Baffled systems or culturally competent assessment?

by Jane Munday

Introduction

Mining and major projects disturb large amounts of land to which First Nations people hold enduring relationships. As a result, First Nations groups are demanding more control over the means by which these impacts are assessed, a greater share of the benefits, and devolved decision-making that respects the worldviews and knowledge systems of those most affected by development.

The stakes may be high, quite apart from the disturbance to country and values. The inability to influence decisions can create a sense of powerlessness, compounded by histories of colonisation and cumulative disempowerment.

Decolonising impact assessment, therefore, means First Nations peoples gaining agency or self-determination, in line with the Aashukan Declaration (IAIA Montreal 2017). Fundamental to self-determination is culturally competent impact assessment, which requires:

- impact assessment practitioners with the skills, knowledge and aptitude to work empathetically and ethically in intercultural settings
- shared decision-making that draws on cultural authority
- First Nations controlled or co-managed impact assessment systems.

Advances aligned with these goals include cultural impact assessments, community-led assessments, holistic research that blends western science with First Nations worldviews, and a growing trend to First Nations exercising sovereignty through their own community-led projects.

The final step in decolonising impact assessment is overcoming the cultural deficits (Howitt et al. 2013) of regulatory systems baffled by other worldviews. Bureaucratic, project-driven, compliance-based assessment too often remains captured by the dominant biophysical culture of Western science, with studies done in silos.

This paper presents a hierarchy of empowerment, outlines the elements of a culturally competent impact assessment system and suggests governance structures that might enable it.

Empowerment hierarchy

The empowerment hierarchy moves from planning and decision-making controlled by external agendas to empowered governance by First Nations who have the resources and agency to act in their own interests. At the bottom of the hierarchy is scientific impact assessment that treats cultural issues as an afterthought and disregards alternative worldviews and perspectives. At its apex are First Nations' impact assessment systems and governance.

1. **Tokenistic consideration in biophysical, scientific impact assessment systems:** Real influence on projects is political and outside the regulatory processes. The focus of studies is gaining regulatory approval and mitigating impacts. 'Consultation' generally starts after key decisions have been made. Formal scientific assessment studies marginalise alternative worldviews and pay tokenistic attention to cultural impacts.

2. **Dedicated cultural reports but in a silo:** Cultural studies may be done, but within systems that compartmentalise ecological, spiritual, cultural and social dimensions. The effectiveness of reports will likely vary depending on the competence of researchers and the receptiveness
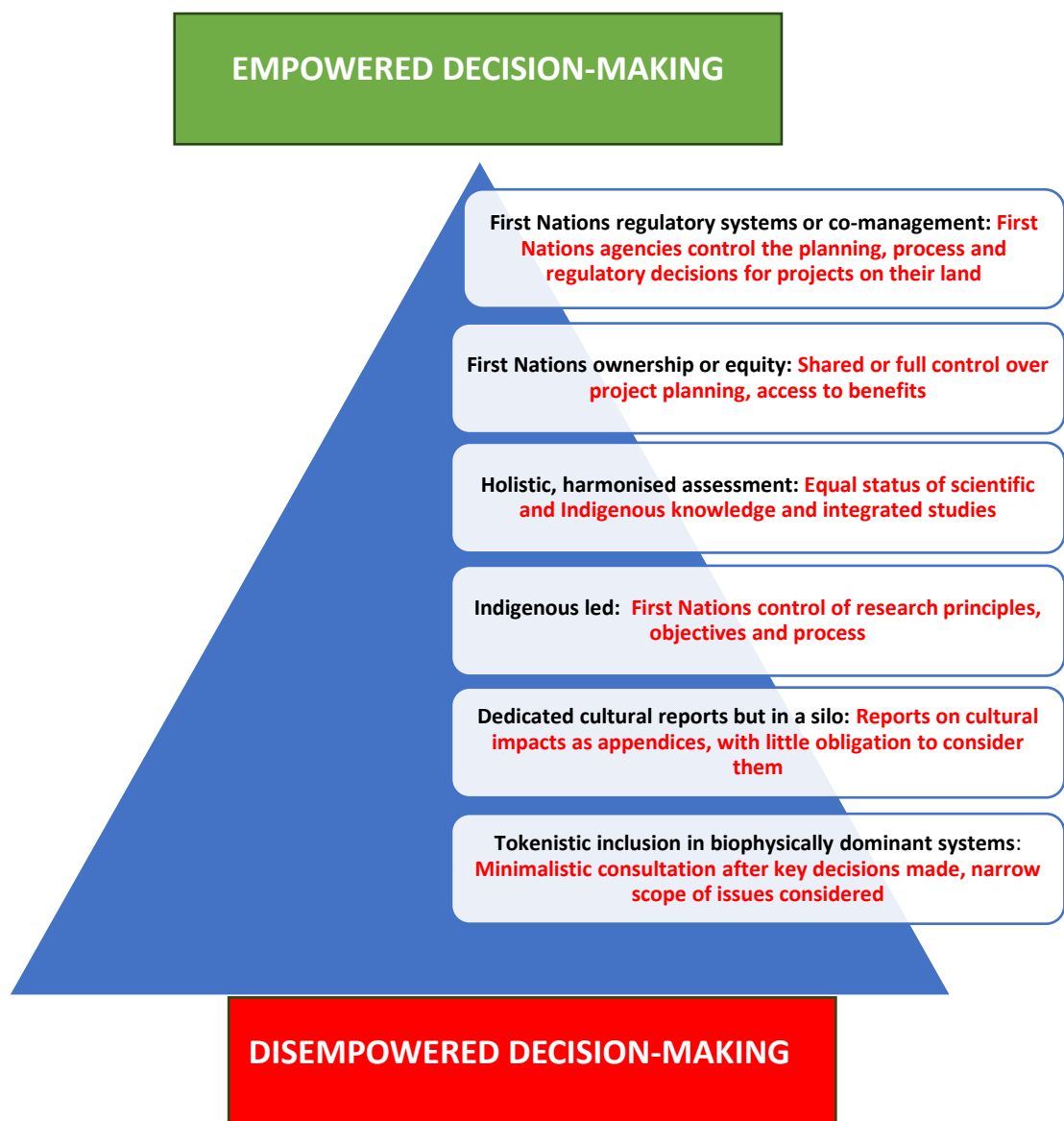
of regulators and proponents to their findings. Cultural Impact Assessment and Cultural Heritage Assessment reports may provide community, anthropological and archaeological insights. But if reports are merely attached as appendices to environmental or planning approval documents, findings and recommendations may have a peripheral influence on decisions.

3. **Indigenous led, with control of research principles, objectives and process.** First Nations people engage their own experts, set their own terms of reference, commission their own studies (with participant funding support). The process should afford a central place to peoples' interests, values and priorities. Reports will recognise the legitimacy of First Nations' knowledge systems and strengthen the hand of participants during agreement-making, as with the Kimberley Social Impact Assessment in Western Australia in 2010 (O'Faircheallaigh 2009; 2023). In British Columbia in 2016, the Squamish Nation did its own environmental assessment. The proponent, Woodfibre, took part voluntarily and signed a legally binding Squamish Nation Environmental Certificate to ensure all conditions were met (Bruce 2017; Bruce & Hume 2015). However, without a mandate to adopt findings, such reports may still remain on the sidelines of regulatory decisions.

4. **Holistic, harmonised assessment:** Scientific and First Nations perspectives are blended in one report, giving equal status to scientific and Indigenous knowledge and experience. Such reports may inform agreement-making and shared approaches to managing impacts and restoring country. A good example is a report by the Anishinaabe Nations of the Four Winds Partnership who worked with the Ontario Ministry of Transport in Canada on a harmonised assessment of a proposed highway (Niiwin Wendaanimok Partnership and Narratives 2021).

5. **First Nations ownership or entity in projects:** First Nations may invest in their own projects or take equity positions in development on their land, as is increasingly the case in the clean energy sector. The Keeyask Hydroelectric Facility is a partnership between Manitoba Hydro and four First Nations groups who signed a development agreement in 2009 (Cree Nations Partners 2012). However, if First Nations are minority partners, they may face risks, such as a loss of investment funds, delays in a return on investment or legacy costs if projects fail (see Kung et al. 2022). Success may depend on groups' capacity to negotiate and ability to manage conflicts of interests (Kung et al. 2022; O'Faircheallaigh 2023). And externally controlled regulatory systems can lead to absurdities: such as traditional owners having to engage anthropologists to consult with themselves to establish they have provided free, prior and informed consent to their own projects.

6. **First Nations impact assessment systems and governance structures.** A key constraint for First Nations' input to impact assessment is regulatory systems that compartmentalise holistic, interconnected worldviews into environmental, social or cultural domains (Jolly 2022). First Nations or Indigenous impact assessment would recognise communities as self-determining nations, with the right to generate their own impact assessment systems in ways chosen by communities themselves (Jolly 2022).

First Nations impact assessment might include governance structures with the power to decide at the screening stage whether a proposal can even proceed to assessment. First Nations people would then determine appropriate institutions, principles and processes that

achieve positive outcomes and reflect culturally appropriate participation and decision-making.

Ideally development would be informed by strategic land use planning and community aspirations. Initial process would incorporate early and authentic engagement, allow affected peoples to fully consider their options, provide the right to say no, devolve control, and respect First Nations leadership, knowledge and worldviews. A good example is the co-managed environmental impact review boards of Canada's Northwest Territories. Of course, such models must be appropriately resourced or they may raise unrealistic expectations of control.

EMPOWERED DECISION-MAKING

First Nations regulatory systems or co-management: First Nations agencies control the planning, process and regulatory decisions for projects on their land

First Nations ownership or equity: Shared or full control over project planning, access to benefits

Holistic, harmonised assessment: Equal status of scientific and Indigenous knowledge and integrated studies

Indigenous led: First Nations control of research principles, objectives and process

Dedicated cultural reports but in a silo: Reports on cultural impacts as appendices, with little obligation to consider them

Tokenistic inclusion in biophysically dominant systems: Minimalistic consultation after key decisions made, narrow scope of issues considered

DISEMPOWERED DECISION-MAKING

Culturally competent systems

Retarding progress in achieving culturally competent systems is the mutual incomprehension that arises from discrepant worldviews and project-driven and compliance-based impact assessment. All too often impact assessment practice fails to follow leading practice guidelines - such as those produced by the World Bank, lender agencies and IAIA - because its focus is protecting the environment - not people and culture - or on speedy approval of economically important projects.

Few regulatory agencies have culturally competent social scientists, anthropologists, economists or First Nations people able to assess and give weight to cultural impacts, qualitative data and First Nations controlled research. When social and cultural impacts do get a seat at the regulatory table, the seat all too often is white-anted by the cycles of crisis and complacency that typify economic development.

The quality of impact assessment, therefore, remains at the whim of individual regulator capacity or more enlightened and accommodating proponents, with many of the best studies done outside regulatory systems (Munday 2020).

A culturally competent impact assessment system would include:

- a mandate to consider a broader set of values and impacts than are covered in mainstream scientific studies
- governance structures that devolve authority to give First Nations people real input and influence over planning, the process of impact assessment and decision-making
- the intercultural capacity, or skills, knowledge and aptitude to incorporate First Nations' knowledge, worldviews, shared decision-making and co-managed natural resource management
- First Nations able to decide at the screening stage whether projects on their territories should even proceed to assessment
- decisions grounded in strategic resource planning and community aspirations
- staff with the mandate and skills to work in the intercultural spaces where impacts occur and co-production of knowledge evolves.

Barriers to cultural competence can be organisational (the degree to which leadership and the workforce reflect the composition of the population), institutional leadership (including diversity) and structural (bureaucratic processes, use of interpreters and communication) (Betencourt et al. 2016).

Cultural competence also requires highly participative processes, respect for human rights and accommodation of diverse value systems.

In summary, impact assessment systems are culturally incompetent because they are dominated by biophysical systems that privilege quantitative, technological science over insightful, community driven social and cultural impact assessment.

References

Betancourt, JR, Green, AR, Carrillo, JE & Owusu Ananeh-Firempong, I 2016, 'Defining cultural competence: A practical framework for addressing racial/ethnic disparities in health and health care', *Public health reports*.

Bruce, A 2017, 'Squamish EA process: Getting to informed consent', in *Impact assessment's contribution to the global efforts in addressing climate change*, IAIA conference, Montreal.

Bruce, A & Hume, E 2015, 'The Squamish Nation assessment process: Getting to consent', paper presented to Aboriginal Adminstrative Law Conference Vancouver, June 2015.

Cree Nations Partners, 2012, *Keeyask Environmental Evaluation: A report on the environmental effects of the proposed Keeyask Project on Tataskweyak Creek Nation and War Lake First Nation,*

Gibson, G, Hoogeveen, D & MacDonald, A 2018, *Impact assessment in the Arctic: Emerging practices of Indigenous-led review*, Gwich'in Council International.

Howitt, R, Doohan, K, Suchet-Pearson, S, Cross, S, Lawrence, R, Lunkapis, GJ, Muller, S, Prout, S & Veland, S 2013, 'Intercultural capacity deficits: Contested geographies of coexistence in natural resource management', *Asia Pacific Viewpoint*, vol. 54, no. 2, pp. 126-140.

International Association for Impact Assessment 2017, *Aashukan Declaration*, International Association for Impact Assessment, Montreal, <https://bit.ly/3kK0vfM>.

Jolly, D. (2022). What does (or could) it mean to practise Indigenous impact assessment in Aotearoa New Zealand? A critical analysis of cultural impact assessment effectiveness (Thesis, Doctor of Philosophy). Dunedin: University of Otago. Retrieved July 20, 2022, from https://ourarchive.otago.ac.nz/handle/10523/12891

Kung, A., Holcombe, S., Hamago, J., & Kemp, D, 2022. Indigenous co-ownership of mining projects: a preliminary framework for the critical examination of equity participation, *Journal of Energy & Natural Resources Law,* 40:4, 413-425, DOI 10.1080/02646811.2022.2029184

Munday, J. (2020). Objective Truths or Subject Realities: A model of social and cultural impact assessment to deliver socially, culturally, ecologically and economically sustainable development of Northern Australia. Darwin: Charles Darwin University. https://researchers.cdu.edu.au/en/studentTheses/objective-truths-or-subjective-realities

Niiwin Wendaanimok Partnership and Narratives, 2021. *Harmonized assessment: Twinning of the TransCanada Highway*, https://niiwinwendaanimok.com/about/

O'Faircheallaigh, C. (2009). Effectiveness in social impact assessment: Aboriginal peoples and resource development in Australia. Impact Assessment and Project Appraisal, 27(2), 95-110. doi:10.3152/146155109438715

O'Faircheallaigh, 2023. *Indigenous Peoples and Mining,* Oxford University Press

Vanclay, F. (2003, March). International Principles for Social Impact Assessment. Impact Assessment and Project Appraisal, 21(1), 5-11.

Dr Jane Munday is a community engagement and social impact assessment practitioner based in Darwin. Her PhD researched models of social and cultural impact assessment in Northern Australia