Master's Research Paper

The *Impact Assessment Act*, *2019*, Climate Change, and Political Priorities in Canada

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Abstract

The *Impact Assessment Act*, *2019* was presented as establishing stronger rules to protect the country's environment and renewing public trust in the decision-making about resource development. The purpose of this study is to constructively assess the extent to which the Act can be used to support Canada's climate change commitments. Through political analysis, this study finds that as a discretion-based tool, the *Impact Assessment Act* is designed to accommodate the longstanding economic vision of a Canada, with the attempts to accommodate environmental and social issues highly dependent on context and application. This research can contribute to understanding of the extent to which this tool aligns with Canada's international commitment to addressing climate change, which can stimulate attention to whether this tool is appropriate in today's context of growing environmental concern.

Introduction

After years of Canada's federal environmental assessment regime facing criticism from environmentalists and the public, in August 2019 the Liberal government introduced the *Impact Assessment Act (Act)*. The *Act* was presented as establishing stronger rules to protect the country's environment and renewing public trust in the decision-making about resource development (Impact Assessment Agency, 2020b). However, due to the recency of implementation, there is little research assessing that claim, with the research that does exist narrowly focusing on the technical aspects of the legislation and evading its political nature. Consequently, there is a knowledge gap concerning the impact that the *Act* has on key policy areas, namely environmental interests. Given the measurable impact of impact assessments and the urgent international concern and commitment to climate change, addressing this gap is an important area for research attention. Therefore, the purpose of this study is to constructively assess the extent to which the *Act* can be used to support Canada's climate change commitments.

Background

When a development project is proposed to take place within an area of a government's jurisdiction, impact assessments are regulatory tools that can be implemented to guide decisions about accepting projects. Impact assessments trigger decision-makers to incorporate certain information into their deliberations, such as how the project may affect aspects of the social or biophysical world. As put by Morrison-Saunders et al. (2014), impact assessments are used to generate the information

needed for decision-makers to “think before they act” (p.2) and legitimize a project that may be subjected to conflicts on interest. To demonstrate the breadth of types of impact assessments, there have been more than 40 kinds developed around the world since the 1980s, each attempting to incorporate different types of information into deliberations (Morrison-Saunders et al., 2014). Fundamentally, impact assessments do not serve to regulate the substance of a decision, but instead to ensure information regarding valued aspects of society are assessed for their significance to the public interest (Holder, 2006, p.6). At the federal level in Canada, impact assessments can be triggered for projects in the transportation, energy, agriculture, and waste management sectors (*Impact Assessment Act,* 2019). For most of Canada’s history with impact assessments, regulations have focused on integrating environmental interests into decision-making in situations where they may be a trade-off between environmental and economic interests.

Impact assessments first came under Canada’s federal portfolio in 1974, when departments and agencies were charged by Cabinet to include “environmental matters” in any planning, project, or program which required federal funds or federal property (Impact Assessment Agency, 2020a). There was no legally binding mechanism until 1989, and then only in 1995 was a full administrative legal regime established through the *Canadian Environmental Assessment Act*, its associated regulations, and the Canadian Environmental Assessment Agency. Before 2012, the *CEAA* provided broad coordination power to administrative agency actors, and the Agency was gradually granted a larger budget to conduct comprehensive technical studies. Under the Harper government, the original CEAA was repealed and replaced with the CEAA 2012,

through which the Agency became responsible for all environmental assessments except for those nuclear or energy projects, which were instead regulated under different administrative bodies. Among other objectives, the new law aimed to speed up the decision-making for priority projects, such as oil sands pipelines and mines, by only focusing on certain types and by shifting most cross-jurisdictional matters implicating environmental assessment to the responsibility of the provinces. Environmentalists and academics alike found the CEAA flawed due to its internal inconsistencies. As Gibson (2012) criticized, the *CEAA* "virtually eliminate[d] the core of federal-level environmental assessment in Canada" (p.1), and struggled to deliver predictable decisions due to the high degree of discretion afforded to the Agency. As a whole, the policy led to a high degree of public distrust in decision-making, revoking many opportunities for public consultation and elements which would enhance transparency (Gibson, 2012).

In recognition of domestic and international pressure for Canada to more significantly contribute to combatting climate change, reforming environmental policy became of particular governmental priority (Cullen, 2016). In his mandate letter to the Minister of the Environment and Climate Change in 2015, Prime Minister Justin Trudeau prioritized the immediate review of the environmental assessment process (Office of the Prime Minister, 2015). This kickstarted two years of consultation, which included the development of an advisory committee comprised of Indigenous groups, industry, non-governmental and environmental organizations, and an Expert Panel to consult the public. The result of this process was an Expert Panel report with recommendations, many of which were included in Bill C-69 which was introduced in the fall of 2017.

In August 2019, the Government of Canada passed the *Impact Assessment Act, 2019* to replace the C*EAA*. Among other resolutions, the *Act* proposes to foster sustainability and protect environmental, health, social, and economic conditions from the adverse impacts resulting from a designated project conducted within its jurisdiction (*Impact Assessment Act, 2019*). Briefly, the *Act* describes the roles of actors in impact assessments, the projects that would trigger attention, and the process through which a decision is made.

Literature Review

Theoretical models of the function, potential, and objective of impact assessments vary across the literature. The mainstream perspective is that through the collection of scientific evidence, economic modelling, and qualitative input, a decision-maker is capable of coming to a rational and value-free conclusion about whether a proposed project is within the public's interest (Morgan, 2012). By this way of thinking, a project that has adverse environmental impact will lead to decision-makers declining it. As Westwood et al. (2019) describe, the rationale for incorporating different scientific models into the technical structure of impact assessments is to provide the best scientific evidence as to the impact of a project on the environment or social life, which would therefore influence decision-makers into making the best possible choice. For instance, in the environmental assessment research field, many studies suggesting different technical designs highlight the true nature of mitigating severe environmental impact from development projects. For example, Westwood et al. (2018) argue that further guidance provided to decision-makers surrounding the term "significant adverse environmental effects" would reduce misinterpretation of the implications of the scientific

research that is provided. Many other authors (Lawrence, 2007; Baxter et al., 2001; Sinclair et al., 2017) have also suggested the integration of a cumulative effects assessment (CEA) into the process, which would present potential project impacts, such as greenhouse gas emissions, from the perspective of the past, present and future.

Likewise, many researchers suggest reframing and redesigning impact assessments so that environmental interests are of primary consideration, forcing development proponents to justify their projects. For instance, Luke & Noble (2019), Ho & Tollefson (2016), and Hetmanchuk (2019) argue that the inclusion of GHG benchmarks and cumulative effects assessments would be valuable to helping decision-makers weigh trade-offs when it comes to industrial projects that emit GHG emissions. These same authors also argue that perhaps strategic environmental assessments (SEAs) are appropriate as they can better satisfy environmental concerns, and specifically climate change concerns, with economic interests. SEAs review all considerations from a policy, plans, and programs (PPP) level as opposed to a project-level, and therefore allow decision-makers to account for the maximum amount of adverse environmental impact, such as the maximum amount of GHG emissions, that would be allowed within a given region or project (Fischer, 2002; Fundingsland Tetlow & Hanusch, 2012). Others have suggested that the integration of more voices in the deliberation process, such as made available through public consultations, would lead to improved decision-making. For instance, Lyhne & Korov (2013) argue that through openness and communication between the various actors within the EA process, decision-makers can make better sense of a project's interactions with the environment.

Westwood et al. (2019) also argue that increased transparency in decision-making and open information will influence more wholesome reflections on the consideration of scientific evidence. Fundamentally, despite the varying perspectives on the different technical approaches suggested to appropriately integrate non-economic considerations into decision-making, these recommendations are thematically aligned to perceive that impact assessments, by way of providing high-quality information, can trigger rational thinking and meaningful consideration of trade-offs.

At large, the mainstream perspective on the purpose and objective of impact assessments indicates a bias towards environmental interests and generally evades the conceptualization of impact assessments as tools used by political decision-makers. A smaller handful of authors have questioned the scope of change that could occur by modifying the type of information considered as evidence to public interest in decision-making. These authors argue that instead of deciding project fate based on a rational process, impact assessments merely serve to legitimize decision-making that requires the balancing of different societal values. Cashmore et al. (2010) argue that the various types of impact assessments are instruments that represent political statements through the issue that is meant to be integrated into decision-making, such as environmental interests. Similarly, Lawrence (2007) describes the concept of “significance” of a project’s impact as being influenced by discourses and practices embedded in the political-economic context of a society. Likewise, Lyhne & Kornov (2013) argue that the idea of what is in the public’s interest is often dynamic, contextual and political, and therefore many different values and societal developments may influence perceptions. As a consequence of a plurality of values, it is not possible to evaluate whether impact

assessments are effective in getting to a certain decision but more appropriate to evaluate whose interests are being promoted through this structure of power relations (Cashmore et al. 2010).

These perspectives align with the political science and policy analysis arguments wherein decision-making and policy-making are considered open and interactive processes subject to influence by demands of “everyday politics” (Meadowcroft, 2009) and a tendency for political actors to be risk-averse (Howlett, 2014). From this viewpoint, impact assessments are discretionary-based tools whereby environmental interests are only truly upheld by alignment with national and political values and goals. Jordan & Lenschow (2010) argue that due to the lack of legal force or normative influential obligation, only political leadership and a sense of commitment and vision can lead to environmental objectives being realized. This is an interesting perspective and one which contrasts with the underpinning of the rationalist view which argues that increased decision-making aids and scientific evidence can meaningfully lead to positive environmental outcomes by demonstrating significance. This discussion is interesting because it points to the need to modify how impact assessments are evaluated for effectiveness.

Research Approach: Conceptualization, Methods & Data Sources

As seen in the literature, impact assessments have two major policy functions: a procedural objective to change the way that environmental decisions are made, and a substantive function with a purpose of changing social values (Weston, 2010). As discussed, the majority of the literature has conceptualized the tool through the

"rationalist" planning theory, which assumes that IAs exist to lead to "better" decisions as they systematically consider all possible alternatives, assess all possible solutions, and objectively analyze quantified information (Weston, 2010, p.4). However, as suggested by a small handful of authors (Weston, 2010; Cashmore et al., 2010) the rationalist theory is problematic because it fails to consider the plurality of values and perspectives that a decision-maker must contend with. As a whole, the rationalist theory does not capture the political nature of impact assessments, failing to account for the fact that they are designed to distinctively and selectively frame what is considered knowledge and what action would be considered within the public interest. As Meadowcroft (2009) argues, sustainable development is founded in normative concepts and governance for sustainable development is a conscious effort to push certain conceptualizations of ideal development outcomes. Therefore, IAs are a governance tool for sustainable development, used to steer decision-makers towards certain outcomes by incorporating specific objectives into their practices (Runhaar, 2015).

Given the knowledge gap in respect of the substantive impact that the *Impact Assessment Act* has on environmental interests, this research seeks to come to an understand the extent to which it supports Canada's climate change obligations by conceptualizing IAs as a political tool. The conclusions of this research can contribute to also can contribute to the academic debate about how IAs should be conceptualized and their degree of utility for certain purposes, such as sustainability.

The desk review method will be used to conduct this research. A desk review is a qualitative research approach that allows for constructive, open-ended questions to inquire into the extent to which a program or initiative meets a certain objective (Mertens

& Wilson, 2019). Desk reviews are common in the international development field, as they are relatively quick and cheap methods that only rely on a sample of program data in the form of project documents, assessment reports, and literature on the topic (Mertens & Wilson, 2019). Given these characteristics and the limited time and resources available for this research, the desk review method to address the research focus. A thematic analysis of secondary data sources using the framework presented by Cashmore et al. (2010) for political analysis will lead to conclusions about the extent to which the *Impact Assessment Act* supports and can be used to support Canada's climate change obligations. The data sources will include legislation, government documents and website content, mandate letters, policy papers, policy guidance, consultation papers, and peer-reviewed literature (Appendix A).

Research Findings

Conducting a political analysis can highlight the beliefs, values, and aspirations of the actors involved in the decision-making and the strategies that are used to promote their visions and engender the change being promoted (Cashmore et al., 2010).This analysis can lead to conclusions about the extent to which climate change interests are prioritized in the *Impact Assessment Act* by understanding which interests are implicated in the design of the consequences. Following the analytical framework proposed by Cashmore et al. (2010) for conducting a political analysis as part of critical evaluation of impact assessments, several questions are being adapted for use to guide this research:

1. What is the political vision and messaging conveyed by the impact assessment?
2. What are the mechanisms which realize or constrain the goals of the impact assessment?
3. How does the impact assessment influence power relations in policy decisions?

A thematic analysis of relevant policy documents and legislation was conducted using QDA Miner Lite. Documents under analysis were chosen because they were published before and after the legislation was passed and are indicative of the intended vision of the legislation. The documents were analyzed for key terminology that would fall into the themes pertaining to general objectives relating to trust in government, sustainability, strong economy, and Indigenous reconciliation (Appendix B). These themes were chosen to investigate because an initial review of the *Impact Assessment Act* and other reports indicated that these were regularly cited objectives of the policy.

Political Vision and Messaging

The political vision of the *Impact Assessment* is multi-faceted. The overarching vision stated for the *Act* across policy documents, including where explicitly reference in the Speech from the Throne and mandate letter to the Minister of Environment and Climate Change in 2015, is that a strong economy and strong environment are not only compatible, but that the success of both is imperative for a successful Canadian future. Messaging repeatedly refers to the relationship between the economy and environment as going “hand in hand,” where responsible development of natural resources can

power economies, support communities, and create jobs and irresponsible development leads to degradation, lost opportunities, stranded assets, and broken trust (Government of Canada, 2018). Messaging related to a “strong environment” included language about sustainable use of resources for future generations, acting with precaution, the interconnectedness and interdependence of human-ecological systems, leveraging scientific evidence to inform decisions, and mitigating the effects of development on biophysical systems. Messaging concerning a “strong economy” included discussion around enhancing competitiveness by creating a warm investment climate through predictable and timely action, driving innovation, and the importance of a powerful economy based in major resource projects for creating jobs and supporting communities. Policy documents also highlight an aspiration for the legislation and associated administrative regime to enhance public trust in government decision-making and reconcile relations with Indigenous peoples. Use of language such as transparency, trust, meaningful engagement, coordination, and the restoration of confidence were abundant throughout the documents to support the vision of becoming a trustworthy government. The goal of Indigenous reconciliation was portrayed through language such as cooperation, partnership, rights, respect, and nation-to-nation relations.

The thematic analysis also brought out the system of values that guided the development, framing, and major principles of the *Impact Assessment*. Such values include meaningful public engagement, reconciliation and partnership with Indigenous peoples, predictable decisions based in scientific evidence and Indigenous knowledge,

a strong economy that creates jobs, and sustainability of the environment for present and future generations.

Mechanisms and their Effects

If the vision of the *Impact Assessment* is that a strong environment is compatible with a strong economy, then an analysis of the legislation's mechanisms would highlight how this vision is realized or constrained. A mechanism would be considered supportive if it would activate the vision in coming to fruition, whereas a mechanism could constrain the vision if it would prevent the vision from being realized for one reason or another. This analysis can lead to a discussion of which goals the legislation is set up to achieve, and therefore the extent to which it could support Canada's climate change obligations. To preface this analysis, the mechanisms which have an effect on the legislation's vision must be identified in the data. The mechanisms of the *Impact Assessment* under analysis would have to have some bearing on final project decisions, and therefore the focus here is on the way that projects are triggered, assessed, and decided.

A project is triggered for an impact assessment under the *Act* if it falls under a category enlisted in the Physical Activities Regulations. Such projects include but are not limited to the construction, operation, decommissioning or abandonment of oil refineries, waste management facilities, power generating facilities, water diversion systems, mines, mills, and oil pipelines. Once a project has been triggered, the project proponent must prepare an Impact Statement which proposes their best estimate of the project's positive and negative impacts along environmental, economic, and social considerations. The Statement is then considered, analyzed, and expanded on with further studies conducted by the Impact Assessment Agency. A project is assessed by

the Impact Assessment Agency and later the Minister of Environment and Climate Change for a set of factors, including:

- Changes to the environment, health, social, or economic conditions and the positive and negative consequences related to the project, including cumulative effects or interactions between effects;
- The purpose of and need for the project;
- Technically and economically feasible alternative project means, including the use of best available technologies and their effects, or even complete project alternatives;
- The extent to which the project contributes to sustainability and hinders or contributes to Canada's environmental obligations and climate change commitments; and
- Environmental impact on the project itself (*Impact Assessment Act*, 2019, ss.22(1)).

After the assessment of scientific evidence, Indigenous knowledge, and feedback from public consultations, the Minister, Review Panel, or the Governor in Council must decide on the fate of the project. With the report detailing the anticipated effects of the project and a supposition of the extent of the significance of these effects, the Minister must use this information to determine whether the project falls within public interest. Although policy guidance document has yet to be released by the Impact Assessment Agency, the *Act* vaguely describes the factors that must be considered in making the public interest decision, including:

- The project's contribution to sustainability;

- The significance of adverse effects of the project within federal jurisdiction
- The implementation of mitigation measures considered appropriate by the decision-maker;
- The impact of the project on any Indigenous group or on the rights of Indigenous peoples of Canada; and
- The extent to which the effects of the project hinder or contribute to Canada's ability to meet environmental obligations and commitments related to climate change (*Impact Assessment Act*, 2019, s.63).

In addition to the public interest factors outlined in the legislation, the Impact Assessment Agency has published several policy guidance documents which speak to how decision-making should be guided by the four principles of sustainability, and how consideration of environmental obligations and commitments in respect of climate change is integrated in each phase of the impact assessment.

Power Dynamics

Power dynamics are exhibited by who has power to contribute to decision-making, how much power they have in that contribution, and who issues the final decision. Understanding the power dynamics relayed in impact assessments can demonstrate whose expectations are reflected in impact assessment rules and practices and the extent to which different actors' aspirations are realized or constrained by the rules of the impact assessment (Cashmore et al., 2010). This information can be used to understand which actors can influence decision-making, and what this means for the tool's capacity to realize different goals, such as supporting Canada's climate

change obligations. A full stakeholder power analysis is included in Appendix C, and the complete impact assessment process as described by the Impact Assessment Agency is included in Appendix D for reference.

At the outset, the exercise of power is firstly seen in the delegation of powers from the legislature to the executive and an administrative body. Through the *Act*, the legislature delegates authority to make decisions in the public's interest to proposed to the Minister of the Environment and Climate Change. The Minister also holds the power to choose whether to add projects to be triggered under the Physical Activities Regulations as per request or independent decision. Finally, the Minister holds the power to appoint members of the Impact Assessment Agency based on a broad mandate which only restricts appointments with a conflict of interest, and further holds the power to delegate the development of soft law in the form of guidelines to the Agency. With this delegation to the administrative body, the Agency is capable of conducting studies, providing recommendations, and appointing an Expert Panel that satisfies a broad requirement of subject-matter expertise to consult on environmental, economic, social, and matters concerning Indigenous peoples.

During the impact assessment process, power dynamics are manifested in the planning stage by who has the power to influence the design and content of the impact assessment. During the planning stage, the project proponent is also provided with considerable power as they can collect information and conduct studies, as well as propose the scope of the project. As Cashmore et al. (2010) argue, the capacity to initiate the discussion is an exercise of power because of the chance to position the level of economic importance that a decision-maker must contend with. Compared to

these actors, the public and Indigenous groups have an unknown degree of power because their roles involve participating in engagement sessions and providing input on project documents. Their capacity to influence the final decision will depend on the situation and the decision-maker. Consequently, because their power is not only uncertain but also granted by another authority leads to the conclusion that at a macro level, their degree of influence is minimal.

Power dynamics are also reflected in the second and third stages of the process, wherein the impact assessment is conducted, analyzed, and prepared for ministerial or a review panel's consideration. During these stages, the Agency again holds a high level of power and degree of influence over the final project decision because it is not only capable of evaluating the potential of a project to impact society and judge the significance of this impact, but they are also capable of developing soft law, such as "guidelines", that can guide project to project decision-making. The Agency also has the authority to set time limits on the impact assessment process, and draft and recommend project conditions and the Consultation Report. The ability to evaluate different sources of knowledge and present it for decision-maker consideration demonstrates a high degree of influence because an actor can frame the information available to the final decision-maker, and therefore impacts what final decision is presented. Similarly, proponents have a medium level of influence in this phase because they can respond and clarify Agency requests and provide comments on their perception of different suggested conditions. Proponents also have influencing power because they participate in public engagement, consultations, and public hearings. Their participation in these discussions is powerful because of their financial and technical capacity to prepare

information and subject-matter expertise that can guide and overpower concerns (Davies, 2011, Adkin et al., 2017). Finally, the public and Indigenous groups' level of power during this stage is again unknown and entirely discretion-based.

Finally, the only actors with power during the decision-making phase of the impact assessment process are the Agency and Minister, or delegated decision-makers of the Review Panel or Governor in Council. The degree of power here is high, because they can determine whether the Crown's duty to consult has been satisfied and also make the final public interest determination. These actors can decide the degree to which they weigh a project's various impacts over another impact in a mostly discretionary way. However, such actors are also indirectly influenced by the surrounding political economic context and the government's direction (Adkin et al., 2017), as political system pressures including as short-term policy focuses – such as economic growth and Canadian employment – can constrain the options available.

Discussion

The political economy is defined as the interaction between politics and economics (Drazen, 2000). Where economics is the study of the optimal use of scarce resources, political economy seeks to understand the political drivers behind decision-making, particularly attentive to how politics, which is the study of power and authority, implicate the economics choices made in society (Drazen, 2000). Given that policy options must navigate a heterogeneity of interests and perceptions of the optimal use of scarce resources, understanding the constraints and influencers on decision-making can be useful to understand whose interests are being purported and the distributional

effects of this on the rest of society (Drazen, 2000; Adkin et al., 2017). When applied to the *Impact Assessment Act*, understanding Canada's political economy context can highlight whose interests are represented and what effect this has on climate change obligations.

The thematic analysis of policy documents demonstrates that the vision underlying the *Impact Assessment Act* is of a Canada that can facilitate development which satisfies both environmental wellbeing and economic growth. The framing of the legislation positions that while there is a plurality of values in this Canada, they can be brought together and make the country stronger for it. However, upon analysis of the legislation's mechanisms and structure of power relations, it is evident that there is an undeniable tension within the vision that cannot be realized through the *Act* in the context of Canada's current development agenda. Although the vision may be that sustainability of environmental resources can be met in conjunction with economic development, the intricate details of the legislation demonstrate that in all development cases currently fathomed, there is necessarily a trade-off that must be made between the benefits of a project on one area and its consequential impact in another. This is best illustrated by understanding how the primary function of an impact assessment is to provide actors with information that can be used make a decision. If a development project could equally benefit the environment and economy in all regards, decision-making would be moot. This fundamental component of impact assessments, the trade-off, is the first indication that the vision presented by the *Impact Assessment Act* cannot be realized through this tool, certainly not so long as development projects are constructed, operated, and abandoned in the ways that they currently are. The

implications of this concerning the extent that the legislation can support Canada's climate change obligations follows that climate change obligations are upheld to the degree that the political decision-maker allows it. This aligns with the thinking of Runhaar & Drissen (2007), who argue that evidence supporting adverse environmental impact in EAs only seem to make a difference for climate interests when values and interests of decision-makers align.

Thus, understanding the degree to which different actors can influence the political decision-maker's values and interests can provide further insight as to the extent to which climate change obligations are likely to be supported through application of this legislation. As discussed above, scientific input and Indigenous knowledge are considered evidence to a project's impact. However, the *Act* does not provide specific or technical requirements for the type of information to be included (Doelle & Sinclair, 2018), and the policy guidance that has been developed by the Impact Assessment Agency is considered "soft" law because the Agency was not delegated authority to create regulations and therefore the guidance cannot be held to account (Green, 2018). Further, the legislation and accompanying regulations do not set any thresholds or standards that a project could be declined against, such as a level of GHG emissions or magnitude of community displacement. Likely, this is partially due to the nature of such impacts to be difficult to track and highly variable (Larsen, 2014) and partially due to the need for variability to satisfy the plural political interests and Canadian economic development agenda, both of which are not well positioned to carbon-free investments. Ultimately, the takeaway is that because an insufficient tool is being used to judge development projects for non-economic impacts, political interests are still tied up

heavily by the interests of powerful economic actors. While “clean growth” terminology is reflected in messaging in a handful of instances, there is no mechanism within the Act which necessitates that development projects follow certain criteria or conditions to be accepted. For instance, the expectation that projects try to minimize significant adverse impact on the environmental or social life indicates that even a minimum level of negative impact would be considered acceptable. While there are clauses that speak to the mitigation actions and use of best technologies, the reality is that development projects can still be and likely will be approved where adverse environmental, social or economic impact occurs.

The level of influence that actors in public and Indigenous groups’ consultation also leads to the conclusion that economic interests reign paramount to others. Much of the literature argues that despite the ability for diverse groups and individuals to participate in a process, meaningful participation is not a given (MacArthur, 2016). Instead, public consultation would be considered democratized if it were to substantially shift decision-making authority from the Ministry to institutionalized citizen and stakeholder groups (Adkin et al., 2017). Consequently, an undemocratic public consultation would involve ad hoc resourcing and ambiguous application of stakeholder feedback. The *Act* is designed to provide certain actors with a degree of power to pursue their interests, power which can influence the type of decisions that are made in discretionary contexts. There are some efforts in place to increase the power of the general public, such as through the requirement for open public consultation opportunities and Indigenous groups’ participation. However, the degree to which these actors’ opinions are integrated into decision-making is ad hoc and discretionary

because as Green (2018) argues, formal processes for public consultation do not guarantee that the decision-maker takes recommendations into account. Further, it appears that meaningful public consultation has been sacrificed at the expense of providing speedy timelines, which ultimately benefits the proponent (Doelle & Sinclair, 2018). Finally, although the notice and comment requirements included in the legislation have increased transparency as a whole and provided more opportunity for public involvement, it must be considered that certain groups and those who have more at stake, such as industry organizations, may be able to make more detailed and persuasive commentary because of more resources and willingness to invest (Green, 2018). While the actual application of the *Act* will ultimately determine how influential these actors are on the system, the flexibility that a Minister has in enabling or limiting the influence of the public and Indigenous groups suggests a probability that the democratic nature of these processes will be dependent on the degree to which the Minister is aligned towards their input. And while the purpose of the *Act* positions the Minister to considering their input, ultimately this objective may come into conflict with the other purposes of the *Act,* such as to enhance competitiveness. This is troublesome, because where an imbalance of power between actors exists, public consultation fails to create stalemates among political actors with competing visions that would ultimately incentivize creative solutions (McCool & Guthrie, 2001). As a whole, the power relations reproduced in the *Act* swing interests towards those of powerful economic and political parties.

The construction of mechanisms and power dynamics must be understood in the context of Canada's political economy. Not only does Canada's economic policy rely on

natural resource extraction and environmental manipulation, but currently, the same could be said for a large majority of other countries in the world. Even beyond oil and gas production, which fundamentally stimulate the world's largest economies (Adkin et al., 2017), consumer goods and energy are based in industry projects which extract, manipulate, or pollute elements within the natural environment. Further, in terms of social impact, entire structures of social institutions and social life are inextricably linked to the economic system. Therefore, as Hetmanchuk (2019) describes, there is inherently only economic and environmental disadvantage in declining a project that could otherwise be moved to another location, unless consideration to international, non-binding agreements is considered. Whether a project takes place in one country or another, environmental and potentially social degradation will take place, but the gains to be taken from capital development will be accepted elsewhere which will likewise influence the political clout of local leaders. In this way, the analysis highlights how a decision-maker in Canada is challenged to use impact assessments in any way which would decline economic interests outright, and therefore the extent to which the legislation can be interpreted to support other interests in entirety is highly contingent on the global economic context and Canada's broader economic development strategy.

As Meadowcroft (2009) argues, the challenge surrounding governance for sustainable development is that the identification of exactly which systems are of interest and exactly what type of transition is to be undertaken is far from being inconsequential because decisions have distributional impacts on society. Such public interest determinations involve a process of political judgement and strategic planning

while balancing immediate and practical consequences of one decision over another (Meadowcroft, 2009).

Research Quality and Directions for Future Research

Analyzing the *Impact Assessment Act* by conceptualizing it as a political decision-making tool has helped uncover the extent to which it can support Canada's climate change obligations. In Canada's current political and economic arrangements, environmental action is a political matter. Through the political lens, impact assessments are more appropriately evaluated based on their capacity to effectively reach a certain goal by considering how and to whom power is distributed, and which types of knowledge become legitimized. As Cashmore et al. (2010) present, this type of investigation provides a rich analysis of the tool's effectiveness as it brings out the substantive values underlying the tool and therefore being promoted by political actors.

The major strengths of this study are its high level of credibility and trustworthiness. The study was conducted by using a framework that was well established and reputable in existing theory and field knowledge, ensuring that it incurs a high level of credibility. The hermeneutic approach to qualitative data analysis has allowed for conclusions about the manifest and latent meanings inherent in the data in an authentic and trustworthy way, as observations straight from the data were used as the basis of inference without supposing a set of biases to guide the research (Newcomer et al., 2015). This approach has allowed for a nuanced and contextualized approach to analyzing a rich set of data that was sourced to be as inclusionary as

possible. Finally, trustworthiness of the study was ensured by ongoing documentation of interpretation, with excerpts from the data to support conclusions.

The major limitation of this study is its lack of transferability. Due to the focus of this study on the Canadian federal context, the evidence may not be directly applicable to impact assessments in other jurisdictions. A further limitation was that although search criteria was widely inclusive, data for this paper could only include publicly available materials. This may have led to incomplete conclusions about the degree of influence that different mechanisms may have on decision-makers. Finally, given that the study is limited by empirical evidence demonstrating the application of the Act, future studies could be directed to assess how decision-makers use the legislation and whose interests are promoted.

Conclusion

This research explored the extent to which the *Impact Assessment Act* supports Canada's international climate change commitments. In 2015, the Government of Canada signed the Paris Agreement, which committed the government alongside 187 countries to the goal of reducing GHG emissions by 2 degrees Celsius by 2030 (Government of Canada, 2016). Historically, Canada has struggled to meet international climate commitments (Gibson, 2012), and if the proposed threats of climate change on global social, environmental and economic systems are accurately predicted, the implications of policy failure in this regard would be substantial. Further, while there is no legal repercussion for not obliging by the international agreement, the implications of a poor international reputation are enough to substantiate significant efforts to meeting

these obligations even should climate science be inaccurately presented (LeVeck & Narang, 2017). As such, this research can importantly contribute to understanding of the extent to which this tool aligns with Canada's international commitment, which can stimulate attention to whether this tool is appropriate in today's context of growing environmental concern.

As famously written by Stone (1972) in his paper "Should Trees Have Standing?", the society based on resource extraction does not give fundamental legal rights to the environment. Without the recognition of fundamental rights, the only rationale for environmental policy action would stem from popular interest manifested through political systems. At the end of the day, the reality is that Canadians are aligned towards a variety of values and visions for the future. The impact assessment is a tool that political actors use to navigate these visions, presenting information from a variety of sources to enable normative-based decision-making that is grounded in democratic legitimacy. Yet, given the context of international climate change obligations and the vision presented by the Government of Canada itself, the *Impact Assessment Act* can be evaluated for the extent to which it contributes and realizes these goals. In consideration of this context, the *Impact Assessment Act* will have limited influence in realizing these objectives. As a discretion-based tool, the legislation is designed to accommodate the longstanding economic vision of a Canada, with the attempts to accommodate environmental and social issues highly dependent on context and application. However, it would be unfair to paint this situation as one where the elected administration is at fault for the failure to realize this vision. As a democratically elected institution, a government can only do its best to represent the plurality of interests of its

peoples. So, for as long as Canadians have a myriad of visions for the future, and so long as powerful interest groups can capture international markets, the *Impact Assessment Act* is the best the climate will get.

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Appendix A: Data Sources

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Appendix B: Thematic Analysis

Codes	Themes
• Trust • Transparency • Engagement • Participation • Coordination	Governance
• Precautionary principle • Evidence-based • Mitigation • Climate change • Protection	Sustainability
• Competitiveness • Predictable • Timely	Economic
• Knowledge • Reconciliation	Indigenous

Appendix C: Stakeholder Analysis

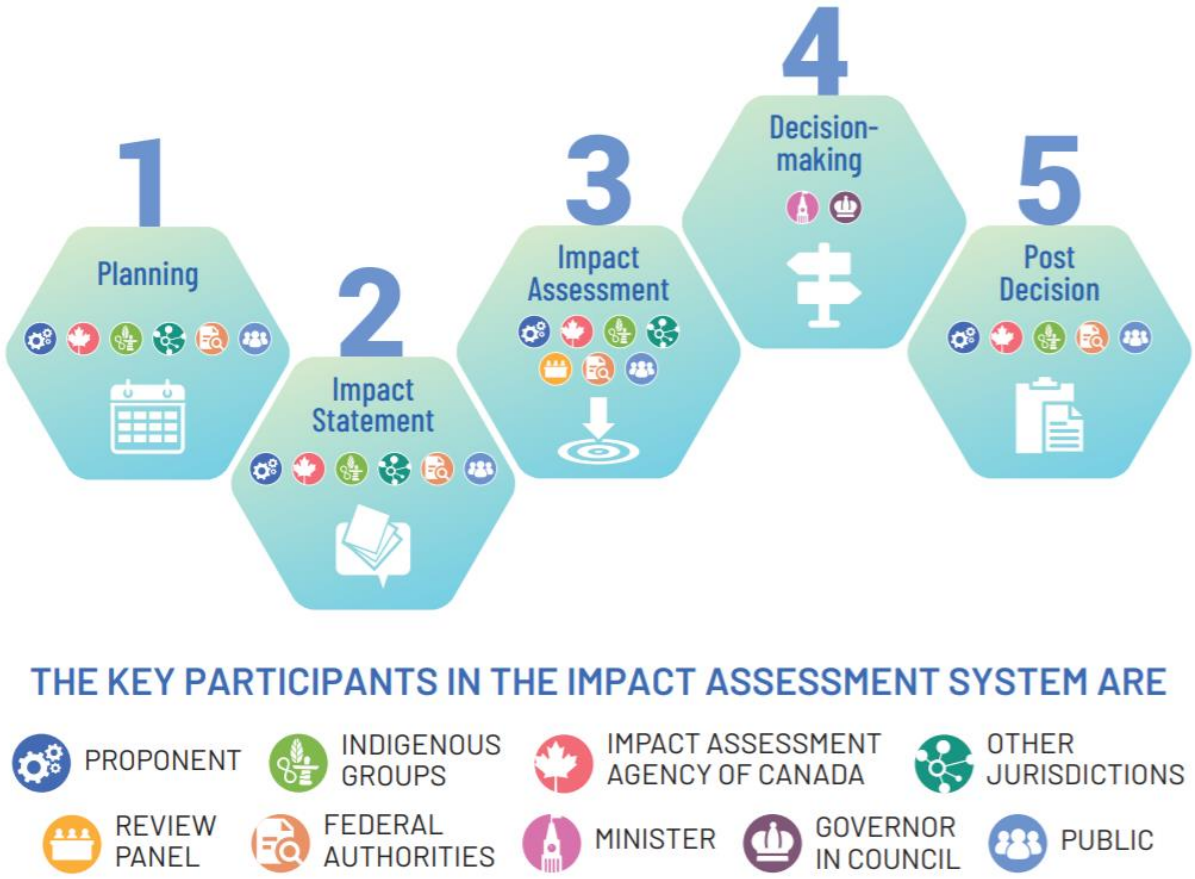
Actor	Power	Influence on Public Interest Decision
1 and 2: Planning and Impact Statement stages		
Proponent	Collects information and conducts studies, as required in the Tailored Impact Statement Guidelines	Medium
	Undertakes analysis of the potential impacts of the designated project	Medium
	Engages the public and Indigenous groups to gather information and address concerns that may be raised, to the extent reasonable	Medium
	Considers Indigenous knowledge, scientific information, community knowledge and other evidence	Medium
	Prepares Summary of Issues response, outlining how it intends to address them	Low
Agency	Provides participant funding to Indigenous groups and the public	Medium
	Engages provincial, territorial, Indigenous jurisdictions, Indigenous groups, public and other stakeholders on potential issues of concern, key documents, how they would like to be engaged	Medium
	Determines if an impact assessment is required	High
	Provides a Summary of Issues	High
	Develops the public participation plans and guidelines	Medium
	Posts documents to the Registry	Medium
Public	Participate in engagement sessions	Unknown
	Provide input on project documents	Unknown
Indigenous groups	Participate in engagement sessions	Unknown
	Provide input on project documents	Unknown
	Collaborate on development of Indigenous Engagement and Partnership Plan	Low
	Identify key issues of concern including potential impacts on rights	Medium
Provincial, Territorial and Indigenous Jurisdictions	Identify opportunities to cooperate and harmonize processes	High
	Indicate interest in leading part or all of the impact assessment	High

Actor	Power	Influence on Public Interest Decision
Federal authorities	Make information available to the Agency, upon request	Medium
3: Impact Assessment		
Proponent	Provides clarifications to the Agency or Review Panel as required *Positive effect on proponent for capacity to respond*	Medium
	Provides comments on potential conditions	Medium
	Participates in public engagement, consultations, and public hearings where applicable	Medium
Agency, Review Panel or Integrated Review Panel	Sets time limits *Positive effect on proponent*	High
	Leads consultation with Indigenous peoples, leads public engagement sessions	High
	Administers Participant Funding Program Positive influence on	Inapplicable
	Conducts analysis on the Proponent's Impact Statement and considers information and evidence received	High
	Works with knowledge holders to understand and apply Indigenous knowledge as part of the analysis, when provided	High
	Prepares and recommends draft Impact Assessment Report, draft potential conditions, and draft Consultation Report and submits to the Minister	High
Public, Indigenous groups, and other Jurisdictions, and Expert Federal Departments	Participate in Indigenous and public engagement	Unknown
	Participate in public hearings	Unknown
	Provide input and advice into the assessment process	Unknown
	Reviews and provide comments on draft documents	Unknown
Expert Federal Departments	Review the Impact Statement in detail and examines the information, analysis and results relevant to their respective mandates	Medium

Actor	Power	Influence on Public Interest Decision
4: Decision-making		
The Minister. For review panels, refers the public interest determination to the Governor in Council	Makes the public interest determination or refers the public interest determination to the Governor in Council for impact assessments by the Agency	High
	Must be satisfied that the Crown's duty to consult and accommodate Indigenous peoples has been adequately fulfilled prior to making a determination *Effect on Indigenous groups: unknown*	High

Source: Impact Assessment Agency of Canada. (2019). *Impact Assessment process overview*. Retrieved from https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/impact-assessment-process-overview.html

Appendix D: Impact Assessment Process Diagram



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