

HAVE BY JASON PRNO IBAs WORKED?

A decade after Ekati signed the first impact and benefit agreements with local aboriginal groups, the effects of such contracts are coming under scrutiny by researchers from the University of Guelph.

In the small Inuit community of Kugluktuk, Nunavut, elder Tommy Pigalak sits in his kitchen gazing out at the Arctic Ocean. “Those old mines wouldn’t listen to us,” he says. “They wouldn’t come and consult with people in our community.” Pigalak describes early mines as dangerous, polluted places, with owners who had little regard for the plight of surrounding settlements. Now the miners not only listen, he says, but offer benefits: “Now there’s employment, training opportunities and scholarships for our youth. It’s getting better all the time.”

While things indeed may be getting better, the past is not forgotten. For years, aboriginal communities reaped few, if any, of the benefits associated with mining. These communities were also known to suffer disproportionately from the impacts of mineral development, impacts only exacerbated by other social and environmental issues these communities are known to face. With the discovery of diamonds in Canada’s North in 1991, the time was ripe for change. *Continued...*

DIAMOND FROM ABOVE: Rio Tinto’s Diavik diamond mine in the barrenlands of the Northwest Territories has brought jobs, training and wealth to nearby aboriginal communities.



DOWN IN THE HOLE: The A154 pit has been the backbone of the Diavik operation from the start. Here, the Hitachi EX 1900 excavator, with a 22-tonne payload, repositions in the pit.

THE DIAMOND MINES have had a profound impact on aboriginal employment, with planes shuttling aboriginal employees to and from mines a regular sight around Northern communities. Aboriginal businesses are thriving and optimism exists. Change, it appears, has come in force. Why has this been? What are the reasons? Well, at least one is the signing of impact and benefit agreements (IBAs) by aboriginal organizations and mining companies.

For the past two summers I've travelled the North to record people's opinions of IBAs. I've interviewed dozens of people and moderated focus groups in Yellowknife, Dettah and Kugluktuk. I've spent time with aboriginal youth, elders, business owners and mine workers. While IBAs are far from perfect, my impression is they've produced many positive results.

IBAs – or participation agreements, as Diavik's are known – have revolutionized the way mining companies do business in the North. No longer is mineral development the sole pur-

view of government officials and business leaders; aboriginal groups now have an important seat at the negotiating table. These groups negotiate for benefits they wish to see their communities reap, benefits which can include virtually anything: Employment guarantees, direct financial payments, job training, and opportunities for community economic development are commonly included, although unique cultural and environmental provisions have been known to appear as well.

So, what has motivated the emergence of IBAs? Why the change of heart? For one, the social acceptance of a mining project (obtaining the social licence to operate) becomes much more likely when surrounding communities are seen to benefit from a project. This reduces the chance of costly conflict and potential project shutdown during the permitting phase. In some cases, the signing of IBAs also meets various legal requirements (as seen in the Nunavut Land Claims Agreement, for example). Even where the law doesn't require

IBAs, they are often viewed as an additional political requirement for developers to pursue. In the oft-contentious region of the Canadian North, it is generally promoted that no new mine can now possibly proceed without the signing of IBAs with local aboriginal groups. Many view this as a sign of the evolution of aboriginal rights, with most mining companies no longer daring to risk ignoring the local populace.

Motivations aside, one must wonder just how well these agreements have been working. Are people happy with them? Are they serving their intended aims? Limited research has been conducted on IBAs, even considering their popularity and their important role in the mineral development process here in Canada. In light of this, University of Guelph geography professor Ben Bradshaw has initiated research that aims to answer the question, "Are IBAs working?" Because of the unique geographical, social and political context, diamond mining in Canada's North provided an ideal case study for research.



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This research has revealed many positive results. A quick look at socio-economic indicators in the NWT, for example, shows that aboriginal employment, income and education levels, as well as the number of aboriginal businesses, have all been increasing since the signing of IBAs. Those with a stake in negotiations – aboriginal groups, mining company representatives, government officials – present a similarly positive picture. Interview respondents have noted that IBAs "can be vital instruments of economic change for communities" and provide "discernable benefits that make a difference". "How can anyone say IBAs haven't worked?" questioned one respondent.

Back in Kugluktuk, this optimism also exists. Still sitting in his kitchen, Tommy Pigalak continues to reflect on some of the benefits diamond mining has brought to his economically depressed community. "You know", he says, "those mines are the only employment we got. Without them, people in Kugluktuk would be poor." *Continued ...*

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Wynter Kuliktana, a bright young Inuk woman who, when not working at one of the diamond mines, lives down the road from Pignalak, largely sides with him. "Mining is a good thing for this town," she says. "There is lots of employment, there are lots of opportunities." She, like many others, has personally benefited from those opportunities, working as a summer student at Ekati in between her studies at an Alberta college.

IBAs are not just being signed in Canada. In Australia, they have been signing agreements since the late 1970s. Like Canada, Australia has a strong mining sector and a large aboriginal population. Ciaran O'Faircheallaigh, a professor at Griffith University in Australia, draws some parallels between the experiences of Canadian and Australian aboriginals: "They were excluded from meaningful involvement in mineral development here in the past," he states. "For many, they were simply marginalized." And, unfortunately, many Australian aboriginal communities continue to suffer from a number of social inequities. While by no means a panacea, he notes, "IBAs now create opportunities for Aboriginal groups."



WYNTER KULIKTANA: "Wouldn't it be great if we could actually own a mine?"

MICHAEL SAMLEY

The key issue for O'Faircheallaigh however, is whether or not those opportunities are realized: "Only a minority of aboriginal groups in Australia have been able to maximize the benefits from their agreements," he says. "There is no guarantee that they'll get a good IBA." Often, capacity strains in aboriginal organizations, lack of political skills and prowess, and additional difficulties at the negotiating table will reduce IBA success. In fact, there have been examples where negotiated agreements have left aboriginal groups worse off than before their signing. "Rectifying the uneven nature of IBA outcomes for signatory communities is my great concern."

In Canada, similar issues have been raised. Professor Ben Bradshaw at the University of Guelph notes that the effects of IBAs in Northern Canada have also varied: "The mere presence of an IBA is no guarantee that all signatories will be happy," he says. "While some aboriginal groups have praised their agreements, others have been left feeling frustrated by perceived inaction or a lack of responsiveness by their industry partner. *Continued ...*

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If generalizations are possible, it appears that, where land claims have been settled and aboriginal groups are strongly organized, community members appear most satisfied with their IBAs. Benefits negotiated with long-term sustainability in mind have also made those in the signatory communities appear more content.”

To be sure, the long-term sustainability of IBA benefits is a topic that constantly arises in discussions with aboriginal organizations. While jobs are plentiful, they say, hardly any opportunities exist to work in management positions. Blue-collar work is often all that is available, and there have been claims of racism against aboriginal workers wishing to be promoted. Community members say that larger opportunities for them to benefit from mining aren't being pursued to the fullest extent.

“Wouldn't it be great if we could actually own a mine, like they do in Alaska?” asks Wynter Kuliktana. Indeed, Alaska's Red Dog zinc mine, of which she speaks, is located on land owned by a local aboriginal group, while Teck Cominco operates the mine. While not all deposits are amenable to this

sort of strategy, further use of royalty sharing provisions (i.e. linking the ever-changing profit margin of a mine to payments made to aboriginal IBA signatories), may be one way in which communities can more fully benefit from mineral projects.

In Canada, there are also issues regarding IBAs and their relationship with the regulatory system. For example, although the federal government has no official policy on IBAs, they have gotten involved with negotiations (diamond miners may remember Indian Affairs Minister Ron Irwin's '60 days' to negotiate IBAs announcement in 1996, regarding Ekati's water licence). Understandably, instances of ad hoc intervention have led to much confusion, leaving many wondering just what role, if any, the government should play.

The overlap IBAs have with the environmental impact assessment process has been another sore point for stakeholders. While there are no rules detailing when these agreements should be signed, the signing of an IBA before the impact assessment process can provide aboriginal groups with significant negotiating clout. *Continued ...*



Training and jobs have been the selling points for Northerners.

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Here, it is in the best interest of a mining company to negotiate IBAs early in order to avoid later dissent during permitting and operational phases. Conversely, aboriginal groups who have negotiated IBAs later in the process have voiced concern over having significantly less clout to negotiate fair agreements. Other concerns have also been presented regarding the timing of these agreements and until resolved, these issues will remain.

Finally, concerns regarding the confidential nature of IBAs have also been voiced. Aside from perhaps keeping the value of financial payments secret, confidentiality has been said to serve no essential purpose. Confidentiality hinders the sharing of knowledge between newly-negotiating aboriginal organizations, and the dissemination of information to community members.

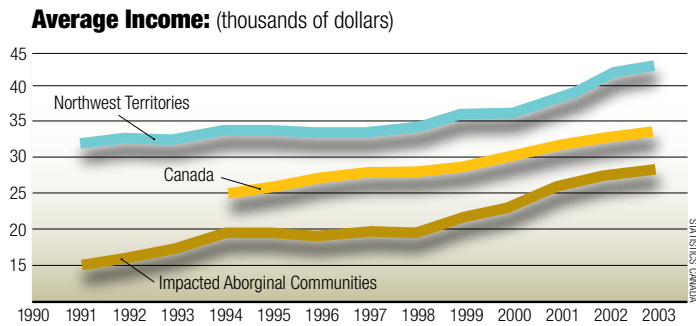
Issues and concerns aside, there is considerable evidence that IBAs are delivering a number of positive outcomes for aboriginal communities affected by diamond mine developments in the Canadian North, and elsewhere. This represents

a significant change to mineral development outcomes in the past, and should be celebrated. What comes next? Most certainly, IBAs will continue to be negotiated as new mines are developed and opened. These agreements, in the eyes of many are here to stay.

Considering this, there is a need, like in all things, for IBAs to evolve, to fit with the times. Aboriginal and non-aboriginal people alike have recognized this and progress is being made. One need only look at the ever-growing number of conferences and workshops highlighting IBAs, or listen to discussions in aboriginal communities and amongst miners themselves. The

future of IBAs looks promising. Land claims are slowly but surely being settled, mistakes in IBAs past are being learned from, and new economic opportunities are being pursued. While there is still much left to be done, Tommy Pigalak's words are insightful: "It's getting better all the time".

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