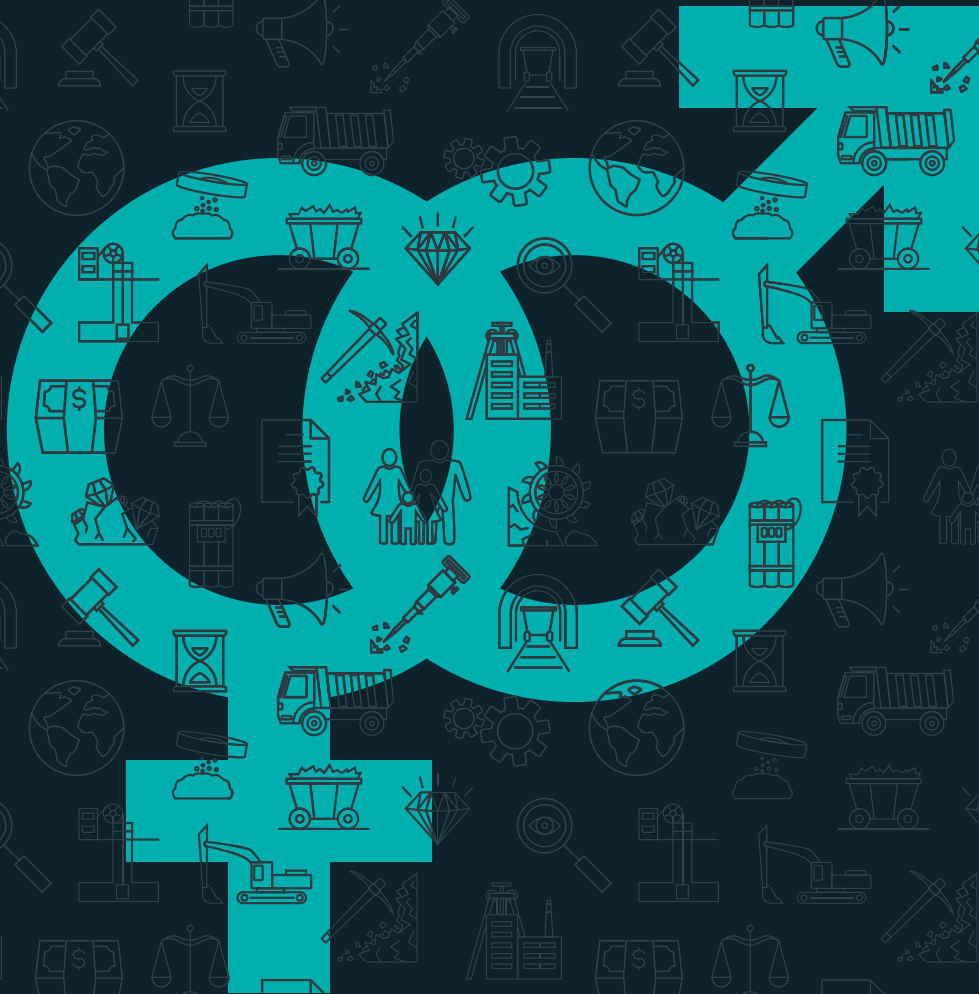




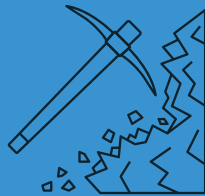
**TRANSPARENCY  
INTERNATIONAL  
CANADA**



**Accountable Mining briefing note**

# **INTEGRATING GENDER IN ENVIRONMENTAL ASSESSMENTS**

**An approach to increase transparency  
and accountability in the mining sector**



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# About the Accountable Mining Program

This report is part of Transparency International's (TI) Accountable Mining Program. The Accountable Mining Program studies transparency and accountability vulnerabilities in mine permitting processes. Funded by the BHP Foundation and the Australian Government through the Department of Foreign Affairs and Trade, this initiative is being implemented in over 20 countries with coordination by the TI national chapter in Australia. The Accountable Mining Program works toward building robust, transparent and accountable processes for obtaining mining permits and licences by working collaboratively with governments, companies, civil society organizations and communities.

Through mine permitting and licensing, governments, communities and proponents negotiate if and under which terms mineral resources might be explored and exploited. Mining permits and licences awarded by governments impact current and future generations. Therefore, transparent and accountable permitting and licensing processes are important to ensure:

- all stakeholders and rights holders have the opportunity to be involved in the discussion of if and how mineral resources will be exploited at an early stage of the mining value chain, and
- the development of socially responsible, environmentally sensitive and economically feasible projects by qualified proponents, providing benefits not only to shareholders but also host communities and the public.

Transparency International Canada (TI Canada) is responsible for conducting the program in Canada. TI Canada has published four other reports analyzing environmental assessment (EA) processes in Ontario, British Columbia and the Yukon Territory. These reports uncover risks related to transparency and accountability in these jurisdictions' EA processes. The publications can be found at [transparencycanada.ca/accountable-mining/overview](https://transparencycanada.ca/accountable-mining/overview).

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|--------------------|---|
| <b>BC</b>          | British Columbia  |
| <b>CHRC</b>        | Canadian Human Rights Commission                        |
| <b>CRGBA</b>       | Culturally Relevant Gender Based Analysis               |
| <b>EA</b>          | Environmental assessment                                |
| <b>FemNorthNet</b> | Feminist Northern Network                               |
| <b>GBA</b>         | Gender-based analysis                                   |
| <b>GBA+</b>        | Gender-Based Analysis Plus                              |
| <b>GIF</b>         | Gender Integration Framework                            |
| <b>IA</b>          | Impact assessment                                       |
| <b>IGWG</b>        | Interagency Gender Working Group                        |
| <b>NWAC</b>        | Native Women's Association of Canada                    |
| <b>SIA</b>         | Social impact assessment                                |
| <b>SWC</b>         | Status of Women Canada                                  |
| <b>WAGE</b>        | Women and Gender Equality                               |
| <b>YESAB</b>       | Yukon Environmental and Socio-economic Assessment Board |

# Acronyms

# Glossary

**Accountability:** The concept that individuals, agencies and organisations (public, private and civil society) are held responsible for reporting their activities and executing their powers properly.<sup>1</sup>

**Gender Identity:** “Each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum.”<sup>2</sup> A person might identify themselves differently from their birth-assigned sex.

**Gender Integration:** “Refers to strategies applied in program assessment, design, implementation, and evaluation to take gender norms into account and to compensate for gender-based inequalities.”<sup>3</sup>

**Gender:** Socially constructed roles, behaviours, activities and attributes that a society assigns to and classify as men and women.<sup>4</sup> Because there are people who identify themselves as both men and women, and there are people who do not identify as either, gender is also understood as a spectrum.<sup>5</sup>

**Intersectionality:** The concept acknowledges that people have multiple identities (such as race, ethnicity, religion and age) and that these intersecting factors shape people’s experiences.<sup>6</sup>

**Meaningful consultations:** One’s ability to actively participate in the decisions that affect them.<sup>7</sup> It includes being able to voice opinions, be heard and, as a result, promote change.

**Sex:** “Refers to a person’s biological and physiological characteristics.”<sup>8</sup> Sex (male or female) is often designated at birth by a medical assessment.

**Transparency:** Characteristic of being open, promoting a clear disclosure of information, acting “visibly, predictably and understandably to promote participation and accountability and allow[ing] third parties to easily perceive what actions are being performed.”<sup>9</sup>

**Two-Spirited:** “Term used by some Aboriginal cultures for a person who displays any of the gender characteristics in the LGBTTIQQ2S [lesbian, gay, bisexual, transgender, transsexual, intersex, queer, questioning and two-spirited] categories.”<sup>10</sup>



# Executive Summary

Mining projects have long-term impacts that affect not only the environment and economy but also the entire social fabric of community living. However, these impacts are not the same for, nor felt at the same level by, all community members. Different identity factors, including gender, play a role in how people experience a mining project and all its effects. Informed decision-making requires an understanding of the impacts of a mining project on different groups of people.

An environmental assessment (EA) is a tool used to evaluate a project's potential impacts, both positive and negative. The EA process helps authorities decide which projects will be implemented and under which conditions they will be implemented. It is also during the EA process that the public is informed about a proposed project, and affected communities have the opportunity to provide inputs in consultations. The consideration of the experiences of different groups of people is essential in assessing how a mining project might impact a community. In this policy briefing note, we consider that an EA process that integrates gender supports informed decision-making and enhances transparency and accountability for a larger portion of our communities.<sup>11</sup>

Applying gender-based analysis in EAs has two intended outcomes: 1) it ensures women and other underrepresented gender groups (such as non-binary and two-spirit) have the opportunity to meaningfully participate in decisions that affect them; and 2) it ensures the social impacts of a mining project are accurately depicted by including gender as a factor to be assessed.



In this briefing note, we examine if, and to what extent, gender is integrated in Canadian regulations. To do this, we first briefly review the mining industry's gendered impacts and EAs. Then, we mention different frameworks that have been developed to include gender in EAs. We explain in deeper detail Gender-Based Analysis Plus (GBA+), as this framework developed by the Government of Canada will likely be the most frequently used in Canada due to federal requirements. Finally, we analyze Ontario, British Columbia and the Yukon Territory's EA legislation and guiding documents as they relate to gender, as well as the federal *Impact Assessment Act*. This analysis was done using the Gender Integration Continuum, which provides terms to classify programs, policies and initiatives in terms of their levels of gender inclusiveness. To do this evaluation, we have examined whether the jurisdictions included gender as a matter to be considered in EAs and whether they included gender requirements for consultations.

This briefing note only evaluates these jurisdictions' EA processes on paper. A deeper analysis would be necessary to evaluate EAs' integration of gender in practice. Nonetheless, we believe that enhancing the gender integration in regulations is an important step on the path toward a more inclusive, transparent and accountable EA process. Therefore, we recommend that:

- Ontario and the Yukon Territory include gender as a mandatory factor to be considered in EAs.
- Ontario and the Yukon Territory prompt proponents to use a gender analysis framework that considers gender inequalities throughout the EA process.
- Governments consider gender when assessing if a consultation has fulfilled its obligations. What is expected should be clearly and publicly explained.
- Governments and proponents establish a relationship with Indigenous women that is based on reciprocity of knowledge.
- Proponents implement the tools summarized in this briefing note to successfully integrate gender analysis in their EAs.





# 1

## Introduction

Gender equality is a fundamental human right, recognized in the Canadian Constitution through the Canadian Charter of Rights and Freedoms.<sup>12</sup> A society that has achieved gender equality is one where diverse groups of women, men and non-binary people are able to fully and equally participate in all spheres of life.<sup>13</sup> The importance of having gender-diverse representation at all levels of decision-making in political, economic and public settings has been highlighted by many actors, including the United Nations through the Sustainable Development Goals (SDGs).<sup>\*</sup> Because mining has such significant impacts on societies and their economies, it is essential for the industry to contribute to gender equality efforts, and not reinforce inequalities.

Extensive research has documented that gender significantly influences how people experience the impacts of a mining project. Many of these studies have concluded that women, especially Indigenous women, bear the brunt of the negative effects of mining.<sup>14</sup> To understand and plan for these impacts, experts have called for the

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<sup>\*</sup> SDG 5 is “Gender Equality,” and one of its targets is to “Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.” Source: United Nations, Department of Economic and Social Affairs (n.d.), 5: *Achieve Gender Equality and Empower All Women and Girls – Targets and Indicators*, <https://sdgs.un.org/goals/goal5>.

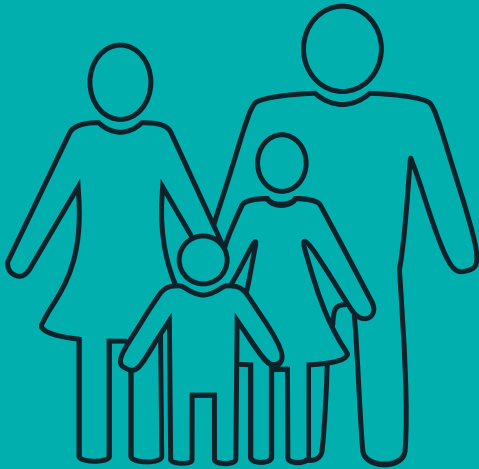
integration of gender analysis in environmental assessments (EAs):\*

- Verloo and Roggeband (1996) introduced gender impact assessment as a policy instrument that would aid decision-making and increase “the effectiveness and appropriateness” of policies by recognizing that their effects are not gender neutral.<sup>15</sup>
- Lahiri-Dutt and Ahmad (2011) argued that gender analysis needs to be embedded in social impact assessments (SIA), and that the SIA field needs to be much more gender aware.<sup>16</sup>
- In Canada, the Feminist Northern Network (FemNorthNet) has published studies and submitted letters to the government asking for gender analysis to be a mandatory requirement of EAs.<sup>17</sup>
- Manning et al. (2018) pointed to the need for a rights-based approach for impact assessments (IAs) that better include Indigenous women’s needs and opinions.<sup>18</sup>

In 2019, with the new *Impact Assessment Act*, the Government of Canada included gender as a required factor to be considered in IAs. Guiding documents have highlighted that proponents should use Gender-Based Analysis Plus (GBA+) as a framework to put this requirement into practice. This is an important step to raise gender-inclusiveness standards across mining projects that need to conduct federal assessments, even though the effects of the new legislation remain to be seen.

However, projects that conduct provincial assessments operate under different rules, which generally do not require gender considerations.<sup>19</sup>

The goal of this briefing note is to assess how well gender is integrated in EA regulations and reflect on how EAs could become more gender inclusive. A gender-inclusive EA process has the potential to be more transparent and accountable. This document’s notion of transparency considers not only the open disclosure of information, but also the elimination of barriers for the access to and understanding of information. In this regard, a gender-inclusive EA process goes beyond including gender as a factor to be assessed. It also involves having gender-diverse consultations, where women and other marginalized gender groups can participate, be heard and have their perspectives considered in a project’s planning and decision-making. As a result, companies are also more likely to depict impacts accurately, which, in turn, increases accountability.



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\* EAs are also called environmental impact assessments or impact assessments (IAs), depending on the jurisdiction’s legislation. The transition from EAs to IAs signals a shift to a more comprehensive assessment, one that includes not only an environmental analysis but also a social, economic and cultural one. However, some jurisdictions consider the term “environment” to include social, economic and cultural factors and thus, maintain the EA nomenclature.

## 2 Methodology

This briefing note was conducted using desk research. As part of the Accountable Mining Program, Transparency International Canada has released a more comprehensive study on EAs that involved a risk assessment of legislation in British Columbia, Ontario and the Yukon Territory. This document builds on the findings and recommendations of the previous publication by focusing on the integration of gender in EAs. As such, the same three jurisdictions are also the subject of this analysis. In addition, this report explains and evaluates the federal EA legislation as it relates to gender.

To assess if and how EA legislation in these jurisdictions incorporates gender, this research used concepts from the Gender Integration Continuum, created by the Interagency Gender Working Group.\* The Gender Integration Continuum evaluates how well projects and policies integrate gender by positioning them in different stages of gender inclusiveness. This framework classifies projects and policies into five categories: gender blind, gender aware, gender exploitive, gender accommodating and gender transformative (Figure 1).<sup>20</sup>

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\* The Interagency Gender Working Group (IGWG) is a network of nongovernmental organizations and the United States Agency for International Development. Through evidence-based approaches and the dissemination of best practices, this network promotes gender equality in the health sector.

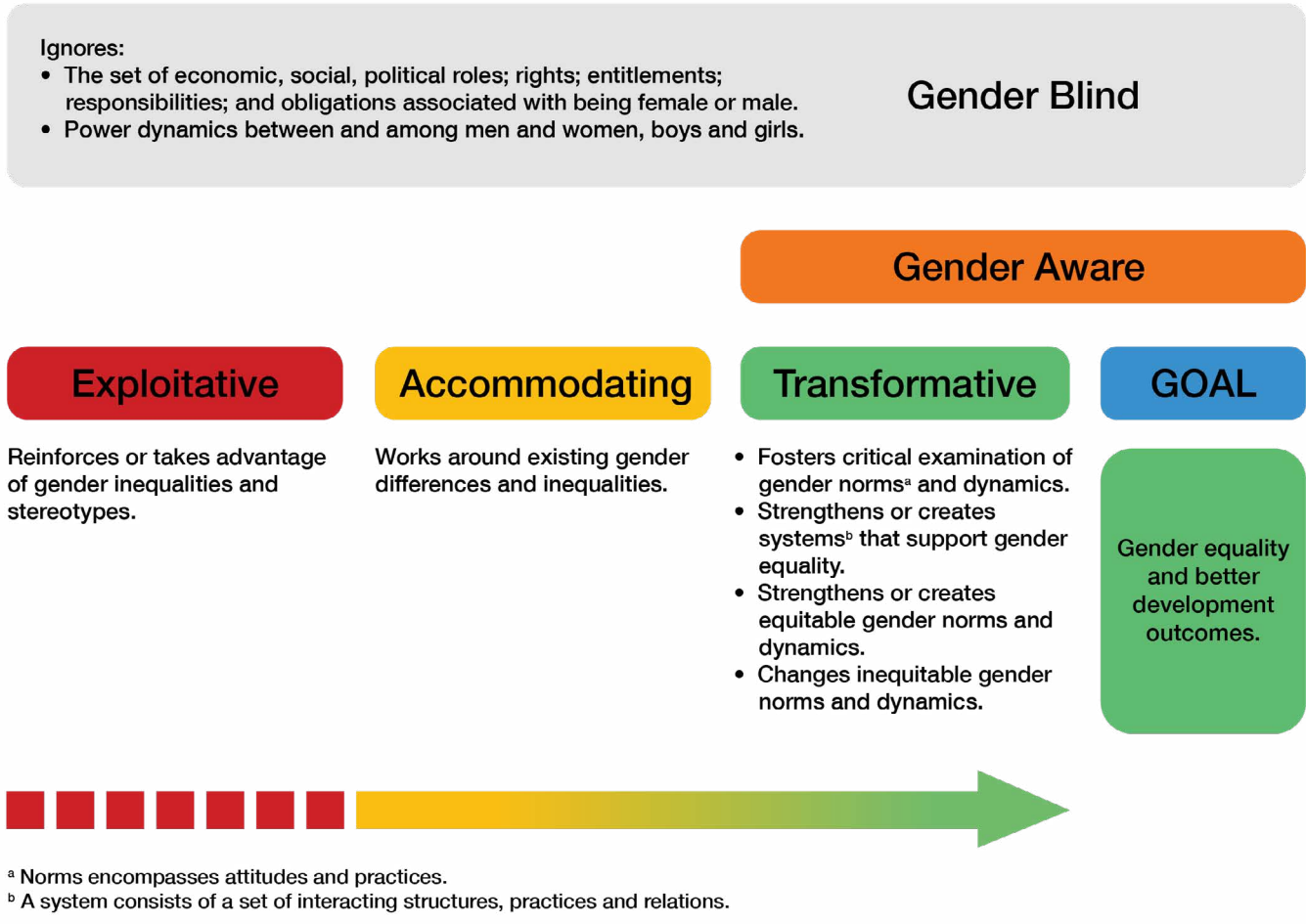


Figure 1. Gender Integration Continuum.

Source: Adapted from Interagency Gender Working Group (n.d.), *Gender Integration Continuum*, [https://www.igwg.org/wp-content/uploads/2017/05/FG\\_GendrIntegrContinuum.pdf](https://www.igwg.org/wp-content/uploads/2017/05/FG_GendrIntegrContinuum.pdf).

First, according to the framework, projects and policies should be defined as either gender blind or gender aware. Gender-blind initiatives ignore whether gender plays a role on people’s lives and experiences and do not consider gender factors altogether.<sup>21</sup> Gender-aware initiatives recognize that there is a socially constructed set of responsibilities and rights related to gender.<sup>22</sup> Such initiatives examine gender factors and may seek to address gender inequalities and imbalances in power relations. Gender-aware initiatives can be further divided into gender exploitative, gender accommodating and gender transformative, defined as follows:

- Gender exploitative: “programs/policies which intentionally or unintentionally reinforce or take advantage of gender inequalities and stereotypes in pursuit of project outcome, or whose approach exacerbates inequalities.”<sup>23</sup>
- Gender accommodating: programs/policies that “acknowledge but work around gender differences and inequalities to achieve project objectives. Although this approach may result in short term benefits and realization of outcomes, it does not attempt to reduce gender inequality.”<sup>24</sup>
- Gender transformative: programs/policies that aim to transform gender relations. This approach seeks

to promote gender equality by: “1) fostering critical examination of inequalities and gender roles, norms and dynamics, 2) recognizing and strengthening positive norms that support equality and an enabling environment, 3) promoting the relative position of women, girls and marginalized groups, and transforming the underlying social structures, policies and broadly held social norms that perpetuate gender inequalities.”<sup>25</sup>

This tool does not consider programs and policies to be static. The goal of gender integration is to move toward being gender transformative, which can happen gradually. Finally, EA regulations and related guidelines were assessed based on:

- a) whether they included gender as a matter to be considered in EAs; and
- b) whether they included gender requirements for consultations.

## LIMITATIONS

Because it only involved desk research, this study was unable to assess how proponents have been integrating gender into EAs in practice. We acknowledge that even though EA regulations and related guidelines may not include gender as a required component of assessments, proponents might complete gender-inclusive assessments. We also acknowledge that the EA regulations and related guidelines that do include gender as a requirement for assessments may have implementation gaps and not achieve intended results. Nevertheless, regulations create standards and, as such, are important tools in the path toward a more inclusive, transparent and accountable EA process.

This study was also unable to consider Indigenous methodologies for conducting EAs, using Western-centric understandings of themes such as the environment. Additionally, it did not include the impacts of colonialism on gender relations. We suggest that reading studies about the subject is necessary for a deeper understanding of the marginalization and discrimination of Indigenous women.

## LANGUAGE AND ACKNOWLEDGMENTS

Transparency International Canada acknowledges that gender is non-binary and that there are people who identify as both men and women, and that there are people who do not identify as either. We recognize that people that do not conform with binary notions of gender face discrimination. When discussing gender-based analysis, we suggest that all identities within the gender spectrum are considered.

However, studies that discuss gendered impacts of mining often focus on women, and more research is needed to understand the specific barriers that non-binary people encounter in the mining industry. Because we relied on desk research to conduct this study, we have also given more attention to the impacts of mining on women (section 3) and the barriers women face to participate in consultations (section 4.1). As a result, when discussing potential solutions for gender-diverse consultations (section 7), we also focus on women’s participation in EA decision-making. In all these sections, we deliberately use the term “women” as opposed to “female,” including all those who consider themselves to be a woman.

It is also important to note that no identity group is homogenous. People have various identity factors (such as race, ethnicity, religion, age and disabilities) that interact and intersect. This intersectionality impacts people’s views and experiences.



### 3 Gendered Impacts of the Mining Industry

Many studies\* have concluded that mining projects impact women and men differently. Social constructions of gender include the allocation of certain roles to men and women and historical inequalities have led to power imbalances in various industries. These social constructions shape labour divisions, the designation of responsibilities and access to decision-making mechanisms.<sup>26</sup>

Women and men are subject to different impacts stemming from a mining project in the following areas: land and food security, health, safety, unpaid care work and power dynamics, among others.<sup>27</sup> For example, in many rural areas, women are responsible for growing food and collecting supplies for their families and for income. As a result, women are extremely affected when mining expropriates land where they live or when it pollutes water and depletes soils where they work. Women may also be particularly impacted by polluted water when performing household chores such as cooking, washing clothes and bathing children.<sup>28</sup>

Additionally, women often act as caregivers of the family should someone get sick due to pollution caused by a mining project, which is a double work burden on women.<sup>29</sup> Other health impacts are sex-related, that is, caused

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\* These studies include work by Oxfam, the World Bank, the United Nations, the Extractive Industries Transparency Initiative and Transparency International. In the Canadian context, we highlight the National Inquiry into Missing and Murdered Indigenous Women and Girls and the work of Indigenous women's organizations, such as the Native Women's Association of Canada.

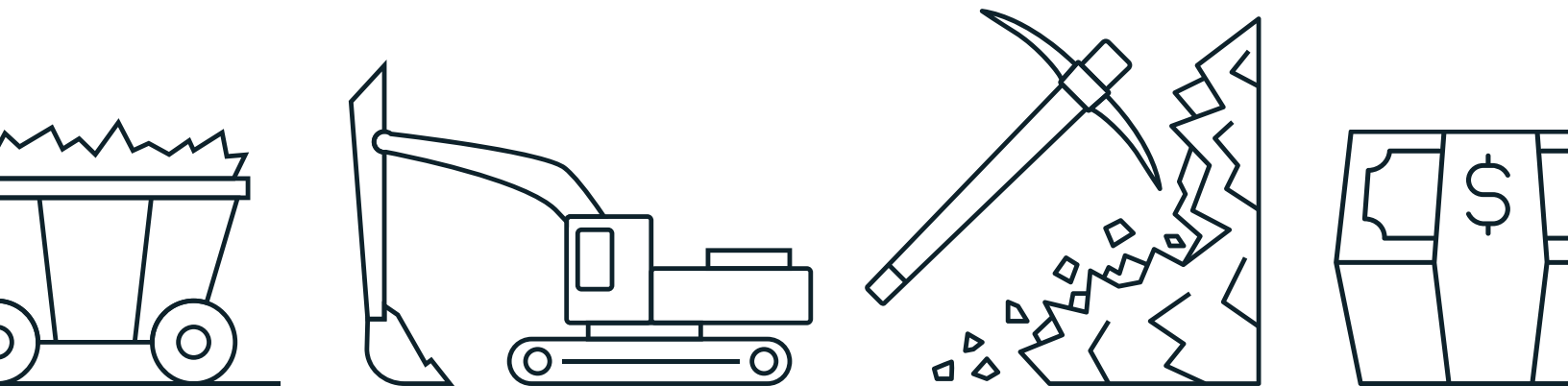
by biological differences between males and females.<sup>30</sup> For example, heavy metals can be endocrine disruptors and disturb the hormonal system differently on males and females.<sup>31</sup> For females, endocrine disruptors may cause endometrial cancer, endometriosis, infertility and fetal growth impairments.<sup>32</sup>

These are only some examples of how gender (and, in the last example, sex) plays a role on how people are impacted by a mining project. Impacts are context specific, and that “women” should not be treated as a homogenous category. Lahiri-Dutt and Ahmad (2011) note that there is a tendency in literature to “put all women in a single category and represent them all as ‘victims of mining;’ which should be avoided.<sup>33</sup> They also underline the importance of not considering women simply as a variable, but as active community members and knowledge holders.

Because Canadian mining often occurs in or near Indigenous unceded territory, and because racial minority women experience exacerbated discrimination, Indigenous women are particularly affected by mining activities. Indigenous women also have a closer relationship with nature than do non-Indigenous groups. Thus, when a mining project causes negative environmental impacts, this unique socio-cultural relationship is also affected.<sup>34</sup>

Moreover, women, especially Indigenous women, do not benefit from resource development at the same level as men. There are notable differences in employment rates.<sup>35</sup> Mining companies often do not adequately consult with women when planning projects and negotiating access to land or compensation, including benefit-sharing agreements.<sup>36</sup> Additionally, this compensation is usually paid to men on behalf of families and communities.<sup>37</sup> This type of situation disempowers women and reinforces economic dependencies on men, contributing to gender inequality.

Even when women participate in consultations, their inputs do not necessarily result in practical changes in the project. A study analyzing Indigenous women’s participation in the EA process of Voisey’s Bay Mine, Labrador, revealed that, even though Indigenous women actively participated in consultations and “had some influence on EA final recommendations,” their requirements for employment prioritization were not put into practice.<sup>38</sup>







## 4 Environmental Assessments

An impact or environmental assessment is the process of identifying, predicting and evaluating the potential effects of a proposed project. Through EAs, proponents need to pre-empt negative impacts of a project and create strategies to avoid them, as well as identify and showcase how the project can generate positive impacts. These potential effects are used to inform government decisions on whether, and under which conditions, a project should be implemented. In EAs, proponents also present a plan to monitor impacts and comply with approval requirements.

EAs are an important step in the mine permitting and award process. Figure 2 identifies the main decision points leading to the development phase of a mining project in Canada. The impacts of both legislated and negotiated decisions increase in severity as a project approaches the development phase of a mine, and are especially significant in the EA stage. In principle, interested actors have the most opportunity at that point to influence the decisions on a mining project, including if it will be approved and under which conditions it will be approved.



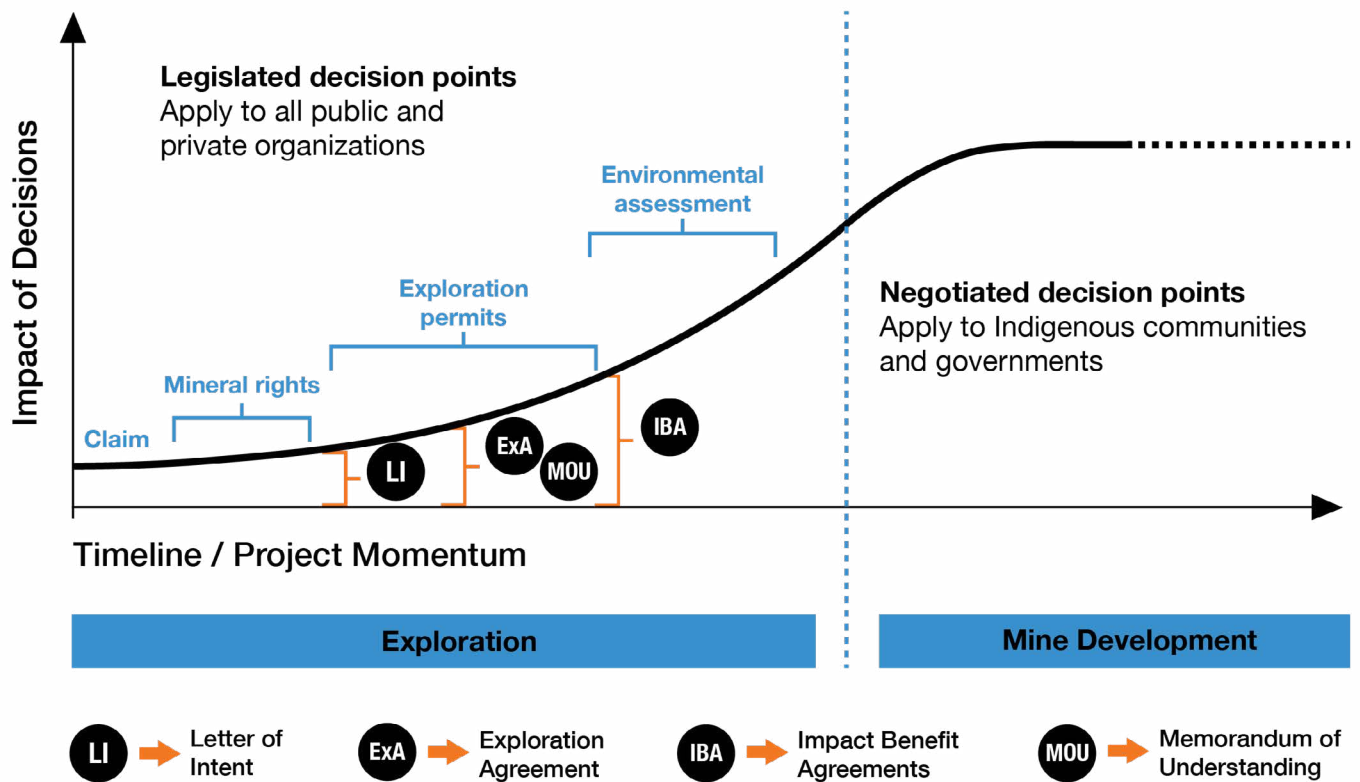


Figure 2: Decision points in exploration and feasibility phases of a mining project in Canada.

Source: Adapted from P. Siebenmorgen & E. Bradshaw (2011), Re-conceiving Impact and Benefit Agreements as instruments of Aboriginal community development in northern Ontario, Canada, *Oil, Gas & Energy Law*, 9(4).

Today, many EA processes tend to focus not only on environmental factors, but also on health, social, cultural and economic impacts.<sup>39</sup> To signal this shift, some governments have opted to use the term “impact assessment.” Others consider the environment through a broader lens that includes health, social, cultural and economic factors and thus maintain the EA nomenclature. In literature, the type of assessment that focuses on human impacts and people’s interactions with their surroundings is called social impact assessment (SIA).

However, whereas environmental factors are well established in EAs, the implementation of social and cultural considerations have a longer way to go. In Transparency International Canada’s Accountable Mining Program risk assessment reports, we have found that the limited integration of social and cultural considerations, particularly as they relate to Indigenous communities, was a risk in Ontario, British Columbia and Yukon.<sup>40</sup> Pope et al. (2013) have highlighted the limited or poor-quality baseline data as a major SIA weakness.<sup>41</sup>

Socio-economic impacts include employment, infrastructure development and strain, training, economic development, traditional and cultural practices, and general impacts to community living, among other factors.<sup>42</sup> However, one might include socio-economic factors without considering, or significantly considering, gender. Critics have noted that analyses of socio-economic impacts on a community by proponents can be framed as universal but are in fact based on a male perspective only.<sup>43</sup>

One of the main critiques for SIA is that it needs to use a finer lens to analyze impacts, one that explores individuals' activities, roles and contributions within communities and households, without using normative gender assumptions.<sup>44</sup> Similarly, simply to add women as a static variable in an assessment's data points (such as employment rates) is a checkbox exercise that does not take into consideration power dynamics and gender relationships.<sup>45</sup> Walker et al. suggest that an IA that truly considers gender would assess how the proposed project may either reinforce or challenge context-specific gender inequalities, as well as how to adjust the proposal to create more equitable outcomes.<sup>46</sup>

More studies are needed to understand the extent to which gender is considered in Canadian IAs in practice. Kennedy Dalseg et al. (2018) analyzed the EA processes of three resource extraction projects in the Canadian North and concluded that gender considerations were scarce. They studied the experiences of Indigenous women and argued that the EAs' gender considerations focused on employment and did not give enough attention to community well-being, reinforcing gender hierarchies and undermining Indigenous mixed economies.<sup>47</sup>

## CONSULTATIONS

An important component of EAs is the participation of communities affected by a potential project. Through consultations, proponents engage with affected communities to discuss their concerns and incorporate community members' views about potential effects in the IA. Indigenous communities have constitutional rights in Canada, including treaty rights, the right to land and the right to practise one's own cultures and traditions.<sup>\*48</sup> The Crown's duty to consult<sup>†</sup> was created to ensure these rights are protected and can be triggered during the EA process.<sup>49</sup>

Kennedy Dalseg et al. (2018) consider that the failure to include Indigenous women and their perspectives at the same level as men in Canadian EA consultations "represents a major lapse in fulfillment of the Canadian state's constitutionally enshrined fiduciary duty to consult."<sup>50</sup> In their study, Indigenous women reported feeling excluded and alienated from the EA process, as well as unwelcome in public meetings about development projects in their region. This, they said, made it difficult for them to have access to information related to projects.

The quality of an EA depends heavily on how well proponents, the government and communities understand potential project impacts. As previously explained, because gender influences how people experience a project's effects, many actors deem a gender-based analysis essential for EAs, including academics, non-profit organizations and the federal government. Both EAs and gender-based analysis are policy mechanisms used to assess impacts. When combined, they provide a more comprehensive depiction of impacts and curb inequalities in resource development.<sup>51</sup> In the following section, we will briefly explain some of the frameworks created to include gender in IAs.



\* Section 35 of the Constitution Act, 1982 recognizes Aboriginal rights but does not define them (<https://laws-lois.justice.gc.ca/eng/const/page-16.html>). Such definitions have been created over time with Supreme Court rulings.

† The government has an obligation to "consult, and where appropriate, accommodate Indigenous groups when it considers conduct that might adversely impact potential or established Aboriginal or treaty rights" (Crown-Indigenous Relations and Northern Canada, n.d., *Government of Canada and the Duty to Consult*, <https://www.rcaanc-cirnac.gc.ca/eng/1331832510888/1609421255810>, last modified April 16, 2019).



## 5 Gender Analysis Frameworks and Tools

Many actors have created tools and frameworks to integrate gender analysis into their own work or to support stakeholders to do the same. Some examples are:

- Women and Gender Equality Canada (WAGE)'s\* GBA+<sup>52</sup>
- Oxfam's Guide to Gender Impact Assessment for the Extractive Industries<sup>53</sup>
- The Native Women's Association of Canada's (NWAC) Culturally Relevant Gender Based Analysis (CRGBA)<sup>54</sup>
- FemNorthNet's Resource Development and Extraction Framework<sup>55</sup>
- The Canadian Human Rights Commission's Gender Integration Framework<sup>56</sup>
- The Danish Institute for Human Rights' Human Rights Impact Assessment Guidance and Toolbox<sup>57</sup>
- The European Institute for Gender Equality's Gender Mainstreaming Toolkit.<sup>58</sup>

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\* In December 2018, Status of Women Canada (SWC) changed to Women and Gender Equality Canada (WAGE), although SWC's website remains in use until the new WAGE one is developed.

GBA+ has been used internally by the Government of Canada to ensure gender and other identity factors are considered in policymaking. With the new *Impact Assessment Act*, the Canadian Impact Assessment Agency refers to GBA+ as a framework to be applied by proponents in IAs. Thus, we explain GBA+ in more detail below.

All these frameworks aim to provide a structure for analyzing and considering gender impacts. In addition to GBA+, the Oxfam and NWAC frameworks each have important unique aspects for proponents to consider. Oxfam's Guide to Gender Impact Assessment includes practical checklists that can be easily applied by proponents. The NWAC framework focuses on ensuring Indigenous women are not overlooked in gender analysis. Thus, we also summarized them in the following section.

## GENDER-BASED ANALYSIS PLUS

GBA+ is an analytical framework created to assess how an initiative may affect different groups of people. It is used to understand how women, men and non-binary people experience policies, programs and projects. It also acknowledges that other identity factors, such as race, ethnicity, religion, age, and mental or physical disability, intersect with gender and play a role in how people may be impacted by an activity. GBA+ is a tool used by the Government of Canada to ensure inclusiveness in its policies and initiatives.<sup>59</sup>

GBA+ can be divided into five steps: identifying the issue or defining the scope of the analysis, challenging assumptions, examining disaggregated data based on gender and other identity factors, creating a course of action, and monitoring impacts and results (Figure 3). The following subsections show examples on how to challenge assumptions and gather data with GBA+ in a mining context.<sup>60</sup>



Figure 3. Demystifying GBA+.

Source: Status of Women Canada (n.d.), *Introduction to Gender-Based Analysis Plus (GBA+)*, Module 3, [https://cfc-swc.gc.ca/gba-acsc/course-cours/eng/mod00/mod00\\_01\\_01.html](https://cfc-swc.gc.ca/gba-acsc/course-cours/eng/mod00/mod00_01_01.html).



## CHALLENGE ASSUMPTIONS

One of the first steps of GBA+ is challenging assumptions to reduce bias when developing an initiative. For example, in the mining industry, one might assume that:

- All surrounding communities use the land and other natural resources in the same way;
- All members of an affected community are equally impacted by a mining project;
- All members of an affected community equally benefit from a mining project and its employment programs;
- All affected communities are able to engage in the decision-making process of mining activities;
- Women do not want to engage in the mining decision-making process;
- Women do not understand the mining decision-making process.

An assumption might turn out to be true, but it is by gathering disaggregated information on different identity factors that the community context is truly understood, and potential impacts can be assessed.

## GATHER THE FACTS: RESEARCH AND CONSULT

The key component of GBA+ is gathering disaggregated data on target populations to assess how an issue or activity is experienced by diverse groups of people. GBA+ recognizes that “knowledge comes in many forms” and suggests the application of different research methods, including quantitative and qualitative methodologies.<sup>61</sup> We highlight the need for the mining industry to incorporate traditional knowledge when assessing a project’s potential impacts in Indigenous communities.

Questions\* that might help guide this process include:

- What information is available about potentially affected communities?
  - What disaggregated quantitative or qualitative data is important to understand the community context?
  - Does the available data reflect the diversity of women, men and non-binary people who may be affected by the mining project?
  - How can any information gaps be filled?



\* These questions are adapted from WAGE’s online course Introduction to GBA+ to apply to the mining industry. See SWC (n.d.), *Take the GBA+ Course: Gender-Based Analysis Plus*, <https://cfc-swc.gc.ca/gba-acs/course-cours-en.html>, last modified September 26, 2018.

- Is the data reliable, current and gender sensitive? Are there gender stereotypes or assumptions being used?
- Who is traditionally consulted about a mining project and who is left out of the discussion?
  - What are potential barriers to participation in consultations?
  - Are there any social, cultural and economic differences affecting who participates in a consultation process?
  - Is a proponent's choice of words understood by a diverse group of people?
  - Are a proponent's communication methods accessible to a diverse group of people?
- Are there differences on how women, men and non-binary people are impacted by your project?
  - Is a proponent considering gender and other identity factors when creating mitigation strategies?

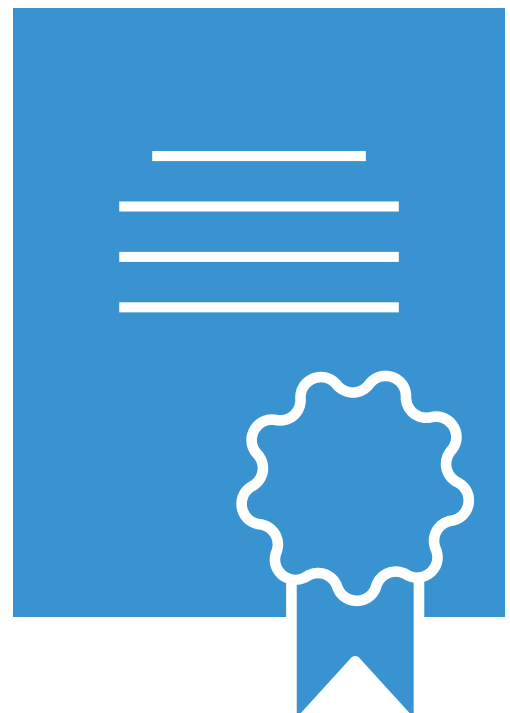
This analysis supports the development of an inclusive initiative and can help companies, the government and other organizations to create mitigation strategies for inequalities.<sup>62</sup> It is rare for gender and other identity factors not to play a role in people's experiences; however, concluding that an activity does not have diverse effects on different groups of people is possible.<sup>63</sup> As long as the GBA+ process is undertaken, documented and reflected upon by stakeholders and rights holders, the initiative has successfully considered gender under the GBA+ framework.<sup>64</sup>

## OXFAM'S GUIDE TO GENDER IMPACT ASSESSMENT

Oxfam developed practical guidelines to implement gender impact assessments in mining. Oxfam's framework includes four steps:

- Collect baseline information about affected communities
- Discuss and analyze the data with women and other members of the community
- Plan mitigation strategies and agree on actions for a positive impact
- Undertake ongoing consultation with women and other members of the community.<sup>65</sup>

Oxfam presents research tools that can serve as a checklist to ensure certain topics are covered for the first two steps. For example, for the baseline study, there is a template to analyze gender divisions of labour within communities and another template to assess gender differences in access and control of resources. For the second step, which involves consulting and analyzing information with communities, Oxfam presents four areas that need to be understood,



with questions to be considered. The four areas are structural and institutional causes of gender inequality, barriers to women’s participation in decision-making, gender needs and interests, and the project’s impacts.<sup>66</sup>

One of this framework’s biggest strengths apart from its practical structure is the importance given to community participation. The IA’s transformational potential is only met if the process is participatory and inclusive. For that, Oxfam includes crucial aspects to be considered, such as meetings that engage women separately from men and that have women as facilitators.<sup>67</sup>

## CULTURALLY RELEVANT GENDER BASED ANALYSIS

NWAC created the CRGBA framework to ensure Indigenous perspectives are incorporated into gender-based analysis. Similar to the GBA+, the framework:

- Challenges assumptions that all people are affected equally
- Aims to use factual evidence
- Engages with affected people, and
- Is applied from drafting to monitoring stages of a program or initiative.<sup>68</sup>

However, CRGBA recognizes that there are “analytical gaps between the global women’s movement and the international Indigenous movement by putting forward Indigenous conceptualizations of gender-based analysis,” such as the right of self-determination.<sup>69</sup> Using a rights-based approach, this framework aims to respect and use traditional knowledge. One of its main takeaways is that the participation of Indigenous women in discussions is not enough. Successful CRGBA leads to Indigenous women’s opinions being reflected in the EA.







## 6 Gender in EA Legislation

### FEDERAL IMPACT ASSESSMENT

In 1995, the Government of Canada committed to employing GBA in government departments and federal programs.<sup>70</sup> This commitment has continued until today, as shown by the Prime Minister’s mandate letter to the Minister of Status of Women Canada (SWC) in 2017 and the SWC’s Action Plan on Gender-Based Analysis (2016–2020).<sup>71</sup> In 2019, the federal government enacted the *Impact Assessment Act*, in which “the intersection of sex and gender with other identity factors” became a required factor to be considered in an IA.<sup>72</sup> As a result, the Impact Assessment Agency of Canada has committed to incorporating GBA+ into the decision-making process of IAs.<sup>73</sup>

In the act’s guiding documents, the Impact Assessment Agency of Canada also refers to GBA+ as a framework to be used by proponents when conducting assessments. With these changes, projects that meet federal thresholds\*

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\* The federal government has a list of designated projects that are required to complete an impact assessment. “Designated projects” is defined as projects that have “the potential to cause significant adverse effects on the environment” (Impact Assessment Agency of Canada (n.d.), *Basics of Environmental Assessment under CEAA 2012: What Projects Are Subject to CEAA 2012?*, last modified November 16, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/environmental-assessments/basics-environmental-assessment.html>). Detailed thresholds can be found in the *Regulations Designating Physical Activities* (specifically, in *Schedule – Physical Activities*, (SOR/2012-147), <https://laws-lois.justice.gc.ca/eng/regulations/SOR-2012-147/page-3.html#h-782948>). The Minister of Environment and Climate Change can also designate projects that are not on the list to complete a federal impact assessment (Impact Assessment Agency of Canada, n.d., *Operational Guide: Designating a Project under the Impact Assessment Act*, last modified June 17, 2020, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/designating-project-impact-assessment-act.html>).

are now required to consider gender and other identity factors when conducting assessments. Projects that only meet provincial thresholds, and thus go through provincial assessments, do not necessarily have the same requirements.

An important outcome of the *Impact Assessment Act* is the compilation and publication of gender-disaggregated data. The Impact Assessment Agency will publish documents related to the IA process of a proposed project, such as proponent reports and public comments online on the Canadian Impact Assessment Registry. As a result, the mandated GBA+ research and its supporting data will also be published, with requirements that vary depending on the size of the project. The Impact Assessment Agency states that, at a minimum, documents must include health, social and economic data disaggregated by sex and other identity factors such as age.<sup>74</sup> Even though sex-disaggregated data is not sufficient to understand gendered mining impacts, an increased amount of publicly available information can enhance baseline studies and help external stakeholders and rights holders assess the success of these regulatory changes. If the data available is insufficient, civil society can hold the government accountable.

Nevertheless, the Impact Assessment Agency signals that simply presenting sex- and gender-disaggregated data (e.g. current employment rates) is not sufficient. In supporting guidelines, the Impact Assessment Agency explains that GBA+ needs to be incorporated in the analysis of federal IAs, including in baseline and effect studies, and in the creation of mitigation strategies. The methods for gathering gender-related data can vary depending on the project but should be identified in early planning stages of the IA process. Possible methods include researching statistics, interviewing community members and experts, and organizing community forums.<sup>75</sup> To apply GBA+, proponents can also refer to the free WAGE's online course.

Additionally, the Impact Assessment Agency will integrate GBA+ in the documents to be sent the Minister of Environment and Climate Change and to Cabinet for determinations of public interest.<sup>76</sup> According to the *Impact Assessment Act*, the Minister of Environment and Climate Change or the Governor in Council must determine if a project is in the public's interest based on the Impact Assessment Report.\* A project that is deemed to be in the public's interest receives a set of conditions, determined by the minister, to be complied with by the proponent.<sup>77</sup> With the new GBA+ requirements, gender considerations will be in the Impact Assessment Report and thus, be considered in public interest decisions.

Although GBA+ considers different identity factors, this is still a cultural neutral framework, and there is no particular focus on Indigenous gender issues, which is essential when discussing mining projects. Ensuring that Indigenous gender issues receive adequate attention in IAs is still needed. To do that, alternatives include providing more detailed requirements and guidelines for assessing potential impacts of mining on Indigenous people of different gender groups.

Applying gender analysis in IAs is not new. According to the Impact Assessment Agency, proponents successfully conducted this type of analysis on major projects before 2019.<sup>78</sup> However, with the 2019 *Impact Assessment Act*, projects that meet federal thresholds will be required to include GBA+ in their assessments, which strengthens the standards of impact assessments that go through the federal process.

It is too soon to evaluate how the changes put forward by the 2019 *Impact Assessment Act* will affect IAs in practice. Challenges in implementation may emerge, and current guidelines might need revisions to ensure gender-diverse perspectives are fully incorporated in the EA process. Nonetheless, by including gender and

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\* To determine public interest, the following factors are considered: extent of adverse effects, the project's contribution to sustainability, the implementation of appropriate mitigation measures, the project's impact on Indigenous Peoples and the project's potential influence on Canada's climate change commitments (Impact Assessment Agency of Canada (n.d.), *Policy Context: Public Interest Determination under the Impact Assessment Act*, <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/public-interest-determination-under-impact-assessment-act.html>, last modified November 27, 2020).

intersecting identity factors as a necessary component of IAs, the federal government formally acknowledges that these factors play an important role on how people experience the effects of a mining project. Additionally, by requiring proponents to use GBA+ as a framework, the government prompts them to challenge assumptions, gather more comprehensive data and create a more inclusive IA. As a result, according to the Gender Integration Continuum definitions, the federal legislation can be classified as gender aware and has the potential to support gender-transformative mining projects.

Aspects that need to be assessed to determine the *Impact Assessment Act's* success in integrating gender analysis include the quality of the gender-related data on approved IAs. The legislation itself simply determines that sex, gender and other identity factors should be considered. It is the guiding documents, which are not legally binding, that provide some details on the quality and extent of these considerations. This can be sufficient, as long as government officers fully consider the guidelines requirements and use the GBA+ toolkit as a benchmark when reviewing IA submissions.

## PROVINCIAL ASSESSMENTS IN BRITISH COLUMBIA, ONTARIO AND YUKON

### ONTARIO

Despite the title, Ontario's *Environmental Assessment Act* encompasses not only environmental impacts but also social impacts. The province takes an "ecosystem approach" to the term "environment" that views ecosystems "as composed of air, land, water and living organisms, including humans, and the interactions among them."<sup>9</sup> In the 2019 Modernizing Ontario's Environmental Assessment Program discussion paper, the province further explained its understanding of "all aspects of the environment" by defining natural, social, economic, cultural and "built" factors (meaning current infrastructure).<sup>80</sup> EA documents need to showcase how these factors have been incorporated in the assessment.<sup>81</sup>

However, there are no requirements related to gender nor is there any recognition that gender, alongside intersecting identity factors, need to be considered when determining the impacts of a proposed project. For consultations, proponents must show that the consultation process was "transparent, timely, accessible and represents enhanced ongoing engagement with the public."<sup>82</sup> But there are no requirements or guidelines to include women's perspectives through consultations.<sup>83</sup> If including their experiences is not highlighted as an important feature of EA consultations, barriers that hinder women's participation in consultations may not be addressed, and it is more likely that their perspectives are not taken into consideration.

Including the broad term "social" without specifying the factors that should be considered when assessing impacts is not sufficient. Ontario's EA legislation and its guiding documents do not refer to gender. Gender is also not mentioned in the discussion paper on potential areas to be updated in the modernization of the act. Therefore, Ontario's EA legislation is currently gender blind.

### BRITISH COLUMBIA

In British Columbia (BC) the *Environmental Assessment Act* considers EAs to be tools for assessing a project's potential environmental, economic, social, cultural and health effects.<sup>84</sup> In 2018, the province made changes to the 2002 act that included adding a more detailed definition of what needs to be assessed in EAs.<sup>85</sup> Among other factors, the new legislation specifically determines that "disproportionate effects on distinct human populations, including populations identified by gender" should be considered in every assessment.<sup>86</sup>





Similar to the federal legislation, by explicitly citing the need to consider how certain groups of people might be disproportionately affected by a project, the BC legislation raises the bar for what is expected of EAs. The inclusion of gender in the act also makes BC's EA policies gender aware – that is, there is a recognition that there are power relations and social dynamics between genders that affect how they experience mining projects.

The province also created a supporting document to guide proponents on how to assess social effects in EAs.<sup>87</sup> This document highlights a commitment to use GBA+ as a framework and further explains how gender can be considered in EAs. By pushing proponents to challenge assumptions and incorporate inclusiveness as an element to be considered in enhancement strategies, BC's EA policies can support gender-transformative mining projects.\*

Additionally, BC's guiding document on EA consultations refers to gender-based analysis and inclusiveness. In the engagement plan guidelines, it requests proponents to consider "how will a gender-based assessment framework inform the approach to engagement." It also recommends that public engagement is conducted "in a way that removes as many barriers to participation as possible and captures a diverse range of feedback."<sup>88</sup>

## YUKON

As the name suggests, Yukon's *Environmental and Socio-economic Assessment Act* aims to assess and plan for any potential environmental and socio-economics effects of a project. The Act mentions the need to protect "the cultures, traditions, health and lifestyles of Yukon Indian persons and other residents of Yukon." However, gender is not a consideration in the legislation or in any of the guiding documents.<sup>89</sup>

In a consultation guiding document, the Yukon Environmental and Socio-economic Assessment Board (YESAB) mentions "that certain projects may impact First Nations and residents of communities differently and that a proponent's consultation efforts/ records will reflect these differences."<sup>90</sup> Nonetheless, this statement was used in the context of YESAB recognizing that consultation efforts and records might be inconsistent from nation to nation or community to community. Nothing was included about the need for including different perspectives in consultations or considering gender when organizing consultations. YESAB also did not state that it would consider gender inclusiveness when reviewing assessments.

We recognize that acknowledging aspects such as culture, traditions, health and lifestyles of Yukon residents is important step toward an assessment process that significantly evaluates mining impacts on people's lives. However, similar to Ontario, gender could still be overlooked, as it is possible to include impacts on culture, traditions, health and lifestyle without considering gendered differences. By not including gender as a component of EA legislation and related guidelines, Yukon's EA policies are currently gender blind.



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\* The Environmental Assessment Office suggests that proponents to go beyond mitigation strategies and consider ways to benefit communities through "benefit enhancement" strategies. Inclusiveness is a component of these strategies when it suggests, for example, that proponents consider "how can the project use training, strategic hiring or other strategies to direct some of the employment opportunities to people in the community and to those who are under- or unemployed" (Environmental Assessment Office, 2020, *Human and Community Well-Being: Guidelines for Assessing Social, Economic, Cultural and Health Effects in Environmental Assessments in B.C.*, [https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/hcwb\\_guidelines\\_v1\\_-\\_april\\_2020.pdf](https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/hcwb_guidelines_v1_-_april_2020.pdf)).



## 7 Recommendations and Final Remarks

EAs are an important part of the mining licensing process. It is through EAs that a project's potential impacts are evaluated to conclude if its benefits outweigh negative effects. It is also in this process that proponents plan and present mitigation strategies. EAs are therefore a tool for accountability as they include a set of requirements that need compliance for a project to be approved and implemented. Because mining projects might have different effects on people depending on whether they identify as men, women, both or neither, gender should be considered when assessing impacts.

Moreover, to truly understand how a project will impact nearby communities, it is essential that proponents discuss the project with those communities through consultations. In these discussions, proponents explain their projects to community members, which contributes to the transparency of the project's planning process in relation to affected communities. In this regard, it is crucial for EA consultations to be gender diverse and gender inclusive. For example, how will the proponent assess the project's impacts on women if they are not engaged in the process? And is the process truly transparent if only men have access to certain project information and understand the project by participating in consultations? Having a gender-inclusive consultation process also translates into an EA process that is accountable to a larger group of citizens.

To achieve a gender-inclusive EA process, we propose the following recommendations.

## FOR THE GOVERNMENT

### **Include gender as a required component to be considered in impact assessments:**

Ontario and Yukon should consider including gender in their EA legislation and guidelines as a required element in assessments. Even though projects that trigger the *Impact Assessment Act* anywhere in Canada are subject to the federal requirements related to gender, projects under jurisdictional assessments in Ontario and Yukon can still disregard gender when evaluating potential impacts. If gender is not considered, the EA's depiction of a project's effects is not as robust as possible and thus fails to transparently communicate impacts to governments and communities.

In the Modernizing Ontario's Environmental Assessment Program discussion paper, the province considered clarifying expectations for EA documentations through guidance. It also mentions the possibility of establishing clearer requirements for consultations, which "may help to ensure that the public's voice is heard early and throughout the planning process, reducing potential delays later in the process."<sup>91</sup> This should indeed be done and include requirements related to gender participation and integration of gender-diverse perspectives.

Furthermore, we suggest for these provinces to use a gender analysis framework that not only requires sex- and gender-disaggregated data as a variable in assessments, but also considers gender inequalities throughout the assessment process, such as GBA+. Special attention should be given to Indigenous gender diversity and Indigenous gender issues.

### **Guidelines to support gender-diverse participation in consultations:**

Among the analyzed regulations, only British Columbia's and the federal EA processes included gender in their consultation guidelines. The other jurisdictions do not mention that gender representation will be considered when reviewing consultation documents in EA submissions.

In terms of mechanisms to support women's engagement, including a quota for the number of women who need to be consulted in impact assessment processes is not necessarily the optimal course of action because not all women may want to participate in the process. Indigenous communities, especially, experience what "consultation fatigue" due to the number of projects that need to be reviewed.\* Thus, requiring a quota could have the unintended effect of increasing the burden in communities to participate in all consultations or create new burdens on some groups.

However, women (particularly Indigenous women) are actively excluded from the EA decision-making process, an issue that needs to be addressed. Governments can improve consultations' gender inclusiveness by requiring that a) women and women groups in affected communities are properly notified with targeted invitations, potentially with a quota for invited women, depending on the size of the project and the affected communities' population; and b) procedures are put into place to minimize any potential barriers to women's participation in consultations. Governments should explicitly state that factors such as these will be evaluated when reviewing EA submissions.

Analyzing the number of women who participated in any given consultation and the extent of their contributions can help assess if these consultations are meaningful and inclusive. Currently, no publicly available data supports this type of analysis. The Canadian Impact Assessment Registry has the potential of being a tool to evaluate

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\* Distrust in the process and its outcomes can also contribute to consultation fatigue, as covered in the Accountable Mining national and jurisdictional reports.

the number of consulted women in federal assessments, if this information will be available. Nonetheless, other mechanisms are still needed to determine if women are actively heard. Requiring proponents to document women's perspectives or having government representatives randomly auditing consultations could be potential solutions. Similarly, it is important to evaluate if women's inputs impact the EA final documents and the mining project itself. We suggest further study is necessary to draw this conclusion and recognize this is a challenging policy obstacle to overcome. However, having detailed requirements and guidelines regarding the need for gender-diverse consultations can also influence EA outcomes, because proponents would have to indicate how women's perspectives were considered in the project's planning.

Members of Indigenous communities engaged in the Accountable Mining Program have also pointed to the need for reciprocity of knowledge. They understand that for communities to participate meaningfully in EA-related decisions, there is the need for increased expertise about the EA process. However, they also highlight that government and proponents should improve their efforts to learn from Indigenous communities. To improve this relationship, gender should be also be considered (e.g. assisting Indigenous women in understanding the EA process and learning from Indigenous women).

## FOR PROPONENTS

### Implement gender analysis in impact assessments:

Proponents should consider implementing gender analysis tools discussed in this paper (e.g. GBA+, Oxfam's Guide to Gender Impact Assessment, NWAC's Culturally Relevant Gender Based Analysis) when developing their impact assessments. The Gender Integration Continuum can also be used as a quick method to internally evaluate specific mining projects in terms of their levels of gender integration.

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- <sup>10</sup> CHRC, *GIF*.
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