



# Native Women's Association of Canada

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Background Document on

## **Aboriginal Women and Housing**

For the Canada-Aboriginal Peoples Roundtable  
Sectoral Follow-up Session on Housing

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## Introduction

Where they will put their heads down to sleep each night, whether that place is warm, healthy and safe, whether it is where they want to be, and whether it will be available and can be paid for the next night and the next month, are not worries that the majority of Canadians have. For some segments of the population however, such worries frame and plague their waking moments, and disturb or even destroy the restorative value of sleep which others take for granted. Aboriginal women constitute one of the segments most affected in this way, as demonstrated by the following account:

An Aboriginal woman committed suicide earlier this year after the authorities apprehended her children. The woman, who had five children, was forced to leave her reserve due to a chronic housing shortage. However, she could not find affordable housing off the reserve. Due to her financial situation she was forced to live in a rundown boarding house with five children. She sought assistance from the authorities to seek affordable housing for her and her children. The authorities responded by apprehending her children. At that point, the woman, sadly, lost all hope and took her life.<sup>1</sup>

Many socio-economic disadvantages such as those concerning housing are common to both Aboriginal women and men. However, in the experience of the Native Women's Association of Canada (NWAC), housing is one of the areas that particularly and disproportionately affects Aboriginal women, especially those with children.<sup>2</sup> Immediate focus on and remediation of the Aboriginal housing crisis are required, with special attention to the needs of Aboriginal women for secure, affordable, non-discriminatory, culturally sensitive housing, in sufficient quantity and locations that respond appropriately to their situation.

Findings from the Royal Commission on Aboriginal Peoples (RCAP), recent census and research information and statistics, as well as NWAC's anecdotal knowledge of Aboriginal women's experiences with housing, reinforce the fact that the time to act is now. Not only do the principles of gender equality and human rights in the 21<sup>st</sup> century demand it, but the futures of our children and communities require it. Aboriginal women's housing issues are profoundly affecting the safety, health and well-being of First Nations, Métis and Inuit women, children and families in this country. The NWAC regards the Canada-Aboriginal Peoples Roundtable sectoral follow-up session on housing to be particularly important not only to stimulate discussion of issues relevant to Aboriginal women, but to assist in guiding the next steps in developing an

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<sup>1</sup> Mavis A. Erickson, *Where are the Women? Report of the Special Representative on the Protection of First Nations Women's Rights* (Hull: Indian and Northern Affairs Canada, 2001) at 65-66.

<sup>2</sup> It is acknowledged that Aboriginal women and men experience discrimination. However, the focus of this paper is the experience of discrimination by, and equality matters for, Aboriginal women.

inclusive and equality-seeking action plan for resolution of the multiple barriers and challenges in contemporary Aboriginal housing policies, and related program funding and implementation.

Accordingly, in order to contribute to and motivate probative and creative thinking and discussion of the issues, this background paper highlights some key information and poses some key questions related to Aboriginal women and housing, organized as follows:

- Jurisdiction, Control and Governance,
- Needs and Supply
- Funding and Affordability, and
- Housing Quality.

### **Jurisdiction, Control and Governance**

Jurisdictional issues concerning housing for Aboriginal peoples are complex and inter-related with numerous legal, policy, social and economic issues. Housing settings may be urban or rural, northern and/or isolated, on- or off-reserve, owned or rented, and interwoven with the challenges of health, child, and elder care matters, for example. The hierarchy and bureaucracy of federal, provincial/territorial and municipal governments' policies, programs, and funding frequently add to the complexity of this matter.

Multiple situations arise in which Aboriginal women find jurisdictional issues confuse or negatively impact housing-related issues. Depending where they live and what their Aboriginal identification or status is, they may find themselves subject to competing program demands, or slipping through gaps, caused by factors like the interaction of federal and provincial or territorial law, residing on land falling under land claim or self-government agreements, perhaps on a reserve or not, or subject to provisions under a land code related to their community's participation in the First Nations Land Management Initiative.<sup>3</sup> A much longer paper would be required to fully enumerate these factors; some of the most pressing situational and policy-related issues linked to Aboriginal women and housing matters are briefly outlined here.

#### *Federal Principles and Practices in Gender-Based Equality*

In relation to policies and programs for Aboriginal people, Aboriginal women continue to express concerns that governments must "recognize that 'sameness' does not mean equality and that Aboriginal cultural and gender differences must be considered in all policies and programs devised for Aboriginal people."<sup>4</sup> Although some progress has been made, few Aboriginal women are employed in government policy areas affecting them and substantive consultation with

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<sup>3</sup> For background information on the First Nations Land Management Initiative, see online: Indian and Northern Affairs Canada, [http://www.ainc-inac.gc.ca/nr/prs/j-a2002/02125bk\\_e.html](http://www.ainc-inac.gc.ca/nr/prs/j-a2002/02125bk_e.html). Of the current 36 participant First Nations, 14 have operational land codes; for more information on the Framework Agreement and land code examples, see online: Lands Advisory Board/First Nations Land Management Resource Centre, <http://www.fafnlm.com/LAB.NSF/vSysAboutDoc/English>.

<sup>4</sup> *Aboriginal Women's Justice Consultation Final Report*, September 26-29, 2001 (Ottawa: Native Women's Association of Canada, Métis National Council of Women, Inc. & Pauktuutit Inuit Women's Association) at 28.

Aboriginal women's groups "to ensure greater transparency of federal programs and services and improved access by Aboriginal women"<sup>5</sup> is still deficient.

Despite the theoretical implementation of gender-based analysis (GBA) in all federal government policies and programs since 1995, the widespread application of non-Aboriginal Canadians' values and approaches (devoid of a GBA) continues to be the norm. A legacy of policies and programs predating the GBA policy perpetuates numerous inequalities between men and women. For Aboriginal women, a GBA requires that the gendered racism facing Aboriginal women be particularly carefully examined. The reality is that gendered racism does affect Aboriginal women in relation to many areas of federal governance. Combined with the implementation of more recent policies and programs that, despite the GBA policy, have still not incorporated the requisite gender and cultural factors to ensure substantively equal outcomes for Aboriginal women, this means that First Nation, Métis and Inuit women in Canada continue to be at least doubly disadvantaged, as Aboriginal women.<sup>6</sup> Aboriginal women with disabilities face even greater barriers to adequate housing, since disabled Aboriginal people are more likely to live in substandard housing, particularly if they live in the north.<sup>7</sup>

### *Federal On-Reserve Housing Policy*

Aboriginal women's disadvantages are perhaps no more clearly evidenced than in the on-reserve housing context. In 1996 – a year after the federal GBA policy was adopted – the Government of Canada adopted a new on-reserve housing policy.<sup>8</sup> At the time, a large body of knowledge and information already existed about the influences, practices and ongoing discriminatory outcomes of over 100 years of the non-Aboriginal-based, *Indian Act*-imposed, male-dominated band council system.<sup>9</sup> Yet nowhere in the housing policy guidelines is gender equality either implicitly or explicitly addressed. This is the case despite a suggested list of specifics for First Nation communities to address in developing their housing proposals under the 'new' policy, and, that mandatory and secondary assessment criteria used by Indian and Northern Affairs Canada (INAC) for approving First Nation housing proposals are identified.<sup>10</sup> This must change. INAC should require that all housing proposals indicate how Aboriginal women's interests will be addressed, and specifically, require the integration of equality of outcome measures between men and women. In other words, a gender-based analysis should be one of the mandatory criteria for proposal approval.

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<sup>5</sup> *Ibid.*

<sup>6</sup> The wording "at least doubly disadvantaged" used here is intended to indicate that racial and sexual discrimination are not necessarily the only two discriminatory grounds which Aboriginal women experience. Individual situations and circumstances may in fact include additional disadvantages or forms of discrimination, such as disability, recognized under the Canadian *Charter of Rights and Freedoms* and/or domestic and international human rights laws.

<sup>7</sup> Brenda Elias and Doreen Demas, *First Nations People With a Disability Needs Assessment Survey Findings: A Profile of Manitoba First Nations People with a Disability*. (Winnipeg: Assembly of Manitoba Chiefs, 2001) at 35.

<sup>8</sup> *Guidelines for the Development of First Nations Housing Proposals* (Ottawa: Indian and Northern Affairs Canada, July 1996), online: INAC, [http://www.ainc-inac.gc.ca/ps/hsg/cih/hs/guide\\_e.pdf](http://www.ainc-inac.gc.ca/ps/hsg/cih/hs/guide_e.pdf) (Guidelines).

<sup>9</sup> *Report of the Royal Commission on Aboriginal Peoples*, (Ottawa: Canada Communications Group, 1996) especially "Housing" and "Women's Perspectives" (RCAP), and *Report of the Aboriginal Justice Inquiry of Manitoba*, especially Vol. 1: The Justice System and Aboriginal People (Winnipeg: Queen's Printer, 1991) "Aboriginal Women", ch. 13 (AJIM).

<sup>10</sup> Guidelines, *supra* note 8 at 6.

### *Family and Matrimonial Real Property Law on Reserves*

Another example in the on-reserve context is the failure of the Government of Canada to provide spouses living on reserves with legal recourse for obtaining interim exclusive possession of the family home equivalent to that which is available to all spouses living off-reserve. Equally, a regime governing the division between spouses of matrimonial real property on reserves when a marriage ends in separation or divorce continues to be conspicuous by its absence from federal law. Both situations persist despite their being identified nearly 20 years ago by the Supreme Court of Canada in the *Paul* and *Derrickson* cases.<sup>11</sup> Both situations also persist despite their repeatedly being brought to the Government of Canada's attention through reports by RCAP and the Manitoba Aboriginal Justice Inquiry,<sup>12</sup> advocacy by Aboriginal and non-Aboriginal women's legal and representative associations,<sup>13</sup> United Nations findings in response to Canada's reports on meeting its international human and women's rights obligations,<sup>14</sup> and most recently in 2003, by the Standing Senate Committee on Human Rights.<sup>15</sup>

### *Violence Against Aboriginal Women*

It is essential that housing policy discussions include the correlation of the gaps in family and matrimonial law just noted with the incidence of violence against women and the complicated interaction and interdependency of legal, housing and violence issues among the factors perpetuating marginalization and victimization of Aboriginal women. Social survey data including Aboriginal status and a representation of the Canadian population have confirmed what Aboriginal women endure: three times higher rates of spousal violence than non-Aboriginal women (25% and 8% respectively).<sup>16</sup> For women living on a reserve, there is no applicable federal law to protect them. As Cornet and Lendor have noted:

[E]ven where women on reserve are able to obtain a restraining order under the *Criminal Code*, they cannot get an order for exclusive possession to secure a

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<sup>11</sup> Provincial laws affecting real property interests do not apply on reserves due to the way in which the division of powers between the federal and provincial governments, as listed in the *Constitution Act, 1867*, have been interpreted. That is, the Supreme Court of Canada determined that because the federal government has authority over "Indians, and Lands reserved for the Indians" (s. 91(24)), provincial laws dealing with real property interests — in this case, provincial laws allowing judges to grant interim exclusive possession of the matrimonial home to one spouse regardless of whose name(s) is on the title or lease documents, or order transfer of title to the matrimonial home to one spouse during settlement of the division of the couple's family property — are inapplicable on reserves. The reasons are set out in detail in *Paul v. Paul*, [1986] 1 S.C.R. 306 and *Derrickson v. Derrickson*, [1986] 1 S.C.R. 285.

<sup>12</sup> AJIM, *supra* note 9.

<sup>13</sup> See for example the submissions of the NWAC, Quebec Native Women's Association and Manitoba Women's Council to the Standing Senate Committee on Human Rights Special Study on On-Reserve Matrimonial Real Property, during fall 2003 proceedings: online: Parliament of Canada, [http://www.parl.gc.ca/common/Committee\\_SenProceed.asp?Language=E&Parl=37&Ses=2&comm\\_id=77](http://www.parl.gc.ca/common/Committee_SenProceed.asp?Language=E&Parl=37&Ses=2&comm_id=77).

<sup>14</sup> See in particular the "Principal Subjects of Concern" section in *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada*. 10/12/98 E/C.12/1/Add.31, online: United Nations Economic and Social Council, <http://www.unhcr.ch/tbs/doc.nsf/0/c25e96da11e56431802566d5004ec8ef?Opendocument>.

<sup>15</sup> Standing Senate Committee on Human Rights, *A Hard Bed to Lie In: Matrimonial Real Property on Reserve: Interim Report*, tabled November 8, 2003, online: Parliament of Canada, <http://www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep08nov03-e.pdf>. (SCHR)

<sup>16</sup> Douglas A. Brownridge, "Male Partner Violence Against Aboriginal Women in Canada, An Empirical Analysis", *Journal of Interpersonal Violence*, Vol. 13 No. 1, January 2003, 65 at 66.

home for themselves and any children that they may have – unless they are the sole person named on a Certificate of Possession or its equivalent.<sup>17</sup>

It must clearly be noted however, that although the legal setting and contributory factors may differ, this is not solely an on-reserve issue. The application of provincial family violence prevention and protection, and matrimonial real property laws outside reserves may technically be available to all women; however, Aboriginal women attempting to access those remedies also face frequently insurmountable cost and other access barriers such as difficulty understanding the meaning and use of law and court processes. Most of these processes, conceived by and for the non-Aboriginal Canadian population have yet to be adapted and made sensitive to Aboriginal women's cultures, values and life perspectives and realities.

Housing issues are fundamentally involved in navigating the legal course; the needs and experiences of First Nations, Métis and Inuit women regarding housing are bound in and with their life experiences that must be simultaneously addressed. For example, most on-reserve Aboriginal women facing violence have limited to non-existent housing choices when they leave violent relationships or relationships break down for reasons not related to violence. Many women are forced to choose between staying in (or returning) to a violent home environment or leaving the reserve. Even where women's shelter programs are available, 'second stage housing' which is vital in the transition from emergency shelter to secure, independent, self-sufficient living, may not be available due to program funding cuts or highly restrictive eligibility criteria.<sup>18</sup> Consultation needs to take place not only about fixing the legal and funding aspects of this situation, but to ensure practical, appropriately funded solutions to allow families to be safe and stay in their communities when they choose to. (Also see below for further related issues, under "Needs and Supply".)

### *First Nation On-Reserve Housing Policies*

The history and current reality of band council elections and politics means that women are still seriously under-represented in First Nation matters coming under chief and band council jurisdiction, and band decision making is often male-centred or male-biased and ignores matters predominantly affecting women and women's equality considerations. Consequently, in the area of housing policy, very few First Nations appear to have developed policies which specifically take account of the housing questions and respective spouses' rights associated with relationship breakdown and the family home, that disproportionately affect women in a negative and unfair way.<sup>19</sup> In particular, the accommodation of two redefined families stemming from one original

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<sup>17</sup> Wendy Cornet and Alison Lendor, *Discussion Paper: Matrimonial Real Property on Reserve* (Ottawa: Indian and Northern Affairs Canada, 2002) at 69, online: Indian and Northern Affairs Canada, [http://www.ainc-inac.gc.ca/pr/pub/matr/index\\_e.html](http://www.ainc-inac.gc.ca/pr/pub/matr/index_e.html).

<sup>18</sup> For more detail, see for example, Ontario Women's Justice Network (OWJN), "A Call for All-Party Cooperation in the Ontario Legislature in support of Emergency Measures for Women and Children" (Toronto: OWJN, 2000), online: OWJN, <http://www.owjn.org/yaw/>, and regarding British Columbia, Marina Morrow, "Housing: An Analysis of Policies" being Appendix B to Donna Robertson, ed., *Mapping Policies & Actions on Violence against Women* (BC: Simon Fraser University, 1999), online: Simon Fraser University, <http://www.harbour.sfu.ca/freda/reports/polb11.htm>.

<sup>19</sup> One example of a housing policy that begins to address how redefined families will be housed is the Mistawasis First Nation Housing Policy, online: Mistawasis First Nation, [http://www.mistawasis.ca/publicworks/housing\\_policy.htm](http://www.mistawasis.ca/publicworks/housing_policy.htm). This housing policy provides a section entitled "Marriage Conflicts" and indicates that in a dispute over a Band- or CMHC-owned unit, the "spouse which shall have the greatest need for the said unit in the opinion of the Housing Authority" shall get title to it. The criteria for the housing authority's decision on "greatest need" do not however appear to be specified. In another example, it is our

family when a First Nation's policy is once-only allocation of a house per person and/or family is an urgent matter that must be addressed as quickly as possible.<sup>20</sup>

For the First Nations now participating in the First Nations Land Management Initiative, there is an obligation, within 12 months from the passing of their land code to create a code dealing with the resolution of matrimonial real property matters. It remains to be seen what the codes contain and if they meet equivalent provincial protections, how they are applied and enforced, and if this is an effective instrument for dealing with housing during relationship breakdown, not only in division of property settlement but in cases of housing needs for women and children who are victims of violence. More enquiry and knowledge relating to this experience is required in the larger housing questions context. The NWAC is well-placed to conduct research and policy development in this area that would lead to the application of a gender-based analysis to the development and implementation of matrimonial real property codes required under the First Nations Land Management Initiative. Such research should be supported by all relevant governments.

### *Guiding Question*

This paper only touches on some of the most pressing issues related to jurisdiction and housing. Many areas of jurisdiction, control, and governance must be explored before housing for Aboriginal women will be resolved. NWAC poses the following guiding question:

*As these jurisdictional issues are being resolved, what protections will be established to ensure that this will be done in a way that respects, protects and fulfills the rights of all First Nations, Métis and Inuit women and their children?*

### **Needs and Supply**

The National Aboriginal Housing Association's (NAHA) *National Non-Reserve Aboriginal Housing Strategy* released in 2004 describes how Aboriginal peoples experience the most pressing housing needs. A majority (71%) of Aboriginal people live off reserves and of their households, the majority of families (75%) live in urban areas; this figure is further broken down as a large number of the families living in large metropolitan cities (41%), followed by non-metropolitan cities (31%) and rural areas (28%).<sup>21</sup>

Currently on reserves, a severe shortage of at least 8,500 units was documented in 2001 by the federal government and in 2003 the Auditor General (AG) of Canada noted that figure as well as the need for renovations to 44% of existing housing stock on reserves. The AG also noted the projection that 4,500 new on-reserve households will be formed every year for the next ten years;

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understanding that the Squamish Nation in British Columbia has implemented a housing policy which takes into account the interests of children to be raised on their reserve, in the former matrimonial home, by the primary caregiving parent, regardless of legal title to the house and the primary parent's Indian status and membership in the Squamish Nation. Research time and resource constraints prevented a full enquiry into the question of how First Nations' housing policies across the country are or are not dealing with this situation.

<sup>20</sup> SCHR, *supra* note 15, at 37.

<sup>21</sup> National Aboriginal Housing Association, *A New Beginning: The National Non-Reserve Aboriginal Housing Strategy*, March 2004, at 5 and 9, online: National Aboriginal Housing Association, [http://www.aboriginalhousing.org/The\\_National\\_Non-Reserve\\_Aboriginal\\_Housing\\_Strategy](http://www.aboriginalhousing.org/The_National_Non-Reserve_Aboriginal_Housing_Strategy). (NAHA)

however, current funding levels anticipate supporting the construction of only 2,600 homes per year.<sup>22</sup> The AG's report makes observations and recommendations for Aboriginal on-reserve housing policy and program management and funding which will be useful in the current sectoral discussions.

The reinstatement of the registered Indian status of many Aboriginal women and their children who had lost registered Indian status prior to the changes to the *Indian Act* in 1985 following marriage with non-status or non-Aboriginal men resulted in a substantial increase in the demand for on-reserve housing through the late 1980's and since.<sup>23</sup> Nearly twenty years later, the waiting lists for housing on many reserves still reflect the inability to match supply with the demand for housing. The housing pressures created by the addition of reinstated members, 60% of whom were women, may have added to the chronic housing unit shortages noted above, however, poor policies and programs, and a lack of adequate funding for band-owned housing and the availability of on-reserve home ownership loans are also implicated.

While many women were and are still seeking to live on-reserve, as already noted earlier in this paper, many women residing on a reserve may find themselves with no choice but to leave a reserve due to marriage breakdown or violence in the home, in order to find alternative housing. The figures in the AG's report suggest this is likely to become an even more prevalent occurrence if on-reserve housing shortages are not fully addressed.<sup>24</sup> Figures from NAHA's research combined with census and Canada Mortgage and Housing Corporation (CMHC) data show that families remain the predominant household type, at 70% of all off-reserve Aboriginal households. It is therefore imperative that the need for additional larger unit sizes of affordable housing to accommodate families be emphasized in affordable housing planning and supply, in all of the specific First Nations on- and off-reserve, Métis and Inuit settings. The needs of single Aboriginal women, youth and Elders must not be forgotten either.

### *Guiding Question*

*How will current housing policies and delivery levels be adjusted and augmented to guarantee an equitable supply of housing which specifically meets the multiple needs of First Nations, Métis and Inuit women and children?*

## **Funding and Affordability**

The National Coalition on Housing and Homelessness (NCHH) reported in 2001 that "after fifty years of significant and regular spending by the federal and provincial governments on new, affordable housing," since 1994 their "combined housing budgets ...[had] *decreased* by half a

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<sup>22</sup> Report of the Auditor-General of Canada to the House of Commons—April 2003: Federal Government Support to First Nations—Housing on Reserves, c. 6 at 3. (AG)

<sup>23</sup> The numbers of reinstated women totaled over 95,000 in 1995; 60% of them were women. (Maureen Callaghan et al, *Women and Housing in Canada: Barriers to Equality* (Toronto: Centre for Equality Rights in Accommodation Women's Housing Program, 2002) at 31. NWAC also has extensive documentation of discrimination against women reinstated under Bill C-31.)

<sup>24</sup> For samples of women's experiences in this situation, see the housing and former on-reserve property findings in Karen Abbot, *Urban Aboriginal Women in British Columbia and the Impacts of the Matrimonial Real Property Regime*, (Hull: Indian and Northern Affairs Canada, 2003) at 29-32.



billion dollars annually.”<sup>25</sup> The coalition documented a shortage of rental housing, increases in average market rents, steady losses in the numbers of existing rental housing units, declining or stagnant tenant incomes and wealth, sharp increases in tenant affordability problems, and a disproportionate representation of Aboriginal Canadians among the homeless.<sup>26</sup>

As the NCHH’s submission suggested, funding is inextricably linked to affordable housing supply. In 2004, the federal government stated its commitment to a ‘quality of life’ agenda for Aboriginal people and its recent unification of homelessness programs, the Supporting Community Partnerships Initiative and housing programs under one Minister of Housing. Despite these commitments, the on-the-ground situation promises to change little since funding falls far short of the “One Percent [of the federal budget] Solution”, or approximately \$2 billion annually which housing experts report is required for sufficient affordable housing.<sup>27</sup> Instead of \$2 billion annually, the Government of Canada has currently committed \$1 billion over five years for its Affordable Housing Initiative.<sup>28</sup> Nonetheless, NAHA, regarding off-reserve housing for Aboriginal people, recommends that “an allocation of 7.5% of the current federal capital budget (\$1 billion) to provide \$75 million (with matched cost sharing) could facilitate construction of 2,200 units annually” which would “fully eliminate problems of severe rent burdens... over the next decade.”<sup>29</sup>

The literature already referenced in this paper and related information in other socio-economic documentation shows that housing supply for First Nations, Métis and Inuit peoples is clearly problematic; where First Nations, Métis and Inuit women experience marginalization and victimization, housing supply is arguably at crisis levels. Component issues are also documented: In 1997, CMHC reported that 62% of Aboriginal lone-parent households off-reserve were in core housing need, defined as “households whose housing does not meet one or more of the standards for adequacy, suitability or affordability and whose income is insufficient to afford rental housing that does not meet standards.”<sup>30</sup> Given housing funding levels in recent years, and Census 2001 statistics, corresponding current figures are likely very similar or worse today.

Poverty is a fact of life for many Aboriginal women who remain at the lowest income levels of the population and spend the highest proportion of their income on housing. Regarding income, NAHA notes that:

Aboriginal renter households receive just 85% of the level of income among Non-Aboriginals ... So overall, and consistently across jurisdictions Aboriginal

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<sup>25</sup> The National Coalition on Housing and Homelessness, *Pre-Budget Submission to the Standing Committee on Finance*, September 6, 2001 at 4, online: Ontario Non-Profit Housing Association, [http://www.onpha.on.ca/affordable\\_housing\\_initiatives/fight\\_resources/pdf/NCHH\\_prebudget.pdf](http://www.onpha.on.ca/affordable_housing_initiatives/fight_resources/pdf/NCHH_prebudget.pdf). (At the time, the 25-member coalition represented seven Aboriginal peoples’ organizations, including the National Aboriginal Housing Association.) (NCHH)

<sup>26</sup> *Ibid.*, 5-6.

<sup>27</sup> “Liberals promised \$1.5 billion over five years in the election campaign – that’s not enough but it’s another step forward” reports the Toronto Disaster Relief Committee in its Summer 2004 issue, online: Toronto Disaster Relief Committee, <http://www.tdrc.net/DisasterPostSummer2004.pdf>. See also, NAHA, at 23-24 regarding the portions of funding required for Aboriginal-specific non-reserve housing.

<sup>28</sup> Canada’s Budget Plan, Chapter 4 (Budget 2004), online: Department of Finance Canada, <http://www.fin.gc.ca/budget04/bp/bpc4de.htm>.

<sup>29</sup> NAHA, *supra* note 21 at 24.

<sup>30</sup> CMHC, *Research and Development Highlights, Socio-Economic Series*, Issue 34, July 1997. (Emphasis in original)

households have lower incomes and thus a lower capacity to pay rent than Non-Aboriginal households.”<sup>31</sup>

Furthermore, one in four Aboriginal renters pays “more than the accepted norm of 30% while 15% pay more than 50%.”<sup>32</sup> NWAC’s anecdotal knowledge suggests that empirical studies identifying gender-specific housing factors would confirm Aboriginal women make up the highest proportion of the 30 to 50% and greater than 50% of income to rent categories. Regional influences affecting affordability also need consideration in federal housing policy and funding since, for example, “the incidence of affordability problems among Aboriginals is much wider in Saskatchewan, BC and the Yukon.”<sup>33</sup>

The fact that twice as many Aboriginal children live with one parent than non-Aboriginal children is also important knowledge regarding their housing needs and affordability.<sup>34</sup> If the heartbreaking stories which NWAC currently hears across the country with respect to housing issues are to change, Aboriginal women, particularly those who are most often the custodial parent of their children, must receive the benefit of special efforts and resources to include them in seeking solutions to the supply of appropriate housing, along with the larger population of Aboriginal women and their families in housing need. The resolution of housing issues must be accompanied by legal reforms and policy and program work on enforcement measures required to ensure that single parents and their children are safe in their homes, and current practical and jurisdictional barriers to the collection and receipt of child support are overcome.

At the same time, while other sectors address root causes and propose solutions to the high prevalence of violence against Aboriginal women in the home, women’s shelter programs need to be better funded to provide for more new shelters and capital upkeep and maintenance of existing shelters. Aboriginal women’s vulnerability to becoming a single parent and/or the victim of spousal violence needs to be anticipated, accounted for, addressed and accommodated to achieve positive, equitable outcomes in all existing and new housing policies and programs. Priority wait listing and placement of women who are victims of violence must be further fostered and followed in housing practice by all levels of government and authorities involved in housing.

### *Guiding Questions*

As policies, programs and funding concerning housing are examined, discussed and (re)developed following the sectoral session:

*What actions will be taken by all relevant governments to ensure that Aboriginal women will have greater access to affordable housing?*

And,

*How will progress be measured and reporting functions be incorporated to ensure the affordability goals are being met by these actions?*

Furthermore,

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<sup>31</sup> NAHA, *supra* note 21 at 14-15.

<sup>32</sup> *Ibid.*, at 11.

<sup>33</sup> *Ibid.*, at 12.

<sup>34</sup> Statistics Canada, 2001 Census: Analysis Series, *Aboriginal Peoples of Canada: A Demographic Profile* (Ottawa: Catalogue No. 96F0030XIE2001007, 2003) at 10.

*How and by what measures will Aboriginal women be included in the labour force and economic development opportunities accompanying new and renewed housing policies and programs?*

## Housing Quality

Discussions concerning and action plans for housing will not be complete without considerations for remedying the substandard quality of existing housing and assuring that problems and errors such as structural deficiencies leading to mould and health problems from asbestos insulation currently being experienced will be rectified so as not to be repeated in new unit construction. This applies equally to band-owned housing on reserves, privately held rental units in other communities and to low income Aboriginal renters and homeowners everywhere.

In addition to health concerns about quality of housing, a remedy is required for Aboriginal women who already suffer from discriminatory rental practices. The NWAC has heard over the years from numerous women – and in spite of human rights laws that prohibit discrimination on the basis of race and gender – that their experiences, particularly as visibly Aboriginal women, continue to be that landlords find ways to deny them leases. Frequently, there is no question that discrimination is at play because telephone applications and prospective renter conversations preceding in-person appointments are positive, and landlords show willingness to rent to them. Excuses on arriving to view the premises though, can suddenly include that it has already been rented, there was a mistake in the address or availability timing, etc. One woman's description summarizes the distressing experience of many:

It was really frustrating. I don't know how many places we looked at and it was all the same ... No matter what we said and no matter what we did, it was like, you're not going to get it. And we really felt it was because we were native.<sup>35</sup>

This highlights the need for remedies for effectively addressing the gendered racism facing Aboriginal women when attempting to secure adequate, affordable housing for themselves and their families. When Aboriginal women find rental accommodations, they and their children frequently experience poor quality premises and poor upkeep by the landlord of fundamental things like heating systems, the stove and refrigerator, carpets and curtains, windows, and doors. Home ownership when achieved can be fraught with similar concerns although in the ownership context they will usually arise directly from lack of funds over and above household subsistence costs to address household repair problems arising.

As the United Nations Office of the High Commissioner for Human Right has observed in General Comment 4:

Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11(1) of the Covenant

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<sup>35</sup> From a focus group participant quoted in Ronnie Leah, "Aboriginal Women and Everyday Racism in Alberta: From Lived Experiences of Racism to Strategies for Personal Healing and Collective Resistance", *The Journal of Human Justice*, vol. 6, no. 2, Spring/Autumn, 1995 10 at 17.

[on Economic, Social and Cultural Rights] and the situation prevailing in many parts of the world.<sup>36</sup>

Regarding the concept of housing adequacy, the same Office makes note of seven principal factors: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; resource accessibility to disadvantaged groups; location; and, cultural adequacy.

### *Guiding Questions*

The NWAC takes the position that consideration, incorporation and implementation of all these housing quality factors with respect to housing for Aboriginal women are mandatory for all governments involved in our housing. Accordingly, we ask:

*What actions will be taken by all relevant governments to ensure that First Nations, Métis and Inuit women have access to high quality housing, particularly increasing levels of ownership, both on- and off-reserve?*

### **Conclusion**

The NWAC agrees with statements made recently by the Canadian Renewal and Housing Association (CHRA) in a presentation to the PRI-SSHRC-sponsored Roundtable on Housing Research, Policy and Practice in the Context of Poverty and Exclusion:

Aboriginal peoples['] ... economic resources are so significantly lower than the rest of Canadian households that existing programs will not work for Aboriginal populations. New ways of designing programs with Aboriginal aspirations in mind will have to emerge in order to allow for an equitable level of participation.<sup>37</sup>

Citing a finding in a study of social, private and co-op housing in Winnipeg, the CHRA quoted the following which is applicable to housing policy circumstances and Aboriginal women:

Participatory decision-making processes involving women with low incomes from diverse backgrounds should be incorporated at every level of housing policy and programming, from the setting [of] priorities for new housing developments, to the every day governance of housing complexes. Participatory decision-making bodies should be adequately resourced, including access to training and supports such as child and dependent care allowances.<sup>38</sup>

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<sup>36</sup> Office of the High Commissioner for Human Rights, *The Right to Adequate Housing (Art.11 (1)): 13/12/91. CESCR General Comment 4*, online: United Nations High Commissioner for Human Rights, [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument).

<sup>37</sup> Sharon Chisholm, Presentation to the PRI-SSHRC Sponsored Roundtable on Housing Research, Policy and Practice in the Context of Poverty and Exclusion (Ottawa, Canadian Housing Renewal Association, November 4, 2004), online: <http://www.chra-achru.ca/english/view.asp?x=654&id=89>.

<sup>38</sup> *Ibid.*

Accordingly, the Native Women's Association of Canada looks forward to the discussion of issues raised in this paper and the inclusion of Aboriginal women in further housing policy, program and funding work following the November 2004 sectoral session on housing. As leaders, we must all work together to ensure the equality rights of Aboriginal women and their families in relation to housing needs, whether they live on-reserve, off-reserve, in urban, rural, northern or remote communities.