northern Aboriginal communities. This sensitivity was critical for recognizing interwoven mining and local development issues (Minkler, 2005; Louis, 2007).
2.3 Chapter Summary

The methods and over-arching approach to the research were developed with a view to accomplishing the aim of the research and completing the specific thesis objectives introduced in Section 1.2. The collection and analysis of scholarly and practical secondary source data was primarily used to accomplish Objective 1 – establishing the context to mineral development in northern Ontario and identifying Aboriginal, public, and private interests. Organization and analysis of this data was essential in the development of context-sensitive interview questions. The interview responses and other data collected during the empirical component of this research confirmed and drew upon the early conceptualization of Ontario’s mineral development context. Analysis of the interview transcripts and summary notes from the practitioner workshop was then used to complete Objectives 2 and 3 – formulating an ideal IBA, based on Aboriginal expectations regarding process and content, and identifying and addressing the primary challenges to implementing such an IBA. The ideal IBA presented in Chapter Five and discussion of implementation challenges in Chapter Six are the result of combining specific case study data and the application of principles developed from secondary and empirical research methods. The research framework is presented in Figure 2.5 below.
This research framework outlines how a context-sensitive ideal IBA has been developed for the particular needs and interests of Aboriginal communities in northern Ontario. By formulating an ideal IBA that will facilitate positive community development in Aboriginal communities, this research is of great practical significance to Aboriginal communities seeking to manage local mineral development. While this research is reflective of the interests of Aboriginal signatories, the approach and methods used also enable a critical discussion with a broader, scholarly community. Contributions of this broader, scholarly community are the focus of the next chapter.
Chapter 3
SCHOLARLY CONTEXT AND REVIEW

Much of the literature that seeks to assess local and broad impacts associated with mineral development draws upon a lengthy global history of mineral extraction. This history is generally shown to be fraught with exploitive practices and short-term planning. Review of many of these past, and often persistent, issues can prove instructive for purposes of designing modern IBAs. By reviewing contemporary research conducted from a variety of analytical perspectives, this chapter surveys much of the scholarship concerning mining and community development. The distinct, but related fields of study reviewed offers insights to the complex relationships and inter-connections that IBAs are nested within. As seen in Figure 3.1, this scholarly context situates IBAs within ongoing debates regarding the implications of mining as a form of economic development for Aboriginal peoples, concerns related to the practice of socio-economic impact assessment, broader identification with themes discussed in vulnerability literature, and the contested nature of mineral development.

Figure 3.1  The Scholarly Context to Impact and Benefit Agreements
Familiarity with essential concepts within, and drawing connections among, these key bodies of literature is foundational to developing a critical understanding of the broad range of issues and processes impacting northern Aboriginal communities as they seek to manage local mining interest. The following sections offer a review of these specific areas of scholarship, highlighting issues and perspectives of relevance to this research.

3.1 Impact and Benefit Agreements: In Search of Local Success

As introduced in Chapter 1.1, the expanding scholarship focused on IBAs includes analysis of IBA content and usage, repercussions and concerns with negotiations and project follow-up, linkages to local institutional frameworks, and evaluation of IBA effectiveness. Though each of these specific foci offer new and important questions for further study, this research responds to the more narrow need for advancing the study of IBA effectiveness. Therefore, this section provides a brief review of previous assessments of IBA effectiveness while addressing some of the limitations of existing research through the identification of key determinants of IBA effectiveness within recent literature, specifically community development and implementation.

3.1.1 Broadening the Meaning of Effectiveness

Previous attempts to evaluate IBA effectiveness have sought to critically respond to the broad question ‘are IBAs working?’ Thoughtful analysis of IBA effectiveness, according to Galbraith et al. (2007: 39), is essential to determine their ability to deliver “less harmful or possibly even sustainable outcomes for mining projects in the future.” The challenge in this work, however, is that individual IBAs tend to have distinct aims, which has led to largely incomparable assessments of their effectiveness. This issue is further
complicated by the variety of methods employed in four existing studies of IBA effectiveness, each of which is reviewed below.

In order to assess the effectiveness of two IBAs signed by the Ross River Dena, Dreyer and Myers (2004) compared actual delivery of negotiated benefits to the community’s perception of their delivery. The research highlighted the difficulty of developing a framework for IBA evaluation and suggested that senior mining companies (e.g. Cominco) appear to have the resources available and commitment to negotiations with Aboriginal communities to actually deliver on the terms of IBAs (Dreyer and Myers, 2004). However, the researchers note that their site-specific evaluation provides few broad conclusions because of the short temporal length of the study and the use of a single case. Despite this limitation, the analysis was a significant first attempt to measure IBA effectiveness and found that this IBA in particular had a high potential for increasing local capture of benefits. As Dreyer and Myers (2004) focused solely upon the delivery of benefits to First Nations communities, the lasting limitation of this work is its failure to respond to Sosa and Keenan’s (2001) first objective of IBAs: that they address the negative impacts of mineral development on local communities.

Hitch (2005) developed a set of normative criteria to more broadly assess if IBAs could contribute towards community sustainability given local mineral development. Examining content from related literature and previous IBAs in the north, Hitch (2005) examined the effectiveness of the Jericho Diamond Project IBA in Nunavut. While Hitch (2005) suggested that IBAs are used to recognize the significant local impact that mining
may have upon local communities, the author delivered only a cursory discussion that questions if impacts are adequately addressed. Further, by failing to consider local socio-economic conditions relative to a pre-IBA baseline, Hitch (2005) could not offer a clear picture of the temporal impact of the IBA (Prno, 2007).

The North-South Institute’s (2006) examination of IBA effectiveness was conducted to assess community perceptions of BHP Billiton’s Ekati diamond mine and the IBA negotiation experience of the Lutsel K’e Dene First Nation. This exercise served primarily as an outlet for community opinion, rather than a systematic assessment of community conditions pre- and post-IBA implementation. Therefore, although it provides valuable insight into local challenges and some successes, this report offers few conclusions regarding IBA effectiveness.

The most recent, and most methodologically rigorous, analysis of IBA effectiveness was conducted by Prno (2007). His research specifically acknowledged the limitations of previous work and was the first study to systematically evaluate IBA effectiveness relative to pre-IBA socio-economic conditions and IBA objectives. Prno (2007) found that IBAs were generally meeting their objectives and that they are useful for delivering ‘positive outcomes’ in communities affected by mineral development. While Prno’s (2007) research addressed many of the criticisms of previous work, it was limited in that: it made extensive use of key informant interviews, but few community-level voices were accessed; it made use of socio-economic indicators that, although well identified within
literature, were not likely of relevance to locals; and it offered only a brief snapshot of community conditions.

Each of the four previous IBA assessments focused upon different aspects of IBAs using unique case studies. While providing a range of insights into the relative effectiveness of various agreements, most fail to adequately consider the ability of IBAs to fulfill their primary objectives – addressing impacts of mining and delivering increased local benefits. Prno (2007) however, examined both while determining that the 14 IBAs he studied were helping to improve community socio-economic conditions.

Prno’s (2007) findings illustrate the need for long-term, locally-relevant evaluation of IBA effectiveness. Although this remains an important task, this research seeks to respond to a more fundamental, though complementary, question: could a well-designed and implemented IBA facilitate the attainment of local community development objectives? Critical evaluation of previous IBA assessments yields two primary observations that inform this research: 1) the need for a broader understanding of IBA effectiveness in terms of thinking about what ‘could be’ given an ideal IBA that reflects local development objectives; and 2) the need to incorporate such a model in any long-term survey of IBA performance in a signatory community. To develop a broader understanding of IBA effectiveness, it is necessary to understand some key determinants of IBA effectiveness.
3.1.2 Determinants of IBA Effectiveness

Within IBA scholarship, many researchers have examined the capacity of IBAs and similar agreements to secure local benefits, however, there has rarely been explicit attention given to analyzing such benefits as part of broader community development interests. Rather, scholars such as Langton and Palmer (2003) have sought to identify trends in local IBA outcomes under different institutional frameworks. Similar studies, often comparing outcomes among different regions in Canada and Australia, have noted that despite the increasing number of agreements being negotiated between communities and project developers, this growth does not necessarily suggest progressively beneficial outcomes for Aboriginals (Langton and Palmer, 2003; O’Faircheallaigh, 2006, 2009). This trend, or lack thereof, indicates a need for improved practice and further research concerning local-level determinants of IBA effectiveness.

In the search for local success, the National Aboriginal Health Organization (NAHO) (2008) draws attention to the interactive relationship between community health and vitality and so-called ‘social determinants of health,’ including social support networks, cultural continuity, education, access to health services, employment opportunities, and income. These key local characteristics, while not an exhaustive list, are used by NAHO (2008) as local indicators of well-being. In the same fashion, the report identifies contribution to local vitality as an essential determinant of successful community-IBA relationships (NAHO, 2008). This assertion is echoed by Rio Tinto’s David Humphreys

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1 Hinterland regions of Australia and northern Canada are often compared in the IBA literature (See O’Faircheallaigh, 1998; 2002; 2003; 2006; 2009; Langton and Palmer, 2003) as both nations possess significant mineral wealth in close proximity to post-colonial Aboriginal communities. Cumulatively, these nations comprise the majority of existing IBAs in support of mineral developments.
(2000: 130), who suggests that community development is an important matter “to be addressed rigorously and consistently at every stage of mine development, from exploration, feasibility and operation through to closure.” Unfortunately, passive reliance on the good intentions of companies has rarely led to positive local outcomes, even where IBAs exist (Illsley, 2002; Klein et al., 2004).

Though acknowledging shallow corporate commitment as one of the many potential limitations of IBAs, Fidler and Hitch (2007:65) affirm that IBAs provide Aboriginal communities with “some autonomous room to maneuver and strategically plan in ways that reflect their interests and long-term goals” (emphasis added). In particular, the authors draw attention to the ability of IBAs to recognize and protect Aboriginal communities’ cultural and spiritual values. At the same time, Fidler and Hitch (2007) question whether long term impacts of mining on Aboriginal communities will outweigh positive outcomes unless IBAs assiduously seek to meet local needs.

While discussing the challenges of developing an environmental assessment (EA) process that will facilitate community sustainability, Gibson (2006) notes the essential role that IBAs may serve in ensuring company follow-up and commitment throughout the project life-cycle. Reporting on one of the successes of Labrador’s Voisey’s Bay nickel mine, Gibson (2006) adds that the (IBA and supplemental EA) agreement-making process was instrumental in re-orienting the project developer’s test of local sustainability. By shifting the focus from mitigation of negative effects to facilitating local net gains, the IBA was designed to “lengthen and strengthen socio-economic benefits… enhancing the
communities’ long-term prospects” (Gibson, 2006: 342, emphasis added). In this case, both Gibson (2006) and O’Faircheallaigh (2007) emphasize the progressive sensitivity to local needs incorporated within the Voisey’s Bay IBA.

Among the many local capacity-building exercises that both EAs and IBAs can facilitate, O’Faircheallaigh (2007) suggests that the development of community-based environmental monitoring committees, in particular, can serve to increase community participation in local governance. Additionally, such committees are useful means to mobilize and apply local traditional knowledge. Beyond the common practice of establishing committees such as these, Diges (2008) proposes that communities negotiate an interim agreement with mining companies to enable self-assessment of community needs and interests prior to engaging in the IBA process. This short-term solution may safeguard important local development objectives, establish expectations for the IBA, and deepen the relationship between signatories (Diges, 2008).

Since many isolated northern communities often have few sources of socio-economic development, it is essential for locals to maximize any opportunities that mining projects may afford (O’Faircheallaigh, 2006). Unfortunately, IBAs are still being negotiated that fail to capture the full range of potential community benefits that are available (NAHO, 2008). Interestingly, much of the aforementioned literature that identifies community development as an essential determinant of IBA effectiveness also cautions that, without a similar sensitivity to the challenge of local implementation, IBAs will be rendered
ineffective (O’Faircheallaigh, 2002; 2003; 2006; 2007; Gibson, 2006; Galbraith et al., 2007; Diges, 2008; NAHO, 2008).

Referring to implementation as the ‘forgotten dimension of agreement making,’ O’Faircheallaigh (2002) provides much-needed analysis of common issues hindering successful implementation of IBA terms. Among the most significant flaws within existing IBAs has been the lack of resources allocated to support the operation of management and monitoring committees, which thereby reduces the ability of such committees to enforce compliance with IBA terms (O’Faircheallaigh, 2002; NAHO, 2008). Additionally, few existing agreements stipulate specific penalties, sanctions, or remedies for failing to deliver on IBA terms2 (O’Faircheallaigh, 2002; Diges, 2008). O’Faircheallaigh’s (2003: 10) resounding criticism that “no agreement stands out as a possible model for ‘best practice’ in implementation… all of them ignore at least some important issues” draws attention to the systemic nature of the problem. Furthermore, Diges (2008) adds that IBA terms, such as employment targets, are seldom reflective of local capacity to take advantage of such provisions and may lead to unrealistic commitments within the IBA. This is problematic as it may lead to unattainable local expectations, resulting in increased community-project tension.

Though the IBA implementation scholarship provides a critical assessment of community potential to take advantage of IBA provisions, O’Faircheallaigh (2003) concludes by

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2 O’Faircheallaigh (2002) examined 38 agreements negotiated between 1978 and 2001. Only one of these included a pre-determined sanction for failure to deliver an agreed-upon provision. Of the recently-negotiated agreements reviewed in this research, the series of IBAs in support of DeBeers’ Victor project (3 agreements; negotiated with the Attawapiskat, Moose Cree, and Fort Albany/Kashechewan First Nations) each included a variety of penalties for implementation failure.
While cautioning Aboriginal communities to not engage in IBA negotiations without critically assessing each of these concerns, O’Faircheallaigh (2009) refers to the need for community-based planning and aligning IBA provisions with local development objectives. Therefore, this view of a locally-appropriate IBA, designed to meet community development interests, closely resembles the above definition of an ‘effective IBA’. Through broadening previous conceptions of IBA effectiveness and identifying both community development and successful local implementation as key determinants of local effectiveness, this review of IBA scholarship provides an essential starting point from which to survey related bodies of literature. The subsequent sections serve to enable
an informed analysis of IBAs as a novel mechanism to facilitate local community development within Ontario’s northern Aboriginal communities.

3.2 Aboriginal Culture and Economic Development

Northern Canada is home to a unique association of Aboriginal peoples (Berkes, 1994; Armstrong, 2001; Whiteman, 2004). This diverse cultural landscape is an assemblage of “values, beliefs, and ideas that social groups make use of in experiencing the world in mutually meaningful ways” (Groenfeldt, 2003: 920). Traditional values and socio-cultural practices comprise the social capital of Aboriginal peoples (Chiesura and de Groot, 2003). This social capital, as manifest in a variety of traditional practices, has developed over millennia and is well-adapted to life in northern ecosystems (Whiteman, 2004). However, researchers from a variety of disciplinary backgrounds have long cautioned that local social capital may be fragile to impacts associated with economic development (Niezen, 1993; Berkes, 1994; Warry, 1998; Niezen, 2000; Ballard and Banks, 2003; Godoy et al., 2005). Mining operations in particular, have been identified as a threat to Aboriginal societies and their culture (NAHO, 2008).

Mineral development has been shown to impact the socio-cultural foundation of northern Aboriginal communities in a variety of ways. Niezen (2000) identifies the social convergence and economic polarization caused by new widespread access to southern culture and differential access to wealth as drivers of significant local change. Other specific concerns include: reducing local participation in the traditional (informal) economy (Whiteman, 2004; Myers et al., 2005); decreasing frequency of redistributive
cultural practices (Bury, 2004; Godoy et al., 2004); transmitting traditional knowledge to younger generations (Whiteman, 2004); amplifying social differentiation between households (Bury, 2004); and compounding pre-existing social ills such as alcoholism, drug abuse, and domestic violence (Niezen, 1993; Whiteman, 2004; Godoy et al., 2005; Myers et al., 2005). While not a comprehensive list, this range of challenging outcomes highlights the local significance of project-related impacts upon the well-being of northern Aboriginal communities. Hilson (2002) adds that any number of similar impacts may have harmful ramifications upon local socio-cultural wealth, further decreasing local ability to manage future challenges. This point is particularly significant as it illustrates the formidable process of local socio-cultural dissolution, even among communities that may support or encourage mining projects as part of a local development strategy.

What does this mean for the design and use of IBAs? This particular body of scholarship serves to provide vital impetus for the negotiation of effective IBAs that specifically address the range of impacts Aboriginal communities tend to be most sensitive to, rather than simply delivering additional local benefits. Often, IBAs include provisions for the construction of cultural centres and funding annual events (Kenett, 1999a; Sosa and Keenan, 2001; Hitch, 2005). However, these community engagement projects often reflect only a token understanding of the potential cultural disruption that mining may have upon local communities (Downing et al., 2002a; Whitmore, 2006). Additionally, the actual delivery of benefits outlined within IBAs, such as employment opportunities and profit-sharing arrangements or cash payments, may themselves be culturally inappropriate (Ballard and Banks, 2003). While project proponents may mistakenly
believe that they are providing a much-needed form of local economic benefits (O’Faircheallaigh, 2009), Cernea (2003) suggests that a ‘new poverty,’ based on social disorientation and loss of traditional wealth, may take root as Aboriginal communities are offered increased formal employment. It would be incorrect to assume, therefore, that provisions within IBAs or any other means are capable of offsetting the loss of local traditional livelihoods (Niezen, 1993; Hilson, 2002; Cernea, 2003). Given the susceptibility of traditional Aboriginal cultures to external influences associated with mineral development, particular attention must be given to weighing the local costs of mining against the potential benefits of negotiating an IBA using culturally-relevant means (i.e. locally-developed socio-economic indicators). Since Kennett (1999a) suggests that Aboriginal communities pursue IBAs to address their dynamic socio-economic context, failing to evaluate IBAs according to community-specific concerns could lead to a problematic embrace of IBAs.

3.3 Socio-Economic Impact Assessment

The Canadian Environmental Assessment Act (CEAA) requires broad coverage and assessment of project-related environmental impacts, as well as effects in socio-economic and cultural areas that flow directly from the environmental impacts of development projects (FEARO, 1993; McCaig, 2005; Health Canada, 2007). This restriction to direct effects of environmental impacts (i.e. its exclusion of other potential socio-economic issues related to project development) has been widely recognized as problematic (Wood, 1997; Lockie, 2001; Noble, 2002; Noble and Storey, 2005). Indeed, researchers and practitioners of socio-economic impact assessment (SEIA) suggest that exclusion of relevant socio-economic impacts from assessment practice can result in grave
consequences for local communities (Becker, 2001; Burdge, 2002; Kwaitkowski and Ooi, 2003; Noble and Bronson, 2006). As with many other national and provincial regulatory frameworks, the development of the CEAA is reflective of a myopic focus on environmental issues, rather than a linked systems approach (Lockie, 2001; Burdge, 2002). The marginal practice of SEIA has earned it the undesirable title of the ‘poorer cousin’ to, or ‘orphan’ of, environmental impact assessment (EIA) (Glasson et al., 1994; Burdge, 2002).

Notwithstanding this historic second-tier status, significant scholarship has focused upon SEIA. This literature offers a wealth of insight to inform analysis of community-level IBA performance, as SEIA is deliberately intended to assess many of the intangible consequences of mining that most significantly impact Aboriginal communities (MVEIRB, 2006; Ivanova et al., 2007). Additionally, Ivanova et al. (2007) suggest that public involvement in the socio-economic assessment and project design phases may maximize long-term community benefits of mining. In order to capitalize on these community engagement processes, Vanclay (2006) cautions that impact assessment must be practiced in a manner that acknowledges and adapts to local Aboriginal cultures and values. To ensure that cultural-relevance is maintained throughout the socio-economic assessment process, Sherry et al. (2005) and Marks et al. (2007) suggest that locally-developed social and economic criteria and indicators are formulated and used. By specifically tailoring social and economic indicators to include opinions of vulnerable groups and existing local conditions, SEIA practice can take into account cumulative social and economic issues (MVEIRB, 2006; Ivanova et al., 2007).
Noble and Storey (2005) argue for a broader definition of ‘environment’ within the EIA process to include local socio-economic conditions, goals, and objectives. In practice, the broader definition of environment used is one that includes economic goals and objectives but fails to consider negative impacts of local economic development (Hilson, 2000; NRC, 2003). Lockie (2001) suggests that when practiced, SEIA has largely been economic impact assessment rather than social and economic impact assessment. He argues for a de-coupling of these two terms since, although interconnected, each requires different theoretical and methodological expertise to evaluate (Lockie, 2001). The relatively recent development of ‘strategic’ environmental assessment (SEA) was in response to the previous lack of integration of socio-economic impacts within EIA policy and practice (Lockie, 2001; Noble, 2002). The significance of broadly integrating long-term environmental, social, and economic impacts of mineral development into assessment practice is further stressed by Ivanova et al. (2007).

Mine project proponents undertaking impact assessments often over-emphasize the significance of economic benefits to would-be impacted communities (see Goldcorp, 2006; Kinross, 2007; DeBeers, 2008). However, these local assessments are generally conducted in support of early-stage IBA negotiations, and therefore are reflective of corporate interests in project development rather than a critical evaluation of community impacts. Typically, IBAs are promoted by mining firms as a means to increase local capture of these associated benefits and negotiated provisions tend to be focused more on delivering meaningful benefits rather than addressing the broad range of socio-economic
impacts caused by mining activities. Therefore, social impacts associated with mining generally do not have a significant influence on these negotiations (O’Faircheallaigh, 1999), and have yet to be appropriately considered when assessing local IBA effectiveness.

The insightful development of social impact assessment practice has, in recent years, begun to capture the multifaceted range of significant impacts caused by resource development in isolated northern Aboriginal communities. Revealing the devastating impacts that mineral development may have upon Aboriginal societies that are already suffering from a variety of internal and externally imposed ills, SEIA literature, concepts, and studies are vital to developing an informed understanding of how to design an IBA to address such pervasive issues.

### 3.4 Vulnerability Approach

Identifying the impacts of climate change and the differential capacity of agents, be they nations or communities, to adapt to these impacts has been the focus of a majority of recent vulnerability assessments and related research (e.g. Chapin et al., 2004; Duerden, 2004; Ford and Smit, 2004). This approach has yielded a veritable toolkit of theoretical concepts and methods that are useful for analyzing community-scale impacts of mining. Essential concepts in the vulnerability literature include exposure, adaptive capacity, resilience, and transformability. The term exposure broadly refers to the potential for impacts associated with some driver of change (Adger and Kelley, 1999; O’Brien and Liechenko, 2000; Schroter et al., 2005). For example, northern communities may have a
disproportionately high level of exposure to climatic changes (Chapin et al., 2004; Duerden, 2004; Ford and Smit, 2004). Adaptive capacity refers to the ability of communities to adapt (or not) to environmental or other forces of change (Adger and Kelly, 1999; Adger, 2003; O’Brien et al., 2004a; Gallopin, 2006). Gunderson and Holling (2002) suggest that resilience is the ability of a complex social-ecological system to cope with inevitable changes to the system. Finally, transformability is the potential to create a fundamentally new system when ecological, economic, or social forces erode existing structures (Walker et al., 2004; Furgal and Seguin, 2006).

Each of these concepts is useful in framing an informed analysis of local impacts associated with mineral development. Specifically, O’Brien and Liechenko (2000) note that communities may experience double exposure: simultaneous exposure to impacts of climate change and economic globalization. This context of two (or more) forms of exposure has subsequently been adopted by many researchers to examine local impacts of local and cross-scale forces of change (Adger, 2003; Chapin et al., 2004; Ford and Smit, 2004; O’Brien et al., 2004a, 2004b; Armitage and Johnson, 2006). Chapin et al., (2004) add that this methodological shift within the vulnerability literature may be necessary to understand the context of northern single resource communities. Furthermore, the attention given to the role of local social capital in determining adaptive capacity by Adger and Kelly (1999) and Adger (2003) is relevant given the traditional Aboriginal context of northern communities. More specifically, others (e.g. Kapelus, 2002; Whiteman, 2004) have shown that economic development may reduce social capital in northern Aboriginal communities. This is problematic given the widely held view that
social capital may be necessary to enable communities to adapt to economic globalization and changing local environmental conditions (Adger and Kelly, 1999; Adger, 2003; Chapin et al., 2004; O’Brien et al., 2004a). Victims of this confluence of local vulnerabilities have been termed ‘double losers’ by O’Brien and Liechenko (2000, 2003). Although O’Brien and Liechenko (2003) note that there are many potential determinants of ‘winners’ and ‘losers,’ the authors suggest that these outcomes are typically socially and politically generated.

Another stream of vulnerability research of relevance to the designing an ideal IBA seeks to categorize communities based upon the presence of local adaptive capacity and especially the ability to manage socio-ecological systems (Fabricious et al., 2007). The ability of community leadership to negotiate and implement an effective IBA may determine the classification of resource-based communities into ‘powerless spectators,’ ‘coping actors,’ and ‘adaptive co-managers.’ Community assessment according to the categories developed by Fabricious et al. (2007) raises the broader question of: are IBAs contributing to local adaptive capacity or ability to govern socio-ecological systems? Any attempt to broadly assess IBA effectiveness, therefore, must respond to this question regarding the role of IBAs in specific communities.

3.5 Mineral Development Debates

Within an increasingly environmentally and socially-aware investment and marketing climate, there have been a number of recent attempts by mineral industry associations and individual companies to enhance the poor public image of large-scale mining (see MMSD, 2002; MAC 2006; PDAC, 2009). Some, like the ‘sustainable mining’ literature,
have sought to emphasize the potential local economic and other benefits of mineral
development while minimizing the significance of local social and environmental
impacts. Others, as exemplified in the ‘resource curse’ scholarship, more closely
resemble a legitimate academic debate concerning the long-term impacts of resource
exploitation. Both are reviewed below and examined in reference to their implications for
the design and use of IBAs among northern Aboriginal communities.

3.5.1 The ‘Resource Curse’

Historically, many nations (and regions) have successfully pursued economic
development based on exploiting natural resources (Davis and Tilton, 2005; Keay, 2007).
Mineral wealth (or an abundance of other resources) has typically been regarded as a
blessing. The successful development pathways of resource-rich nations such as Canada,
the United States, and Australia have largely confirmed this conventional wisdom
(Hilson, 2000; Keay, 2007). However, there have been a number of recent studies that
suggest mineral abundance may in fact be a curse for developing nations (e.g. Auty,
2001; Davis and Tilton, 2005; Pedro, 2006; Rosser, 2006a; Dietz et al., 2007).
Specifically, these studies note that poor rates of regional and national economic growth,
high levels of income disparity, a host of negative social issues, and political instability
are common in developing regions blessed with mineral wealth. While not a deterministic
model, Pedro (2006: 3) draws attention to the overwhelming pattern that “the richer the
mineral resources endowment, the greater the likelihood of decelerating economic
growth… [indeed,] the record of oil and mineral rich (developing) states in alleviating
poverty is worse than states with similar levels of income, but little or no mineral
wealth.”
In response to this apparent curse, Davis and Tilton (2005), among others, argue that, while there indeed appears to be relationship between mineral wealth and poor development performance, there are many possible explanations for this pattern. These include declining terms of trade, volatile markets, ‘Dutch disease,’ the nature of mining practice, and the (mis-)use of resource rents (Rosser, 2006b; Lederman and Maloney, 2008). Ross (2001), argues that the debate ‘is over;’ that mining absolutely hinders development; others such as Davis and Tilton (2005), Rosser (2006b), and Lederman and Maloney (2008) contend that there is no specific causal relationship between the two.

The arguments associated with the resource curse have significance for the study of the role of IBAs in securing community development objectives. Three arguments are particularly relevant: 1) local communities generally bear a disproportionate amount of costs associated with a mine and receive few benefits; 2) mineral rents are typically captured by elites and corporations; and 3) the importance of local social factors to shape community development outcomes has not been adequately considered. The disproportionate allocation of (environmental and social) costs and benefits is a common criticism of mining development (see Tollefson and Wipond, 1998; Kapelus, 2002; Newbold, 2003; Whitmore, 2006). Furthermore, Davis and Tilton (2005) make the caution that this inequity may contribute to the failure of other (state or corporate-sponsored) local development initiatives.

3 ‘Dutch Disease’ refers to widespread deindustrialization of a national economy occurring when the discovery and exploitation of natural resources raises the value of that nation’s currency. This makes manufactured goods less competitive, thereby increasing imports and decreasing exports. This process is difficult to diagnose, as many other factors are at play in the global economy, but the classic example is based on the discovery of North Sea oil by Holland in the 1960s (Davis and Tilton, 2005; Ross, 2006)
The use of resource rents has been identified by many as a source of local frustration and protest (Kapelus, 2002; Davis and Tilton, 2005; Rosser, 2006a) as well as a potential means of local poverty reduction (Pedro, 2006; Maconachie and Binns, 2007). Public protests and local political unrest may be prompted when local communities believe that they are not receiving an adequate share of resource rents, perceive the existence of corrupt local governance regimes, or simply do not want the mine in their area (Davis and Tilton, 2005; Rosser, 2006a; Petermann et al., 2007). IBAs are generally intended to relieve this pressure and ensure local capture of benefits (Sosa and Keenan, 2001). However, local protests may also occur if communities are not satisfied with the benefits that are outlined in an IBA, or if benefits are not delivered (Dreyer and Myers, 2004).

Finally, a number of researchers (Rosser, 2006a; Dietz et al., 2007; Maconachie and Binns, 2007) argue that the role of social capital has not yet been incorporated into a systematic study of economic and social outcomes in resource abundant regions. Such assessment is critical if, as Rosser (2006b) suggests, building and maintaining local social capital may ‘cure’ the resource curse. If this is true it will be essential that IBAs contribute to the protection and enhancement of local social capital.

3.5.2 ‘Sustainable Mining’

Extractive resource operations in Canada have, at least since the 1970s, been subject to an evolving regulatory framework involving environmental impact assessment, increasingly community-sensitive development policies, and other innovative voluntary agreements (see Noble and Storey, 2005; Galbraith et al., 2007). Few, however, would presume to
broadly label the mineral industry as environmentally sustainable. Rather, the use of the term ‘sustainable’ in this case refers to the recent characterization of mining as a suitable vehicle for sustainable local economic development (Hilson and Murck, 2000; Downing et al., 2002; Horowitz, 2006). This characterization has largely come from industry associations and their hired researchers, and has therefore understandably elicited a highly skeptical response from some (e.g. Whitmore, 2006; Kneen, 2007). Despite the fact that the strongest proponents of sustainable mining may have vested interests in the success of the concept (Whitmore, 2006), the content of the resultant debate has yielded a useful juxtaposition of criticisms and counter-points. These perspectives warrant critical reflection, particularly within a discussion that aims to conceive of a contextually-sensitive ideal IBA.

Advocates of the view that mining can contribute toward local sustainable development have offered two approaches for achieving the goal: 1) slowing the rate of resource extraction; and 2) re-investment of resource rents in the local community. Auty and Mikesell (1998) argue that both would contribute toward a more sustainable form of mineral development, and, when practiced simultaneously, could have a significant impact upon local economic development. By increasing the relative length of time that a mining facility operates within a given community, both Hilson (2000) and Gibson (2006) suggest that greater economic benefits will accrue to local employees and service sectors. Additionally, by encouraging increased local re-investment and economic diversification of mining communities (where possible), post-closure impacts may be
These two approaches have been argued by critics to be unlikely in practice due to the common marginalization of local stakeholder opinions in resource use and decision making processes (Kapelus, 2002; Maconachie and Binns, 2007). Also, increasing the length of time that a mining firm operates may increase economic benefits, but this may increase the severity of existing negative local social effects (Ballard and Banks, 2003; Whiteman, 2004). Furthermore, Downing et al. (2002b: 19) caution that most corporations pursue environmental sustainability initiatives rather than locally-relevant social objectives, as:

...the key players are poorly prepared to respond to the problem. Mining companies recognize that, while well qualified in construction and engineering, they are not in the business of social development, poverty alleviation, or rehabilitation.

Curiously, Downing et al.’s (2002b) criticism was published as a part of the industry-sponsored *Mining, Minerals, and Sustainable Development* (MMSD) project. The MMSD project, according to Whitmore (2006), was designed to link mining with sustainable development through an elaborate ‘greenwashing’ campaign.

In a much more rigorous evaluation, Hitch (2005) specifically examined the potential for IBAs to serve as a vehicle to facilitate sustainable economic development. Site-specific issues that presently hinder the sustainability of mining were identified in this study (Hitch, 2005); however, broad questions still remain. The robust criticisms of the extractive nature of mining within this body of literature suggest that, despite the
apparent potential of mining operations to be practiced in a more sustainable manner, the promotion of sustainable mining may merely be ‘the emperor’s new clothes’ (Whitmore, 2006). This debate draws attention to the lengthy history of exploitive practices within the mineral industry and the base economic motivation of mining companies, however well-dressed in sustainable development rhetoric they may be.

Given this critical realization, IBAs have the potential to require mining firms to substantiate their carefully-crafted corporate social responsibility policies and goals in actual practice. IBAs should therefore be further assessed for their effectiveness in addressing the myriad long-term implications of mining for local communities, and their ability to secure lasting benefits in the interest of sustainable community development.

3.6 Chapter Summary

As useful instruments in obtaining de facto recognition of local sovereignty, enabling further environmental and social protection measures, and securing local economic benefits, IBAs offer a means for Aboriginal communities that have historically experienced only negative effects from mining operations to instead achieve some positive local outcomes. The recent embrace of IBAs by mining firms also suggests that they view them as a good investment, especially relative to their considerable capital investment in the mine development.

While recent studies suggest that IBAs are indeed delivering benefits to Aboriginal communities (Dreyer and Myers, 2004; Hitch, 2005; Prno, 2007), it remains critical to question whether these benefits are appropriate and in what manner IBAs formally
address the impacts of mining upon local communities. It appears that in practice, the
distinction between these two objectives, as described by Sosa and Keenan (2001), has
been lost; few agreements thoughtfully address the adverse local impacts of mining. If
this is the case, then the delivery of specific benefits may simply be perceived by mining
companies to be a form of compensation for their activities. This practice would fail to
appreciate the significance of the environmental and socio-economic impacts of mining
upon Aboriginal communities. Cernea (2003: 38-39) cautions that:

> Compensation is structurally unable to resolve the task of restoring
> incomes and livelihoods… research has reported compensation to be a
> universally applied ‘remedy,’ but also to be universally insufficient and
> inherently prone to distortion.

This statement obliges a critical examination of an implicit concern that has been evident
throughout the preceding review of related literature. In short, mining may fundamentally
alter Aboriginal communities through socio-economic (and other) impacts that have yet
to be thoughtfully addressed in the negotiation of IBAs or within IBA-focused
scholarship. Furthermore, while failing to address such impacts, IBAs have rarely, if at
all, been employed in a manner that can facilitate the achievement of local community
development objectives, even though they have the potential to do so.

The review of IBA research and related areas of scholarship in this chapter has served to
highlight some of the limitations of previous studies while providing a broad scope of
related scholarly literature to inform this research. Figure 3.2 illustrates some of the key
insights that guide the completion of subsequent thesis objectives.
The critical understanding developed through reviewing this scholarly context is an essential starting point to identifying key processes and areas of concern within the practical context of northern Ontario’s Aboriginal communities. Furthermore, these early insights provide important background to formulating an IBA that will contribute to Aboriginal community development. The next chapter complements this scholarly orientation by identifying and describing the current context of mineral development in northern Ontario.
Chapter 4
NORTHERN ONTARIO: CONTEXT AND CHALLENGES

This chapter focuses upon identifying mining-related issues among Aboriginal communities in northern Ontario and illustrating key interconnections to mining’s historical legacy, present mineral policy, and corporate practice. Benefitting from the scholarly themes and insights discussed in Chapter Three, this chapter fulfills the first objective of this dissertation by identifying and describing the practical context to mineral development in northern Ontario. Drawing upon recent events, public policy, and empirical fieldwork undertaken throughout 2007-2009, contemporary issues are outlined with reference to historically dominant interests and hegemonic forces. Much of the primary research presented herein was conducted with First Nations of the Mushkegowuk Tribal Council; where appropriate, comments of these local key informants are offered.

In the first section, the socio-cultural challenges of mineral development in Aboriginal communities are briefly discussed. This serves to highlight many of the practical community development needs present within Ontario’s northern communities. Secondly, the role of mining in Ontario is identified; evidently, it is both a driver of significant local environmental, economic, and social change, and a source of tremendous economic benefit to private and Crown interests. Following this, limitations of Ontario’s current institutional arrangements governing mining are identified in the context of ongoing, arguably insufficient, regulatory reforms. Finally, the chapter concludes by developing an argument that the range of interests, needs, and actors operating within this complex milieu are reconcilable through the use of an idealized form of an IBA. To provide additional clarity and illustrate key interconnections throughout the following
subsections, a conceptual model of Ontario’s mineral development context is offered in Figure 4.1. This basic template is further developed throughout the chapter as important linkages and relationships are identified.

Figure 4.1  Basic Conceptual Model of Ontario’s Mineral Development Context

4.1  Socio-Cultural Challenges of Mining in Aboriginal Communities

The majority of mining operations in Ontario are located in rural northern regions of the province. This landscape is rich in a variety of mineral resources and home to many Aboriginal communities. These communities and the people who inhabit them are distinguished by, among other characteristics, long-standing traditional cultural values and desire to maintain the unique relationship with the land that they occupy and use for subsistence (see CARC, 1988; Desbiens, 2004; Larsen, 2006; Johnston, 2008). While even the most isolated northern communities in Ontario are, to a degree, participating in the broader wage-based economy, many Aboriginal communities rely upon traditional harvesting of country foods as a significant complement to purchased foodstuffs (Berkes
et al., 1994; Whiteman, 2004). This relationship with territory extends beyond mere dependency in the interest of preserving a traditional mode of production to encompass a significant sense of cultural identity (Henders, 2005; Panagos, 2007; Johnston, 2008).

Numerous community vulnerability and socio-economic assessments conducted in recent years attest to the resilience of Aboriginal communities that possess some form of land tenure or other arrangement to secure territory within which to perform traditional harvesting and other cultural activities (Chapin et al., 2004; Duerden, 2004; Ford and Smit, 2004; Whiteman, 2004). Conversely, similar assessments and an abundance of cases reported by the media (e.g. Ritter, 2000; Smith, 2007) suggest that a lack of analogous land tenure arrangements, among other factors, contributes to the relative vulnerability, cultural dissolution, and political conflict that often characterizes northern Aboriginal communities throughout Ontario and across Canada (Adger and Kelley, 1999; Schroter et al., 2005; ECO, 2007; Kahgee, 2008).

According to virtually every established measure of socio-economic well being, Ontario’s Aboriginal communities fall far below provincial standards (MAA, 2008). A caustic assemblage of social issues including domestic violence, alcoholism and drug abuse, strikingly high suicide rates, and erosion of traditional socio-cultural systems have contributed to a tangible ‘…feeling of hopelessness and apathy’ (K.I. 3) among many Aboriginal communities. Though many factors influence the variety of socio-economic and cultural challenges in Aboriginal communities, conflicts and issues related to Aboriginal territory and its (mis)use for resource development have been identified as
vital in asserting and maintaining cultural identity (Whiteman, 2004; Armitage and Johnson, 2006; Larsen, 2006). As a concrete expression of either autonomy or dispossession, access to, and control of, local territory has broad implications for individuals and groups whose identity is so closely related to practicing traditional activities (Whiteman, 2004; NAN, 2009).

The history of Aboriginal dispossession throughout North America is one that has been examined and analyzed from many perspectives (see Desbiens, 2004; Williams, 2004; Coultard, 2007; Fitzpatrick et al., 2008). However, the lasting effects of seizing Aboriginal territory by overt military or alternatively, by gradual legislative means, as a result of the policies of colonial governments have yet to be fully appreciated (Windsor and McVey, 2005; Johnston, 2008; Stanley, 2008). Peters (2001) suggests that the ‘systematic assimilation’ of Aboriginal identities is an ongoing process, not a historical series of events. This process, Rossiter (2008) asserts, is manifest in many official and unofficial Crown policies that marginalize and constrain Aboriginal self-determination. Many of these issues are centered upon land claims and lack of autonomy over ‘traditional territories.” For example, in Ontario’s recently-developed Bill (173) to amend the Mining Act, there is a lack of clarity surrounding administration of specific policies (e.g. delineation of sites of ‘Aboriginal cultural significance’) that will give increased powers to the Minister of Northern Development, Mines and Forestry

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4 This chapter focuses primarily upon the challenges of mining within Aboriginal traditional territories that have not been secured through a comprehensive land claim, and are therefore open to mineral exploration as Crown Land under the Mining Act. In the Northwest Territories for example, negotiation of land claims such as the Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993) and the Tlicho Land Claims and Self-Government Agreement (2003) have led to legislated co-management authorities responsible for ensuring Aboriginal involvement in all aspects of resource management (e.g. the Mackenzie Valley Environmental Impact Review Board).
(MNDFM). Issues such as this exemplify the long-standing marginalization of Aboriginal autonomy and political influence (Pratt and Smitherman, 2009).

In Ontario, the signing of permanent treaties between the Crown and various northern Aboriginal groups occurred from the early 1900s to the mid 1930s. These treaties were organized by geographical region and Aboriginal band association, and entailed, at least according to the Crown, the surrender of ‘Aboriginal Title’ in favour of ‘Treaty rights’ to a specific reserve and transfer payments and other Crown provisions (Usher, 2003; Panagos, 2007). According to the Crown, and recent case law rulings (e.g. Delgamuukw v. British Columbia, 1997), Aboriginal Title is a property right related to continued occupancy of a given region of land and Treaty rights refer to specific rights of activity, such as resource harvesting practices (i.e. hunting and fishing) and maintaining traditional livelihoods (Usher, 2003; CAN, 2008). Though specific treaties (such as Treaty 9) provide for individual reserves where Aboriginal groups may have the right to exclusive use and occupation of land as well as to govern land use planning, the Delgamuukw case demonstrated that most Aboriginal groups assume Treaty rights to lands beyond their reserves. Such rights, however, are rarely recognized or affirmed by Crown policies in support of mineral development. Further complicating this point, is the Delgamuukw conclusion that the Crown has the ability to suspend these rights, even on reserves, for “compelling and substantial Crown (legislative, political, or economic) interests” such as mineral development or other resource use (Usher, 2003: 378).
Notwithstanding the considerable political and institutional rhetoric surrounding the need to reconcile Aboriginal and non-Aboriginal interests, working definitions of ‘reserve land’ and related resource use policies have changed little in recent years (NAN, 2009b). As a result, many Aboriginal groups have taken a variety of legal actions and adopted other forms of protest to secure their ‘right’ to practice traditional subsistence activities and to be included as participants in resource use planning within their ‘traditional territories’ (see Hipwell et al., 2002; Ariss and Peerla, 2009). The concept of traditional territories was reviewed as part of the 1996 Royal Commission on Aboriginal Peoples (RCAP), which recommended that these lands could be shared with non-aboriginals and the Crown, but that Aboriginal people should still hold a range of ‘special’ rights and interests in these areas (RCAP, 1996; Peters, 2001). Although vague, this affirmation of Aboriginal title to traditional territories is important, since it was the first official recognition of the broad significance of such lands (Peters, 2001).

It is clear that traditional territories throughout Ontario are more than just spaces of historical significance: they are places for participating in, and reproducing, cultural activities that form and maintain Aboriginal identity (Jensen and Papillion, 2000; Larsen, 2006; Panagos, 2007). The perceived loss of sovereignty over, and lack of meaningful participation in, resource planning in these areas will continue to exacerbate political tensions as well as local social issues (Peloquin, 2007). This is especially true with respect to mining activities given that many traditional values conflict with the concept of extractive resource development and its historical emphasis upon short-term economic gain (Whiteman, 2004).
Many Aboriginal communities are, of course, also interested in various forms of economic development including mineral development since they are among the poorest of Canadians (Berkes et al., 1994; Hilson, 2002; Bury, 2004; 2007; Whiteman, 2004; CAN, 2008). As stated by former National Chief Phil Fontaine (2009), there is considerable interest in mineral development as a potential ‘trigger’ for local socio-economic progress notwithstanding the exploitive history of mining in Ontario. However, these interests are overwhelmingly secondary to goals such as maintaining cultural practices and values, including traditional activities (Chiesura and de Groot, 2003; Groenfeldt, 2003; Godoy et al., 2004; Whiteman, 2004). This common assertion affirms that earned incomes account for only a small portion of Aboriginal identity and self-worth, and thus, broader goals and expectations are vital components of Aboriginal development initiatives (Downing et al., 2002; Groenfeldt, 2003). Given this primary interest, it is vital for Aboriginals to consider the range of impacts that may result from their participation in mineral development. Figure 4.2 illustrates some of the relationships and components of Aboriginal communities described within this subsection. Most significantly, this figure draws attention to the nesting of Aboriginal identity within the local community context; which is pictured here as a function of the governance framework and mineral development practice within northern Ontario.
4.2 Mining’s Role in Ontario: the Good, the Bad, and the Ugly

Mineral exploration, extraction, and processing are essential components of Ontario’s economy (MNDMF, 2006; NRC, 2008; 2009). Rents generated from mining have long been used by government ministries to finance infrastructure development, the expansion of social services, and various other ‘public goods’ (Keay, 2007). The benefits of mineral development have been matched, if not far exceeded, by private wealth generation and employment opportunities as a result of corporate development of Crown resources. Established during a period of high commodity prices and escalating investment in mineral exploration, Ontario’s Mineral Development Strategy (MNDMF, 2006: 2) outlines that “in an average year” Ontario collects over $115 million in provincial and $40 million in municipal taxes and royalties from mining companies. The most recent mineral exploration ‘boom time’ is best characterized by the remarkable 34% national
growth in total exploration expenditures from $1.9 billion in 2006 to $2.6 billion in 2007 (NRC, 2008). Within Ontario, which experienced nation-leading growth, total exploration expenditures in 2007 amounted to $501.6 million and increased to $667 million through 2008 (NRC, 2008; MNDMF, 2009a). New wealth generated from mining within Ontario during 2008, including via related service industries, totaled over $9.6 billion (MNDMF, 2009a).

This growth mirrors the commodity price cycle over the last few years, and has given tremendous impetus to mineral developers to extract valuable resources in a timely fashion. Enabling the exploration and development interests of junior and major developing firms alike, the century-old ‘free entry’ system of claim-staking and mineral exploration allows prospectors to claim and hold subsurface land rights with limited regulatory oversight (Campbell, 2004; ECO, 2007). Furthermore, proximity to the TSX and its recent rise to the preeminent global mineral financing market has served to further amplify the pressure for rapid development within Ontario (OMAN, 2005; Ross, 2008).

Although it may seem intuitive that the primary motivation for mineral extraction in Ontario (and other regions) is the private generation of resource rents, it is important to note that royalty-seeking behaviour on the part of government ministries may dictate the nature of mineral development pursued. More specifically, Auty (2001) and Davis and Tilton (2005) suggest that a narrow focus upon ‘scoop and run’ mineral development may hinder regional economic growth and facilitate the propagation of the resource
curse, particularly in less-developed (i.e. northern) regions. While Keay (2007) claims that Canada as a nation has managed to escape the resource curse, the presence of many dilapidated, single-industry northern towns seems to suggest that mean increases in provincial economic prosperity do not necessarily equate to local successes. It appears that the historical practice of mining, whereby considerable rents are generated but few captured locally, suggests that local goals and concerns are often subordinate to corporate, regional, and national interests in economic development (Newbold, 2003). These interests, and the provincial ministries designed to serve them, are conceptualized in Figure 4.4. This illustration of the governance framework in Ontario provides a much-needed perspective of the impact of Crown interests and regulatory structures on local conditions in Aboriginal communities.

Figure 4.3 Conceptual Model of Governance Framework and Community Context

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5 See Chapter 2.5.1 for discussion of the resource curse and Aboriginal community development
The uneven distribution of this economic prosperity is but one of the issues contributing to the notorious reputation of the mineral industry for cost-shifting, or externalizing impacts associated with mineral development while accruing significant profits (Slowey, 2003; Hitch, 2006; Keay, 2007).

While enabling significant development of northern regions of Ontario and producing substantial resource rents for corporations, mineral development has also resulted in a lasting legacy of environmental degradation across the province. Habitat destruction and degradation as a result of road development, and mine construction and operation, as well as the expansion or creation of mining service towns has come to define conventional mining operations (Tilton, 1996; Whitmore, 2006). Furthermore, abandoned mine sites scattered across once-productive regions are responsible for environmentally-damaging processes such as Acid Mine Drainage (AMD) and leaching of toxic chemical compounds from tailing sites (Hilson, 2000a; Ripmeester, 2003; Baker, 2008). Aside from direct environmental impacts associated with mineral development, road construction and town expansion facilitate and compound existing environmental issues such as habitat fragmentation due to logging operations and extirpation of vulnerable species due to increased hunting pressure and increased human contact (Ritter, 2000; Baker, 2008).

Due to the extensive modification of the landscape required in most mineral extraction activities, it is well understood that mining activities in a given environment generally preclude other forms of land use (Hilson, 2000b; Ritter, 2000). While isolated mineral-
rich regions across Ontario have managed to develop modest tourism economies (e.g. Bancroft, Elliott Lake), most post-closure mines offer little in the way of environmental amenities. Conversely, Gammon (2002) estimates that over 6000 abandoned mines in Ontario require remediation action in the order of $500 million to protect the environmental integrity of nearby surface water and underground aquifers, without including the cost of wildlife habitat restoration.

Throughout modern mining’s 130-year history in Ontario, the environmental costs associated with mineral development have generally been shifted to communities adjacent to mining operations as well as local biophysical systems. This legacy of mineral development understandably generates concern and opposition from would-be impacted communities, First Nations, NGOs, concerned citizens, and competing resource users (e.g. agriculture, recreation, tourism, hunting) when new mineral developments are proposed.

Within the Canadian mining context, it is evident that some significant progress has been made in recent years toward mitigating environmental impacts of mining (NRC, 1997; O’Faircheallaigh, 2007; MNDFM 2008); however, socio-cultural impacts have received less critical attention (Bernier, 2001; Ballard and Banks, 2003; NRC, 2003). This problem has partly been caused by the tendency of the public and industry alike to equate sustainable development solely with just environmental concerns, and partly because of the difficulty in quantifying socio-cultural impacts and proving causal links between industrial activity and impacts (Hilson, 2000). These issues, among others, have led to
culturally inappropriate and offensive industrial actions in many Ontario mining communities (Hilson and Murck, 2000; NRC, 2003) and dramatic social transformation of Aboriginal lifestyles (Viega et al., 2001; Chapin et al., 2004).

As identified in Chapter 3.2, there is considerable literature that is critical of conventional resource-based economic development given its impacts on Aboriginal cultures. Many of the arguments presented in this literature caution that Aboriginal groups are the communities most directly affected by mining (Kapelus, 2003), not just because of their direct proximity to mining operations, but also their particular vulnerability to environmental and socio-cultural impacts of mining. In northern Ontario, the most deleterious impacts on Aboriginal communities include issues such as social stress related to the need for self-determination, the influence of southern culture, loss of traditional land use, and declining participation in the local traditional (informal) economy (Berkes et al., 1994; INAC, 1998; Warry, 1998; NRC, 2003; Bury, 2004, 2007; Whiteman, 2004; Godoy et al., 2005; Myers et al., 2005; Kneen, 2007). Notably, NRC (2003: 13) suggests that mining operations “can lead to the introduction of new lifestyles and consumption patterns that can disrupt community life and lead to a breakdown of traditional lifestyles.”

Regardless of the widely-touted financial benefits associated with mineral investment (see MNDMF, 2008; 2009a, b), many of the environmental and socio-economic costs associated with mining in the north have yet to be fully appreciated by private interests and policy makers alike (Gibson, 2009). There are, unfortunately, many cases of existing
local social issues, such as alcoholism and domestic violence, in Aboriginal communities being exacerbated by the influx of non-Aboriginal mine workers and increased local access to funds via mine-related employment (Hilson, 2002; Godoy et al., 2005; Prno, 2007). Regrettably, the pattern of social ills accompanying mineral development has proven to be one of the most persistent aspects of the paradoxical relationship between mining and communities in Ontario, and at a global scale (Whitmore, 2006; Hall, 2008; K.I. 6). The prevalence of communities suffering from this dilemma has yet to motivate a tenable response by conventional means of governance.

4.3 Limitations of Ontario’s Mining Act and Private Practice

According to the Canadian constitution, mineral resources are under provincial jurisdiction; in Ontario, the extraction of these resources is governed by the Mining Act (R.S.O., 1990) as administered by the Ontario Ministry of Northern Development, Mines and Forestry (MNDMF) in concert with the Ontario Ministry of Natural Resources (MNR), Ontario Ministry of the Environment (MOE), and sometimes the Canadian Environmental Assessment Agency (depending on project scale). Historically, provincial ministries have been criticized for inefficient top-heavy bureaucratic structures and the potentially conflicting interests of promoting economic growth and ensuring environmental protection (Hurell, 1994; Mining Watch, 2005; Bissonnette, 2007; Vogel, 2008). In 1996, an effort by the then Conservative government to scale back the civil service and reduce provincial expenditures through an Omnibus Bill effectively ended any real conflict among Ontario’s ministries. Reducing the capital budget for the MOE by 81%, MNR by 46%, while cutting the MNDMF by just 25% in the period from 1995-
1997 (OMAN, 2005). While a one-quarter budget reduction to the MNDMF was far from inconsequential, the 81% cut to the MOE was paralyzing.

Following these budget cutbacks, the MNDMF was limited in its capacity to enforce the landmark 1990 amendments to the *Mining Act*, which included new legislation (PART VII) regarding the requirement of mine closure and rehabilitation plans buttressed by assurance bonds designed to address the legacy of mine abandonment in Ontario (R.S.O., 1990; Gammon, 2002; OMAN, 2005). For example, twelve of fourteen mine closure inspectors were laid off, and annual reporting on the progress of closure activities was eliminated (OMAN, 2005). These specific changes reflect a systemic weakening of the provincial capacity to enforce the polluter-pays principle, and potentially increased long-term public liability related to mine closure and other social and environmental externalities (Campbell, 2004). By forcing the provincial government to externalize their regulatory oversight responsibilities, this period of bureaucratic thinning directly encouraged self-monitoring by mining corporations.

In recognition of the MNDMF’s limited capacity to enforce all sections of the *Mining Act*, and to address the lack of Aboriginal-sensitive planning in mineral development practice, one of the objectives of Ontario’s current Mineral Development Strategy (MNDMF, 2006) is ‘clarifying and modernizing mineral resource stewardship’. Actions to implement this objective were scarce until Premier McGuinty announced an attempt to modernize the *Mining Act* in July 2008. He stated,

*We will ensure that our mining industry remains strong – but we also need to modernize the way mining companies’ stake and explore their claims to be more*
respectful of private land owners and Aboriginal communities… The Ontario government believes exploration and mine development should only take place following early consultation and accommodation of Aboriginal communities (MNDMF, 2009:4).

In August 2008 the MNDMF announced a series of consultation sessions to organize legislative reform of mining legislation. These sessions included public, industry, and Aboriginal-focused meetings that took place from August to October 2008. Problematically for many observers, the public and stakeholder meetings did not include Aboriginal representation, means of dialogue between the general public and Aboriginal stakeholders, or notification of planned policy directions to facilitate an informed and meaningful discussion. At one session held in Timmins, an industry representative openly criticized one of the officials for not hosting some of the public and Aboriginal consultations together. It was evident from his comments and subsequent discussion that many attendees were interested in amending legislation in a manner that would suit both private and Aboriginal interests. However, the sessions did not facilitate any such consensus building between the two groups. Despite these issues, the Mining Amendment Act (Bill 173) was introduced on 30 April, 2009. Bill 173 outlines amendments to the Mining Act that will introduce new claim staking procedures, a graduated regulatory approach for exploration activity, affirmation of Aboriginal and treaty rights through increased community consultation, provision for community-based land use planning throughout the north, and a new dispute resolution process (MNDMF, 2009). Though these stipulations do not represent specific regulations, the Act will enable the development of regulations by the MNDMF to this end.
Passed after its third reading on 21 October 2009, Bill 173 has elicited a broad range of responses from Aboriginal and public interest groups frustrated with the free-entry mining system currently in effect. Many of these responses are highly critical of the incremental changes to exploration policy, and demand a system that prioritizes citizens’ rights over private mineral development interests (Mining Watch, 2009). Similarly, many Aboriginal organizations have issued official responses to the Bill, noting the brevity of the public consultation period and failure to meaningfully consider the Aboriginal input received (Matawa, 2009; NAN, 2009a, b, c; K.I. 4). However, the explicit affirmation of Aboriginal and treaty rights within the purpose statement of the Act, provisions for community land use planning, and inclusion of a dispute resolution mechanism in mining legislation are notable improvements over current policy. It remains to be seen if the regulations developed to enforce these proposed advancements will reflect Aboriginal interest in community-sensitive mineral development.

Public and Aboriginal concern regarding the legacy of mineral development in Ontario is often related to the impact of mines and the lack of public accountability in the development process (Ritter, 2000; Campbell, 2004; Smith, 2007). The Ontario Ministry of Natural Resources’ (MNR) proposed Bill 191 – the Far North Act – has come under widespread criticism from industry associations and Aboriginal organizations alike for maintaining similar historical patterns of public exclusion from resource planning (PDAC, 2009b; NAN, 2009b, c). First read in the legislature on June 2, 2009, Bill 191 calls for a moratorium on all future mineral exploration and development in Ontario’s
north until community-based land use plans are in place throughout a region of over 450,000 square kilometres (see Figure 4.4).

![Figure 4.4 Area under the Jurisdiction of the Proposed Far North Act](image)

The Far North Act also calls for the establishment of a series of new parks and development free zones covering approximately half of this jurisdiction. Although this may appear to be a progressive step taken by the MNR to involve local communities in resource planning, Nishnawbe Aski Nation (NAN) Grand Chief Stan Beardy expressed that the MNR has not developed this Bill in the interest of Aboriginal communities, this legislation will set aside… a protected area within our homelands without our consultation, accommodation or consent and will lock down the land to prevent First Nations, the poorest people in Canada, from achieving economic independence by preventing the development needed to build our communities and strengthen the Ontario economy (NAN, 2009c: 1).
NAN is a political territorial organization representing 49 Aboriginal communities in James Bay Treaty 9 and portions of Treaty 5. It recently passed Resolution 09/41 Condemnation of Bill 191, citing the limited consultation of NAN members and infringement on Aboriginal rights within traditional territories (NAN, 2009b). John Baird (2009: 3), president of the Prospectors and Developers Association of Canada (PDAC), added that Bill 191, “would deprive all the citizens of Ontario, particularly the First Nations communities that make up most of the population of the Far North, of the economic benefits that responsible mineral resource development can provide (emphasis added).” Although Baird (2009) did not clarify what he meant by ‘responsible’ mineral development, his presentation to the Standing Committee on General Government at the Legislative Assembly of Ontario on August 6, 2009 suggested that both Bill 173 and 191 fail to enable private companies and industry associations to engage in progressive, community-sensitive mining in partnership with local Aboriginal groups. Rather, it appears that both recent Bills serve to frustrate and further exclude, rather than accommodate, Aboriginal interests.

Rather than being seen by the public as steward of the natural environment and a variety of public interests, the provincial Government of Ontario is perceived as facilitating exploitive mineral development practices that privilege private interests over public responsibility (ECO, 2007; Ross, 2008). While the recently published Mineral Development Strategy and Bill 173 to amend the Mining Act (MNDMF, 2006; 2009) explicitly suggest a departure from the exploitive practices of the past by making use of a strategic plan for sustainable development and a range of new Aboriginal-sensitive
policies, these assertions must be further examined if they are to be accepted as more than just rhetoric.

As legislation in Ontario, such as Bill 173 and 191, has begun to incorporate environmental issues and concerns within government regulatory rules, the critical focus of local communities and interested parties has shifted to consider other, less tangible impacts of mining. Specifically, these include cultural values, beliefs, and ideas that are integral components of the social capital of local communities (Chiesura and de Groot, 2003; Groenfeldt, 2003). In response to the recent attention given to social conditions in mining-affected communities, and as a part of broader industry strategy to gain greater public acceptance, the mineral industry and individual corporations have begun to engage with this topic. Given the current business climate whereby corporations seek product differentiation and market advantage based on corporate social and environmental responsibility (CSR) initiatives (see Yakovleva, 2005), it is no surprise that there is a considerable amount of grey literature produced annually by corporations (Kapelus, 2002). Horowitz (2006: 307) found that corporations have come to realize that “there is a solid business case for good management of environmental and social issues.” The recent emergence of sustainability reporting as common practice and industry association publications focusing on sustainable practices (see Placer Dome, 1998; PDAC, 2004; DeBeers 2005; 2009; MAC, 2006; Goldcorp, 2006, 2007; Kinross, 2007; 2008) suggests that corporations are taking great strides to act, or at least, appear sustainable because of the relatively poor public perception that has historically defined mining firms (Downing, 2002; NAN, 2009a).
In response to the literature that frames mining as inherently unsustainable, Crowson (1998) and MAC (2006) contend that there are a vast number of opportunities for individual mines to contribute toward the sustainable development of individual communities. It is clear from corporate social responsibility (CSR) principles included within broad corporate and industry association principles (e.g. MAC, 2006; Goldcorp, 2007; Kinross, 2007; DeBeers, 2009) that industry has interpreted sustainable development differently than definitions found in the academic literature (Hilson, 2000). The majority of these reports are permeated with suggestions that corporations perceive themselves to be a part of the community (Pedro, 2006). Furthermore, much of the corporate literature focuses on goals and indicators that suggest progress is being made toward ensuring that local communities are not being adversely affected (environmentally or socially) by mining operations. Externally verified sustainability reports, such as MAC’s (2008) most recent progress report frequently note ‘best-in-sector’ performers and the range of environmental and social best practices that are encouraged within the mining industry.

Notwithstanding the significant resources that individual corporations and industry associations have invested in recent initiatives such as the MMSD project, Pedro (2006) and Whitmore (2006) remain highly skeptical of industry actions and apparent attempts to ‘greenwash’ investors and the general public. Pedro (2006) noted that it is extremely difficult to discern between projects that have the appearance of CSR, or have pragmatic motivation, and those that are representative of true CSR or morally-driven benevolence.
Unfortunately, few local communities have access to such relevant analysis, or the autonomy to engage large corporations to question or influence social or environmental practices in a meaningful manner (Ballard and Banks, 2003; Cernea, 2003). Therefore, much of the critical literature related to mining and CSR has noted that environmental and socio-economic conditions within mining communities are often determined by, or subject to, large-scale experimentation and piecemeal implementation of voluntary corporate sustainability policies. Drawing specific attention to some of the interests and factors involved in private mining practice, Figure 4.5 offers a more complete perspective on the relationships and interconnections that comprise northern Ontario’s mineral development context. Notably, there are no formal avenues for Aboriginal communities to influence either the governance framework or private practice.

Figure 4.5  Conceptual Model of Ontario’s Mineral Development Context
Recent efforts by the MNDMF and other provincial ministries to promote the growth of a community-sensitive mineral industry are essential steps in reconfiguring Ontario’s regulatory regime. However, a variety of researchers (Hilson, 2000; Hilson and Murck, 2000; Davis and Tilton, 2002; Whitmore, 2006) have noted that industry responses have generally focused upon improving environmental practices and maximizing economic gains, while giving merely perfunctory attention to local social issues. If this trend persists, mining operations will continue to represent a fundamental challenge to local socio-cultural sustainability among Aboriginal communities. In order to address the limitations of traditional government structures and voluntary codes of practice to actually meet the needs of these communities, it may be necessary to simultaneously pursue other, innovative approaches.

4.4 A Way Forward?

Nested between the conflicting interests of residents, user and interest groups, developers, and regulatory structures, Ontario’s MNDMF may not be capable of adequately accommodating the needs and desires of each of these parties. The development first imperative that has historically defined the provincial mineral system may be dressed with ‘new clothes’ (Whitmore, 2006) rather than undergoing significant changes as a result of Bill 173. The reaction of Aboriginal groups to this new policy demonstrates the close relationship between the MNDMF and development interests (NAN, 2009a). Although charged with implementing the Mining Act in the interests of the public, in practice the interests represented by the actions of the MNDMF are indicative of the
broader regulatory regime’s close relationship with local, national, and international private interests (ECO, 2007).

Recognizing the need for culturally-appropriate economic development initiatives, Bernier (2001: 1) stressed that, “…it’s not enough to create prosperity. Prosperity must be shared to build a healthy, peaceful society… in partnership with Aboriginal communities to strengthen governance, and to meet basic human needs for jobs, health, education, housing and infrastructure.” This call for resource benefit sharing is particularly cogent given that the majority of negative socio-cultural impacts associated with mining in Canada are experienced by Aboriginal communities who have historically been excluded from resource planning (Kapelus, 2002; ECO, 2007; NAN, 2009).

Despite the varying range of site-specific concerns and unique local interests that exist among individual First Nations, many common needs and expectations have been expressed in regards to resource development. Most of these expectations are related to public and private recognition of Aboriginal and treaty rights as well as the fulfillment of the Crown’s duty to consult as per Section 35 of the Constitution Act (1982) (CAN, 2008). Aboriginal leaders do not consider the recognition of these rights to be an onerous task, but rather an important component of respectful government-Aboriginal and private-Aboriginal relationships (K.I. 4). Echoing this focus upon respectful relationships, Nishnawbe Aski Nation (NAN) Grand Chief Stan Beardy adds,

Our primary concern is that NAN First Nations must have free, prior and informed consent before any activity can take place on their homelands… That’s the standard expressed in Article 32 of the United Nations Declaration on the
Rights of Indigenous Peoples, and that’s the standard we expect Ontario to meet (NAN, 2009:1).

To assert these rights, local and internationally-based Aboriginal interest groups as well as citizen associations have become increasingly active in contesting ‘business-as-usual’ mineral exploration and development projects (MNDM, 2007; O’Faircheallaigh, 2007; Smith, 2007). By making use of information and resources provided by international NGOs and other organizations, local residents and Aboriginal groups have been increasingly successful in requiring developers to obtain a social license to operate beyond regulatory regimes; this is especially evident in the use of IBAs (Galbraith et al., 2007). Though IBAs are negotiated on a project-specific basis and individual agreements vary, they can be conceived of as a novel mechanism to empower Aboriginal groups. As they are negotiated based on the particular concerns and interests of would-be impacted Aboriginal communities, there is significant potential for developing a meaningful relationship between the project proponent and Aboriginal signatory; which suggests a noteworthy departure from mining’s exploitive history.

Given the socio-economic challenges facing, and needs and interests of, northern Aboriginal communities in Ontario, mining companies are in a unique position to establish new, fruitful relationships with communities by engaging in good faith and acting to promote local community development. Meeting practical local needs, such as strengthening education, employment training, and social service provision within Aboriginal communities, is well within the ability of well-resourced mining companies (O’Faircheallaigh, 2003; 2009; McCarthy, 2009) and can bolster company-community relationships. Reinforcing these relationships will, of course, have many benefits for
companies, but will have broader strategic value to Aboriginal groups seeking political affirmation and influence (see McCarthy, 2009; NAN, 2009). However, as O’Faircheallaigh (2002; 2007) cautions, the signatories of such agreements likely do not meet on equal terms, causing a host of challenges as key provisions are negotiated; and it is to be expected that Aboriginal communities may not have the capacity to implement all of the terms of the agreement. Recognizing that existing IBAs may have several limitations, these negotiated agreements nevertheless represent an innovative approach to addressing complex associations of practical and strategic needs of Aboriginal communities while alleviating many long-standing challenges associated with mineral development in Ontario.

4.5 Chapter Summary

While contributing to the overall economic growth and development of the province, and Canada more broadly, mineral exploration, extraction, and processing in Ontario have historically maintained profitability through externalizing costs. By forcing local communities and the biophysical environment to bear much of the negative impacts of mineral development, mining practice in Ontario has contributed to an uneven distribution of costs and benefits. This chapter has illustrated many of the complex interconnections between Aboriginal, public, and private interests that comprise the context of mineral development in Ontario. It has shown that although legislative reform is underway, the failure of current policy to appropriately manage Aboriginal concerns has given impetus to the negotiation of an innovative governance mechanism – IBAs – not merely to address limitations within the regulatory system, but also to meet a broad
range of local development needs. In order to successfully meet the needs of northern Aboriginal communities in Ontario, the next chapter is dedicated to formulating an idealized IBA.
Chapter 5
FORMULATING AN IDEAL IBA IN THE CONTEXT OF CONTEMPORARY NORTHERN ONTARIO

Research that has sought to assess the impacts of IBAs on a signatory community relative to pre-mining conditions generally suggests that IBAs are increasingly delivering positive local outcomes (Prno, 2007). However, many Aboriginal signatory communities still struggle with challenges that resemble the adversarial project developer-community relationships of old. This suggests that IBAs are either not being implemented according to their terms, or they do not contain sufficient provisions especially with respect to the implicit expectation of many Aboriginal communities that mining will facilitate local empowerment and long-term development. Could an ‘ideal’ IBA rectify this situation, and, if so, what would it look like? This chapter seeks to answer this question in the particular context of contemporary northern Ontario by drawing on the academic insights discussed in Chapter Three, the practical context surveyed in Chapter Four, and the results of field work, and especially key informant interviews. This chapter proceeds in four sections. First, the unique ability of IBAs to meet the complex needs of Ontario’s northern Aboriginal communities is established. Following this, some of the most significant limitations of existing IBAs are examined. The third section outlines an ideal process for establishing an IBA to meet community development goals. Finally, in section four, which constitutes the bulk of the chapter, an ideal IBA is outlined in ‘section’ by ‘section’ form.
5.1 The IBA Needs of Northern Ontario’s Aboriginal Communities

As a complex assemblage of local identities, issues, and interests, remote communities throughout the northern reaches of Ontario are often inappropriately considered to be homogeneous by southern policy makers and mining firms alike. Failure to accommodate, or even recognize, specific local interests has defined many of the past relationships that Aboriginal communities have suffered with mining firms and provincial ministries (K.I. 6). This fundamental misunderstanding has, in part, contributed to the conflict-ridden and exploitive legacy of mining in the north (K.I. 1). Many northern Aboriginal communities, often plagued by myriad socio-economic issues, oppose all forms of nearby mineral development, fearing that they “are not socially ready for this type of development… [since] mining in these communities will stress local networks beyond their ability to handle changes and could be the worst thing for them” (K.I. 2).

Other communities, although interested in sharing in the economic benefits of mining, continue to protest mineral exploration and development projects within their traditional territory because of mining firms’ failure to consult them, or pre-existing grievances with the Province (K.I. 4; see Ariss and Peerla, 2009). As discussed in Chapter Four, the lack of meaningful consultation and relationship-building between project proponents and Aboriginal communities is a significant cause of conflict in northern Ontario. One informant explained that this issue is particularly contentious because,

> Consultation in the past was a disaster, we are not a mining people… it takes time for us to understand how [mineral] development will change things here. After sorting that out, we might be able to talk about when and how to proceed if we are interested, but they don’t have time to do things properly (K.I. 4, emphasis added).
In this sense, ‘doing things properly’ implies far more than corporate solicitation of free, prior, and informed community consent during the mineral exploration process (K.I. 4). Rather, communities and their elders are most concerned with maintaining and asserting their historical and legal title to managing natural resources within traditional territory and reserve land (K.I. 1; 5; 6). For many Aboriginal cultures in Ontario, identity formation and reproduction is tangibly linked to traditional relationships shared with the natural environment and each other (K.I. 6). Therefore, any resource development proceeding without appropriate community consent may be perceived as a threat to local identities in addition to its potential local environmental and social impacts (K.I. 3). Conversely, it was articulated that if private companies approach community leadership in an appropriate fashion, such as with an offer to negotiate an IBA, important local identities may be affirmed rather than weakened by mineral development (K.I. 11).

As mining firms begin to engage in IBA negotiations, many Aboriginal communities in northern Ontario, motivated by dismal local socio-economic conditions, are increasingly cognizant of the potential benefits of mineral development and often expect to receive substantial settlements. Employment opportunities, construction contracts, and other direct economic benefits are particularly attractive because of the scarcity of investment capital in remote northern communities. As discussed in Chapter 3.1, an exclusive focus on securing economic benefits, rather than a variety of locally-significant social and economic provisions, through IBAs in some communities has left locals unsatisfied with their agreements (K.I. 9). This often occurs one or two years into an IBA that has,
according to local perception, not included adequate provisions or been effectively implemented (K.I. 7).

Notwithstanding the challenge of meeting the out-of-control expectations of community members interested in the economic benefits available through an IBA, the experiences of some early IBA signatory communities confirm that direct economic benefits may be equally or less significant than other initiatives to address tangible socio-cultural needs (K.I. 7; 12). Some suggest that isolated northern communities “would be better off with in-kind payments”, such as community housing projects or transportation arrangements with local air charter services, in addition to traditional financial provisions (K.I. 8). Benefits in these forms may be more equitably distributed among community members in the greatest need, as opposed to lump-sum transfer payments used at the discretion of local Chief and Council (K.I. 6; 7). Although bargaining for specific locally significant benefits may be challenging depending on the expectations and commitment of the project proponent, IBA negotiations can provide a vital channel of communication to convey many of the broader needs and interests of Aboriginal communities (K.I. 1; 4). For example, the leadership of the Attawapiskat First Nation was acutely aware of its need to renovate and refurbish their elementary school and to improve the quality of education programs in the community prior to the negotiation of the DeBeers – Attawapiskat IBA (K.I. 7; 11). Notwithstanding the fact that on-reserve education is the (neglected) responsibility of Indian and Northern Affairs Canada (INAC), community representatives negotiated for specific IBA funds to construct a new education and employment training facility in the community (K.I. 11). This case exemplifies the ability
of communities to utilize IBAs to address existing local issues and important local interests.

For mineral-rich communities that elect to support local mine development, most recognize that if mining is to provide long-term benefits rather than exacerbate pre-existing local issues,\(^6\) “it must be done on our terms” (K.I. 2). The informants consulted throughout the field research were helpful in defining the implicit expectations wrapped up within the Aboriginal understanding of what ‘doing things properly’ and mining on ‘our terms’ means for community members. Table 5.1 provides a brief summary of the interview results. The responses are organized to identify expectations that Aboriginal community members have of specific elements of an IBA.

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\(^6\) When considering the costs and benefits of pursuing local mineral development, many Aboriginal communities recognize that mining may not only bring a host of new challenges to the community, but also exacerbate existing socio-economic problems (e.g. alcoholism, domestic violence, illiteracy etc.) (see McCarthy, 2009).
### Table 5.1 Summary of Expectations of Aboriginal IBA Signatories

Key informants repeatedly noted their expectation that resource developers approach communities with respect and integrity, and meet with local leadership early in the exploration stage of project development in a manner that affirms local sovereignty over natural resources (K.I. 3; 4). Following this foundation, it is expected that firms act as,

> a good social neighbour… not just there to make their buck, but to invest in the long term relationship with communities and give what communities need the most (K.I. 3).

Since most Aboriginal communities are painfully aware of their socio-economic conditions and development needs, many consider local mineral development to be a vital source of employment and economic opportunity, even if accompanied by environmental degradation and other socio-cultural impacts (K.I. 5). In the past, the range of impacts associated with mining were “considered to be necessary evils, we had no

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7 IBA process issues refer to the manner in which the project proponent interacts with the community throughout early contact, IBA negotiation, implementation, and project closure. These considerations are the focus of Chapter 5.3.
other options… [however] an IBA can change that, we can negotiate for what is fair” (K.I. 6). Based on their experience negotiating and implementing IBAs, most informants shared this desire for ‘better’ long-term results, but do not naively think it is possible without a fight, since it was expected that, “companies are trying to look good to sell their products, but will only go as far as the law and public demands” (K.I. 6).

Despite the expected challenge of negotiating individual agreements, many informants expressed a cautious optimism about the frequency and relative richness of recent IBAs. The value of an IBA, from an Aboriginal perspective, lies within its potential as a contractual agreement to not only address local impacts of mining operations, but to affirm local identities and deliver a range of benefits that have rarely been shared with impacted communities. Moreover, IBAs have the potential to function in a manner that many community leaders and practitioners have yet to fully recognize – to thoughtfully meet local community development needs. The ability to negotiate for a range of locally-significant provisions (e.g. better health care facilities, support for traditional harvesting, job training, funding for traditional education programs etc.) cannot be understated, as these may equip local communities to make the most of standard IBA terms such as transfer payments and preferential local hiring. Therefore, given their potential for delivering meaningful local benefits, conceiving of an ideal IBA sensitive to the particular challenges of Ontario’s northern Aboriginal communities to achieve community development objectives is an endeavour of tremendous practical and scholarly significance.
5.2 Limitations of Existing IBAs in Northern Ontario

As introduced in Chapter 1.1, although numerous IBAs have been signed across Canada and most appear to be delivering some benefits to local communities, many fall short of the expectations of Aboriginal signatories. Prior to discussing how to develop an ideal IBA, it is essential to outline the predominate concerns with existing agreements. Failing to meet local employment projections or other specific terms of the agreement, breakdown of corporate-community relationships, and widespread policy implementation issues are among the most common sources of local frustration. These challenges often result in demands to re-negotiate specific terms of the IBA, drawn-out legal battles to enforce the IBA using dispute resolution measures (often outlined in the agreement), and, occasionally, local protests – a range of outcomes that IBAs are purposefully intended to avoid and prevent.

A potential cause for this suite of issues was revealed by a key informant early in the field research, and was confirmed during subsequent interviews: simply, most Aboriginal signatories hold a number of _implicit expectations_ related to mining and their community that are seldom captured in the explicit terms of an IBA. These expectations range from assumptions about how a specific IBA provision may be implemented to broader expectations related to the relationship between the mining company and their community. A specific concern may be, for example, “community information meetings ought to be held during certain times of year to ensure that trappers out on the land will be available to participate, if interested” (K.I. 7). A more fundamental expectation is revealed by another informant who stated, “the IBA means that the company is
accountable to us [community members], but things aren’t getting better fast enough, there aren’t many jobs” (K.I. 4). The resulting degree of community discontent with the IBA may depend upon how severe, or widespread these issues are, and if there are mechanisms included in the IBA to ameliorate various forms of community frustration. More significantly, informants suggested that, even in their experience with widely accepted IBAs (e.g. the DeBeers Victor Project agreements), there were a number of community expectations related to the improvement of local socio-economic conditions that were not addressed in their agreement.

For example, in Attawapiskat it was expected that local incidence of substance abuse, domestic violence, and other social ills would be reduced as average community incomes grew via mine-related employment (Hall, 2008). There has, however, been no clear improvement since IBA ratification in 2005. This is partly due to the lack of effective local socio-economic monitoring relative to a pre-IBA baseline. Therefore, further provisions must be included in IBAs in order to assess and evaluate the effectiveness of IBAs in achieving better local outcomes. Notwithstanding this limitation, many signatory communities hold a number of implicit expectations about their IBA; many of which likely relate to local interests in specific areas of community development. Table 5.2 summarizes some of the ways that, according to key informants, IBAs in Ontario have failed to meet community expectations.

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8 Local acceptance of the DeBeers – Attawapiskat IBA initially appeared to be a record accomplishment. Over 85% of band members voted in favour of ratifying the IBA in 2005, yet community protests in February 2009 demonstrated how short-lived community support can be when band members do not have full access to IBA contents (DeBeers, 2006; K.I. 7; 11).
<table>
<thead>
<tr>
<th>IBA Element</th>
<th>Limitations of IBA Performance</th>
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| **Process** | • Breakdown of corporate-community relationships/communication  
• Rapid project development process, locals unprepared to effectively negotiate IBA with information at hand  
• Misunderstanding/frustration about project timeline and market influence on production rates |
| **Content** | • Local concern regarding unforeseen environmental/social impacts  
• Lack of success in addressing local social problems  
• Inequitable distribution of economic benefits  
• Perceived loss of traditional lifestyles  
• Limited representation of Aboriginal community interests in IBA provisions  
• Local demands for re-negotiation of IBA provisions |
| **Implementation** | • Failure to meet community training and employment goals  
• Limited contribution to local capacity development  
• Apparent lack of commitment to deliver all provisions, ineffective dispute resolution and enforcement measures |

Table 5.2 Summary of Limitations of IBA Performance

Given the challenge of identifying and addressing such a broad range of community expectations and interests surrounding local mineral development, it is critical to the success of IBAs that they be developed and negotiated according to a pre-determined set of community goals. Though it may seem to be a basic assumption that community leadership would know and thoughtfully address all major local interests, many key informants involved with the negotiation process in their communities explained that they were under-prepared due to lack of effective communication among band members and pressing project timelines. Further community expectations and interests emerged only following local ratification of the agreement. Often these late-emerging expectations were based on implicit assumptions and misinterpretations of corporate commitment to local community development agendas (K.I. 4; 7; 11). Therefore, to be successful given the unique circumstances of signatory communities, IBAs should be designed to meet local development needs and interests in three related areas identified by this research.
These include: process; content; and implementation. These key areas of concern are addressed in the following sections.

### 5.3 An Ideal Process for Establishing an IBA

The key informants consulted were helpful in drawing attention to specific challenges that their communities encountered throughout the IBA negotiation and ratification process. This exercise was also instructive as follow-up questions often generated fruitful comments about how the IBA process, including pre-negotiation communication and early agreements (e.g. an official Memorandum of Understanding), negotiation, and implementation, could be improved. The first two areas for improvement are introduced and supported in the following sub-sections by critical observations and suggestions made by informants.\(^9\) Due to the attention given to IBA implementation issues in recent IBA literature and by key informants, these are discussed and analyzed at length in the next chapter.

Process issues are among the most crucial in forming positive community-proponent relationships. In this case, the process of IBA-supported development concerns *how* companies interact with local communities, and how these interactions are likely to be interpreted. Often, mineral exploration activities undertaken by junior mining firms, negatively impact the future relationship between a major company and community members. Additionally, local concerns raised by the infamous legacy of mineral

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\(^9\) It is important to note that the IBA recommendations presented herein are based on observations of local practitioners and community leaders with recent IBA experience; although some details have been omitted, this draft IBA is tailored to address particular issues relevant to Ontario’s northern context, as introduced in previous chapters.
development in nearby regions may contribute to the poor public perception of mining, especially among Aboriginal communities (K.I. 4).

The recent dispute between Platinex Inc. and the Kitchenumahkoosib Inninuwug First Nation (KIFN) is an instructive example as it demonstrates the importance of process issues in establishing a community-sensitive approach to mineral development. In this case, Platinex acted in accordance with Ontario’s free-entry claim staking procedures, yet failed to secure KIFN’s consent to further exploration and mine construction within their traditional territory. In the following months, Platinex abandoned their claims, and later returned with a court injunction granting them access to their exploration sites, which was met with intense local protests, leading to the arrest and conviction of 6 community members for contempt of court (CPAWS, 2008). Though this case is far from resolved (See Morris, 2009; Trusler, 2009), it exemplifies the adversarial nature of some corporate-Aboriginal relations. This ‘worst case’ example is a useful starting point in emphasizing the need for improved practice in mining and IBA process. In contrast to the KIFN case, early informed contact between project developers and local Aboriginal leadership will serve to establish a respectful and community-oriented dialogue to obtain local consent prior to any further development. Of course, this is only if local Aboriginal communities are interested in mining.

Many informants were highly critical of the adversarial relationships that have dominated past mineral developments in Ontario and suggested that this may be the most important focus for improving the process of development (K.I. 1). As IBAs are negotiated in
support of mining projects, there is considerable potential for developing a partnership ethic; this implies that proponents work to fulfill meaningful community development objectives rather than begrudgingly concede to community demands for local employment and financial compensation.

To initiate a community-sensitive process of development, “companies must understand that we do not work on their get-in-get-out time scale, and need to first see if mining would be good for our community… in the long run” (K.I. 5), and, “we don’t want to just make the best of it [mining], we want to be sure that things will improve here” (K.I. 2; emphasis added). Therefore, prior to and throughout the project exploration and IBA negotiation phases of development, so-called process issues must reveal a commitment to meaningful dialogue and accommodation, not merely a palliative formality. In one case, a respondent claimed that “we had to fight to educate them [the mining firm] on how to deal with us, how we saw this mining as affecting us and what we wanted from an IBA… the relationship [with] us is the most important issue, and must be earned in good faith” (K.I. 1).

Among key informants who conveyed a positive experience with the proponent, all suggested that this was because an attempt was made early on to do things properly, including early contact with local Chief and Council, and informative and clear community meetings. Others expressed frustration with similar early attempts to build corporate-community relationships because technical staff and ‘little people’ were sent to lead community information meetings, when locals desired to deal directly with high-
level project managers. In many cases doing things properly may not require significant extra expense from proponents, but will demand attention to local cultural norms and expectations as well as an effort to avoid process-related oversights of previous developers. To ensure that a community-sensitive approach is pursued, one respondent suggested that developers “should help communities develop their own land use and resource plans… make their mapping expertise and planning personnel available to aid local initiatives prior to project construction, that is what we needed from them” (K.I. 4). Facilitating long-term development planning prior to, or throughout, the IBA negotiation process may constitute a relatively low-cost corporate means to contribute to community development in a significant way. To this end, Table 5.3 summarizes essential insights identified in this section and provides recommendations for a community-sensitive IBA process.
Facilitating a Community-Sensitive IBA Process

<table>
<thead>
<tr>
<th>Project Phase</th>
<th>Proponent</th>
<th>Aboriginal Community</th>
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| Initial Consultation and IBA Negotiation | • Assess/identify community expectations of consultation protocol  
• Engage community leadership to develop Memorandum of Understanding regarding intent to negotiate IBA  
• Make company mapping/surveying and other resources available to community  
• Host community information meetings with senior company representatives present  
• Discuss ideal consultation and project development timeline  
• Identify and pursue additional means to build partnership ethic | • Initiate self-assessment of community development goals and objectives  
• Develop community-based mineral development policy and consultation guidelines for proponents  
• Seek community consensus regarding local interest in mining based on different development scenarios  
• Elect community representatives to negotiate IBA  
• Host regular community information sessions to inform band members of progress of IBA negotiation |
| IBA Implementation                  | • Actively monitor strengths and weaknesses of company-community relationship (address issues as they arise)  
• Identify strategies to assist community administration in implementing IBA provisions (capacity sharing/building)  
• Host frequent relationship building events (e.g. sponsorship of local festivals, summer gatherings) | • Monitor community perceptions of mineral development project and IBA success  
• Communicate praise or grievances to company representatives and initiate dispute resolution processes if necessary  
• Refine existing mineral development policy based on experience with ongoing mining project |
| IBA Follow-up                       | • Ensure IBA provisions have been delivered  
• Conduct evaluation of strengths/limitations of the community engagement and IBA process | • Assess community perceptions/experience of interaction with project proponent over project life cycle  
• Further refine existing community development objectives and mineral policy based on experience with this project |

Table 5.3 Recommendations for Community-Sensitive IBA Process

5.4 The Ideal Content of an IBA

While process-related issues are significant in establishing and maintaining corporate-community relationships, and greatly affect the success of an IBA, the range of provisions included in an agreement will likely determine if an IBA can address local
impacts of mining and deliver long term community development benefits. The content
of early IBAs negotiated throughout Canada has typically been limited to training and
employment opportunities, business development initiatives, financial payments, and
some local socio-cultural considerations. More recently, however, Aboriginal signatories
have sought to get ‘more out of their IBAs’ through negotiating for community-specific
cultural and local development-related provisions.\textsuperscript{10} Though early attempts to measure
the relative success of IBAs primarily considered the richness of financial payments and
employment targets, many signatory communities have since expressed interest in
securing ‘softer’, locally-significant benefits such as provisions for air transportation
among adjacent communities, updating local school curricula with traditional teachings,
and elder care.

This new generation of IBAs has the potential to meet a broad range of local community
development needs to more significantly take advantage of nearby mineral development.
In some cases, softer provisions do not require a significant investment of corporate
resources and are particularly meaningful to community members who are most at-risk.
In some ways, these softer and more widely secured benefits are superior to direct
financial payments that are filtered through Chief and Council and thereby do not always
benefit all community members (K.I. 7).

\textsuperscript{10} Socio-cultural IBA provisions are important components of each of the DeBeers Victor project IBAs among Aboriginal signatories of the James Bay Coast. Notably, some of these provisions appear to be modeled after the 2006 DeBeers-Tlicho IBA (in support of the Snap Lake project in NWT), which included a ground breaking focus on cultural development over economic provisions (see DeBeers, 2006).
Again, the expected goal of IBAs is to, “increase the long-term benefit to our communities while minimizing local impacts” (K.I. 1). As IBA content increasingly reflects local community development interests rather than mere financial compensation for mining activities, key local expectations will more likely be satisfied. Recognizing this need for thoughtfully-assembled agreements, the following sub-sections provide insight into community expectations and interests within key IBA provisions as organized into agreement ‘sections.’

Governing principles for each IBA section are identified and strategies and recommendations for practical application are then provided in a concise table following each sub-section.

5.4.1 Purpose Statement

A thoughtfully-developed IBA must, as a starting point, be purposefully designed. In order to meet implicit expectations that community members may hold, a purpose statement must be negotiated that explicitly defines the objectives of an individual IBA. Including specific reference to the fulfillment of community development objectives at this early stage of the IBA negotiations will ensure that all parties to the agreement are bound to achieving mutually-beneficial goals. Both short- and long-term objectives should be identified in order to guide the project through construction, operation, and post-closure phases. The purpose statement should also stipulate the expected timeline for arriving at each of the project phases. Included with this series of objectives may be a stated agreement to negotiate and implement the subsequent IBA terms in good faith, and according to the mutual interests of corporate and community development – essentially,

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11 IBAs are typically structured in sections to organize various provisions. Likewise, this format has been adopted here, using common section headings.
a preliminary agreement to negotiate a ‘good IBA’ in recognition of the challenges of previous corporate-community agreements.

The purpose statement and associated preliminary agreements will guide parties to the IBA as their relationship develops and, in principle, provide accountability throughout the IBA negotiation process. This can be achieved by including specific clauses requiring all signatories to uphold the agreement. Penalties for breaching the agreement are generally outlined in the dispute resolution chapter, but can be included here as well. An ideal purpose statement, as illustrated in Table 5.4, will provide clarity to the scope of the IBA and serve different, yet complementary, functions for proponents and communities.

<table>
<thead>
<tr>
<th>Components and Functions of an IBA Purpose Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Component</strong></td>
</tr>
<tr>
<td>• Definition of the intent of the mineral company and community to negotiate and implement an IBA in the mutual interests of all signatories</td>
</tr>
<tr>
<td>• Preliminary good faith agreement to negotiate a progressive IBA</td>
</tr>
<tr>
<td>• Division of short and long term objectives during different project phases</td>
</tr>
<tr>
<td>• Definition of expected participation and process guidelines throughout IBA negotiation and implementation</td>
</tr>
<tr>
<td>• Stipulation of penalties for breach of agreement</td>
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</tr>
</tbody>
</table>

**Table 5.4 Essential Components and Functions of IBA Purpose Statement**

5.4.2 Financial Considerations

Significant profit sharing, cash payments, equity interests, and royalty arrangements are among the most common structures for delivering funds to local communities. These sections often include the most contested terms of an IBA negotiation and are commonly
guarded by confidentiality clauses. Confidentiality agreements have been signed that give only the company and local Band Council full access to financial arrangements. In other agreements, all community members of voting age are granted access, and in some the full contents of the IBA are made public. The confidentiality of financial provisions can be problematic, and is often maintained to the proponent’s advantage, as individual communities do not have access to details of agreements negotiated in support of similar projects for comparison. Confidentiality clauses, however, can also serve to protect Aboriginal signatory communities from conflicts with neighbouring communities interested in negotiating an IBA on contested territory. Though confidentiality of financial IBA provisions can likewise cause misunderstanding and disagreements among Aboriginal groups, especially at the regional council level, some signatories of the DeBeers Victor project IBAs in Ontario maintain that confidentiality of financial provisions has helped, rather than hindered their relationships with non-signatory communities (K.I. 4; 5; 11).

These funds are also controversial as they can change the nature of Crown-community relations and service provisions. Some IBA researchers have noted that use of IBA funds to augment essential services (i.e. education, health care, or emergency response) may lead to an erosion of Crown funding (see O’Faircheallaigh, 2009). However, some IBA signatories in Ontario have strategically used the recent media attention afforded by local mineral development and IBA negotiation to raise awareness of their community needs (K.I. 7).

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12 For discussion of IBA confidentiality issues, see Kennett, 1999; Langton and Palmer, 2003; O’Faircheallaigh, 2006; 2009; Diges, 2008b
Within many signatory communities, use of IBA funds often becomes an issue of significant local conflict. This may be caused by apparent conflicts of interest among IBA negotiation committee members, elders, and Chief and Council representatives. In this case, it was observed by some respondents that IBA funds may actually serve to exacerbate local issues. For example, within one Ontario IBA signatory community,\textsuperscript{13} local suspicion and conflict has emerged regarding the alleged mis-use of IBA funds by a negotiation committee member. In Attawapiskat, the community protest during February 2009 was partly due to widespread community frustration with the lack of information they had received from their Chief and Council members regarding specific IBA funding provisions (K.I. 7; 11). Avoiding these complications is challenging, but is possible if the IBA negotiation process is thoughtfully designed to incorporate community participation and representation of diverse local interests. Table 5.5 provides a summary of recommendations for the financial terms of the IBA. If community members are involved in developing the financial terms accordingly, the negotiation and ratification process can serve as a social learning and organization exercise to further develop local social and professional capital. To ensure conflict-free administration of IBA funds and address many of the existing community governance issues in northern Aboriginal communities, this complimentary goal of social learning and organization should be pursued as part of the financial IBA section.

\textsuperscript{13} The community and individuals involved in this case are not named here to maintain the confidentiality of key informants.
Developing Financial Provisions that Empower

| Establishing Financial Provisions | • Assessment of community interest in fixed cash payments vs. revenue sharing  
| • Community consultation with financial advisors to determine optimal combination of payment schedule or revenue sharing arrangements  
| • Negotiation of payment amount/revenue sharing rate with proponent  
| • Establish details of confidentiality agreement/level of public disclosure  |

| Use of Funds | • Community assessment/identification of best use of IBA (ratio of long-term investment vs. immediate use)  
| • Community consultation with financial advisors to determine suite of investment and spending recommendations (e.g. community trust, long term investment, commercial development, payment to band members etc.)  
| • Election of community trustees to manage and monitor use of funds according to IBA terms  
| • Appointment of transparency committee to avoid local conflicts of interest  |

**Table 5.5  Recommendations for Financial Provisions Section**

**5.4.3 Employment and Training**

Employment opportunities are among the most-desired IBA provisions in isolated northern communities. However, preferential hiring policies have been met with mixed success in some agreements, as many of the project construction jobs require industrial skills and certifications. This is problematic since local recruitment and training programs generally begin after early stage construction contracts have been signed with off-site employees. In order to take advantage of new employment opportunities, community leadership should pursue an early stand-alone training agreement to eventually be incorporated into the IBA (K.I. 2). Within the agreement, the nature and number of positions to be offered should be outlined, as well as provisions for a local employment liaison (these duties often fall under the implementation coordinator’s responsibilities).

To enable local community members to make use of new employment opportunities, key IBA provisions in this chapter should include flexible work rotations that align with local hunting and trapping seasons, opportunities for vertical advancement to management-
level positions, and cultural sensitivity training for non-Aboriginal employees. However, even in Ontario’s Victor mine, where employees are required to undergo such training, informants have drawn attention to racism, and other persistent challenges for community members to face in the workplace (K.I. 5). Such issues are, unfortunately, common within many mine sites across Ontario, and must be addressed by establishing a zero tolerance policy and anonymous reporting of such behaviour to ensure barriers to local employment are removed.

Transportation sponsorship policies are essential to enable job-specific training and certification of local candidates in surrounding regional centers. While many IBAs provide for local mine-related training and employment, community education goals ought not to be limited to securing mine employment targets, but address much broader needs as well. To this end, funding programs and construction initiatives for local community education and facility development need to be readily available. Provisions for preferential hiring of community members should also be included among supplementary contracts for supply and service firms. Without this stipulation, some IBA signatories have had significant challenges making use of their employment target provisions. Table 5.6 provides a summary of recommendations to aid in the development of progressive IBA terms and policies.
Providing Practical Training and Strategic Employment

- Assessment of community member demographics and identify potential mine workers during the IBA negotiation phase
- Negotiate education and training agreement with proponent, securing funding for a community member training and employment liaison and training programs for entry-level construction and mid-level mine staff
- Develop joint action plan for training, employing, and retaining a negotiated number of community members
- Host community information meeting regarding mine related employment, outline job training opportunities
- Arrange industrial certification courses to be held within community, and transportation sponsorships for community members seeking job training at regional centres
- Provision of high school equivalency and other certification courses for mine employees
- Funding program for expanding/constructing community education and training facility
- Stipulation for preferential hiring of community members to be included in all supplementary transportation and service contracts negotiated by proponent
- Development of culturally-sensitive shift work, aligning with local traditional hunting practices and community events
- Mandatory cultural sensitivity training for all non-Aboriginal mine employees
- Provision for annual financial management and budgeting workshops to be held for mine employees and all community members

Table 5.6 Recommendations for IBA Training and Employment Section

5.4.4 Business Development

Many of the most successful IBAs have made use of investment funds to develop local businesses to provide essential construction, supply, or maintenance services to mine sites and support industries. In addition to direct investment using IBA funds, provisions for community-controlled shipping and service contracts can provide much-needed local revenue. Support for and re-investment in existing local businesses (e.g. hospitality and tourism industry) may also strengthen local entrepreneurs and create local employment opportunities. Although this IBA section is contingent on the nature of individual mining operations and existing local infrastructure, informants emphasized the importance of
securing these economic benefits rather than allowing others to enter their community and draw away new capital.

The DeBeers – Moose Cree First Nation IBA is a recent example of a thoughtfully-developed business development chapter. Since Moosonee is a major northern rail-to-road junction at the southern end of James Bay, much of its economy is supported by mineral exploration and construction projects. The most meaningful IBA provision, however, is the stipulation of local control and administration of shipping and trucking supply contracts along the ice road to the mine site. Also included in the agreement are investment funds for local support industries and infrastructure development. This successful case has also facilitated the development of local shipping and transport training among locals and professional capacity within the band office. Business development IBA chapters can likewise contribute to the sustainable economic development of local communities if they are designed to meet locally-relevant objectives as shown in Table 5.7.

<table>
<thead>
<tr>
<th>Equip and Strengthen Business Development</th>
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</thead>
<tbody>
<tr>
<td><strong>Immediate Support for Local Businesses</strong></td>
</tr>
<tr>
<td>• Establish a fund dedicated to investing in the expansion and support of local businesses and entrepreneurs</td>
</tr>
<tr>
<td>• Assessment of private enterprises operating within community, identification of businesses in need of financial support and other services</td>
</tr>
<tr>
<td>• Agreement to utilize local businesses for mine related transportation or service contracts where possible</td>
</tr>
<tr>
<td><strong>Long Term Development</strong></td>
</tr>
<tr>
<td>• Establish and incorporate a community-owned development corporation responsible for administration of IBA business development funds and managing the expanding service needs of the community during mineral development</td>
</tr>
<tr>
<td>• Funding for professional community development consultation services and local institutional capacity building exercises</td>
</tr>
<tr>
<td>• Development of a community development plan to strategically adopt and facilitate an enterprise culture within the community</td>
</tr>
<tr>
<td>• Funding to hire additional community economic development staff during project operation</td>
</tr>
</tbody>
</table>

Table 5.7 Recommendations for Business Development Section
5.4.5 *Environmental Protection*

Depending on the scale and nature of mineral exploration and extraction activities, the Environmental Protection IBA section should include a variety of conditions relating to local monitoring, third party assessment, mine closure and penalties in case of unforeseen impacts. Many IBAs include funding for community-based environmental monitoring programs in addition to private monitoring systems in place to comply with provincial regulations. Although an effective means to involve community members in IBA and project goals, these programs can also serve to placate local environmental concerns rather than provide a real service, since access to mine sites is often restricted to official monitoring activities. On a more positive note, this IBA section can be used to require proponents to exceed provincial tolerances for environmental protection, rather than function in a secondary capacity to local regulatory frameworks. Community use of an IBA in such a fashion – to ensure strict protection of locally-significant environmental conditions or specific natural habitats beyond legislated requirements – demonstrates the novel ability of IBAs to thoughtfully address one set of impacts associated with mineral development.

Negotiating for provisions to verify and enforce corporate transparency in environmental performance may be a challenge as this highly-technical exercise may be restricted due to limited local capacity to interpret results. In addition to local monitoring programs, this chapter should outline corporate ramifications and penalties in the event of unanticipated environmental impacts. Complementing these compliance-related stipulations, this section can also include provisions for local environmental remediation initiatives, such
as funding for reforestation, wildlife protection, or watershed clean-up projects beyond legislated requirements. Table 5.8 summarizes these recommendations.

<table>
<thead>
<tr>
<th>Enhance Environmental Protection</th>
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<tbody>
<tr>
<td>Establish Progressive Environmental Policy</td>
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<tr>
<td>• Recognition of the local significance of environmental conditions and relationship with natural heritage</td>
</tr>
<tr>
<td>• Provision for community appeal of environmental assessment</td>
</tr>
<tr>
<td>• Agreement for stricter tolerances than outlined in legislated environmental assessment framework, proponent to fund supplementary assessment of projected impact upon local wildlife, land, and water quality</td>
</tr>
<tr>
<td>• Delineation of penalties and fines for unforeseen environmental impacts</td>
</tr>
<tr>
<td>• Funding for increasing the institutional capacity of lands and resources office in support of preparing updated community land use and development plan</td>
</tr>
<tr>
<td>Facilitate Community Involvement</td>
</tr>
<tr>
<td>• Community-wide assessment of significant environmental features and nearby points of interest</td>
</tr>
<tr>
<td>• Development and training of local environmental monitoring committee with complete access to mine site</td>
</tr>
<tr>
<td>• Provision for bi-annual community member visits to mine site</td>
</tr>
<tr>
<td>• Annual reporting of environmental quality at locally-identified features and points of interest</td>
</tr>
</tbody>
</table>

Table 5.8 Recommendations for Environmental Protection Section

5.4.6 Community Well-being

Broadly concerned with local socio-economic and cultural conditions, the Community Well-being IBA section covers a diverse range of specific local interests and can be easily tailored to meet local developmental needs. In the past, similar provisions have included construction of local community centres, funding for traditional cultural celebrations and education programs, as well as social services designed to address ongoing community challenges (e.g. crisis pregnancy, alcoholism, and domestic violence). Other notable directions for improvement identified by informants included local land use planning, evaluation of participation in traditional activities, and funding for social research initiatives. For example, Fort Albany First Nation and Kashechewan First Nation (joint signatories of a DeBeers Victor project IBA) recently initiated a land use planning and mapping program to identify traditional harvesting grounds and trap
lines within the James Bay lowlands (K.I. 4). Making use of IBA funds, this program is expected to facilitate ongoing support of traditional lifestyles and enable effective consultation and coordination of future resource development projects.

In addition to benefits delivered in the financial provisions chapter, provisions in the Community Well-being section often contribute to meeting locally significant community needs, often at a token cost to project developers. Most of these issues are typically under the jurisdiction of provincial and federal ministries, which, unfortunately, have had minimal success in meeting local needs. In order to identify and address local socio-economic impacts of mineral development, completion of a pre-IBA baseline assessment and annual socio-economic surveys should be essential components of the community well-being chapter. This important first step in identifying local concerns and development interests can be used to direct community social programs and tracking progress. As exemplified by the ‘Economic, Social and Cultural Wellness’ section of the DeBeers – Fort Albany/Kashechewan First Nation IBA, it is vital that such programs are developed throughout the mine construction and operation phases, and also include funding mechanisms for post-closure well-being issues (K.I. 6). The community analysis and issue identification process leading up to IBA negotiation can yield valuable insights into local issues and challenges. As outlined in Table 5.9, this section offers a significant venue for IBAs to achieve community development objectives by improving local assessment and establishing innovative local wellness programs where traditional means have failed.
Table 5.9  Recommendations for Community Well-Being Section

5.4.7  Communication and Dispute Resolution

In order to ensure the lessons learned from previous IBAs are included in the design of new agreements, it is vital to outline specific terms and guidelines for communication between company and community representatives in a stand-alone section. Funding for a Chief and Council-selected project liaison officer(s) should be included in this section. This official should coordinate and document all communication between the community and proponent as well as assist negotiation teams during the IBA development process. Furthermore, this section should outline an appropriate counterpart position within the mining firm to coordinate and facilitate clear communication among the parties to the agreement. This section of the IBA should also specify regular meetings among community and company liaison officers on a monthly basis, or intervals that meet the needs of both parties.
While communication policies should be negotiated with the explicit goal of avoiding disputes, disputes may indeed arise and should be addressed via pre-determined resolution measures. If necessary, these should be enacted through the liaison officers and, depending on the scope and severity of the issue, should trigger meetings of a pre-determined dispute review committee composed of community leadership and project coordinators. Issues within this realm should be categorized as either an acute/emergency problem (e.g. community protest or other incident) or a persistent, long-term grievance (e.g. repeat failure to meet specific terms of the IBA). Specific details relevant to existing community concerns and issues as well as corporate interests should govern the precise details of dispute resolution mechanisms; however, the aim of this section should be to hold all parties accountable to negotiated IBA terms and other pertinent contracts.

Similar dispute resolution mechanisms have proven successful in easing community-mining company tensions elsewhere. For example, during recent community protests against the terms of the DeBeers – Attawapiskat First Nation IBA, the provision of pre-determined dispute resolution procedures gave community members an appropriate venue to explain grievances and a reasonable solution was developed in the mutual interest of both signatories (K.I. 7; 11). Table 5.10 summarizes effective principles of communication and a locally-appropriate dispute resolution mechanism to ensure long-term IBA success.
Facilitate Effective Communication and Dispute Resolution

| Establish Principles of Communication | • Assess positive community interactions with private companies in the past  
• Identify and agree to protocol for maintaining respectful company-community interactions  
• Within this protocol, identify official project liaisons for the community and proponent to manage, record, and monitor all official communications  
• Outline sanctions and penalties if these guidelines are breached |
| Develop Dispute Resolution Process | • Engage in dialogue to negotiate appropriate dispute resolution mechanisms based on principles of mutual respect and partnership established in the communications sub-section  
• Identify members of dispute resolution committee from the community and company, as well as an external mediator(s)  
• Clear statement of actions (or inaction) that will constitute a breach of the agreement (e.g. failure to implement a specific provision)  
• Develop a secondary list of actions (or inaction) that will constitute a breach of the agreement if they occur in combination (e.g. minor deviation from communication protocol AND delay in financial payment)  
• This categorization of issue severity should also be classified as either acute/emergency, or long-term grievances  
• Given a locally-appropriate classification of issues and grievances, the dispute resolution committee will determine guidelines for dispute resolution procedures and committee actions |

Table 5.10  Recommendations for Communication and Dispute Resolution Section

5.4.8  Project Life-Cycle Considerations

In order to confidently support mineral development, informants emphasized the importance of having a clear understanding of the project’s life-cycle and range of social and environmental impacts that the community will experience during each phase; indeed, a separate section outlining all project life-cycle consideration is a key aspect of an ideal IBA. Restrictions regarding the timing and mode of transport for construction and supply shipments are common stipulations within IBAs. This is particularly significant in remote locations where site access roads have to be constructed or where transport corridors cross traditional harvesting grounds or sensitive areas. For example, during the negotiation of the DeBeers – Fort Albany/Kashechewan First Nation IBA,
local representatives fought for payments and user fees to be put in place to compensate these communities for the increased traffic and expansion of the winter ice road from Moosonee to Attawapiskat (K.I. 4). However, a package of one-time payments was later accepted since road expansion would benefit each of the communities via increased service provision and commerce along the James Bay coast. Likewise, Aboriginal communities may benefit beyond the project life-cycle from infrastructure development in their area if such development occurs with local input and consultation.

Since site construction, operation, and productivity are largely dependent upon fluctuating market prices, informants suggested that IBAs include site activity and employment regulations based on various market projection scenarios, rather than allowing commodity demand to freely dictate local impacts. In addition to these protective measures, estimated project life and future exploration options should be carefully considered and included as IBA terms. Finally, key informants were particularly concerned with mine-closure and site remediation plans. Development of closure plans, including posting of remediation funds at an agreed-upon point during project life, represents a meaningful commitment to members of Fort Albany First Nation (K.I. 5); and similar provisions as part of IBAs elsewhere will no doubt serve to strengthen important community-company relationships. Though post-closure measures must be in place to pass environmental assessment, IBAs are a useful instrument in leveraging strict policies that surpass provincial regulations while enforcing locally-sensitive plans for project clean-up. Table 5.11 summarizes the recommendations developed for this IBA section.
Ensuring Lasting Benefits from Mining

<table>
<thead>
<tr>
<th>Project Phase</th>
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</thead>
<tbody>
<tr>
<td>Consultation and Construction</td>
<td>• Delineation of project construction, operation, and closure timelines and expected delivery of negotiated benefits and other IBA provisions</td>
</tr>
<tr>
<td></td>
<td>• Community information session to describe and discuss anticipated environmental and social impacts throughout project life</td>
</tr>
<tr>
<td></td>
<td>• Community consultation regarding infrastructure development and facility siting plans (e.g. changing road or transmission line routes to avoid environmentally sensitive areas)</td>
</tr>
<tr>
<td>Operation</td>
<td>• Agreement to use transportation method and dates that are most suitable to community members (e.g. according to local concerns regarding noise pollution or limited use of seasonal access roads)</td>
</tr>
<tr>
<td></td>
<td>• Binding agreement to retain target numbers of Aboriginal employees during mine operation regardless of commodity price fluctuations</td>
</tr>
<tr>
<td></td>
<td>• Community consultation regarding mine closure and remediation plans</td>
</tr>
<tr>
<td></td>
<td>• Posting of mine closure and remediation funds during operation phase</td>
</tr>
<tr>
<td>Closure and Remediation</td>
<td>• Closure and site remediation contracts stipulate preferential employment to community members</td>
</tr>
<tr>
<td></td>
<td>• Closure and remediation activities carried out according to plan and monitored by community-based environmental monitoring committee</td>
</tr>
</tbody>
</table>

Table 5.11 Recommendations for Project Life-Cycle Section

5.4.9 Implementation

The implementation section of an IBA has been identified within IBA-focused literature (see Chapter 3.1) and by key informants alike as one of the most important determinants of IBA success. For this reason, implementation is the focus of this dissertation’s next chapter, but is briefly discussed here as a vital component among other IBA sections. Given that this section outlines the governing principles and means of implementing corresponding provisions within an IBA, it must be approached with a critical understanding of community capacity issues. Successful implementation of IBA terms is essential in meeting the stated expectations of signatory communities, and therefore, this section should also outline funding for employment of an IBA implementation coordinator and selection of a joint community-corporate implementation committee. The
coordinator and committee will serve to identify IBA policies that may be challenging to implement within the community and meet regularly to strategize means of addressing these issues while continually tracking and evaluating the success or failure of implementation. This will be accomplished in concert with the IBA liaison officers and will require a dedicated annual review process in addition to the standard dispute resolution mechanisms.

5.5 Chapter Summary

Though it has not provided an exhaustive list of the provisions that should be included within an ideal IBA, this chapter has served to outline a template agreement that reflects many of the important lessons learned from existing IBA community signatories within northern Ontario. The insights presented herein reflect an over-arching goal of outlining what an ideal IBA can provide for communities interested in pursuing local development agendas as they engage with mining firms. This may be accomplished, in part, by improving the process by which mining occurs in communities to resemble a corporate-community partnership. If this essential relationship is established early in the IBA initiation process and maintained throughout negotiation and delivery of IBA provisions, it can serve as a meaningful vehicle toward sustainable community development, while affirming local Aboriginal identities. Furthermore, by tailoring the content of IBA sections to meet significant local needs, these specific provisions will enable mineral development to become an important instrument in achieving community development objectives.
Chapter 6

THE CHALLENGE OF IBA IMPLEMENTATION

The prescription offered in the previous chapter derived from a nuanced and deep understanding of local-level determinants of IBA effectiveness, including IBA implementation, as secured through literature review and field work in northern Ontario. There is a growing body of evidence that agreements are delivering significant local benefits, however many informants cautioned that merely negotiating an agreement will not necessarily ensure positive outcomes; effective implementation is necessary. This chapter provides a closer examination of the challenge of local implementation and describes why it remains one of the most critical determinants of IBA effectiveness. Beyond identifying this challenge and examining its causes, strategies to ensure successful implementation are also presented. Finally, this chapter concludes by reflecting on the potential for IBAs to contribute to local community development.

Implementation of specific provisions and fulfillment of broader project goals was consistently referred to as the “most important and hardest to achieve” part of the IBA process (K.I. 7). Though particular examples of implementation challenges and failures have a range of site-specific causes, the most common difficulties are often rooted in pre-existing local ‘development’ deficiencies. Paradoxically, the range of ongoing issues within northern Aboriginal communities that progressive IBAs can be tailored to address often limit the ability of local practitioners and community members to take full advantage of agreement provisions. Therefore, “everything depends on the ease of implementation” (K.I. 2 emphasis added). The significance of local implementation
cannot be overstated, especially for communities that are desperate for any means to local economic development and poverty reduction (see Chapter 4.1).

Interview respondents stressed that IBA implementation must be assessed in reference to local community needs and interests. Without an appreciation for local deficiencies and corresponding development objectives, the importance of IBAs meeting local community expectations may be overlooked. Some informants noted a disappointing lack of understanding in this regard among mining company representatives and, in some cases, government officials (K.I. 4; 6). Given this potential source of misunderstanding, it is critical that the following implementation issues and challenges are not examined in isolation, but rather as interconnected concerns nested within a complex association of contextual factors, processes, and diverse interests. Figure 6.1 provides a useful conceptualization of this nested hierarchy of influences on IBA implementation success. In particular, regional processes and external interests are identified as significant factors in establishing the local context of access to resources, external relationships, and institutional capacity. These components of local context are identified in this chapter (see Chapter 6.2) as potential causes of weak IBA implementation.
Prior to examining specific cases of limited implementation, it is helpful to clarify the meaning of implementation in this context. As discussed in Chapter 3.1, implementation is a broad term referring to the initiatives and activities required to enact IBA provisions. Furthermore, it is useful to note that these initiatives and activities often include regular monitoring (i.e. data collection and analysis) and periodic review (i.e. efforts to consider the appropriateness of implementation strategies) of implementation success.\(^\text{14}\) Limited

\(^{14}\) See O’Faircheallaigh (2003) for further discussion of the implementation process and typical practice.
success in achieving community development objectives, and these ‘support’ activities, is therefore implied in subsequent use of the term ‘implementation challenges.’

6.1 Areas of Limited Implementation

Recent scholarship has identified a number of IBA implementation challenges common among Aboriginal signatories in hinterland regions. These include issues related to employment and training of community members, making best use of IBA financial and socio-cultural provisions, control over third-party contracts, and ensuring local environmental protection. Invoking these widespread challenges served as a useful starting point in discussing community-specific issues with key informants. The informants identified a broad range of challenges, most of which reflect experiences elsewhere. Table 6.1 provides a brief overview of these concerns. The following subsections are organized according to specific issue-areas apparent within the interview content.

<table>
<thead>
<tr>
<th>Implementation Challenges Identified by Key Informants</th>
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<tbody>
<tr>
<td><strong>General Issues</strong></td>
</tr>
<tr>
<td>Employment and training of community members</td>
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<td></td>
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<tr>
<td>Making best use of financial provisions</td>
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<tr>
<td></td>
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<tr>
<td>Taking advantage of socio-cultural provisions</td>
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<td></td>
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<tr>
<td>Control of third-party contracts</td>
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<tr>
<td>Ensuring environmental protection</td>
</tr>
</tbody>
</table>

Table 6.1 Summarized Implementation Challenges Identified by Key Informants
6.1.1   *Employment and Training*

IBA provisions for employment, training, and educational opportunities are among the most needed within northern Aboriginal communities, yet these are typically areas of minimal implementation. One IBA signatory expressed his frustration this way, “they [the mining company] haven’t, and probably won’t, put any real effort into making it easy for community members to get certified and get a job… they are happy to hire out-of-towners as soon as they have made it look like its our fault for not getting trained, when they promised us jobs” (K.I. 6 emphasis added). Other informants made similar statements, recalling the way mining firms ‘sold’ community members on mining by emphasizing the number of jobs that project construction and operation would bring to the community, but which, in the end, often did not materialize.

While some mining projects in other regions have experienced notable success in achieving local recruitment targets outlined in their IBAs (e.g. Voisey’s Bay, NFLD; Ekati, NWT), many IBA signatories in northern Ontario have experienced employment levels below expectations. One informant explained it this way, “in some (other) places, people are used to heavy industry and that type of work… We are not a mining people; it’s hard to make some people excited about training that much [to obtain industry certification] before even getting paid” (K.I. 4). This statement sheds new light on the range of local cultural factors that may be involved in meeting local employment targets. Likewise, another respondent cited racism among mine employees as a significant barrier to community recruitment.
6.1.2 Financial Concerns

Financial arrangements are often a significant source of unmanageable community expectations and, occasionally, disappointment. Real or perceived implementation issues regarding financial terms of an IBA may be caused by challenges with company delivery or local within-community distribution, or both. Depending on the terms of a given IBA, payments may be diminished by depressed mineral prices, or other variables such as project slow-downs or changing corporate strategies to manage economic crises (see CMJ, 2009). More significantly, timing of transfer payments, royalties, or other project-specific arrangements are typically established prior to the implementation of clear policies to govern their distribution within an IBA signatory community. In this case, IBA funds that may have been allocated for specific local initiatives may be inappropriately used by local community leadership. For example, one key informant noted that council members involved in the negotiation of a recent IBA had “too much freedom” in deciding how IBA funds would be used, while community members were excluded from the early stages of the allocation process (K.I. 7). Though local distribution and use of funds may be beyond the concern of most project developers, failure to appropriately use financial resources to facilitate community development was a significant concern of key informants concerned with local-level implementation.

6.1.3 Socio-Cultural Provisions

As IBAs have become increasingly reflective of local Aboriginal cultures and community priorities, provisions in support of traditional activities and lifestyles are now common. Such provisions may include: financial compensation for traditional hunters and trappers
impacted by mine construction or operation; community-developed education programs to supplement ‘southern’ education offered through local school boards; and funding for construction of community centres or other local celebrations, among others. Respondents identified compensation initiatives as often problematic due to complex application and verification procedures that restrict participation among traditional harvesters. Among community-focused initiatives (e.g. company-funded cultural celebrations), challenges included lack of locally-appropriate resources and communication issues with project planners.

6.1.4 Third-Party Contracts

In some areas, communities have negotiated for local control of service and supply shipments to mine sites. This is often related to the use of seasonal ice roads as well as air charter services in remote northern communities. Two informants noted the local optimism regarding these provisions as revenue-generating support industries, particularly among communities adjacent to regional transportation hubs. In both of these cases, local IBA officers and other practitioners experienced difficulty coordinating supply and service arrangements with third-party contractors. Apart from becoming a drain upon local administrative capacity, communication and other challenges with these service providers led to increased strain between local leadership and the mining company. In one case, this proposed revenue-generating activity exacerbated local tensions among neighbouring Aboriginal communities, resulting in a lengthy dispute-resolution process.
6.1.5 Environmental Protection

Many IBAs provide funding and technical training for local environmental monitoring committees. These community-based monitoring boards are often referred to by practitioners and scholars alike as one of the notable successes of IBA implementation. However, these local institutions are not necessarily used to their full potential in all project settings. Some informants mentioned the valuable service that their environmental monitoring groups had provided as, “a key part of our local protection against the harm mining may cause” (K.I. 9). Others, noting the benefit of mobilizing community members with important traditional knowledge suggested that, “since we have always followed the movement of Caribou through this land… we know that they have been affected by all the road development around there (the mine site)” (K.I. 6). In cases like these, it is clear that local monitoring has detected changes that ‘expert’ environmental analysis may have overlooked. When this occurs, the structure and function of the monitoring board are essential measures for identifying and addressing local concerns.

However, some of the informants expressed frustration about the ability of joint community-company monitoring review committees to fulfill their purpose, “you see, they spend all their time arguing about water and soil samples – if there was or wasn’t certain levels of mercury here before the mine. I don’t care too much about that… Our people depend on the land for traditional game, and we have all seen such a change, but they (scientists serving on the environmental review board) don’t agree and so there isn’t much done to help our hunters and trappers” (K.I. 6). Therefore, the inability of this particular monitoring board to accomplish its intended goals has created additional
community anxiety and damaged local relations with the mining firm, rather than cementing a local-level partnership in the mutual interest of both parties.

6.2 Some Causes of Weak IBA Implementation

The above examples of implementation challenges are based on specific cases and issues identified by key informants questioned about their experiences with IBAs. These issues are not necessarily caused by systemic limitations within the IBA process, but rather are reflective of regional and project specific issues. However, the challenge of IBA implementation remains a significant barrier to achieving local success in contributing to community development objectives. Therefore, key informants were asked to identify relationships, processes, and other local factors that could cause local implementation challenges or failure. This section provides an assessment of some of the most commonly-reported causal factors.

When asked to identify factors that may negatively impact, or restrict, local implementation of IBA provisions, key informants drew attention to three primary groups of issues: access to resources; communication and relationships; and institutional capacity. These particular issues are common in a number of northern Aboriginal communities and, among others, are identified in implementation scholarship (see Chapter 3.1). Figure 6.2 illustrates the relationships between these groups of problematic issues and common local IBA challenges they cause. These drivers of implementation challenges, and specific local issues, are discussed in the following sub-sections.
6.2.1 Access to Resources

Northern Ontario’s isolated Aboriginal communities are among the poorest within the province and face many unique challenges (see Chapter Four). Therefore, local leadership may have tremendous difficulty meeting community members’ basic needs, never mind implementing progressive social programs or other IBA terms. Beyond all other process-related and negotiation concerns, if IBA provisions do not include specific allocation of resources for the implementation of their negotiated terms, “then there’s no point in having the IBA… unless you (the community) can make it work like it’s supposed to” (K.I. 12). Local access to resources is not limited to funding, but includes the need for professional consulting services, information sources, human resources, and valuable support from community leadership and members.
Although this point has been emphasized within the IBA literature and among local practitioners, few IBAs are negotiated in full appreciation of the resources necessary for effective implementation. One informant remarked, “I, and the rest of the negotiation team, wanted to be sure we could actually benefit from this mine… what we should have considered was what it would take to get the community organized” (K.I. 4). Many of the hidden costs associated with implementation include funding for local research, committees, community meetings, and hiring an implementation coordinator. Another informant made the point that these resources will be required in different amounts and at different times throughout the life of a mining project, and therefore informed planning is essential.

6.2.2 Communication and Relationships

The lack of clear communication between mining companies and IBA signatory communities was also identified as a significant barrier to effective implementation. This fundamental issue can create additional challenges among all parties to the agreement and may exacerbate any lack of trust or perceived conflict between signatories. One informant claimed that building and maintaining the relationship between the community and mining company “was the most important issue… since distrust of the company shaped our entire approach, and they knew it” (K.I. 1). The relationship between the community and corporate IBA coordinators was noted as the most significant in determining effective implementation. These two representatives “should be in close contact and meet in good faith to make it (the IBA) work” (K.I. 2).
Key informants also mentioned the growing need for evolved practice and greater access to information among IBA signatory communities. The confidentiality clauses that often restrict access to specific IBA terms (i.e. financial arrangements), however, prevent many signatories from benefitting from the experiences of other Aboriginal communities. While restricting this communication has been described by some respondents as, “blatantly in the sole interest of mining firms” (K.I. 3), others recognize that open access IBAs may dramatically affect inter-community relationships, as conflicts over territorial limits and which communities are most affected by a mine may erupt if the financial terms are made public. Notwithstanding these concerns, informants highlighted the need for increased communication among Aboriginal IBA signatories – if only to share implementation strategies.

6.2.3 Institutional Capacity

Local ‘capacity issues’ were among the most significant issues identified by respondents as barriers to the long-term implementation of IBA terms. In this sense, local institutional capacity refers to the ability of communities to respond appropriately to a number of attention-demanding issues without denying due consideration to any one. For example, during the recent commodity boom many Aboriginal communities in northern Ontario faced tremendous interest in mineral development within their traditional territories. During this time, some communities were overwhelmed with tactical decision-making amid pre-existing issues and thereby sought to ‘survive’ rather than direct energy and attention toward long-term strategic interests such as community land use planning or developing a community mineral policy. Though planning activities to make an informed decision about supporting local mineral development are necessary, there was not enough
institutional capacity to accomplish this goal. Similarly, many Aboriginal communities lack the administrative capacity to manage existing government funding for local education programs, or other vital socio-economic issues, and could not expect to effectively implement an IBA.

This set of issues is closely linked to local access to resources, as many Aboriginal communities depend on a small staff team to manage local governance challenges. Key informants were often frustrated that their “IBA was not reflective of real capacity limitations within the community” (K.I. 7). Areas of significant capacity limitations mentioned by informants include: community leadership; social services; health care; education; and resource management. In communities struggling to manage this range of basic issues, it is likely that IBA implementation will be a significant challenge. In such cases, it is common for the limited number of professionals responsible for implementing IBA terms to suffer from burn out, leading to a high level of local turnover within band offices – further reducing IBA implementation.

Although one informant referred to the relationship between the mining company and community as the soul of an IBA (K.I. 3), the effectiveness of its implementation is the best indicator of the vitality of an agreement. By assessing the range of local issues and challenges that have hindered IBA implementation in a variety of signatory communities in Ontario, three critical underlying issue-areas have been identified. These fundamental issues, when closely examined, are instructive in developing a framework for effective IBA implementation. The following section draws upon these insights to outline
suggestions to facilitate local implementation of IBA provisions, with a view to meet community development objectives.

6.3 (Re)Designing IBAs for Effective Implementation

As a vital determinant of IBA effectiveness, successful implementation of negotiated provisions has yet to receive much critical scholarly attention. The key informants interviewed during this research identified a variety of limitations to local-level implementation of IBA terms. These limitations, and associated origins, represent a significant barrier to IBA effectiveness, even if other determinants of success (e.g. community-sensitive engagement process and locally-relevant IBA content) are established in recognition of local development objectives. Since the effectiveness of IBAs largely depends on their implementation, it is critical that IBA implementation measures are deliberately reflective of local community expectations, needs, and limitations.

To accomplish the goal of effective local implementation, three key principles have been identified in response to the causes of weak implementation discussed in section 5.2. These include greater access to resources, better communication and emphasis upon fostering relationships with the mining company, and increased commitment to recognizing and improving community capacity issues. Although these basic principles are essential for effective implementation in any community context, this section expands upon these principles to present five specific strategies for local implementation success.

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15 Aside from passing reference to the significance of local implementation in IBA literature, O’Faircheallaigh (2002, 2003) provides the only analytical treatment of this important issue.
in Aboriginal communities across northern Ontario. Figure 6.3 illustrates the crucial role that these recommendations play in ensuring effective implementation of IBA provisions, with a specific focus on delivering benefits that will promote local community development. This figure draws upon the identification of community attributes and context as vital determinants of IBA implementation success earlier in this chapter to demonstrate the linkage between effective implementation and different community development trajectories. Additionally, this figure shows the important role that can be played by dissemination of IBA implementation strategies.

![Figure 6.3 Impacts of Successful vs. Limited IBA Implementation](image)

Figure 6.3 Impacts of Successful vs. Limited IBA Implementation

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16 The recommendations presented herein have been developed in an attempt to maintain regional and local relevance, while recognizing the limitations of such an approach. Although tailored to the specific needs and community development interests of Cree communities in the James Bay lowlands of Ontario, it is hoped that these recommendations hold insights for Aboriginal communities struggling to implement IBAs elsewhere.
Incorporating these strategies in the early stages of implementation planning (during IBA negotiation) will have a significant impact on local community development trajectories. The following sub sections describe five such implementation strategies while providing insight to their practical application in northern Ontario’s Aboriginal communities.

### 6.3.1 Follow-up and Enforcement

Many informants identified the lack of mechanisms to ensure adequate follow-up or ‘teeth’ in IBA implementation plans as one of their greatest weaknesses. In the past, few IBAs included such stipulations and the only available option for signatories offended by a breach of an agreement was to pursue litigation. Such action, if pursued by either the proponent or Aboriginal community, could lead to unfavourable outcomes considering the financial and relational costs of adversarial legal action. In light of these deterrents to legal action, the absence of rigid enforcement measures has been a significant limitation of previous IBAs. To address this limitation, specific steps must be taken to ensure the structure of implementation plans include protocols to hold all parties accountable to the terms of the agreement. These should include the creation of a joint proponent-community implementation review committee to assess implementation success and publish annual reports to identify challenges and build upon achievements. This committee should also coordinate with the dispute resolution board (see Chapter 5.4.7) to enforce sanctions, penalties and other measures put in place to ensure full participation of all parties to the agreement. Table 6.2 summarizes important recommendations for an IBA enforcement policy.
### Increasing IBA Follow-up and Enforcement

**Coordinating with Existing IBA Content**
- Implementation subsection included as a component of the policies and provisions outlined in the communication and dispute resolution chapter
- Clear delineation of responsibilities between dispute resolution committee and implementation review and monitoring committee
- Development of a ranked classification of actions (or inaction) that will constitute a breach of the agreement, a cause for an official warning issued to the other signatory, and a topic for close monitoring
- Community informed of responsibility to utilize IBA dispute resolution and implementation committees at first information session scheduled following IBA ratification

**Policies Dedicated to Effective Implementation**
- Hiring of a community IBA implementation coordinator
- Establish joint implementation review and monitoring committee (chaired by community IBA implementation coordinator)
- First duty of committee will be to categorize all IBA provisions according to negotiated implementation timeline and develop monitoring strategy for each term
- Committee to perform quarterly monitoring of implementation progress and produce annual report for dissemination to signatories and community members
- Implementation coordinator and committee members given authority to call meetings to review individual cases of implementation failure or signatory member grievances
- Committee recommendations must be reviewed by IBA dispute resolution committee

### Table 6.2 Recommendations for IBA Follow-up and Enforcement

Some IBA signatories have included specific implementation plans within the *first* chapter of their IBA to firmly establish a high level of commitment from the outset. This is likely in response to a growing trend towards revisiting and amending IBAs. Some informants noted that this seemed to be a natural part of that IBA process, as local lessons are learned and relationships developed. Others have cautioned that “even having IBA amendment as an *option* has shifted the attention of some signatories toward dealing with important issues later… We want to make our IBA work *now*” (K.I. 12 emphasis added).

Whatever the approach taken regarding amendment and review, it is essential that
mechanisms are put in place to increase mutual accountability and commitment to implementing IBA terms, among all signatories, not solely mining companies.

6.3.2 Allocation of Professional Resources

In order to successfully meet the challenge of local implementation, IBAs must provide specific funding for hiring implementation coordinators within signatory communities. Though this has become common practice, these individuals are regularly overwhelmed by the range of tasks and responsibilities that must be completed. To address this critical issue, it will be essential for IBA signatories to carefully assess the professional resources required for successful implementation and remain committed to adequately funding these positions. Such resources, however, are not limited to one or two IBA implementation practitioners, but may include recruitment of local volunteers, part-time staff and other assistants required to meet specific project goals (e.g. to assist with local hiring campaigns or community meetings). Though difficult to foresee every specific need, it will be beneficial for all signatories to plan for potential resource needs throughout the life of the agreement, anticipating different needs at different times. Table 6.3 provides guidelines for effectively assessing and meeting community resource needs.
Improving Allocation of Professional Resources

| Coordinating with Existing IBA Content | • Sub section within financial provisions IBA chapter to provide funding for institutional capacity development (staff and training)  
• Further provisions for contracting private consulting services to advise and equip implementation coordinator  
• Delineation of funding arrangements for hiring external mediators and counsel during dispute resolution processes |
| Planning for Professional Resource Needs | • IBA implementation coordinator to assess need for part-time assistance during busy times and present request for funding to implementation committee at quarterly meetings  
• Identification and hiring of local (preferred) or external support staff  
• Establishment of professional resource sharing policy between signatory community and proponent (access to skilled in-house consultants and technicians)  
• Development of strategic partnerships with regional/national mineral industry and activist associations (e.g. PDAC, MAC, Mining Watch Canada) and universities/research institutions to host/attend conferences and participate in studies in the interest of improving access to expert information and developing networks of IBA practitioners |

Table 6.3 Recommendations for Allocation of Professional Resources

6.3.3 Communication and Relationship Building

The significance of effective and appropriate communication among signatories has been emphasized throughout this chapter, as a cause of limited implementation when relations are poor, and a determinant of success. This is one of the most significant factors in ensuring successful implementation of IBA terms, and deliberate attention to this important issue will ease the entire IBA process. When engaging Aboriginal signatories, it is particularly vital that communication be culturally-appropriate and efforts are made to establish and maintain a positive working relationship. This has been accomplished in other cases by efforts to clearly communicate project goals and anticipated local impacts early on in the negotiation phase, and by fostering a partnership-oriented working relationship through regular meetings between community and mining company representatives. Often, a positive relationship between community implementation
coordinators and their corporate counterparts will facilitate implementation success. Therefore, it is useful to establish a larger implementation committee composed of community members and company representatives, which meets quarterly, to oversee implementation progress and address any outstanding issues. To maintain local involvement and transparency, this committee should hold annual community-wide meetings with residents, and report to private stakeholders to report on local successes and ongoing challenges. Beyond the planned actions of specific implementation officers and committees, it is vital that all official communication between signatories be sensitive to local cultural norms, community interests, and concerns. Table 6.4 provides an overview of key recommendations for effective communication and relationship building among IBA signatories.

<table>
<thead>
<tr>
<th>Improving Communication and Relationship Building</th>
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<tbody>
<tr>
<td><strong>Coordinating with Existing IBA Content</strong></td>
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<tr>
<td>• Drawing on the lessons learned from negotiating the communication and dispute resolution chapter, the implementation committee will identify and agree to protocol for maintaining a respectful working environment</td>
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<tr>
<td>• In the spirit of establishing a partnership ethic among committee members, the committee will review the terms and provisions of the IBA to identify clauses that may be challenging for the other party to implement and share potential strategies for meeting mutual goals</td>
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<tr>
<td><strong>Planning for Strong Relationships</strong></td>
</tr>
<tr>
<td>• Weekly meetings between the community IBA implementation coordinator and company counterpart(s)</td>
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<tr>
<td>• Assessment and monitoring of community-company relationship to be included in annual report produced by implementation committee</td>
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<tr>
<td>• In separate sessions, community and proponent representatives from the implementation committee meet to identify meaningful activities or services they could provide for the other signatory in the interest of relationship building</td>
</tr>
<tr>
<td>• Establish information and technology sharing policy between community employees (i.e. implementation coordinator) and proponent to equip community offices with second-hand hardware and software</td>
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</tbody>
</table>

Table 6.4  Recommendations for Communication and Relationship Building
Many proponents have demonstrated their commitment to fostering local relationships by providing Aboriginal communities with access to their various resources. For example, one company provided signatory community members with helicopter transportation to traditional harvesting sites along routine flight paths. Other cases of sharing professional resources or specialized equipment have served to complement policies of clear communication and relationship building among key signatory representatives. Taking deliberate actions to promote communication and relationship building will pay dividends throughout the IBA and project life.

6.3.4 Meeting Community Capacity Needs

Helping communities achieve their capacity needs, which is a crucial element of successful IBA implementation, has rarely been addressed in previous IBAs. Many agreements have therefore failed to live up to the expectations of Aboriginal signatories, thereby causing increased local tension, and even protests and project slow-downs. To enable signatory communities to make the most of IBAs, significant effort must be put into negotiating the content of these agreements with a view to addressing local socio-economic needs and challenges. Likewise, attention must be paid to identifying local issues that may hinder implementation of IBA provisions (e.g. employment targets and training programs). Though a variety of site-specific socio-economic issues may affect such programs, a thoughtful survey of community issues conducted by social researchers aided by local students and available elders would be a useful tool in identifying potential challenges. Such a forecast can be used to attentively tailor the local implementation plans and process to local needs, as well as broader project-related local goals. Table 6.5 outlines objectives for the community capacity survey and methods for incorporating this
data into specific content of the implementation chapter. By addressing these local capacity issues, community-based IBA implementation plans will enable future IBAs to be much more effective than those negotiated without such attention to local needs.

<table>
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<tr>
<th>Meeting Community Capacity Needs</th>
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<tr>
<td><strong>Coordinating with Existing IBA Content</strong></td>
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<tr>
<td>• Implementation committee will draw upon insights of survey conducted as part of the community well-being chapter to identify particular local socio-economic conditions or other capacity needs that may impact successful implementation of IBA terms</td>
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<tr>
<td>• If deemed necessary by implementation committee, conduct additional survey with community wellness coordinator to specifically focus on identifying local factors that may negatively affect implementation</td>
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<tr>
<td>• Incorporate any additional expressed concerns and interests of community members into existing community wellness monitoring activities</td>
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<tr>
<td><strong>Identify and Address Local Needs</strong></td>
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<tr>
<td>• Review results of community surveys and monitoring updates during implementation committee quarterly meetings to identify and classify local issues as emerging, persistent, or declining</td>
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<tr>
<td>• Identify key areas affecting implementation of IBA provisions that will benefit from short and long-term capacity development efforts</td>
</tr>
<tr>
<td>• Identify and partner with relevant interest groups, private associations, and government ministries to focus external attention on issues that will have compounding local benefits</td>
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<tr>
<td>• Include capacity development efforts in annual monitoring and reporting duties of implementation committee</td>
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</table>

Table 6.5 Recommendations for Meeting Capacity Needs

### 6.3.5 Clear Goal Identification

Throughout the IBA negotiation and implementation processes, it is essential to have the full commitment of all signatories in working towards clearly-identified goals. This may necessitate re-visiting certain IBA provisions to clarify intangibles as well as outlining specific responsibilities for implementation. A clear delineation of implementation processes and lines of responsibility will avoid confusion and enable the appropriate use of enforcement and dispute resolution measures if a party fails to meet specific commitments. Additionally, goal identification is essential in securing the political
support of key local actors within the community and broader legitimating support from interest groups, private associations, and government officials capable of aiding local implementation efforts. Table 6.6 outlines important goals, objectives, and responsibilities that are essential to clarify for effective implementation of IBA provisions.

<table>
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<tr>
<th>Clarifying IBA Goals and Objectives</th>
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<tr>
<td>Coordinating with Existing IBA Content</td>
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<tr>
<td>Planning for Clarity and Cooperation</td>
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Table 6.6  Recommendations for Clarifying IBA Goals and Objectives

These parties must also accept and recognize the significance of local implementation in securing broader community development objectives. Such support can provide additional resources to communities in need of many forms of assistance (i.e. increased cooperation with regional development agendas may secure a receptive audience among provincial decision-makers). Clear definition of community goals will, in this case, enable the use of a broader range of means to meet such ends.
Following the above recommendations will help facilitate effective local implementation of IBA provisions. Some informants also noted the need for effective communication of project goals, and specifically implementation plans, among community members. Often intangible community resources can be mobilized towards achieving local goals “if people see themselves as an important part of what is happening in their community” (K.I. 2). It is clear that most of the impediments to effective local implementation are “both obvious and within the control of parties to the agreements” (O’Faircheallaigh, 2003:13). Therefore, well-conceived and enforceable implementation plans will enable communities to avoid many of the pitfalls of past community-company relations and maximize the terms of an IBA.

6.4 Chapter Summary

Implementation of specific IBA provisions and broader objectives has been identified within IBA-focused scholarship and this research as an essential determinant of IBA effectiveness. This is an area of agreement-making that has historically limited the success of community-corporate relationships and has recently led to community protests and other conflicts when local expectations have not been met. The experience of many key informants suggests that it can be more difficult to implement an IBA than to negotiate it. With this significant challenge in view, the practical recommendations in this chapter provide a means to enhance the implementation of IBAs and with the aim of securing positive local outcomes. However, this will not happen easily; rather it requires effective local mechanisms reflective of community limitations and existing development needs to be put in place in order to enforce signatory commitments to implementation.
Chapter 7
SUMMARY AND CONCLUSION

This final chapter serves to summarize the research, explicitly identify its contributions, and consider future related research needs. These three tasks are undertaken in the following three sections.

7.1 Thesis Summary

Although mining has been a significant source of economic development in northern Ontario for over a century, the negative impacts of mineral development upon Aboriginal communities proximate to a mine site have rarely been addressed. In many cases, Aboriginal communities have received limited or no benefits from mining activities while suffering long-lasting environmental and socio-economic impacts. In recent years, however, the emergence of IBAs negotiated between mining firms and would-be impacted Aboriginal communities has been cautiously celebrated as enabling improved impact mitigation and increased local capture of benefits. While improved outcomes have been substantiated by preliminary assessments of IBA effectiveness (e.g. Prno, 2007), some IBA-supported mining projects, like DeBeers Canada’s Victor mine in northern Ontario, have recently met with community protests that reflect adversarial proponent-community relationships of old.

It has been argued, herein, that the limited success of some IBAs has been caused by incomplete IBA implementation coupled with a failure to identify and address Aboriginal signatory’s implicit expectations of an IBA-supported mine project regarding its contributions to long-term community development. Hence, this thesis sought to
formulate an ideal IBA, in the specific context of northern Ontario, that, by being sensitive to Aboriginal cultural interests and development expectations, could be used to promote Aboriginal communities’ development objectives. To accomplish this aim, three related objectives were pursued:

1) identify and describe the current context of mineral development in northern Ontario;
2) formulate an ideal IBA, based on Aboriginal expectations regarding IBA process and content; and
3) identify and address the primary challenges to implementing such an IBA.

Chapter Two provided an outline of the research approach used to complete each of the thesis objectives. The first objective was fulfilled by reviewing scholarship focused on, and broadly related to, IBAs; a summary of this review was offered in Chapter Three. Chapter Four sought to describe the current context of mineral development in northern Ontario based on document review and field surveying. It concluded by arguing that IBAs have significant potential to address many of the Aboriginal community development challenges that have not been solved via conventional means.

In order to formulate an ideal IBA and thereby fulfill the second objective of the research, insights from existing scholarship and document review were complemented with empirical data from key informant interviews, participant observation, and an IBA practitioner workshop. Interview responses from key informants provided a wealth of knowledge that was used to identify community interests and concerns associated with mineral development, and challenges related to IBAs. General principles and specific recommendations for establishing an ideal IBA process and IBA content were developed.
and presented in Chapter Five. This attention to process as well as content was predicated on the belief that developing and maintaining positive corporate-community relationships is as significant to Aboriginal signatory communities as are specific IBA terms and provisions. These relationships can be established by including community consultation protocol within the agreement, and by negotiating in good faith specific IBA provisions of community interest. In terms of IBA content, the key provisions of an ideal IBA include: an explicit and unambiguous purpose statement, financial provisions that empower signatory communities, planning for practical training and strategic employment, terms to equip and strengthen local business development, means to enhance environmental protection, provisions for fostering community well-being, processes and tools to facilitate effective communication and dispute resolution, project life-cycle considerations, and advanced implementation planning. These IBA provisions are vital to addressing the expectations of signatory communities in securing increasingly equitable outcomes of mineral development; and, more specifically, achieving community development objectives.

As revealed in existing scholarship and through the key informant interviews, it was strikingly evident that many existing IBAs include provisions that their Aboriginal signatories do not have the capacity to successfully implement. Accordingly, the third thesis objective was fulfilled in a separate chapter focused on identifying and addressing IBA implementation challenges. It was generally found that these challenges are caused by inadequate access to resources, poor communication and relationships, and limited institutional capacity within signatory communities. Though pervasive, each of these
issues can be overcome by utilizing a proactive approach to IBA implementation, which essentially requires the inclusion of specific capacity development provisions in an IBA.

While reports of positive local mineral development outcomes are becoming increasingly common as Aboriginal signatory communities utilize IBAs to better mitigate impacts and deliver increased benefits, the negotiation of an agreement will not necessarily secure long-term improvement in local conditions. This research suggests that, if developed in recognition of particular local context and community interests, and effectively implemented, IBAs can serve as instruments of community development and mutual benefit for project developers and their Aboriginal partners; and this constitutes a significant improvement from mining’s exploitive history in the north.

7.2 Contributions of the Research

This research has arguably generated a number of both scholarly and practical contributions. These are outlined in the next two sub-sections.

7.2.1 Scholarly Contributions

This research contributes to scholarship focused on 1) IBAs; 2) Aboriginal culture and economic development; 3) socio-economic impact assessment; 4) the vulnerability approach; and 5) mineral development debates.

This research sought to contribute broadly to the still nascent scholarship on IBAs, and more narrowly to the study of IBA effectiveness. Four previous assessments of IBA effectiveness (Dreyer and Myers, 2004; Hitch, 2005; NSI, 2006; Prno, 2007) offered
insight into the relative effectiveness of individual agreements in delivering benefits to impacted communities. However, the inability of these assessments to account for ongoing community protests and frustration with IBAs that appear to be meeting their stated objectives suggested the need for a broader understanding of IBA effectiveness. This research provides an innovative approach to IBA effectiveness by conceptualizing what an ideal IBA could accomplish in terms of meeting signatory interests and expectations for community development. Furthermore, the template IBA developed herein contributes to the IBA implementation literature by providing contextually-sensitive recommendations for effective implementation of IBA provisions.

This research represents an important linkage between IBA effectiveness literature and that focused on Aboriginal economic development. Within that literature, considerable attention has been given to identifying ways in which various forms of industrial development may affect traditional Aboriginal cultures. Of these, mineral development is commonly regarded as one of the most detrimental due to the significant environmental, socio-cultural, and economic changes associated with mining. This thesis largely confirms this conventional view, noting the prevalence of ill-addressed socio-cultural impacts in some IBA signatory communities. However, the thesis also suggests that IBAs that are sensitive to particular community interests and concerns (e.g. socio-cultural protection) have the ability to mitigate negative impacts and provide culturally appropriate benefits. Evidently, further assessment of IBA outcomes in Aboriginal signatory communities is needed to validate this argument.
Similar to the Aboriginal economic development literature, socio-economic impact assessment (SEIA) scholarship seeks to assess many of the intangible effects of project development upon nearby communities. This research has drawn attention to a significant limitation of typical SEIA practice; mine project developers and their contracted researchers conducting community assessments often fail to fully appreciate the significance of local social impacts and over-estimate the potential local economic benefits of mining. Furthermore, since many Aboriginal communities do not have the capacity to conduct a self-assessment prior to engaging in IBA negotiation, community representatives may be ill-informed during this vital process. This research suggests that community protests and frustration associated with poor IBA performance may, in some cases, be caused by inadequate SEIA prior to IBA negotiation. Alternatively, an ideal IBA will draw heavily upon culturally-relevant SEIA to include appropriate socio-cultural provisions.

The vulnerability literature provided a number of useful approaches that were essential in identifying and describing the dynamic mineral development context that Aboriginal communities in Ontario exist in. Utilizing concepts such as exposure, adaptive capacity, resilience, and transformability when conceiving of an ideal IBA was not only helpful but also solidified an important linkage between IBA scholarship and vulnerability literature. This research supports the widely held view that local social capital is a fundamental asset in remote communities seeking to adapt to changing economic and environmental conditions. While significant in developing this largely conceptual research, the vulnerability approach will undoubtedly be incorporated into future assessments of IBA
effectiveness. Broad questions raised by this thesis will contribute to the further use and development of vulnerability concepts. For example, has the ill-informed negotiation of some IBAs relegated communities to the position of ‘powerless spectators’ in Fabricious et al.’s (2007) classification system? Or, are IBAs contributing to the adaptive capacity of Aboriginal communities?

Finally, this research makes contributions to the literature associated with the resource curse and sustainable mining debates. While much of the resource curse literature refers to analysis of resource rich regions that suffer from high income disparity and social ills within impoverished nations, this research reports on poverty-stricken communities within a wealthy nation. Although Keay (2007) argues that Canada has escaped the resource curse, the practical context described in Chapter Four clearly includes resource rich northern Aboriginal communities that suffer from a terrible case of the blight. That said, this research also suggests that, if these communities negotiate an ideal IBA, affected communities can make use of their natural resource endowment to achieve long-term community development objectives. With respect to emerging scholarship focused on sustainable mining, advocates of the concept have argued that mineral development can serve as a temporary driver of long-term economic stability via local re-investment of a portion of mineral rents and selective hiring practices, among other strategies. While such policies may prove successful in some situations (e.g. peri-urban mine locations, or where opportunities exist for economic diversification), the results of this research suggest that northern Aboriginal communities would not fare well unless similar provisions are included as a part of a comprehensive ideal IBA. Importantly, IBAs can
function as a means of requiring project proponents to fulfill their elaborate corporate social responsibility (CSR) principles or sustainable community development rhetoric. By elevating the standard of IBA practice and thereby requiring improved community-corporate relationships, this research makes a contribution to the sustainable mining and CSR literature. Lastly, by providing a normative standard of how corporate-community relationships ought to work in the mutual interest of both parties, it is hoped that this thesis will aid Aboriginal communities in making the most of future agreements.

7.2.2 Practical Contributions

The research presented herein has sought to identify and address a range of challenges and limitations of IBAs from the perspective of their Aboriginal signatories. While rooted in academic scholarship, this thesis has significant practical value in four related areas:

1) it provides an innovative conceptualization of what an ideal IBA could accomplish in Aboriginal communities;

2) it provides a template IBA with practical recommendations for achieving community development ends in impoverished Aboriginal communities;

3) it outlines an approach to resource development that may be transferrable for other forms of industrial development in Aboriginal traditional territories; and

4) it provides an assessment of regional context and interests that will be useful for project proponents and policy makers to gain additional insight into IBA and broader mineral development issues from the perspective of Aboriginal communities.

In formulating an ideal IBA, this thesis sought to provide an innovative means of assessing and improving IBA performance. The opportunity to conceive of an agreement that could facilitate long-term community development in impacted Aboriginal communities is a luxury many practitioners and community leaders can not afford. The
responses of some key informants indicated that most IBAs are commonly viewed as a means of securing improved local outcomes compared to the exploitive practices of the past, yet few have conceived of the significant potential of these agreements to thoughtfully meet local community development needs. With the end-point of an ideal IBA in view, Aboriginal community leaders can more effectively negotiate for IBA provisions that will ensure long-term community benefits.

This thesis provides a contextually-grounded template IBA with important recommendations for Aboriginal communities interested in supporting local mineral development. More specifically, this research has identified causes of limited success in other IBAs and presents strategies to develop IBA process, content, and implementation plans in a manner that will facilitate community development. The practical recommendations presented herein reflect an understanding of Aboriginal signatories’ frustration with existing IBAs, and especially their failure to meet community interests and expectations for long-term community development. Far from suggesting the embrace of ‘standard’ IBA provisions, this research enables would-be impacted communities to take advantage of the limitless potential of IBAs to meet particular local needs.

The community development-oriented approach to resource development described herein also has practical value for Aboriginal communities faced with proposals for other industrial development within their traditional territories. The practical context of northern Ontario described in this thesis focused on the mineral sector, but there is
significant interest in wind and hydro energy, forestry, and other development that will likely impact northern Aboriginal communities. Chapter Five outlines specific principles and recommendations for establishing an empowering consultation and development process that affirms local identities while building expertise. By using IBA provisions to enable capacity building among local institutions and governance systems, this research exemplifies a development approach that will have compounding benefits within the dynamic context of contemporary northern Ontario.

Finally, the assessment of Ontario’s mineral development context provided by this thesis was a fundamental step in formulating an ideal IBA. However, the contextual insights presented in Chapter Four have additional practical value for project developers and policy makers. This research explicitly identified Aboriginal interests and concerns related to traditional culture, socio-economic conditions, the history of mineral development in Ontario, and contemporary policy and company practice. Although implicitly referred to elsewhere, these interests and concerns have yet to be thoughtfully incorporated into Provincial mineral development regulations or company practice. The contextual assessment presented in this research will be useful for project proponents and policy makers to gain additional insight into IBA and broader mineral development issues from the perspective of Aboriginal communities.

7.3 Future Research Needs

The research presented herein has sought to identify the current context around mineral development in northern Ontario in order to formulate an ideal IBA for the region that
could be used to achieve the community development objectives of Aboriginal communities. In meeting this aim, a number of complementary research needs and questions were identified. Most significantly, and building on the arguments of Prno and Bradshaw (2008), this research points to the need to develop a systematic approach for the long-term assessment of IBA effectiveness, which is meaningful to Aboriginal IBA signatory communities themselves and can measure community change from a pre-IBA baseline. This is an important, but methodologically complex task, and will require early commitment to the research prior to IBA negotiation. There is considerable potential for such a project in northern Ontario, as many Aboriginal communities are currently engaging with project developers to develop positive relationships. For example, both Moose Cree and Taykwa Tagamou First Nations recently signed memorandums of understanding in support of the proposed Detour Gold Mine, and will soon be negotiating IBAs. A long-term assessment using a case study such as this would be of significant value, and would benefit from the previous IBA experience of Moose Cree First Nation staff.

While the contextually-sensitive ideal IBA presented in this research is a significant contribution to the IBA effectiveness literature, complementary IBAs designed to meet the needs and expectations of Aboriginal communities in other regional contexts would be useful. If possible, the completion of a nation wide file reflective of different Provincial and Federal mineral development frameworks and regional Aboriginal contexts would be of tremendous practical value to Aboriginal community practitioners, government policy and program analysts, and mining project developers alike.
Additional refinement of the research approach is needed. Future research would benefit from hosting a multi-day workshop with IBA negotiators and implementation coordinators from the Mushkegowuk Council First Nations and other IBA signatory communities in Ontario. At such an event, it would be possible to gain further insight into many of the IBA challenges experienced by these signatory communities, and develop practical strategies to address them. This type of workshop was envisioned early in the research, but was not possible due to scheduling and funding issues.

This research has also identified other, broader, research questions regarding the ideal use and function of IBAs. For example, what would an ideal IBA look like for project developers? Lapierre (2008) has assessed corporate motivations for entering into IBAs with Aboriginal communities, but further research based on linking her conclusions with the concept of an ideal IBA presented here could lead to more successful IBA outcomes for all parties to an agreement. This line of thought leads to even broader questions: what is the ideal role for Provincial and Federal government in IBAs? Some key informants suggested that IBAs will continue to suffer from limited implementation, particularly with respect to employment and business development provisions, until governments allow special concessions for IBA signatory communities. Might government involvement in IBAs, perhaps to assist in IBA implementation, lead to better long-term outcomes for all? Though further research is needed to clarify how IBA signatory communities would benefit from government participation, preliminary research indicates that there is local interest in some form of government involvement. Future
research into these, and related, questions will advance the study of IBA effectiveness and assist Aboriginal communities secure increasingly equitable outcomes from mineral development.
Chapter 8

BIBLIOGRAPHY

8.1 References Cited


Development. Minister of Public Works and Government Services Canada: Ottawa.


### 8.2 Statutes Cited


*Mining Act* R.S.O. 1990. Ch. M 14

*Sahtu Dene and Métis Land Claim Settlement Act*, S.C. 1994, c. 27.

APPENDIX A: KEY INFORMANT INTERVIEW GUIDE

A) Introduction

- Brief introduction of myself
- Brief introduction of my research and affiliation with the University of Guelph
- Assure confidentiality and opportunity to withdraw from participation at any point during the research. Request signature and offer copy of consent form (if applicable)
- Ask their permission to use voice recorder

B) Questions

1) What has been your experience with mining in the past?
   (Responding with follow-up questions when appropriate)
   a. Have you heard of any recent mineral development on, or near, Aboriginal traditional territories? Have you been involved in any way with development nearby?
   b. Has mining’s history in Ontario impacted your view of mineral development? How have previous mining projects impacted your community or those you know of?
   c. How would you characterize the past regulatory regime in Ontario?

2) What are your expectations for current/proposed mining developments in Ontario? How have/are things changing?
   (Responding with follow-up questions when appropriate)
   a. Have you seen any changes in the way mining companies interact with communities? Are these changes positive?
   b. If a mining company wanted to begin a project in your community, how would you want them to approach you? What would be your reasons for embracing/rejecting a project?
   c. Aside from these positive aspects, are there any specific concerns that you may have about mining within Ontario?
   d. How would you characterize the current regulatory regime in Ontario? How do you expect it to change in the future?

3) What would you expect an IBA to deliver/accomplish within this context for local communities, and on a broader scale?
   (Responding with follow-up questions when appropriate)
   a. Describe your experience with Impact and Benefit Agreements
   b. Why would you pursue an IBA? Why not?
   c. Have you heard of other communities in Ontario that have had positive experiences with IBAs? Any negative ones? What caused these outcomes?
   d. Do you have any specific concerns/interests related to a present or future IBA?
C) Conclude Interview

- Again, remind key informant that their participation is voluntary and they may withdraw at any point, and any comments can be omitted at a later date
- Request information for other potential informants they know of
- Thank them for participating
APPENDIX B: ASSURANCE OF PARTICIPANT CONFIDENTIALITY FORM

Brief Project Description

My name is Peter Siebenmorgen and I am a graduate student in the Department of Geography at the University of Guelph located in Guelph, Ontario. I am conducting research regarding the effectiveness of Impact and Benefit Agreements (IBAs) under the supervision of Dr. Benjamin Bradshaw. The focus of this research is upon community interests and concerns related to mineral development and assessing local outcomes of IBAs.

Assurance of Confidentiality

You are in a unique position to comment upon the range of local interests, concerns, and perceptions related to mineral development and IBAs in this community. If you choose to participate, it would involve an interview that would take about one hour of your time. You are under no obligation to participate and may withdraw from the interview at any time. With your permission, the interview will be digitally recorded to ensure accuracy. Following transcription, a copy of the interview will be provided to you for revision and editing if necessary. The recording of the interview will be destroyed following the conclusion of the study to ensure confidentiality of your responses. There are no significant risks associated with this study and all statements will remain confidential; you will never be personally identified. I will be presenting the results of this study in a community meeting format, please indicate if you are interested in attending so I may mail an invitation once the date is determined. Otherwise, please feel free to contact me or my supervisor Dr. Benjamin Bradshaw to obtain a copy of the results of this research.

Consent

I agree to participate in this study, which has been explained to me. I have been given an opportunity to ask questions about the purpose and other aspects of this research. I understand that any and all responses that I provide will be kept confidential. I am under no obligation to participate and may retract any statements and withdraw from this study at any time.

Name of Participant (please print) ________________________________

Signature of Participant/Guardian ________________________________

Date __________

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APPENDIX C: SUMMARY NOTES FROM IBA IMPLEMENTATION WORKSHOP

Learning Together Case Study Session April 8 & 9, 2009
Attendance: 11 (April 8)
Attendance: 18 (April 9)

Introduction by Dr. Ben Bradshaw (www.impactandbenefit.com)

- Description of emergence of IBAs as filling a ‘gap’ left by EA regulations
- Outline of typical terms of IBAs (but not limited to the following):
  - Direct ‘compensation’ funds or
  - Profit-sharing arrangements
  - Preferential employment
  - Educational opportunities
  - Skills training
  - Other community-specific cultural/traditional terms based on local needs and interests
- Challenge of negotiated terms vs. implementation? It appears that the real challenge of IBAs may be meeting the local capacity needs, and implementing terms according to these needs and expectations. The Vale/Inco IBA appears to be one that continues to be successfully implemented.

Presentation by Theresa Hollett (Nunatsiavut Government IBA Coordinator)

Slide 1) Title/Introduction

Slide 2) IBA signing date and key components

- The Labrador Inuit Impact and Benefit Agreement came into effect on July 26, 2002. Preliminary discussions had started with Diamond Fields Resources in 1994. The fact that there was an IBA signed was significant because we did not have a signed Land Claim Agreement at the time. It was recognized that both Labrador Inuit and the Innu had rights to the area. Our beneficiaries had the opportunity to vote on and ratify the agreement. This process was finalized in June of 2002 which gave us the go ahead to sign the IBA.

- There are sixteen sections within our IBA and I will do a general overview on eight of them here today. There is a “Shipping Section” within our IBA but we have a separate Shipping Agreement, so we have two agreements.

Slide 3) Outline of IBA contents/chapters

Slide 4) Inuit Education and Training
• To have a good, qualified work force, our people should complete high school and do either short or long term post secondary education. Some of the initiatives that Vale Inco participate in for our youth are career counselling activities in school such as career fairs, promote stay-in-school activities, and bring groups of students to the mine site for a few days. When the students visit the mine site, they each get an opportunity to work in various career fields to give them an idea of what the career involves. For the Heavy Equipment operations, the students are invited to ride in the piece of HE that interests them.

• Vale Inco, as part of our IBA, offer scholarships for students going on to Post-secondary education. One scholarship is worth $4,000 over a four-year period. Five additional Vale Inco scholarships valued at $1,000.00 each for a High School Student in each Inuit Community, i.e. Nain, Hopedale, Makkovik, Postville, Rigolet may be awarded as well. This is a yearly effort and Vale Inco Aboriginal Affairs staff visit the schools in each community at least once a year to promote these scholarships.

• Every summer, Vale Inco has various summer student positions available. Inuit students, along with the Innu students, are the first to be considered for these positions. To date all summer student positions have been filled with either Inuit or Innu students attending post-secondary education.

• During the construction phase of the Voisey’s Bay Mine, we were able to complete some training for positions available in the operations phase. The Federal Government invested $25M for training of aboriginal people which created JETA (the Joint Voicey’s Bay Employment and Training Authority). This agreement had four partners around the table, VBNC, Labrador Inuit, Innu Nation and the Labrador Metis. The Labrador Inuit and Innu Nation had IBA’s with VBNC but the Labrador Metis did not. Having the Labrador Metis involved, at times, threatened the JETA agreement because they did not have the same preferences for training and employment that were negotiated in the IBA. Most training initiatives that JETA sponsored had an equal number of Inuit, Innu, and Metis participants but when it came to hiring for positions requiring some of the training that was obtained, Labrador Inuit and Innu had priority over the Labrador Metis. Many of our beneficiaries who availed of training through JETA obtained employment for the Operations phase of the Voisey’s Bay project and for us, the JETA agreement was fairly successful.

• With the project being completed at a faster pace than originally scheduled, there were fewer opportunities for on-site training. This was because of the size of the accommodations and bed-space was at a premium after the first season. There were a few training initiatives that took place on-site but most were off site. When training did take place on-site, our beneficiaries gained more knowledge of what it was like to work in an Industrialized setting and the training was more Project related. One example was the on-site Heavy Equipment Operator Training. Our Beneficiaries gained experience and certifiable time on the actual
pieces of equipment that they would be working on so that the transition from training to employment was easier. In many cases, the equipment used on-site had never been seen on the North Coast of Labrador such as a 777 Haul Truck.

- Women have equal access to all training and employment opportunities. In fact, a woman trying to get into a non-traditional trade is promoted and targeted for funding more than a man, doing the same thing, would be. There are far fewer women training in the trades areas than there are men so we want to encourage women to set their sights higher than low-end, low-paying positions.

**Slide 5) Employment of Inuit**

- We have employment objectives set at a minimum of 25% with an overall objective of 50% aboriginal employment hopefully to be reached during the first two years of commercial production. These objectives were for both Inuit and Innu. During the first run of hiring people for the permanent positions, approximately 40% of the permanent work force were Inuit. Today, Labrador Inuit make up approximately 42% of the permanent work force. Combined with the Innu, the total permanent aboriginal work force is at 54%. Labrador Inuit have been more successful in obtaining permanent work because we have a larger and more skilled work force than the Innu. There are 468 permanent positions at the mine site and Labrador Inuit fill 196 jobs. Our people work in all aspects of the project from entry level to superintendent.

- During the construction phase, representatives from Vale Inco HR staff and Nunatsiavut Government developed a comprehensive Inuit Human Resources Strategy to ensure the work place would have good Inuit representation. In the Inuit Human Resources Strategy, there is a parallel Women’s Employment Strategy which recognizes the difficulty women have in seeking employment in a remote mine site where they have to be away from their families for two weeks at a time.

- Shortly after construction started on the project, Vale Inco hired an Inuit Employment Coordinator. Our IBA stipulates that this person shall be an Inuk and Nunatsiavut Government would be consulted on the job description and requirements for this position. The Inuit Employment Coordinator has been instrumental in ensuring all commitments relating to training and job opportunities are being followed. Her job description has change somewhat since hiring, with the exception or replacement positions, has been completed. Currently, she spends more time on retention issues and is based at the mine site on a regular schedule. When jobs are being filled, our people have the option of having her sit in on the interview with them as well.

- Recruitment and hiring for any position available at the VB Mine site has to go to the Inuit Employment Coordinator. She then sends the job postings to me for distribution to NG Community Liaison Officers. If resumes come to me, I forward
them on to Sophie to bring them to Vale Inco HR. Once the deadline has passed for the available position, Sophie is involved in the screening of the resumes and identifies resumes from Labrador Inuit. Our people, along with the Innu, have the first opportunity for the available positions. Gender equality plays a role in all hiring decisions. In the case of a qualified male applicant and an equally qualified female applicant, the female will be the successful applicant. This, again, would be with aboriginal applicants having the first opportunity.

- There are a number of hiring preferences involved. In our IBA, we have an adjacency policy. In addition to this, with Vale Inco’s policies, Inuit and Innu always have first priority for any available positions. From our perspective, first call goes to qualified unionized Inuit, second call goes to qualified non-unionized Inuit, and should follow our adjacency policy. Again, if there is a qualified female applicant, she has priority over any of the steps in order to maximize the number of females working at site.

- Contractors have to follow all of the same steps as Vale Inco does when it comes to staffing positions. These policies and preferences have been beneficial in ensuring the percentage of Inuit employees remains high.

Slide 6) Workplace Conditions

- Another commitment within our IBA was the creation of an Inuit Employee’s Advisory Committee. This committee was formed in July 2003 and has been ongoing since. There is representation from each Nunatsiavut community and other areas where there are large Inuit populations. This committee has been in place since the construction phase and is elected by their peers at the mine site. Elections are held on an annual basis and serve a very important function. The committee holds monthly meetings to deal with issues pertaining to the work site. They advise Nunatsiavut Government and Vale Inco on the issues that have been raised, identify possible solutions, and inform Labrador Inuit Employees of the results. Some of the issues may be simple but can mean the difference in retaining Inuit employees or not. Some of the issues that have been important to Labrador Inuit were access to private telephones, local newspapers, country kitchen, inclusion of country foods in the weekly menu regularly and local radio stations. During the initial days of the construction phase, the only available phones were in hallways of the accommodations buildings. There was no possibility of having a private phone conversation at all and this was an important issue. Today, each employee has a phone line and internet connection in their own rooms so that contact with family and friends is easier and private. There is a country kitchen on site now so employees have the option cooking their own country foods, such as caribou, char, and seal if they wish to. These initiatives help to make Labrador Inuit more comfortable in the work place.
• Vale Inco has annual Elder’s Tours to the mine site as well. There are at least two elders chosen from each community and they are normally chosen by the Inuit Employee’s Advisory Committee because they either have children or grandchildren working at site or are much respected in the communities. These visits help the elders see what has happened to the land, see what the living conditions on site are, and to see their relatives or friends working on site. In addition to this, Vale Inco has an Employee Family Assistance Program available to all their employees and their families free of charge. This program deals with all types of issues such as financial counselling, personal counselling, addictions, etc. There is also an AA program, Inuitut training, recreational programs, and Adult Basic Education on site, to name a few.

• As I mentioned earlier, there is a country kitchen available to aboriginal employees. They bring in their country foods and if they want anything to go with it, then the catering company provides that. Also, the catering company has to have country foods on its menu at least twice a week. Each Inuit Employee can apply for two weeks of Cultural Leave. This is so they can continue to provide traditional foods for their families or continue to practice traditional activities such as getting out on the land, or traditional festivals in the communities.

• In terms of transportation, all Inuit employees from Nunatsiavut are picked up and dropped off in their home communities. This happens three times a week and work schedules are based on this. Inuit Employees living outside of Nunatsiavut are picked up in St. John’s, Deer Lake, or Goose Bay on a Monday to Friday Schedule. This works most of the time except for weather delays.

• Vale Inco provides mandatory Cross-Cultural and Gender Sensitivity training to all employees. The Cross-Cultural Sensitivity training about Inuit was developed by Nunatsiavut Government and is delivered by the Inuit Employment Coordinator. There is zero tolerance for any type of racial, gender, or sexual harassment and a few employees have been fired for harassment. This has helped build a respectful workplace.

Slide 7) Inuit Business Opportunities

• During the construction phase, there was a minimum of 35% and an objective of 45% in dollar value of all Business opportunities associated with this phase. Inuit businesses and joint ventures obtained close to 45% of the construction contracts. The large contracts that we obtained were with our joint ventures and our small businesses obtained more of the smaller pieces of work that were required. From the business perspective, it went well overall although there was some dispute around the actual cost of doing business when some of the bids came in from Qualified Aboriginal Business Entities.
• For the operations phase there is an objective of 75% of all business opportunities. Inuit businesses and joint ventures have obtained fewer of the operations contracts but the contracts are large ones. Some of our joint ventures are 3-way joint ventures for the larger contracts. Most of our smaller businesses have to go elsewhere looking for other work in order to be profitable and to have the ability to grow. Both of the objectives for the construction and operations phases were combined between the Inuit and Innu of Labrador. Between the two, the objectives have been met and first preference goes to Qualified Business Entities.

• When Vale Inco is determining whether a QBE has the capacity to perform work or supply goods and services, they base it on previous experience and quality of work, including safety performance, continuity of supply, timely performance, service, including the ability to supply and deliver the goods, services, and follow-up when required, personnel, commitment to Inuit and Innu content, including training and employment, and financial capacity.

• Once the IBA’s were signed, a Business Development committee was established. It consists of two members appointed by Nunatsiavut Government, two members appointed by the Innu Nation and two members appointed by VBNC. The BDC is informed of upcoming needs for work and/or goods and services. Our members then inform our qualified Inuit Businesses of what is coming up so they can begin preparing their bids.

• VBNC will consider a number of factors in determining Inuit and Innu content when they evaluate tender bids and award contracts. Some of these include the degree of Inuit and Innu ownership, the physical location of the head office of the company, training for Inuit and Innu, the degree of Inuit and Innu employment, and how much they subcontract to smaller Inuit or Innu businesses.

• All contracts for Country food should only be awarded to Inuit and Innu Businesses unless the Nunatsiavut Government and Innu Nation agree otherwise.

**Slide 8) Environmental Protection**

• The company incorporated and used Inuit knowledge in the project planning, design, and implementation where appropriate. Nunatsiavut Government were responsible for making the arrangements for collection of the necessary Inuit knowledge for this project and VBNC paid for the associated costs.

• Inuit Heritage resources that were could possibly be impacted were identified and categorized and could not be disturbed or removed without the consent of Nunatsiavut Government.

• Nunatsiavut Government has two independent environment Monitors working at site. The environmental monitors do two week rotations and work 12 hour days.
Both of our monitors have access to all areas of the mine site and work independently and hand-in-hand with Vale Inco environmental staff.

- Once the mine is permanently closed, VBNC have to restore the site to enhance the natural recovery of the areas affected by the project. This includes restoration to a state that is as close as possible to what it was before the project started. During construction, all the topsoil and other usable items have been stored for when this happens. Some of this is already happening with the closure of the construction camp which has been demobilized.

- The company also has to prepare a reclamation plan in consultation with Nunatsiavut Government. This will be ongoing for the life of the project and a fund has already been established to deal with this once the area is ready for reclamation.

Slide 9) Project Shipping

- Winter shipping was one of the major concerns to Labrador Inuit. Living in remote communities, the ice is like a winter road to us. Therefore, we have a separate agreement regarding shipping.

- Within the Shipping agreement, there clauses which deal with the number of shipments per year, the type of ship that can be used, fuel shipments, and a winter shipping schedule. There are six week closure periods at the beginning and end of winter. This is so that the ice has time to form properly at the beginning of winter and doesn’t leave open water areas at the end of winter. In addition to this, there are only four winter shipments allowed and the company has to build 5 ice bridges on the inbound trip and eight ice bridges on the outbound trip. Nunatsiavut Government had input into the design of the ship. There are no fuel shipments allowed in the winter. There are two possible routes that the ship can follow in the winter and once the route is chosen, this is the route they have to follow for the rest of the year. The reason for this is so that there is less impact on Inuit harvesting routes.

- There is a protocol in place for open water shipping which includes the routes for boats, ships, barges, carriers, and vessels, landing and docking procedures, measures to avoid potential conflicts between open water shipping and Inuit Harvesting, communication plan for informing Inuit of vessel traffic, contingency plans for oil spills, pollution prevention measures, and monitoring.

- The company has prepared and implemented a ballast water plan. None of the ships entering or leaving the Edward’s Cove area are allowed to discharge ballast water in the area. They can discharge ballast water when they are out to sea only.

Slide 10) Implementation
• Vale Inco is committed to supporting the Inuit way of life, society and language and culture in relation to the project. They are also committed to minimizing any negative impacts to all of these. Some of the things I have already talked about such as cross-cultural sensitivity training, the Inuit Employee Advisory Committee, rotation schedules, country foods, and the cultural leave policy are part of this. There is a total ban on hunting, trapping, fishing, egging, and berry picking in the Project area.

• The implementation mechanisms include sharing of resources, information, and support between VBNC and Nunatsiavut Government.

• The Tasiujatsoak Committee is our implementation committee. There are two representatives each from Nunatsiavut Government and Vale Inco sitting on this committee. I am one of Nunatsiavut Government’s representatives and from our side, we have committed to having a female always fill one seat on this committee. We are all responsible for our ongoing relationship and ensuring that all obligations and responsibilities are being met.

• The Tasiujatsoak Committee also reviews, on an annual basis, the performance of Employment and Business Participations objectives. We are also responsible for developing performance indicators and these indicators are used in the evaluation for managers within the company so that we have successful implementation of our agreement.

• As an IBA coordinator, I am responsible for overseeing the daily administration of our agreement. I have a counterpart within Vale Inco and we work closely on a daily basis.

**Slide 11) Dispute Resolution**

• Both Nunatsiavut Government and Vale Inco are committed to resolving disputes in a non-adversarial, informal and cost-efficient manner, if possible. We both make good faith efforts to resolve any disputes in a timely manner through friendly negotiations or mediation. If we can’t do this, then the dispute can be referred to arbitration. This is also handled through the Tasiujatsoak committee.

• We both have agreed that we will disclose all relevant facts, information and documents, excluding privileged information, to help resolve any disputes in a friendly way. Our agreement and any other documents and/or information used in resolution of any disputes are confidential and cannot be disclosed to any third person or party without first having written consent of both the company and Nunatsiavut Government.

• When Dispute Resolution is passed to the Tasiujatsoak Committee, we can use any appropriate means to resolve them. This can include the appointment of
facilitators and fact finders. Once the dispute is resolved by agreement it will be immediately implemented in accordance with the agreed terms.

Slide 12/Questions

Comments/Discussion (April 8):

Q: Cyclical nature of mining industry/finite resources: since IBAs are focused on involvement in mining, what is beyond mining in low-cycle? And when mine closes?
A: Infrastructure development in small communities is vital, tourism development, other industry-related development to make use of local skills development (quarries, other mining opportunities); attempts to diversify where possible. IBA is a useful vehicle to invest in other (related) businesses.

Q: What are the rates (%) of Current Employment?
A: 1/3 Innu, 2/3 Inuit; comprise for 54% of permanent employees

Q: Success of IBAs? Is ‘Willingness’ to embrace the mining sector important?
A: Labrador Inuit Land Claim Agmt took 30 years to negotiate… ‘we’ used the Voisey’s Bay project to fast track the land claim (3 years after IBA was signed for mine). Instrumental in local development, locals were very interested in working, and training for mine employment.

Q: Challenges to develop partnerships to access contracts?
A: Finding ‘quality’ companies to deal with (follow training and employment procedures outlined in IBA). ‘Qualified Business Entity’ min 51% inuit owned/or 51% inuit management…

Q: Use of IBA funds for the development of management? How best to do this?
A: Athabasca Basin Example: use mining contracts as springboard to develop spinoff industries and other service providers; ability to go beyond initial partnerships and carefully invest.
Comment: (Chief Glen Nolan) ‘We really need to separate the politics from the business… they have different agendas,’ complicates the mix of agendas.

Q: Dissenting Voices in the community (not interested in/opposed to mining), how to deal with these?
A: Widespread, up-front, and honest community consultation/separation of politicians from business development committee.

Q: Level of community knowledge of mining at outset? How was this managed?
A: LOW; Vale/Inco funded site visits to other mines around North America; community video presentations.
Q: Qualified worker ‘brain drain’ to mine from communities? How do you deal with this?
A: Common, but may have job-share options (2-week off/on schedule allows for training others when they return home. Positive influence in long-run e.g. local volunteer fire-fighters/search and rescue teams benefit from mine first-aid training). Initial challenges, but no need for institutional approach to this issue.

Q: Is there a taxation/revenue generation scheme available in this region?
A: 90% of income tax returns to Nunatsiavut government for all inhabitants (Inuit or not)

Comments/Discussion (April 9):

Q: Were there external consultations used to negotiate/develop this IBA?
A: Yes, we sent fact-finding missions to other Aboriginal groups which were willing to share their IBA contents.

Q: Relationship between Government & IBAs? Has the government supported/not?
A: Provincial government was anxious to get royalties from VB project, but Inuit were able to take advantage to development pressure to fast track land claim and IBA.

Q: How does the Tasiujatsuk Committee operate in relation to a traditional ‘management’ board?
A: Very much involved in all the commitments in the IBA, particularly the hiring practices/retention of employees.

Q: How long was the IBA process, how was it initiated?
A: Nickel discovery in 1994, from then until Memorandum of Understanding signing ‘to negotiate’ the IBA following the 1997 court injunction to stop the Voisey’s Bay mine development, until ratification in 2002.

Q: Is there a useful IBA ‘template’ available?
A: No, these may be useful for first-time signatories; but these may actually be limiting in terms of specific ‘benefits’ desired, and compensation according to specific local issues.

Q: How often are the IBA contents/terms/implementation evaluated?
A: Only obligated to assess annually, but we assess it quarterly.

Q: How does the dispute resolution mechanism operate?
A: First making use of the Tasiujatsuk Committee to examine and evaluate the issues. Yet we have not had to make use of these mechanisms yet.

Q: Are the environmental monitoring mechanisms in the IBA integrated with the provincial regulations?
A: Yes, they are closely integrated.