



## Ontario Native Women's Association Matrimonial Property Consultation Report December 2006

The Royal Commission on Aboriginal Peoples, now a decade old, included issues around Matrimonial Property:

- *“Provincial law does not apply to a matrimonial home located on a reserve. There is no federal legislation governing family residences or other matrimonial matters for Indian persons living on-reserve. The Indian Act does not recognize the legislative authority of a band council in the area...”*
- *“The solution is obvious. Aboriginal communities should be able to legislate in this area. Federal and provincial governments should acknowledge the authority of Aboriginal governments to adopt laws with regard to the matrimonial home and to establish their family law regimes compatible with their cultures and traditions.129 [translation]”*
- *“Reserve residency is not an absolute right for people with Indian status or even for those who belong to a particular band, whether the membership list is maintained by the department or by the band. In fact, subject to a number of ambiguously worded limitations and guidelines, the authority to decide on-reserve residency matters rests with the band council under subsection 81(1) of the Indian Act a power provided in the 1985 amendments.”*

These remarks characterize the complexity of the issues, and the nature of the discussions that took place during the ONWA workshop held in Sault Ste Marie on November 12, 2006. After a very short period to organize and set up for this consultation, an impressive number of Aboriginal Women responded and attended. They travelled from as far as Cochrane, Timmins, Smooth Rock Falls, Sudbury and Manitoulin Island by car, due to their interest in and experience with issues surrounding Matrimonial Real Property.

ONWA's Jeanette Lavell welcomed the participants on behalf of ONWA and briefly introduced what Matrimonial Real Property stood for and what some of the issues are now, and have been in the past. A PowerPoint Presentation was utilized, with discussion that was encouraged and facilitated. The presentation is recorded below, and the remarks of the participants are represented in this report.

### **Purpose:**

- To share information with Aboriginal women about Matrimonial Real Property Rights.
- To discuss HOW the lack of Matrimonial Real Property on reserve affects our rights.
- To offer feedback and recommendation to Ontario Native Women's Association (ONWA) and other First Nation leaders regarding MRP.

### **What is MRP?**

- In the Canadian legal system, matrimonial property is generally defined as property owned by one or both spouses and used for a family purpose.
- Divided into two (2) of property:
  - a) "matrimonial real property" includes the land and anything permanently attached to the land, such as the family home.

- ❑ b) "matrimonial personal property" includes property that is movable, such as the car, furniture and money in a bank account.

### **Under the Constitution Act 1867**

- ❑ Provinces have jurisdiction over property and civil rights.
- ❑ In accordance with this legislative power, provinces have enacted laws protecting spousal interests in matrimonial property, including MRP.
- ❑ However, because Reserve Lands fall under federal jurisdiction under the Indian Act, case law (example of a case) has established that provincial family law legislation cannot apply to alter individual interests in MRP located on reserve lands.

### **A LOOK BACK**

Prior to the Indian Act most Aboriginal women exercised great authority and jurisdiction in all areas of governance. Women in many tribes not only owned the home but substantial property interests and exercised authority over major subsistence activities.

#### **For example:**

- ❑ The Kwak'wak'wakw women enjoy prominent roles within the potlatch system of governance
- ❑ In the Iroquois tradition if a man abused a woman he had to leave the home and not the children or mother.
- ❑ Among the Inuit women they did all the sewing and that clothing durability to the harsh elements of the north depended on her sewing skills. If her man did not comply with rules of the home or treat her respectfully, an easy solution and statement was for her to miss a stitch or two.
- ❑ Gender based discrimination against Aboriginal women began with the Indian Act being introduced in 1869.
- ❑ Ironically there is no male or female (word) gender in any of the Aboriginal languages.
- ❑ Federal legislation from 1869 to 2006 imposed patriarchal rules for determining Indian status, band membership and rights to reserve residency.
- ❑ In 1884, the Indian Advancement Act required bands to replace traditional leaders and chiefs with elected band council chiefs, lower, some bands only superficially used the government band electoral system and continued to select their traditional leader and chiefs.
- ❑ The Indian Act of 1876 encouraged individual property rights, and assault on the collective.
- ❑ Location tickets, later replaced by Certificates of Possession (CPs), granted "exclusive rights of occupancy and possession (but not ownership) of particular plots of reserve land. Historically, those CPs were granted to men rather than women
- ❑ Legally, women are permitted to hold certificates of possession, however, historical legislation which denied women of property rights and the gender-biased language in the Indian Act prior to 1985 created a perception that women are not entitled to hold Cps.
- ❑ Eurocentric ideology held men to be inherently superior to women.

#### **Individual property ownership**

- ❑ One of the aims of the first consolidated Indian Act (1876) was to encourage individual property rights and land hold on reserves. The location tickets that are grandfathered by

s. 20(3) for example, were a means of introducing European concepts of individual property ownership and encouraging the assimilation of individuals holding them. Location tickets granted exclusive rights of occupancy and possession (but not ownership) of particular plots of reserve land. Today's CP system eventually replaced location tickets.

### **Chronology of Reports on MRP**

- ❑ 1996 --RCAP-51 million dollar [http://www.ainc-inac.gc.ca/ch/rcap/index\\_e.html](http://www.ainc-inac.gc.ca/ch/rcap/index_e.html)
- ❑ 1996 --United Nations acknowledged gender bias regarding MRP
- ❑ 2003 November - Senate Report released "A Hard Bed to Lie In-Matrimonial Real Property on Reserve."  
[www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep08nov03-e.pdf](http://www.parl.gc.ca/37/2/parlbus/commbus/senate/com-e/huma-e/rep-e/rep08nov03-e.pdf)
- ❑ 2005 June - House of Commons Report, "Walking Arm in Arm to Resolve the Issue of Matrimonial Real Property."  
<http://cmte.parl.gc.ca/Content/HOC/committee/381/aano/reports/rp1906551/aanorp05/aanorp05-e.pdf>

### **Similar perspectives and recommendations:**

- ❑ Both the House of Commons committee and the Senate Committee found MRP issues affect women, children and men, as well as the well being of families on -reserves. Women and children are particularly vulnerable and negatively impacted by the current legislative/policy gap. The Senate Standing Committee explicitly concluded that the current situation is incompatible with First nations women's equality rights under s. 15 of the Charter, under s. 35(4) of the Constitution Act, 1982 and Canada's international human rights obligations.
- ❑ There is an urgent need to remedy the absence of protections related to MRP on reserves according to both committees; a conclusion supported by other bodies such as the Royal Commission on Aboriginal peoples and those within the United Nations.

### **General view**

- ❑ It is the general view of the AFN Assembly of First Nations that an immediate resolution of MRP issues is required. However, incorporation provincial laws will not provide the requisite solution. Such an approach will burden provincial courts, alienate local decision making and solution.
- ❑ 2005 May -- AFN Political Accord signed between the Government of Canada and the Assembly of First Nations.

*(Generally, both committees focussed their recommendations on legislative action.)*

**2006 May - AFN supports collaborative approach involving NWAC & INAC in a meaningful consultation process which reflects the following principles to guide the consultation.**

1. Uphold the Honour of the Crown
2. Constitutional and the rule of law

3. Canadian Federalism, pluralism and First Nation Diversity
4. Mutuality
5. Recognition of the Inherent Right of Self-Government and Aboriginal title
6. Implementation of the treaty relationship
7. Compliance with the Crown Fiduciary Responsibilities
8. Human Rights
9. Implementation of First Nation governments and social-economic development
10. Traditional forms of government, First nation languages and traditional teachings
11. The Special Relationship with the Land

### **Legislative Gap because Reserve Lands fall under federal jurisdiction under the Indian Act**

- Confusing jurisdictional issues in family law for Aboriginal people lends itself to a maze of unending pathways to solutions, which arrive at yet another series of problems created by the solutions.

### **Legislative gap**

- Because of this legislative gap should the spouse who is not named on the CP (usually the woman) wish to remain in the marital home or the land in question upon marriage breakup, she or he would not have access to the ordinary legislation regime dealing with these matters
  - because of peculiarities of the Indian Act
  - and the division of powers between the federal and provincial governments
- Further, the courts cannot make an order for temporary or permanent possession of the family home located on a reserve, because REAL property situated on a reserve cannot automatically be considered property owned in common.

### **Self-government agreements attempt to address the issue in three (3) ways:**

- 1) recognizing that First Nations has jurisdiction over matrimonial property
- 2) shared jurisdiction between the First Nation and the province
- 3) provincial laws of general application will apply to matrimonial real and personal property located on reserve lands

### **First Nations Land Management Act**

- The First Nations Land Management Act constitutes another means by which First Nations may exercise jurisdiction over MRP issues. The First Nations Land Management Act (FNLMA) was passed by the Federal Parliament in 1999 on the initiative of fourteen Indian Act Bands that viewed the FNLMA. The intent is to provide options for economic development than the Indian Act.

### **The Indian Act Bands which opt into the FNLMA**

- are required to enact a land code for the management of reserve land and resources.
- In addition, they are required to incorporate "general rules and procedures, in cases of breakdown of marriage, respecting the use, occupation and possession of First Nation land and the division of interest in first nation land, "

- or enact a law containing those rules. (FNLMA c.24 section 27)

*Approximately 7 First Nations are operational under the framework agreement and have enacted MRP laws. Another 100 are in developmental phases. There is an unresolved issue regarding interpretation of the FNLMA: Are laws adopted by First nations an exercise of delegated federal power or an exercise of inherent First nations jurisdiction?*

### **Customary Land Allotments**

- Customary practices vary from one First Nation to another. The practice has continued despite the federal government's historically persistent efforts to enforce the Indian Act certificate of possession system on reserve.

*5 Ontario, 2 Alberta allocate land according to custom.*

*33 Ontario, 1 Alberta, 2 Saskatchewan combine Indian Act CPs and custom allotment.*

*Some allocate and pass land down according to oral tradition, a practice not recognized by Indian Affairs.*

### **Lower Nicola Band**

- While giving legal precedence to interests held by Certificate of Possession, the decision in Lower Nicola Band acknowledges the reality of custom allotment systems and concludes that band councils have "a governance responsibility" to establish processes in respect to them.
- "the Indian Act attempt to establish a complete and exclusive system of right sin reserve lands has not succeeded" Douglas Sanders paper The Present System of Land Ownership

### **Band Membership Codes**

- First Nation women can be negatively affected in regard to matrimonial real property issues by the net effect of the Indian Act, and decision-making at the First Nation community level by band councils over matters such as band membership.
- Some women seeking to reclaim membership in the band they were born into (after breakdown of their marriage to a man of another band) have lost membership in both bands, with a resulting loss of rights with respect to attaining or retaining land allotments on reserves of either band.

*(note\* Mrs. George was born into the Squamish Indian Band, married Burrard man, became member of husband's band. After her divorce she applied to rejoin the Squamish Band, her application has not been considered by the chief and council. Currently, she is a "stateless person".)*

### **Challenges**

- There is a growing understanding that gender and race issues impact on the socio-economic well-being of First Nation women as individuals, as mothers, and as member of their communities.

First Nation women have made it clear:

- "the sexual discrimination that women face on a day-to-day basis cannot be separated

from the twin legacies of colonialism and racism, which continue to marginalise Aboriginal peoples and devalue their cultures and traditions." SWC Aboriginal Women's Roundtable on Gender Equality, April 2004

- ❑ When disputes arise and parties seek such records as CPs or land allotments from their band council, issues concerning access to information may also arise, as the Indian Act does not require band councils to provide band members access to records.
- ❑ Land transfers by individual band members are not always, and in fact, often not registered, suggesting the Indian Lands Registry may not reflect the social reality of land transfers on reserve, nor the reality of customary law by First Nations using customary allotment. Lower Nicola Indian Band is a prime example where this uncertainty affecting land allotments and transfers and proof of legal entitlement to occupy specific portions of reserve land would negatively impact efforts to clarify matrimonial real property issue.

### **Residency Rights On Reserve**

- ❑ Any rights to possession would be dependent on the rights of residency on reserve
- ❑ Band council has powers to make land allotment (CP) and by-law making powers with respect to residency
  - Reserve residency is not an absolute right for people with Indian Status or even for those that belong to a particular band, whether the list is maintained by the band or INAC.
  - The authority rests with the band council under section 81(1) of the Indian Act—a power provided with 1985 amendments.

### **MRP in relation to violence**

- ❑ Victims sometimes to turn the courts to seek restraining, however First Nations women cannot have the order enforced on reserve because the band does not have the legislative power
- ❑ A woman may be granted custody of her children, the courts still cannot order exclusive possession of the matrimonial home
- ❑ As a result, women & children are forced to seek shelter elsewhere

*The lack of statutory law also means that there is no protection (such as interim possession of home) for spouse in an uneven power relationship (he/she holds CP)*

*In same-sex relationship or for family members sharing a home; currently the Indian Act does not address the property interests of persons in common law or same sex relationship*

*Prov and terr family law does not apply on reserve land and is considered in conflict with the provisions of the Indian Act. (legislation enacted under s.91 (24) of Constitution Act 1867. This means for FN reserve communities who remain under the I Act land management provisions (ie. those that have not negotiated a self-government or comprehensive claims agreement or do not come under the FNLMA), there is no applicable federal and little prov/terr law to address respective rights and interests*

### **Legislation generally provides for equal division between the spouses**

- ❑ However, these laws do not apply on reserve as a result of subsection 91(24) of The Constitution Act, 1867 which gives the federal government exclusive law-making authority over "Indians, and Lands reserved for the Indians." This has been interpreted to mean that

provincial and territorial matrimonial property laws do not apply to real property on reserve. Since there are no federal provisions in the Indian Act or elsewhere that fill in this matrimonial property gap, people living on reserve generally have no legal system for resolving issues relating to land and houses upon a breakdown of their relationship.

### **Where do we go from here?**

- ❑ Women and their children are therefore left with no legal claim to occupy the family residence
- ❑ They may be forced to leave the matrimonial home and due to acute housing shortages, may also have to leave the reserve.
- ❑ Where family violence is involved, the women and her children are rendered all the more vulnerable by this gap; sometimes remaining with the abuser for lack of an alternative.

### **What do First Nation women want?**

- ❑ First Nations women want an avenue of redress and effective enforcement mechanisms for matrimonial matters involving real property on reserve.
- ❑ Options include interim amendment of the Indian Act or drafting separate legislation so that provincial/territorial matrimonial property laws apply to real property on reserve lands.
- ❑ It has also been suggested that the government provide First Nations organizations with human and financial resources so that members may develop their own matrimonial real property codes, with the participation of First Nations women.
- ❑ It has also been proposed that provisions in *the Canadian Human Rights Act* preventing its application on reserve should be repealed; allowing for women to claim that a band Council's decision involving housing is discriminatory.

Of the studies that were identified:

- Canada Indian Affairs did a survey in 1993, their research showed 49% were Certificate of Possession holders.
- the Royal Commission on Aboriginal People
- A Hard Bed to Lie In: Matrimonial Real Property on Reserve, Interim Report of the Standing Senate Committee Human Rights (November 2003).
- Walking Arm in Arm to Resolve the Issue of On-Reserve Matrimonial Real Property: Report of the Standing Committee on Aboriginal Affairs and Northern Development (June 2005)

All of the reports had similar recommendations around the elimination of discrimination towards women.

### **First Nation Land Management Act**

- Allows first nations to develop land codes
- how the land will be dealt with in their community
- Very vague when dealing with Matrimonial Property
- no guarantee that the rights of women are respected, Matrimonial Real Property provisions are to be developed by the community

Following the Workshop, the MRP was discussed at the ONWA Annual General Meeting in Thunder Bay on November 25<sup>th</sup> and 26<sup>th</sup>. The questionnaires distributed at the AGM have a few additional questions resulting from the November 12<sup>th</sup> workshop, to provide additional information to NWAC.

**Data Synopsis of Quantifiable & Qualitative Responses to MRP  
Number of Questionnaires - 51**

| <b>Section 1 Your Background</b>                                    |                |    |     |
|---|----------------|----|-----|
| Question  | Responses      |    | %   |
| 1-1 Are you male or female  | Female         | 49 | 96% |
|   | Male           | 1  | 2%  |
|   | no response    | 1  | 2%  |
| 1-2 How old are you?  | 16-25          | 1  | 2%  |
|   | 26-35          | 7  | 14% |
|   | 36-45          | 14 | 27% |
|   | 46-55          | 14 | 27% |
|   | 56-65          | 9  | 18% |
|   | 66+            | 6  | 12% |
| 1-3 What is your Aboriginal Status                                  | Status         | 42 | 82% |
|   | Inuit          | 0  |     |
|   | Métis          | 7  | 14% |
|   | Nstatus        | 2  | 4%  |
|   | Other          | 0  |     |
| 1-4 Are you a Band member?  | Yes            | 45 | 88% |
|   | No             | 6  | 12% |
| 1-5 In which province/territory is your original community located? | Ontario        | 48 | 94% |
|   | Manitoba       | 2  | 4%  |
|   | NWT            | 1  | 2%  |
| 1-6 What community are you from originally?                         | Aok            |    |     |
|   | Burleigh Falls |    |     |
|   | Cochrane       |    |     |
|   | Couchiching    |    |     |
|   | Curve Lake     |    |     |
|   | Dinorwic       |    |     |
|   | Fort Wm        | 2  |     |
|   | Garden River   | 5  |     |
|   | Geraldton      |    |     |
|   | Hornepayne     |    |     |
|   | Jellicoe       |    |     |
|   | Longlac        |    |     |
|   | Longlake #58   |    |     |
|   | M'Chigeeng     | 2  |     |
|   | Manitoba       |    |     |
|   | Martin Falls   |    |     |
|   | McDiarmid      |    |     |
|   | Mississaugi FN |    |     |
|   | Moose Factory  |    |     |
|   | NewPost        |    |     |

|     |   |   |   |
|-----|---|---|---|
|     |   | Ohsweken<br>Oneida<br>Ontario<br>Red River, Mn<br>Rocky Bay 1 <sup>st</sup><br>Serpent River 2<br>Sheguiandah<br>Six Nations 4<br>SSMarie 3<br>Tbay<br>Wiki 8   |   |
| 1-7 | What is your current marital status?        | married 17<br>trad mar 1<br>sme sx mrg 1<br>cmn law 8<br>separated 9<br>divorced 2<br>single 7<br>widowed 5<br>sme sx rel 0<br>no response 1  | 33%<br>2%<br>2%<br>16%<br>18%<br>4%<br>14%<br>10%<br>0%<br>2% |
| 1-8 | In what community are you currently living? | Cochrane<br>Curve Lake<br>Dryden 2<br>Fort Erie<br>Ft Wm FN 2<br>Garden River 3<br>Geraldton<br>Grand Portage<br>Hamilton 2<br>Kingston<br>Longlac<br>M'Chigeeng 2<br>Matheson/Smooth<br>Rock Falls<br>McDiarmid<br>Off Reserve<br>Omemee<br>Serpent River<br>Sheguiandah 2<br>Sioux Lookout 2<br>Six Nations<br>SSMarie 9<br>Sudbury<br>Thunder Bay 5<br>Tbay&Nfld<br>Timmins<br>Toronto |   |

|      |   | Wawa<br>Wikwemikong | 3  |     |
|------|---|---------------------|----|-----|
| 1-9  | Are you currently living?   | your own hme        | 35 | 69% |
|      |   | family home         | 6  | 12% |
|      |   | with friends        | 0  | 0%  |
|      |   | with relatives      | 0  | 0%  |
|      |   | other               | 8  | 16% |
|      |   | no response         | 2  | 4%  |
| 1-10 | How many children do you have? (If none go to 1-14)   | 1                   | 8  | 16% |
|      |   | 2                   | 8  | 16% |
|      |   | 3                   | 11 | 22% |
|      |   | 4                   | 10 | 20% |
|      |   | 5                   | 3  | 6%  |
|      |   | 6                   | 1  | 2%  |
|      |   | 7                   | 1  | 2%  |
|      |   | 8                   | 1  | 2%  |
|      |   | 9                   | 2  | 4%  |
|      |   | n/a                 | 6  | 12% |
| 1-11 | Are your children currently living with you?  | Yes                 | 28 | 55% |
|      |   | No                  | 15 | 29% |
|      |   | n/a&no<br>response  | 8  | 16% |
| 1-12 | What is their Aboriginal status?  | Status Indian       | 27 | 53% |
|      |   | Inuit               | 0  | 0%  |
|      |   | Métis               | 7  | 14% |
|      |   | Non Status          | 4  | 8%  |
|      |   | Other               | 0  | 0%  |
|      |   | n/a&no<br>response  | 13 | 25% |
| 1-13 | Are your children Band members?   | Yes                 | 35 | 69% |
|      |   | No                  | 8  | 16% |
|      |   | n/a&no<br>response  | 8  | 16% |
| 1-14 | Did you lose your marital home on-reserve as a result of the dissolution of your marriage/relationship? | Yes                 | 3  | 6%  |
|      |   | No                  | 33 | 65% |
|      |   | no response         | 15 | 29% |
| 1-15 | Are you staying in your current marriage/relationship in order to avoid losing your marital home?       | Yes                 | 0  | 0%  |
|      |   | No                  | 38 | 75% |
|      |   | no response         | 13 | 25% |
|      |   |                     |    |     |

## Section 2: Your Experience of MRP

(if you have not experienced a marriage or relationship breakdown go to Section 3)

| Question  | Responses  | %         |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
|---|--|-----------|----|-----|----------------|----|-----|----------------|----|-----|---------------|---|-----|-----------------|----|-----|----------|---|----|-----------------|----|-----|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|--|
| 2-1 If your marriage or relationship ended, what would you say are/were the cause(s) for this breakdown?  | <table> <tr><td>fin probs</td><td>2</td><td>4%</td></tr> <tr><td>fam viol</td><td>3</td><td>6%</td></tr> <tr><td>ext fam issues</td><td>2</td><td>4%</td></tr> <tr><td>subst abuse</td><td>8</td><td>16%</td></tr> <tr><td>parenting iss.</td><td>1</td><td>2%</td></tr> <tr><td>other</td><td>3</td><td>6%</td></tr> <tr><td>n/a&amp;no response</td><td>32</td><td>63%</td></tr> </table>  | fin probs | 2  | 4%  | fam viol       | 3  | 6%  | ext fam issues | 2  | 4%  | subst abuse   | 8 | 16% | parenting iss.  | 1  | 2%  | other    | 3 | 6% | n/a&no response | 32 | 63% |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| fin probs   | 2  | 4%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| fam viol  | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| ext fam issues  | 2  | 4%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| subst abuse   | 8  | 16%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| parenting iss.  | 1  | 2%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| other   | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| n/a&no response   | 32   | 63%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-2 Did you live in your community or your spouse/common-law partner's community?   | <table> <tr><td>partners</td><td>5</td><td>10%</td></tr> <tr><td>mine</td><td>3</td><td>6%</td></tr> <tr><td>no</td><td>4</td><td>8%</td></tr> <tr><td>yes</td><td>2</td><td>4%</td></tr> <tr><td>n/a&amp;no response</td><td>37</td><td>72%</td></tr> </table>  | partners  | 5  | 10% | mine           | 3  | 6%  | no             | 4  | 8%  | yes           | 2 | 4%  | n/a&no response | 37 | 72% |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| partners  | 5  | 10%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| mine  | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| no  | 4  | 8%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| yes   | 2  | 4%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| n/a&no response   | 37   | 72%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-3 How long did you reside in this community with your spouse/common-law partner?<br><br><i>Although these responses are not quantifiable, there were 15 responses, with a significant range</i> | <table> <tr><td>1</td><td></td><td></td></tr> <tr><td>3</td><td></td><td></td></tr> <tr><td>5</td><td>3</td><td></td></tr> <tr><td>6</td><td></td><td></td></tr> <tr><td>7</td><td>2</td><td></td></tr> <tr><td>8</td><td></td><td></td></tr> <tr><td>10</td><td></td><td></td></tr> <tr><td>12</td><td></td><td></td></tr> <tr><td>15</td><td></td><td></td></tr> <tr><td>21</td><td></td><td></td></tr> <tr><td>36</td><td></td><td></td></tr> <tr><td>40</td><td></td><td></td></tr> </table> | 1         |    |     | 3              |    |     | 5              | 3  |     | 6             |   |     | 7               | 2  |     | 8        |   |    | 10              |    |     | 12 |  |  | 15 |  |  | 21 |  |  | 36 |  |  | 40 |  |  |  |
| 1   |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 3   |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 5   | 3  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 6   |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 7   | 2  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 8   |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 10  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 12  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 15  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 21  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 36  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 40  |  |           |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-4 Did you rent or own your own home?  | <table> <tr><td>Rented</td><td>11</td><td>22%</td></tr> <tr><td>Owned</td><td>10</td><td>20%</td></tr> <tr><td>n/a</td><td>30</td><td>59%</td></tr> </table>   | Rented    | 11 | 22% | Owned          | 10 | 20% | n/a            | 30 | 59% |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| Rented  | 11   | 22%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| Owned   | 10   | 20%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| n/a   | 30   | 59%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-5 If you rented your home, was the lease in:  | <table> <tr><td>your name</td><td>8</td><td>16%</td></tr> <tr><td>your partner's</td><td>3</td><td>6%</td></tr> <tr><td>both names</td><td>1</td><td>2%</td></tr> <tr><td>a third party</td><td>2</td><td>4%</td></tr> <tr><td>don't know</td><td>0</td><td>0%</td></tr> <tr><td>no lease</td><td>1</td><td>2%</td></tr> <tr><td>n/a</td><td>36</td><td>70%</td></tr> </table>   | your name | 8  | 16% | your partner's | 3  | 6%  | both names     | 1  | 2%  | a third party | 2 | 4%  | don't know      | 0  | 0%  | no lease | 1 | 2% | n/a             | 36 | 70% |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| your name   | 8  | 16%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| your partner's  | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| both names  | 1  | 2%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| a third party   | 2  | 4%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| don't know  | 0  | 0%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| no lease  | 1  | 2%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| n/a   | 36   | 70%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-6 If you did not rent, did you own a certificate of possession or have other documentation that said the home was yours?  | <table> <tr><td>Yes</td><td>3</td><td>6%</td></tr> <tr><td>No</td><td>7</td><td>14%</td></tr> <tr><td>n/a</td><td>41</td><td>80%</td></tr> </table>  | Yes       | 3  | 6%  | No             | 7  | 14% | n/a            | 41 | 80% |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| Yes   | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| No  | 7  | 14%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| n/a   | 41   | 80%       |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| 2-7 Was the certificate of possession or other documentation in:<br>(Comment: one response indicated that a certificate of possession   | <table> <tr><td>your name</td><td>0</td><td>0%</td></tr> <tr><td>your partner's</td><td>3</td><td>6%</td></tr> </table>  | your name | 0  | 0%  | your partner's | 3  | 6%  |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| your name   | 0  | 0%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |
| your partner's  | 3  | 6%        |    |     |                |    |     |                |    |     |               |   |     |                 |    |     |          |   |    |                 |    |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |  |

|  |   |            |   |     |               |    |     |              |    |     |             |    |     |
|--|---|------------|---|-----|---------------|----|-----|--------------|----|-----|-------------|----|-----|
| was not issued until it was paid in full, and then it was listed however the family chose)   | <table border="1"> <tr> <td>both names</td> <td>2</td> <td>4%</td> </tr> <tr> <td>a third party</td> <td>0</td> <td>0%</td> </tr> <tr> <td>don't know</td> <td>3</td> <td>6%</td> </tr> <tr> <td>n/a</td> <td>43</td> <td>84%</td> </tr> </table> | both names | 2 | 4%  | a third party | 0  | 0%  | don't know   | 3  | 6%  | n/a         | 43 | 84% |
| both names   | 2   | 4%         |   |     |               |    |     |              |    |     |             |    |     |
| a third party  | 0   | 0%         |   |     |               |    |     |              |    |     |             |    |     |
| don't know   | 3   | 6%         |   |     |               |    |     |              |    |     |             |    |     |
| n/a  | 43  | 84%        |   |     |               |    |     |              |    |     |             |    |     |
| 2-8 Have you left the community in which you resided with your spouse/common-law partner?  | <table border="1"> <tr> <td>Yes</td> <td>6</td> <td>12%</td> </tr> <tr> <td>No</td> <td>10</td> <td>20%</td> </tr> <tr> <td>n/a</td> <td>35</td> <td>68%</td> </tr> </table>  | Yes        | 6 | 12% | No            | 10 | 20% | n/a          | 35 | 68% |             |    |     |
| Yes  | 6   | 12%        |   |     |               |    |     |              |    |     |             |    |     |
| No   | 10  | 20%        |   |     |               |    |     |              |    |     |             |    |     |
| n/a  | 35  | 68%        |   |     |               |    |     |              |    |     |             |    |     |
| 2-9 If the lease/certificate of possession or other documentation for the matrimonial home was in your name, or was held jointly, then why did you leave the community in which you were living? <ul style="list-style-type: none"> <li>I had no running water or bathroom facilities, I had to burn wood for warmth</li> <li>No suitable housing available</li> <li>I had no family around to help support me and protect me from mental abuse and alcohol separation</li> <li>to get away from spouse</li> </ul> |   |            |   |     |               |    |     |              |    |     |             |    |     |
| 2-10 Did the community in which you were living in at the time of the breakdown of your marriage/relationship have its own measures for dealing with the division of matrimonial real property?  | <table border="1"> <tr> <td>Yes</td> <td>4</td> <td>8%</td> </tr> <tr> <td>No</td> <td>10</td> <td>20%</td> </tr> <tr> <td>I don't know</td> <td>2</td> <td>4%</td> </tr> <tr> <td>n/a</td> <td>35</td> <td>69%</td> </tr> </table>               | Yes        | 4 | 8%  | No            | 10 | 20% | I don't know | 2  | 4%  | n/a         | 35 | 69% |
| Yes  | 4   | 8%         |   |     |               |    |     |              |    |     |             |    |     |
| No   | 10  | 20%        |   |     |               |    |     |              |    |     |             |    |     |
| I don't know   | 2   | 4%         |   |     |               |    |     |              |    |     |             |    |     |
| n/a  | 35  | 69%        |   |     |               |    |     |              |    |     |             |    |     |
| 2-11 If you answered yes to question #2-10, what measures were in place? Please provide details. <ul style="list-style-type: none"> <li>the woman owns the home and she makes the decisions regarding it</li> <li>he left when I asked him to</li> <li>the measures could not address the help I needed to seek as a result of the extended abuse I suffered</li> </ul>  |   |            |   |     |               |    |     |              |    |     |             |    |     |
| 2-12 Did you find these measures to be helpful and/or fair?  | <table border="1"> <tr> <td>Yes</td> <td>2</td> <td>50%</td> </tr> <tr> <td>No</td> <td>1</td> <td>25%</td> </tr> <tr> <td>no response</td> <td>1</td> <td>25%</td> </tr> </table>  | Yes        | 2 | 50% | No            | 1  | 25% | no response  | 1  | 25% |             |    |     |
| Yes  | 2   | 50%        |   |     |               |    |     |              |    |     |             |    |     |
| No   | 1   | 25%        |   |     |               |    |     |              |    |     |             |    |     |
| no response  | 1   | 25%        |   |     |               |    |     |              |    |     |             |    |     |
| 2-13 Was your well-being, or the well-being of your children, affected by the measures in place (or the lack of measures in place) for dealing with the division of nuptial real property? <ul style="list-style-type: none"> <li>having to move/leave community is very traumatic for the children, and took them away from caregivers, and family supports</li> <li>there are unwritten rules, and issues around how a non-member spouse is treated by other members of the community</li> </ul>                 | <table border="1"> <tr> <td>Yes</td> <td>2</td> <td>13%</td> </tr> <tr> <td>No</td> <td>4</td> <td>25%</td> </tr> <tr> <td>Don't know</td> <td>1</td> <td>6%</td> </tr> <tr> <td>no response</td> <td>9</td> <td>56%</td> </tr> </table>          | Yes        | 2 | 13% | No            | 4  | 25% | Don't know   | 1  | 6%  | no response | 9  | 56% |
| Yes  | 2   | 13%        |   |     |               |    |     |              |    |     |             |    |     |
| No   | 4   | 25%        |   |     |               |    |     |              |    |     |             |    |     |
| Don't know   | 1   | 6%         |   |     |               |    |     |              |    |     |             |    |     |
| no response  | 9   | 56%        |   |     |               |    |     |              |    |     |             |    |     |
| 2-14 In your opinion, what can be done to improve the treatment of matrimonial real property? <ul style="list-style-type: none"> <li>agreement before marriage or living together, preferably written</li> <li>a legal agreement should be signed by both parties to have equal property shares</li> <li>need a fair division - 50/50 - legislated even if it is 50/50 of the value. The problem is that housing on reserve has very low value.</li> <li>follow traditional ways</li> </ul>                        |   |            |   |     |               |    |     |              |    |     |             |    |     |

- address issues of citizenship, child custody
- “matrimonial real property” must be determined
- some guidelines need to be made and federal legislative changes
- add First Nations “by-laws” & policies concerning MRP, lands and estates need policies
- I don’t know

**Section 3: Your Knowledge**

| Questions | Responses   | % |
|-----------|---|---|
| 3-1       | <p>In your opinion, and based on your own experience, what components need to be addressed to make the division of matrimonial real property more equitable for First Nations women and their children</p> <ul style="list-style-type: none"> <li>• better financial support</li> <li>• 50% division of property</li> <li>• 50/50 split</li> <li>• equality - laws that stand up in court</li> <li>• need to have equal ownership of house &amp; property</li> <li>• both names on certificate of possession, and registered</li> <li>• have spouses as joint ownership, make property rights equal and fair</li> <li>• First Nations women ought to have same rights as other Canadian women, have both spouses on the CP</li> <li>• home to be in primary caregivers name, furniture and other assets to be fairly divided</li> <li>• someone who knows women’s rights should help the women</li> <li>• provide housing for women &amp; children</li> <li>• children’s requirements should be paramount, address Indian Act &amp; Federal laws affecting the issue, not provincial jurisdiction, Aboriginal leadership require standardized practices</li> <li>• women &amp; children should be able to keep the house, have the man move out, property should be divided equally</li> <li>• best interests of the children</li> <li>• property should revert to parent with custody of the children (usually the woman)</li> <li>• whoever has custody of the children should have the home; once home is left by parents or they pass on, home should pass on to the children</li> <li>• make it a priority to discuss with Chief and Council</li> <li>• don’t know</li> <li>• unsure</li> <li>• Certificate of Possession</li> <li>• if a First Nation non-status is in a relationship for 5+ years, I feel they should get status if partner is, then if relationship breaks down the non-status woman can remain in the home with the children</li> <li>• the man should relinquish their right to the property because they continue to earn more than women do</li> <li>• Aboriginal women are often more inclined to walk away rather than fight for their rights &amp; ownership</li> <li>• did not have any real information before today</li> <li>• federal guidelines need enforcement mechanisms for on-reserve</li> <li>• First Nation’s governance must have input on decisions that will effect our women &amp; children</li> </ul> |   |

|  |   |     |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
|--|---|-----|----|-----|----|----|-----|-------------|----|-----|-------------|----|-----|------------|---|----|-------------|----|-----|
| <ul style="list-style-type: none"> <li>Housing - without having to make up new legislation, the problem can currently be addressed by giving funding to First Nations to alleviate the concerns regarding property in breakdown of marriages and even family violence</li> <li>make housing available, equal division of family assets accumulated during the relationship, custodial rights of children to parent</li> <li>deal with outstanding land matters first; needs more information &amp; distribution to women in small communities; NWAC needs better outreach to women; heard the pain of many women bearing it in isolation</li> <li>our leadership must seek to work in a fair manner for all parties involved</li> <li>traditional land, home</li> <li>we need more information available for all First Nations women</li> <li>stop discrimination - Bill C-31</li> </ul> |   |     |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| <p>3-2 Are you aware of any modern practices that exist in other communities for the comparable and equivalent treatment of matrimonial real property? Do you, for example, know of any customary laws regarding matrimonial real property?</p> <p>(Comment: some participants identified customary practices, but not customary laws; one mentioned being aware of modern practices)</p> <ul style="list-style-type: none"> <li>in M'Chigeeng, the spouse who keeps the children gets to stay in the house</li> <li>Iroquois Traditional practice - women keep the family home, both spouses on CP</li> </ul>   | <table border="1"> <tr> <td>Yes</td> <td>3</td> <td>6%</td> </tr> <tr> <td>No</td> <td>28</td> <td>55%</td> </tr> <tr> <td>no response</td> <td>20</td> <td>39%</td> </tr> </table>   | Yes | 3  | 6%  | No | 28 | 55% | no response | 20 | 39% |             |    |     |            |   |    |             |    |     |
| Yes  | 3   | 6%  |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| No   | 28  | 55% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| no response  | 20  | 39% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| <p>3-3 Indian and Northern Affairs Canada (INAC) is suggesting three options for legislative reform to address the issue of matrimonial real property. These three options are:</p> <ul style="list-style-type: none"> <li>(a) Applying Provincial law on reserves;</li> <li>(b) Applying Provincial law on reserves, while developing First Nation law;</li> <li>(c) Developing substantive Federal law on matrimonial real property.</li> </ul> <p>Do you think legislative change would be a good approach to resolving this problem?</p>   | <table border="1"> <tr> <td>Yes</td> <td>24</td> <td>47%</td> </tr> <tr> <td>No</td> <td>12</td> <td>24%</td> </tr> <tr> <td>undecided</td> <td>2</td> <td>4%</td> </tr> <tr> <td>no response</td> <td>13</td> <td>25%</td> </tr> </table>  | Yes | 24 | 47% | No | 12 | 24% | undecided   | 2  | 4%  | no response | 13 | 25% |            |   |    |             |    |     |
| Yes  | 24  | 47% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| No   | 12  | 24% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| undecided  | 2   | 4%  |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| no response  | 13  | 25% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| <p>3-4 Which of the three options suggested by INAC, if any, do you think would be most effective in addressing matrimonial real property? Why?</p> <ul style="list-style-type: none"> <li>same ownership for woman &amp; husband</li> <li>(c) lots of women live off reserves</li> <li>(c) need to put legislation in place to help women &amp; children in violent situations stay together and be safe in their homes; need to develop strong federal law to deal with this comparable to provincial; need to split assets 50/50</li> <li>(b) depending on whether or not the women can participate</li> </ul>  | <table border="1"> <tr> <td>a</td> <td>0</td> <td>0%</td> </tr> <tr> <td>b</td> <td>9</td> <td>18%</td> </tr> <tr> <td>c</td> <td>12</td> <td>24%</td> </tr> <tr> <td>none</td> <td>6</td> <td>12%</td> </tr> <tr> <td>don't know</td> <td>2</td> <td>4%</td> </tr> <tr> <td>no response</td> <td>22</td> <td>43%</td> </tr> </table> | a   | 0  | 0%  | b  | 9  | 18% | c           | 12 | 24% | none        | 6  | 12% | don't know | 2 | 4% | no response | 22 | 43% |
| a  | 0   | 0%  |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| b  | 9   | 18% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| c  | 12  | 24% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| none   | 6   | 12% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| don't know   | 2   | 4%  |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |
| no response  | 22  | 43% |    |     |    |    |     |             |    |     |             |    |     |            |   |    |             |    |     |

|   |  |  |
|---|--|--|
| <ul style="list-style-type: none"> <li>• fully and provide their input</li> <li>• ? Examine the impact of the 65 welfare agreement, how well has that worked on reserves? We need to develop substantive law on Matrimonial Real Property law, with First Nation Law &amp; Traditions, can work together</li> <li>• (b) would be a good stepping stone for our leaders to develop their own legislation</li> <li>• none - INAC is governed by legislation</li> <li>• none - the options do not explore or acknowledge customary practices in place. If they apply provincial laws, it takes away our ways even further, another assimilation</li> <li>• none - only if we have no other choice. We are now under federal jurisdiction</li> <li>• not sure - consider local law</li> <li>• none - not enough information to make a qualified decision; NWAC do more outreach; where is the funding to do real consultation</li> <li>• none - develop substantive Federal law on matrimonial real property; something should be done that is fair to both; reserves also have to be involved in making their own laws pertaining to this</li> <li>• (c) along with consultation of Aboriginal women; on our own terms; that we are truly consulted; do our own work; remember the children - we need to take care of our families</li> <li>• (c) have women &amp; organizations work with Federal government to draft new legislation on Matrimonial Real Property, through consultation with the women</li> <li>• (c) standardized practices for all leadership</li> <li>• (c) Elders in the communities should be consulted and plans can be generated with Elders who know the community well</li> <li>• none - FN's should control their own laws regarding MRP</li> <li>• none - talk to people on reserve, not just Chief &amp; Council, also younger generation (16-24)</li> </ul> |  |  |
| <p>3-5 How can NWAC be more effective in improving the knowledge and understanding of individuals regarding matrimonial real property?</p> <ul style="list-style-type: none"> <li>• commercials on television, radio and promotional posters in clinics, shelters etc</li> <li>• communication, workshops, information gatherings</li> <li>• have the provincial organizations host more workshops within the province</li> <li>• attend discussions on the matter</li> <li>• more women need to know how to deal with this problem; who to go to for help and advice; many lawyers do not know how to deal with this</li> <li>• tell "them" that the women make the decisions regarding the home, and that the man &amp; woman are equal</li> <li>• support/advocacy - some mechanism for women to outreach</li> <li>• this was new information to me, we need to be made more aware of the issues, more information</li> <li>• more submissions to media, both Native &amp; mainstream</li> <li>• provide training to grassroots people (community) &amp; ensure that communication is utilized</li> </ul>  |  |  |

- information from the local perspective, address the issue of non-Aboriginal women and show how these laws will benefit them & how these laws will give them property rights on-reserve
- women have to be included in division of real property on reserve; in many instances possession tickets are in the name of the man only
- information sessions/forums
- do more consultation, this was a great start, informative, great facilitator
- the information should be sent out to schools and young people, and posted on the website
- by having more information available to non-reserve & off-reserve women
- having more consultations with more women, especially the ones that have a story to tell
- have staff provide workshops with women, on and off reserve
- more consultation in communities, more lobbying on the political front, must have Native women's input
- more consultations, classroom presentations for youth to have a better understanding of issues and rights relating to this
- more information
- more information, workshops, posters
- more regular meetings/consultation, need to be open and women's concerns addressed
- more information sessions
- info on website; promotional materials; send info to youth - young women
- have presentations done in Northern Ontario; Timmins, Cochrane, Kapuskasing, Moosonee
- involve a woman from each reserve to do a survey and send back to NWAC

#### Section 4: Survey Follow-Up

| Questions   | Responses                         | %                 |
|---|-----------------------------------|-------------------|
| 4-1 Would you like further information regarding NWAC's process for addressing matrimonial real property? | Yes 24<br>No 15<br>no response 12 | 47%<br>29%<br>24% |
| 4-2 Would you be willing to be contacted for a follow-up interview, if one was needed?                    | Yes 20<br>No 19<br>no response 12 | 39%<br>37%<br>24% |
|   |                                   |                   |

#### Section 5: Additional Questions (included on 33 questionnaires)

| Questions   | Responses                                       | %                       |
|---|---|-------------------------|
| 5-1 Would you consider financial reimbursement for loss of property on reserve? | Yes 14<br>No 6<br>Alt hsing 2<br>no response 11 | 42%<br>18%<br>6%<br>33% |
| 5-2 Did you lose property through loss of Band Membership?                      | Yes 2<br>No 18<br>no response 13                | 6%<br>55%<br>39%        |

|     |   |             |        |
|-----|---|-------------|--------|
|     | <ul style="list-style-type: none"> <li>I owned land in the central portion of the reserve; upon the loss of my status due to marriage I had to give the land up with no compensation to this day, 36 years later</li> </ul>   |             |        |
| 5-3 | Do you consider this questionnaire and the associated workshops to be adequate consultation for this issue?   | Yes         | 10 30% |
|     |   | No          | 12 36% |
|     |   | no response | 11 33% |
|     | <ul style="list-style-type: none"> <li>Consultations, gatherings with women on and off reserve, with officials from INAC or someone with authority. Consultation among ourselves as women with hired consultants is not sufficient, we know what the problems are; we need to tell INAC &amp; political officials - directly somehow to influence recommendations re the legislation on MRP</li> <li>If you took the time to talk to every Aboriginal woman and went to every community. Apply the “duty to consult” standard. We appreciate the information shared, we need more.</li> <li>there are a lot of us that do not live on-reserve but would like to get information if we do decide to return to our communities</li> <li>the older women must be heard, more resources are needed for a substantial consultation, the un-asked question of what to do with non-Aboriginal partners on-reserve must be addressed</li> <li>we needed more time to reach out to the communities</li> <li>workshop, discussion, recommendations, plenary</li> <li>more open dialogue sessions, include male perspectives</li> <li>consultations must be held on each reserve, funding for a more substantial consultation, not one per province</li> <li>we need to address what to do with non-Aboriginal partners on reserve as well</li> <li>consultations need to take place specific to customary laws already practiced</li> <li>All Aboriginal women must be heard</li> <li>pamphlets/info on legal positions/options</li> <li>what will proposed changes do for women</li> <li>will the proposed changes “sneak in” rights to property for non-Aboriginal women, we don’t need to have our land assimilated</li> </ul> |             |        |

### Challenges:

- 1-12 The question did not allow for differing parentage i.e. some families had children that are Status, and others that were not
- 1-13 As above, some children that are Band members, some that are not
- 1-9 The housing question left some people unsure how to answer, some interpreted the “in your own home answer” to mean purchased, which meant they answered other because they rented their home or apartment, or specified subsidized housing. In every case where other was used, a rental was identified
- 1-11 Some participants were undecided about how to answer this question, since some children had left home, and others were still residing there. The other issue raised was that some had their grandchildren living with them, and of those, some had full custody.
- 1-14 A qualifying question prior to this would be useful in determining the relevance of the responses to 1-14. i.e. Have you ever lived on-reserve

- 2-2 This question was left open to a yes or no answer which did not capture the data about whose community the family's home was in. A multiple choice response would have captured a clearer response i.e partner's community, my community, our community is the same, other

### **Imputing**

- Imputing has been done where respondents did not follow the choices given for responses. Where the alternatives given were consistent with the question being asked, consideration was given to include the extra response to provide the best and most accurate response to the questions provided. Non-response and invalid data definitely impact the quality of the survey results. Imputation resolves the problems of missing, invalid or incomplete responses identified during editing, as well as any editing errors that might have occurred.
- Some problems are eliminated earlier through contact with the respondent or by manually studying the questionnaire, but it is generally impossible to resolve all problems due to concerns of response burden, cost and timeliness. Thus, the imputation procedure is used to handle the remaining edit failures.

### **Issues Identified**

#### **Band Membership Codes**

Bill C-31 women who fought for their rights, land rights and entitlements, may or may not have rights to land. Band membership codes have to be presented to the community to make sure everyone agrees.

#### **Questions/Comments/Discussion/Strategies to bring forward:**

- It was acknowledged that many women leave to escape violence. There is an overdue need to establish "safe places" for women and children who are victims of violence. Leaders need to step up and make it a priority for our women/children. Children do not have a chance to make a connection and keep it with their community, because women and children are leaving or being forced to leave their community.
- In one community it appeared that the council is waiting for the man to pass away, so they do not have to answer questions about property. Presentations need to be made to Chiefs and councils, to be exposed to the community. Women are afraid to go public. How do you get a woman who is already victimized to stand up and voice her opinion.
- What happens when you are transferred to someone else's reserve, you have no rights whatsoever. The women would have to transfer, but the women of today go into a common law relation so it does not interfere with their community rights.
- Lack of housing. Devolution and how it affects our rights as native women. White women who have married native men, get their rights, and when the native man dies the reserve still takes care of the white women
- Non-Native women who gained status, even though divorced, still have status and rights by virtue of that marriage. Some of these women are getting jobs through employment

equity.

- We are required to do our own research, and hire legal representation we cannot afford. We are advised to hire a researcher to find information in the archives that is documented by government to support our claims.
- We need to be careful of the Non-Native women who are without rights, that are still living on reserve. Have caution with saying that the Charter of Rights should apply, because they may become entitled.

### **Recommendations:**

1. That ONWA should apply for funding to the Ontario Law foundation, or the Federal government to conduct a series of workshops with women to help women know their rights, how to access them, and where to find help.
2. That ONWA actively engage young ones and elders, to educate and conduct leadership camps to share traditional forms of practice.
3. That ONWA not support Provincial Law as a model to impose on our people, further that the ONWA consult with the C.O.O, and the AFN Women's Council to build a strategy to get registry under control.
4. That ONWA work to establish research positions within AFN, NWAC, NAFC, to access the archives in Ottawa on behalf of Aboriginal people.
5. That ONWA carefully review the impact and possible consequences of supporting the Charter of Rights on reserve, and share their findings with the membership, and allied Aboriginal Organizations.
6. That ONWA make the Aboriginal Charter of Rights document available for review by its membership through distribution or access on the ONWA website.
7. That ONWA support the following:
  - do not amend the Indian act
  - do not apply provincial law
  - conduct a real grass-roots consultation
  - develop our own options, which could be through federal legislation for divorce or separation
  - develop a women's property rights act that incorporates family law, expanding it to deal with Child Welfare, as well as MRP.
8. That the designation of children as 6.2 with unstated paternity is a policy. This policy needs to be challenged and changed. It is important that ONWA seek support from allied organizations to apply political pressure to effect change
9. That ONWA contact NWAC to utilize MRP funds to create a position to assist women who are facing the issue, through providing advise, research, and referrals.
10. That ONWA lobby for funding for an Aboriginal Women's legal clinic, aside from legal aid, to assist with family, property, and child welfare issues. Further that ONWA lobby for legal clinics for Elders.
11. That ONWA apply for funding through INAC to conduct a series of workshops on Wills and Estates for Elders
12. That the report and the results of the consultation be made available to participants through email or snail mail, and that they be posted on ONWA's website

## Concerns:

- with this consultation process, that the government may not take **any** of our recommendations
- that a full and proper consultation is not taking place with the NWAC funding. ONWA's allocation is not relative to either the size of the territory or the Aboriginal population which is the largest in the country.
- with how are the consultation funds being used and are they effective
- that the whole southern portion of Ontario is not being allowed their input
- how do you deal with Matrimonial property without solutions around Bill C-31 and its discrimination
- that more than the legislation is discriminatory, the policy is as well. If there is unstated paternity, the child is identified as 6.2, so their children are no longer considered

## Request for Assistance

A Red ticket holder attended the November 12<sup>th</sup> workshop in Sault Ste Marie and asked for help. She married a white man, moved off, and moved back to reserve in 1990. She was told she had to re-apply even though she had not given anything up. She will have to access the records in Ottawa to prove she had a Red ticket, and will have to reapply to Indian Affairs to get her status again. Her children will also have to apply. There is a very long waiting period to get this done, although they have set some priorities with respect to education health and age. She will be one of the first priorities due to her age. There is up to a 10 year wait. Another Red ticket holder was identified that did not have to re-apply.

**Recommendation:** that ONWA monitor her application process to ensure that it is on-going, stays in the forefront, and adheres to a specified time line.

## Other information:

The Scow Institute, named after retired Aboriginal judge Alfred J. Scow. develops and implements education and communications strategies to inform all peoples about the historical, cultural, and legal issues that affect Aboriginal people in British Columbia and Canada. They have developed a paper entitled "the Issues and Rights of Aboriginal Women On and Off Reserve" which you can access on their website.

<http://www.scowinstitute.ca/documents/RPRightsofWomen.pdf>

## More background:

[www.nwac.org](http://www.nwac.org)

[www.inac.gc.ca](http://www.inac.gc.ca)

[www.Aboriginalcanada.gc](http://www.Aboriginalcanada.gc)

[www.AFN.ca](http://www.AFN.ca)

## Appendix

### OAITH Member List—Matrimonial Real Property Information

Questionnaires were sent out to shelters and second stage housing, with a response date of December 15th

Erna Opena  
Education Wife Assault  
220--215 Spadina Avenue  
TORONTO, Ontario M5T 2C7

Patty Park  
Three Oaks Foundation,  
P.O Box 22162  
BELLEVILLE Ontario K8N 5V7

Huong Pham  
Assaulted Women's Helpline  
Box 369, Station B  
TORONTO, Ontario M5T 2W2

Wendy Leeder  
Y's Wish Shelter,  
33 McGrigor Street  
OSHAWA Ontario L1H 1X8

Silvia Samsa  
YWCA ARISE Women's Shelter,  
Postal Station P, Box 68  
TORONTO Ontario M5R 2T9

Barb McEwen  
YWCA of Peterborough, Victoria and  
Haliburton,  
216 Simcoe Street  
PETERBOROUGH Ontario K9H 2H7

Carol Latchford  
Ernestine's Women's Shelter,  
Box 141, Station B  
REXDALE Ontario M9W 5K9

Wanda Post  
Alternatives for Women,  
Box 1360  
PICTON Ontario K0K 2T0

Mary Preston  
Interval House,  
2 Montcrest Boulevard  
TORONTO Ontario M4K 1J7

Judith Stevens  
My Sister's Place (People in Transition)  
Box 533  
ALLISTON, Ontario L9R 1V7

Rhonda Roffey  
Women's Habitat,  
Box 14047  
2408 Lakeshore Blvd. West  
ETOBICOKE Ontario M8V 4A2

Sylvia Patfield  
Women's and Children's Shelter,  
115 Edgehill Drive  
BARRIE Ontario L4N 1L9

Janna Cheng-Brown  
Nellie's Shelter,  
970 Queen Street East  
P.O. 98118  
TORONTO Ontario M4M 1J0

Joy McCormack  
Muskoka Interval House,  
Box 748  
BRACEBRIDGE Ontario P1L 1T9

Shirley Puttock  
Maggie's Resource Centre,  
Box 611  
BANCROFT Ontario K0L 1C0

Alison Fitzgerald  
My Friend's House,  
Box 374  
COLLINGWOOD Ontario L9Y 3Z7

Linda Janzen  
Northumberland Services for Women,  
Box 935  
COBOURG Ontario K9A 4W4

Melody Tigani  
Women's Shelter, Second Stage Housing  
and Counselling Services of Huron,  
Box 334  
GODERICH Ontario N7A 4C6

Joanne Kelly  
Women's House of Bruce County,  
Box 760  
KINCARDINE Ontario N2Z 2Z4

Patti Bell  
Women's Shelter of Georgina (Sandgate),  
Box 248  
SUTTON WEST Ontario L0E 1R0

Kathy Willis  
Women's Resources of Simcoe County,  
Box 54  
MIDLAND Ontario L4R 4K6

Lynda Sacco  
Family Transition Place,  
20 Bredin Parkway  
ORANGEVILLE Ontario L9W 2Z9

Veena Tripathi  
Green Haven Shelter,  
Box 612  
ORILLIA Ontario L3V 6K5

Anne McLeish  
Women's Centre (Grey Bruce),  
Box 905  
OWEN SOUND Ontario N2Z 2Z4

Lorris Herenda  
Yellow Brick House,  
37 Wellington Street East  
AURORA Ontario L4G 1H6

LaFerne Clarke  
Halton Women's Place,  
2025 Guelph Line, Suite 223  
BURLINGTON Ontario L7P 4X4

Rebecca Rogers  
Guelph-Wellington Women In Crisis--  
Marianne's Place,  
Box 1451  
GUELPH Ontario N1H 6N9

Lori Willan  
Inasmuch House,  
Box 368

293 Wellington Street North  
HAMILTON Ontario L8L 7W2

Clare Freeman  
Interval House Hamilton,  
630 Sanatorium Road  
HAMILTON Ontario L9C 7S7

Cindy Cowan  
Interim Place I and II,  
Box 245, Port Credit P.O.  
MISSISSAUGA Ontario L5G 4L8

Jane Scheel  
Haldimand and Norfolk Women's  
Services,  
Box 731  
SIMCOE Ontario N3Y 4T2

Christine Brutin  
Quetzal Family Homes,  
269 Metcalfe Street South  
SIMCOE Ontario N3Y 5L1

Pat Jeeves  
Lanark County Interval House,  
Box 107  
CARLETON PLACE Ontario K7C 3P3

Linda Murray  
Kingston Interval House,  
Box 21042  
KINGSTON Ontario K7L 5P5

Leighann Burns  
Harmony House,  
P.O. 57082  
Somerset Postal Office  
OTTAWA Ontario K1R 1A1

Anel O'Neill  
Interval House of Ottawa,  
55 Eccles Street  
OTTAWA Ontario K1R 6S3

Leigh Sweeney  
Bernadette McCann House for Women,  
Box 244  
PEMBROKE Ontario K8A 6X3

Renee Parent  
Nelson House,  
Box 5381, Merivale Depot  
NEPEAN Ontario K2C 3J1

Anne Hodge  
Maison d'Amitie,  
40, Rue Cobourg  
OTTAWA Ontario K1N 8Z6

Carol Ralph  
Elliot Lake Women's Group,  
185 Mississauga Avenue  
ELLIOT LAKE Ontario P5A 1E1

Bev Bell  
Mattawa Women's Resource Centre,  
Box 538  
MATTAWA Ontario P0H 1V0

Elizabeth Patrick  
Manitoulin Haven House,  
Box 181  
MINDEMOYA Ontario P0P 1S0

Paula Valois  
Chadwic Home,  
23 Algoma Street  
Box 1580  
WAWA Ontario P0S 1K0

Gloria Harris  
Marjorie House,  
Box 869  
MARATHON Ontario P0T 2E0

Patty Kelly  
Chatham-Kent Women's Centre,  
Box 641  
20 Sandys Street  
CHATHAM Ontario N7M 5K8

Ruth Hyatt  
St. Thomas Elgin Second Stage Housing,  
15 Golding Place  
ST. THOMAS Ontario N5R 6B6

Sheila Cameron  
VAW Services Elgin County,  
300 Talbot Street  
ST. THOMAS Ontario N5P 4E2

Diane Harris  
Ingamo Family Homes,  
432 Springbank Avenue North, #20  
WOODSTOCK Ontario N4T 1N7

Debbie Ball  
Faye Peterson Transition House,  
Box 10127  
THUNDER BAY Ontario P7C 4V8

Norma Elliott  
Women In Crisis Algoma Inc.,  
23 Oakland Avenue  
SAULT STE. MARIE Ontario P6A 2T2

Colette Prevost  
Sudbury YWCA-Genevra House,  
370 Raphael Street  
SUDBURY Ontario P3B 4K7

Yolonde Nashkawa  
Mississauga Women's Shelter,  
P.O. Box 370, 13 Sawmill Road  
Mississauga First Nation  
BLIND RIVER Ontario P0R 1B0

Kathy Latell  
New Starts for Women,  
Box 169  
RED LAKE Ontario P0V 2M0

Lori Watson  
Victoria County Women's Resources,  
22 Russell Street East  
LINDSAY Ontario K9V 2A1

Joyce Drouin  
Minwaashin Lodge--Aboriginal Women's  
Suuport Centre,  
424 Catherine Street  
OTTAWA Ontario K1R 5T8

Anne-Marie Gardner  
Redwood Shelter,  
2238 Dundas Street West, Box 59030  
TORONTO Ontario M6R 3B5

Joanne Scott  
Esprit Place Family Resource Centre,  
3A Beechwood Drive  
PARRY SOUND Ontario P2A 1J2

Donna Kroocmo  
Atikokan Crisis Centre,  
P.O. Box 818  
ATIKOKAN Ontario P0T 1C0

Carol Croxon  
Ojibway Family Resource Centre,  
131 Commanda Crescent  
NORTH BAY Ontario P1B 8G5

Jaki MacKinnon  
Bethesda House,  
Box 82  
BOWMANVILLE Ontario L1C 3K8

Charlene Catchpole  
Yorktown Shelter for Women,  
21 Ascot Avenue, 1st Floor  
TORONTO Ontario M6E 1E6

Kia Rainbow  
Chrysalis House,  
2 MacNeil Court  
OTTAWA Ontario K2L 4H7

Julia Smith  
Herizon House,  
P.O. Box 87016  
915 Westney Road South  
AJAX Ontario L1S 3K0

Penelope Cummine  
Women's Shelter, Saakaate House,  
P.O. Box 49  
KENORA Ontario P9N 3X1

Patricia Jurivee  
Beendigen Inc.,  
100 Anemki Drive, Suite 103  
Anemki Office Complex  
THUNDER BAY Ontario P7J 1A5

Charlene Greene  
First Step Women's Shelter,  
P.O. Box 1208  
SIOUX LOOKOUT Ontario P8T 1B8

Medora Kalinowski  
Martha House,  
20 Emerald Street South  
HAMILTON Ontario L8N 2V2

Sandra McCormack  
Denise House, The,  
Oshawa Central Post Office  
P.O. Box 30560  
OSHAWA Ontario L1J 8L8

Catherine Fox  
Armagh,  
P.O. Box 52581  
1801 Lakeshore Blvd. West  
MISSISSAUGA Ontario L5J 4S6

Bernnitta Hawkins  
Red Door Family Shelter,  
875 Queen Street East  
TORONTO Ontario M4M 1J2

Margaret Haynes  
Julliette's Place (Homeward Family  
Shelter),  
P.O. Box 37529  
31 Tapscott Road  
SCARBOROUGH Ontario M1B 5P9

Bernice Connell  
Hoshizaki House-Dryden District Crisis  
Shelter,  
Box 974  
DRYDEN Ontario P8N 3E3