

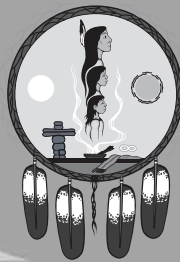
National Aboriginal
Circle Against
Family Violence
www.nacafv.ca



Artist: John Tenasco, 2007

**RESPONSES FROM ABORIGINAL WOMEN IN SEVEN (7)
INAC-FUNDED SHELTERS REGARDING
MATRIMONIAL REAL PROPERTY (MRP)**

NOVEMBER 5 - DECEMBER 14, 2006



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Acknowledgements:

Consultations were funded by Indian and Northern Affairs Canada (INAC). The National Aboriginal Circle Against Family Violence (NACAFV) greatly appreciates the participation of the 42 First Nations women from whom these findings are derived. Special thanks are extended to the participating INAC-funded women's shelters—specifically to the Executive Directors who arranged the logistics necessary for the consultations.





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1. EXECUTIVE SUMMARY

These 42-participant consultations were conducted by the *National Aboriginal Circle Against Family Violence (NACAFV)*. Participants were Aboriginal women from seven INAC-funded women's shelters; some were staff and some were clients. The purpose of the discussions was to capture Aboriginal women's views on the different options presented by the Minister of Indian and Northern Affairs Canada in mid-2006. The Minister has stated that the results will provide input into proposed legislative changes to the *Indian Act*, which will allow women fair and equitable distribution of matrimonial real property during marital break-up. Related issues, such as establishing and maintaining the well-being of the child, the impact of extended family, band governance and the enforcement possibilities of proposed legislative activity, also entered into these discussions. Executive Directors of the shelters gave input into primary discussions held on the first day, then joined the larger group on the following day. This report is based on all those discussions.

The dominant theme of all proposed MRP solutions is to keep children safe and secure, and to reflect this goal in all implementations. Children are highly valued in Aboriginal society and, as future leaders, are impacted by the tradition of only making decisions that will positively affect the next seven generations. As mothers responsible for these children, the consultation participants believe that women's rights to a fair proportion of matrimonial real property are absolutely and undeniably essential in providing for children's holistic health and well-being.

However, because most participants were not familiar with provincial family law, it was often difficult or impossible for them to articulate in-depth solutions. While INAC provided very condensed versions of each province's law for the consultations, the legal impact on each woman's circumstances (past or present) were impossible to ascertain¹. Indeed, a serious shortcoming of the INAC consultation process was that many women had no previous knowledge about MRP, and the input they gave was based only on these brief consultations. Much of their input was undoubtedly made "under duress" and not after long-term thought and consideration. INAC could have ensured that an informed consultation process had taken place prior to actually having these consultations.

Nonetheless, participants are well aware of the drastic changes needed – those that support and uphold their positions in Aboriginal society as women, wives and mothers. The understanding is clear to almost all Aboriginal women that they are negatively affected by inequalities because the *Indian Act* favours men in marital break-up and in other circumstances. Sometimes a woman actually owns a house on the reserve, i.e., holds the title from the Band, but cannot live in the house because she legitimately fears her spouse and the Chiefs and Councils who tend to support men—a tendency created and perpetuated by the *Indian Act*.

1 As well, neither of the two NACAFV consultants holds a law degree.



Some participants who own houses on-reserve were under the misconception that they also own the land on which the houses were built. It was then necessary to discuss INAC's policies regarding Certificates of Possession (CP) and the input of the INAC representative who accompanied the consultation team proved helpful in this area. Also significant for the women is that a woman holding the CP in her name only is not guaranteed to receive the house if her marriage or domestic relationship breaks down.

All the women were adamant that a woman should no longer lose her home whether or not she helped pay into the mortgage on the marital house, even if it was under CP solely in her spouse's name. At present, there is no legal recourse for such situations because of the *Indian Act*, and also because jurisdictional boundaries prevent provincial policies from being extended to reserve lands. Therefore, this aspect of MRP must be clearly addressed by any new legislation.

All women felt it's important to integrate First Nations cultures and traditions into MRP laws. They want a process that will not impinge on the sovereignty of any First Nation, either now or in the future. Most believe this will be accomplished by excluding the involvement of municipal, provincial and federal governments as much as possible, even though they acknowledge that a new law could only be enforced if some level of government is involved, and that the federal government would, of course, be involved in changing the *Indian Act*.

The consultants also discussed the lack of human rights protection due to the void in the *Canadian Human Rights Act* (CHRA) as it relates to on-reserve residents. These 2 gaps in federal legislation (CHRA and the *Indian Act* which neglects to provide for MRP) are the sources of blatant inequality between on-reserve women and non-Native Canadian women. All Canadian women, except women on-reserve, have both human rights and MRP protection under Canadian law.

Most participants suggested that the First Nations adopt approaches similar to those used in the *First Nations Land Management Act* (FNLMA) or in self-government agreements - these self-define MRP regulations. Women clearly see these arrangements as the least compromising to First Nations' sovereignty or potential sovereignty. They also emphasized the need for meaningful input from the Chiefs and Councils, and some suggested that community-wide training be mandatory for Chiefs and Councils so that they would be educated to the realities of inadequate MRP policies on-reserve.

All groups expressed anger and despair that so many women still have to endure these kinds of hardships. They sincerely want MRP provisions that will protect future generations, even though changes may come too late to help themselves.





2. NOTES ON TERMINOLOGY

Aboriginal—there are three groups of Aboriginal people identified in the Canadian constitution: Indians, Inuit and Metis; for the purposes of this report, “Aboriginal” refers to a status or non-status Indians.

Band—a collective of Indians who use and benefit from reserve lands, and who are identified as such under the *Indian Act*; sometimes synonymous with the term “First Nation”.

Band Members—those included, and/or entitled to be included, on a band membership list, according to the *Indian Act*.

Bill C-31—the 1985 *Act to Amend the Indian Act* (Regulations and Statutes of Canada (R.S.C.) 1985) which was meant to eliminate discriminatory provisions of the *Indian Act* that prejudiced Indian women.

Chief and Council—the most common type of governance of each band or First Nation which originated from the *Indian Act* (1876); the Act legislated the elected chief and council system because it was seen as “democratic” by the 19th century Canadian government in its assimilationist stance regarding Aboriginal people; women were excluded from participating and stripped of formal involvement in the political processes within their nations.

The Constitution or the *Constitution Act*—the *Constitution Act*, 1982 which replaced the *British North America (BNA) Act*, 1867.

Canadian Human Rights Act—the void in this Act as it relates to on-reserve residents continues to be the most problematic of human rights issues facing the country.

First Nations Land Management Act (FNLMA)²—It is optional for First Nations to participate in this 1999 Act on First Nations land management. For those participating, a land code articulates how individual band members can hold lots or parcels of reserve land. Once a land code is accepted, management of the reserve land passes from the federal government to the First Nation, meaning that the *Indian Act* no longer applies to land management. Within one year of the land code taking effect, the First Nation must confer with its members and enact a law dealing with the division of MRP. All outcomes must respect laws already in place.

If the First Nations under FNLMA have not resolved their MRP issues and INAC has already derived a legislated solution, the latter would apply to the FNLMA reserves.

2 Source: Chris Angecone, Coordinator East; First Nations Land Management Resource Centre, Ottawa, ON

Under the Framework Agreement (the governing document that started off the FNLMA), there are currently 17 First Nations that have ratified their land codes (operational); they are:

Chippewas of Georgina Island, ON	Mississaugas of Scugog Island, ON
Nipissing First Nation, ON	Opaskwayak Cree Nation, MB
Muskoday First Nation, SK	Muskeg Lake Cree Nation, SK
Whitecap Dakota First Nation, SK	Sliammon First Nation, BC
Kinistin First Nation, SK	TseK'hene First Nation (McLeod Lake), BC
Kitselas, BC	Scia'new First Nation (Beecher Bay), BC
Lheidli T'enneh, BC	Tsawwassen, BC
Shxw̓ha:y Village (Skway First Nation), BC	Ts'kw'aylaxw First Nation, BC
T'Sou-ke First Nation, BC	

Of these, nine communities have developed MRP laws, three are developing laws within the specified 12-month timeframe, and five are overdue in developing MRP laws, as of early 2007.

Westbank First Nation in BC became operational under the Framework Agreement, but then completed its treaty and subsequently left the process. It has formulated its own MRP guidelines.

The legal framework on the community appears to be welcomed by most community members. The biggest hurdle for most community members is that they don't have a clear understanding about why the law is necessary (confusion regarding the issues) but once it is clarified, those working in the area of FNLMA find that the law then becomes accepted.

There are currently 28 communities in the midst of developing their own land codes out of a possible 30.

HOW LAND IS ASSIGNED TO INDIANS (*INDIAN ACT*)

i. Certificate of Possession³

The holder of a Certificate of Possession (CP) is entitled to possess a specific allotment of land, which may or may not have a house on it. CPs are issued by the Minister of Indian Affairs and Northern Development after the Minister has approved the band council's allotment of land to a band member. CPs replace location tickets, which were issued on or before September 4, 1951.

³ The Royal Commission on Aboriginal Peoples concluded: "There is no prohibition against women owning property through a certificate of possession. But the cumulative effect of a history of legislation that has excluded women and denied them property and inheritance rights, together with the sexist language embedded in the legislation before the 1985 amendments, has created a perception that women are not entitled to hold a CP [Certificate of Possession]. Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, (1997) Vol.4, Chapter 2, RCAP CD ROM, Seven Generations, Record 26161).



ii. Custom allotment

A band council's allotment of reserve lands to band members, based on the band's traditional or customary practice. The Minister of Indian Affairs and Northern Development does not approve custom allotments as they are not recognized under the *Indian Act* and are therefore not included in the Reserve Land Register.

Indian Act – Canadian federal legislation, first passed in 1876 and amended several times since; sets out certain federal government obligations and regulates the management of Indian reserve lands, Indian monies and other resources.

- Among its many provisions, the *Indian Act* currently requires the Minister of Indian Affairs and Northern Development to manage certain monies belonging to First Nations and Indian lands, and to approve or disallow First Nations by-laws.
- In 2001 a national initiative, *Communities First: First Nations Governance*, was launched, to consult with First Nations peoples on the issues of governance under the *Indian Act*. The process is ongoing as of early 2007.

Matrimonial Real Property (MRP)—the matrimonial home, the house in which the spouses resided at the time of separation; on reserves, MRP does not include the land on which the house is located.

Reserve—“...a tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band” (the *Indian Act*); while there are some provisions within the Indian Act for selling certain tracts of reserve land (“certificate of possession” lands), buying and selling of these is restricted; reserve land is not “fee simple”, that is, a person living on reserve land cannot sell it in the same way that homeowners in a city can sell their houses, because the underlying title is held by the Crown.

Self-Government Agreements—These are agreements between the federal/provincial/territorial governments with individual First Nations that provide an opportunity for the latter to make their own laws over many areas, including some areas of family law such as MRP. Any solution to MRP would have to uphold and respect laws that are already in place. However, any new federal MRP legislation would necessarily apply to self-governing First Nations who have not enacted their own laws on MRP, unless those First Nations were expressly exempted from the law.

Sovereignty—Implementing First Nations jurisdiction, this solution to MRP problematics is best described in the words of National Chief Phil Fontaine, Assembly of First Nations:

The solution to matrimonial real property issues on reserves, like so many of the other challenges that face First Nation communities, lies in recognizing and implementing First Nations jurisdiction over all matters that affect the health and well-being of our people, including matrimonial real property.



3. BACKGROUND

3.1 TRADITIONAL ABORIGINAL ROLES

All traditional Aboriginal teaching was based on treating one another with honour and respect, including within marriages. Consequently, there was very little family breakdown in most indigenous societies⁴. The First Peoples held strongly to their beliefs that the Creator gave women special and sacred gifts in their roles as life-givers and caretakers, as mothers and wives, and that everything, including gender gifts and roles, was bestowed by the Creator.

The equality of men and women in pre-Contact times was accepted as the voice of Creation. While men's roles and responsibilities were different, men were not considered "better" or "more important" than women, nor vice versa. Both men's and women's roles together achieved a balance that was necessary to meet both the livelihood and spiritual needs of the entire nation. These beliefs were a continuing source of strength and peace for all Aboriginal societies.

3.2 CHANGING ROLES

The Europeans who came into Aboriginal territories originated from strictly hierarchical societies, and through the Indian Act (1876) imposed on those flourishing egalitarian cultures and governments a EuroCanadian society's pejorative public opinion. The *Indian Act* was particularly harsh on Native women. It imposed male lineage and wrote male-female inequality into law by defining an Indian⁵ as any "male person" of Indian blood. A female could be an Indian only if her father or husband was an Indian; she could not, in her own right, be an Indian⁶. There were inconsistencies with the registration legislated by the *Indian Act*, too, that favoured men. If an Indian woman married a white or other non-Indian, she and her children lost their places on the Indian Affairs registry. Conversely, when an Indian man married a white or other non-Indian, his wife and children all became status Indians. The result on the Indian registry was that up to 95% of all enfranchisements were involuntary because of this part of the Act.

Also in the *Indian Act*, Aboriginal women were disempowered from political activity and governance—a stipulation that hit many nations hard because the traditional governing powers that women had had⁷. Most reserve communities are still under the authority of the *Indian Act*, which never included any type of stipulation or guideline for how matrimonial real property (MRP) would be divided when marriage or marriage-type relationships dissolved. Additionally, the Act does not include any specific authorization for First Nations to enact by-laws regarding MRP or domestic violence

4 Manitoba Justice Inquiry, Chapter 13: "Revenue Generation" (OC 459/1999).

5 This term, erroneous as it is, must be used in a legal sense.

6 In Depth: Aboriginal Canadians; Women in First Nations Politics; CBC News Online, November 22, 2005.

7 Emberley (2001).

3.3 THE STATUS QUO OF ABORIGINAL WOMEN IN CANADA

Non-Aboriginal Canadians have no knowledge about the barriers that Aboriginal women face as they strive for opportunities that would lead to economic security. The financial resources allocated to address serious social concerns, such as social disparity, ill health and poverty, rarely filter down to the Aboriginal women and children who are in the greatest need.

The social circumstances of Aboriginal women are still far from ideal. The *International Think Tank on Reducing Health Disparities and Promoting Equity for Vulnerable Populations* reported that:

... the colonial legacy of subordination of Aboriginal people has resulted in a multiple jeopardy for Aboriginal women who face individual and institutional discrimination, and disadvantages on the basis of race, gender and class⁸.

The federal legislation, the *Indian Act* ignores the issue of marginalization that First Nations women face. However, the United Nations findings have recognized it in response to Canada's reports on its international human and women's rights obligations⁹.

The provincial and territorial family laws that legislate the fair distribution of the matrimonial home do not apply on-reserve and cannot save resident women and their children from impoverishment when the marriage (or marriage-type) relationship breaks down. The National Aboriginal Circle Against Family Violence (**NACAFV**) consultations reveal that the division of property assets and the matrimonial home mostly favour men. Women and children are most often forced to leave the home, and do not benefit financially when the home is sold.

Many believe that current provincial and territorial laws would not address the need of First Nations women on-reserve. Aboriginal people live on-reserve for many cultural reasons, including language, education, and the perpetuation of culture, and to cultivate close familial ties for their children and themselves. Reserve residents are recognized as mostly living well below the rest of the country's "poverty levels" and **NACAFV's** consultations reveal that division of property assets and the matrimonial home mostly favour men.

The selling of the matrimonial home is problematic because women and children are most often forced to leave, and they do not incur financial benefits when the home is sold.

8 Adelson, N. (2003).

9 See in particular "Principal Subjects of Concern," *Concluding Observation 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.unhchr.ch/tbs/doc.nsf>



3.4 INAC OPTIONS ¹⁰

The Minister of Indian Affairs, Jim Prentice, announced on June 21, 2006 that consultations with the First Nations regarding MRP issues would begin in October 2006. Ms. Grant-John was appointed Ministerial Representative to work in particular with the Assembly of First Nations (AFN) and the Native Women's Association of Canada (NWAC) in an effort to reach a consensus on how to resolve MRP concerns. About 15 other smaller organizations are also conducting consultations, one of which is the National Aboriginal Circle Against Family Violence (**NACAFV**).

All consultations must include the following options that INAC has put forth:¹¹

Option 1: Incorporation of provincial and territorial MRP laws on reserves.

Under this option, federal legislation would be adopted to make provincial and territorial protections on MRP available on reserves. As changes are made to provincial and territorial laws relating to MRP, the same changes would apply on reserves. In order for this Option to work, some changes to the *Indian Act* would need to be made.

Option 2: Incorporation of provincial and territorial MRP laws combined with a legislative mechanism granting authority to First Nations to exercise jurisdiction over MRP.

Similar to the first Option, federal legislation would be adopted to make provincial and territorial legal protections on MRP available to First Nations individuals living on reserves. Therefore, the laws of the province or territory in which a reserve is located would provide a MRP regime unless and until a First Nation enacts its own MRP rules. As with the first Option, some changes to the *Indian Act* would need to be made. This Option is different from the first because it would also change federal legislation so that First Nations could exercise jurisdiction on this issue.

Option 3: Substantive federal MRP law combined with a legislative mechanism granting authority to First Nations to exercise jurisdiction over MRP.

In this Option, a substantive federal law would be developed that provides protections for MRP on reserves. This Option is different from the first because it would also require federal legislation to allow First Nations to exercise jurisdiction on this issue. Similar to the second Option, the federal law would apply on reserves unless and until individual First Nations enact their own laws on MRP. In this Option, some changes to the *Indian Act* would need to be made.

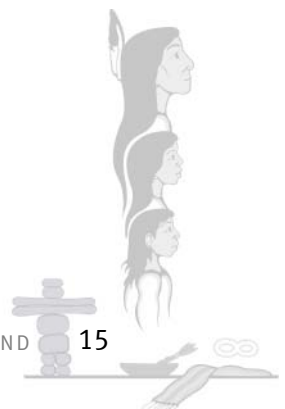
10 See: http://www.ainc-inac.gc.ca/nr/spch/2006/sschr_e.html

11 Source: INAC Consultation Document, Fall 2006, pp. 8-10.

As with the first two Options, the third Option raises equally important questions. A substantive federal MRP law would need to address all the difficult and important issues that provincial and territorial laws currently address off reserves, such as ensuring the best interests of the child are observed; how to address the rights of spouses where multiple families live in the same home; what to do if there is family violence in the home.

A substantive federal law would also need to address a number of issues of specific importance to First Nations citizens, such as how to recognize the distinct ways that First Nations allot land on reserves; how to take into account First Nations traditional and cultural values as they relate to family and land; and how to take into account the interests of non-member spouses.

It is clear that a substantive federal law would need to consider how each of these and many other issues would be addressed.





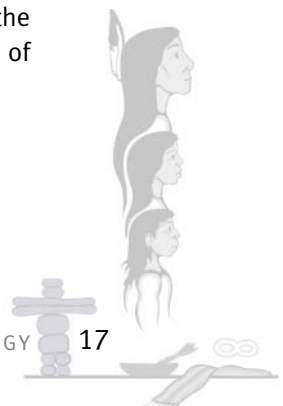
4. METHODOLOGY

The consultations on MRP by the National Aboriginal Circle Against Family Violence (**NACAFV**) consisted mainly of in-depth overviews to each group of participants. The consultants used an educational approach aimed at helping participants gain a working knowledge of the following topics:

- On-Reserve Matrimonial Real Property: “Seeking solutions we can all live with...” (INAC Toolkit)
- the *Indian Act*; (copies of this were provided to participants, as requested)
- on-reserve land status;
- Certificates of Possession (CP) as a means of possessing on-reserve lots ;
- Custom allotment (CA) ;
- Options 1, 2 and 3 as articulated by the Minister of Indian and Northern Affairs Canada (INAC) ;
- a review of provincial/territorial family laws and how they could apply to the options ;
- a copy of the *Mohawk Council of Akwesasne Lands Management Public Opinion Survey*, which was used as an example of how one First Nation garnered input from its members regarding MRP concerns ;
- self-government agreements as they relate to MRP; (copies were provided to participants)
 - Westbank Self-Government Agreement (effective April 1, 2005)
 - First Nation Law No. 2006-02
 - Family Property Law
- the *First Nations Land Management Act* (FNLMA), specifically the McLeod Lake MRP, which was enacted in May 2004; (copies were provided to participants) ; and
- a review of the *Canadian Human Rights Act* (CHRA), Section 67, and its lack of jurisdiction over First Nations reserves, and how this compounds MRP issues.

All consultations were guided by a questionnaire developed by the consultants. It specifically sought input from participants on their desired legislative solutions to MRP issues involving the family and the family home, and also asked for input on how solutions should help women and children during the trauma of separation or divorce.

Each consultation involved the Executive Director (ED) and five participants from seven women’s shelters. In total there were 42 participants from across Canada. Prior to the full-group consultations the consultants met with the ED of each shelter to familiarize the ED with the information being presented to the larger group, which in most cases was made up of shelter clients.



Participants were reassured that all conversations were held in strict confidence even though the discussion format was informal. They were encouraged to freely ask questions or make comments and to address any issue related to MRP. The discussions focused on a comprehensive review of the MRP proposal submitted to Parliament, which would affect the lives of Aboriginal women and their children during the breakdown of marriage or marriage-type relationships.

The open and frank group discussion process encouraged all women to be active participants, instead of passive listeners, and provided an opportunity for them to convey their thoughts, express opinions and propose alternative solutions to MRP issues.





5. CONSULTATION FINDINGS

Participant Background Demographic and Other Findings

The following table shows the location of the shelters that were visited, and the dates of the consultations:

	SHELTER LOCATION	DATE OF CONSULTATION (2006)
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	November 11, 12
2	Eagle's Nest Stoney Family Shelter Morley, AB	November 13,14
3	Nuxalk Nation Transition House Bella Coola, BC	November 18, 19
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	November 26, 27
5	Akwesasne Family Violence Program Akwesasne, ON	December 4
6	Millbrook Family Treatment Centre Millbrook, NS	December 5, 6
7	Waseya House Kitigan Zibi, QC	December 13

1. OF WHICH FIRST NATION ARE YOU A MEMBER?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Muscopetung : 2 Standing Buffalo : 2 Peepeekisis : 1 Mistawasis : 1
2	Eagle's Nest Stoney Family Shelter Morley, AB	Stoney : 2 Bears paw : 1 Chiniki : 1 Kwanlin Dun : 1 No reserve : 1
3	Nuxalk Nation Transition House Bella Coola, BC	– all were from the Nuxalk First Nation –
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Batchewana : 2 Missanabie : 1 Mississauga : 1 Sagamok : 1 Garden River : 1
5	Akwesasne Family Violence Program Akwesasne, ON	Akwesasne/ St Regis : 5 Wagmatcook : 1
6	Millbrook Family Treatment Centre Millbrook, NS	– all were from Millbrook, Shubenacadie and St Mary's –
7	Waseya House Kitigan Zibi, QC	Kitigan Zibi – 6

2. DO YOU HAVE FIRST NATIONS MEMBERSHIP?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 6
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 6
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 6
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 6
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 6
7	Waseya House Kitigan Zibi, QC	Yes – 6



3. ARE YOU LIVING ON-RESERVE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 4 No – 2
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 4 No – 2
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 4 No – 2
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 5 No – 1
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 5 No – 1
7	Waseya House Kitigan Zibi, QC	Yes – 5 No – 1

4. ARE YOU LIVING OFF-RESERVE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 2 No – 4
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 4
3	Nuxalk Nation Transition House Bella Coola, BC	No – 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 2 No – 4
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1 No – 5
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 1 No – 5
7	Waseya House Kitigan Zibi, QC	Yes – 1 No – 5

5. WHAT IS YOUR AGE GROUP?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	30-44 years – 3 45-65 years – 3
2	Eagle's Nest Stoney Family Shelter Morley, AB	15-30 years – 1 30-44 years – 5
3	Nuxalk Nation Transition House Bella Coola, BC	30-44 years – 1 45-65 years – 5
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	30-44 years – 1 45-65 years – 5
5	Akwesasne Family Violence Program Akwesasne, ON	15-30 years – 2 30-44 years – 3 45-65 years – 1
6	Millbrook Family Treatment Centre Millbrook, NS	30-44 years – 3 45-65 years – 2 no response
7	Waseya House Kitigan Zibi, QC	30-44 years – 4 45-65 years – 2

6. HOW MANY DEPENDENT CHILDREN DO YOU HAVE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	0, 1, 2, 2, 3, 3
2	Eagle's Nest Stoney Family Shelter Morley, AB	1, 1, 3, 4, 4, 5
3	Nuxalk Nation Transition House Bella Coola, BC	1, 3, 4, 4, 5, 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	0, 2, 2, 2, 3, 3
5	Akwesasne Family Violence Program Akwesasne, ON	1, 1, 2, 4, 4, 5
6	Millbrook Family Treatment Centre Millbrook, NS	1, 3, 4, 4, 6, no response
7	Waseya House Kitigan Zibi, QC	1, 1, 2, 3, 4, no response



7. HOW MANY CHILDREN DO YOU HAVE AT HOME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	0, 1, 1, 2, 3, 2 +1 grandchild
2	Eagle's Nest Stoney Family Shelter Morley, AB	1, 1, 3, 4, 4, 5
3	Nuxalk Nation Transition House Bella Coola, BC	1, 3, 4, 5, 2 grandchildren, 2 grandchildren
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	0, 0, 0, 0, 1, 2
5	Akwesasne Family Violence Program Akwesasne, ON	0, 1, 1, 2, 4, 5
6	Millbrook Family Treatment Centre Millbrook, NS	0, 0, 0, 2 +2 grandchildren, 3, no response
7	Waseya House Kitigan Zibi, QC	1, 1, 2, 3, 4, 4

8. WHAT ARE THE AGES OF YOUR CHILDREN?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Ranged from 20 to less than 1 year.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Ranged from 19 to less than 1 year.
3	Nuxalk Nation Transition House Bella Coola, BC	Ranged from 18 to 1 1/2 years. Grandchildren ranged from 24 to 2 years.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Ranged from 9 – 50. No response – 2
5	Akwesasne Family Violence Program Akwesasne, ON	Ranged from 35 to 4.
6	Millbrook Family Treatment Centre Millbrook, NS	Ranged from 35 – 5.
7	Waseya House Kitigan Zibi, QC	Ranged from 18 – 3.

9. HOW MANY ADULTS LIVE IN THE HOME YOU LIVE IN?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	1, 1, 2, 2, 2, 3
2	Eagle's Nest Stoney Family Shelter Morley, AB	1, 1, 1, 2, 4, no response
3	Nuxalk Nation Transition House Bella Coola, BC	1, 1, 1, 2, 2, 3
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	1, 1, 2, 2, 2, 2
5	Akwesasne Family Violence Program Akwesasne, ON	1, 1, 1, 1, 2, 3
6	Millbrook Family Treatment Centre Millbrook, NS	0, 1, 1, 2, 3, no response
7	Waseya House Kitigan Zibi, QC	1, 1, 1, 2, 2, 3

10. ARE YOU LIVING WITH A SPOUSE OR PARTNER?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 2 No – 4
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 3 No response – 1
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 4 No – 2
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 3 No – 3
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1 No – 5
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 2 No – 1 Sometimes – 1
7	Waseya House Kitigan Zibi, QC	Yes – 1 No – 5



11. WHAT IS YOUR HIGHEST LEVEL OF EDUCATION?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	1 – Grade 11 4 – Grade 12 1 – BSW
2	Eagle's Nest Stoney Family Shelter Morley, AB	1 – Grade 8 2 – Grade 11 3 – College
3	Nuxalk Nation Transition House Bella Coola, BC	1 – Grade 10 4 – Grade 12 1 – Grade 12, with some admin. training
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	1 – Grade 9 1 – Grade 11 2 – College 1 – University 1 – MBA
5	Akwesasne Family Violence Program Akwesasne, ON	1 – Grade 12 1 – College graduate 1 – university 1 – Master's degree 2 – no response
6	Millbrook Family Treatment Centre Millbrook, NS	1 – post secondary 1 – Grade 12 2 – Grade 10 1 – Grade 6 1 – GED
7	Waseya House Kitigan Zibi, QC	1 – elementary 1 – Grade 7 1 – high school 2 – College 1 – No response

12. DO YOU HAVE SOME HIGH SCHOOL?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	1 – Grade 10 No response – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 6
3	Nuxalk Nation Transition House Bella Coola, BC	1 – Grade 10 No response – 5
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 5 No response – 1
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1 No response – 5
6	Millbrook Family Treatment Centre Millbrook, NS	Grade 10 – 1 Grade 11 – 1 GED – 1 No response – 3
7	Waseya House Kitigan Zibi, QC	Yes – 5 No response – 1

13. DO YOU HAVE A HIGH SCHOOL DIPLOMA?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 2 No – 2 No response – 2
2	Eagle's Nest Stoney Family Shelter Morley, AB	No – 6
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 5 No – 1
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 4 No – 1 No response – 1
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 5 No response – 1
6	Millbrook Family Treatment Centre Millbrook, NS	No – 6
7	Waseya House Kitigan Zibi, QC	Yes – 4 No – 1 No response – 1



14. HAVE YOU GONE FOR TRADES TRAINING OR COLLEGE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1 Not applicable – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 3 No – 3
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 3, Nuxalk College, Administration certificate, Bookkeeping No – 1 No response – 2
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 3 No – 1 No response – 2
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2, Associate Degree No response – 4
6	Millbrook Family Treatment Centre Millbrook, NS	No – 6
7	Waseya House Kitigan Zibi, QC	Yes – 4 No – 2

15. DO YOU HAVE A CERTIFICATE OR DIPLOMA?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 4 Not applicable – 2
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 4 No – 2
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 2, bookkeeping, FNPA diploma No – 1 No response – 3
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 4 No – 2
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2, teaching certificate No response – 4
6	Millbrook Family Treatment Centre Millbrook, NS	No – 1 No response – 5
7	Waseya House Kitigan Zibi, QC	Yes – 3 No – 3

16. DO YOU HAVE SOME UNIVERSITY EDUCATION?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1 No – 2 No response – 3
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 4
3	Nuxalk Nation Transition House Bella Coola, BC	No – 1 No response – 5
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 1 No – 2 No response – 1
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2, BSW credits, n/r, courses at McGill University No – 1 No response – 3
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 1, some courses No response – 5
7	Waseya House Kitigan Zibi, QC	Yes – 2 No – 2 No response – 2

17. DO YOU HAVE A BACHELOR DEGREE OR HIGHER?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1, BSW No – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 1 No – 5
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 1, social work courses No – 1 No responses – 4
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 1 No – 2 No response – 3
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1 No response – 4
6	Millbrook Family Treatment Centre Millbrook, NS	No – 6
7	Waseya House Kitigan Zibi, QC	No – 2 No response – 4



18. DO YOU HAVE OTHER SCHOOLING/TRAINING?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1, home care training No response – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 4, Life skills training, CYIM No – 2
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 4, FN Public Administration, admin training (5 courses), Children who Witness Abuse at Transition House No – 2
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 4 No – 2
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1, Medical Lab Technician No – 5
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 2 No – 4
7	Waseya House Kitigan Zibi, QC	Yes – 2, Crisis intervention, MCSE, administrative office No response – 4

19. WHAT IS YOUR APPROXIMATE HOUSEHOLD INCOME?

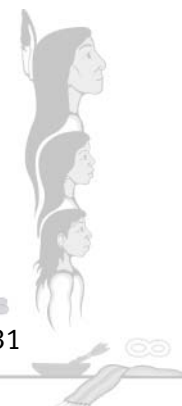
	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Under \$10,000 – 1 \$10,000 - \$19,000 – 2 \$40,000 – \$59,000 – 2 Choose not to answer – 1
2	Eagle's Nest Stoney Family Shelter Morley, AB	Under \$10,000 – 1 \$10,000 - \$19,000 – 1 \$20,000 - \$39,000 – 1 \$40,000 - \$59,000 – 1 Choose not to answer – 2
3	Nuxalk Nation Transition House Bella Coola, BC	\$10,000 - \$19,000 – 1 \$20,000 - \$39,000 – 3 \$40,000 - \$ 59,000 – 1 Choose not to answer – 2
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	\$20,000 - \$39,000 – 3 Choose not to answer – 3
5	Akwesasne Family Violence Program Akwesasne, ON	Under \$10,000 – 3 \$40,000 - \$59,000 – 1 \$60,000 - \$79,000 – 1 Choose not to answer – 1
6	Millbrook Family Treatment Centre Millbrook, NS	Under \$10,000 – 1 \$10,000 - \$19,000 – 1 Choose not to answer – 3
7	Waseya House Kitigan Zibi, QC	Under \$10,000 – 1 \$10,000 - \$19,000 – 2 \$20,000 - \$39,000 – 3

20. DO YOU RECEIVE FINANCIAL ASSISTANCE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1 No – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 4
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 1 No – 2 Partner deceased. On early retirement. No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 2 No – 1 Not applicable – 3
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 3, Ontario works social assistance, ODSP, sort of No – 3
6	Millbrook Family Treatment Centre Millbrook, NS	No – 6
7	Waseya House Kitigan Zibi, QC	Yes – 3 No – 2 Not applicable – 1

21. IS YOUR PARTNER RECEIVING FINANCIAL ASSISTANCE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No – 5 No response – 1
2	Eagle's Nest Stoney Family Shelter Morley, AB	No – 5 No response – 1
3	Nuxalk Nation Transition House Bella Coola, BC	No – 4 OAP – 1 No response – 1
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No – 3 Not applicable – 3
5	Akwesasne Family Violence Program Akwesasne, ON	No – 6
6	Millbrook Family Treatment Centre Millbrook, NS	No – 3 Yes – 2 Deceased – 1
7	Waseya House Kitigan Zibi, QC	No – 3 Not applicable – 3



22. ARE YOU CURRENTLY EMPLOYED OR SELF- EMPLOYED WITH AN INCOME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 5 No – 1
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 4
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 4 No – 1 No response – 1
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 4 No – 1 No response – 1
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2 No – 2 Part-time – 1 No response – 1
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 2 No – 3 Part-time – 1
7	Waseya House Kitigan Zibi, QC	Yes – 2 No – 4

23. IS YOUR PARTNER CURRENTLY EMPLOYED OUTSIDE THE HOME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 3 No – 2 No response – 1
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 2 No response – 2
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 1 No – 2 No response/ applicable – 3
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	2 said don't know, 2 said yes and 2 said n/r.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2 No – 2 Don't know – 1 Not applicable – 1
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 1 No – 2 No response/ applicable – 3
7	Waseya House Kitigan Zibi, QC	Yes – 3 No – 1; Seasonally – 1 No response – 1

24. ARE THERE PHYSICAL OR MENTAL DISABILITIES OR SPECIAL NEEDS?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No – 6
2	Eagle's Nest Stoney Family Shelter Morley, AB	No – 5 No response – 1
3	Nuxalk Nation Transition House Bella Coola, BC	No – 5 No response – 1
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 2 No – 3 No response – 1
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 3 : children in IEP courses at school due to moving around to flee family violence, physically handicapped with mental health issues. No – 3
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – I am in a wheelchair Yes – 2 No – 3
7	Waseya House Kitigan Zibi, QC	Yes – 2 No – 4

25. DO YOU OWN LAND OR CP IN YOUR NAME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No - 6
2	Eagle's Nest Stoney Family Shelter Morley, AB	No - 6
3	Nuxalk Nation Transition House Bella Coola, BC	No - 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 1 No – 5
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 1 No – 4 No response – 1
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 2 No – 4
7	Waseya House Kitigan Zibi, QC	1 – in both names 1 – own name only 4 – No



26. ARE YOU IN A COMMON-LAW RELATIONSHIP? ¹²

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No – 6
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 2 No – 2 Sometimes – 1 No response – 1
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

27. ARE YOU IN A SAME-SEX RELATIONSHIP?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No
2	Eagle's Nest Stoney Family Shelter Morley, AB	No
3	Nuxalk Nation Transition House Bella Coola, BC	No
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No
5	Akwesasne Family Violence Program Akwesasne, ON	No
6	Millbrook Family Treatment Centre Millbrook, NS	No
7	Waseya House Kitigan Zibi, QC	No

¹² This is one of eight questions that were withdrawn from the questionnaire after the first two consultations. It was felt that the answers were not of particular relevance to the study, and/or that the answers were provided in another format by other questions. The consultants do not feel that the study was prejudiced in any way because of the withdrawal of this question.

28. WHO CURRENTLY HAS (HAD) RIGHTS TO FAMILY HOME DURING MARRIAGE/RELATIONSHIPS? ¹³

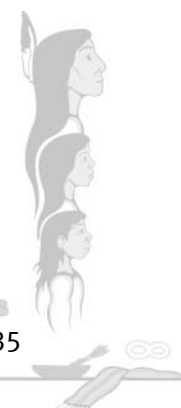
	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Me; husband; partner; both of us (3)
2	Eagle's Nest Stoney Family Shelter Morley, AB	Father - mother-in-law; the man (2); me, both of us (2)
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

29. WHAT WOULD START THE PROCESS FOR PROPERTY DIVISION (SEPARATION/DIVORCE)? ¹⁴

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	4 – separation 1 – divorce 1 – death of spouse
2	Eagle's Nest Stoney Family Shelter Morley, AB	4 – separation 1 – no 1 – n/a.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

13 This is one of eight questions that were withdrawn from the questionnaire after the first two consultations. It was felt that the answers were not of particular relevance to the study, and/or that the answers were provided in another format by other questions. The consultants do not feel that the study was prejudiced in any way because of the withdrawal of this question.

14 This is one of eight questions that were withdrawn from the questionnaire after the first two consultations. It was felt that the answers were not of particular relevance to the study, and/or that the answers were provided in another format by other questions. The consultants do not feel that the study was prejudiced in any way because of the withdrawal of this question

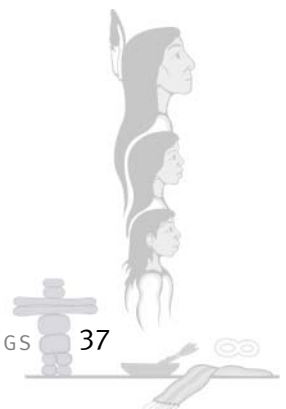


30. DO YOU KNOW OF A FORMULA FOR THE DIVISION OF MATRIMONIAL REAL PROPERTY?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1 (50/50) No – 4 1 said wife and children get the house and property
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes – 1 (50/50) No – 5
3	Nuxalk Nation Transition House Bella Coola, BC	Not if it impacts negatively on children. Caregiver and children should have home. Adapt provincial laws to FNs by-laws. Depends on the situation. No response.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 2 No – 2 No response – 2 Few band members have money and they are the only ones who can buy land so it might not be fair in terms of land value. Decision should be made by parties involved.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 3. Equality part of Native heritage especially where children are concerned. If agreed to by both parties. No – 2. It should be up to band by-laws. No response.
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 5. For the safety and well-being of the child. No – 1
7	Waseya House Kitigan Zibi, QC	Yes – 5. If there are no other solutions, you should receive what you put in if you are forced to leave. The women and children should have the home. This may have worked in my situation. To make it equal to both No – 1. Chief and Council should be involved to work this out.

31. DO YOU HAVE A MORTGAGE REGISTERED IN YOUR NAME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes – 1 No – 5
2	Eagle's Nest Stoney Family Shelter Morley, AB	No – 5 said no Do not need one – 1
3	Nuxalk Nation Transition House Bella Coola, BC	No – 6
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Nobody had a mortgage with the Band. 1 said not anymore
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 4 No – 2
6	Millbrook Family Treatment Centre Millbrook, NS	Yes – 4 No – 1 Don't know – 1
7	Waseya House Kitigan Zibi, QC	Yes – 4 No – 2



32. DO YOU THINK PROVINCIAL/TERRITORIAL LAWS SHOULD APPLY TO THE RESERVE IN ANY WAY THAT WOULD CHANGE THE RIGHTS THAT A FIRST NATIONS INDIVIDUAL HAS TO THEIR RESERVE LAND? EXPLAIN.

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes, especially when a spouse or partner dies. Yes, provincial laws would have to apply the <i>Homesteads Act</i> . Yes, not sure why. Yes. 1 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	No. Undecided. A FN should have an opportunity to develop rules but within a timeframe – then the provincial laws could be brought in. It is the decision of the Chiefs and Council. 1 no response.
3	Nuxalk Nation Transition House Bella Coola, BC	Adapt provincial laws to FN by-laws. Both partners' names on CP and mortgage to protect children's interest. Only if it changes for the betterment of our people. 1 had no response.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes. No. What would they take back in return – my taxes? Without changing FN rights to land, provincial law could apply after a break-up. Only until FNs develop own laws. 2 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes, to enforce the laws on the rez. Develop laws to protect women and children. Women simply need equality. Our own laws should include the <i>Human Rights Act</i> . No, FN laws should supersede any other law.
6	Millbrook Family Treatment Centre Millbrook, NS	No. They have taken so much from us already.
7	Waseya House Kitigan Zibi, QC	If you paid into what you own, you should be allowed to keep what you own. If it's good for the women's rights. Depends on the laws. It should be more equal. No, to own your own land

33. DO YOU THINK PROVINCIAL OR TERRITORIAL LAWS SHOULD ORDER THE SALE OF A HOME ON A RESERVE TO DIVIDE ITS VALUE BETWEEN SPOUSES? EXPLAIN.

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes. Women need to have resources. Our houses should be individually owned after being paid off. 1 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes. No. The houses belong to the band. Decision should be made by parties involved, with chief and council. Children should be considered.
3	Nuxalk Nation Transition House Bella Coola, BC	Not if it impacts negatively on children. No caregiver and children should have home. Adapt Provincial laws to FN by-laws. Depends on situation. 1 had no response.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes, No. Band members have money – and they are the only ones who can buy land so it might not be fair in terms of land value. Decision should be made by parties involved. 2 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes, equality part of Native heritage especially where children are concerned. Yes, if agreed to by both parties. No, it should be up to band by-laws.
6	Millbrook Family Treatment Centre Millbrook, NS	Yes for the safety and well-being of the child. No.
7	Waseya House Kitigan Zibi, QC	Yes, if there are no other solutions. You should receive what you put in if you are forced to leave. The women and children should have the home. Yes, this may have worked in my situation. No, chief and council should be involved to work out. Yes, to make it equal to both.

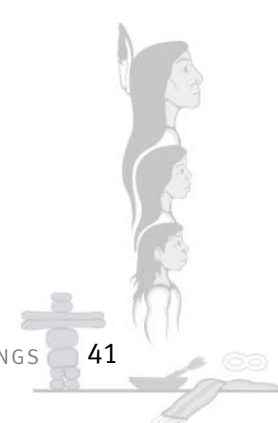


34. DO YOU THINK PROVINCIAL OR TERRITORIAL LAWS SHOULD GIVE TEMPORARY POSSESSION OF THE FAMILY HOME (INCLUDING RENTAL UNITS) TO ONE SPOUSE? EXPLAIN.

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes, it should go to the caregiver to protect the interest of the children in the event of a death or break-up. 1 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes, it should go to the caregiver to protect the interest of the children. No. 1 had no response.
3	Nuxalk Nation Transition House Bella Coola, BC	Yes. No. Adapt Provincial laws to FN by-laws. Yes, if victim is caregiver.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes. Only after traditional methods fail. 2 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes, the law should provide the caregiver. Should remain in the home. Yes. The woman should get the house and the children in accordance with matrilineal societal traditions.
6	Millbrook Family Treatment Centre Millbrook, NS	Yes, the abuser should leave the home. Children should come first.
7	Waseya House Kitigan Zibi, QC	Yes. I would have to say whom ever takes care of the children should be entitled to the home and everything needed for the children. Should be equal for both partners and who ever has children. This should apply to the parent that has the children. Yes, whoever has custody of the children. Yes, to whoever cares for the children. To whoever has the children.

35. DO YOU THINK PROVINCIAL OR TERRITORIAL LAWS SHOULD PREVENT ONE SPOUSE FROM SELLING THEIR RIGHT OR INTEREST IN (THEIR SHARE OF) THE FAMILY HOME ON A RESERVE WITHOUT THE APPROVAL OF THE OTHER SPOUSE? EXPLAIN.

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Yes. No, We cannot purchase our houses. Only off-reserve. Where would the women and children live? One parent might not want to leave the home. Protect women and children. 1 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes. No, We don't own our houses – they belong to the band. It is unfair to the children. Would the house be rented out?
3	Nuxalk Nation Transition House Bella Coola, BC	Yes, to ensure children have a home. Both partners should agree for children's welfare. 3 had no responses.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes. No. Everyone has the right to be informed. The interest of the children must be protected, Pre-matrimonial agreements might be in order. 3 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes. It should be split in half or one party buy the other's portion. Yes, both parties should be in agreement.
6	Millbrook Family Treatment Centre Millbrook, NS	Yes, if one sells the other one may receive nothing from the sale. Why should only one benefit? All were concerned with how this would affect children.
7	Waseya House Kitigan Zibi, QC	Yes. If you have been paying into a home, there should be a law that will prevent the sale of the family home. It needs the women's approval. Yes, the other spouse should agree. No, it should be worked between partners. No, because they've built their life together, it should be separated together, if possible.

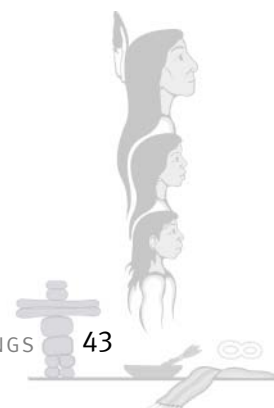


36. WHAT DO YOU THINK SHOULD HAPPEN WHEN THERE IS FAMILY VIOLENCE IN THE HOME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Violent person should be escorted out. Victim's safety first - determine what to do after. They should get out and get help.
2	Eagle's Nest Stoney Family Shelter Morley, AB	The violent person should be escorted out. They should have to get help right away for the violent person. Protect victim.
3	Nuxalk Nation Transition House Bella Coola, BC	Abuser should leave. Protect caregiver and children in home.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	The violent person should be escorted out. Give temporary ownership to the victim. 2 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Remove the abuser. They should get immediate help before violence escalates.
6	Millbrook Family Treatment Centre Millbrook, NS	The abuser should be evicted, especially if they have not been awarded the home. The victim should leave. Charges should be laid. Divide it up equally.
7	Waseya House Kitigan Zibi, QC	Remove the abuser. The man should leave. Children should be the priority. Remove the abuser. Seek help to fix the problems or separate. Try to get help before separation or leave, if possible.

37. WHAT DO YOU THINK SHOULD HAPPEN IF MULTIPLE FAMILIES LIVE IN THE SAME HOME?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Sometimes they have to go to family elsewhere. I haven't lived with multiple families. The home should go to whoever has the greatest need. Consideration of whomever is living there should make it easier to decide. 2 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Owner's relative gets to stay. The children should get the home. Can't answer this question. Very hard on everyone involved. Sometimes they have to go to family elsewhere. Remove abuser.
3	Nuxalk Nation Transition House Bella Coola, BC	Home owners stays. Others should move out. Evict abuse. Protect all family members.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Original owner's decisions. Family of members take precedent. 4 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Remove the abuser. Depends on finances. Who the original owner is. There should be a housing agreement.
6	Millbrook Family Treatment Centre Millbrook, NS	That's Mi'qmac culture. Several responses had question marks on this – "don't know". One had no response.
7	Waseya House Kitigan Zibi, QC	Whomever owns the home. Agreements should be made on whoever pays the rent. Sell the house and divide the money. Remove the abuser. I don't think it is a good idea.

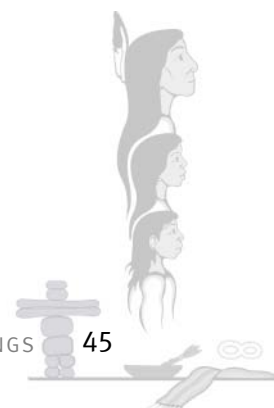


38. WHAT SHOULD HAPPEN TO PROTECT THE RIGHTS OF NON-MEMBER SPOUSES?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	They should have security and safety. Need the protection and safety of home. Given equal rights and protection. They should not have to leave the reserve. There should be something put in place for them so they are not left out. Same consideration for each family member.
2	Eagle's Nest Stoney Family Shelter Morley, AB	They should leave the reserve. There should be law to protect them, too. They should not be allowed to stay on the rez. If the custodial spouse is a non-member but kids are, the children should have a CP. If the non-member is violent then they should leave.
3	Nuxalk Nation Transition House Bella Coola, BC	Establish band membership and ownership. Non-native spouse should leave reserve. Protect the main caregiver. Not sure.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	It depends if they are non-native. If the spouse is a non-member but has custody of the children they can stay. Yes, only if children are involved. Yes. 2 had no response.
5	Akwesasne Family Violence Program Akwesasne, ON	Yes, compensation to be in dollars only. Yes – they're human too. No, unless very special circumstances. Yes, if they have the children with them, and, depends on the situation.
6	Millbrook Family Treatment Centre Millbrook, NS	All said yes, but only from partner violence, especially if caregiver of children of the union experiences the violence.
7	Waseya House Kitigan Zibi, QC	On reserve, I would say no. They should be protected if they are married and have children. Yes, if there are children under 18 years of age. All native and non-native should be protected. Yes, if they are married with children. They should be protected if they are caring for the children.

39. HOW SHOULD MRP LAWS TAKE INTO ACCOUNT FIRST NATIONS TRADITIONAL AND CULTURAL VALUES AS THEY RELATE TO FAMILY AND LAND?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	What currently do we have in place for families? What would be put in place if land policy is put in place? Change is far off and a long time away for SK FN. Traditionally SK women stayed in their homes and men moved to be with them. We need to go back to this tradition. 2 had no responses.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Ask Elders. Many reserves would not agree to change any laws. MRP should take in to account family land. Laws should be made by referendum, yes.
3	Nuxalk Nation Transition House Bella Coola, BC	Eliminate traditional view that the oldest male would inherit everything. Give caregiver land and home. Adapt provincial laws to FN by-laws.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes because the laws live in the home also. Yes, first and foremost cultural methods should be employed. 3 had no responses.
5	Akwesasne Family Violence Program Akwesasne, ON	In matrilineal societies women are the landowners. Be careful about making drastic changes all at once. Women should be treated equally. FN should make a collective agreement to reflect traditional values. 1 had no response.
6	Millbrook Family Treatment Centre Millbrook, NS	Yes traditionally. Yes, to protect mothers and children. Incorporate traditional laws as they pertain to MRP.
7	Waseya House Kitigan Zibi, QC	In my opinion it should be the oldest person in the family to take over. It should go to the family members. Traditional and cultural values vary. The children should concern all. The children need stability. Look at both ways. Use the law and be able to maintain traditional ways.



40. SHOULD RIGHTS TO THE FAMILY HOME UPON MARRIAGE BREAKDOWN APPLY ON RESERVE?¹⁵

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	3 said caregiver and children should have the home. 1 said yes – if all safety measures are taken. 1 said yes. 1 had no response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Yes - because women and children have the least say. Should be adopted by council and take cultural values in to consideration. Yes, on reserve families need to know about MRP legislation. Children should get the home.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

41. HOW COULD YOU OWN LAND ON RESERVE?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Not sure. Land management plan. Through family. Only if you were a veteran in SK. 2 had no responses.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Will need chief and council support. Has to be land that can't be sold outside of band membership. Through family. I don't know. 1 had no response.
3	Nuxalk Nation Transition House Bella Coola, BC	Yes – 1 No – 4 Yes and No – 1
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Yes – 1 No – 4
5	Akwesasne Family Violence Program Akwesasne, ON	Yes – 2 No – 3 No response – 1
6	Millbrook Family Treatment Centre Millbrook, NS	No – 3 No response – 3
7	Waseya House Kitigan Zibi, QC	Yes – 2. CP in both names. No – 4

¹⁵ This is one of eight questions that were withdrawn from the questionnaire, after the first two consultations. It was felt that the answers were not of particular relevance to the study, and/or that the answers were provided in another format by other questions. The consultants do not feel that the study was prejudiced in any way because of the withdrawal of this question.

42. SHOULD THERE BE RIGHTS TO THE FAMILY HOME UPON DEATH OF A SPOUSE/PARTNER? ¹⁶

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Women need to feel protected and have rights for possession. Your rights remain intact, as long as you occupy the home. Yes, if they are common-law. Goes to member children. This should go to spouse and then children. No response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Laws are needed to be applied concerning this matter. Yes, on Stoney Rez there are a lot of problems. Goes to spouse if there are member children. Lease to spouse if there are no members. Yes. This should go to widow's children.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

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43. WHAT DO YOU THINK SHOULD BE DONE TO INSURE THE BEST INTERESTS OF THE CHILD/CHILDREN?

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Depending on the courts. Children are our assets. Whatever the children want. Children stay in their home with the caregiver. Ensure programs meet their needs. A family circle to decide is traditional way.
2	Eagle's Nest Stoney Family Shelter Morley, AB	If both parents are not alcoholics maybe visitation. Children should get the house. Child needs the family home. Ensure the child has shelter and is safe. Children stay in their home with the caregiver.
3	Nuxalk Nation Transition House Bella Coola, BC	Remove abusive parent. Oldest child should have home. Give caregiver use of home. Ensure their safety by law
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	A guarantee that the child is secure. Property should be secured for children of members. Custodial parent keeps the home. Provincial laws work in cooperation with committee or FN group. 2 gave no responses.
5	Akwesasne Family Violence Program Akwesasne, ON	Children should be protected and Akwesasne child and family services always acts in the best interest of the child. Children should be able to stay in the family home with the caregiver. Another added that stability for the children should be the priority. The law should force parents to get help after the first family violence incident. The child should always stay with her mother.
6	Millbrook Family Treatment Centre Millbrook, NS	Children rights to an abuse-free life should be protected first. Get the child to a safe place. Children are our future and must be considered first.
7	Waseya House Kitigan Zibi, QC	A responsible parent always protects the children. They should have their names on any documents. Counseling or evaluation from objective sources is necessary to determine the safety of the children. The house or land should be given to the parent that has custody. The issues of ownership should be decided when all children are grown. The children should stay in the home with the mother. Make sure they are in a safe and secure environment away from unhealthy life style and aggressive individuals.

44. HOW IS DIVORCE SEPARATION VIEWED BY THE LEADERS?¹⁷

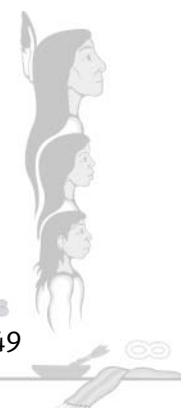
	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	2 said there is no support. It's common. 2 said it's not noticed, Leaders frown on divorce.
2	Eagle's Nest Stoney Family Shelter Morley, AB	The male gets the house. It's frowned upon – the victim stays with the spouse. It's ignored – not a political priority. No response.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

45. HOW IS DIVORCE VIEWED BY THE COMMUNITY?¹⁸

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	No support. High. Individuals feel ostracized. People take sides. Community frowns on divorce. No response
2	Eagle's Nest Stoney Family Shelter Morley, AB	It's not. Anger, sometimes physical. People ignore it or take sides. Stay with spouse, Women and children end up leaving due to no land area.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

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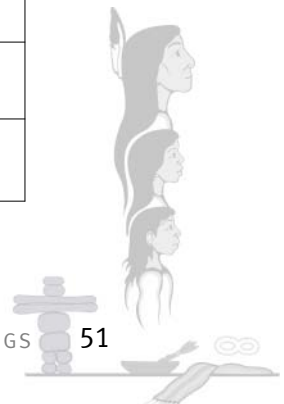
46. WHAT DO YOU THINK IS THE BEST OPTION TO DEAL WITH MRP ISSUES?¹⁹

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Unsure at this point. Option 1. Option 2. Option 3. No response.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Unsure at this point. FN should have authority but should be a time period then provincial laws apply. Laws need to be applied for children's safety and rights. Number 4 but add a little bit of # 2 and 3. Option 3 or 4.
3	Nuxalk Nation Transition House Bella Coola, BC	No response
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	No response
5	Akwesasne Family Violence Program Akwesasne, ON	No response
6	Millbrook Family Treatment Centre Millbrook, NS	No response
7	Waseya House Kitigan Zibi, QC	No response

¹⁹ This is one of eight questions that were withdrawn from the questionnaire after the first two consultations. It was felt that the answers were not of particular relevance to the study, and/or that the answers were provided in another format by other questions. The consultants do not feel that the study was prejudiced in any way because of the withdrawal of this question.

ADDITIONAL COMMENTS :

	SHELTER LOCATION	RESPONSE
1	Fort Qu'Appelle Safe Haven Shelter Fort Qu'Appelle, SK	Most times the woman leaves the house and she will usually return to the violence due to circumstances. Something has to change to help the women and children who flee domestic violence, drug and alcohol abuse with nothing to help them. 2007 seems like a long way away. Properties should go to the women and children.
2	Eagle's Nest Stoney Family Shelter Morley, AB	Good presentation. MRP cannot work on reserve as the Indian Act refers to us. Maybe the other two groups acknowledged in the act. Because they are out there owning property already. FN will not benefit at this time. As long as the river flows, the grass grows, and the sun rises, we were put into reserves across Canada from east to west for Her Majesty to protect us.
3	Nuxalk Nation Transition House Bella Coola, BC	The powers given to chief and council to implement by-laws should be used on reserve. Use the provincial laws as a guide, take sections that will best suit our needs. Make it work for us. Title the by-law MRP and Housing. I do not feel that provincial law should come on reserve because of mistrust issues. I do feel that failing a solution from local elected council, that court action on the freedom, human rights issues should be taken.
4	Nimkii-Naabkawagan Family Crisis Shelter Batchewana, ON	Where are the chiefs? They should sit with us. Flow charts are needed to direct us. I don't know what rights I have – my husband has CP in his name only. There are no children involved. Am I going to be asked to leave the reserve? He has left the home for 1.5 years and is trying to get it back through the courts. He is the cause of our break-up. All circumstances should be considered. E.g., no children or common-law. Traditional circle first. Go to province and government as last resort.
5	Akwesasne Family Violence Program Akwesasne, ON	Each band office to develop own laws. No law should protect an abuser whether from the community or not. The violent person should be removed from the home and forced to get help. New York State laws should apply to protect the woman and the child. Men need to be educated on family violence.
6	Millbrook Family Treatment Centre Millbrook, NS	No comment.
7	Waseya House Kitigan Zibi, QC	No comment.





6. ISSUES



These are issues that arose from **NACAFV's** consultation process only. The authors acknowledge that there are many more issues that were not discussed in its sessions, and that this listing is not at all exhaustive.

PRIMARY CONCERN:

Out of all reserves in Canada, the overwhelming majority are under the authority of the *Indian Act*²⁰. The Act does not address the issue of matrimonial real property (MRP) division when marriage, or marriage-type relationships break down. As well, the Act does not recognize any First Nations' by-laws that may address some (or all) aspects of MRP.

The resolution of MRP issues for mainstream Canadian women began in the 1970's with the Courts' recognition of discrimination against women regarding these rights when marriages ended. Consequently, through legislative action, provincial and territorial family law statutes bestow the Courts with particular powers to allot or change rights of possession in relation to MRP. The goal is to divide, in a fair and equitable manner, the matrimonial home to save women and their children from financial stress, and possible subsequent impoverishment.

However, provincial and territorial family laws do not apply on-reserve because reserves have "legal title to which is vested in Her Majesty..." (the *Indian Act*). They cannot alter individual and/or collective interests within reserve boundaries. The famous on-reserve *MRP Derrickson case*²¹ was heard in the Supreme Court of Canada and the wording is, as follows: "the right to possession of lands on an Indian reserve is manifestly of the very essence of the federal exclusive legislative power under s. 91(24) of the *Constitution Act, 1867*. It follows that provincial legislation cannot apply to the right of possession of Indian reserve lands."

In another famous on-reserve case, *Paul*²², the Supreme Court of Canada reiterated and upheld that provincial and territorial family law cannot grant orders of interim occupation of on-reserve matrimonial residences. The Supreme Court of Canada strictly applied the principle of federal paramountcy, in which federal legislation would or could prevail over provincial and territorial legislation. These jurisdictional dynamics do not resolve MRP concerns on-reserve, and indeed, only serve to complicate them further. Immediate and longer-term problems on MRP faced by

20 Source: Eric McGregor, Senior Analyst First Nations and Northern Statistics Section, INAC. He notes that according to INAC's *Indian Lands Registry System*, there are 2,923 officially designated reserves as of January 3, 2007. This excludes lands identified as "Indian Settlements." Of these 2,923, he found that 131 are affiliated with First Nations covered by self-government agreements, leaving 2,792 *Indian Act* reserves.

Note that many of the 2,900+ reserves are uninhabited. In terms of inhabited reserves, we usually quote about 1,100. Our basis for this is the number of reserves delineated as Census Subdivisions (CSDS) by the Statistics Canada Geography Division. Geography Division's main provision for delineating a community with a CSD code is that it must be populated, or have the potential to be populated.

21 *Derrickson v. Derrickson* [1986] 1 S.C.R. 285. (S.C.C.).

22 *Paul v. Paul* (1986), 26 *Dominion Law Reports* (4th) 175 (S.C.C.).



First Nations women and their children must be resolved pragmatically so that they are no longer forced to leave the family home during marital break-ups, which are already traumatic.

The essential issue of Aboriginal women's and children's poverty is articulated and recognized by the United Nations in its findings in response to Canada's reports on its international human and women's rights obligations²³. These findings must now be addressed, in a genuine and sincere manner, in Canada.

OTHER ISSUES:

- **DOES CP PROTECT A WOMAN WHEN A RELATIONSHIP FAILS ?**

A CP in a wife's name does not necessarily prevent her from having to leave the matrimonial home when her marriage or relationship fails, and neither necessarily does joint CP ownership with her spouse. For example, it is legally impossible to force an offending spouse out of an on-reserve matrimonial house because the Courts do not have the authority to change reserve land status as articulated by a CP²⁴ — reserve lands would have to become provincial in order for provincial law to apply to them.

Unless her spouse is co-operative and agreeable, an Aboriginal woman will experience difficulty even where she exclusively holds a CP. This is because provinces can neither issue nor enforce interim orders for the house for exclusive possession—this is a legislative void. Courts cannot alter or make any changes that are established by a CP²⁵. Therefore, a CP may not protect a woman's right to the matrimonial home when her marriage (or marriage-type) relationship breaks down. This is particularly true when the Chief and Council do not support her.

- **CHIEF AND COUNCIL**

As noted in the previous point, the Chief and Council may not back up a woman and her children in MRP division when a marriage or relationship on-reserve breaks up. Consistent across the country is the fact that the Chief and Council form of government favours men. There are several reasons for this:

- i. The *Indian Act* legislated a patriarchal system with patriarchal laws that favour men, not women. Combined with the historical influence of missionaries who also propelled patriarchal systems, it is easy to see why some would see patriarchy as “traditional” to Native ways of life. Although some Aboriginal societies were patriarchal, they were not so in the sense that Canadian society is patriarchal. Those First Nations that were matriarchal in pre-Contact times struggle to maintain their true traditions because of the dichotomy with the *Indian Act* and the persuasions of outside religions.

23 Principal Subjects of Concern” in *Concluding Observation 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.unhchr.ch/tbs/doc.nsf>

24 *Supra*, Derrickson.

25 *Supra*, Derrickson.

ii. First Nations male governments were compulsory under the *Indian Act*. Over the generations, the male domination in Aboriginal communities' governance has become "normalized." In recent times, these male-controlled governments (and other organizations) are often resistant to First Nations women's struggles to maintain or return to their homes after the breakdown of marital or marital-type relationships.

iii. Most Chiefs and Councils are still male-dominated. For example, according to the Band Governance Officer in Elections, as of January 2007 there are 109 female chiefs in Canada and 480 male chiefs.²⁶

iv. No one, male or female, readily and willingly gives up power.

It is essential that any MRP-related legislation considers these aspects and works towards eliminating these problems, rather than ignoring the reality of how they work against Aboriginal women.

- **LACK OF HUMAN RIGHTS ON RESERVES (FOR ALL RESERVE CITIZENS, NOT ONLY WOMEN)**

This issue is also known as "the repeal of Section 67 of the *Canadian Human Rights Act*" (CHRA) and is an area that directly relates to MRP concerns. Section 67 of the CHRA states that: "Nothing in this Act affects any provision of the *Indian Act* or any provision made under or pursuant to that Act." Briefly, this means that no First Nations person (man or woman) can bring a human rights complaint against government action (such as the infamous Bill C-31 of the *Indian Act*) which excludes two categories of people from its benefits²⁷, nor can anyone bring a claim against a band operating under a provision of the *Indian Act*—such as for membership, housing, education decisions.

Meaningful consultation is needed with those living on-reserve, who are directly impacted by this legislative gap; this inclusion will ensure the recognition, legitimacy and enforcement of human rights for everyone on reserve, including governance bodies. As well, there needs to be an effective implementation plan prior to the initiation of any change, and both collective and individual rights need to be safeguarded in any repeal outcome.

Interpretative provision is essential so that Aboriginal people and the Crown can both ensure the fundamental human rights of Aboriginal women on-reserve. Currently, although the CHRA was passed 30 years ago, Aboriginal people are the only group excluded from any human rights dialogue and access to human rights redress in this country.

There are only a few ways by which Aboriginal women could benefit from CHRA changes—through housing and band membership policies that are receptive towards them.

26 Source: Eric McGregor, Senior Analyst, First Nations and Northern Statistics Division, INAC. He notes that the sum of the two numbers (589) is not consistent with the number of First Nations in Canada. Some bands have more than one chief while information is not available for a number of others

27 These categories are: women who became status by marrying a status Indian and then later lost the status by subsequently marrying a non-Indian; and children with Aboriginal mothers who gained Indian status through marriage but whose fathers were not Indian. .



- **ENFORCEMENT**

Some chiefs and councils do not allow RCMP and/or provincial police on the reserves. They may use internal police or have their own particular way of enforcing matters—some of which are unacceptable to the dignity and human rights of women. This way of solving problems—implemented mostly by male-dominated chiefs and councils—is legislated by the *Indian Act*, by which the majority of reserves are administered, favours men over women (see Section 3.2, 3.3 of this report).

The women interviewed expressed a desire for pragmatic and working enforcement mechanisms for present and future MRP-related issues. If, for example, a First Nation chose interim legislative options, the specified interim must be covered by real —meaning enforceable—protection for women and children, such as immediately removing perpetrators of violence from their homes if necessary.

- **ON-RESERVE AWARENESS OF MRP**

The women consulted had a low awareness level of MRP issues and of related provisions in their own First Nation’s governance system. There are advantages to being aware of the status quo, as the women discussed, but communication between Chief and Council and individual members is sometimes very poor, and at times, deliberately so. However, women and other reserve residents have to “make maps of their environment” so they can make adequate decisions based on those findings that will positively affect themselves and their children. Although awareness is so vital for women on-reserve in planning for beneficial lifestyles, it is often hard to gain awareness of MRP provisions.

As stated in the section on FNLMA: “The biggest hurdle for most community members is that they do not have a clear understanding about why the law is necessary (confusion regarding the issues) but once it is clarified, those working in the area of FNLMA find that the law then becomes accepted.”

Chiefs and Councils must work towards including everyone on their membership lists, and must work towards being transparent and accountable.

- **LACK OF ADEQUATE HOUSING ON-RESERVE/MULTIPLE FAMILIES LIVING IN MATRIMONIAL HOME**

This is an MRP concern because women having to leave their matrimonial homes often have nowhere else on the reserve to go, since there is a serious and chronic lack of adequate housing on most reserves in Canada. The already overcrowded condition of most houses on-reserve prevents women, especially those with children, from even temporarily staying at a friend’s or relative’s place. Children’s development may be seriously disadvantaged by lack of adequate space; their environment may be unsafe, and they may lack space to use their senses to explore their world because of the lack of freedom to move and crawl.

Multiple families living in crowded homes have little privacy and individual space, which

poses serious health risks, both directly and indirectly: spreading contagious illnesses, placing stress on the infrastructure of the house, increasing the likelihood of accidents, elevating stress levels, and decreasing the psychological well-being of those living within such homes.

The lack of available alternative housing options is a serious concern for women when their marriage (or marriage-type) relationships break down. Moving frequently is not a viable option because it erodes the sense of security for women and their children in times that are already stressful. When women and children frequently move, children have little opportunity to develop friendships and improve social skills. Women may be forced to move close to in search of accommodations for themselves and their children—leaving behind family and any support networks.

Without question, the ongoing acute housing shortage on most Canadian reserves is a crucial issue which must be considered and addressed in deriving MRP solutions.

- **DOMESTIC VIOLENCE**

This is a common cause of marital break-up, which is aggravated by the lack of options for victims. Only 37 women's shelters are located on, or very close to reserves. This issue is closely related to the serious lack of adequate housing on reserves, and is compounded by the trauma and suffering that domestic violence causes—including to those who witness it, who are often children.

There is no indication that the extent of domestic violence in Aboriginal communities is decreasing; rather, the opposite is true. For example:

1. *Canadian Centre for Justice Statistics (Vol. 25, no. 3)*: “Furthermore, Aboriginal people suffer disproportionately from spousal homicide, the most extreme form of domestic violence. According to the Homicide Survey, the spousal homicide rate from 1991 to 1999 was more than 8 times higher for Aboriginal women compared to non-Aboriginal women (47.2 per million couples vs. 5.8 per million couples) (Trainor and Mihorean, 2001).

2. *“The Daily”, Thursday, July 14, 2005 Family violence in Canada*: A statistical profile: “Overall, 21% of Aboriginal people, or 24% of Aboriginal women and 18% of Aboriginal men, said that they had suffered violence from a current or previous spouse or common-law partner in the five-year period up to 2004. This was the case for 7% of non-Aboriginal people.”²⁸

3. *The Director, Nukum Munik Women's Shelter in Sheshatshui, NL*: “There is an increase in the number of our Clients; this is because there's so much violence in the community now and we've had so many tragedies that our services need to be increased... There's so much Elder abuse, too, in the community but there's only so much we can do.” (Personal interview by author, October 2005)

Domestic violence propels the need to formulate solutions to MRP issues, for the health and well-being of women victims and their children.

²⁸ Source: Statistics Canada at <http://www.statcan.ca/Daily/English/050714/d050714a.htm>



- **MATRIMONIAL HOME IN CHILD'S NAME**

While this may sound like an ideal solution, it has serious flaws. For example, there are risks regarding emotional trauma, albeit unintentionally and unknowingly, of parents coercing the child to make serious life choices—should I allow Mom in here? Or Dad?

These responsibilities do not make the lives of children calm and peaceful; instead they can inhibit the development of the child's sense of self. No child should be placed in a position of having to make overwhelming life decisions such as this one. Either or both parents may exert power and control over the child to gain a certain outcome. Some parents may, at the same time, prevent or pressure them from telling anyone about ongoing dynamics and/or from seeking outside support. All children depend on their parents, and children's trust in both parents, particularly during divorce or separation, should be cultivated and enhanced— not further jeopardized.

However, having the matrimonial home in the children's names is not without merit. Both parents can seek, with proper outside guidance, long-term arrangements that can help all family members. For example, Mom and Dad could agree to the home being in the children's names, and could agree to revisit this arrangement at certain intervals. Such an agreement would give either parent, particularly Mom, time to adjust to the effects of the separation or divorce in a structured way, giving her the security of a home in which to rear her children while she prepares for the future.



7. RECOMMENDATIONS

Many participants maintained that it was only through the **NACAFV** presentation that they had ever heard of MRP and its accompanying issues, especially as MRP relates to on-reserve women. Most had not experienced the fair division of MRP when their marriages (or marriage-type relationships) had broken down, but this was accepted as normal for women and “that’s the way things are.” They knew very well, however, that these outcomes were not equitable and unbiased towards them and their children, and that real and lasting changes needed to be made. These women had never had any choice but to live with these outcomes because other recourse mechanisms were simply non-existent; women and children were forced to do whatever they could with the few support services available. Participants also see that those outcomes have not changed in any meaningful way over the years, and that women now are experiencing the same situation. In fact, because the housing crises have become more severe in most reserves, there is even more stress on those who have to leave their homes because of marital breakdown.

Further, many attendees suggested that the **NACAFV** consultation ought to be the first of many consultations that should educate women about all aspects of MRP. Topics that they said need discussion include :

- the historic development that brought about this dismal status quo,
- the different experiences and types of hardships that the women endure,
- how to use age-old traditional principles to resolve contemporary MRP issues, and
- how to set up MRP provisions for a better future for generations that follow.

These areas of discussion, they acknowledged, would be impossible in just a day or two.

While most women did not make well-formed actual recommendations, and understandably so, the guiding principles behind any MRP on-reserve solutions were extremely well-expressed and very strongly rooted in the traditions of their particular First Nation.

PRIMARY CONCERN :

- implement a system of MRP distribution after marital breakdown in a fair and just manner (not one that favours men, as it is now)
- all solutions should consider the security and safety of women and children
- use federal/provincial/territorial legislation, or parts thereof, in ways that are approved by the community and/or until the First Nation develops its own laws
- a First Nation should have time and opportunity to develop MRP regulations, which – then possibly having these implemented by provincial or federal law
- consider how MRP regulations can complement a First Nation’s bylaws, and not work contrary to them

- strongly consider how federal/ provincial/ territorial legislation will impact First Nations sovereignty; no abrogation of sovereignty
- do not compromise on sovereignty; we are the First Peoples
- do not change First Nations rights to land
- provincial law could apply after the breakdown of a marital (or marital-type of) relationship
- a First Nation should make a collective agreement to reflect traditional values

HEALING AND HEALTH

- secure, safe homes greatly contribute to health and healing
- the family needs support so overall health will improve
- strong families result in strong children who become leaders

BAND

- each band office should develop its own laws

COMMUNITY

- may not support women and children—women are often ostracized, and feel alienated; more empathetic approaches are needed
- people “take sides” in family breakups; in small towns and reserves where everyone knows everyone else, this is devastating
- most communities frown on separation and divorce; while no one likes to separate and divorce, it is a reality and is sometimes better in the long run
- wives are expected to “stick it out” and suffer silently; it is urgent that they learn more healthy ways of dealing with failing and failed relationships

DOES CP PROTECT A WOMAN WHEN A RELATIONSHIP FAILS ?

- ensure that a CP in a woman’s name gives her the right to the home when the marriage or relationship breaks down, and gives her protection from harassment and violence
- if a woman pays into her home, she should be allowed to keep at least that portion she has paid into it
- if a woman has been paying into a home, there should a law that will prevent the sale of the family home without her consent; the sale should require both parties’ approval
- a woman needs to be legally protected and have the right to choose if she wants to keep living in the family home and to have possession of it
- most times the woman leaves the home and if she returns, it is usually because no other options are available to start over again—more options should be made available



CHIEF AND COUNCIL

- Chiefs and Councils have to make intelligent, fair and equitable bylaws that support women and children
- most leaders frown on separation and divorce; they should acknowledge the reality of separation and divorce
- the powers of the Chief and Council to establish bylaws on-reserve should be used to implement MRP regulations
- Chiefs should be visible and sit with women when there are discussions like the one from **NACAFV**, and support women, and work with them to bring about an arrangement that works for everyone

LACK OF HUMAN RIGHTS ON RESERVES (FOR ALL RESERVE CITIZENS, NOT ONLY WOMEN)

- women need equality under reserve law and need to be treated equally and fairly
- First Nations' own laws should include the *Canadian Human Rights Act* (CHRA)
- in matrilineal societies women are the landowners; women should consider this in MRP solutions

ENFORCEMENT

- this is a very problematic area because of the different jurisdictions involved; these must be considered in light of who will do the enforcing
- fair and just laws must consider women's and children's rights, and these laws must be enforceable within reserve jurisdiction
- ensure that restraining orders are truly enforceable
- laws must be developed to ensure the safety and protection of women and children

AWARENESS OF EXISTING MRP PROVISIONS ON-RESERVE

- public awareness and community education in this area is essential for reserve residents
- forums and consultations are needed so that participants can ask questions about MRP and related issues
- not knowing these things puts women and children at a grave disadvantage

LACK OF ADEQUATE HOUSING ON-RESERVE/MULTIPLE FAMILIES LIVING IN MATRIMONIAL HOME

- relatives of the owner of the house (by CP) stay at the house, which is hard on marital relationships; this should be considered when making legislation or finding other solutions
- some contend that the children should get the home

- there are so many people involved and most reserve houses are overcrowded
- overcrowded living conditions are very hard on everyone, so more housing is needed on reserves
- if a woman and her children want to stay on the reserve after marriage break-up, there should be adequate housing to permit them to do this, instead of having to leave the reserve and go elsewhere

DOMESTIC VIOLENCE

counseling is necessary to help partners

- seek, as soon as possible, objective solutions from trained professionals regarding family problems
- decide if it is better to separate
- establish a strong foundation for family life which would provide safety and security, particularly where there are children
- the community should decide if the law should force parents to get help after the first family violence incident

Support

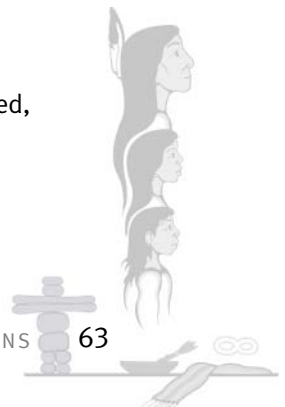
- violent person should be escorted out of the home
- the victim's safety should come first; then determine what to do afterwards
- something has to change to help women and children who flee domestic violence and drug and alcohol abuse

Education and training

- men need to be educated on family violence and receive proper program counseling
- women often don't know what rights they have, but it is very important that they know their rights
- women need education on MRP issues

Children

- children, most of all, need safety, security and protection; all solutions must keep this in mind
- both partners must agree on children's welfare
- children need stability
- children should have the right to an abuse-free life; children should be protected, first and foremost
- children are the future and must be considered first



Family and Elders

- too often, women and children have to leave the community/ reserve when the marriage (or relationship) breaks down, and become disconnected with reserve life; there must be adequate on-reserve facilities to prevent this from happening
- the advice and wisdom of Elders needs to be solicited and taken into account when formulating MRP solutions
- using a family circle to make decisions is traditional, and this should be utilized more
- consider and implement traditional circles and other customs first before going to the federal or provincial practices; using province and federal governments should be a “last resort”

Matrimonial Home in Child’s Name

- both partners’ names should be on a CP and any mortgage, to protect children’s interests
- women and children should have the matrimonial home
- the marital home should go to the caregiver to protect the interest of the children in the event of a breakup or death
- responsible parents always protect their children, so children should have their names on CP and mortgage documents, too; this would encourage greater responsibilities by parents towards their children

NACAFV’s MRP consultations demonstrated the concern and insight that women showed for themselves and their children in the traumatic life circumstances of marriage (or marriage-type) breakdowns. There were many recommendations, but it was difficult for participants to determine how to bring these into effect. Solutions were acknowledged to be collective, not individual, and would ideally involve support from all community members and the Chief and Council. As well, there was recognition that the First Nation would have to interact with provincial and federal governments, but these were received as minimal.

All participants recognized the difficulties involved in resolving the *Indian Act’s* neglect to allow for fair, just and equitable division of on-reserve matrimonial real property.





8. CONCLUSIONS

The MRP sessions conducted by consultants from the *National Aboriginal Circle Against Family Violence (NACAFV)* revealed several overriding themes:

- to the participants, the importance of providing proper security, safety and care for children is paramount;
- women desperately need access to a fair and equitable share of matrimonial real property when relationships with spouses or partners break down; women need resources to establish new lives for themselves and their children;
- the severe lack of on-reserve housing must be addressed so First Nations women, who generally have low incomes and are at higher risk of becoming homeless and having their children taken into care, have some housing options, rather than being forced to move off-reserve;
- the honouring of traditional ways, including those of matrilineal societies, must be upheld;
- collective solutions that include Chiefs and Councils must be sought; Chiefs and Councils must first educate themselves to MRP realities, and then work towards effective solutions for all parties; and,
- the sovereignty (or potential sovereignty) of the First Nations must be supported, and this may mean having as little as possible to do with provincial and/ or federal governments — although it is acknowledged that is probably impossible

Most women feel that change is imminent, even if the *Indian Act* changes come into effect later this year, as stated by the Minister; as well, it is noted that the present federal government has placed Aboriginal women as one of its stated priorities²⁹. Women feel strongly that all MRP legislation ought to unfold in a timely way that benefits First Nations women, and should not be pushed forward to meet federal political ends. If this were to happen, meaningful protection mechanisms for women could not be established, nor could long-term impacts to First Nations' individual and collective well-being be considered. What is critically needed is a sincere, understandable and user-friendly process that includes an implementation strategy—one with input from First Nations women.

Participants recognize that actual policies and practices on-reserve will take time to implement, especially for those First Nations who opt to develop their own MRP by-laws. They realize how complex the issue is, and all its related concerns, even though many had only heard about MRP for the first time through the **NACAFV** consultations. There is no “overnight” answer, they realize—but they expressed a hope that any legislation would address all MRP related concerns, and not cause new ones. *Bill C-31*, for example, solved certain issues, but it also created many new ones that are still extremely problematic to First Nations women.

²⁹ See: http://www.ainc-inac.gc.ca/nr/spch/2006/sca_e.html

Participants want the family violence issues related to MRP to be addressed. The lack of protective legislation means that on-reserve women are vulnerable to their spouses who are often physically stronger than they, greatly increasing the risk that they will be forced out of their homes. The reality is that these dynamics dramatically enhance the incidence of family violence.

Legislative change that provides equitably for on-reserve women is crucially needed, especially for First Nations whose self-government agreements are a distant reality. Proper legislation will take into consideration the social, cultural and economic realities, as well as the intergenerational customs of First Nations women, in a way that is in accordance with their traditional ways



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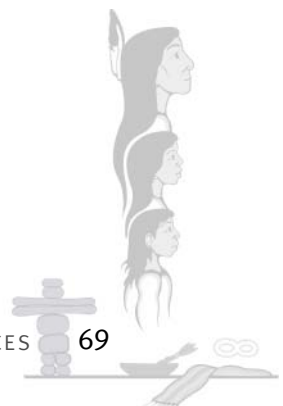
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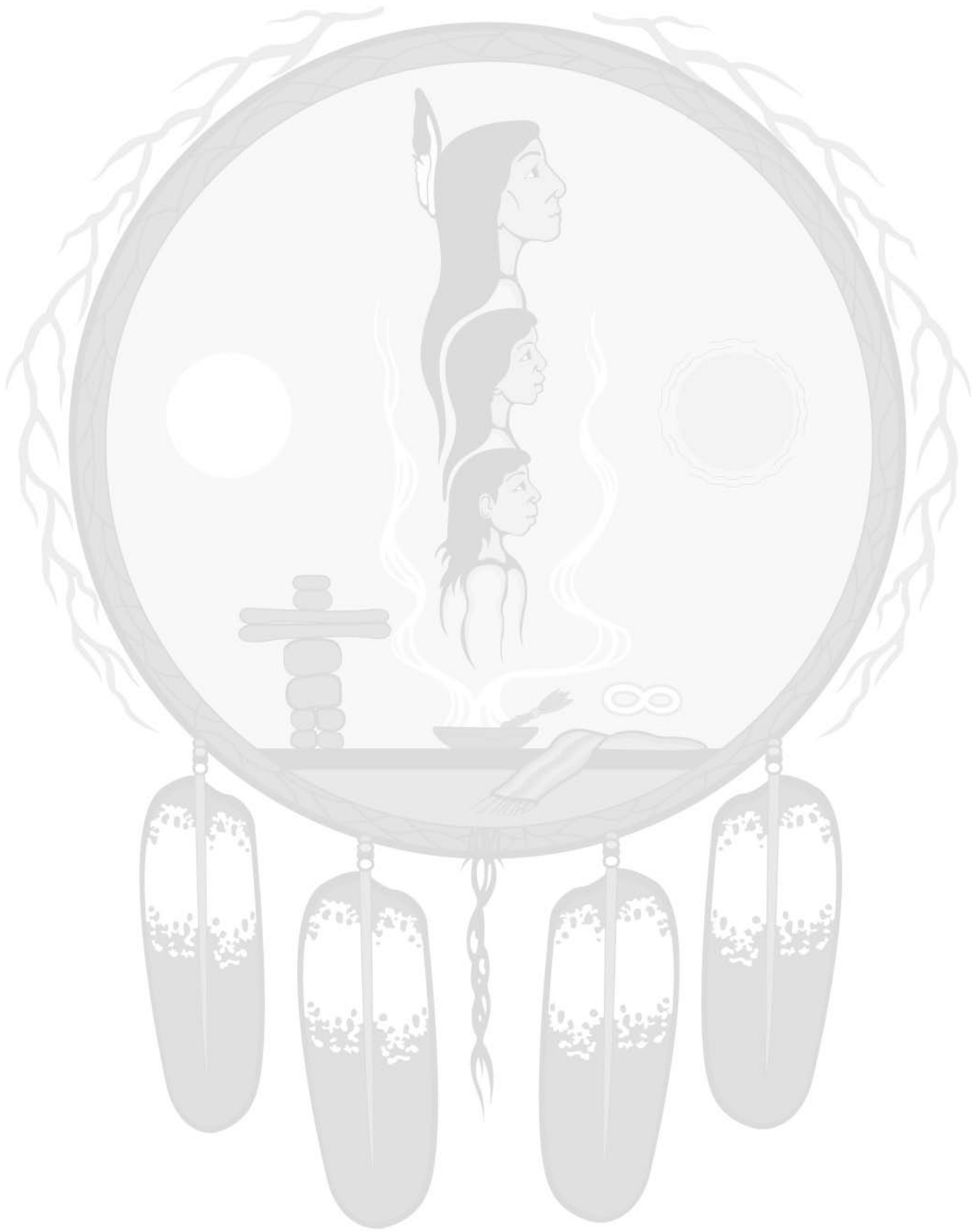
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APPENDICES

1. NACAFV Consultation Participant Guides
2. Participant Questionnaires (completed)