HOMELESS ON HOMELANDS

UPHOLDING HOUSING AS A HUMAN RIGHT FOR INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE

Keepers of the Circle

Submission to the Federal Housing Advocate on behalf of the National Indigenous Feminist Housing Working Group

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Authors & Contributors

This Claim was authored by the **National Indigenous Feminist Housing Working Group** under the leadership of Marie McGregor Pitawanakwat and Katlia Lafferty; with writing and research expertise from Khulud Baig, Fiona Traynor, Arlene Hache, Kaitlin Schwan, and Amrit Sago; guided by knowledge and wisdom from Lisa Thurber, Daphne Sinclair, Cori Kleisinger, Becky Bigcanoe, Tanyss Knowles, Beth Cook, Linda English, Katherine Gandy, Charlotte Nolin, Alexandra Bridges, Crystal Semaganis, Jenn Simpson, Brenda Norris, Kathryn Gagain, Joni Roy, Heather Maujary and Janine Harvey; with communications expertise from Stefania Seccia and administrative support from Haydan Fox.

Land Acknowledgement

The authors would like to acknowledge and recognize that Canada is a settler colonial state on Turtle Island, which for generations has been governed and inhabited by Indigenous Peoples practicing traditional ways of doing, knowing, and being. This Claim acknowledges that the current homelessness crisis, disproportionately impacting Indigenous Peoples, is a direct result of colonial and patriarchal policies that have dispossessed Indigenous Peoples of their lands and homes, and commodified land and housing as profitable assets leading to the concentration of wealth with a privileged few.

This Human Rights Claim is published by Keepers of the Circle, which is situated on Robinson-Huron treaty land, traditional lands of the Anishinaabe, Mushkegowuk (Cree), Algonquin, and Métis peoples and home to First Nations communities of Beaverhouse, Flying Post, Wahgoshig, Taykwa Tagamou, Mattagami, Matachewan, Temagami, Temiskaming, Moose Cree, Fort Albany, Kashechewan, Attawapiskat and Weenusk. The Claim is published in collaboration with the Women's National Housing & Homelessness Network, which is situated in Tkaronto (Toronto, ON), the traditional and unceded territory of many First Nations including the Mississaugas of the Credit First Nation, the Anishinaabeg, the Chippewa, the Hodinöhsö:ni', and the Huron-Wendat. Tkaronto is now home to many diverse First Nations, Inuit, and Métis Peoples. We also acknowledge that Tkaronto is located within the lands protected by the Dish with One Spoon wampum agreement and is covered by Treaty 13 signed with the Mississaugas of the Credit First Nation, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

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Introduction

Indigenous women, girls, Two-Spirit, and gender-diverse people are experiencing some of the most egregious right to housing violations across Canada. We are over-represented in almost all aspects of housing insecurity, homelessness, and poverty, and are disproportionately impacted by violence and trauma linked to precarious living situations. These violations are a result of historic and ongoing attempts by the Canadian State to colonize Indigenous Peoples, our cultures, and our ways of living, doing, and being. In the face of these attempts, our Peoples – First Nations, Inuit, and Métis – have resisted and mobilized, continuing to uphold our ways. We continue to navigate and survive violent systems of institutionalization and exclusion, practicing our cultures through land and water stewardship and utilizing mechanisms like international and national human rights covenants and declarations to assert our rights.

The *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* ("The MMIWG Report"), released in 2019, comprehensively documents the colonial oppression of the Canadian State, and the grievous violations of Indigenous women, and gender-diverse people's inherent rights and human rights as promised under an array of national and international human rights bodies. The MMIWG Report is a monumental body of work that affirms our experiences within the oppression of the Canadian settler colonial state and our resistance to it. We have never forfeited and continue to uphold our inherent Indigenous rights, as well as our human rights.

The work of The MMIWG Report, and the Calls to Justice produced through the Inquiry, provide a roadmap for advocates across Canada to utilize every available human rights body as an accountability measure to hold the Canadian State accountable to its responsibility to First Nation, Inuit, and Métis women, Two-Spirit, and gender-diverse people across Canada. Our Claim to the Federal Housing Advocate is an exercise of such assertion guided by the knowledge and wisdom of the MMIWG report and compiled by us as a collective of Indigenous women who convene through the Working group situated within Keepers of the Circle and in partnership with the Women's National Housing and Homelessness Network.

Through our work on this Claim, and engagements that will follow-up the submission of this document, we hope to provide key considerations, recommendations and highlight key areas in which we see the Federal Housing Advocate playing a role in the progressive realization of housing as a human right for Indigenous women, girls, and gender-diverse people. We assert that this Claim highlights the indivisibility of housing as a human right for Indigenous women, girls, Two-Spirit and gender-diverse people from other rights enshrined in treaties made between the Indigenous people and the Crown, Charter of Rights and Freedoms as asserted within the Canadian Constitution, the United Nations Declaration of Rights of Indigenous Peoples (UNDRIP) and the international human rights covenants and conventions to which Canada is a signatory. *Our goal of pursuing this Claim through the Federal Housing*

Advocate is to co-develop a transformative approach to housing as a human right, as articulated by our own ways of knowing, doing and being. For us, this Claim represents an exercise of self-determination to articulate what the right to housing means to us and how we would like to see its realization and enjoyment in our communities.

We also deem it critical that this human rights exercise, vis-à-vis the submission of this Claim, is understood as an exercise demanding accountability from the Canadian State on violence perpetrated against Indigenous women, girls, and gender-diverse people and created by colonial housing policies. As one of our knowledge keepers articulates,

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Engaging in this Claims process with the Federal Housing Advocate is not an exercise in women, Two-Spirit, and gender-diverse people having their rights granted by mechanisms of the colonial governments. This is an exercise to recognize and hold colonial governments accountable as barriers to Indigenous Peoples' right to self-determination and realizations of their inherent rights.

In this sense, our engagement with the Federal Housing Advocate represents an exercise in resistance and resilience, utilizing human rights mechanisms to assert Indigenous People's inherent rights and the right to self-determination.

Our articulation of rights through this Claims process echoes the articulation framed in the National Inquiry into MMIWG Report. The Inquiry Report emphasizes the need to ensure that engagement in international and national human rights mechanisms is informed by knowledge of and respect for the inherent Indigenous rights of women, girls, Two-Spirit, and gender-diverse people. "Indigenous Peoples have their own understandings of rights based on their own laws, traditional knowledge systems, and world views, which are often expressed through stories. These rights are not determined by international agreements, Canadian legislation, or Supreme Court rulings. These are expressions of Indigenous women's, girls' and 2SLGBTQQIA[1] people's proper power and place."[2] The MMIWG Inquiry report contends that international and national human rights mechanisms that Canada is a signatory can play a significant role in the reclamation and assertion of Indigenous women's, girls, and gender-diverse people's power and place within our communities.

Mirroring this articulation in the MMIWG Report, our work on this Claim acknowledges the assertion of inherent Indigenous rights and human rights as "linked, but distinct ideas."[3] The distinction is critical as

[1] Two-Spirit, Lesbian, Gay, Bi-sexual, Trans, Queer, Questions, Inter-sex and asexual

[2] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, p. 118

[3] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, p. 218

it underlines the primacy of Indigenous rights in relations between Indigenous Peoples and the Canadian State. As stated in the MMIWG Report, "solutions pursued must not harm Indigenous women by violating some rights while trying to uphold others."[4] Guided by this articulation of rights, our work through this Claim provides a transformative human rights approach that calls on the Federal Housing Advocate to facilitate the realization of our housing rights, as articulated by us. It is critical that the realization of our housing rights is interconnected with our collective and inherent rights as Indigenous women, girls, Two-Spirit, and gender-diverse people. Through this Claim, our goal is that the Federal Housing Advocate will co-produce reviews and recommendations that situate the realization of housing as human right within the interwoven contexts of inherent Indigenous rights.

This transformative approach to recognizing housing as a human right, calls on the Federal Housing Advocate to include the international and national human rights principles Canada is bound to. It further urges the Federal Housing Advocate to co-develop, with Indigenous women, girls, and gender-diverse peoples, articulations of human rights that are rooted in our right to self-determination. Through engaging with the Federal Housing Advocate in this transformative human rights approach, we are responding to guidance presented in the MMIWG Report as it states,

> *…one-dimensional approach to rights can serve to perpetuate violence. Indigenous women's rights include both individual human rights and collective Indigenous rights – with overlap between these two categories, where collective rights are also human rights and Indigenous rights also belong to individuals. As a result, solutions do not rest only within human or within Indigenous rights instruments, and neither do they rest only in governments. Addressing violence against Indigenous women, girls, and 2SLGBTQQIA people requires new solutions as conceived, driven, and managed by those affected. Therefore, it is important to stress that the realization of these rights, both within Indigenous contexts and within the framework of human rights, requires self-determined solutions.*[5]

Across First Nations, Métis, and Inuit communities, women, Two-Spirit, and gender-diverse people express their roles as caretakers, nurturers, stewards of lands and waters, and knowledge keepers and transmitters. Colonial attempts to eliminate these roles displaces Indigenous women, Two-Spirit, and gender-diverse people from their inherent roles in their communities and disrupts their relationship to culture, kin, lands, and waters. Engaging with the Federal Housing Advocate through parameters set

[4] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, p. 218

[5] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, p. 221

within National Housing Strategy Act (NHSA) provide us, and other Indigenous women, Two-Spirit, and gender-diverse advocates across Turtle Island, a unique opportunity to highlight the egregious ways in which Canada's housing policies are hindering our ability to practice and transmit our cultures across generations, provide safety and security to ourselves and our families, and nurture their relationships with lands, waters, and kin as backbones of our communities.

The role that lack of safe, accessible, adequate, and stable housing plays in disrupting transmission and practice of our cultures and our ways of doing, in tearing away our families from their place and power makes housing in Canada a legacy of the genocidal violence of the residential school systems. The full realization of our right to housing, as understood and articulated by us, is at the core of our ability to practice and reclaim our cultures. By asserting our right to housing, we are holding Canada accountable to the Calls to Actions made under the Truth and Reconciliation Commission (TRC) Report which details the ongoing legacies of the residential school system and the impact it continues to have on our communities. Violations to our right to housing is the continuation of genocidal violence on our communities that tears our families apart and subjects us to systemic state-sponsored violence. This disregards and dishonours the findings of the TRC Report, most significantly, the right to housing and self-determination as echoed in Call to Action 43 calling for all levels of government in Canada to fully adopt and implement UNDRIP as "the framework for reconciliation."[6]

Through engaging with our Claim, the Federal Housing Advocate has a unique opportunity to advance self-determination as a starting point for the realization of the right to housing for Indigenous women, girls, and gender-diverse people[7]. We are calling the on the Federal Housing Advocate to engage in a decolonized reframing of the right to housing and join us, as Indigenous women, girls, and gender-diverse people, in this transformative human rights exercise that situates us as leaders in the process of defining and setting parameters on what the realization of the right to housing means in our communities. We are asserting, through our testimony and evidence given in the TRC and MMIWG Hearings, that the Canadian State should no longer impose upon us a colonial understanding of the right to housing. ***The intent of this Claim is to collectively pursue an exercise in self-determination through articulating what the right to housing means to Indigenous women, girls, and gender-diverse peoples.***

Decolonizing Housing Systems

As we highlight key issues pertaining to housing rights violations of Indigenous women, girls, and gender-diverse people we must recognize that at the core of the matter is dispossession from lands Indigenous women, girls, and gender-diverse people have called home since time immemorial. We, as right claimants, want to emphasize that this relationship to land is at the heart of the inherent rights of

[6] Truth and Reconciliation Commission. (2015). Truth and reconciliation commission: Calls to action. *Winnipeg: Truth and Reconciliation Commission*. P. 4

[7] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, P. 221

Indigenous Peoples and underlines all rights that Indigenous Peoples hold under international and constitutional rights covenants and declarations. This relationship to land is rooted in reciprocity and stewardship of lands, waters and resources that are protected for generations to come. Being informed by this relationship to land, Indigenous Peoples have traditionally built and engaged ways of living and doing that are generative and sustainable.

Colonial conceptualizations of land, ownership and housing as commodities that are bought, sold and are subject to financial speculation disrupt the relationship of mutuality and reciprocity. It commodifies land and positions housing development as a tool of extracting wealth and profits. The current increased financialization of housing that we are experiencing in Canada [8] deeply relies on disruption and elimination of Indigenous ways of knowing and living. Thus, any exercise of Indigenous housing rights in Canada must be informed by attempts of colonial governments to eliminate Indigenous ways of living and knowing. As we examine egregious housing rights violations experienced by Indigenous women, girls, and gender-diverse peoples, it is critical for us to recognize that over-representation of Indigenous Peoples in cycles of poverty, homelessness and housing insecurity is not just a result of extractive commodification of housing, rather the very function of it. Commodification and financialization of housing rely on dispossession of Indigenous Peoples from lands that they have inherent rights to. Ensuring the right to housing for Indigenous women, girls, and gender-diverse people must not only affirm principles of housing as a human right as iterated under NHSA and international law, but it must also reckon with the indivisibility of housing as a human right from inherent Indigenous rights and other human rights iterated under historic treaties and international agreements. Upholding housing as a human right for Indigenous women, girls, and gender-diverse people is thus an exercise in upholding Indigenous People's rights as asserted in treaties and engaging with rights inherent to Indigenous people as they understand and articulate them.

Claim Structure & Outline

National Indigenous Feminist Housing Working Group and the Claim Development Process

The National Indigenous Feminist Housing Working Group ("the Working Group") represents a collective of women, girls, Two-Spirit, and gender-diverse advocates from across Canada who identify as First Nations, Inuit, and Métis. Our Working Group is a grassroots movement of First Nations, Inuit, and Métis women who are dedicated to improving housing and ending homelessness for Indigenous women, girls, Two-Spirit, and gender-diverse persons across Turtle Island. Our members include those with lived or living experience of housing need or homelessness. Keepers of the Circle and the WNHHN provide support to the Working Group, but it operates independently and in alignment with its own self-determined processes and praxis.

[8] Canada is one of the most expensive markets in the world, with Canada's rate of housing prices increasing at a rate "far more than any other developed market in the world. Today, the average price of a home is $686,650, according to the Canadian Real Estate Association. In Ontario, which jumps to $887,290 and in British Columbia, it is $913,471. These prices have not kept up with "other important factors — such as income and people's ability to pay for their high-priced homes in the years ahead." Stokes, D. (2021, November 12). Canada's unhinged housing market, captured in one chart. National post. https://nationalpost.com/news/canada/canadas-unhinged-housing-market-captured-in-one-chart

Keepers of the Circle (KoC) is an Indigenous Hub operated by the Temiskaming Native Women's Support Group (TNWSG). It offers a broad range of culturally focused and gender-specific pre-employment, health, and social programs and services to community members that follow the continuum of the life cycle. Keepers of the Circle facilitates the convening of the Working Group to create space for grassroots voices and advocacy at a national level. The Women's National Housing and Homelessness Network (WNHHN) is Canada's leading national collective working to eliminate housing need and homelessness for women, girls, Two-Spirit, and gender-diverse people. Keepers of the Circle is the lead Indigenous partner of the WNHHN and is facilitating the convening of the National Indigenous Feminist Housing Working Group to advance the human rights of for Indigenous women, girls, Two-Spirit, and gender-diverse people.

We submit this Claim in partnership with the Claim submitted by the Women's National Housing & Homelessness Network, *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada*. **We urge the Federal Housing Advocate to urgently review both our Claim and the WNHHN Claim.**

This Claim is compiled as a result of sharing circles and monthly meetings. As members of the Working Group, we are mothers, sisters, grandmothers, knowledge-keepers, and caregivers carrying experiences of intergenerational trauma caused by colonial and genocidal policies supported by the Canadian State. Our experiences of right to housing violations are interconnected with systems that span beyond just housing and homelessness policies. As evidenced in the testimonies throughout the Final Report of the Inquiry into MMIWG, our experiences of homelessness, lack of access to safe housing, discrimination at the hands of housing providers, and living in precarious housing situations are linked to colonial violence created by child welfare systems, the legacy of the genocidal residential school systems, and the criminalization of Indigenous Peoples, and deep poverty. Working Group advocates view these public systems as playing a key role in displacing Indigenous women, girls, Two-Spirit, and gender-diverse people from integral roles in our community, thus reproducing cycles of intergenerational trauma and cultural dislocation.

The recognition of the interconnected nature of colonial systems that collectively produce and perpetuate violence on Indigenous women, girls, and gender-diverse peoples underpins all our work in this Claim. Recognizing the interconnectedness of Indigenous women, Two-Spirit, and gender-diverse people's housing rights violations with other areas of rights violations is critical to the full realization of housing rights of Indigenous women, girls, and gender-diverse peoples. Through our engagement with this Claim process, we aim to define and highlight the parameters and context of housing rights violations of Indigenous women, Two-Spirit, and gender-diverse people, present the scale of housing rights violations of Indigenous women, Two-Spirit, and gender-diverse people in Canada, map links to systemic failures, and build key evidence from communities across Canada to aid the accountability process through Federal Housing Advocate.

Scope and Limitations

This Claim is grounded in a participatory process, led by the advocates who are a part of the Working

Group. This Claim is based on the experiences of Working Group members, including knowledge keepers and Elders, who shared their stories and histories in sharing circles.[9] Working Group members identified key violations which are included in this Claim. For this reason, this Claim includes quotes and comments from Working Group advocates at various places as evidence of the participatory process. Citation of oral comments and feedback in this Claim reflects involvement of Indigenous women, girls, Two-spirit, and gender-diverse people convening to articulate and highlight the violations of human rights they, their families, and communities experience.

Our engagement with the Claim process will be split into two key phases. The **FIRST PHASE** involves the submission and launch of this document which highlights key context, pillars, parameters, and considerations that the Federal Housing Advocate must consider to meaningfully advocate for the realization of the right to housing for Indigenous women, girls, and gender-diverse peoples. Through this document we aim to present interconnected systems and policies that create serious and continued housing rights violations against Indigenous women, girls, and gender-diverse people.

The **SECOND PHASE** of the Claims process will involve extensive evidence gathering from coast to coast to coast, documenting housing rights violations experienced by Indigenous women, Two-Spirit, and gender-diverse people. We anticipate that the evidence gathering process in the second phase will support this Claim and provide further evidence of the current scale and depth of the issues highlighted herein. The evidence gathering process will be followed by an extensive addendum to our Claim that will assist the Federal Housing Advocate in her review of our Claim.

Embarking on this process has been particularly difficult for us, as a grassroots group, as we navigate vast gaps in data and information on Indigenous women's housing experiences, particularly from Indigenous women- and gender-diverse people- led and owned data sources. Claiming accountability through the NHSA is intrinsically challenging due to colonial research practices that have hindered us from owning and producing information that is useful and critical for our communities. Research resources are primarily created and held by non-Indigenous entities who continue to determine priorities for our communities rather than supporting Indigenous-led knowledge gathering and pathways. Our work on this Claim, though not exhaustive, aims to highlight key pillars that have emerged through our inquiry and discussions within the Working Group as integral towards upholding housing as a human right for Indigenous women, girls, and gender-diverse people.

Defining Indigenous Feminism

The name of our Working Group, the National Indigenous Feminist Housing Working Group, as articulated by Katlia Lafferty, one of our co-chairs, is underlined by the acknowledgement that we carry masculine and feminine within us and how we name ourselves must not enforce any form of gender-

[9] Sharing circles on Indigenizing housing and decolonizing housing were hosted through the National Indigenous Feminist Housing Working Group to gather knowledge on feminist and matriarchal perspectives on housing

binaries or exclusions.

We are guided by **INDIGENOUS FEMINISM**, which is loosely defined as "an intersectional theory and practice of feminism that focuses on decolonization, Indigenous sovereignty, and human rights for Indigenous women and their families"[10]. More importantly it situates matriarchal roles and knowledge at the centre of guidance and acknowledges the role matriarchs have played since time immemorial in upholding and transmitting culture and maintaining relationships with land, community, and kin.

INDIGENOUS FEMINISM recognizes the diversity of our peoples, and the unique journeys of decolonization that our people are on, "our feminism is as diverse as the hundreds of tribes across Turtle Island, each at their own stage of post-colonial evolution and with their own beliefs and practices.[11]" Our feminism works to reclaim place and power for all genders in our communities, as asserted under our inherent rights.

Respecting and Acknowledging our Two-Spirit, Queer, Trans, Non-Cisgendered Kin

Our Claim refers to women, Two-Spirit, and gender-diverse people when speaking to gendered violations of housing as a human right. We recognize the limitations of this approach, and more importantly the harm that women-specific housing services perpetrate on those who identify as gender-diverse. We also recognize that the lack of data surrounding Two-Spirit (2S), Indigenous people who identify as Lesbian, Gay, Bisexual, Transgender, Queer and/or Questioning, Intersex, Asexual, and those who choose additional affirmative ways to self-identify their sexuality. This makes it challenging to identify exact violations being experienced by Two-Spirit, queer, trans and gender-diverse peoples in our community. The lack of data and analysis surrounding their situation and circumstances represents a violation of their housing rights, as it severely limits accountability, policy making and subsequently solution building for this community.

Little is known about the scale and depth of housing insecurity and homelessness as it pertains to Indigenous gender-diverse people. We know that our gender-diverse youth are being disproportionately impacted by housing insecurity and homelessness. We know that we are in dire need of housing and supports that cater to the unique needs of our gender-diverse peoples, particularly our gender-diverse youth. We also know that many times our gender-diverse youth are failed by the intersection of systems such as child welfare and health care. Significant attention and research are needed to identify housing rights violations impacting Indigenous gender-diverse people and their rights. Through Phase 2 of this process, we will create safe spaces for the inclusion of the experiences of Indigenous gender-diverse people to add their unique voices and experiences through this Claim process.

[10] Gearon, J. (2021). Indigenous Feminism is our culture. Stanford Social Innovation Review. https://ssir.org/articles/entry/indigenous_feminism_is_our_culture#
[11] Ibid

Our Claim centres Indigenous women, together with those who identify as Two-Spirit and gender-diverse persons, as we detail key violations of the right to housing. We recognize and acknowledge that patriarchal, colonial regimes and policies have created gendered violations of rights for Indigenous women and for those who identify as gender-diverse peoples.

Structure of the Claim

The Claim document is written in two parts. The first part articulates human rights frameworks as listed in the MMIWG report and connects them to the right to housing. These articulations are central and critical to our work as they build upon the efforts of our community in highlighting the direst crisis impacting our community. The second part of the claim details key violations of housing rights impacting Indigenous women, girls, Two-Spirit, and gender-diverse people. These violations are neither exhaustive nor comprehensive but are driven by discussions held among the advocates in the Working Group. We recognize that as we embark on the evidence building process for this Claim, the violations highlighted will become more comprehensive and serve as a process of women, girls, Two-Spirit, and gender-diverse people articulating the right to housing in their own terms.

Human Rights Frameworks as Articulated in the Final Report of the *National Inquiry into Missing and Murdered Indigenous Women & Girls*

In the context of inherent Indigenous rights, the NHSA emerges as a critical instrument that can be utilized to challenge colonial policies and mechanisms that attempt to displace Indigenous women, girls, Two-Spirit, and gender-diverse people from "their proper power and place."[12] To understand the scale and depth of ongoing housing rights violations experienced by Indigenous women, Two-Spirit, and gender-diverse people in Canada, we urge the Federal Housing Advocate to examine the interconnected areas of human rights. The National Inquiry into MMIWG Report highlights four areas of rights violations that frame the incidence of housing rights violations experienced by Indigenous women, girls, Two-Spirit, and gender-diverse people. Housing rights violations are indivisible and interconnected to these areas of human rights: the right to culture, the right to health, the right to security, and the right to justice.[13] Each of these areas intersects and overlaps with housing as a human right and ultimately ties to the reclamation of power and place for Indigenous women, girls, and gender-diverse people. All these areas are articulated in international declarations, conventions and covenants to which Canada is a signatory.

Let us be clear, our right to housing is connected to the four areas of rights violations listed above and therefore cannot be thought of as a standalone rights violation. Our communities recognize the interconnectedness of housing rights violations to our cultures, health, security, and justice. As we proceed with this Claim and engage communities across Canada, the indivisibility asserted in this framework will guide us. At its core, this framework asserts that our right to housing is only possible through systemic changes that address deep rooted colonial genocidal violence that violates our inherent Indigenous rights and our human rights.

Through prefacing work done by the National Inquiry into MMIWG Report in this Claim, we urge the Federal Housing Advocate to deeply centre their review of this Claim in knowledge produced and held by Indigenous communities.

[12] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 118. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/, P. 118

[13] Ibid

1. Violation of Right to Culture and Right to Housing

The right to culture is inextricably bound up with the right to housing and Indigenous Peoples' broader right to self-governance and self-determination. As articulated by the United Nations Special Rapporteur on the Right to Housing, "the right to housing of Indigenous Peoples – properly understood – is an important but often neglected aspect of the right to self-determination and of the pursuit of economic, social and cultural development."[14] In articulating the intersections between housing, culture, and colonial violence, her thematic report, The Right to Housing of Indigenous Peoples, states:

> *The enjoyment by Indigenous Peoples of the right to adequate housing is deeply interconnected with their distinct relationship to their right to lands, territories and resources, their cultural integrity, and their ability to determine and develop their own priorities and strategies for development. Indigenous Peoples were intentionally alienated from their own cultures and deprived of access to resources, both of which are necessary for their enjoyment of the right to housing. They are rarely provided an opportunity to design and implement their own housing policies and programmes and are excluded from decision-making processes that have an impact on their right to adequate housing. Indigenous Peoples are commonly subjected to discrimination in housing-related laws, policies, and programmes and by housing providers, which compounds their marginalization and inadequate housing conditions.*

The right to culture and Indigenous Peoples' relationship to land is distinctly recognized in United Nations Declaration on Rights of Indigenous Peoples article 8 that states "Indigenous Peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture [and] States shall provide effective mechanisms for prevention of, and redress for: (a) Any action which has the aim or effect of depriving them of their integrity as distinct Peoples, or of their cultural values or ethnic identities; (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources." Relationship to land is central to Indigenous Peoples' inherent and human rights, including their right to culture and housing. The International Covenant on Economic, Social and Cultural Rights further cites "All Peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development" (Article 1). Further, the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the access of these rights to men and women equally (Article 3)"[15]. For women, the relationship to land is deeply linked to their place and power in communities, and thus reflects a critical aspect of their cultural rights and roles. We contend that the full protection of this right requires that Indigenous women, Two-Spirit, and gender-diverse people are directly involved in designing and leading their own housing policies and programs that ensure restoration and full enjoyment of their cultural

[14] Farha, L. (2019). Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context. United Nations General Assembly. https://www.undocs.org/A/74/183

[15] National Inquiry into Missing and Murdered Indigenous Women and Girls – A Legal Analysis of Genocide, Supplementary Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls (June 2019) pg. 403

rights.

Violations of the right to adequate housing are intertwined with the violations of the right to culture for Indigenous women, girls, Two-Spirit, and gender-diverse persons. Our experiences of homelessness and housing insecurity are a direct result of historic and ongoing genocidal colonial practices that have focused on eliminating Indigenous culture and ways of doing, being, and knowing, including in the area of housing and land. The critical links between violence experienced by Indigenous women and the genocidal acts perpetrated by the Canadian State have been extensively explored in *Legal Analysis of Genocide - Supplementary Report of the Inquiry into Missing and Murdered Indigenous Women and Girls*, which states:

> *Targeting victims in a gender-oriented manner destroys the very foundations of the group as a social unit and leaves long-lasting scars within a group's social fabric. It is inherent to its destruction [sic]. Genocide is a root cause of the violence perpetrated against Indigenous women and girls, not only because of the genocidal acts that were and still are perpetrated against them, but also because of all the societal vulnerabilities it fosters, which leads to deaths and disappearances, and which permeates all aspects of Canadian society today.*[16]

Given that safe and adequate housing is the cornerstone of cultural restitution, community, and kinship building within Indigenous communities, protection of the right to housing is critical to realizing the right to culture for Indigenous women, Two-Spirit, and gender-diverse people. We, as advocates from the Working Group, reiterate that these rights are indivisible, and that colonial practices that violate these rights are ongoing despite decades of inquiry by international and national human rights bodies.

The Canadian State currently falls significantly short of ensuring the full enjoyment of the right to housing for Indigenous Peoples. *Our Claim aims to hold Canada's accountable to its to support the cultural rights and the right to self-determination of First Nations, Inuit, and Métis women, Two-Spirit, and gender-diverse people; and how these can be implemented through legislation such as the NHSA and in conjunction with UNDRIP Implementation Act*.

2. Violation of Right to Security and Right to Housing

The National Inquiry into MMIWG Report noted that the right to security encompasses various aspects of human security as defined by the 1994 United Nations Development Programme's (UNDP) "Human Development Report" (HDR) and further refined in the adoption by the UN Resolution in 2012.[17] These mechanisms emphasize the importance of human-centred and context-specific approaches to human security, and entail the protection of the right to live with dignity and free from poverty, as well as the

[16]National Inquiry into Missing and Murdered Indigenous Women and Girls (2019) – *A Legal Analysis of Genocide, Supplementary Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* pg. 8.
[17] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 507. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/.

right to economic and social security. The right to housing is integral to the right to life and security. These rights are also constitutionally protected "section 7 Charter right to life, liberty, and security of the person. Denials of protection and the failure of Canada to uphold these rights – specifically, the right to life for Indigenous women, girls, and 2SLGBTQQIA people – are a breach of fundamental justice"[18].

The depth and scale of poverty experienced by Indigenous women, Two-Spirit, and gender-diverse persons undermines both our right to security and to a dignified life, as well as our right to housing. Pervasive systemic inequities associated with poverty and housing insecurity for Indigenous women, girls, Two-Spirit, and gender-diverse people include:

> *lower education rates, adverse experiences, discrimination in education systems, and difficulty accessing post-secondary education; higher unemployment rates, and racial or gender-based biases in hiring processes; the loss of traditional Indigenous land, skills, and livelihoods; higher costs of living in northern communities; lack of support for youth aging out of foster care; being forced out of the family home or home communities due to family violence or discrimination due to gender identity or sexual orientation; lack of affordable housing, and insufficient capacity in shelters, or lack of shelters; and cyclical, intergenerational impacts of low socio-economic status*.[19]

Experiences of deep core poverty means that many Indigenous women, Two-Spirit, and gender-diverse persons are unable to afford rent and other necessities, often trapping them in cycles of violence, housing precarity, and exploitation. Results from the Pan-Canadian Survey on Women's Housing conducted by the Women's National Housing and Homelessness Network, in Partnership with Keepers of the Circle found that identifying as Indigenous and involvement with child welfare system (where Indigenous people are over-represented) were correlated with significantly greater affordability issues among women, Two-Spirit, and gender-diverse people. The survey also noted that identifying as Indigenous was also greatly correlated with experiences of evictions among women, Two-Spirit, and gender-diverse people.

Poverty and violations of the right to life and security play a significant role in contributing to perpetuation of intergenerational housing need and homelessness for Indigenous women and their families. This is perhaps most visible in the context of the child welfare system, with research demonstrating a cyclical and mutually reinforcing relationship between child welfare involvement and homelessness.[20] Child welfare involvement and apprehension is significantly higher among Indigenous

[18] ibid. Pg. 562

[19] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada*). Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. P. 142. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report

[20] Martin, C. M., & Harsha, W. (2019). *Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside*. Downtown Eastside Women's Centre. https://dewc.ca/resources/redwomenrising; Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). *The State of Women's Housing Need & Homelessness in Canada: A Literature Review.* Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press.

communities across Canada,[21] with research indicating experiences while in child welfare systems and outcomes after involvement in child welfare systems are often more harmful and traumatic for Indigenous women, girls, Two-Spirit, and gender-diverse people.

Lack of safety and security play a critical role in undermining the full enjoyment of the right to housing for Indigenous women, girls, Two-Spirit, and gender-diverse people. This lack of security is often structurally created through colonial policies and practices, as was emphasized in the *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*:

> In their [testimonies] about the lack of safety and security in the lives of Indigenous women, girls, and 2SLGBTQQIA people, and the way this lack of safety and security is enforced through institutional and structural practices, witnesses pointed to several larger policy, legislative, and organizational practices that continue to impede access to safety at the structural level.[22]

3. Violation of Right to Justice and Right to Housing

The National Inquiry into MMIWG Report emphasizes the importance of access to justice for Indigenous women as central to achieving the kinds of systemic change required to address entrenched socio-economic inequality and marginalization.

Access to justice for Indigenous women must be implemented in accordance with the UNDRIP that Indigenous Peoples have the right to determine and develop priorities and strategies for exercising their right to housing and other programmes through their own institutions where possible[23]. It requires States to co-develop with Indigenous Peoples "a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous Peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous Peoples pertaining to their lands, territories and resources."[24]

For Indigenous women, Two-Spirit, and gender-diverse people, the history of Canadian justice systems has been a history of marginalization and perpetuation of violence. In particular, the role played by the criminal justice system in perpetuating violence against Indigenous women and girls through incarceration, policing, and courts speaks to the violations of rights to justice caused by State systems that are ostensibly obligated with ensuring justice for Indigenous women, Two-Spirit, and gender-

[21] Public Health Agency of Canada. (2008). *Canadian incidence study of reported child abuse and neglect: Major findings*. Retrieved from https://cwrp.ca/sites/default/files/publications/en/CIS-2008-rprt-eng.pdf; Government of Canada. (2018). *Media brief/backgrounder – child and family services.* Retrieved from https://www.canada.ca/en/indigenous-servicescanada/news/2018/01/media_brief_backgrounderchildfamilyservices.html

[22] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report

[23] United Nations. (2007, September 13). *United Nations Declaration on the Rights of Indigenous Peoples.* UN. https://www.un.org/development/desa/indigenouspeoples/wpcontent/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

[24] Ibid

diverse people.

Our circumstances of housing insecurity and homelessness are intertwined with the criminal justice system primarily through two key pathways: (1) interactions with the criminal justice system make Indigenous women vulnerable to homelessness, and (2) being homeless makes Indigenous women vulnerable to interactions with the criminal justice system.[25] Indigenous women are significantly overrepresented in the Canadian criminal justice system and the prison system, which speaks to the colonial violence inflicted on us by the criminal justice system.[26]

Ensuring the right to justice for women, girls, and gender-diverse Peoples in our communities must acknowledge the nuances of the complex interplay of social, economic, interpersonal, communal, and historical factors that lead to the criminalization of Indigenous women. Ensuring the right to justice for Indigenous women, Two-Spirit, and gender-diverse people is thus rooted in acknowledging the institutional lack of will in addressing other violations of our rights, particularly the right to housing, which makes us vulnerable, and more importantly visible to surveillance of the state and violence perpetrated by the criminal justice system.

Important attention also needs to be paid to access to justice, characterised by access to legal advice, supports, resources, and representation. Indigenous women, Two-Spirit, and gender-diverse persons living in poverty, core housing need, and homelessness face significant access to justice barriers, including: (1) lack of information about what legal supports are available; (2) lack of transportation to available supports; (3) lack of childcare to enable access to these supports, and/or inability to attend legal clinics due to work hours; (4) hesitancy to engaging legal supports because of previous negative experiences, including traumatizing experiences within the justice system; (5) barriers based on ability, discrimination, language, and other intersecting forms of marginalization; and (6) concerns about reprisal for seeking legal remedies from various actors (e.g., landlords, partners) or concerns about child welfare apprehension. Such barriers are more pronounced for Indigenous women, girls, Two Spirit, and gender-diverse persons, with extensive research highlighting the violence perpetrated against this group by the legal justice system.[27]

The right to security is a critical cornerstone to the right to housing. Right to justice upholds human rights commitments Canada is bound to and ensures pathways to justice for rights holder, in case of violations. The right to housing is upheld by the right to justice and cannot be fully enjoyed without the full enjoyment of the right to justice.

[25] Walsh, C. A., MacDonald, P., Rutherford, G. E., Moore, K., & Krieg, B. (2011). *Homelessness and incarceration among Aboriginal women: An integrative literature review*. Pimatisiwin: A Journal of Aboriginal and Indigenous Community Health, 9(2), 363-386.
[26] Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press
[27] Ibid.

4. Violation of Right to Health and Right to Housing

Housing is a social determinant of health, underscoring the critical intersections between the right to housing and the right to health. Rights to health are iterated across international human rights mechanisms, including UNDRIP and ICESCR. Particularly, ICESCR cites "the right to enjoy the highest possible standard of physical and mental health" (Article 12)[28]. While human rights bodies advocate for the utmost realization of our right to health, insufficient safe, secure, and affordable housing for Indigenous women, Two-Spirit, and gender-diverse people poses a significant barrier towards the realization of our right to health.

Living in inadequate housing situations has been linked with physical health challenges that disproportionately impact us. Research shows that Indigenous women, Two-Spirit, and gender-diverse people are more likely than non-Indigenous women in Canada to be living in housing in need of major repairs.[29] Issues with mould leading to respiratory challenges, lack of housing that ensures accessibility needs for Indigenous women with disabilities, lack of safe drinking water in housing across many First Nations reserves, and lack of emergency housing responses that address experiences of violence and trauma all undermine the health of Indigenous women, girls, Two-Spirit, and gender-diverse people.

While there is extensive documentation of the correlation between inadequate housing and poor health conditions, it must be emphasized that violations of the right to housing are also connected with experiences of violence for many Indigenous women, Two-Spirit, and gender-diverse people, which in turn contribute to health deterioration and poorer health outcomes.[30] As articulated by the UN Special Rapporteur on the Right to Adequate Housing,

> Lacking secure, adequate housing, Indigenous women often become the targets of further violence because of their gender and their indigenous identity. This dramatic spiral of violence (lack of access to adequate housing, violence, homelessness, and further violence, including homicide) has profound roots in the extreme social and economic marginalization of Indigenous women and their communities.[31]

Violence experienced because of these unsafe living conditions leads to long-term health impacts and ongoing victimization of Indigenous women, girls, Two-Spirit, and gender-diverse people in our communities. As documented in the National Inquiry into MMIWG Report,

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[28] United Nations (General Assembly). 1966. "International Covenant on Economic, Social, and Cultural Rights." Treaty Series 999 (December): 171

[29] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report

[30] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. P. 458. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/.

[31] Farha, L. (2019). Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context. United Nations General Assembly. https://www.undocs.org/A/74/183

> Although interpersonal violence is not always considered a public health issue, the health-related impacts associated with violence are far-reaching. In addition to the psychological impacts of violence, the severity of violence often experienced by Indigenous women can lead to many additional health problems, such as various types of injuries, including broken bones; chronic pain; gastrointestinal issues; sexually-transmitted infections, including HIV; unplanned pregnancy and other gynaecological complications.[32]

The indivisibility of the right to housing and the right to health means that housing which does not ensure the health and wellbeing of Indigenous women, girls, Two-Spirit, and gender-diverse people does not meet the requirement of the full enjoyment of the right to housing.

[32] Ibid.

Key Violations and Systemic Issues

The Working Group has highlighted following key violations and systemic issues as areas of housing rights violations women, girls, Two-Spirit and gender-diverse people in our communities experience. The violations listed in this Claim by no means capture the full scale and depth of human rights violations impacting us. We hope that the engagement processes in the Second Phase of our Claim process will further elaborate on violations listed below.

Violation 1. Lack of Action on the Calls to Justice from the Missing and Murdered Indigenous Women and Girls Report and Calls to Action from the Truth Reconciliation Commission Report

THE CANADIAN GOVERNMENT'S FAILURE TO HONOR THE TRUTH AND RECONCILIATION COMMISSION (TRC) CALLS TO ACTION AND MMIWG CALLS TO JUSTICE REPRESENTS THE FIRST AND MOST EGREGIOUS VIOLATION OF OUR HOUSING RIGHTS. THE MMIWG REPORT CONSISTENTLY LINKS UNSAFE AND INADEQUATE HOUSING TO GENOCIDAL VIOLENCE EXPERIENCED BY INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE. THE TRC REPORT HIGHLIGHTS THE SCALE AND DEPTH OF GENOCIDAL COLONIAL VIOLENCE PRODUCED THROUGH THE RESIDENTIAL SCHOOLS, AND THE ONGOING LEGACIES OF THE RESIDENTIAL SCHOOLS THAT ARE REFLECTED IN SYSTEMS LIKE HOUSING, CHILD WELFARE AND HEALTHCARE. THE FAILURE TO HONOR THESE PROCESSES THAT OUR COMMUNITIES HAVE PUT SO MUCH TIME, ENERGY AND EFFORT INTO TRANSLATES INTO FAILURE TO ENSURE OUR RIGHT TO HOUSING AND PERPETUATES CYCLES OF COLONIAL VIOLENCE ON INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE.

1.1. Lack of Action on the Calls to Justice from the Missing and Murdered Indigenous Women and Girls National Inquiry Report

The MMIWG Report has documented housing rights violations of Indigenous women extensively through the testimonies of family members of murdered and missing Indigenous women and gender diverse individuals. Testimonies speak to the lack of safe, culturally-appropriate and adequate housing within the larger context of the colonial genocide that displaces Indigenous women, girls and gender diverse individuals from their homelands. This multi-layered oppression has created circumstances of extreme vulnerability to violence and marginalization for women, Two-Spirit, and gender-diverse people in our communities.

The Calls for Justice articulated in the MMIWG National Inquiry Report have asserted the immediate need for repair and construction of houses that would serve the needs of Indigenous women, girls, Two-Spirit, and gender-diverse peoples. The Calls for Justice specifically mention that the "construction and provision of repairs must ensure that Indigenous women, girls, and 2SLGBTQQIA people have access to housing that is safe, appropriate to geographic and cultural needs, and available wherever they reside, whether in urban, rural, remote, or Indigenous communities."[33] Since the reports were published, advocates from First Nations, Métis and Inuit communities have taken up the task of keeping the federal government accountable to progress made on the Calls for Justice. Yet, communities have consistently been met with lack of action and failure to allocate adequate resources to substantively realize the Calls for Justice within the MMIWG National Inquiry Report.

The MMIWG National Inquiry Report included a National Action Plan for the implementation of the Calls for Justice but failed to include accountability mechanisms that would track progress on specific Calls for Justice. This challenge has been identified by the National Family and Survivor Circles (NFSC) which took part in the process of developing the National Action Plan, identifying immediate and long-term priorities, along with other Indigenous organizations across Canada. One of those priorities in the action plan was to establish an oversight body in the form of a National Indigenous Human Rights Ombudsperson and a National Indigenous Human Rights Tribunal before June 3, 2022.[34] Lack of actions on these fronts has not meant there is no way of assessing or measuring if any progress has been made on any Calls for Justice.

Lack of accountability, particularly as it pertains to Calls for Justice, is particularly evident in housing. There is a significant need for better monitoring and data collection on how investments in housing are benefitting Indigenous women, girls, Two-Spirit, and gender-diverse people. Regardless of glaring gaps in data, evidence indicates that investments made under the majority of National Housing Strategy major housing programs have failed to address housing needs for those in severe housing security, which includes a disproportionate number of Indigenous women, girls, Two-Spirit, and gender-diverse people.

Working Group members have expressed that government-funded programs proposed as solutions to Indigenous Peoples' housing insecurity are instead creating pathways into homelessness. This is due to the current housing systems failure to ensure co-development of housing solutions with Indigenous women, girls, and gender-diverse people. As a result, many housing solutions fail to facilitate autonomy and self-determination for us and our families. Interjurisdictional tensions between different levels of government, and lack of security of land tenure on which to build housing are also major factors that contribute to housing programs that fail to promote our realization of housing rights and security. Colonial solutions fail to uphold our ways of knowing and often keep us in cycles of survival rather than allowing us to thrive. Upholding the findings from the MMIWG Report in a meaningful way would entail

[33] National Inquiry into Missing and Murdered Indigenous Women and Girls Vol. 1B (Canada). Reclaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/. P. 182

[34] Deer, K..' (2022). "A national shame," say advocates about lack of progress on MMIWG action plan. CBC. https://www.cbc.ca/news/indigenous/mmiwg-action-plan-update-1.6476685

engaging in solution-building processes that are led by us and uphold our rights in ways we understand and assert them.

1.2. Lack of Action on the Calls to Action from the Truth and Reconciliation Commission Report

The Truth and Reconciliation Commission (TRC) Report documented the genocidal violence of the residential school systems and its intergenerational and traumatic legacies and impacts on our communities today. It included 94 Calls to Action to support reconciliation by establishing mutually respectful relationships between Indigenous and non-Indigenous people in Canada. The Report established that there must be awareness of the past, acknowledgement of the harm inflicted on Indigenous Peoples and actions to change. However, testimonies included in the Report highlight the intergenerational effects of the residential school systems.

"The closing of the schools did not bring the residential school story to an end. Their legacy continues to this day. It is reflected in the significant disparities in education, income, and health between Aboriginal people and other Canadians—disparities that condemn many Aboriginal people to shorter, poorer, and more troubled lives."[35]

For Indigenous women, girls, Two-Spirit, and gender-diverse people, the legacies of residential schools manifest in their disproportionate experiences of violence, physical and mental health challenges and over-representation in homelessness and housing precarity compared to men. Indigenous women across Canada are experiencing disproportionate forms of homelessness, rooted in genocidal practices of Canadian governments. In the Metro Vancouver region, 45% of [36] women experiencing homelessness are Indigenous.[37] In Winnipeg, an overwhelming 80% of women experiencing homelessness identify as Indigenous[38].

The ongoing crisis of homelessness experienced by women, Two-Spirit, and gender-diverse people in our community in itself is an egregious violation of our inherent Indigenous and human rights and dishonours the work led by First Nations, Inuit and Métis communities in the truth and reconciliation process. Homelessness of our mothers, grandmothers, sisters, daughters, aunties, and cousins is in itself a legacy of the residential school systems that tears our families apart and prevents us from building and keeping our relationships with lands, waters, and kin. Jesse Thistle captures this beautifully in his work

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[35] Truth and Reconciliation Commission of Canada. (2015). What We Have Learned: Principles of Truth and Reconciliation. https://ehprnh2mwo3.exactdn.com/wp-content/uploads/2021/01/Principles_English_Web.pdf

[36] Bingham, B., Moniruzzaman, A., Patterson, M., Sareen, J., Distasio, J., O'Neil, J., & Somers, J. M. (2019). Gender differences among Indigenous Canadians experiencing homelessness and mental illness. BMC Psychology, 7(1). https://doi.org/10.1186/s40359-019-0331-y

[37] Martin, C. M., & Harsha, W. (2019). Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside. Downtown Eastside Women's Centre. https://dewc.ca/resources/redwomenrising

[38] Drabble, J., & McInnes, S. (2017). Finding her home: A Gender-Based Analysis of the Homelessness Crisis in Winnipeg. Canadian Centre for Policy Alternatives. https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2017/03/Finding_Her_Home_%20low-res.pdf

on Indigenous homelessness is not just defined as,

> *lacking a structure of habitation; rather, it is more fully described and understood through a composite lens of Indigenous worldviews. These include individuals, families and communities isolated from their relationships to land, water, place, family, kin, each other, animals, cultures, languages, and identities. Importantly, Indigenous people experiencing these kinds of homelessness cannot culturally, spiritually, emotionally, or physically reconnect with their Indigeneity or lost relationships.*[39]

All the Calls to Action presented by the TRC are centred on breaking legacies of residential school systems and "repairing damaged trust by making apologies, providing individual and collective reparations, and following through with concrete actions that demonstrate real societal change"[40]. Yet, since its release in 2015, progress on the TRC Calls to Action shows that only 13 of the 94 Calls to Action have been completed, with 32 of the calls only in proposal state and 19 that have not been worked on yet. Further analysis by the Yellowhead Institute shows that even this measurement of progress is quite generous as it disregards the slowness of this process year to year and more importantly the lack of strength and longevity in the interventions made under the call continue to reproduce trauma and legacy of the residential schools. The report from Yellowhead Institute also notes that "the Calls to Action that have seen the least progress at all are those that call for fundamental changes to policies and institutions built, from the start, on a foundation of anti-Indigenous racism"[41]. Calls towards systemic changes within public systems such as substantive changes to justice and healthcare systems, have seen the least amount of progress of all the Calls to Action.

The state of the progress on the TRC Calls to Action in itself represents an appalling violation of our housing rights, as these Calls to Action touched upon systemic changes that would lead to housing equity for all women, girls, Two-Spirit, and gender-diverse people in our community.

[39] Thistle, J. (2017.) Indigenous Definition of Homelessness in Canada. Toronto: Canadian Observatory on Homelessness Press
[40] Jewell, E. (2022, May 23). Calls to Action Accountability: A Status Update on Reconciliation. Yellowhead Institute. https://yellowheadinstitute.org/2019/12/17/calls-to-action-accountability-a-status-update-on-reconciliation/
[41] ibid

Violation 2: Failure to Provide Safe, Adequate and Culturally-Appropriate Housing, on Our Own Terms

THE GOVERNMENT OF CANADA HAS FAILED TO PROVIDE SAFE, ADEQUATE AND CULTURALLY APPROPRIATE HOUSING THAT MEET THE DIVERSE NEEDS OF INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE FROM COAST TO COAST TO COAST. DECADES OF UNDER-FUNDING AND PATERNALISTIC RESOURCE ALLOCATION TO INDIGENOUS PEOPLE'S HOUSING HAS FURTHER LEFT INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE IN SITUATIONS OF HOUSING VULNERABILITY AND INSECURITY AND ULTIMATELY FAILS TO UPHOLD THEIR HOUSING RIGHTS.

2.1. Housing and Discrimination created through the Indian Act[42]

Since its inception, the Indian Act served (and serves) as a locus of discrimination towards First Nations women and girls. The discrimination and violence resulting from the Indian Act continues to manifest itself in our communities today, particularly when it comes to housing inequities and disparities. The Indian Act legislated policies that discriminated against First Nations women based on our gender and has attempted to displace us from our roles as matriarchs and knowledge keepers in our communities.

Indian Act Pre-1985 and its long-lasting impacts

The Indian Act legally obligated First Nations communities to adopt Euro-centric patriarchal models, using Indian Status to create divisions between First Nations Peoples as a way to buttress Euro-centric models of governance, property allocation and rights holding within communities. It structured reserves and residences on reserves to only be available to band members who have registered Indian Status. Pre-1885, social services and housing provisions for First Nations women were tied not only to the Indian Status, but also to band membership. Indian Status drew on patrilineality, which meant that First Nations women involuntarily lost their Indian Status if they married a non-Status individual, or someone who voluntarily or involuntarily gave up their Status to become enfranchised. The loss of status and band membership uprooted First Nations women from their home communities creating intergenerational cultural discontinuity, loss of inherent rights, and housing insecurity, amongst other detrimental effects.

Band memberships further complicated this arrangement. A First Nations woman who married a person outside of her band lost band membership on her home reserve, and her band membership was transferred to that of her husband's band. Regardless of whether they married non-Status Indians or Status Indians with a different band membership, First Nations women lost their home reserve band memberships, band annuities and, subsequently, residence in home reserves, which severely limited

[42] This section has been adopted from the The State of Women's Housing Need & Homelessness in Canada: A Literature Review, co-published by the Women's National Housing and Homelessness Network, Keepers of the Circle, Canadian Alliance to Homelessness and Canadian Observatory on Homelessness.
Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press.
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their independence and access to secure housing.

Until 1985, gender discriminating components of the Indian Act continued to shape policies impacting First Nations women. In 1985, the federal government amended the Indian Act, to ostensibly remove gender discrimination and align it with the *Canadian Charter of Rights and Freedoms*. The amendment allowed First Nations women who had lost their Status under previous iterations of the Act, to apply for reinstatement of their Indian Status. While this made thousands of First Nation women eligible for Indian Status, the amendment also gave band councils oversight of band membership and the authority to determine their own membership rules. These rules were often gender-biased and discriminatory based on sexist perceptions created by legislation before the 1985 amendments. Many First Nations women, while eligible for Indian Status, were not eligible for band memberships which would give them access to social programs, benefits, and housing on reserve. There was also a lack of band capacity to apply for funding for housing to address the increase in housing need for those reinstated under the 1985 amendment. First Nations women, even after attaining reinstated Indian Status, continue to face the residual effects of gender discrimination deeply rooted in the Indian Act.

Ongoing Discrimination

Sex-discrimination rooted in the Indian Act prevented women from living in their First Nation and participating in political processes of our communities such a running in elections, voting on decisions regarding reserve land, benefitting from treaty rights and even having a seat at the negotiating table between Canada and our First Nations.[43] This level of exclusion of First Nations women inevitably shaped experiences of systemic abuse, particularly violating our right to self-determination and our right to culture. Most importantly, removal of Indian Status for First Nations women led to forced removal of many women from their reserves, violating their right to security of tenure (as guaranteed under the right to housing) on reserve.

Even as the Act has been amended to remove discrimination against women and Status has been re-instated[44], lack of housing options and the manufactured lack of capacity[45] on reserve resulting from paternalistic funding models have perpetually impacted our access to housing in our communities. Indigenous-led housing that particularly focuses on addressing our housing need is thus critical to bridge vast gaps created by discrimination through the Indian Act. In the review of this Claim and evidence gathered subsequently as part of this Claim, it is critical that the Federal Housing Advocate considers the context of Indian Act and ongoing ways in which it shapes our access to housing.

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[43] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/.

[44] The reinstatement of Status for women was by no means a process that was simple for Indigenous women. Women must still apply for Status, and while the amendments led to many First Nations women, and their children, regaining Status, discrimination from the Act continues and women continue to bear the many barriers created by the Act.

[45] "Capacity issues have long been a convenient justification for funding discrepancies between Indigenous peoples and their non-Indigenous neighbors, and of course, on-going paternalism. The language of 'capacity building' is also regularly used to gaslight critics of federal policies." The implications are always for First Nations to design their own solutions, when their resources are already over stretched, and then apply for piecemeal funding from federal sources. Jewell, E. (2022, May 23). Calls to Action Accountability: A Status Update on Reconciliation. Yellowhead Institute. https://yellowheadinstitute.org/2019/12/17/calls-to-action-accountability-a-status-update-on-reconciliation/

2.2. The Manufactured Crisis of Housing on Reserve and its impact on women, girls, Two-Spirit, and gender-diverse people.

Reserves across Canada are experiencing housing crises of various scales. The crises are the result of decades of funding programs that have not taken into account the social, economic, cultural and political realities of the reserves[46]. Manufactured lack of capacity[47] on reserves to provide safe, adequate and culturally-appropriate housing[48] impacts women deeply. Issues affecting adequacy of housing on reserve illustrate the intersection of housing and health rights violations impacting First Nation women, girls, Two-Spirit, and gender-diverse people.

Overcrowding

Almost 37 percent of First Nations people on reserve live in overcrowded housing[49]. Overcrowding can lead to the deterioration of actual housing stock due to stresses on the structural integrity of poorly constructed houses that are commonly found on reserves. Further, our communities know that overcrowding creates increased instances of social and health problems such as stress and family violence[50]. Overcrowding is also linked to increased risk of transmission of infectious diseases such as tuberculosis, hepatitis A, and shigellosis[51].

Infrastructural Challenges and Health Concerns

Indigenous women are more likely to be living in inadequate housing conditions, including housing in need of major repairs, compared to non-Indigenous women. Statistics Canada reports that in 2011, 11% of all Indigenous women were living in overcrowded dwellings, with data indicating 30% of Inuit women and 14% of First Nations women were living in crowded dwellings compared to only 4% non-Indigenous women[52]. Regardless of region, Statistics Canada found that in 2011, "on-reserve First Nations females and Inuit females in Inuit Nunangat [are] most likely to live in crowded homes and homes requiring major repairs"[53]. Forty-two percent of First Nations women and girls who lived on reserve were living in homes that required major repairs.

Fifty-one percent of First Nations people living in on reserve housing report living with mould and

[46] Lack of capacity here refers to lack of administrative capacity to manage and operate housing, and lack of financial and resource capacity to maintain and build more housing. This lack of capacity is manufactured by years of colonial and discriminatory policies that have bound First Nations into housing situations where they lack full capacity and means to build and operate housing in ways that are best suited to their contexts. Aboriginal Housing Management Association. (2021). INDIGENOUS HOUSING MANAGEMENT: A Comparative Evaluation of On Reserve and Off Nation Housing Programs.
[47]Aboriginal Housing Management Association. (2021). INDIGENOUS HOUSING MANAGEMENT: A Comparative Evaluation of On Reserve and Off Nation Housing Programs.
[48] Culturally-appropriate housing refers to housing that meets the unique needs, cultural requirements, and ways of living of distinct First Nations, Metis, and Inuit people. In our discussions, advocates have spoken to how housing that is culturally appropriate incorporates respect for the environment through green building, dedicated food storage and food growing capacities and some form of communal and multi-generational living.
[49] Statistics Canada. (2016). The housing conditions of Aboriginal people in Canada. https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.cfm
[50] Assembly of First Nations (AFN). (2013). Fact Sheet - First Nations Housing on Reserve.
[51] Robson, R. (2008). Suffering an excessive burden: Housing as a health determinant in the First Nations community of Northwestern Ontario. The Canadian Journal of Native Studies, 28(1), 71.
[52] Arriagada, P. (2016). First Nations, Métis, and Inuit Women. Statistics Canada, Social and Aboriginal Statistics Division. https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14313-eng.pdf
[53] Ibid. p. 11

mildew.[54]Mould contamination is a major risk factor for respiratory illnesses and is compounded by other challenges with on-reserve housing, such as poor water systems and lack of proper sanitation.[55] Lack of safe water supply and sanitation systems contribute to deteriorating health consequences for First Nations Peoples on reserve.[56] Lack of resources to ensure sustainable and safe housing infrastructure on reserves contributes significantly to the high rates of inadequate housing, and unhealthy living arrangements on reserve.

The Feminization of Poverty on Reserves

Our experiences show us that the incidence of poverty on reserve is the result of colonial policies implemented to control Status Indians. The ongoing federal jurisdiction over Status Indians, and historic underfunding of resources on reserves particularly disadvantage First Nations women. Poverty poses significant barriers for women to access their matrimonial property rights on reserve. [57] While the Family Homes on Reserves and Matrimonial Interests or Rights Act (FHRMIRA) allows women to apply for exclusive occupation of property, research points out that this legislation is rendered meaningless due to the lack of enforcement mechanisms and avenues to access legal assistance on reserve. Legal precedent points to issues of valuation of homes on reserve lands leading to unfair compensation for the spouse in cases of separation or divorce. Coupled with systemic poverty and housing shortages on many reserves, the spouse, most likely the wife, is left to seek housing off reserve with significantly weaker financial supports.[58]

In many cases, a spouse does not receive payments to which they are entitled in the case of divorce because courts cannot order matrimonial property to be sold given the communal nature of reserve lands. As such, and due to the conditions of poverty, one spouse might not be able to make the payments owed to the other spouse. Gendered dynamics of housing on reserve is directly linked to an over-representation of Indigenous women experiencing housing insecurity, homelessness, and hidden homelessness off reserve.[59] "Indigenous women have disproportionately moved off reserve in comparison to Indigenous men, and limited access to affordable housing off reserve can result in tragic outcomes for women and their children."[60]

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[54] Assembly of First Nations (AFN). (2013). Fact Sheet - First Nations Housing on Reserve.

[55] Robson, R. (2008). *Suffering an excessive burden: Housing as a health determinant in the First Nations community of Northwestern Ontario*. The Canadian Journal of Native Studies, 28(1).

[56] Dyck, L. E., & Patterson, D. G. (2015). *On-reserve Housing and Infrastructure: Recommendations for Change, Standing Senate Committee on Aboriginal Peoples*; Robson, R. (2008). *Suffering an excessive burden: Housing as a health determinant in the First Nations community of Northwestern Ontario.* The Canadian Journal of Native Studies, 28(1); Nishnawbe Aski Nation and Together Design Lab. (2018). *Nishnawbe Aski Nation response to the First Nations National Housing and Infrastructure Strategy*. Retrieved from http://www.nan.on.ca/upload/documents/nanhousing_position_paper-final.pdf; MacKinnon, J., DiCicco, J., & Asseyed, Z. (2016). *Atlantic First Nations Housing Needs Assessment Analysis of Findings*. Atlantic Policy Congress of First Nations Chiefs Secretariat.

[57] Olsen, S. (2016). *Making poverty: a history of on-reserve housing programs*, 1930-1996 (Doctoral dissertation); MacTaggart. (2016) *Lessons from History: The Recent Applicability of Matrimonial Property and Human Rights Legislation on Reserve Lands in Canada*. 6:2 online: UWO J Leg Stud 3 https://ir.lib.uwo.ca/uwojls/vol6/iss2/3; Harry, K. (2009). *The Indian Act & Aboriginal Women's Empowerment: What Front Line Workers Need to Know. Battered Women's Support Services*. Retrieved from https://autochthonapn.com/uploads/1/1/0/7/110765783/theindianactaboriginalwomensempowerment.pdf

[58] MacTaggart. (2016) *Lessons from History: The Recent Applicability of Matrimonial Property and Human Rights Legislation on Reserve Lands in Canada*. 6:2 online: UWO J Leg Stud 3 https://ir.lib.uwo.ca/uwojls/vol6/iss2/3

[59] Groening, A., Bonnycastle, C., Bonnycastle, M., Nixon, K., & Hughes, J. (2019). *Housing Needs of Indigenous Women Leaving Intimate Partner Violence in Northern Communities*. Canadian Centre for Policy Alternatives. Retrieved from https://mra-mb.ca/wp-content/uploads/Housing-Needs-of-Indigenous-Women-Leaving.pdf

[60] MacTaggart. (2016) *Lessons from History: The Recent Applicability of Matrimonial Property and Human Rights Legislation on*

The feminization of poverty on reserve exposes the connection between the right to justice and right to housing. Violation of the right to justice reflected in lack of enforcement and inability to access legal recourse in return is violation of women's right to housing as well as it impacts their enjoyment of security of tenure and ultimately pushes them in more severe housing precarity.

SPOTLIGHT: Violation of the Right to Housing and Migration to Urban Settings

Lack of shelters and housing options for women on reserve are reasons that force us to move off reserve. This migration to urban settings displaces First Nations women and results in significant lack of supports from our families and relatives. Further, in the urban settings we are often forced to adapt to a completely new cultural context without any of our traditional community supports found on reserve.[61] Migration to urban areas also increases the likelihood that we will experience poverty, low-income or no-income, and also have difficulty navigating systems and processes for attaining housing.[62]. All of these factors leave us more vulnerable to homelessness in urban settings and at increased risk of violence.

The lack of adequate housing on reserve is a core issue impacting the social and economic marginalization faced by First Nations women in our home communities. The demand for on-reserve increases, but there is a significant shortage of housing on reserve due to a young and growing population. The construction of new housing and renovation of existing housing on reserve has not kept pace with demand. A report from Aboriginal Housing Management Association reflects,

According to the Standing Senate Committee on Aboriginal Peoples, the housing shortage on reserves is estimated to be 35,000 to 85,000 units and the current funding from On-Reserve Non-Profit Housing Program lacks to address the urgent housing needs on reserves. Many First Nations have housing waiting lists that rarely progress.[63]

As a result of the shortage and inadequacy of on-reserve housing, many of our First Nations sisters have no choice but move ourselves and our children into urban settings. Sometimes this is a choice, but many times, we have no other options and are forced to leave our relations and traditional supports. Even for those choosing to live off-reserve it is critical that Indigenous-led supports be offered and no matter where our sisters choose to live, their rights to housing are met.

Reserve Lands in Canada. 6:2 online: UWO J Leg Stud 3 https://ir.lib.uwo.ca/uwojls/vol6/iss2/3 p. 22-23

[61] Groening, A., Bonnycastle, C., Bonnycastle, M., Nixon, K., & Hughes, J. (2019). *Housing Needs of Indigenous Women Leaving Intimate Partner Violence in Northern Communities.* Canadian Centre for Policy Alternatives. Retrieved from https://mra-mb.ca/wp-content/uploads/Housing-Needs-of-Indigenous-Women-Leaving.pdf; Brandon, J., Peters, E. J., & Manitoba Research Alliance. (2014). *Moving to the city: housing and Aboriginal migration to Winnipeg*. CCPA (Canadian Centre for Policy Alternatives); Yerichuk, D., Johnson, B., Felix-Mah, R. & Hanson, T. (2016). *Housing and Homelessness Policy Recommendations For Indigenous Women Affected by Domestic Violence: A Scoping Review.* Edmonton, AB: PolicyWise for Children & Families.

[62] Brandon, J., Peters, E. J., & Manitoba Research Alliance. (2014). *Moving to the city: housing and Aboriginal migration to Winnipeg*. CCPA (Canadian Centre for Policy Alternatives).

[63] Aboriginal Housing Management Association. (2021). INDIGENOUS HOUSING MANAGEMENT: A Comparative Evaluation of On Reserve and Off Nation Housing Programs.

2.3. Lack of Funding for the Urban, Rural and Northern Indigenous Strategy

Forced displacement of Indigenous women, girls, Two-Spirit, and gender-diverse peoples from their communities has resulted in a sizable number of our community members living in urban and rural settings. We are displaced from our communities oftentimes to access better services in urban or rural locations, yet in choosing to migrate we lose critical support from our home communities. Municipal and regional governments across Canada are fraught with colonial policies that promote commodification of housing rather than the realization of housing as a human right. Indigenous Peoples are often completely left out of municipal and regional planning documents and strategies.

Data from the 2016 Census estimates that 118,500 urban, rural, and Northern Indigenous households in core housing need, identify as Indigenous[64]. Given projections of population growth, a report from the Parliamentary Budget Officer (PBO) indicated that 124,000 Indigenous households would be in need in 2020. Indigenous households are more likely to be in core housing need compared to non-Indigenous housing (18.3% compared to 12.4% non-Indigenous). This over representation of Indigenous households in core housing need represents a grave violation of the right to housing that our communities experience.

Reports from the Canadian Housing and Renewal Housing Association (CHRA) Indigenous Caucus also note that most households accessing Indigenous housing providers in urban, rural and Northern settings are women-led. First Nations women are more likely than their male counterparts to move off reserve, and therefore they also access off -reserve Indigenous housing services at high rates when they move to urban settings. Inuit women also find themselves accessing urban locations to access healthcare and other supportive services. A particular study[65] about Inuit women in Montreal notes,

Many young women leave their homes for the south because they have serious economic problems, such as a shortage of jobs and housing, or social problems related to drugs and alcohol, sexual and physical violence, in the north. These latter do not remain in the cities for a pleasant lifestyle or to benefit from the resources that the cities offer. Instead, they simply do not want to go back to their homes in the north due to the problems there.

Migration to urban centres is steadily increasing across First Nations, Métis, and Inuit women, yet we know that investments in an Urban, Rural and Northern Indigenous Strategy have not kept up. Urban and Rural Indigenous housing is currently ill-equipped to provide sufficient housing types to meet the needs of our families, shortage of affordable housing and lack of funding to expand housing operations, aging housing stock and housing in need of repairs which all disproportionately impact First Nation women and women-led families.

Reports from the Urban Native Housing Program further indicate that off-reserve housing programs face issues of inadequate administrative capacity rooted in inadequate funding from governments which

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[64] National Housing Council. (2021). National Urban, Rural, and Northern Indigenous Housing & Homelessness: A Case for Support and Conceptual Model. https://assets.cmhc-schl.gc.ca/sites/place-to-call-home/pdfs/urban-rural-northern-housing-report-en.pdf?rev=af1aa8b3-2b07-403e-9ae8-b646ab5526ca ; ndigenous Housing Caucus Working Group, Canadian Housing and Renewal Association. (2018). A FOR INDIGENOUS BY INDIGENOUS NATIONAL HOUSING STRATEGY: Addressing the Housing Needs of Indigenous Families and Individuals in the Urban, Rural and Northern Parts of Canada. Canadian Housing and Renewal Association. https://chra-achru.ca/wp-content/uploads/2015/09/2018-06-05_for-indigenous-by-indigenous-national-housing-strategy.pdf

[65] As cited in Pauktuutit Inuit Women of Canada. (2017). Understanding the Needs of Urban Inuit Women: Final Report. https://www.pauktuutit.ca/wp-content/uploads/358996508-Final-Report-UAS-Urban-Research-April-2017.pdf p. 7

creates cycles of dependency among Indigenous housing providers and governments. These cycles of dependency indicate that Indigenous Peoples are not supported to build capacity and take full control of their housing programs.

Policy decisions continue to keep off-reserve Indigenous housing providers in circumstances of dependency, and underfunding programs o leads to insufficient and inadequate housing for our off-reserve communities. These decisions represent entrenched government resistance to dismantling colonial practices, policies, and procedures. This continues to exacerbate the vulnerability for all Indigenous Peoples, and more so our most vulnerable women, girls, gender-diverse people, youth, and elders.

In Budget 2022, the federal government allocated the Urban, Rural and Northern Indigenous Strategy with $300 million. This amount is grossly insufficient to address the dire and urgent needs of the urban, rural, and Northern population from coast to coast to coast. Reports by the National Housing Council highlight a funding need of $5.6 Billion annually over the next ten years. Current funding allocations to Indigenous housing and homelessness stands at $838 million annually, which includes distinctions-based[66] transfers to reserves, Métis homelands and Territories. The actual amounts transferred to urban, rural, and Northern Indigenous housing, apart from these transfers, is currently unknown. Regardless, the huge funding shortfall between current funding allocations and proposed funding represents the vast gaps our communities are experiencing in planning, building, and accessing safe and adequate housing.

These funding gaps show a blatant disregard for our right to housing as First Nations women. Even as Indigenous groups continue to advocate for their housing needs[67] funding continues to be funnelled to non-Indigenous organizations who are primarily servicing Indigenous peoples. As Margaret Pfoh, CEO of Aboriginal Housing Management Association notes,

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Never mind change, or doing more than just talk, the federal government often falls back into their status quo comfort zone and sends good money to non-indigenous organizations when the target population is largely Indigenous.[These] bad decisions made out of 'benevolence', actually can do more harm by failing to ensure cultural and trauma-informed services – hence [there is] real power in a for Indigenous by Indigenous strategy.

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[66] First Nations, Inuit, and Métis

[67] Margaret Pfoh, CEO of the Aboriginal Housing Management Association notes that, "Both BC and Ontario have tabled our strategies, full of clear and comprehensive data, their own National Housing Council set clear targets and a path forward, multiple of their own committees (HUMA, INAN etc) have called for action and budget 2022 evidenced they aren't even acting on their own expert advise"

Violation 3: Interjurisdictional Neglect, Multiple Systems Failure, and Institutional Betrayal

INDIGENOUS WOMEN, GIRLS, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE ARE DISPROPORTIONATELY IMPACTED BY CHRONIC AND HIDDEN HOMELESSNESS. THEIR HOUSING INSECURITY IS DEEPLY LINKED TO STRUCTURAL AND SYSTEMATIC FACTORS THAT STRIP THEM OF THEIR AGENCY AND AUTONOMY AND SUBJECT THEM TO INSTITUTIONALIZATION[68] THAT REPRODUCES INTERGENERATIONAL TRAUMA AND HARM IN THEIR LIVES. THE MMIWG INQUIRY REPORT TELLS US THAT INDIGENOUS WOMEN, TWO-SPIRIT, AND GENDER-DIVERSE PEOPLE ARE 4.4 TIMES MORE LIKELY TO HAVE BEEN IN FOSTER CARE, GROUP HOMES, RESIDENTIAL SCHOOL, OR YOUTH JUSTICE FACILITIES COMPARED TO NON-INDIGENOUS WOMEN.

HOUSING SYSTEMS (RENTAL HOUSING, SOCIAL HOUSING, SHELTERS ETC.) IN CANADA, EVEN ONES BUILT TO ADDRESS HARMS IN OUR LIVES SUBJECT US TO COLONIAL PRACTICES THAT WE HAVE TO NAVIGATE FOR OUR SURVIVAL. MANY SYSTEMS ARE BUILT AND FUNCTION IN SILOES CREATING INTER-JURISDICTIONAL NEGLECT THAT SUBJECT US TO VIOLENCE AND VIOLATE OUR RIGHTS TO SECURITY. STRUCTURAL RACISM IN HOUSING SYSTEMS TARGETS US THROUGHOUT OUR LIVES, WHETHER THAT BE THROUGH DENYING US ADEQUATE, SECURE AND HABITABLE HOUSING OR PUTTING OUR FAMILIES AT RISK OF CHILD APPREHENSION. OUR TIME AND ENERGIES ARE EXHAUSTED NAVIGATING THESE SYSTEMS ROOTED IN COLONIAL AND GENOCIDAL PRACTICES THAT VIOLATE OUR RIGHTS TO CULTURE, SECURITY, JUSTICE, AND HEALTH.

3.1. Interjurisdictional Neglect and Violation of our Right to Housing

"Interjurisdictional neglect" refers to situations when governments' lack of interdepartmental cooperation creates barriers for individuals who as a result of bureaucratic barriers do not get access to programs, services etc. The MMIWG Inquiry Report details Interjurisdictional neglect as a key factor impacting Indigenous women's access to safety,

> "Interjurisdictional neglect represents a breach of relationship and responsibility, as well as of a constitutionally protected section 7 Charter right to life, liberty, and security of the person. Denials of protection and the failure of Canada to uphold these rights – specifically, the right to life for Indigenous women, girls, and 2SLGBTQQIA people – are a breach of fundamental justice. These deficits, then, are about much more than the organization of services, or the specifics of their delivery: they are about the foundational right to life, liberty, and security of every Indigenous woman, girl, and 2SLGBTQQIA person."[69]

[68] For the context of our Claim, institutionalization of Indigenous women, girls, Two-Spirit, and gender-diverse people can defined as there presence in and interactions with all forms of emergency shelters (like shelters for domestic violence), group transitional housing, the unsheltered, prison, jail, group homes, or recovery facilities. Akee, R., & Feir, D. (2018). Estimating Institutionalization and Homelessness for Status First Nations in Canada: A Method and Implications; Research also notes that "A person who has become institutionalized often experiences a highly eroded, degraded, or complete loss of personal identity. Reduced interest in the outside world, lost interpersonal relationships with individuals outside the institution, and diminished perceptions of personal abilities and personal agency for independent decision-making are correlated with long term residency in authoritarian institutions"Rand, J. (1). Residential Schools: Creating and Continuing Institutionalization among Aboriginal Peoples in Canada. First Peoples Child & Family Review, 6(1), 56-65. Retrieved from https://fpcfr.com/index.php/FPCFR/article/view/105. p. 60

[69] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and

Discussions in our Working Group inform us that inter-jurisdictional neglect between multiple public systems contributes to significant barriers to Indigenous women, Two-Spirit, and gender-diverse people being able to access safe and adequate housing. Navigating systems like healthcare, child welfare, criminal justice and social services pose bureaucratic barriers to successfully accessing services in populations that are often experiencing post-traumatic stress disorder (PTSD), intergenerational trauma, and discrimination. These systems, together with all levels of government and public service, are constructed on paternalism and structural racism[70] that poses severe barriers to our progress and our ability to provide and sustain our communities.

A major challenge in the realization of housing as a human right for Indigenous women, girls, Two-Spirit, and gender-diverse people is inter-jurisdictional neglect created by federal, provincial, and municipal governments. There are gaps created between on-reserve and off-reserve governance and services; and gaps between multiple systems like healthcare; child welfare; and the criminal justice system, which institutionalize Indigenous women, girls, Two-Spirit, and gender-diverse peoples. Funding for Indigenous led housing and housing services, whether on reserve, off-reserve, or in the North, is mostly allocated in piecemeal, project by project basis which do not address our needs for sustainable, safe, and affordable housing.

The framework of inter-jurisdictional neglect allows us to assess that such gaps in jurisdictions do not just create barriers towards solutions and self-determination of our communities when it comes to housing, they also create harm and perpetuate violence for our women and children.

The MMIWG Inquiry Report[71] critically notes that:

> … quality and safety concerns with what limited housing there was, often not meeting relevant building codes, though conditions differ greatly among individual First Nations. Jurisdictional uncertainty and disputes are also responsible for the lack of action at the federal and provincial levels concerning the housing gap. Efforts at interjurisdictional cooperation and collaboration to address this issue appear lacking. At the same time, Indigenous communities are showing significant creativity and resourcefulness, developing, and using microloans for independent housing, rather than social housing models, and developing more sustainable local economies to assist with individual housing needs.

As reflected by a comment by Lisa Thurber, and the advocates in the Working Group:

It is unclear who is really responsible for housing under the Indian Act. Sometimes it is bands, other times it is the provincial government, and, in some cases, territorial/municipal governments have Housing Corporations who are responsible. Attempting to secure our rights is challenging when the buck is passed between

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Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/. p. 561

[70] Jewell, E. (2022, May 23). Calls to Action Accountability: A Status Update on Reconciliation. Yellowhead Institute. https://yellowheadinstitute.org/2019/12/17/calls-to-action-accountability-a-status-update-on-reconciliation/

[71] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/.p. 568

departments. Absolute lack of land tenure in order to get a mortgage and/or build our own housing does not help either.

The framework detailed below from the MMIWG Inquiry report details four general ways in which interjurisdictional neglect manifests at a systems level. All of these ways can be seen in the way housing policies are structured and implemented in Canada.

> The lack of interjurisdictional coordination and cooperation concerning measures to address the root causes of violence [like violation of the right to housing] against Indigenous women, girls, and 2SLGBTQQIA people remains a significant barrier to their safety, and thus infringes their rights. There are four general and interrelated ways in which this lack of coordination presents.
>
> 1. Program policies, service plans, and strategies tend to be made by separate agencies and jurisdictions in isolation from one another. The result is that they fail to comprehensively address Indigenous Peoples' needs, especially when Indigenous representatives are not adequately included in the development of policies and plans.
> 2. Provincial and federal governments tend to legislate separately from one another, even in areas in which their jurisdiction overlaps. The result is that there can be gaps or inconsistencies involved for Indigenous people who must navigate provincial and federal regimes to obtain basic services.
> 3. In instances in which provincial and federal jurisdictions overlap, conflicts between governments over which one should fund these services can effectively deprive Indigenous Peoples of receiving the services.
> 4. There is a significant lack of data collection and information sharing across jurisdictions (especially with Indigenous jurisdictions) concerning the current challenges faced by Indigenous populations, including the exact incompatibilities and under performance of programs. The result is that there is no consistent evaluation of existing programs and services across jurisdictions[72].

3.2. Child Welfare Systems and Housing

Child welfare systems across Canada have played a fundamental role in attempting to dismantle the fabric of Indigenous and perpetuating cycles of multi generational homelessness. For us, as caregivers in our communities, child welfare systems represent a significant threat to the realization of our inherent and human rights. Child apprehension – tearing away Indigenous children from their families – fundamentally violates our rights to security and culture. Cindy Blackstock, an advocate from the First Nations Caring Society and a Professor at McGill University testified during the National Inquiry into MMIWG stating,"…to give you a sense of the scale of it just for on-reserve, between 1989 and 2012, we've known that First Nations kids are 12 times more likely to go into child welfare care, primarily

[72] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/.p. 563

driven by neglect, primarily driven by poverty, substance misuse and by poor housing."[73]

Indigenous children are disproportionately represented in the child welfare system. In Canada, despite Indigenous youth making up only 7.7% of the population of children, approximately 52.2% of children in child welfare are Indigenous. In some provinces, like Manitoba, almost 90% of children in the child the welfare system is Indigenous. Within-group comparisons suggested that female and sexual and gender minority youth are particularly at risk among Indigenous youth with some added child protection and justice implications for reserve-raised youth[74]. Children involved in child welfare systems are more likely to experience homelessness as adults and a survey on youth homelessness showed that 60% of the youth surveyed reported child welfare system involvement[75].

As of 2014, it was estimated there are three times as many Indigenous children involved in child welfare systems as there were during the height of the residential school system.[76] In the Pan-Canadian Survey on Women's Homelessness a majority of Indigenous participants (57.3%) reported experiencing homelessness for the first time as a young person (age 24 or younger), with 1 in 4 experiencing homelessness before the age of 16.[77]

It remains the case that Indigenous children "are still taken away from their parents because their parents are poor,"[78] and as a result are subjected to multiple violations of the right to life and security due to threats of homelessness, poverty, and trafficking. These threats to social and economic security and a dignified life are intertwined with violations of housing rights, as child welfare systems that consistently fail Indigenous children in attaining safe and affordable housing when they age out-of-care. We would like to emphasize the dire state of these rights violations, highlight that Indigenous children often age out of care and directly into homelessness or housing insecurity.

The existence of child welfare systems today and their interconnectedness with housing rights violations experienced by Indigenous women, girls, Two-Spirit, and gender-diverse people call for urgent action, rooted in the Convention on Rights of Children, and in conjunction with the realization of the right to housing. Policies made within child welfare systems are built in a silo and completely inconsiderate of housing situations that many times are completely beyond the control of the women themselves. More importantly, assessments of neglect are deeply rooted in colonial definitions that often regard situations such as overcrowding and multi-generational living as neglect, when it is an attempt on behalf of

[73] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/. p. 339

[74] Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press.

[75] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report/

[76] Barker, B., Kerr, T., Alfred, G. T., Fortin, M., Nguyen, P., Wood, E., & DeBeck, K. (2014). High prevalence of exposure to the child welfare system among street-involved youth in a Canadian setting: Implications for policy and practice. BMC Public Health, 14(197), 1-7. doi:10.1186/1471-2458-14-197.

[77] Schwan, K., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). The Pan-Canadian Women's Housing & Homelessness Survey. Toronto, ON: Canadian Observatory on Homelessness.

[78] TRC (Truth and Reconciliation Commission of Canada). (2015). Honouring the truth, reconciling for the future. P. 87. Retrieved from http://publications.gc.ca/collections/collection_2015/trc/IR4-7-2015-eng.pdf

families to survive within situations of poverty and high needs.

In our discussions within the Working Group, we have also pointed out how housing rights violations causing vulnerability in women's lives have become a basis for child welfare systems to surveil mothers and separate them from their children at birth. Birth Alerts, initiated by frontline staff in services that a woman might be accessing during pregnancy (usually hospitals), were alerts sent out to child welfare agencies about identifying at-risk mothers. Birth alerts were done without the mother's knowledge and placed the mother under surveillance throughout the course of her pregnancy. Staff at hospitals play a role in the surveillance of mothers and the subsequent rights violations if they have not been briefed on the rights of Indigenous mothers. While many provinces and territories have formally ended the practice of birth alerts, women continue reporting being subjected to birth alerts due to racism embedded in all systems they access.[79]

The lack of coordination between housing policies and child welfare policies presents an example of interjurisdictional neglect and how failure to coordinate policies creates crises and oppression within communities. Child welfare policies cyclically create crises for Indigenous families, using inadequate or unsafe housing as reasons to take our children and our children aging out of care being at elevated risk of homelessness. These depict grave violations to our rights to security and life and our right to housing. They further depict outrageous violations of our inherent rights and dispossess us from place and power, creating cycles of intergenerational harm.

3.3. Systemic Challenges of Housing in the North and impacts on Indigenous Women, girls, Two-Spirit, and gender-diverse peoples

The North encompasses Northwest Territories, Yukon, Nunavut, and the Provincial North. Many reports have extensively spoken to the lack of resources allocated to the right in housing and the disproportionately inflated costs of living, housing, and infrastructure in the North. Housing in the North is deeply impacted most prominently by the challenge of remoteness in Northern communities and the absolute failure of the Canadian government to facilitate capacity-building for self-determination within Northern Indigenous communities.

Excessive cost of materials, and transportation challenges complicated by geography and climate makes housing construction in the North incredibly challenging. This results in high reliance on government-funded housing and subsequently a monopoly of housing authorities as sole providers of affordable housing within Northern communities. Private housing options in the North tend to be very expensive and significantly unaffordable for most women, Two-Spirit, and gender-diverse people in our communities. In Nunavut, private housing is minimal, and governments carry all the weight of providing affordable housing supply. Lack of investments in Northern Housing to match actual housing need in Northern communities means that the demand of housing far outweighs what is available, which subsequently means many Indigenous women, Two-Spirit, and gender-diverse people find themselves living in unstable and unhealthy housing in their communities[80].

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[79] Favaro, A., St. Philip, E., & Jones, A. M. (2021, November 1). *Indigenous families disproportionately affected by "birth alerts;" B.C. lawsuit seeks damages*. CTVNews. https://www.ctvnews.ca/canada/indigenous-families-disproportionately-affected-by-birth-alerts-b-c-lawsuit-seeks-damages-1.5646384

[80] Groening, Allison, Colin Bonnycastle, and Marleny Bonnycastle. *Housing Needs of Indigenous Women Leaving Intimate Partner Violence in Northern Communities.* Canadian Centre for Policy Alternatives, 2019 https://books-scholarsportal-info.proxy.queensu.ca/en/read?id=/ebooks/ebooks5/cpdc5/2019-10-07/1/10101780

Despite the large numbers of Indigenous women and girls living in remote regions of the country, immense jurisdictional and regional challenges continue to sustain high levels of abject poverty, homelessness, and housing precarity in these regions. For women and girls experiencing family violence and living in remote, and Northern communities, it is particularly challenging to travel to and access shelters and other services.[81] As documented by van Berkum and Oudshoorn (2015),

> *The rural context contributes to significant poverty for women and girls due to a lack of employment. Furthermore, geographic distance between services, a lack of transportation, the high cost of basic needs, and the decision to migrate to a more urban community facilitate pathways into homelessness and barriers from exiting it. Improving the critical lack of housing, providing options (i.e., supportive and transitional housing), and accommodating women and girls in close proximity to services is suggested. Improving service integration and accessibility are important to maintaining housing.*[82]

Remoteness impacts violence experienced by women in our communities. Research shows that both frequency and severity of physical intimate partner violence grew with increasing rurality and that women in northern communities experience more instances of physical violence, more severe physical violence and higher rates of psychological abuse, and are at greater risk for intimate partner homicide.[83] Beyond facing high rates of violence, women are also more likely to experience additional barriers to accessing services in Northern communities. Barriers that prevent us from leaving abusive relationships are often the same barriers that complicate our experiences with homelessness.

In Inuit communities, some of these challenges are exacerbated by the small size and remoteness of communities. The majority (72.8%) of the Inuit population live in Inuit Nunangat. According to the most recently available data from Inuit Tapiriit Kanatami (ITK), 52% of Inuit in Inuit Nunangat live in crowded homes. This is a vast difference from the only 9% of all Canadians who live in such conditions. In addition, almost one-third of Inuit live in homes that need major repair, while only 6% of non-Indigenous people in Canada do.[84] The challenge of undertaking repairs is complicated by the cost of, and access to, materials in remote locations.

Discussions in our Working Group highlight that the unique circumstances of the North have given birth to monopolies held by housing authorities[85] that offer affordable housing options. Many advocates have mentioned that housing offered by these authorities is in of need repairs and follows strict rules of tenancies and evictions, leaving few other alternatives for women and women-led families if they lose

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[81] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report

[82] van Berkum, A. & Oudshoorn, A. (2015). Best practice guideline for ending women's and girl's homelessness. P. 3. Retrieved from http://londonhomeless.ca/wp-content/uploads/2012/12/Best-Practice-Guideline-for-Ending-Womens-and-Girls-Homelessness.pdf

[83] Groening, Allison, Colin Bonnycastle, and Marleny Bonnycastle. *Housing Needs of Indigenous Women Leaving Intimate Partner Violence in Northern Communities*. Canadian Centre for Policy Alternatives, 2019 https://books-scholarsportal-info.proxy.queensu.ca/en/read?id=/ebooks/ebooks5/cpdc5/2019-10-07/1/10101780

[84] Statistics Canada. (2016). The housing conditions of Aboriginal people in Canada. https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.cfm

[85] Federally funded through Canadian Mortgage and Housing Corporation, housing authorities receive funding to provide affordable housing in the North.

their housing with the housing authority. Advocates have also spoken to how getting evicted from housing unit with the authority can literally put you at a risk of being blacklisted from housing across their region, since housing authorities own majority of affordable housing units.

Northern Advocates on the Working Group have consistently advocated for housing solutions that are built and owned by Indigenous women, Two-Spirit, and gender-diverse people, and that offer culturally-appropriate options for housing as a way of enjoying housing rights in the North. The monopoly of housing authorities and private housing providers dictates the kind of housing that gets built, and the lack of environmentally sustainable infrastructures mean many people are living in housing that is in need of repairs and have no other options.

In addition, and as some witnesses shared, there are restrictions on housing as it is built or exists in many communities. For one, culturally inappropriate architecture, as manifested in the absence of communal spaces required for traditional transmission of language and culture, or single family dwellings not built to accommodate multiple generations, can generate increased hardship. As well, and as one witness shared, the restrictions on the use of housing in Nunatsiavut, for instance, according to the housing authority, mean that some women who rely on selling crafts are not allowed to make them in their home.[86]

Similar stories have been echoed in the Working Group from advocates situated in the Northwest Territories and Yukon who have expressed challenges in working with the housing authorities, particularly when it comes to getting repairs done. Many continue living and paying rent in social housing that is largely inadequate, in need of major repairs and violates their right to habitable housing and their right to health.

Our description of housing right violations in the North is a very preliminary comment on an issue that deserves an exhaustive separate claim on its own. The state of housing in the North has far-reaching impacts for Indigenous women, girls, Two-Spirit, and gender-diverse people that violate their rights to health, security and culture as well as constituting the most egregious housing rights violations. We hope that the evidence submitted as an addendum to this claim will play a role in document the scale and depth of the crisis, created by Canadian State through decades of inaction and denial of the right to self-determination for Indigenous communities.

3.4. Navigating Homelessness Shelters and Transitional Housing

Violence underlines experiences of housing insecurity and homelessness significantly. Many studies cite instances of intimate partner violence as a key factor forcing women to leave their homes and

[86] National Inquiry into Missing and Murdered Indigenous Women and Girls (Canada). *ReClaiming power and place: The final report of the national inquiry into missing and murdered Indigenous women and girls*. National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019. Online at https://www.mmiwg-ffada.ca/final-report. p, 378

communities[87]. Exposure to homelessness and housing precarity increases the risk of violence for Indigenous women, girls, Two-Spirit, and gender-diverse people. Indigenous women experience exponentially higher rates of intimate partner violence compared to non-Indigenous women. Indigenous women are three-times more likely to be victims of violent crimes, with rates of violence in rural Northern communities as high as 70-95%.[88]

> *Indigenous women are 12 times more likely to be murdered or missing than non-Indigenous women. Indigenous women's rate of violent victimization is double that of Indigenous men, nearly triple that of non-Indigenous women, and more than triple that of non-Indigenous men. Indigenous women between the ages of 25-44 are five times more likely to die from acts of violence than other women the same age.*[89]

Indigenous women, girls, Two-Spirit, and gender-diverse people are over-represented in experiences of homelessness. While data on their experiences with shelters and transitional housing is scarce, advocates in the Working Group have spoken extensively about their experiences of navigating shelter systems that are governed by colonial policies and lack culturally appropriate approaches for women, Two-Spirit, and gender-diverse people in our community. Reserves and Northern communities across Canada lack shelters and other supports for women fleeing violence, which often results in women having to leave their home communities.

In some cases, women may choose not to move in a shelter and continue living in their situation of violence at moving to a shelter, particularly if it entails leaving their home communities, can further destabilize or alienate them from informal support groups that they rely on within their communities. Only 5 of 33 communities in Northwest Territories have emergency shelters for women leaving abusive situations, these shelters are not always able to provide services because of lack of funding and staff shortages. Overcrowding and underfunding are also issues that impact women's shelters, with overcrowding also being a reason why many women prefer not to access shelters.

Research also suggests that Two-Spirit and gender-diverse Indigenous people are at higher risks of experiencing violence and homelessness as well.[90] "Unfortunately, social service and homeless shelters that work with this population often fail to culturally and appropriately serve transgender homeless people, including denying them shelter based on their gender identity; inappropriately housing them in a gendered space they do not identify with; and failing to address co-occurring issues."[91]

Within recent years, the Canadian government has made significant investments in shelters, but challenges that our women experience are embedded within shelter models and policies that follow

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[87] Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T. (2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press.

[88] Groening, A., Bonnycastle, C., Bonnycastle, M., Nixon, K., & Hughes, J. (2019). Housing Needs of Indigenous Women Leaving Intimate Partner Violence in Northern Communities. Canadian Centre for Policy Alternatives. https://mra-mb.ca/wp-content/uploads/Housing-Needs-of-Indigenous-Women-Leaving.pdf

[89] Martin, C. M., & Harsha, W. (2019). Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside. P. 42. Downtown Eastside Women's Centre. https://dewc.ca/resources/redwomenrising

[90] Ibid

[91] National Center for Transgender Equality. (2021). *Housing & Homelessness*. https://transequality.org/issues/housing-homelessness

colonial models and paternalistic practices and limit agency, and ultimately self-determination, for those in our community experiencing violence. Transitional housing (usually characterized as an intermediate step between emergency crisis shelter and permanent housing with stays of three months to more than a year, depending on the program) follows a shelter model that includes mandatory programming and other restrictions that are limiting for women in our communities. Our discussions have highlighted how women living in transitional housing are not protected under provincial or territorial residential tenancy laws,[92] they do not sign leases even when they are paying 'rent,' and their payment qualifies as shelter allowance under social assistance programs. Some have highlighted how restrictions in transitional houses can limit women from having guests or smudging in their rooms. We have also discussed how restrictive abstinence-based policies in transitional housing can be challenging for women dealing with substance use issues and might become a reason for their eviction. This level of supervision and paternalism takes away from supports that shelters are able to offer, perpetuating cycles and violence for women in our communities[93].

We have also discussed how silos between homelessness shelters and violence against women (VAW) shelters serving women fleeing violence create challenges for women trying to access housing supports. Experiences of homelessness and violence are intersecting, with violence being both a cause and effect of homelessness. Yet, silos between homeless shelters and VAW shelters requires women to either be attached to a 'homeless' status or 'abused' status[94]. Our discussions highlight that this can mean that if women's homelessness is a result of poverty, evictions or any other reason in which violence is not the cause of homelessness women are unable to access VAW shelters, even if homlessness is causing horrific experiences of violence in their lives. This demonstrates an egregious violation of women's housing rights as often VAW shelters include supports that homelessness shelters don't. Research in this area is scarce and it is important to investigate this intersection further to get a better sense of this challenge at a national scale. We are hoping that violation of housing rights created by silos between the homelessness shelters and VAW shelters can be further illuminated through our evidence building process.

Moreover, VAW definitions vary across provincial and territorial jurisdictions which means that what qualifies under VAW in one region might not qualify in another region. This can also result in women being denied shelter even if they are experiencing violence. A woman who participated in the Pan-Canadian Survey on Women's Housing[95] testified to this stating,

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The definition of domestic abuse didn't qualify in Manitoba. In Newfoundland, St. Johns, all domestic abuse is accepted. In Manitoba, if your partner isn't physical, you don't get shelter. If it isn't your partner but a member of your household, it doesn't qualify even if they're beating you. So yes, I've been denied

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[92] Transitional housing in Canada, across provinces, is not covered under the Residential Tenancies Act (RTA). This renders transitional housing tenants vulnerable in many ways as they don't have pathways to recourse in case their housing rights are violated. Community Legal Assistance Societies. (2021, July 14). *Non-Profit Housing and the Residential Tenancy Act*. CLAS. https://clasbc.net/non-profit-housing-and-the-residential-tenancy-act/

[9]Violence in Northern Communities. Canadian Centre for Policy Alternatives. https://mra-mb.ca/wp-content/uploads/Housing-Needs-of-Indigenous-Women-Leaving.pdf. p.7.

[94] Ibid

[95] Schwan, K., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). *The Pan-Canadian Women's Housing & Homelessness Survey.* Toronto, ON: Canadian Observatory on Homelessness. p. 42

shelter at women's abuse shelters.

Yet again, the lack of research exploring such gaps makes it difficult to fully grasp how the scale and extent of harm such interjurisdictional neglect causes. Regardless, our discussions highlight that such interjurisdictional gaps are consistently contributing to violation of housing rights for women, girls, Two-Spirit, and gender-diverse people in our communities.

Violation 4: Security of Tenure under NHS and Secure Indigenous Land Tenure

THE REALIZATION OF HOUSING AS A HUMAN RIGHT UNDER THE NHSA PROVIDES THE FEDERAL HOUSING ADVOCATE A UNIQUE OPPORTUNITY TO VIEW FORCED REMOVAL OF INDIGENOUS PEOPLES FROM THEIR HOMELANDS AS NOT JUST A VIOLATION OF THEIR COLLECTIVE INDIGENOUS AND HUMAN RIGHTS, IT GIVES AN OPPORTUNITY TO THE FEDERAL HOUSING ADVOCATE TO UTILIZE THE VEHICLE OF HOUSING AS A HUMAN RIGHT TO DRIVE ACCOUNTABILITY TOWARDS INDIGENOUS PEOPLES' RESTITUTION TO THEIR LANDS AND GUARANTEED SECURITY OF TENURE ON LANDS THAT ARE THEIR HOMELANDS.

4.1. Right Housing and Secure Land Tenure

In Report no. 7 produced under the United Nations Housing Programme, A Global Review of the Indigenous People's Right to Adequate Housing, the right to security of tenure, a principle under the right to housing, is explored in great detail in relation to Indigenous people's right to secure land tenure. The report explores forced evictions as colonial tools to remove our people from our lands, and how that in itself constitutes a violation of our right to housing. The report recognizes that,

> Where Indigenous Peoples have been deprived of their land and territories without their free and informed consent, States parties are called upon to "take steps to return those lands."
>
> ..there is a direct relationship between the dispossession of indigenous Peoples' lands, and indigenous Peoples' housing. Most often, the dispossession of lands is achieved through forced eviction, a violation of housing rights, and results in insecure tenure, increased levels and depths of poverty, rural-urban migration, and ultimately, housing that is of poorer quality and that is unstable.[96]

In our discussions, Marie McGregor Pitawanakwat, chair of the Working Group, speaks to this relationship between evictions of lands and the violations to the right to housing,

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Indigenous peoples in Canada were forcibly removed from our lands, lands that we have allodial title97 to, asserted through our inherent rights as first peoples of Turtle Island. Colonial land frameworks relied on treaties that governments have time and again dishonored to claim titles over our land. Moreover, colonial genocidal policies have repeatedly been used to weaken our strength and survival as peoples, all with the purpose of dispossessing us from our lands. Violations of our housing rights today are deeply tied to this dispossession, it is because we lost our original ways of

[96] Office of High Commission of Human Rights. (2005). *Indigenous peoples' right to adequate housing - A global overview*. https://www.ohchr.org/en/publications/special-issue-publications/indigenous-peoples-right-adequate-housing-global-overview. p. 26

[97] Defined as inherent land title, which does not need any colonial entity to affirm it.

sustenance.

Given that Indian reserve lands in Canada make up only two-tenths of one percent of Canada's total land mass, and that the Indigenous population stands at nearly two million people, it is unreasonable to imagine that Indigenous peoples on Indian reserves have access to sufficient land to make a livelihood, to build housing, to develop food systems, to create businesses, and to maintain sufficient land for conservation, hunting, trapping, fishing, gathering, and for land-based activities.

As this is a human right claim with respect to housing, the first question one must ask when contemplating the building of a home is, on what land will the home be built? Much of traditional Indigenous territories used for hunting, trapping, fishing, gathering, and for cultural purposes lie outside the boundaries of Indian reserves. These traditional territories, and Indian reserve lands, as well as the incomplete purchases of other lands in Canada now occupied by settler Canadians constitute Indigenous allodial land title lands. It is recommended that the Federal Housing Advocate find unused federal lands and convert them to Indigenous allodial land title ownership, so that Indigenous peoples can hold not only land title, but also the right to design, build and own homes. The current financialization model of purchasing real estate is beyond the reach of many Indigenous peoples given the prevalence of a generally lower socioeconomic status. In addition, it is difficult to contemplate the purchase of land for a home, when many Indigenous peoples recognize that they still hold title to their original lands.

4.2. Home-Ownership and Models of Culturally Appropriate Housing

An important area in supporting and nurturing housing autonomy for Indigenous women, girls, Two-Spirit, and gender-diverse people is home ownership and other models that promote culturally appropriate housing. The co-chair of our Working Group, Katlia Lafferty, notes that,

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Current models of housing - private rental housing and social housing models are failing to nurture autonomy and self-determination for Indigenous women, particularly Indigenous women in urban, rural, and northern settings.

Her statement is reflected in research data that "among Indigenous people living in an urban area, about half (51%) lived in rented dwellings, compared with 29% of the non-Indigenous population. Among the 355,400 Indigenous people who lived in a rented dwelling in 2016, one in five (21%) lived in

subsidized housing"[98].

In our discussions, advocates from across Canada highlight the need for housing models and solutions that are environmentally sustainable, locally developed, designed by women, Two-Spirit, and gender-diverse people in our communities, nurture economic and cultural growth, and situated on lands that are governed by our communities. We see these directions as the realization and utmost enjoyment of our housing rights.

Unfortunately, the on-the-ground reality for women, girls, Two-Spirit, and gender-diverse people looks quite different. In cases where Indigenous women have tried to oppose colonial systems and assert their rights to housing, existing colonial policies have been weaponized to evict them. Darlene Necan, an Indigenous woman from Saugeen First Nation, faced fines and evictions from the Ministry of Natural Resources in Ontario when she was building a house on her traditional lands. Necan was motivated to build her own housing on her family's traditional land after experiencing homelessness for years.[99] Our co-chair, Marie McGregor Pitawanakwat, also spoke to her experiences of eviction[100] from her family home, and then from a house she built for herself on Whiteriver First Nation land. While Marie asserted her right to housing on reserve land, the First Nation government used Certificate of Possession to evict her from her parents' family home, and then evicted her from the camp that she had declared as her housing on reserve. In both cases, women were served forceful removal notices when they tried to assert their housing rights after becoming homeless.

Housing accessibility on reserve for First Nations women is also deeply impacted by the structure of property rights on reserve. Research notes that,

> [a]bsolute land ownership and private property were non-Indigenous concepts that were imposed on Indigenous communities through the colonization of Turtle Island. Underpinned by patriarchal and colonial policies of the Indian Act, property rights on reserve were structured to benefit First Nations men over First Nations women. Property on First Nations reserves is distinct from property off reserve, as First Nations people can only access property rights through allotments (the right to use and occupy a parcel of reserve land), which retains the communal and inalienable nature of land rights on reserve. First Nations Peoples are not entitled to land title on reserve, as legal title to reserve lands were held by the Crown. Allotments are approved through the Minister of Indigenous Services and band councils, and legitimized through Certificate of Possessions (CPs), issued as evidence to First Nations People's property rights. Historically, CPs have been an instrument through which First Nations women have been marginalized and discriminated against, with Indian agents generally issuing CPs to men. Without their names on the CPs, women would be left without any allotment to their name, in case their marriage ended in divorce. Unlike women off reserve, until 2014 there was no legislation "that provided spousal entitlements after separation or divorce that applied on reserves.[101]

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[98] Anderson, T. (2019, December 10). *Results from the 2016 Census: Housing, income, and residential dissimilarity among Indigenous people in Canadian cities*. Statistics Canada. https://www150.statcan.gc.ca/n1/pub/75-006-x/2019001/article/00018-eng.htm

[99] CBC News. (2013). *First Nations woman told to stop building her own house*. https://www.cbc.ca/news/canada/thunder-bay/first-nations-woman-told-to-stop-building-her-own-house-1.2433655

[100] White, E. (2018). *Woman's long fight with northern Ontario First Nation could end with eviction*. CBC. https://www.cbc.ca/news/canada/sudbury/whitefish-river-first-nation-housing-eviction-dispute-1.4634627E

[101] Schwan, K., Versteegh, A., Perri, M., Caplan, R., Baig, K., Dej, E., Jenkinson, J., Brais, H., Eiboff, F., & Pahlevan Chaleshtari, T.

Discrimination based on race and gender also shapes our experiences of asserting our housing rights. The Pan-Canadian Survey on Women's Housing noted that 24.2% of Indigenous women, girls, Two-Spirit, and gender-diverse people reported discrimination on the basis of race, colour, or ethnicity. Moreover, Indigenous women, girls, Two-Spirit and gender-diverse people also reported greater discrimination from landlords on other bases as well, with 52.9% reporting discrimination on the basis of income.102 The discrimination experienced by Indigenous women, girls, Two-Spirit and gender-diverse people, is evident in that Canada's failure to legislate the Convention on the Elimination of Discrimination against Women into its domestic law. We will be submitting more detail around the ack of accountability to CEDAW as an addendum in the second phase of this work.

(2020). The State of Women's Housing Need & Homelessness in Canada: A Literature Review. Hache, A., Nelson, A., Kratochvil, E., & Malenfant, J. (Eds). Toronto, ON: Canadian Observatory on Homelessness Press. p. 156

[102] Schwan, K., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). The Pan-Canadian Women's Housing & Homelessness Survey. Toronto, ON: Canadian Observatory on Homelessness.

The Way Forward: Recommendations

Violations highlighted in our Claim, and the human rights frameworks outlined herein are only the beginning and we will proceed to engage with our communities and gather evidence with our communities across Turtle Island. As mentioned earlier, this claim is an effort by a grassroots group of women, Two-Spirit, and gender-diverse people to assert and articulate our right to housing, as guaranteed under the NHSA, on our own terms. This Claim has detailed that given the colonial, capitalist, and patriarchal history of housing systems in Canada, the only path to realization of housing rights for Indigenous women, girls, Two-Spirit, and gender-diverse people in Canada, is one that is articulated by them. These articulations will not be monolithic and will be qualified by unique contexts of communities engaging with the NHSA.

This Claim, and our recommendations as listed below, are meant to articulate preliminary violations and considerations that shape the landscape of housing rights violations of Indigenous women, girls, Two-Spirit, and gender-diverse people in Canada today. Our recommendations listed below, are not exhaustive, rather, we invite the Federal Housing Advocate to engage with us as we embark on the process of articulating our rights and utilizing the NHSA as a tool of accountability and assertion of our rights.

On Articulations of Rights - By Indigenous, For Indigenous

1. We recommend that the Federal Housing Advocate appoint a panel, independent but linked to the Office of the Federal Housing Advocate, of Indigenous knowledge keepers, Elders and advocates that provides direction on and review Indigenous-led housing claims submitted to the Advocate. This panel must have representation from Indigenous peoples from diverse contexts, with astute presence of our matriarchs and Two-Spirit peoples.
    a. We recommend that the governance and design of this panel be decided upon by the process of community engagement.
    b. We recommend that directives developed through this Claim process are factored into the development of this review panel.
    c. We recommend that the advocate facilitate capacity within the panel to develop rights-based indicators to track progress on the progressive realization of the right to housing for Indigenous women, girls, Two-Spirit, and gender-diverse people.

2. Advocate for the development of an oversight body of Indigenous peoples to hold authority so that action on the recommendations can be monitored and that a system of evaluation be struck to determine whether or not measurable targets are being achieved.

3. Meaningfully engage with the National Action Plan for MMIWG and particularly advocate for the establishment of an Indigenous Human Rights Tribunal, as is directed and detailed in the National Actional Plan for MMIWG.

    a. We further recommend that, the Federal Housing Advocate build a working relationship with the Indigenous Human Rights Tribunal, once established, which addresses systemic gaps in the realization of the right to housing for Indigenous Peoples, particularly women, girls, Two-Spirit, and gender-diverse people.

4. Support and co-develop process of evidence-building as part of this Claim and uphold our articulations of housing as a human right built through this process in all of work done through the Federal Housing Advocate.

On Housing Development - By Indigenous, For Indigenous

1. It is recommended to the Federal Housing Advocate promote our right to self-determination advocating for housing, designed by Indigenous peoples, built by Indigenous peoples, applying biophilic design, and environmentally friendly materials, be supported.

2. It is recommended that the Advocate create pathways to measurable targets for home design, construction, and access to building materials, to be set so that the severe condition of inadequate housing, homelessness, overcrowded housing, and unhealthy, unsanitary housing be ameliorated.

3. It is recommended to the Federal Housing Advocate that our right to self-determination be facilitated through developing training programs that allow Indigenous women, Two-Spirit, and gender-diverse people to take control of their own housing. So that, they can design and build homes that are culturally appropriate, appropriate to the size of extended family composition.
    a. It is further recommended that because of the circumstances around Indigenous housing and the need for biophilic design, culturally appropriate approaches, that these training programs hold accreditation particular to the specific characteristics of Indigenous architecture and construction.

On Housing Funding - By Indigenous, For Indigenous

1. Conduct an Indigenous-led inquiry into the effects and outcomes of the historical and ongoing housing funding programs (including ones under National Housing Strategy (NHS), distinctions-based programs, Urban and Rural Native Housing Program, and other initiatives) on First Nations, Inuit, and Métis women, girls, Two-Spirit, and gender-diverse people, including those living in urban, remote, and northern communities.

    This review should seek to identify funding and outcome inequities for these groups, as well as

gaps between the funding allocations and the Calls to Justice outlined in *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* and the Calls to Action outlined in *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*.

2. Explore how affordability and prioritization criteria employed in NHS and Indigenous-specific housing programs fail to address inequities experienced by Indigenous women, girls, Two-Spirit, and gender-diverse people and the obligation to realize our right to housing in the shortest possible time.

3. Consider how federal definitions of homelessness can be revised to better reflect gendered experiences of housing need and homelessness, centring ways in which Indigenous women, girls, Two-Spirit, and gender-diverse people define their homelessness.

4. Consider how all funding programs mandated to serve Indigenous women, girls, Two-Spirit, and gender-diverse people could most effectively eliminate Indigenous children's homelessness, in the shortest possible time, in alignment with human rights standards.

5. Provide guidance on transparent and publicly accessible mechanisms to monitor whether substantive gender equality is being achieved through Indigenous-specific funding allocations and program outcomes, including through the collection of disaggregated data on the experiences of Indigenous women, girls, Two-Spirit, and gender-diverse people.

These are emerging recommendations rooted in our discussions and work so far. As we take on the evidence building process for this claim and engage with communities from coast to coast to coast, we will see these recommendations refine and solidify further. At this point it is critical to note that these recommendations are rooted in principles of self-determination and Indigenous women, Two-Spirit, and gender-diverse people articulating what the right to housing means to them.