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**Outline of Proposed Chapter Focussed on
Impact and Benefit Agreement (IBA) Scholarship and Knowledge Gaps**

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Proposed Structure:

- 1) Introduction [description of IBAs and their use in the Canadian north, and outline of the aim of the chapter]
- 2) Review of existing scholarship and identification of emergent knowledge gaps **(see details below)**
 - a. Legal Basis of IBAs (description and emergence of IBAs)
 - b. IBA negotiation and implementation
 - c. IBA effectiveness
 - d. IBA interaction with regulatory processes and institutions
 - e. IBAs and social justice/IBAs as a planning tool
- 3) Knowledge Gaps as identified by specific stakeholders
 - a. Industry
 - b. Community
 - c. Regulators
- 4) Expected benefits of addressing knowledge gaps through ReSDA
- 5) Conclusions

Section 2 Foci – Existing Knowledge, Knowledge Gaps and Relevant References (DRAFT)

A) Legal Basis of IBAs (description and emergence of IBAs)

Existing Knowledge	Knowledge Gaps
<ul style="list-style-type: none"> • The legal and quasi-legal basis of IBAs is well understood, at least historically (e.g. Aboriginal law, successful Land claims, EA Decisions, Evolving cultural norms, Industry CSR, Etc.) • What is less known is the contemporary legal basis of IBAs given evolving definitions of the Crown’s Duty to Consult and Accommodate and growing quasi-legal demands for Free, Prior and Informed Consent (FPIC) 	<ul style="list-style-type: none"> • Does legal context from region to region impact the content of an IBA? • Are IBA negotiations recognized as de facto replacements for the Crown’s Duty to Consult and Accommodate? If so, what are the implications for Aboriginal communities and industry? • How are legal and cultural norms around the concept of Free, Prior and Informed Consent changing in Canada, and what might this mean for IBA Negotiations? • Do governments have a legal obligation to support IBA negotiations? If so, what might be the scope of their involvement? • How do communities understand their legal rights? How does this impact their approach to IBA negotiations? • How does industry approach IBA Negotiations? Is it to have a rights-based discussion or is it based on “how much money will it take to get the project the green light?”? Does this matter?

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B) IBA negotiation and implementation

Existing Knowledge	Knowledge Gaps
<ul style="list-style-type: none"> • For a variety of reasons, IBA negotiations (and their outcomes) can be highly variable • The exercise of overt and covert power is a crucial issue and concern in IBA negotiations • IBA negotiations often appear to miss the opportunity to directly address community health needs • Although a seemingly obvious point, IBA implementation is a fundamental determinant of IBA effectiveness • IBA implementation can be highly variable 	<ul style="list-style-type: none"> • How variable are IBA negotiations and implementation? Should standardization be encouraged? • To what degree are IBA negotiations informed by well-conceived and inclusive community visioning exercises? How well do they capture interests of community health relative to economic interests? • How much information sharing occurs among communities and companies, and how does this impact IBA negotiations? • What are contemporary and historical constraints to effective IBA negotiation and implementation, and how can they be addressed? • What are the governance and capacity issues that have to be addressed to improve IBA negotiation and implementation?

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C. IBA effectiveness

Existing Knowledge	Knowledge Gaps
<ul style="list-style-type: none"> • By their mere presence, IBAs represent an advance over a grossly unjust past marked by exclusion from project planning and benefits, and inclusion in the majority of project impacts. • For communities, IBAs mainly serve to influence project planning and secure benefits; the attainment of these goals is seemingly variable from agreement to agreement. • Community satisfaction with benefit delivery is generally low; while explicit expectations may be met, many communities hold a variety of implicit expectations of IBAs that are seldom delivered. • There is limited work that seeks to measure IBA effectiveness, in large part because it is methodologically challenging. 	<ul style="list-style-type: none"> • Are IBAs benefiting communities? Are they meeting their explicit aims? Are they meeting their implicit aims? • Are IBAs benefitting industry? Are they meeting their explicit aims? Are they meeting their implicit aims? • What methods are suitable for gauging IBA effectiveness? • Can mining, when undertaken with IBAs, contribute to sustainable economic development for communities and regions? What conditions must be present?

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D. IBA Interaction with Regulatory Processes and Institutions

Existing Knowledge	Knowledge Gaps
<ul style="list-style-type: none"> • (private) IBA negotiations are influenced by, and influence, (public) regulatory processes like EA • There is little to no coordination of these two processes, though parties knowingly use each process to further their interests • A community's participation in IBAs can impact its relations with institutions like AANDC and the Provinces 	<ul style="list-style-type: none"> • Is there the potential (and interest) to harmonize EA and IBA processes? • To what degree are IBAs coming to replace EA, and is this problematic? • Is the present relationship of IBAs and EIA productive? Is this working? (Some research on how these processes work in conjunction with each other but not much analysis discussing if they are productive)

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E. IBAs and social justice

Existing Knowledge	Knowledge Gaps
<ul style="list-style-type: none"> • The historical conduct of mining has created gross injustices for Aboriginal peoples in Canada as elsewhere; it represents a clear expression of colonialism in the Canadian north. • Though the regulation and conduct of mining has evolved, and the presence of IBAs represents a significant shift in powers and opportunities, it is still easy to conceive of mining in a colonialist frame • In regions where modern land claims have been achieved (e.g. Nunavut), control over mine developments, through both formal regulatory systems and the negotiation of legislated IBAs, is improved. That said, in some of these very regions, the new institutional arrangements are frustrating communities and causing renewed disempowerment. • While mineral life cycles are relatively short, IBAs can aid in the creation of inclusive development processes, which aim to mitigate the typical boom and bust scenarios so often associated with extractive resource development. 	<ul style="list-style-type: none"> • Do IBAs have the potential to ameliorate historical boom-bust trends so often associated with extractive resource development? • In light of their private nature, do IBAs reinforce exclusive development practices or can they be a tool for inclusive governance? • Are IBAs a counterbalance to historical injustice or do they perpetuate them? • What are alternatives to IBAs that might create greater opportunities/benefits for communities in terms of both economic development and social justice?

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