



“THE RIGHT TO HARVEST”:  
INUIT CONTESTED ACCOUNTABILITY ON RE-  
SOURCE DEVELOPMENT IN NUNAVUT,  
1970-2020.

Blanquerna – Ramon Llull University, School of Communications and International Relations, Degree in International Relations.

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*“In nature’s economy the currency is not money, it is life.”*

-Vandana Shiva

Earth Democracy: Justice, Sustainability, and Peace, (United Kingdom: Zed Books Ltd, 2016), 33.

## **Abstract**

*Since the early contact between Europeans and Inuit citizens in Nunavut, these communities have experienced transformative changes in regards to their traditional lifestyle due to the prominent role of extractive activities by foreigners. Although the Nunavut Land Claim Agreement (NLCA), which gave Inuit citizens more power on self-determining the use of their lands, was signed in 1993, recent cases such as the nearly seismic testing in Clyde River and the current possible expansion of the Mary River mine question the actual decision-making power Inuit communities have in deciding which projects should take place in their traditional lands. As a result, Postcolonial and Green Theories of International Relations have been used in order to provide a theoretical framework to encapsulate the ongoing dependency of Nunavut towards the Government of Canada and how this position situates Inuit to become more vulnerable to the social, economical and cultural impacts of the degeneration of the Arctic environment. Consequently, this paper argues that there currently exists a controversial relationship between the industry, which provides many jobs and sources of income to Inuit, and the need of these indigenous people to protect their lands from environmental degradation derived from mining. However, recent activism by Inuit communities and the future decisions taken by the Federal Government and the Government of Nunavut will be decisive in providing reconciliation and reaffirming Inuit right to self-determination.*

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## **List of Acronyms**

NLCA	Nunavut Land Claim Agreement
ICC	Inuit Circumpolar Council
IPE	International Political Economy
FPIC	Free Prior and Informed Consent
CBC	Canadian Broadcasting Corporation
WWF	WorldWide Fund
BIPOC	Black, Indigenous and People Of Color
IQ	Inuit Qaujimajatuqangit
TFF	Territorial Formula Financing
MP	Member of Parliament
CWB	Community Well-Being Index
ITC	Inuit Tapirisat of Canada (renamed Inuit Tapiriit Kanatami)
ITK	Inuit Tapiriit Kanatami (formerly Inuit Tapirisat of Canada)
LCA	Land Claim Agreement
TFN	Tunngavik Federation of Nunavut
NTI	Nunavut Tunngavik Incorporated
NWMB	Nunavut Wildlife Management Board
NPC	Nunavut Planning Commission
NIRB	Nunavut Impact Review Board
NSDC	Nunavut Social Development Council
NSA	Nunavut Settlement Area
IBA	Impact and Benefit Agreement
HTO	Hunters and Trappers Organization
RIO	Regional Inuit Organisation
UNDRIP	United Nations Declaration on the Rights of Indigenous People
NEB	National Energy Board
QIA	Qikiqtani Inuit Association
NGO	Non-Governmental Organisation
BIM	Baffinland Iron Mine Corporation
Mtpa	Million tonnes per annum
DFO	Department of Fisheries and Oceans Canada
ERP	Early Revenue Phase

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## **1. Introduction**

Scientists have already warned that the Arctic is undergoing unlimited changes that if continued, will have social-environmental implications at global scale reach. This global reach is achieved by the fact that the Arctic functions as the planet's air conditioner, regulating the world's temperature. However, due to the factor of "Arctic amplification", the region is heating up twice as fast as the rest of the world.<sup>1</sup> This condition poses a threat to humanity as the melting of ice can lead to multiplier effects such as extreme weather events or rising sea-levels, which are already taking place. Therefore, having scientific knowledge and awareness of these changes, a pressing question would be: ¿In whose hands is the responsibility to avoid this scenario to increase and save millions of lives?

The Fifth Assessment Report of the Intergovernmental Panel on Climate Change has the answer to it. The report concluded that there is a 95% probability that human-produced greenhouse gases such as carbon dioxide, methane and nitrous oxide have caused much of the observed increase in Earth's temperatures over the past 50 years.<sup>2</sup> Therefore, the *modus operandi* prioritising economic and geopolitical interests through industrialisation and extractionist practices has led Paul Crutzen to coin *Anthropocene* as a new different geological period marked by human-made environmental alterations.<sup>3</sup> These alterations lead to mass damage and destruction of ecosystems, or what is termed as *Ecocide*, and are destroying our principal source of survival, affecting present and future generations to live.

Indigenous communities, although only occupying 25% of the world's surface area, are being the most affected. As a matter of fact, climate change is widening the existing inequalities of the international system even more, as indigenous peoples are contributing the least to the emission of the substances that are damaging their unique cultures. Therefore, the inextricable link between indigenous rights and a healthy environment urges the need to bolster an increased

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<sup>1</sup> "Climate Change in the Arctic," National Snow and & Ice Data Center, last modified May 4, 2020, [https://nsidc.org/cryosphere/arctic-meteorology/climate\\_change.html](https://nsidc.org/cryosphere/arctic-meteorology/climate_change.html)

<sup>2</sup> Thomas F. Stocker et al., *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, (Cambridge, United Kingdom and New York: Cambridge University Press, 2013), 5, [https://www.ipcc.ch/site/assets/uploads/2017/09/WG1AR5\\_Frontmatter\\_FINAL.pdf](https://www.ipcc.ch/site/assets/uploads/2017/09/WG1AR5_Frontmatter_FINAL.pdf)

<sup>3</sup> Damian Carrington, "The Anthropocene epoch: scientists declare dawn of human-influenced age," *The Guardian*, August 29, 2016, <https://www.theguardian.com/environment/2016/aug/29/declare-anthropocene-epoch-experts-urge-geological-congress-human-impact-earth>



recognition of self-determination rights over the lands, territories and resources that mould their identity. However, despite advancements, there remains a wide gap between formal recognition and actual implementation of indigenous peoples collective rights.<sup>4</sup> Special Rapporteur on the Rights of Indigenous Peoples Victoria Tauli-Corpuz has suggested that most indigenous peoples around the world only exercise “fragmented self-determination” as “even in cases where ancestral lands have been titled, this does not guarantee either control or protection of such lands”.<sup>5</sup>

Therefore, the uncertainty and worry of how this *wicked problem*<sup>6</sup> will be managed and the limited time offered by natural resources lay down the motivation to conduct this research. As a result, room for hope exists among the activism of indigenous communities demanding increased agency on matters affecting their way of life, based on the aspirations that indigenous local actions will spark a butterfly effect influencing the international arena to mitigate climate change. This belief is grounded on the fact that sustainable management of resources can be learned from indigenous communities that currently safeguard 80% of the Earth’s biodiversity due to their traditional knowledge and economic activities based on nature.<sup>7</sup>

In 1993 Nunavut, which is the northernmost permanently inhabited place in the world, signed the Nunavut Land Claim Agreement (NLCA) based on providing its mainly indigenous population with the right to exert control over the decisions taken on their lands. Therefore, based on the fact that the Arctic is the part of the world being most affected by global warming, the general objective of this project is to study the governing structure authorising resource development projects in this territory. The secondary objective is to study the relationship between Inuit and their northern biodiversity to analyse the impacts of mining activities on their lives.

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<sup>4</sup> “Environment,” Department of Economic and Social Affairs Indigenous Peoples, United Nations, <https://www.un.org/development/desa/indigenouspeoples/mandated-areas1/environment.html>

<sup>5</sup> “Full Access to Justice through State, Traditional Systems Required for Upholding Indigenous Peoples’ Rights, Special Rapporteur Tells Third Committee,” Meetings Coverage and Press Releases, United Nations, October 11, 2019, <https://www.un.org/press/en/2019/gashc4265.doc.htm>

<sup>6</sup> Climate change and its mitigation process have been long labelled and appeared as a “wicked problem” in many reports due to its difficulty to be managed such as in: Richard J. Lazarus, “Super Wicked Problems and Climate Change: Restraining the Present to Liberate the Future,” *Cornell Law Review* 94, n.5 (July 2009); Pra-deep Kurukulasuriya, “Wicked solutions for wicked problems,” UNDP Climate Change Adaptation, last modified October 31, 2018, <https://www.adaptation-undp.org/wicked-solutions-wicked-problems> and “A Wicked Problem: Controlling Global Climate Change,” The World Bank, September 30, 2014, <https://www.worldbank.org/en/news/feature/2014/09/30/a-wicked-problem-controlling-global-climate-change>

<sup>7</sup> International Labour Office, *Indigenous peoples and climate change: from victims to change agents through decent work*, (Geneva: International Labour Office, 2017), 13. ISBN: 978-92-2-130482-1

As a result, the research questions aimed to be answered throughout the project are: *To what extent Inuit citizens have enough participatory agency in communicating their environmental concerns derived from proposed mining projects in Nunavut?* and, *To what extent the provisions under the Nunavut Land Claim Agreement are being prioritised over extractive corporation's interests?*

However, after contextualising the topic, the expected results reflected in the thesis are founded on the premise that the decentralisation of organisations representing Inuit and the several actors involved in the mechanisms to manage and plan resource development projects established in the Nunavut Land Claim Agreement has exacerbated conflicts of interest resulting in a limited representation and accountability of Inuit to share their concerns regarding extractive projects in their territory. Therefore, exemplified through the Clyde River seismic testing and the proposed expansion of the Mary River mine, the importance of limiting environmental impacts that affect Inuit rights in determining the way of life they want to follow has been ignored by the strive to keep exploiting indigenous lands for the purpose of increasing economic revenues.

## 1.1 Methodology

To conduct the following research, a theoretical framework has been developed under the influence of two recent approaches of International Relations in order to portray a wider perspective of ongoing dynamics regarding the topic of research.

Firstly, Postcolonialism has been used in order to provide insights regarding the historical background of the territory of Nunavut. In addition, it has clarified the need to engage more indigenous traditional knowledge in policymaking to abandon the concept of the “White Man’s Burden” characterised by the colonisers “duty” to care for non-white indigenous people in their colonial possessions based on their essentialist claims of owning an inherent superior culture and therefore status. Thus, following Homi Bhabha’s term of “hybridity” it has been possible to understand the possibility of producing new alternative forms of politics between the colonists and the colonised through ideological deconstruction, as in the case of the Nunavut Land Claim Agreement (NLCA).<sup>8</sup> Furthermore, it has eased the comprehension of analysing the ongoing imperial diplomacy of the United Kingdom controlling former colonies like Canada being a member of the Commonwealth and the fact that the Crown still maintains the last word on decisions, in this case land management, affecting indigenous communities.<sup>9</sup>

Secondly, Green Theory has been used in order to focus the case study of resource extraction in Nunavut in a more ecocentric perspective prioritising healthy ecosystems as a prerequisite to human health and wellbeing.<sup>10</sup> In addition, through the political economy branch based upon neo-Marxist inspired International Political Economy (IPE), it has been useful to focus and allocate responsibility to transnational commodity chains such as the case of mining companies. This has enabled to assess where social power and social responsibility is placed in order to project future scenarios of resource development in Nunavut that reinforces distributive justice while simultaneously curbing ecologically destructive economic growth.<sup>11</sup>

Furthermore, excluding the research from the literature review, the project has been conducted from an observation-based investigation approach using qualitative methods of data collection

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<sup>8</sup> Pascal-Yan Sayegh, “Cultural Hybridity and Modern Binaries: Overcoming the Opposition Between Identity and Otherness?,” *HAL Archives-Ouvert*, (2008): 3.

<sup>9</sup> Siba N. Grogovi, “Postcolonialism,” in *International Relations Theories*, ed. by Timothy Dunne, Milja Kurki and Steve Smith (Oxford: Oxford University Press, 2013), 247-259.

<sup>10</sup> Hugh C. Dyer, “Green Theory,” in *International Relations Theory*, ed. Stephen McGlinchey, Rosie Walters and Christian Scheinpflug (Bristol: E-International Relations Publishing, 2017), 86.

<sup>11</sup> Robyn Eckersley, “Green Theory” in *International Relations Theories*, ed. Timothy Dunne, Milja Kurki and Steve Smith (Oxford: Oxford University Press, 2013), 266-283.

and analysis based on two mining case studies, the Clyde River seismic testing and the Mary River mine. The aim behind the selection of cases was driven by the fact that although they took place in different years, both are located in the same region of Qikiqtaaluk. Therefore, expectations were placed to observe possible “trends” in the findings.

Moreover, two semi-structured interviews were conducted in order to interpret, contextualise and gain in-depth insight into specific particularities of the current context of mining, Inuit communities and the protection of the environment.

On the one hand, Warren Bernauer’s interview was focused on a political sphere in order to grasp the main obstacles and consequences the decisions taken by institutions have on Inuit population regarding mining activities. All the answers were based on the professional experience of the interviewee having worked as an environmental assessment and planning consultant for several indigenous and environmental organisations in Nunavut and being a doctoral candidate at York University’s Department of Geography focused on research based on the politics of energy extraction in Nunavut.

On the other hand, the interview conducted to Erin Keenan was focused on the environmental effects of mining and the future provisions of development in Nunavut due to the fact that Keenan worked in Iqaluit for the Nunavut Wildlife Management Board (NWMB), providing advice on terrestrial wildlife management. Since 2017 she has been working in World Wide Fund (WWF) Canada.

In addition to the abovementioned interviews, the following institutions were consulted in order to connect the qualitative analysis of the interviews with the primary sources of the region.

In regards to mining, reports from the Government of Nunavut and from the Organisation for Economic Co-operation and Development were consulted to understand the relevant role of this sector in the economy and social development of the territory. When tackling the resource development activities and impacts from the case studies, articles, and news from the Canadian Broadcasting Corporation (CBC), The New Humanitarian, Arctic Today, and the local newspaper from Nunavut and Nunavik, Nunatsiaq News and Nunavut News were consulted in order to gain a more holistic understanding about the underpinning grievances in communities. However, other institutions like the Baffinland Iron Mines Corporation (BIM), WWF and Greenpeace were used to study in depth the environmental impacts and concerns raised mainly in the previous sources.

Finally, with all the information gathered, the project has been structured in seven different sections in order to ensure a coherent logic to be capable to answer the research questions and identify the proposed thesis. The first section is introductory to the territory of Nunavut, its population and economy in order to provide a spectrum of the current situation in the region. The second and third sections offer an insight into the colonial background of the territory focused on the extraction of resources and how this intrusion and exploitation derived into the current institutions of Nunavut designed to incorporate the previously silenced Inuit voice. However, section four provides two case studies in which consultation and accommodation has not been respected by any of the actors involved in the process of decision-making established in the NLCA. Due to the fact that Inuit opposition in the two projects exposed are related to environmental degradation concerns, sections five and six provide an overview of the main environmental impacts mining has on the particular characteristics of the Arctic and the future political prospects of diversifying Nunavut's economy into a more sustainable one. Finally, the last section summarises the conclusions extracted throughout the elaboration of the project.

## **2. Review of the literature**

To understand the background and framework in which indigenous self-determination processes have taken place, concepts such as Ecological Imperialism, Environmental Justice and Sustainable Development will be analysed, ending with a final input focusing on the case study of Nunavut.

The recognition of indigenous rights in the international arena has been considered by James Anaya as a necessary step for evolving and bringing new opportunities for reconciliation.<sup>12</sup> However, other authors such as Peter Kulchysky have considered the recognition of indigenous rights as another example of the patriarchal transference of “western” notions of “freedom” and “equality” into indigenous people.<sup>13</sup>

Consequently, for Jeff Corntassel and Taiaiake Alfred the ultimate form of self-determination should not rely on an institutional approach but instead, as Gregory Cajete argues, should be granted throughout the complex interrelations between land, culture and community in a more individual and local scope.<sup>14</sup> Therefore, although collective and individual experiences of indigenous peoples are the most useful insights for establishing strategies to resist colonialism and regenerate communities, Manuel and Posluns have tried to develop common “foundations of resistance” as the theory of the *Fourth World* in an attempt to unify the nature of indigenous action in the struggle against contemporary colonialism.<sup>15</sup>

In these struggles, indigenous language and knowledge have been considered essential factors for claiming self-determination by incorporating “intellectual sovereignty” from the colonial conceptual framework.<sup>16</sup> Therefore, epistemic decolonisation has been and is essential to escape from colonial politics of knowledge that in the past justified the rhetoric of modernity and the logic behind colonialism.<sup>17</sup>

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<sup>12</sup> James S. Anaya, “The Right of Indigenous Peoples to self-determination in the Post-declaration Era,” in *Making the Declaration Work: The United Nations Declaration on the Rights of Indigenous Peoples*, ed. Claire Charters and Rodolfo (Copenhagen: International work Group for Indigenous affairs, 2009), 196.

<sup>13</sup> Peter Kulchyski, “Aboriginal Rights are not Human Rights,” *Prairie Forum* 36, (Fall 2011): 33-53.

<sup>14</sup> Taiaiake Alfred and Jeff Corntassel, “POLITICS OF IDENTITY - IX: Being Indigenous: Resurgences against Contemporary Colonialism,” *Government and Opposition* 40, no. 4 (2005): 196, <http://www.jstor.org/stable/44483133>; Gregory Cajete, *Native Science: Natural Laws of Interdependence* (Santa Fe: Clear Light Publishers, 2000), 178.

<sup>15</sup> George Manuel and Michael Posluns, *The Fourth World: An Indian Reality* (New York: Collier Macmillan Canada, 1974), 261.

<sup>16</sup> Alfred and Corntassel, “POLITICS OF IDENTITY,” 597-614.

<sup>17</sup> Walter D. Mignolo, “DELINKING,” *Cultural Studies* 21, no.2-3 (2007): 449-514, doi: 10.1080/09502380601162647

This logic of coloniality can be traced back to the idea of the Doctrine of Discovery that was founded on a legal myth upon which land occupied by non-Christians could be claimed as territory owned by the Crown following the conception that the “new world” was *terra nullis*, authorizing colonial powers to conquer and exploit land in the Americas with indigenous people having no choice to object.<sup>18</sup> This dynamic portrayed on the believed superiority of European identity among the rest as reproduced in *Orientalism*, carried out what is known as *ecological imperialism*.<sup>19</sup>

The term, coined by Alfred Crosby in 1986, provides an environmental deterministic approach of imperialism based on a biogeographical perspective arguing temperate regions of the world were more accessible for Europeans to introduce new plants, diseases and animals from the West, easing the appearance of ecological transformations altering indigenous lifestyles.<sup>20</sup> However, Liza Piper and John Sandlos have highlighted that other areas such as the Canadian North, far from being a temperate region, were also affected by this ecological imperialism, especially with the introduction of exogenous diseases upon communities.<sup>21</sup>

As a result, indigenous led-protests are at the core of global indigenous agendas claiming sovereignty over their lands to challenge the historical colonial model of development based on the corporatisation of natural resources in order to finance states.<sup>22</sup> Rob Nixon has used “slow violence”, with a similar meaning to the concept of “structural violence” provided by Johan Galtung, to refer to the inaction regarding environmental crisis affecting lives of vulnerable populations at the expense of privileged groups moved by capitalism.<sup>23</sup> However, efforts from indigenous people to refrain states have been received by the latter with more violence and criminalisation. For Naomi Klein, this state domination structure upon resources and indigenous communities reinforces the idea of extractivism as being “a nonreciprocal, dominance-

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<sup>18</sup> Bill Ashcroft, Gareth Griffiths, and Helen Tiffin, *Post-Colonial Studies* (New York: Routledge, 2008), 29.

<sup>19</sup> Edward Said, *Orientalism* (London: Penguin Books, 1978), 15.

<sup>20</sup> Alfred W. Crosby, *Ecological Imperialism* (Cambridge: Cambridge University Press, 2009)

<sup>21</sup> Liza Piper and John Sandlos, “A Broken Frontier: Ecological Imperialism in the Canadian North,” *Environmental History* 12 (October 2007): 759-95.

<sup>22</sup> Manuela L. Picq, “Self-Determination as Anti-Extractivism: How Indigenous Resistance Challenges World Politics,” in *Restoring Indigenous Self-Determination: Theoretical and Practical Approaches*, ed. Marc Woons (Bristol: E-International Relations Publishing, 2014), 21-22.

<sup>23</sup> “When Slow Violence Sprints,” Harvard University Press Blog, accessed March 3, 2021, [https://harvard-press.typepad.com/hup\\_publicity/2013/11/when-slow-violence-sprints-rob-nixon.html](https://harvard-press.typepad.com/hup_publicity/2013/11/when-slow-violence-sprints-rob-nixon.html); Paul Wapner, “Suffering and the moral imperative to reimagine resilience,” in *Reimagining Climate Change*, ed. Paul Wapner and Hilal Elver (London: Routledge, 2016), 141.

based relationship with the earth, one purely of taking. It is the opposite of stewardship, which involves taking but also taking care that regeneration and future life continue.”<sup>24</sup>

Furthermore, the *modus operandi* of extracting natural resources at unlimited rates for economic purposes has also been the foundational cause of increasing climate change effects that are currently threatening many indigenous lives.<sup>25</sup> In the words of Barbara Ward: “we can no longer think about climate change as an issue where the rich give charity to the poor to help them to cope with its adverse impacts; if there is a climate change problem, it is in large part a justice problem”.<sup>26</sup> As a result, global and local movements battling for environmental degradation, land rights, food security and climate change among other factors have relied upon the framework of Environmental Justice. Nevertheless, although the term “justice” has been adapted contextually regarding local claims, in the majority of cases the term has surpassed demands of distributive and procedural justice to broader issues of capability and functioning of people’s lives.<sup>27</sup> Consequently, an intersectional approach to justice is gaining relevance in order to tackle interconnected and overlapping socio-environmental inequalities rooted into persistent power structures and dominance.<sup>28</sup> Therefore, in an attempt to encapsulate discrimination, Tim Hayward has highlighted the importance of having “environmental rights”.<sup>29</sup>

In front of the necessity to tackle the power asymmetries of the capitalist system, an increased human rights approach is perceived to be necessary when tackling transnational problems such as mining activities and climate change.<sup>30</sup> As a result, the frequently used term of *Sustainable Development*, has been contested regarding what should sustain, for whom and by what means.

David A. Lertzman and Harrie Vredenburg argue that sustainable development will not be achieved in a cultural vacuum and therefore there is an imperative to promote and include a

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<sup>24</sup> Naomi Klein, *This Changes Everything: Capitalism versus the Climate* (New York: Simon and Schuster, 2014), 169.

<sup>25</sup> “Climate Change,” Department of Economic and Social Affairs Indigenous Peoples, United Nations, accessed 27 February, 2021, <https://www.un.org/development/desa/indigenouspeoples/climate-change.html>

<sup>26</sup> Mary Robinson, *Climate justice: A man-made problem with a feminist solution* (London: Bloomsbury Publishing, 2019), 8.

<sup>27</sup> David Schlosberg and David Carruthers, “Indigenous Struggles, Environmental Justice, and Community Capabilities,” *Global Environmental Politics* 10, no.4 (2010):12-35.

<sup>28</sup> Stephanie A. Malin and Stacia S.Ryder, “Developing deeply intersectional environmental justice scholarship,” *Environmental Sociology* 4, no. 1 (2018): 1-7.

<sup>29</sup> Tim Hayward, *Constitutional Environmental Rights* (Oxford: Oxford Univ. Press, 2012)

<sup>30</sup> Gustavo Esteva and Madhu Suri Prakash, “Beyond development, what?,” *Development in Practice* 8, no.3 (August 1998): 280-296.



cross-cultural dialogue in order to advance in a more ethical approach to sustainable development.<sup>31</sup> By doing so, Kyle Whyte suggests that not only the narrative of indigenous people being the “victims” of ecological degradation will vanish, but that indigenous survival and adaptability to imperialism, capitalism and colonialism have equipped them with knowledge of how to survive catastrophic environmental change.<sup>32</sup> In other words, complete decolonisation is needed in order for any sustainable path to be envisioned and for “transformative” changes to happen.<sup>33</sup> Nevertheless, although “traditional ecological knowledge” has indeed gained relevance since the beginning of the 90’s, non-western knowledge continues to stay in the realm of utilitarian “ethnoscience” inferiorized by the “real science” of the West.<sup>34</sup> To avoid this, Hassan Kaya has argued that it is essential that interactions between indigenous knowledge and other types of knowledge systems take place between equal partners in order to conduct transparent and open dialogue and informed consent.<sup>35</sup> Through these conditions, cultural appropriation and romanticisation of Indigenous people will be avoided.

In this theoretical framework, Nunavut fits in all the mentioned aspects. Inuit communities have both experienced the introduction of diseases and exploitation of their lands for external “development” and, since 1999, authors such as Jack Hicks, Graham White, Thierry Rodon and Charles J. Marecic have written about the structures of the public government led by Inuit majority in a step of regaining self-determination rights over their land and lifestyle.<sup>36</sup> Authors such as Laura Bowman, Warren Bernauer, Leah S. Horowitz and Gabrielle Slowey have tackled mining in Nunavut, providing arguments that de-romanticise the vision of the indigenous

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<sup>31</sup> David A. Lertzman and Harrie Vredenburg, "Indigenous Peoples, Resource Extraction and Sustainable Development: An Ethical Approach," *Journal of Business Ethics* 56, no. 3 (2005): 239-54. <http://www.jstor.org/stable/25123429>.

<sup>32</sup> Kyle Whyte, “The Dakota access pipeline, environmental injustice, and U.S. colonialism,” *RED INK Int J Indig Lit Arts Humanit* 19 (2017):154-169 in Deborah McGregor, Steven Whitaker and Mahisha Sritharan, “Indigenous environmental justice and sustainability,” *Current Opinion in Environmental Sustainability* 43, no. 35-40 (2020): 37. <https://doi.org/10.1016/j.cosust.2020.01.007>

<sup>33</sup> McGregor, Whitaker and Sritharan, “Indigenous environmental justice and sustainability,” 35-40.

<sup>34</sup> Bruno Latour, *We have never been modern*, (Cambridge, MA: Harvard University Press, 1993) in Andrew Sluyter, “Colonialism and landscape in the Americas: Material/Conceptual Transformations and Continuing Consequences,” *Annals of the Association of American Geographers* 91, no. 2 (June 2001): 412.

<sup>35</sup> Hassan o. Kaya, “Revitalizing African Indigenous Ways of Knowing and Knowledge Production,” in *Restoring Indigenous Self-Determination: Theoretical and Practical Approaches*, ed. Marc Woons (Bristol: E-International Relations Publishing, 2014), 83.

<sup>36</sup> Jack Hicks and Graham White, “Nunavut: Inuit self-determination through a Land Claim and Public Government?” in *Nunavut: Inuit regain control of their lands and their lives*, ed. Jens Dahl, Jack Hicks and Peter Jull (Copenhagen: IWGIA document, 2000); Thierry Rodon, “Le Nunavut: une composition inachevée?,” *Études/Inuit/Studies* 38, no. 1-2 (January 2014); Charles J. Marecic, “Nunavut Territory: Aboriginal Governing in the Canadian Regime of Governance,” *American Indian Law Review* 24, no.2 (1999/2000).

territory of Nunavut having accomplished many progresses as the economic benefits of the sector disguises and keeps away the real goals of achieving a “sustainable” development.<sup>37</sup>

To sum up, after researching the different topics and concepts surrounding this literature review, this project is not intended in criticising the achievements obtained by Inuit through the NLCA but rather to emphasise and bring new debate regarding the still limited agency placed on indigenous people on decisions affecting the health and status of their land through the analysis of two case studies.

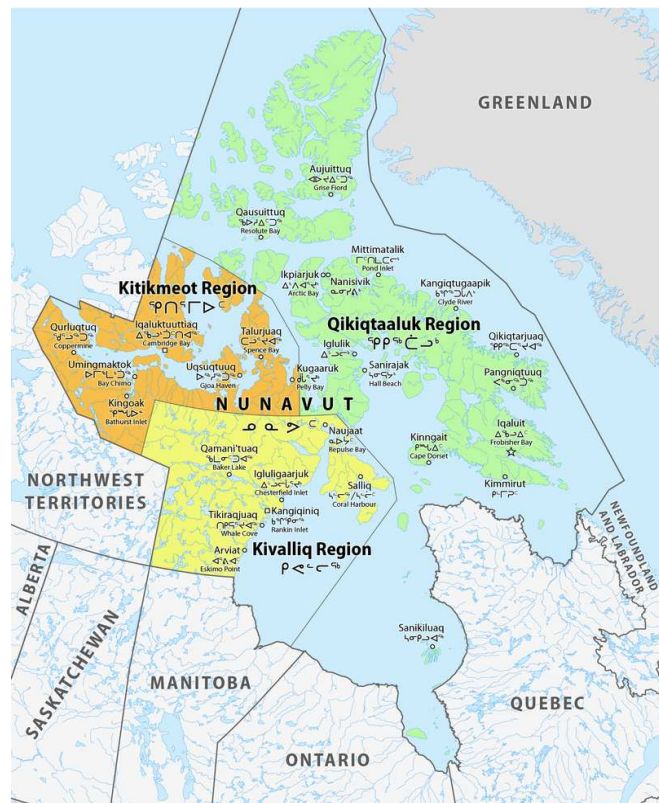
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<sup>37</sup> Leah S. Horowitz et al., “Indigenous peoples’ relationships to large-scale mining in post/colonial contexts: Toward multidisciplinary comparative perspectives,” *The Extractive Industries and Society* 5 (2018); Warren Bernauer and Gabrielle Slowey, “COVID-19, extractive industries, and indigenous communities in Canada: Notes towards a political economy research agenda,” *The extractive industries and society* 7, no.3 (July 2020): 844–846. <https://doi.org/10.1016/j.exis.2020.05.012>; Laura, Bowman, "Sealing The Deal: Environmental And Indigenous Justice And Mining In Nunavut," *Review Of European Community & International Environmental Law* 20, no.1 (2011).

### 3. Brief history and economy of Nunavut

Inuit, which in Inuktitut stands for “the people”, are an Indigenous people mainly inhabiting northern regions of Canada, Alaska and Greenland in what is referred to as Inuit Nunangat, which refers to the homeland of Inuit. In Canada, Inuit represent 3.9% of the total Indigenous population of Canada from the other two official indigenous groups: First Nations and Metis. Furthermore, according to 2016 data, 63.7% of Canadian Inuit live in Nunavut.<sup>38</sup>

Nunavut, which in Inuktitut means “our land”, is the largest Indigenous land claim agreement in Canadian history, as Nunavut has the largest land area of all provinces and territories of Canada. In the last 2016 population census, 84% of the 37.082 citizens identified themselves as Inuk (Inuit), becoming Canada’s newest territory and with mainly indigenous population divided throughout the three administrative regions of Qikiqtani, Kivalliq and Kitikmeot as seen in Map 1.<sup>39</sup>



Map 1: Administrative regions of Nunavut.

Source: Maximilian Dörrbecker, reproduced under license SA 2.5

Due to the remoteness of the territory and the environmental conditions, Nunavut’s 80% of the total Government of Nunavut revenues rely on federal transfers, mainly from the Territorial Formula Financing (TFF), which is a program that recognises that the territory cannot raise

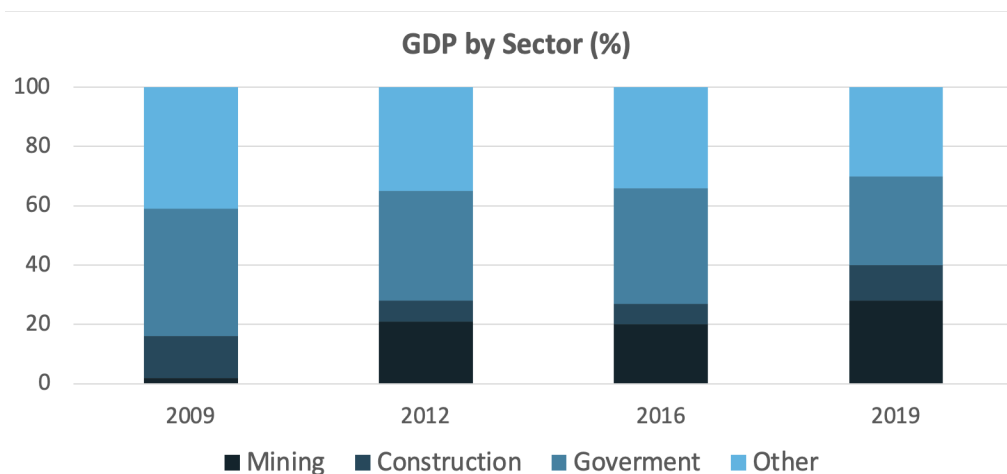
<sup>38</sup> “Inuit,” Indigenous peoples and communities, Government of Canada, last modified September 30, 2020, <https://www.rcaanc-cirnac.gc.ca/eng/1100100014187/1534785248701>; OECD Rural Policy Reviews, *Linking Indigenous Communities with Regional Development in Canada*, (Paris: OECD Publishing, 2020), 3. <https://doi.org/10.1787/fa0f60c6-en>.

<sup>39</sup> “Nunavut Population Estimates by Inuit and Non-Inuit, Region and Community, 2001 to 2016,” Population data, Government of Nunavut, <https://www.gov.nu.ca/executive-and-intergovernmental-affairs/information/population-data>

enough revenue on its own to provide public services compared to elsewhere in Canada. Therefore, the other 20% comes from taxes or other sources of income. The government does not receive revenues from resource development projects as it has no jurisdiction on lands, differently to provinces.<sup>40</sup>

Therefore, due to the limited opportunities to obtain revenues, the public sector plays a large role and share in Nunavut’s economy because of the high cost of providing public services in the far north and because the territory’s private sector is quite small. However, the exception relies on the mining sector.<sup>41</sup>

As seen in Graph 1, the mining sector roughly accounts for 1/3 of the economy therefore standing as the second largest sector providing job opportunities to Inuit. Moreover, it has the industry’s highest share in Canada due to Nunavut’s richness in mineral and hydrocarbon resources. This fact has allowed Nunavut alongside with Yukon to be the only territories or provinces that have experienced economic growth in 2020 due to the fact that during the pandemic mining activity has remained constant.<sup>42</sup>



Graph 1: Nunavut’s percentages of GDP by sectors.

Source: Department of Finance of the Government of Nunavut, *Budget 2021-2022*.

<sup>40</sup> Department of Finance of the Government of Nunavut, *Budget 2021-2022: Fiscal and Economic Indicators, 2021*, [https://gov.nu.ca/sites/default/files/2021-22\\_fei\\_en.pdf](https://gov.nu.ca/sites/default/files/2021-22_fei_en.pdf)

<sup>41</sup> Ibid.

<sup>42</sup>“COVID related economic projections bleak for NWT, brighter for Nunavut and Yukon due to mining,” NWT & Nunavut Chamber of Mines, November 30, 2020, <https://www.miningnorth.com/chamber-news/102499>; David Venn, “Nunavut economy grows despite global pandemic,” *Nunatsiaq News*, May 11, 2021, <https://nunatsiaq.com/stories/article/nunavut-economy-grows-despite-global-pandemic/>

#### **4. Extractive Colonial Background**

Since the time of Martin Frobisher's ill-fated voyage in the 16th century, Inuit have been engaged in an ever-evolving inter-societal relationship with “qallunaat”, the Inuktitut word for non-Inuit people. Consequently, since this first contact, “we Inuit suffered a steady loss of control over our ability to make decisions, decisions for ourselves and for the lands and waters that have sustained us for thousands of years. We became a colonised people”, as Mary Simon describes.<sup>43</sup>

This lack of agency regarding the extraction of natural resources began in the 19th century with whaling commerce in the first place. Scottish and American economic development and expansion of their industrialisation processes was pursued at the expense of the nearly extinction of the bowhead whale, an important resource to many Inuit communities. Nevertheless, this first contact did not only worsen the conditions of wildlife but it also incorporated the introduction of diseases, which utterly destroyed Inuit communities in the Mackenzie Delta and Southampton Island areas.<sup>44</sup>

On a second basis, in the 1920's, the decline of commercial whaling led to the commercialisation of fur which in the same manner benefited companies outside of Nunavut. Moving on in time, during WWII the economy of fur trade collapsed. However, after the stallment of the fur economy, sealskin commerce offered Inuit communities some reprieve, until American and European banned seal-products imports, leaving Inuit economy devastated. Notwithstanding, shrank economic revenues from these sectors required “relief” payments from the federal government as a result of devastating levels of starvation in the region and more disease outbreaks. Therefore, this social crisis made the government initiate social welfare programs in the 1950's and 1960's for housing, education, health care and economic development acting in a paternalistic manner by intervening more in the region, originating the atrocities that until the day are the foundations of still existing intergenerational trauma and high social costs.<sup>45</sup>

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<sup>43</sup>Mary Simon, "Canadian Inuit: Where We Have Been and Where We Are Going," *International Journal* 66, no. 4 (2011): 880. <http://www.jstor.org/stable/23104399>.

<sup>44</sup> Warren Bernauer, “*EXTRACTIVE HEGEMONY IN THE ARCTIC: ENERGY RESOURCES AND POLITICAL CONFLICT IN NUNAVUT, 1970-2017*,” (PhD diss., York University, 2018), 32-35.

<sup>45</sup> Ibid; Jack Hicks and Graham White, “Nunavut: Inuit self-determination through a Land Claim and Public Government?” in *Nunavut: Inuit regain control of their lands and their lives*, ed. Jens Dahl, Jack Hicks and Peter Jull (Copenhagen: IWGIA document, 2000), 48.

Among these traumatic experiences we find the relocation of Inuit communities to create a permanent human presence in the High Arctic to bolster its sovereignty over the region; compulsory attendance to residential schools which were government-sponsored religious schools created to assimilate Indigenous children into Euro-Canadian culture; and the police and government officials killing of Inuit sled dogs. All of these events together shifted Inuit culture to enclose their communities into permanent settlements.<sup>46</sup>

These structural changes made wage labour increasingly necessary to access the means of subsistence as hunting could no longer produce and supply all the goods Inuit required. Wages were also used to purchase hunting equipment, as hunting still remains an intrinsic cultural activity of Inuit regardless of what seemed to be effortless attempts by the state to conduct a cultural genocide on Inuit. Nevertheless, due to the history of economic adaptation by Inuit, Nunavut has been classified as a “mixed economy”.<sup>47</sup>

As a result, the colonial legacies still persist in time as since 1996 the Community Well-Being (CWB) Index has systematically shown lower numbers for Inuit in all aspects including income, education, housing and labour market than non-Inuit as seen in Graph 2.<sup>48</sup> This has resulted on Inuit suicide rate to be nine times higher than non-Indigenous Canadian. In the words of Mumilaaq Qaqqaq, Nunavut’s Member of Parliament (MP), “people are choosing to kill themselves. If that doesn't tell you turmoil is happening and something is severely wrong, I don't know what will.”<sup>49</sup>

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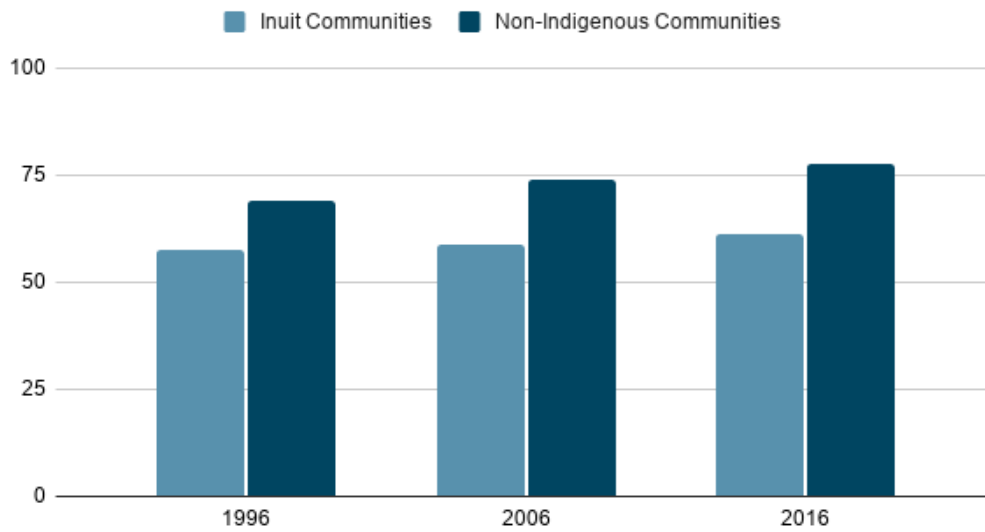
<sup>46</sup> Bernauer, “*EXTRACTIVE HEGEMONY IN THE ARCTIC*,” 36-38.; Crystal Gail Fraser, “Inuit Experiences at Residential School,” The Canadian Encyclopedia, last modified April 28, 2020, <https://www.thecanadianencyclopedia.ca/en/article/inuit-experiences-at-residential-school>

<sup>47</sup> Bernauer, “*EXTRACTIVE HEGEMONY IN THE ARCTIC*,” 40; Hicks and White, “Nunavut”, 37.

<sup>48</sup> OECD, *Linking Indigenous Communities*, 21.

<sup>49</sup> Mumilaaq Qaqqaq, “‘Use the right words, and paint the right picture’: In conversation with Nunavut MP Mumilaaq Qaqqaq,” interview by Shelby Lisk, *Tvo.org*, January 20, 2021, <https://www.tvo.org/article/use-the-right-words-and-paint-the-right-picture-in-conversation-with-nunavut-mp-mumilaaq-qaqqaq>

## Community Well-Being Index



Graph 2: CWB Index from 1996 to 2016 comparing Inuit and Non-Inuit Canadian Communities.

Source: "Report on trends in Inuit communities, 1981 to 2016," Indigenous Services Canada, Government of Canada, last modified January 24, 2020, <https://www.sac-isc.gc.ca/eng/1421175988866/1557322849888#chp5a>

## **5. Nunavut Land Claim Agreement**

### **5.1 Background**

The 1973 Calder Case marked a precedent in which the Supreme Court recognised Aboriginal title as a legal right based on occupation of traditional territories. It reaffirmed the fact that “aboriginal rights existed throughout what is now known as Canada, at the time of first European contact.”<sup>50</sup> This case led to an era of treaty-making in which the federal government began to negotiate “modern treaties”, also known as “comprehensive land claims”. Furthermore, the Calder case also influenced the inclusion of Aboriginal rights in section 35 of the Constitution Act of 1982.<sup>51</sup> As a result, with this case, the Canadian state policy shifted from an unstable assimilative agenda to the enshrinement of limited sets of aboriginal rights provided by what political theorist Charles Taylor has referred to as “the politics of recognition”.<sup>52</sup>

The Inuit government project was put forward in 1971 by a group of young Inuit who had just formed the Inuit Tapirisat of Canada (ITC)<sup>53</sup>, as a result of a shared concern among Inuit leaders regarding the status of land and resource ownership in Inuit Nunangat due to increased industrial development in the region. The initial plan was to create a pan-Inuit government that would bring together all the Inuit of Canada from Labrador, Northern Quebec, the Western Arctic and the Northwest Territories to negotiate territorial agreement for all the Inuit.<sup>54</sup> This Inuit proposal resembles the meaning behind *bio regionalism*, by which human society is organised within ecological rather than political boundaries, following Inuit traditional nomadic culture based on their relationship with the environment.<sup>55</sup>

However, after acknowledging the impossibility of the plan, the expectations to negotiate similar deals on Inuit regions were also truncated by the wave of mineral and oil exploration in the

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<sup>50</sup> Gabrielle Slowey, “Aboriginal self-government, extinguishment of title and the Canadian state: effectively removing the ‘other’,” *Native Studies Review* 13, no. 1 (2000): 7.

<sup>51</sup> David A. Cruickshank, “Calder Case,” The Canadian Encyclopedia, last modified September 2, 2020, <https://www.thecanadianencyclopedia.ca/en/article/calder-case>

<sup>52</sup> Adam J. Barker, Toby Rollo, and Emma Battell Lowman, “Settler Colonialism and the Consolidation of Canada in the Twentieth Century,” in *The Routledge Handbook of the History of Settler Colonialism*, ed. Edward Cavanagh and Lorenzo Veracini (London: Routledge, 2016), 157.

<sup>53</sup> ITC meaning “Inuit will be united” changed its name in 2001 to Inuit Tapiriit Kanatami (ITK) which means “Inuit are united in Canada” to reflect the settlement of land claims agreements in all Inuit regions.

<sup>54</sup> Thierry Rodon, “Le Nunavut: une composition inachevée?,” *Études/Inuit/Studies* 38, no. 1-2 (January 2014): 5.

<sup>55</sup> Dyer, “Green Theory,” 87.



70's by the Canadian government and private companies. The pressure and the need of establishing certainty regarding land management and sovereignty of lands made that in 1975 the James Bay and Northern Quebec Agreement became the first Land Claim Agreement (LCA) of many to come in the region. In that time, LCA were seen as incentives for aboriginal groups to have a voice and catch a ride in the economic development that was going to happen either way in their territories, without once again being left aside in the process.<sup>56</sup>

In Nunavut, this wave of mineral and oil exploration hurried the negotiations that started in 1980 and that finalised in the 1993 Nunavut Land Claim Agreement, signed in the capital of Iqaluit by Prime Minister, the representative of Tunngavik Federation of Nunavut (TFN)<sup>57</sup>, and the Government of the Northwest Territories. The Agreement took form under the rule of Prime Minister Brian Mulroney, from the Conservative party, due to the fact that Liberal parties at that time were more reticent in recognising “indigenous rights” as they would undermine the democratic equality between citizens.<sup>58</sup>

Once the NLCA was established providing a clearer and legal environment for mining companies and royalty rights to Inuit, mining projects in Nunavut began to gain momentum.<sup>59</sup> As a result, for some authors, LCA may seem to be a form of co-opting Indigenous Communities to accept extractive projects and secure indigenous land for continuous occupation and exploitation, perpetuating Canadian settler colonialism through the role of capitalist resource extraction.<sup>60</sup> However, other authors such as Thierry Rodon remind that increased indigenous agency through LCAs should be considered as capacity-building tools for indigenous people to manage their own affairs.<sup>61</sup>

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<sup>56</sup> Christopher Alcantara, “*Deal? Or No Deal?: Explaining Comprehensive Land Claims Negotiation Outcomes in Canada*,” (PhD diss., University of Toronto, 2008), 91.

<sup>57</sup> substituting ITC and which currently is Nunavut Tunngavik Inc. (NTI)

<sup>58</sup> Julián Castro Rea, “Nunavut, los derechos indígenas y federalismo en Canadá,” *Nueva antropología* 19, no. 63 (2003): 56-57.

<sup>59</sup> Thierry Rodon, "Institutional Development And Resource Development: The Case Of Canada'S Indigenous Peoples," *Canadian Journal Of Development Studies/Revue Canadienne D'études Du Développement* 39, no.1 (2017): 13.

<sup>60</sup> Barker et al. “Settler Colonialism,” 158.

<sup>61</sup> Rodon, “Institutional Development,” 14.

## 5.2 Agreement

The case of Nunavut can be observed as a positive example of reconciliation between indigenous claims for their ancestral rights with the institutions of a modern liberal democratic state. As a result, for authors such as Julián Castro, it has been used as a precedent to propose comparisons with the Chiapas armed insurrection movement in 1994 led by *zapatistas*.<sup>62</sup>

However, the success of modern treaties, such as the NLCA, relies on the core clause of the relinquishment of aboriginal title. This clause was an attempt from the state to provide legal certainty for extractive capital by reducing the ability of Inuit to stop contentious projects with litigation.<sup>63</sup>

The agreement clarified the different ownership concessions of Nunavut land between municipal, Crown and Inuit owned lands. Nevertheless, out of the 1,994,000 square kilometres comprising the Nunavut Settlement area (NSA), Inuit own surface rights to 18% of it, managed by Regional Inuit Organizations (RIO) and subsurface rights to 2% managed by Nunavut Tunngavik Incorporated (NTI), the organisation created after the signing of the Agreement to represent the Inuit of Nunavut and to act as a watchdog of the fulfilment of the it. Crown lands on the other side, count of 82% of the territory and hold mineral rights to 98% of it.<sup>64</sup>

As a result, it could be argued that this ownership concession relies on the basis of dispossession by which Inuit citizens who have for centuries inhabited these lands, and which Europeans occupied them without title to it, have had to relinquish their rights to their current settler post-colonial power in order for other self-determination rights to be safeguarded. Important for the development of extractive practices are rights: 2, 3 and 7 from Table 1 due to the alleged gained influence of Inuit in decision-making by negotiating hand in hand compensatory packages between RIO's and project developments as well as intervening in impact assessment processes for resource development.

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<sup>62</sup> Castro, "Nunavut," 42; Hicks and White, "Nunavut," 30.

<sup>63</sup> Warren Bernauer, "Land Rights And Resource Conflicts In Nunavut," *Polar Geography* 42, no.4 (2019):1.

<sup>64</sup> Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), Government of Nunavut (GN), Nunavut Tunngavik Incorporated (NTI), and Canada-Nunavut Geoscience Office (CNGO), *Overview 2020 Nunavut: Mining, Mineral Exploration and Geoscience*, (2020): 4, [https://www.gov.nu.ca/sites/default/files/exploration\\_overview\\_2020-english.pdf](https://www.gov.nu.ca/sites/default/files/exploration_overview_2020-english.pdf)

### Summary of provisions for Inuit from the NLCA

1. Capital Transfer Payments of \$ 1.148 billion to be paid over a 14 year period which are to be administered by the Nunavut Trust on behalf of the NTI for the collective benefit of all Inuit.
2. Creation of 3 Regional Inuit Organisations (RIO) from each administrative regions that receive royalties stemming from resource development projects on Inuit-owned lands; Kivalliq Inuit Association (KIA), Qikiqtani Inuit Association (QIA) and Kitikmeot Inuit Association (KitIA).
3. Establishment of co-management boards (institutions of public government). The Nunavut Wildlife Management Board (NWMB) to oversee wildlife harvesting management; the Nunavut Planning Commission (NPC) with responsibility of land use planning; the Nunavut Impact and review Board (NIRB) which conducts environmental and socioeconomic reviews of development projects; and the Nunavut Water Board (NWB) which is responsible of the regulation, use and management of inland water in the Nunavut Settlement Area. Furthermore, the creation of a Nunavut Social Development Council (NSDC) in charge of providing social and cultural policies, programs and services to Inuit.
4. Commitment to create a Nunavut territory and a Government of Nunavut on April 1, 1999.
5. The Right to harvest wildlife on lands and waters throughout the Nunavut Settlement Area (NSA).
6. The right to a share of federal royalties to NTI resulting from the development of Crown land and natural resources.
7. The right to negotiate Impact and Benefit Agreements (IBA) with RIOs and NTI with would-be developers of surface and subsurface resources on land owned by Inuit.
8. Compensation if development affects the Inuit hunting-based economy.
9. Commitments to increase Inuit employment in government and to give preference to Inuit-owned businesses in government contracting.
10. The Creation of a training trust fund with an additional \$13 million.

Table 1: Summary of provisions for Inuit from the NLCA.

Source: Hicks and White, "Nunavut"; Terry Fenge and Paul Quassa, "Negotiating and implementing the Nunavut Land Claims Agreement," *Policy Options Politiques*, July 1, 2009, <https://policyoptions.irpp.org/magazines/canadas-water-challenges/negotiating-and-implementing-the-nunavut-land-claims-agreement/>; Thierry Rodon, "'Working Together': The Dynamics of Multilevel Governance in Nunavut," *Arctic Review* 5, no.2 (2017): 260.

Relevant for this project is the Nunavut Impact and Review Board (NIRB) which is the co-management board in charge of assessing if extractive projects need environmental assessments in order to avoid harm in Inuit societies and their dependent ecosystem. To do so, under article 12.2.7 of the NLCA: “All necessary steps shall be taken by way of notice, dissemination of information, and scheduling and location of hearings to provide and promote public awareness of and participation at hearings.”<sup>65</sup> Therefore, through the participation of Hunters and Trappers Organisations (HTO)<sup>66</sup>, NTI and RIO’s, representation of Inuit is assured.

The NIRB only has an advisory role as it develops a final report including its recommendations that it is sent afterwards to Federal Minister of Northern Affairs which acts as commissioner for the territory and formal representative of the federal Crown. The final decision of whether the project should be approved or not and under what conditions, reiterates the underpinning colonial domination of Ottawa and the former British imperial power over Nunavut.<sup>67</sup>

According to Charles J. Marecic, “the self-management that aboriginal peoples believe that they are receiving from the government may, in reality, be illusory.”<sup>68</sup> This could be explained by the fact that the rich institutional landscape involving the Proponents, Hamlets, Government of Nunavut and Canada, HTO, RIO’s, Non-Governmental Organisations (NGOs) and Public in the NIRB fosters the appearance of power asymmetries between participants, hampering a successful implementation of Free, Prior and Informed Consent (FPIC) principles towards Inuit communities.<sup>69</sup>

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<sup>65</sup> AGREEMENT BETWEEN THE INUIT OF THE NUNAVUT SETTLEMENT AREA AND HER MAJESTY THE QUEEN IN RIGHT OF CANADA (NLCA), 105.

<sup>66</sup> Hunters and Trappers Organisations help regulate harvesting and manage economic and work opportunities in Inuit communities. In total there are 27 community-based Hunters and Trapper Organizations and 3 Regional Wildlife Organizations in Nunavut as explained in “How Nunavut’s Hunters and Trappers Organizations are contributing to the SDGs,” Northern Council for Global Cooperation, February 8, 2021, <https://www.ncgc.ca/newsstories/storymap-nunavut>

<sup>67</sup> Roger Ritsema et al., ““Steering Our Own Ship?” An Assessment of Self-Determination and Self-Governance for Community Development in Nunavut,” *The Northern Review* 41, (September 2015): 165.

<sup>68</sup> Charles J. Marecic, “Nunavut Territory: Aboriginal Governing in the Canadian Regime of Governance,” *American Indian Law Review* 24, no.2 (1999/2000): 287.

<sup>69</sup> OECD, *Linking Indigenous Communities with Regional Development in Canada*, 316.

## **6. Case Studies**

Before analysing the case studies of the project, it is worthy to grasp an overall contextualisation of the current level of respect the Canadian government and Canadian mining corporations have regarding consultation to indigenous communities to better understand the political environment in which the following case studies take place.

In 1980, when negotiations of the NLCA began, there was no framework agreement to which set the elements and scope of the potential claim settlement in relation to indigenous rights.<sup>70</sup> Oppositely, on December 2020 the Liberal party under Justin Trudeau has proposed Bill C-15 to implement the United Nations Declaration on the Rights of Indigenous People (UNDRIP) in Canadian legislation. This step could be seen as a move from the Prime Minister to reinforce his idea that: “No relationship is more important to me and to Canada than the one with Indigenous Peoples.”<sup>71</sup> Until not approved, the meaning of FPIC is still subjective to courts and mining companies interpretations. Nevertheless, the Supreme Court holds that the Crown still has the duty to consult and accommodate Indigenous peoples when their constitutional rights under Section 35 might be adversely impacted.<sup>72</sup>

In a United Nations 2018 report it was stated that “Indigenous communities should be provided with resources to improve their understanding of the implications of proposed projects on their way of life and to conduct independent, cumulative and holistic impact assessments of projects with adequate gender-sensitiveness to ensure that the voices of all members of the communities are heard.”<sup>73</sup> Until recently, gender impacts of mining in Nunavut have been ignored, eluding the potential impacts of the man-dominated industry on women.<sup>74</sup>

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<sup>70</sup> Barry Dewar, “Nunavut and the Nunavut Land Claims Agreement: an unresolved relationship,” *Policy Options Politique*, July 1, 2009, <https://policyoptions.irpp.org/magazines/canadas-water-challenges/nunavut-and-the-nunavut-land-claims-agreement-an-unresolved-relationship/>

<sup>71</sup> Derek Neary, “Nunavut politicians question Canada’s stance on United Nation Declaration on Indigenous Rights,” *Nunavut News*, April 13, 2021, <https://www.nunavutnews.com/nunavut-news/nunavut-politicians-question-canadas-stance-on-united-nation-declaration-on-indigenous-rights/>; “Statement by the Prime Minister of Canada on National Aboriginal Day,” Prime Minister of Canada Justin Trudeau, Government of Canada, June 21, 2017, <https://pm.gc.ca/en/news/statements/2017/06/21/statement-prime-minister-canada-national-aboriginal-day>

<sup>72</sup> Martin Papillon and Thierry Rodon, “Indigenous Consent and Natural Resource Extraction: Foundations for a Made-in-Canada Approach,” *IRPP Insight*, no.16 (July 2017): 9.

<sup>73</sup> UN. Human Rights Council, *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises on its mission to Canada (A/HRC/38/48/Add.1)*, (Geneva, 2018), 14.

<sup>74</sup> Sheena Kennedy Dalseg et al., “Gendered Environmental Assessments in the Canadian North: Marginalization of Indigenous Women and Traditional Economies,” *The Northern Review* 47, (2018): 135–166.

Yet, not solely do mismatches regarding FPIC happen in Canada, but the fact that the country is home base for nearly half of the world's mining companies facilitate the Canadian colonial project to be expanded beyond its formal borders.<sup>75</sup> This can be exemplified in the latest MiningWatch Canada Annual report of 2019 which provides evidence of how Canadian mining companies are contributing to the practice of *environmental racism*<sup>76</sup>, acting oppositely to the 2014 Corporate Social Responsibility Strategy named: "*Doing Business the Canadian Way*".<sup>77</sup>

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<sup>75</sup> Bernauer, "*EXTRACTIVE HEGEMONY IN THE ARCTIC*," 11.

<sup>76</sup> Term coined by Benjamin Chavis in 1982 to refer to the systemic racism Black, Indigenous and People Of Color (BIPOC) suffer from policy-making on matters like soil contamination, waste sites and industrial land use. Nevertheless, environmental racism also occur when communities lack the resources to raise awareness or fight a costly legal battle in comparison to wealthier white communities as explained in: Peter Beech, "What is environmental racism?," World Economic Forum, July 31, 2021, <https://www.weforum.org/agenda/2020/07/what-is-environmental-racism-pollution-covid-systemic/>

<sup>77</sup> "Canada's Enhanced Corporate Social Responsibility Strategy to Strengthen Canada's Extractive Sector Abroad," Global Affairs Canada, Government of Canada, <https://www.international.gc.ca/trade-agreements-accords-commerciaux/topics-domaines/other-autre/csr-strat-rse.aspx?lang=eng>; MiningWatch Canada, *Annual Report 2019*, <https://miningwatch.ca/sites/default/files/miningwatchannualrpt2019-en.pdf>

## 6.1 Clyde River (Hamlet) v. Petroleum Geo-Services Inc.

In 2011, a consortium of Norwegian companies operating under the name MKI<sup>78</sup> proposed the seismic testing plan in Baffin Bay and Davis Strait in the Qikiqtaaluk region, an area adjacent to where Inuit have treaty rights. The project description, which included towing air guns by ship from July through November for five successive years was filed to the National Energy Board (NEB)<sup>79,80</sup>

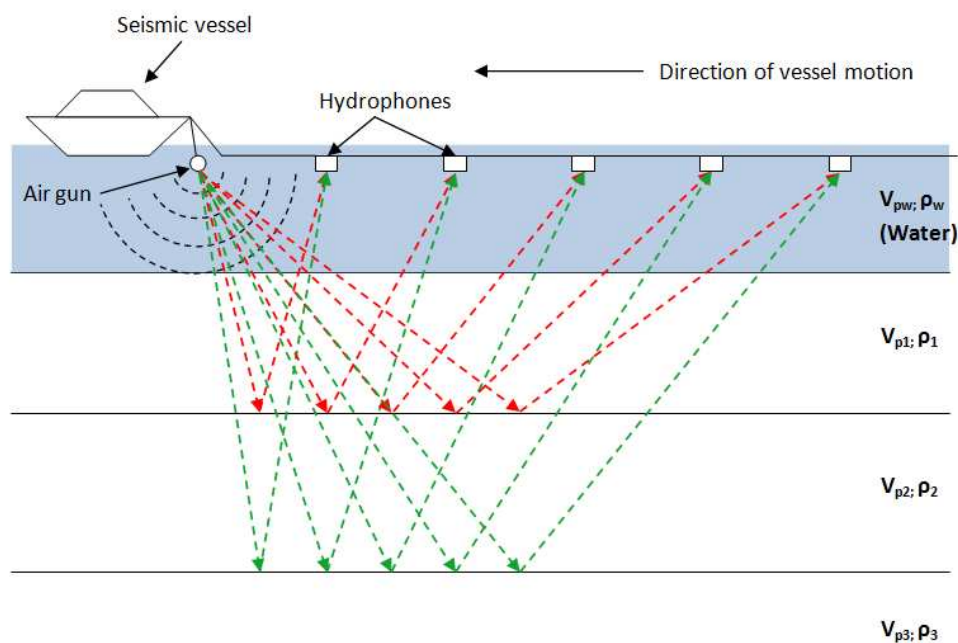


Image 1: Seismic testing procedure.

Source: Wikipedia. Image of public domain.

NEB launched an environmental assessment of the project to study its viability but the community of Clyde River filed a petition against the administrative body to show opposition to the project from the beginning. As a result, in April and May 2013, NEB held meetings in Pond

<sup>78</sup> TGS-NOPEC Geophysical Company ASA, Multi Klient Invest As and Petroleum Geo-Services Inc.

<sup>79</sup> Federal administrative tribunal and regulatory agency dedicated to issuing authorisations for activities such as exploration and drilling for the production of oil and gas.

<sup>80</sup> Supreme Court Judgments, *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.* (36692), (2017), [https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16743/index.do?site\\_preference=normal](https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16743/index.do?site_preference=normal)

Inlet, Clyde River, Qikiqtarjuaq and Iqaluit to listen to the local population. However, community members asking basic questions regarding the environmental and wildlife impacts of the testing were not adequately answered. “That’s a very difficult question to answer because we’re not the core experts” was a response given when asking which impacts seismic testing would have on marine mammals. Consequently, NEB suspended the environmental assessment in 2013.<sup>81</sup>

Later on the same year, the proponents and NEB filed a report to hamlet offices with the “answers” to the unresolved questions. However, the whole document was not translated in Inuktitut and no procedures were conducted to ensure that communities had their questions answered or even if they could access the report. In view of the lack of consultancy made by the proponents to Inuit communities, they proposed a strategic environmental assessment to the Minister of Aboriginal Affairs and Northern Development before any authorisation could be granted. In June 2014, the minister answered that it was not necessary for a strategic environmental assessment to take place as the NEB report already stated that “Aboriginal groups had an adequate opportunity to participate in the NEB’s [environmental assessment] process”. As a result, the NEB authorised the proposal in June 2014.<sup>82</sup>

As a countermeasure, the community of Clyde River, concretely the Nammautaq Hunters and Trappers Organization and the Mayor, applied to the Federal Court of Appeal for judicial review of the NEB’s decision to grant the authorisation, alleging the body had not adequately considered the harmful effects of seismic testing on marine mammals and on Inuit food, economy, and culture, and that the decision violated the constitutional rights of the Inuit to be consulted and accommodated. However, the Court of Appeal concluded that the Crown’s duty to consult had been satisfied by the nature and scope of NEB’s processes. In her written decision, Justice Eleanor Dawson stated: “First, adequate consultation does not require agreement.”<sup>83</sup> However, according to Cynthia Callison, this conception of consultation adopted by the Courts moves away from the Government’s “promise” of reconciliation and nation-to-nation negotiation between Canada and Indigenous peoples.<sup>84</sup>

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<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Clyde River Federal Court of Appeal Decision, (Ottawa: 2015): 26,

<https://www.documentcloud.org/documents/2287930-clyde-river-federal-court-of-appeal-decision.html>

<sup>84</sup> Mia Rabson, “Without Indigenous consent for Trans Mountain, expect more confrontation: lawyer and negotiator,” *The Globe and Mail*, March 5, 2020, <https://www.theglobeandmail.com/canada/british-columbia/article-without-indigenous-consent-for-trans-mountain-pipeline-expect-more/>



Thus, the Clyde River community took the case to the Supreme Court in October 2015 hoping to win the appeal, with support of other organisations. On the 26<sup>th</sup> of July 2017, the Supreme Court quashed the proposal of seismic testing. The arguments proposed were that an authorisation was implemented even though it breached constitutionally protected rights of Indigenous peoples. In addition, while the Crown may rely on the NEB's process to fulfill its duty to consult, the consultation and accommodation efforts in this case were inadequate and did not fulfill it.<sup>85</sup> This decision made that the president at the time of ITK<sup>86</sup> stated: "Canada can avoid protracted litigation of this nature in the future through full implementation of the UN Declaration, in partnership with indigenous peoples."<sup>87</sup>

Similar to this case, litigation cases fighting for environmental protection around the world are increasing in numbers in the current climate crisis context. Even on March 17<sup>th</sup> of this year, the United Nations Human Rights Council adopted a resolution reaffirming the undeniable link between human rights and the environment.<sup>88</sup> However, unlike the Netherlands and other 110 countries, Canada has not recognised the *right to a healthy environment* leaving Canadian population to take litigation cases to court based on other rights.<sup>89</sup>

Nevertheless, it should also be noted that following the Court's decision, the Government of Canada announced a moratorium on oil and gas activity in Canadian Arctic waters on December 20<sup>th</sup> 2016 to be revisited in December 2021 and every five years.<sup>90</sup> Notwithstanding, once again leaders from the Western and Eastern Arctic including Nunavut's were not consulted in the decision, limiting their ability to decide on matters affecting their territories.<sup>91</sup>

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<sup>85</sup> Supreme Court Judgments, *Clyde River*.

<sup>86</sup> The National Inuit Organization which previously was IPC.

<sup>87</sup> Jim Bell, "WWF, Inuit orgs say they're happy with Clyde River judgment," *Arctic Today*, July 28, 2017, <https://www.arctictoday.com/wwf-inuit-orgs-say-theyre-happy-with-clyde-river-judgment/>

<sup>88</sup> UN Human Rights Council, *Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (A/HRC/46/L.6/Rev.1)*, (2021), <https://un-docs.org/pdf?symbol=en/A/HRC/46/L.6/REV.1>

<sup>89</sup> UN Human Rights Council, *Right to a healthy environment: good practices (A/HRC/43/53)*, (2019), 23 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/355/14/PDF/G1935514.pdf?OpenElement>; "Global Climate Litigation," Urgenda, accessed March 17, 2021, <https://www.urgenda.nl/en/themas/climate-case/global-climate-litigation/>

<sup>90</sup> CIRNAC, *Overview 2020*, 12.

<sup>91</sup> Sarah Rogers, "Nunavut disappointed in Trudeau's "spur of the moment" plans for Arctic," *Nunatsiaq News*, December 21, 2016, [https://nunatsiaq.com/stories/article/65674nunavut\\_disappointed\\_in\\_trudeaus\\_spur\\_of\\_the\\_moment\\_plans\\_for\\_arctic/](https://nunatsiaq.com/stories/article/65674nunavut_disappointed_in_trudeaus_spur_of_the_moment_plans_for_arctic/)

### 6.1.1 Dissidence

In an interview of Arctic Deeply to Jerry Natanine, mayor of Clyde River, he expressed: “the NEB came up and they said there is a project that’s going to happen, it’s seismic testing. [...] They told us what a seismic ship is. And that’s what they called their consultation.”<sup>92</sup> However, although at first sight for the mayor, these were good news as it would provide sources of jobs and income to the community, his father Salamonie Natanine shared with him: “you’re going to have to fight this, because in the 70s when they did it, seals got deaf and their ears started bleeding.”<sup>93</sup> Therefore, the Inuit culture in which elders are praised and respected for providing ancestral traditional knowledge pushed Clyde River to appeal the decision made by NEB.

What is surprising about this case is that it was Greenpeace, the most hated organisation by Inuit, who ended up paying the fees and offering lawyers to file the appeal. This alliance was forged after the Inuit organisations, NTI and Qikiqtani Inuit Association (QIA), remained assertive due to their lawyers judgement that the case was difficult to result victorious as the project would take place outside the NSA.<sup>94</sup> The hate towards the NGO is founded on Inuit’s perception of being responsible for the poverty of the territory as a result of the 1970s and 1980s anti-sealing hunting campaign that resulted in a product boycott from foreign buyers. However, Jerry Natanine’s decision of approaching to the organisation after seeing a public apology for the past damage did not solely gave Clyde River international recognition and money to the cause but provided the community with valuable strategic advice on how to lobby the government. Furthermore, although it was finally not necessary, the mayor suggested that if the court did not rule in Clyde River's favour, due to the seriousness of the matter they would have been willing to learn tactics of direct action from them.<sup>95</sup>

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<sup>92</sup> Jerry Natanine, “A Small Arctic Community Wins a Big Fight in Canada’s Top Court,” interview by Arctic Deeply, *The New Humanitarian*, August 2, 2017, <https://deeply.thenewhumanitarian.org/arctic/community/2017/08/02/a-small-arctic-community-wins-a-big-fight-in-canadas-top-court>

<sup>93</sup> Natanine, interview.

<sup>94</sup> Jim Bell, “Clyde River scores big win for Nunavut Inuit at the Supreme Court,” *Nunatsiaq News*, July 26, 2017, [https://nunatsiaq.com/stories/article/65674clyde\\_river\\_scores\\_big\\_win\\_for\\_nunavut\\_inuit\\_at\\_the\\_supreme\\_court/](https://nunatsiaq.com/stories/article/65674clyde_river_scores_big_win_for_nunavut_inuit_at_the_supreme_court/)

<sup>95</sup> Elyse Skura, “Clyde River hunters laud 'surprising' Greenpeace partnership,” *CBC*, November 16, 2015, <https://www.cbc.ca/news/canada/north/greenpeace-clyde-river-nunavut-seismic-testing-battle-1.3318691>

## 6.2 Mary River Iron Mine Expansion

Mary River is the only producing mine in the administrative region of Qikiqtaaluk although exploration for diamonds and gold has also taken place recently.<sup>96</sup> The mining company, also known as Baffinland Iron Mines Corporation (BIM), entered into Nunavut’s regulatory process in 2008, receiving approval for the project in December 2012 albeit concerns raised by the Department of Fisheries and Oceans Canada (DFO) after environmental and technical assessments were taken by the NIRB.<sup>97</sup>

The total approved includes a 22.2 Million tonnes per annum (Mtpa) rate of iron ore production divided into a 4.2 Mtpa transported by road to Milne Port and 18 Mtpa transported by rail to Steensby Port as seen in Map 2.<sup>98</sup>

### Mary River Expansion Project



Map: Self Made • Source: Baffinland Iron Mines 2019 Annual Report to the Nunavut Impact Review Board • Created with Datawrapper

Map 2: Full project infrastructure from the Mary River mine of Baffinland Iron Mines Corporation

<sup>96</sup> CIRNAC, *Overview 2020*, 28.

<sup>97</sup> Beth Brown, “Pond Inlet protesters say mine expansion ignores Nunavut Agreement,” *CBC*, February 6, 2021, <https://www.cbc.ca/news/canada/north/pond-inlet-protests-nunavut-agreement-1.5904305>

<sup>98</sup> Baffinland, *Baffinland Iron Mines 2019 Annual Report to the Nunavut Impact Review Board*, (2020), 17, [https://www.baffinland.com/\\_resources/2019\\_NIRB\\_AnnualReport.pdf](https://www.baffinland.com/_resources/2019_NIRB_AnnualReport.pdf)

However, given the financial costs and risks associated with full implementation of the Project at that time, the 18 Mtpa Steensby rail project has not yet been constructed as BIM decided to take a phased approach beginning with the actual smaller and less-costly option, the Early Revenue Phase (ERP).<sup>99</sup> However, coinciding with the recent high prices of iron ore, the company applied to the NIRB in 2018 to engage in the proposals of Phase 2 expansion project as shown in Table 2.<sup>100</sup>

In relation to Phase 2 of the expansion, public hearings on the amendments began in November 2019, but after community members in the affected communities expressed significant concerns about this proposal together with the aggregated factor of Covid-19, hearings have been being delayed for two years.<sup>101</sup> Nevertheless, final public hearings on the mine's proposed expansion took place in Iqaluit in April 2021 from which the NIRB will give a final recommendation to the Federal Minister of Northern Affairs.<sup>102</sup>

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<sup>99</sup> Fisheries and Oceans Canada, *SCIENCE REVIEW OF THE PHASE 2 ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT STATEMENT FOR THE BAFFINLAND MARY RIVER PROJECT*, (Ecosystems and Oceans Science, 2019), 2. <https://waves-vagues.dfo-mpo.gc.ca/Library/40783844.pdf>

<sup>100</sup> Department of Finance of the Government of Nunavut, *Budget 2021-2022*, 15.

<sup>101</sup> Emma Tranter, "Qikiqtani Inuit Association and Baffinland sign new multimillion-dollar benefit agreement," *Nunatsiaq News*, July 6, 2020, <https://nunatsiaq.com/stories/article/qikiqtani-inuit-association-and-baffinland-sign-new-multimillion-dollar-benefit-agreement/>; Sara Frizzel, "Nunavut mine blockade to continue until concerns are addressed, say Inuit hunters," *CBC*, February 6, 2021, <https://www.cbc.ca/news/canada/north/baffinland-blockade-hunters-group-1.5902516>

<sup>102</sup> The Canadian Press Staff, "Inuit group's board says no to proposed expansion of Nunavut iron ore mine," *CTV News*, March 8, 2021, <https://www.ctvnews.ca/canada/inuit-group-s-board-says-no-to-proposed-expansion-of-nunavut-iron-ore-mine-1.5338645>

Early Revenue Phase (ERP)	Phase 2
<ul style="list-style-type: none"> <li>→ In 2014, production started with the development of 3.5 Mtpa.</li> <li>→ Two amendments were requested as part of the phased production approach; including an increase in May 2014 to 4.2 Mtpa and in April 2018 to 6 Mtpa.</li> <li>→ Currently, the operations of the mine under this phase take place in the Mine Site, the Milne Inlet Tote Road and the Milne Port.</li> <li>→ Currently shipping takes place between July 15 to October 15.</li> </ul>	<p>BIM is requesting to:</p> <ul style="list-style-type: none"> <li>→ Increase production from 4.2 Mtpa (and temporary expansion increase of 6 Mtpa) to 12 Mtpa from Milne Port. This would increase the total project production rate to 30 Mtpa (12 Mtpa being transported via the North Railway to Milne Port and 18 Mtpa transported via the South Railway).</li> <li>→ Construct the first Canadian Arctic railway, “the North Railway”, adjacent to the currently existing Tote Road to transport the ore from the mine site to the port at Milne Inlet, accounting for 110 kilometres. Furthermore, changes will be made in the Mine Site to accommodate the construction of the North Railway line, support the increase in mine production and the construction of the northern section of the Steensby Railway. Finally, additional infrastructure at Milne Port will be made, including a second ore dock.</li> <li>→ Increase trips to a maximum of 176 transits during open water season and extend them to November 15th if the landfast ice is not being used to support travel and harvesting by Inuit.</li> </ul>

Table 2: Phases of the Mary River mine project.

Source: Fisheries and Oceans Canada, *SCIENCE REVIEW OF THE PHASE 2*, 1-69; Baffinland, *Phased Development of the Mary River Iron Ore Project Warming of the North Conference*, (Ottawa, 2015), <https://umanitoba.ca/faculties/management/ti/media/docs/Zurowski.pdf>; Baffinland, *Popular Summary*, (Baffinland, 2018), <https://www.baffinland.com/resources/pdf/EIS-Popular-Summary-English.pdf>

### 6.2.1 Conflict of Interests

Regarding the decentralisation of actors engaged in the decision of the approval of the mine expansion, several conflicts have arisen.

BIM is pushing for an approval to be granted as otherwise it has claimed that the mine will have to close as its sustainability depends on iron prices fluctuations, needing production costs to be lowered.<sup>103</sup> Nevertheless, there is tension between BIM and independent economic reports commissioned by Oceans North that seem to show that Mary River is already a profitable mine.<sup>104</sup> However, despite a decision from the Government of Canada has not been made yet, the company has already bought railway and port equipment raising concerns among communities.<sup>105</sup>

The five communities near the project are concerned that their questions regarding the mine impacts and operations are not being answered, ignoring Inuit protections for land and harvesting rights. They claim the corporation is failing to provide transparency regarding the real expansion objectives by the mining company to be assessed in the review process, as there are suspicions that the company wants to further increase production to 18 Mtpa, which does not match the quantity under review.<sup>106</sup> In addition, communities fear that if the Phase 2 expansion ought to be approved, the company would pursue the construction of the remaining project infrastructure left in the South with the revenues obtained from it increasing even more the already experienced impacts of the current levels of production.<sup>107</sup> Hence, citizens are proposing a plebiscite to take place, due to the perception that the NIRB process is not conducive to

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<sup>103</sup> Baffinland, *Baffinland Iron Mines 2019 Annual Report*, 35.

<sup>104</sup> Chris Debicki, "Guest comment: Baffinland's proposed mine expansion lacks transparency, fails to address environmental impacts," *Nunavut News*, April 5, 2021, <https://www.nunavutnews.com/opinion/baffinlands-proposed-mine-expansion-lacks-transparency-fails-to-address-environmental-impacts/>

<sup>105</sup> Jim Bell, "Baffinland's massive railway-based sealift raises concerns in Pond Inlet," *Nunatsiaq News*, October 17, 2019, <https://nunatsiaq.com/stories/article/baffinlands-massive-railway-based-sealift-angers-pond-inlet/>

<sup>106</sup> Beth Brown, "Seven Inuit communities create non-profit to lobby mining industry in Baffin region," *CBC*, January 11, 2021, <https://www.cbc.ca/news/canada/north/seven-inuit-communities-create-non-profit-lobby-mining-industry-baffin-region-1.5866990>; Jim Bell, "Baffinland plans further expansion at Nunavut's Mary River: report," *Nunatsiaq News*, October 14, 2020, <https://nunatsiaq.com/stories/article/baffinland-plans-further-expansion-at-nunavuts-mary-river-report/>

<sup>107</sup> Naymen Inuarak, "Northern Affairs Minister Dan Vandal must visit Nuluujaat to meet with Inuit hunters before issuing decision on mine expansion," *Toronto Star*, May 6, 2021, <https://www.thestar.com/opinion/contributors/2021/05/06/northern-affairs-minister-dan-vandal-must-visit-nuluujaat-to-meet-with-inuit-hunters-before-issuing-decision-on-mine-expansion.html>

debate and discussion within and across communities. The fact that the NLCA does not contemplate this option leaves Inuit helpless in the process.<sup>108</sup>

Another concern is the lack of benefits Inuit communities are receiving from QIA, which in theory has already received millions from the mining lease of occupying Inuit-owned lands and royalties from the already IBA.<sup>109</sup> In addition, the Inuit Certainty Agreement signed between BIM and QIA in June of 2020 for the on hold approval of the expansion has been received by the hamlet councils and hunters groups in the communities as another source of conflict in which Inuit concerns are not being addressed, violating article 26.3.3 of the NLCA.<sup>110</sup> The signature of this agreement can be adopted as a sign of trying to speed up the project approval process and with the underlying logic that the project will be approved, loosening the need to share long-term social impacts or cumulative environmental impact information.<sup>111</sup> Due to all of the opposition of citizens towards QIA for being BIM's partner, the organisation shared a media release the 5<sup>th</sup> of March 2021 that will stop supporting the expansion. Similarly, NTI gave a statement on the 16<sup>th</sup> of March advocating for the inclusion of more Inuit oral testimonies in order to maximise Inuit engagement and ensure that the NIRB fulfils procedural fairness and consultation obligation.<sup>112</sup>

Regarding the Federal Government, Mumilaaq Qaqqaq stated in the House of Commons on the 23rd of March that “the government has been largely silent on this dangerous project.” Therefore, this lack of agency from the authoritative body and the fact that the NIRB put many difficulties for Uvagut, Canada's first Inuktitut television channel, to rebroadcast the hearings deprived the public of their right to a fair process.<sup>113</sup>

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<sup>108</sup> Willow Scobie and Kathleen Rodgers, “Divisions, Distractions, And Privileges: Consultation And The Governance Of Mining In Nunavut,” *Studies In Political Economy* 100, no.3 ( 2019): 241.

<sup>109</sup> Brown, “Non-Profit.”

<sup>110</sup> Frizzel, “Nunavut mine blockade to continue.”; Julien Gignac, “Review of Baffinland mine expansion in Nunavut presses on, despite Inuit concerns,” *The Narwhal*, October 1, 2020, <https://thenarwhal.ca/baffinland-mary-river-mine-expansion-inuit/>; Nick Murray, “‘What is happening now is not working for Inuit’: Why QIA won't support Baffinland's expansion,” *CBC*, April 14, 2021, <https://www.cbc.ca/news/canada/north/why-qia-will-not-support-baffinland-expansion-1.5985933>; AGREEMENT BETWEEN THE INUIT OF THE NUNAVUT SETTLEMENT AREA AND HER MAJESTY THE QUEEN IN RIGHT OF CANADA, 208.

<sup>111</sup> Papillon and Rodon, “Indigenous Consent,” 12-13.

<sup>112</sup> Jane George, “Nunavut Tunngavik Inc. “not prepared” to support Baffinland iron mine expansion, says CEO,” *Nunatsiaq News*, March 17, 2021, <https://nunatsiaq.com/stories/article/nunavut-tunngavik-inc-not-prepared-to-support-baffinland-iron-mine-expansion-says-ceo/>

<sup>113</sup> Mélanie Ritchot, “Baffinland expansion ‘a threat to my people,’ says Nunavut MP,” *Nunatsiaq News*, March 24, 2021, <https://nunatsiaq.com/stories/article/baffinland-expansion-a-threat-to-my-people-says-nunavut-mp/>

On a similar basis, David Qamaniq, representative of the constituency of Tununiq englobing Pond Inlet in the 5th Legislative Assembly of Nunavut, stated: “My constituents are wondering why the territorial government seems to be able and willing to impose restrictions on caribou hunting in this region to protect the health of the species, but does not seem able or willing to impose restrictions on the mining companies to protect our land, water, and wildlife”.<sup>114</sup>

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MumilaaqQaqqaq, “Lobbying registry,” Tweet, April 16, 2021, <https://twitter.com/MumilaaqQaqqaq/status/1383123871562407936>; Trevor Wright, “‘We know we are being censored’; NITV ordered not to rebroadcast NIRB hearings,” *Nunavut News*, April 13, 2021, <https://www.nunavutnews.com/news/we-know-we-are-being-censored-nitv-ordered-not-to-rebroadcast-nirb-hearings/>

<sup>114</sup> Derek Neary, “Qamaniq pushes ‘muted’ GN to impose restrictions on Baffinland’s Mary River mine,” *Nunavut News*, February 23, 2021, <https://www.nunavutnews.com/nunavut-news/qamaniq-pushes-muted-gn-to-impose-restrictions-on-baffinlands-mary-river-mine/>



## 6.2.2 Direct action

Due to the fact that the Supreme Court voted against the seismic testing in Clyde River, it was not necessary for Inuit to protest in the form of direct action, as mentioned above in the words of Jerry Natanine.

On the 4<sup>th</sup> of February of 2021 the first Inuit direct action movement of the territory's history took place in the form of a mine blockade to protest against Inuit concerns being ignored. As a result, a group named "Nuluujaat Land Guardians", formed by Inuit hunters from the two closest communities to the mine of Pond Inlet and Arctic Bay, snowmobiled to the region to block the airstrip at the Mary River's project and the road leading to Milne Inlet.<sup>115</sup> This symbolic act of hunters sparked solidarity demonstrations among Nunavut as a sign of a unified concern.<sup>116</sup>

Nonetheless, a judge granted BIM in March an injunction to ban protesters from obstructing land used by the mine, especially the airstrip and trucking road.<sup>117</sup> The prohibition of having the right to demonstrate peacefully on a second basis, prioritising the economic necessities of private corporations, has led Mumilaaq Qaqa to publicly raise on her Twitter account: "This is not what consultation and reconciliation is about. If Inuit cannot voice their concerns without fear of their safety then where can Inuit turn?" @MumilaaqQaqaq, March 4, 2021.<sup>118</sup>

Surprisingly, a minority of Mary River mine employees wrote an anonymous letter supporting Inuit in which they mentioned: "despite the injunction that is now forcing you to vacate the airstrip, we hope that you go on to succeed in your goal to prevent Baffinland's phase two project to double their output and build a railway. [...] This country has seen the consequences

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<sup>115</sup> Dustin Patar, "Hunters block Mary River mine airstrip, road to protest Baffinland expansion," *Nunatsiaq News*, February 5, 2021, <https://nunatsiaq.com/stories/article/hunters-block-mary-river-mine-airstrip-road-to-protest-baffinland-expansion/>; Brown, "Mine expansion ignores agreement."

<sup>116</sup> Beth Brown, "Mine blockade sparks solidarity protests across Nunavut," *CBC*, February 8, 2021, <https://www.cbc.ca/news/canada/north/mine-blockade-sparks-solidarity-protests-across-nunavut-1.5906285>

<sup>117</sup> Derek Neary, "Judge grants order to prevent protesters from blockading Mary River mine again," *Nunavut News*, March 3, 2021, <https://www.nunavutnews.com/nunavut-news/judge-grants-order-to-prevent-protesters-from-blockading-mary-river-mine-again/>

<sup>118</sup> Mumilaaq Qaqaq, "The Government has an obligation to consult," Tweet, March 4, 2021, <https://twitter.com/MumilaaqQaqaq/status/1367265806950793220>

of entitlement and greed that have led to the destruction of the land for profit, and we are glad you are fighting for autonomy over your land.”<sup>119</sup>

As a countermeasure tactic, seven Inuit communities have founded a non-profit organisation called the “North Baffin Association” to lobby for more benefits for Inuit from development given the limited ability for individual Inuit to influence policies and positions taken by Inuit organisations.<sup>120</sup> For Jim Bell, this case study has highlighted how the dynamics of the NLCA empower Inuit organisations while disempowers Inuit communities becoming this, the Nunavut Agreement’s fatal flaw.<sup>121</sup>

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<sup>119</sup> CBC staff, “Stranded Baffinland mine workers pen open letter to protesters, say they support Inuit,” *CBC*, February 11, 2021, <https://www.cbc.ca/news/canada/north/baffinland-protestors-open-letter-1.5910951>

<sup>120</sup> Brown, “Non-Profit.”; Laura, Bowman, “Sealing The Deal: Environmental And Indigenous Justice And Mining In Nunavut,” *Review Of European Community & International Environmental Law* 20, no.1 (2011): 21.

<sup>121</sup> Jim Bell, “Mary River mine blockade highlights Nunavut Agreement’s fatal flaw,” *Nunatsiaq News*, February 12, 2021, <https://nunatsiaq.com/stories/article/mary-river-mine-blockade-highlights-nunavut-agreements-fatal-flaw/>

## **7. Environmental Impacts**

Observing the decay of their intrinsic environment throughout the years and having to be resilient to its changes has led Ashlee Cunsolo to examine the mental, physical, spiritual and emotional impacts of the climate crisis Inuit are experiencing as a result of their feeling of “solastalgia”.<sup>122</sup> As a matter of fact, these changes are magnifying colonial Inuit social problems of alcoholism, physical abuse, depression and suicide.<sup>123</sup>

Mining is participating in the release of cumulative effects that overall produce changes in the environment violating article 5.1.2 of the NLCA that recognises “the legal rights of Inuit to harvest wildlife flow from their traditional and current use.”<sup>124</sup> As a result, according to Leah S. Horowitz et al., the environmental impacts of mining at all stages may be experienced as a form of dispossession and environmental injustice, as a healthy environment is a prerequisite to human health and well-being.<sup>125</sup> As a result, Dalee Sambo has argued that: “UNDRIP must be recognised as a central feature of achieving climate justice”.<sup>126</sup>

In both case studies, corporations have claimed that negative environmental effects were identified and that no “significant” impacts on wildlife or on Inuit harvesting would occur.<sup>127</sup> These statements are the underlying cause of opposition of Inuit as they contradict citizens observations.

Due to the fact that both case studies are concurred in the same geographical region of Baffin Bay, the marine impacts they pose are practically the same as noise pollution, from seismic

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<sup>122</sup> Which according to Glenn Albrecht “It’s a type of homesickness or melancholia that you feel when you’re at home and your home environment is changing around you in ways that you feel are profoundly negative,” in “Solastalgia,” Schott’s Vocab, The New York Times, last modified May 17, 2011, <https://schott.blogs.nytimes.com/2011/05/17/solastalgia/>

<sup>123</sup> Ossie Michelin, “Solastalgia: Arctic inhabitants overwhelmed by new form of climate grief,” *The Guardian*, October 15, 2020, <https://www.theguardian.com/us-news/2020/oct/15/arctic-solastalgia-climate-crisis-inuit-indigenous>

<sup>124</sup>

<sup>125</sup> Leah S. Horowitz et al., “Indigenous peoples’ relationships to large-scale mining in post/colonial contexts: Toward multidisciplinary comparative perspectives,” *The Extractive Industries and Society* 5 (2018): 407.

<sup>126</sup> “What is effective Climate Justice,” Arctic Exhibition, British Museum, minutes 8:23 to 18:23, <https://www.youtube.com/watch?v=VRxcSq25fV0>

<sup>127</sup> Jillian Kestler-D’Amours, “Inuit voices grow louder in fight over Nunavut mine expansion,” *Aljazeera*, February 27, 2021, <https://www.aljazeera.com/news/2021/2/27/inuit-voices-grow-louder-in-fight-over-nunavut-mine-expansion-canada> ; Baffinland, *Marine Environment*, presented in January 2021, [https://thenarwhal.ca/wp-content/uploads/2021/02/08MN053\\_5.5\\_marine\\_env\\_presentation\\_eiu.pdf](https://thenarwhal.ca/wp-content/uploads/2021/02/08MN053_5.5_marine_env_presentation_eiu.pdf); Supreme Court Judgments, *Clyde River.*; Fisheries and Oceans Canada, *SCIENCE REVIEW OF THE PHASE 2*, 1-69.

testing and increased iron shipping, is shared as the main factor contributing factor disturbing marine mammals. Further marine impacts can be observed in Table 3.

Summary of Marine Impacts derived from mining activities
<p><u>Marine species affected:</u> narwhals (Endangered Specie), beluga whales (Endangered Specie), bowhead whales (Endangered Specie), ringed seals (Endangered Specie), bearded seals and walruses (Endangered Species).</p> <ol style="list-style-type: none"> <li>1. Iron dust can introduce metal substances into the food chain of marine species.</li> <li>2. Loss of marine habitat due to port expansion.</li> <li>3. Excessive noise pollution in marine ecosystems can affect marine mammals in the following ways: <ul style="list-style-type: none"> <li>• Noise can diminish their abilities to avoid predators and take care of their young;</li> <li>• Make them move away from their calving and feeding areas;</li> <li>• Make them change their migratory routes when ice is reforming, deriving into getting trapped and dying;</li> <li>• Whale strandings;</li> <li>• Increase of stress hormones, inhibiting their immune system and compromise their health;</li> <li>• Impact the development, physiology and survival of invertebrates, larvae and fish eggs which are main sources of food for marine mammals.</li> </ul> </li> </ol>

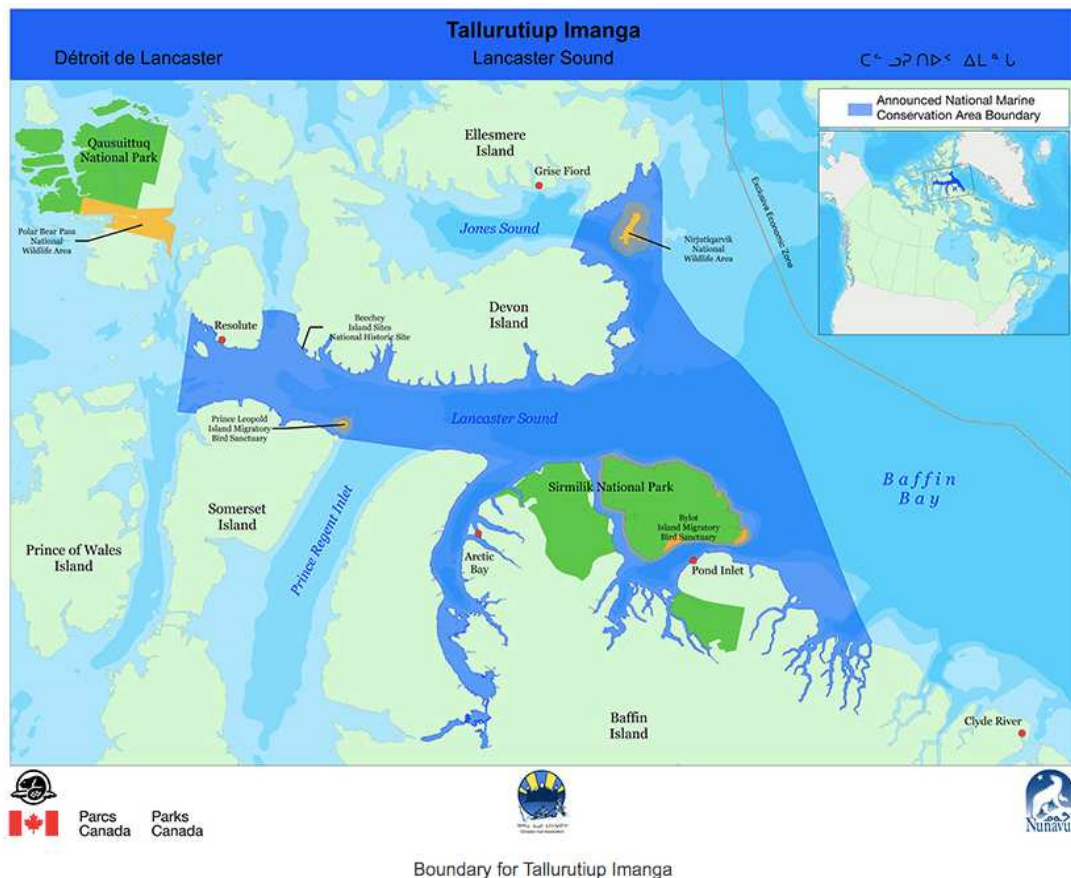
Table 3: Summary of Marine Impacts caused by mining activities.

Source: Interview to Erin Keenan, April 9 2021; Cucknell, A et al., “Caution required: Seismic blasting harms whales,” *Greenpeace Nordic*, (2015), <https://www.greenpeace.org/static/planet4-canada-stateless/2018/06/Media-briefing-seismic-blasting-impact-on-whales.pdf> ; Baffinland, *Espoo Report*, (Baffinland, 2021), 26-31. [https://naalakkersuisut.gl/~~/media/Nanoq/Files/Hearings/2021/1805\\_Mary\\_River/Documents/ENG%20-%20Baffinland%20-%20ESPOO%20Report%20-%20English.pdf](https://naalakkersuisut.gl/~~/media/Nanoq/Files/Hearings/2021/1805_Mary_River/Documents/ENG%20-%20Baffinland%20-%20ESPOO%20Report%20-%20English.pdf)

However, being noise at the centre of the ongoing debate of the mine expansion, leaves aside the fact that the port is adjacent to the recent marine conservation area of Tallurutiup Imanga due to the fact that Canadian legislation does not restrict shipping in protected areas.<sup>128</sup> However, this poses a serious risk as increased shipping passing through the region would increase

<sup>128</sup> Keenan, interview.

the chances of an oil spill and increased pollution in what sometimes is referred to be the Arctic Serengeti.<sup>129</sup>



Map 3: Location of the Tallurutiup Imanga Marine Conservation Area.

Source: “Where is Tallurutiup Imanga,” Parks Canada, Government of Canada, <https://www.pc.gc.ca/en/amnc-nmca/cnamnc-cnmca/tallurutiup-imanga/emplacement-location>

Furthermore, Dr. Joshua Jones, in partnership with Oceans North and hunters from Pond Inlet, reported that cumulative and long-term effects of daily, noise-related disturbances on narwhal

<sup>129</sup> Neil Kigutaq, “A model for marine conservation in Canada’s High Arctic: The Tallurutiup Imanga National Marine Conservation Area,” interview by the Circle, *WWF*, January 15, 2021, <https://arcticwwf.org/news-room/the-circle/sea-change-managing-the-arctic-ocean/a-model-for-marine-conservation-in-canadas-high-arctic-the-tallurutiup-imanga-national-marine-conservation-area/>

and other marine mammals are not yet known and further research is needed, becoming very risky to take a solid decision at the moment. Following the same line, Erin Keenan suggests that although the project has been divided in phases in order to make it easier to get approval, environmental impacts cannot be divided as they need to be assessed together.<sup>130</sup>

Terrestrial and climate change impacts on the other hand can only be based on the Mary River iron mine and are also summarised in Table 4 and 5. In addition, in relation to the lack of transparency data of marine impacts, caribou impacts information is not being disseminated transparently either by BIM nor by the Government of Nunavut.<sup>131</sup>

Summary of Terrestrial Impacts caused by the mine expansion
<p><b>Terrestrial species affected:</b> North Baffin Caribou herd is the most affected. (Endangered Specie)</p> <ol style="list-style-type: none"> <li>1. Caribou population numbers naturally vary in accordance with a 60 to 70 year cycle. The current numbers of caribou are low. Therefore, the construction of Phase 2 infrastructure can increase stressing factors in the species, threatening their reproductive activity.</li> <li>2. The proposed railway line is also located in caribou calving grounds threatening its recovery.</li> <li>3. Research demonstrates that caribou tend to reject crossing constructed roads, therefore changing their migratory routes and moving to other areas becoming more difficult to be harvested by Inuit.</li> <li>4. Caribou can collide with transportation trucks or trains of ore.</li> <li>5. The dust produced by mine activities covers the tundra and other vegetation that are sources of food for wildlife. Furthermore, it covers the snow that constitutes a source of drinking water for some Inuit communities.</li> <li>6. The dark coat of dust on snow surfaces accelerates its melting; disrupting caribou's habitat and accelerating climate change effects on the Arctic.</li> </ol>

Table 4: Summary of Terrestrial Impacts caused by the mine expansion.

Source: Keenan, interview.; Baffinland, *Popular Summary*.; "Species at risk public registry," Government of Canada, <https://species-registry.canada.ca/index-en.html#/species?ranges=13&sortBy=commonNameSort&sortDirection=asc&pageSize=10&keywords=caribou>

<sup>130</sup> Interview to Erin Keenan, April 9, 2021.

<sup>131</sup> Julien Gignac, "Nunavut 'repeatedly refused' to disclose impacts of Baffinland's Mary River mine expansion on caribou: mayor," *The Narwhal*, November 24, 2020, <https://thenarwhal.ca/nunavut-baffinland-mine-clyde-river-mayor/>

Summary of Climate Change impacts of the mine expansion
<ol style="list-style-type: none"> <li>1. About half the Greenhouse Gas (GHG) emissions Baffinland’s Mary River iron mine produces comes from transporting the ore, with most of them coming from shipping. Doubling the mine’s production will lead to doubling its shipping and GHG emissions having transboundary effects.</li> <li>2. Releases of GHGs from the Project will approximately double Nunavut’s GHG emissions as it has a small population and manufacturing base.</li> <li>3. Increased shipping would lead to an increase in Black Carbon emissions. Black Carbon is a climate pollutant that contributes to warming in the atmosphere due to increased absorption of radiation. It also contributes to Arctic warming due to the ice-albedo effect.</li> <li>4. Once the Mary River mine is operating at peak production, Baffinland has estimated that the black carbon emissions from mining and shipping the ore will increase in the region by 65.3 metric tons per year, up 11% from 2017 levels without including the black carbon emissions from railway transit.</li> <li>5. As a result, Environment and Climate Change Canada has recommended Baffinland consider switching from Heavy Fuel Oil to distillate fuel as a way to reduce its greenhouse gas emissions.</li> <li>6. The construction of the North Railway and the expansion of Milne Port facilities, and the railway has the potential to increase permafrost disturbance and the associated release of stored methane.</li> </ol>

Table 5: Summary of Climate Change impacts of the mine expansion.

Source: Kristoffer Tigue, “On Baffin Island in the Fragile Canadian Arctic, an Iron Ore Mine Spews Black Carbon,” *InsideClimateNews*, April 2, 2020, <https://insideclimatenews.org/news/02042020/baffin-island-canada-arctic-iron-ore-mine-black-carbon/>; Environment and Climate Change Canada, *ENVIRONMENT AND CLIMATE CHANGE CANADA’S FINAL SUBMISSION TO THE NUNAVUT IMPACT REVIEW BOARD; RESPECTING THE MARY RIVER PROJECT – PHASE 2 PROPOSAL (08MN053) BY BAFFINLAND IRON MINES CORPORATION*, (Government of Canada, 2021), 3.; Baffinland, *Espoo*, 22-23.

## **8. Sustainable and diversified economic development**

Debate among Inuit communities does not stand between questioning “do we develop or do we not develop?”, but instead “which projects we support and which ones we do not support?”.<sup>132</sup> These different approximations to the questions posed are based on the fact that in a territory in which nearly 70% of Inuit homes are food insecure, due to the high prices of having to import food, it is very difficult to completely reject mining although damaging the environment.<sup>133</sup> However, both Elijah Panipakoocho<sup>134</sup> referring to the expansion of the mine and Nader Hasan<sup>135</sup> referring to the potential impacts of seismic testing, have outlined how both projects excessively impact marine mammals and their consequential *right to food*.<sup>136</sup>

This assertion has resulted in WWF working together with Inuit communities to promote and guide a transition towards conservation and environmental stewardship and secure opportunities in sustainable industries like fisheries, in order to transform Nunavut into a blue economy.<sup>137</sup> Nevertheless, last year the Government of Nunavut expressed it will not support the creation of any new marine protected areas or federal conservation areas in the territory until the devolution deal is completed.<sup>138</sup>

This deal is based on the fact that Nunavut is the only remaining territory which does not have jurisdiction on its land. Consequently, on August 15<sup>th</sup> 2019, an agreement-in-principle was signed by the Governments of Canada and Nunavut and NTI to be used as a guide for the negotiations regarding the transfer of responsibilities and management of Crown lands to the Government of Nunavut. The final agreement is expected to be approved in 2024 with the main

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<sup>132</sup> Interview to Warren Bernauer, March 22, 2021.

<sup>133</sup> “Rates,” Nunavut Food Security Coalition, <https://www.nunavutfoodsecurity.ca/Rates>; Margaret Whitley, “The High Cost Of Food In Nunavut Should Shock All Canadians,” *The Huffington Post*, December 24, 2018, [https://www.huffingtonpost.ca/margaret-whitley/food-prices-canada-north\\_a\\_23552084/](https://www.huffingtonpost.ca/margaret-whitley/food-prices-canada-north_a_23552084/)

<sup>134</sup> Inuit Hunter

<sup>135</sup> Lawyer for Hamlet of Clyde River

<sup>136</sup> Taye Miller, “Clyde River and the National Energy Board,” *Feeding Nunavut*, May 27, 2015, <https://www.feedingnunavut.com/clyde-river-vs-national-energy-board/>; Rebecca Spring, “INUIT SPEAK OUT AGAINST EXPANSION OF ARCTIC IRON MINE, COMMUNITY CONCERNED OVER WILDLIFE IMPACTS,” *WWF*, February 2, 2021, <https://wwf.ca/stories/inuit-speak-out-against-expansion-of-arctic-iron-mine/>

<sup>137</sup> Alan Atkisson et al., *Getting it right in a new ocean: Bringing Sustainable Blue Economy Principles*, (WWF Arctic Programme, 2018), [https://arcticwwf.org/site/assets/files/2050/report\\_arctic\\_blue\\_economy\\_web.pdf](https://arcticwwf.org/site/assets/files/2050/report_arctic_blue_economy_web.pdf); Spring, “Inuit speak out.”

<sup>138</sup> Jim Bell, “No more protected areas until after devolution, Nunavut premier tells Ottawa,” *Nunatsiaq News*, February 24, 2020, <https://nunatsiaq.com/stories/article/no-more-protected-areas-until-after-devolution-nunavut-premier-tells-ottawa/>; Bernauer, interview.



objective to depend less on the federal government and gain autonomy.<sup>139</sup> Warren Bernauer warns these aspirations might come with side effects. One of the biggest risks is that due to the granting of greater autonomy of its resources, the federal government might decide to reduce their economic transfers to the region.<sup>140</sup> The reduction in fixed income together with the precarious situation of these communities can lead to the weakening of environmental protection measures. This will pose the Government of Nunavut in a situation of having to accept major extractive abusive proposals to guarantee the basic needs of the population under the motto of “you cannot bite the hand that feeds you.”<sup>141</sup> If that ought to be the case, Nunavut would be faced to fall under the “resource curse”, when the “tragedy” of owning natural resources affects the quality of political institutions.<sup>142</sup>

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<sup>139</sup> “Nunavut Devolution,” Government of Canada, <https://www.rcaanc-cir-nac.gc.ca/eng/1352471770723/1537900871295>

<sup>140</sup> Warren Bernauer, “The Limits To Extraction: Mining And Colonialism In Nunavut,” *Canadian Journal Of Development Studies/Revue Canadienne D'études Du Développement* 40, no.3 (2019): 7.

<sup>141</sup> Bernauer, interview.

<sup>142</sup> Bernauer, “Limits to extraction,” 10; Horowitz et al., “Indigenous peoples’ relationships to large-scale mining,” 408.

## **9. Conclusions**

For decades, Inuit citizens of Nunavut have faced numerous external obstacles for preserving their traditional way of life. Starting in the 50's, governmental interventions pushed communities to shift from a nomadic lifestyle to permanently settling into communities. Decades later, the Greenpeace campaign against seal hunting favoured the endemic poverty and hunger currently reproduced in the territory. Currently, in spite of owing decision-making powers through the NLCA, extractive activities pose an ongoing obstacle to Inuit in pursuing their way of life.

The future performance of the Government of Nunavut after the devolution agreement is achieved might bring changes in the relationship between the mining sector and Nunavut. Nevertheless, Thierry Rodon suggests that the fact that most mines are located in Inuit-owned lands will not change the government's position after devolution as NTI will still receive mining revenues.<sup>143</sup> Altogether, the same author reinforces the need for an increased alliance between NTI and the government as if not, the latter will not have enough funding to deliver the social services needed in the territory. Similarly, Warren Bernauer suggests that until social services and mental health care in the North is not achieved, social problems will still remain the first obstacle for Inuit citizens to hold a job.<sup>144</sup>

These social problems come from the basis that Inuit culture and traditional lifestyle have never been founded on the culture of extractive activities.<sup>145</sup> However, this source of "development" imported from European colonists hold today a relevant role in the economy of Nunavut. Contradictory, the social grievances born from the territory's extractive background place Inuit organisations in a controversial position of accepting mining projects based on the provisions of alleged higher wages, training and transfer of payments and royalties from the sector, sometimes at citizens expense. Although there is no doubt that extractive activities have provided economic revenues to the territory, they have also stalled the process of self-determination that Inuit have been pursuing since being colonised.<sup>146</sup>

Despite the fact that Nunavut has already achieved a system of co-management and power sharing in regards to the use of their natural resources, there is still a lack of accountability of

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<sup>143</sup> Rodon, "Working Together," 267; Bernauer, "Limits to extraction," 7.

<sup>144</sup> Bernauer, interview.

<sup>145</sup> Bernauer, "Limits to extraction," 9.

<sup>146</sup> Hicks and White, "Nunavut", 51.

Inuit knowledge and concerns regarding the effects of extraction in the land over science and data provided by extractive companies. Therefore, the NLCA has only provided “fragmented self-determination”, as mentioned by Victoria Tauli-Corpuz in the introduction. As a result, the perpetuation of flawed FPIC processes in Nunavut only ensures that Inuit human development and reconciliation with the Government of Canada are not achieved.

The Clyde River case, although having evidenced the lagged role of proper consultation provided to Inuit, can be considered a victorious environmental justice example. Nevertheless, although still not being able to categorise the Mary River case study as a victorious or failed example, transparency to Inuit during the consultation process cannot either be found. Subsequently, my predictions on this second case are not very optimistic, as through careful examination it can be assumed that the Government of Canada, the Government of Nunavut and Inuit organisations tend to position themselves favouring economic development rather than considering the serious environmental impacts that threaten Inuit subsistence.

Likewise, it could be argued that the activities carried out by mining projects that are hindering wildlife recovery and damaging their habitats are indirectly violating Inuit protected constitutional *right to harvest*. As a result, the impediment of Inuit to harvest in a territory in which price foods are more expensive than in other Canadian provinces or territories also triggers that their *right to food*, *right to health* and consequently their *right to life* are also violated. Although “sustainable mining” could alleviate this situation without having to renounce the whole mining industry in the region, currently we are seeing that this option is not taking place in Qikiqtaaluk. For Erin Keenan, the emergence of direct action in the protests of the Mary River expansion seem to be a source of optimism for a transition towards other more sustainable sources of development to take place that hopes to be reflected in October’s general elections.<sup>147</sup>

Following the line, the limitations of this project surround the fact that although finding many sources of information about Nunavut, extractive matters were predominantly tackled by few authors both in primary and secondary sources. Furthermore, the fact that the second case study is ongoing has obstructed the possibility of achieving solid conclusions due to the appearance of new data over time.

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<sup>147</sup> Keenan, interview.

Further research in Nunavut could be based on other colonial legacies such as the current *right to adequate housing* being violated in Nunavut. This topic of research is highly related to the mining industry as the increased flux of mining workers to communities near new mines produces the collateral effect of aggravating the existing limited offer and condition of housing in the territory. Furthermore, as with mining, adequate housing conditions are interrelated with having a healthy environment as the melting of permafrost due to climate change affects the infrastructure and the security conditions of Inuit, including the possibility of having to relocate whole communities to other regions. Therefore, the correlation between the mining sector and housing conditions, among other social problems in Nunavut, leave a new topic of research on how public policies will be developed bearing in mind that mining is the second largest sector contributing to the territory's GDP.<sup>148</sup> In addition, due to the fact that this project has been developed during ongoing processes, it opens opportunities for further research considering the reasons legislation did or did not pass regarding the introduction of UNDRIP in Canadian legislation (Bill C-15), the revision of the 2016 oil and gas moratorium, the final decision of the Mary River mine expansion, and the level of intrusion of the mining sector after the devolution process is accomplished. However, other grievances derived from this sector outside Nunavut could be analysed by focusing on Canadian mining companies operating abroad or in other Canadian provinces to study to what extent the country is really committed to protect and expand the rights of Indigenous people and to preserve the environment.

The dynamics established through the relationship between indigenous communities, extractive industries and the conservation of the environment in Nunavut have helped to reinforce the undeniable link between a healthy environment and the protection of human rights. Therefore, from an environmental justice framework, self-determination of indigenous people is not only relevant to empower historically marginalised groups but is also aspired to enhance sustainable ways of relating with nature, especially in times of climate crisis.

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<sup>148</sup> Horowitz et al., "Indigenous peoples' relationships to large-scale mining," 408.

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## **11. Annexes**

### **11.1 Annex 1**

Warren Bernauer

Andrea Cervera

Monday 22nd March 2021

3pm, Zoom conference

**Interviewer: Bearing in mind Canada's diverse and large indigenous population, what is your opinion on the country's vote against the implementation of the UNDRIP in the General Assembly in 2007 and its pending bill (Bill C-15) to include the Declaration on the country's legislation? In general terms, how would you rate the country's efforts to comply with indigenous peoples rights?**

Interviewee: The previous administration, the conservative government under Stephen Harper, voted against the UNDRIP, that was obviously disappointing but not altogether surprising. Harper's administration was really notorious for just how strong he pushed extractive industries. His vision of Canada was to be an energy superpower, he did a lot to cut environmental legislation and created big national protests like the idle no more movement etc. [...] Harper's regime was very pro-extraction like excessively so. Therefore, I was not surprised that he would vote against it, you know.

Right now we have Justin Trudeau, who presents a more of a friendly, progressive, sort of exterior, but at the end of the day he is still very much a status quo politician. He is not going to do anything radical to rock the boat just by what far-right politicians say to like,). He is still pushing through these pipelines, he is not taking a very different approach to things. He is definitely not giving indigenous communities alternatives that they can use, alternative forms of development. So sure, you can say no to extraction, but how many communities can afford to say no to extraction when you are impoverished like that.

However, his efforts to adopt the UNDRIP legislation is a good thing to see, although I am not sure how much of a difference it is going to make because at the end of the day indigenous rights in Canada are provided in our Constitution, which is the highest level of law, higher than

federal legislation and so the Constitution is the hardest to change, so without a Constitutional amendment I am not sure how much value will really get from this legislation. Obviously I am critical of the state's approach to indigenous rights but if we look from an international perspective, Canada has done some progressive things, it has also done worse on some other things. The inclusion of indigenous rights in Canada's constitution, is probably one of the more progressive things that it did in the early 1980's. Since that time, those rights have been kind of whittled away through the court's interpretation of them, as usually happens when popular grassroots movements get some sort of a change in the state -- they slowly kind of find ways around those changes.

**Interviewer: Given the fact that Canada is home base for nearly half of the world's mining companies, what is your opinion regarding human and environmental rights violations conducted by Canadian-based companies both overseas and in the country<sup>149</sup>, in relation to the responsible and sustainable mining initiatives and policies in Canada? (“Towards Sustainable Mining” principle and generally, mandatory for *Mining Association of Canada* members within the country)**

Interviewee: Canadians tend to look at themselves and our country as this sort of like symbol of “peace” and “freedom” and “reasonable” approach to international diplomacy, usually comparing ourselves to the USA, like a more reasonable person next to this absolutely insane imperialist nation, but as you point out, Canada has these companies that are engaging in human rights abuses overseas. Canada is an imperialist state that supports and ensures that these companies can do what they like in the Global South, like things like supporting coups in Honduras and Venezuela.

Likewise, the way these companies operate in Canada, is absolutely colonial from the perspective of indigenous people. Indigenous people's experiences in northern Canada with mining, actually have a lot in common with the way that a lot of Latin American countries experience the activities of Canadian mining companies on their lands. Most of the economic benefits from these projects flow out of these territories (both northern territories and Latin American countries) and are left with the mess on their hands as it disrupts local production, local food production and other activities. I think Canada is very much an imperialist nation and it's very

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<sup>149</sup> MiningWatch Canada

frustrating when I meet people in international forums because they usually have this image of Canada as this sort of well-mannered and very apologetic country, and it is absolutely obscene the sort of imperialist power that Canada is.

Also, if you think about it, the country was founded on the genocide of indigenous people, so it is almost a logical progression from those sorts of origins to being the hub of global mining of activities today. One of the ways that Canadians sometimes talk about our economic history is as a “staple producer” because we have always been very focused on producing raw materials to export to foreign countries. First when the British and the French first came here, it was all about the fur trade and sending furs back to Europe and as things progressed logging, especially for the shipbuilding industry in the 1800. Then after Canada's creation it was wheat sold to Britain and then it progressed into oil, gas, and mining. So it is not surprising that Canada is this sort of imperialist mining power today because this is how its history has always been progressing since the Europeans first colonised the area.

**Interviewer: What is your opinion on the recent figure of the ombudsperson regarding human rights violations performed by Canadian companies?**

Interviewee: Unfortunately, I have not really looked that much on this ombudsperson position and the limitations on it. However, I would say that I am quite skeptical of the Trudeau government taking any steps that would seriously disrupt the flow of profits for these companies, and their massive profits are dependent on human rights abuses including environmental degradation, so I can't imagine that at the end of the day this will significantly change things. We are not dealing with a regime that likes to rock the boat.

**Interviewer: Regarding this December's revision of the 2016 moratorium of oil and gas exploration in Canadian Arctic Waters (Bill C-88), what do you believe it will be the outcome regarding the melting of the Arctic and its consequential exposure of new petroleum resources? In the case, the moratorium is suspended, how do you believe the exploration**

**and extraction in Nunavut will be “sustainably” managed as a result of Nunavut holding 25 to 30% of Canada’s petroleum resource endowment?<sup>150</sup>**

Interviewee: It is hard to tell what is going on with the moratorium right now because the government is not communicating this process to the public. I have been working with the mayor of Clyde River to try and get more information about how they are reviewing it and they are just sending us like “we are looking into it but we will get back to you later” kind of response. My prediction is that they won’t lift it in Nunavut because it is so popular there, like oil and gas development, there is a lot of opposition to it in Nunavut.

However, in other areas of the Canadian Arctic, especially in the western arctic in the Inuvialuit region, there is a lot of support for it. The Inuvialuit were expecting that there would be massive oil and gas development in the 1980’s and I guess they took the position that this is coming whether we like it or not so we better prepare ourselves to benefit for it, so they started a lot of businesses to benefit from oil and gas development but then the market crashed and they did not make any money. When in the 2000’s the market started to pick up again they did the same thing, starting all these businesses, investing in a potential pipeline from the Arctic down to southern Canada and indigenous communities were helping to drive this process and again the market crashed and they lost billions of dollars. So they are really desperate for this economy to get off the ground, so the western arctic has been really upset about the moratorium. The eastern arctic however, was quite excited about it so it is tough to tell how that will get balanced. I think it will stay in place in Nunavut and I’m not sure if it will stay in place in the Inuvialuit region.

However, at the end of the day there is not a big market for arctic oil and gas. A lot of companies have already divested from arctic oil and gas exploration like major banks and stuff due to political pressure and it is just not economic at this point, like they can frack for much cheaper, also there are still plenty of places in the third world where they can wreck elections or stall dictators and get that oil for very cheap whereas for all of its shortcomings, Nunavut does have an environmental assessment regime that does cost a lot of money to go through, it is a very expensive place to do business and even if the Arctic does warm significantly, there is still

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<sup>150</sup> Nunavut Mining, Mineral Exploration and Geoscience Overview 2020



going to be ice in the winter and ice hazards complicating any sort of drilling for the foreseeable future. It will still be a good 100 years before there is absolutely no sea ice and what we are looking at right now is the loss of summer sea ice. So I am not sure the industries are going to exploit as quickly and I think we are still going to see a lot of opposition from communities in Nunavut. In fact, if they lift the moratorium it might galvanise opposition more than it would if they kept in place for another couple of years and then quietly lifted it, just because there was so much public support for keeping it in place during the consultation around the strategic assessment a couple of years ago.

**Interviewer: Do you believe that in the current climate crisis, Arctic environmental protection can take place together with mining projects?**

Interviewee: It is pretty tough. Some of the big problems with the environmental assessment regime is that companies have so much power in these discussions, especially once a mine gets established. Usually when a mine is first getting built, its original project certificate will have pretty strict environmental regulations, but then a year or two in the operations, almost always the companies come back and say: “we are not making enough money and it is because you are only letting us ship 6 billion tons of ore and we want to ship 18 billion tons, and if you don’t let us do this, we are going to lay all of over Inuit workers”. Despite the fact that there was a big fight about not letting them do that a few years ago, but once you employ enough people in town it creates political divisions and the companies can usually ram through whatever they want.

A good example of this is in Baker Lake, where there is a gold mine. They did an expansion of the gold mine so the new mine is an open pit that is about 50 kilometres away from a mill and so they are constantly trucking ore back and forth between the pit and the mill and this is a big disturbance to caribou which are the mainstay of the diet of inland Inuit. So at first the rule was that if there was more than 10 caribou in the area they would have to shut down the road and they have really been doing anything they can do to change that because it is obstructing their profits. Therefore, once companies get enough local people employed, right away they go on this kind of crusade to try and limit all the environmental protections.

**Interviewer: Following the line, what are your thoughts on Canada being one of the few countries that still has not recognised the right to a healthy environment in the Charter of Rights and Freedoms of the Constitution and do you believe that if recognised, it could open more opportunities for Inuit citizens to claim further environmental protection?**

Interviewee: I am honestly not sure because Inuit harvesting rights are already protected under the Nunavut agreement I am not sure how that would change things.[...] I guess it potentially could, although I guess to a certain degree Inuit already have a constitutional right, because the Nunavut agreement gives them the right to hunt these animals. So if the government does not at least consider the wellbeing of those wildlife populations in the decisions it makes, it would be illegal in Canada. Therefore, my point is that through indigenous rights some of these communities already sort of have a right to a healthy environment, not maybe as extensively as it could as maybe if incorporating this right to Canada's Constitution, it could maybe expand what already Inuit have. But at the moment they already kind of have a "de facto" right to a healthy environment. However, it could definitely help other citizens in Canada more generally fight for their environmental rights. Also, the way in which climate justice conversations work, there is usually a strong role for indigenous communities to participate in them but Canadian citizens more broadly specially under the Stephen's Harper era, if you did not own property where pipelines were going, they would not let you participate in these decisions. Therefore a "right to a healthy environment" could expand these participation rights to all Canadians.

**Interviewer: Would you consider that the differentiated ownership concession under the Nunavut Land Claim Agreement of 2% of subsurface rights to Inuit in comparison to the 98% of Crown mineral rights is "environmentally just"? Does this division shrink the capabilities of Inuit's to pursue their right to self-determination?**

Interviewee: Definitely. It is not just by any means. It is dispossession. This is really the colonial core of all these modern treaties requiring the extinguishment of Aboriginal land rights in exchange for the specific rights that come inside of those treaty agreements. The historic treaties that Canada negotiated have similar provisions for the First Nation indigenous people in southern Canada. You have the same thing in which you surrender all the land rights to the Queen forever and ever and promise not to go to court over it and then they were given small reserves in exchange. However, in those historic treaties those conditions were not usually

explained very well and it was really tough to explain something like the surrender of property rights to people who had very different understandings of what property meant. Therefore, from the point of view of many Indigenous communities, those the surrender clauses in those historic treaties are not quite legitimate. However, with the modern ones, as for instance Inuit had lawyers to explain everything to them and therefore it is very tough for them to argue against those provisions. However, it is pretty obvious when we look at this like, is this fair? when we see how they went from having all of this land to have this tiny little bit, it is pretty ridiculous.

**Interviewer: According to the Government of Canada in 2017, mining was the largest private sector contributor to the economies of the Northwest Territories and Nunavut. What are your thoughts on Nunavut’s mining economic dependency? Furthermore, do you consider that Impact and Benefit Agreements effects are providing the expected results and benefits as mentioned in the Nunavut Land Claim Agreement?**

Interviewee: It is tough to be totally opposed to mining in Nunavut because as at now, there is not as much as an alternative and this is similar in Latin America and other places in the Global South. Unless there is like a big redistribution of wealth, unless we find a new way of structuring our economy that is not along capitalistic lines it is very difficult for communities to say no.

But I think we should not be deluded about the limitations to using mining to develop Nunavut. Most of the benefits do not stay in the territory. Those mining companies are not based in Nunavut so the profits all flow out. Most of the jobs go to workers from southern Canada and that is one way in which mining has been really disappointing. This Impact and Benefit Agreement, that you mention, they almost always have employment targets and no company has ever met their employment targets. The Agnico Eagle projects like the Meadowbank and the Meliadine gold mines in the Kivalliq region, had between 20 and 35% of Inuit employment but the target is 50, so it is nowhere near there. Baffinland on the Qikiqtani region, that iron mine has like 12% of Inuit employment which is like dismally low. It is also a stratified workforce. All of the unskilled or semiskilled jobs are filled by Inuit, all of the temporary and precarious jobs are filled by Inuit whereas all the professional, management and skilled job positions are all workers from southern Canada. So those benefits are flowing out.

In addition, the way capitalist economy works, an important thing to look out is what it are called “economic multipliers” or “economic linkages.” So the real economic activity that a mine can generate is not just the direct jobs for the workers, is the jobs for the people that are building the equipment that they use in the mine (mining equipment) and then what you do with the iron afterwards is also a source of economic development, like building steel for buildings etc. and none of them stay in Nunavut. Even the provisions for the miners like the food and stuff also comes from agricultural lands imported from elsewhere. Mines contribute a lot to Nunavut’s GDP but what does that mean for the average Inuk. Therefore, GDP is meaningless when you want to talk about the wellbeing of people in a territory like this, because of economic leakage.

**Interviewer: Therefore, if employment targets are not met as stipulated in the Nunavut agreement is there anything companies or the government can make to change it or enforce companies to comply with it?**

Interviewee: Some of those agreements have stipulations that if they do not meet their employment target, then they will have to spend a certain amount of money each year on training Inuit employees until they meet their target. But like trainings really are only one part of why people are working in a mine. Mines are not always great places to work, they are very unpleasant places to work for women, especially Inuit women who are usually, you know, there is a huge problem in Canada of non-aboriginal men exploiting, abusing and committing violence against aboriginal women, and mines are not an exception to that. And for men also, it is tough to be away from your families for two weeks on and two weeks off.

And at the end of the day Nunavut is a place with a lot of social problems and these problems have a very obvious origin in the trauma that the Inuit experienced in the 1950’s and 1960’s when the federal government essentially stole their children to send them to residential schools, forced them to move from their lands and communities and killed all their sled dogs and so on and so forth, as well as other things like imposing very strict restrictions on Inuit hunting. The result of all that is a couple generations later there is a lot of people with substance abuse problems, domestic violence and other forms of family abuse and so a lot of people are just not in a place where they can actually go to work due to all their problems in their lives, that holding up a job it is impossible. And a million dollars a year from a mining company for training in a

territory where a million dollars does not mean much, the cost of doing anything in Nunavut is astronomical, it is not going to solve that problem. That is not going to get solved without a massive change in the way government approaches to social services and mental health care in the North.

**Interviewer: Following the line, in your article “The limits to extraction: mining and colonialism in Nunavut”, you mentioned that after the devolution process is completed, federal transfers may decrease, threatening Nunavut’s commitment to deploy social services. Could you please further comment on this argument.**

Interviewee: I guess part of the dream for the Nunavut government is that it will gain some sort of rights over the minerals in the land so it can get royalties from them and so, there is a bit of a fear that if the government of Nunavut gets that, once they start making money of the royalties, the money they get from the federal government is going to go down. So, at the end of the day there are not going to be any better off, but instead of being accountable to the federal government they are going to be basically owned by the mining industry in that case. If all of their money is coming from the mining industry, you cannot bite the hand that feeds you and so it will be impossible to do any sort of environmental protection or protect workers rights. However, we already see this in the government of Nunavut before they get “devolution” as they are so pro-mining.

**Interviewer: Do you consider that the NTI and co-management boards fully safeguard Inuit environmental and human rights interests and concerns?**

Interviewee: Not really. NTI is similar to the government of Nunavut in that way, where they make royalties and they are usually very pro-mining and often find themselves in conflict with the communities they are supposed to represent. The debates over uranium mining and mining in caribou calving grounds really illustrates that point, that they usually support extraction even if there is grassroots opposition to it. And then, the problem with the co-management kind of gets back to the answer to one of the first questions which is that, sure the first project certificate usually looks all good but as soon as they get that, they try and change it and they are usually quite successful. Once they get these communities dependent, then they start really being aggressive and cutting environmental protections.

It is depressing stuff, but I guess the upside is that there are growing social movements in Nunavut that are starting to hold these Inuit organisations to account a lot more. An example is the recent blockade against the Mary River mine in late January, early February. Inuit organisations are supporting the mine, most of the communities were against it, but due to the grassroots movements and blockades, the Inuit organisation are coming to our side now. So I think this new sort of grassroots social movement organising, which Nunavut did not have before and that it is a fairly new thing in the last 20 years or so, is a source of hope that maybe they can evolve things to make account government structures.

**Interviewer: What is your opinion on the government of Nunavut opposing the creation of new protected areas until the devolution process is finished?**

Interviewee: Is part of the pattern of behaviour of the government of Nunavut that is pro-mining at all costs. And so, if it can get revenues from offshore oil and gas activity, they do not want any protected areas that could get in the way. The government of Nunavut wants to see the moratorium lifted. The Inuit organisations and communities say to keep the moratorium in place while the government of Nunavut says no more moratorium until devolution, which just means: “we want to make all the revenues we can”. On the one hand, today these protected areas offer a lot of economic benefits to Inuit, like the new MPA in Lancaster Sound has a lot of community benefits including: new marine infrastructure and support for inshore fisheries, creating alternative models of development, so there is a positive potential there today.

But historically, protected areas were very colonial for indigenous people. In some instances, they drove dispossession even more than mining does because most of the parks in southern Canada were formed on indigenous territory (as it was all indigenous territory) and in most cases the police forcibly removed indigenous people from their land. Therefore, in places like the USA, the National Parks System was actually created as a part of their in the “Indian removal program”. It was a self-conscious attempt to coordinate the two. In Canada, it was less coordinated, it was more like we want to build these wilderness spaces that are empty of people, so we can enjoy this pristine, primordial nature. The problem is that there are already people living there so we need to get rid of them and create this artificial wilderness. Wilderness is kind of this big part of Canada’s identity, this big wide open spaces and open land, but that is just an artificial construct, like they removed an entire civilisation to make this open space for us to go camping and hiking.

So, parks are a very controversial thing for indigenous people. I think there is a reason why a lot of people are skeptical of them and I get that, because the history was violence, blood and burnt villages. But at the same time, there are real opportunities today for these parks and protected areas to create economic alternatives. It is a tricky question, but at the end of the day I think the government of Nunavut is just doing its usual pattern of behaviour supporting mining and oil and gas development at all costs.

**Interviewer: Last comments, further notes and apportations...**

Interviewee: One thing that I would add is just that all extraction is not the same, some proposals are more damaging than others and this is something that often gets lost out in some of these discussions. When journalists or other people write about these topics, they kind of assume that the question is: “do we develop or do we not develop?,” and that is really not the debate that is happening in these communities, it is: “which projects we support and which ones we do not support?”. Like I said, they are so impoverished that like in the current situation you cannot really say no to having some mining in your land. That is why you see some support for gold mining and iron ore mining for communities obviously, but when it comes to things like uranium mining, oil and gas development, mining in sensitive caribou habitat like calving grounds, that is where you get the really strong opposition. The most frustrating thing that a lot of people with NTI and the government of Nunavut is just not that they are pro-mining, it is that they are pro-mining at all costs: in caribou calving grounds, pro-uranium mining and oil and gas development. That is the real issue the people I work with have with these organisations and with the people.

## 11.2 Annex 2

Erin Keenan

Friday 9th April 2021

3pm, Zoom conference

**Interviewer: Having worked in the Nunavut Wildlife Management Board, could you explain in general terms the process and in which steps do Inuit citizens participate in the development and management of their lands in the co-management boards?**

Interviewee: In Nunavut we have a co-management system for a lot of different kind of decisions that have to be made specifically around like industrial development so like mines and things like that, but also wildlife management, land use planning, water use and I think there's a couple others but they're all established as part of the new agreement, which is the like agreement between Inuit and the federal government of Canada to basically give Inuit land rights over parts of Nunavut, but also to create the territory of Nunavut itself. And so, the way that those boards work and it's all set out in the Land Claim Agreement, different organisations from around Nunavut that have kind of a stake in decision making, for those different topics, each appoint somebody to be on the board. And then those boards make decisions for whatever their mandate is, so like I mean I'm more familiar with Nunavut Wildlife Management Board, because I did work there for a while but through my work with WWF also I have worked a lot with the Nunavut Impact Review Board, which is of course the co-management board, dealing with the Mary River expansion. But there are specific organisations that each, as I said, appoint a member so it's like the Federal Government, the Government of Nunavut and then I think each of the territory Inuit organisation, so the NTI and then the three regional Inuit associations, I think. With the Federal Government, I think they are different departments, like the Fisheries and Oceans Management Department appoint somebody and then like Environment Canada, which deals more with terrestrial issues also appoint somebody. You know, among those organisations, some of them are designated Inuit organisations, so they are meant to be representing Inuit and so you'd expect that they're appointing people with that kind of intention in mind. But the people that are appointed to the boards are not representing those organisations necessarily, they're just thought to be like knowledgeable people about the decision making process, so they don't have to provide input that's based on the organisation that appointed them. They're free to make decisions however they see fit. But when there's big decisions that



have to be made by those organisations or really any kind of decisions, there's usually like a participatory process that involves a lot of public engagement that goes into it, so they require that in the case of Baffinland, for example, has to provide evidence of all of their community consultations and engagement to the NIRB, but then the NIRB also has to go through this whole process of their public hearings and their public meeting so they do some consultations as well, and then they have these public processes, where people can provide input and perspectives so that's sort of how it's supposed to work, which I think is what your question was.

**Interviewer: In addition, having explained the procedure, do you personally believe Inuit citizens have the abilities and capabilities to influence the decisions of the boards and express their overall interests and concerns being accountable participatory agents of the process?**

Interviewee: I think what we're seeing now is that the people who are most impacted which is generally people living in the communities that are mirrors to where the mining development is going to be so, then the most impacted and they have the most to lose from negative impacts, but also in some ways the most gain, well no actually they don't have the most to gain, but Inuit associations that are you know, higher level and more representing the region as a whole, are the ones who manage the lands and they're also the ones that get the royalties from the mines.

So like when a mine is approved, there's something called an Impact and Benefit Agreement where the mining company has to agree to provide a lot of different services and pay a bunch of money and like agrees to do all these things in exchange for being able to carry what they're mining. But those agreements are negotiated by the regional Inuit associations, so the idea is that the regional organisation gets all those benefits and then they distribute them to the communities that are affected. But what we're seeing now is a disconnect I think between the affected communities for Mary River and the representation that the regional organisations are providing. Also it's been kind of very dynamic and there has been a lot of changes over the past couple of months so there's kind of a flip where the Inuit associations have switched their position on the mine expansion to be more in line with what the communities have been saying, but I think this whole experience goes to show how it's not a perfect system in terms of making sure that the people on the ground level who are seeing changes and seeing the impacts, their voices aren't necessarily reflected by the more powerful people at the table which is with regional Inuit associations.

**Interviewer: Could you please clarify the expansion on the mine whereas the contested expansion is of 12 MT or 18 MT?**

Interviewee: Sure yeah it's very confusing. So where the mine is located they have their road that they built to Milne Inlet, which is close to the community of Pond Inlet and right now they're trucking all of their iron ore. They like mine at the site and then they drive it in trucks, to the port and then it gets shipped like loaded onto ships and then shipped over to Europe, I think. But they also, when they originally proposed the project, they were going to build a railway and a road but going to like kind of Southwest so it would be coming out more close to the community of Igloolik, so it's a different route that they had initially proposed and they got approved to ship 18 million megatons using that route. Then I think like whatever six or something up the northern route, but they didn't end up constructing that road or building the port to like execute that part of the project. So what they're saying is, they have approval to do that already but they're focusing more on developing and shipping ore out of the northern route because they already have the infrastructure there and they want to make more money doing that basically. What they're saying is they need to ship more ore out of the infrastructure that they already have to raise the money to then construct the like Southwest rail route. So if they were able to do everything that they want to do, they would be shipping from two different sites and there would be a railroad that goes like North from the mine and also kind of like to the southwest. So it would actually be cutting Baffin Island in half, basically, which is crazy. They've done this thing where they sort of split it into different pieces, because that makes it easier to get approval, but it's not. From an environmental impact perspective it's bad because you need to consider all the impacts together. But they're kind of strategically breaking it up so it's not presented in that way. However, when they originally proposed the project they got approval for that so they could do that at any time. The problem is that they just didn't have enough money to construct it.

Furthermore, there's also conspiracy theories that like they were never planning on actually doing that, or like they want to do 30 mega tones out of Milne Inlet. So there's like I think a lot of kind of shady background plans that they might have that people are inspired like thinking about, but that's what's on the official record is what I just described.

**Interviewer: Furthermore, in the NLCA it was established that Inuit had the right to harvest. Do you believe mining operations are fully respecting this right?**

Interviewee: I think they are, but like you can interpret the right to harvest in a lot of different ways, so I think at a very basic level like they are not impeding harvest, but I don't know if there's been an example where that right has been asserted. You could say that the mine is impeding the ability to harvest because it's disrupting caribou habitat and the caribou populations are really low right now. So if they're not able to recover or if they don't want to come in the same area, that does impede the rights of people from Pond Inlet to harvest caribou because they can't get to them anymore as the caribou have moved away. That's a really interesting argument, I don't think that there's an example where people have actually made that argument successfully or have tried to. But that's kind of I'd say that's almost a grey area if you're literally interpreting whether they're impeding the right to harvest, I would say no.

**Interviewer: In addition, Canada still has not recognised the right to a healthy environment in the Charter of Rights and Freedoms of the Constitution. Do you believe that if recognised, it could open more opportunities for Inuit citizens to claim further environmental protection in Nunavut, or does the right to harvest already expand their possibilities of complaint?**

Interviewee: I've never thought about that, but yeah I think it would definitely. I don't know very much about that, the background on that, but I think absolutely. The Clyde River case as well, which is another good example of how just the actual impact on the ground of things like that, where it's not just like "oh yes, you have the right to healthy environment," like that actually means something and you can use that to if the government is behind it as you can use it to enact real change and address real problems on the ground, so I think it would be useful.

**Interviewer: Would you consider that the differentiated ownership concession under the Nunavut Land Claim Agreement of 2% of subsurface rights to Inuit in comparison to the 98% of Crown mineral rights is "environmentally just"? Does this division shrink the capabilities of Inuit to pursue their right to self-determination?**

Interviewee: Oh man that's a tough question. I don't know, I'm not an expert on that aspect of it so it's tough, because you know, in Nunavut we look at the land claim as a really great example of you know, indigenous sovereignty and Inuit really getting you know, support for self-government from Canada and it was negotiated by Inuit so it's hard to be like “well this isn't equitable.” But that doesn't mean that it's perfect, as there are flaws. One thing we see and we've seen this, in the Baffinland process is that because of the way the Nunavut Agreement is and it's probably because of the Federal Government requiring them to be set up in this way, but like the minister of natural resources or whatever it is, gets to make the final decision, so with the NIRB they go through the whole process, they make a recommendation to the Minister at the federal government level and the Minister can say like “no, go back and do this again” or they can accept their decision.

We saw a few years ago Baffinland had applied to increase, I think from 4.6 to 6 megatons to increase the amount that they were shipping and the NIRB recommended that they not do that and everybody was kind of following that consensus among the stakeholders and then the Minister said “no”, and approved it anyway. So you can see that it is kind of an infringement in some ways on Inuit sovereignty even though it's legal as that is how the land claim is set up. However it has a flaw in the sense that you can see that you know, the Federal Government ministers have an agenda that's not necessarily in the best interest of Inuit to increase economic development or whatever, whatever their goals are so. Therefore, there is kind of an issue there in terms of indigenous sovereignty and the imbalance between the Federal Government's responsibilities and ownership versus Inuit.

**Interviewer: Working in the region, could you list which are the main concerns regarding environmental degradation in Nunavut due to mining projects? Especially which could have been the environmental impacts in the case the Seismic testing would have taken place and which are or could be the impacts if the Mary River mine expanded?**

Interviewee: The main concerns around Baffinland are shared with other mines in the territory as well. Maybe I'll start with the terrestrial ones and then the marine ones because the mines obviously, are all on land but then they have to ship all of their products out by container ships so the main thing is just like the disruption of the habitat. On land, through like direct mining but then also through the construction of like the mining camps and the roads, specifically because in Nunavut all the communities are what we call “flying communities” so there's no roads connecting any of the communities in Nunavut to each other. Most of the territories just

kind of are in open wilderness, I guess so for species like barren ground caribou which are really important to Inuit and very sensitive animals just in terms of their biology. In addition, they do these huge migrations annually, like they have these cycles of migrations so they really depend on having a really wide range of intact habitat and so when we see the construction of these roads, it creates a barrier for caribou that are migrating. They often don't want to cross roads even though you'd think like "well, they could just walk across the road" but we're kind of seeing more and more research that suggests they don't do that. They'll either completely change their route or they won't cross the road or they'll move to a different area. So that's one issue because it's disrupting their habitat and we also see competition for mining development in caribou calving grounds. So they also have these specific areas where they'll go to have their calves and so if you disrupt those areas through mining that's obviously going to have a negative impact on the caribou because they rely on that habitat for reproductivity. And one more thing about caribou I guess is that they also go through these really big population cycles where the population is really high for a few years and then it crashes and it's really low for a while and then it starts to rebound. Right now we've seen population crashes for most of the barren ground and caribou populations across the North. Most Inuit cross Nunavut when they're speaking about the caribou they say, "we see these cycles and they're going to come back", but the concern now is that during this period of low population if we build all these mines and create all these new roads and really disrupt their habitats then it's going to create a barrier for their population when they are trying to rebound. So we don't know if there'll be a little rebound the way that we hope that they will if we're disrupting all this. Obviously other stressors like climate change and contaminants and things like that as well contribute to their reduction. Another thing with mines, especially the Mary River because it's an iron ore mine, is the dust. The dust from the mine like kind of coats the land and all of the tundra plants and things like that which are food for wildlife and it also gets into the like aquatic and marine ecosystems as well as all over the snow which people rely on the snow for making tea or getting their drinking water, usually in those communities so that's you know, contaminating drinking water, which is not good. And it also accelerates melting because the dust creates a dark layer on top of the snow, which then absorbs the heat, so it melts the ice in the snow as well, which disrupts the habitat.

Maybe I'll switch to the kind of some of the Marine impacts so with Mary River as well, the big concern is shipping, so they like shipping through Mine Inlet to get to the port is like the most intensive shipping anywhere, and I think the Canadian Arctic or at least in Nunavut and

that's also where most it's one of the most important narwhal habitats in the world really. Many of the animals that live in the Arctic are like very sensitive and not used to disturbance for lots of reasons but it's just funny that narwhal are also very sensitive to disturbance and very like sensitive but like they don't like noise they like to they're very shy so they'll like go away from noise or disturbance and they're very sensitive to the noise from shipping. So we don't really know how that increase in shipping is going to affect narwhals and narwhals are an important food source for people in Pond Inlet as well. And they're also under threat from climate change and all these other factors. Then there's lots of other issues associated with shipping, so the risk of an oil spill, invasive species from Dallas water, ice breaking, they also wanted to do a lot of ice breaking to kind of extend the shipping season, which can disrupt seal habitat on the sea ice and also travel routes for Inuit that of traveling over the car in the winter and spring. And then seismic impact or sort of similar just the ocean general ocean noise is like negative, for you know whales and seals and everything else that's in the water.

**Interviewer: Regarding the fact that the port is situated in the MCA, does it give further arguments and motives in the reviews to not accept the increased shipping due to the contradictory outcomes?**

Interviewee: Yeah it is contradictory and surprisingly that doesn't really get discussed. This national marine conservation area was partly because of the narwhal habitat but there's lots of other species as it's just a really diverse area in general. But the regulations in Canada around shipping are sort of complicated in that a lot of marine protections don't necessarily apply to shipping. Moreover, the protected area is relatively new as it was only established a couple years ago and so the management plan for that is still under development. But yeah I think that within like what you can restrict using a marine protected area in Canada and the fact that it doesn't necessarily impact shipping, is crazy. But that's just sort of how the legislation is. We've been working on a case study around shipping and marine protected areas and we have one that's going to be coming out soon that's focused on this region, so I can share that with you when it's available if it'll like.

**Interviewer: Although celebrating the new MPA in Lancaster sound, are you optimistic about the creation of new protected areas in regions with high mineral and oil and gas potential? Which are the different positions of the government and Inuit citizens?**

Interviewee: We see that definitely in terrestrial protected areas, like the Government of Nunavut and other organisations are opposed to establishing terrestrial protected areas because mainly of the interest in mining but in the marines side of things it's a bit different again because the regulations don't necessarily restrict shipping. So the activities associated with mining and a marine protected area are technically compatible. Our current Federal Government has invested a lot and is very interested in the like international marine conservation targets so they're putting a lot of money into establishing new protected areas and a lot of the attention for that is in the Arctic, just because there's not as much competition with like commercial fishing and other marine industries as there are these elsewhere in Canada. So it is not as much of a conflict as you might expect. Although there is an example, in a mine southern Nunavut, Meliadine mine, which is run by the company Agnico Eagle which ships out through Hudson Bay and there's a current process underway to establish a protected area around Southampton Island, which is the big island in the middle of Hudson Bay. The mining company there is concerned about the MPA because they're worried how it will impact their shipping because they have to ship right through that area but I don't think the MPA will really impact the shipping activities again because the regulations around an MPA don't generally apply very strongly to shipping. So sometimes like the mind on the mining company side they might perceive a conflict but it's not really.

**Interviewer: Therefore, regarding caribou calving grounds, are these areas established in any map so that the ongoing Land Use Plan can have them into consideration when releasing the last report in order to restrict future mines from developing in that areas?**

Interviewee: Because it's been this really long out of a process, but there was a draft proposed by the Nunavut Planning Commission that came out in 2016 that had a lot of protection for caribou calving grounds and the Government of Nunavut and other organisations, but primarily the Government of Nunavut came out against protection of caribou calving grounds, which was very dramatic at the time. For that reason, because they don't want to close off the opportunities to develop minds in those areas, even though it's not if you look at the mining potential across Nunavut and where it overlaps with caribou calving grounds, it's really not a lot. But it's just this idea that we need to be able to keep the economic development opportunities. In addition, there's a mindset around you know economic development must mean mining like

people are very focused on the benefits that can come from money, even though we actually don't see that many benefits.

**Interviewer: Regarding the current mining economic dependency in the region, what are your prospects of achieving a diversified and stable economy based on sustainable activities rather than mining? Is it viable? Which could be the main substitutes?**

Interviewee: I think it's possible and that's my hope. Well, first of all like, with the Baffinland process I think it's been really interesting to see how people across Nunavut not just people in the affected communities, but all over Nunavut, have come against mining or it kind of express solidarity with the people that have been protesting to say like “yeah you can't destroy our land and like we rely on the land, rely on the caribou, this is our way of life, like we're not going to let it be destroyed.” So I think that mentality around mining jobs, like good things is starting to break down a little bit, at least at the community level. So I'm hoping that that will be reflected in future Government perspectives. In addition, we have a territorial election coming up later this year. Also, WWF is working to kind of promote or support the development of more diverse economic development options. There is a fishing industry here, like offshore fishing in Davis Strait and I think there's a lot of potential there for us to get more of the benefits from that. Of course, fishing also has negative environmental impacts in some cases, so that has to be managed. WWF is working with some communities on establishing small scale in-shore fisheries to kind of promote local jobs and that stay in the community and that is really led by local people. Moreover, we're also seeing more of the benefits that can come from conservation. We talked about a conservation economy but going back to the Tallurutiup Imanga Marine Conservation Area, the establishment of that area also triggered an IBA that was negotiated between the federal government and the KIA because again they're the landowners. So from that IBA they got like a huge investment from the Federal Government to build like small craft harbours in a lot of the communities to support fishing and to hire or to organise the guardians program, so hiring local people to be kind of out on the water doing marine monitoring, wildlife monitoring, search and rescue, harvesting for the community, creating jobs that are related to conservation.

That's the kind of economic development that's more relevant, I think to Inuit. I can't speak on behalf of Inuit, but those are the jobs that keep people in communities, they're out of the land and they are the ones participating in their traditional activities. Like through the Baffinland



process lots of people have kind of stood up and said, you know, like “we're not miners” like Inuit aren't miners, “we don't have to be miners, we don't necessarily want to become miners, like we're hunters, we like being in the land, these are more of our values,” so I think there's a lot of interest in looking at how economic development that's needed, like you know people need jobs and there's a lot of food insecurity and poverty and Nunavut. I think people are starting to question this idea that mining is the solution and so I'm cautiously optimistic that that's the direction that will go in.

**Interviewer: What are your prospects of the mining industry after the devolution process is achieved?**

Interviewee: I'd say my fear is that the focus on devolution is partly what drives the interest in mining from the government of Nunavut because, you're right, they're looking for ways to make money or have economic development that doesn't require investment from the Federal Government. So I think they're kind of tied, like the enthusiasm for mining and the desire for a devolution are linked. But I feel like the devolution process is going to take a long time, like longer than what the Government of Nunavut is saying like “oh, we want to do this in five years, or whatever by 2025,” like I don't think that's realistic at all. And again, like going back to what I said earlier, I think that the attitude on the ground is starting to change, so that'll hopefully be eventually reflected in leadership. If we focus on devolution, that probably will be a barrier to reducing interest and focus on mining, as the only solution to economic development. But, I'm not optimistic that devolution is going to happen, so I don't really think we need to worry about it too much.

And I should also say that mining it is not always horrible. I think it can be done in sustainable ways that reflect Inuit values, and you know adequately incorporate Inuit perspectives and consultation, but that's just not what we're seeing. Like that is not how Baffinland is operating and I think mining companies think that that's how they should be operating and that they can get away with operating like that in Nunavut. As a result, we end up with these issues, but it doesn't have to be that way either.

**Interviewer: Regarding sustainable mining, is there any mine in Nunavut from the last decade that you would highlight as being a satisfactory example of a sustainable mine in the territory?**

I don't want to have a good example, but because my background is not that focused on mining, it is just that I have been engaged in the Baffinland process and Agnico Eagle, but I think that it is possible.