

**Access to Safe, Sustainable, & Healthy Housing in Cambridge Bay, Nunavut: An
Institutional Ethnography**

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Table of Contents

LIST OF FIGURES.....	V
ABSTRACT.....	VI
ACKNOWLEDGEMENTS	VII
CHAPTER 1: INTRODUCTION.....	1
1.1 THE PROBLEMATIC AS A STARTING POINT	1
1.2. ABOUT THE RESEARCH PROJECT.....	2
1.3 OVERVIEW OF THE STRUCTURE OF THIS DISSERTATION.....	7
1.4 OVERVIEW OF KEY INSIGHTS ABOUT HOUSING AND ACCESS TO JUSTICE IN NUNAVUT.....	12
1.5. A NOTE ABOUT MY POSITIONALITY	14
CHAPTER 2. LITERATURE REVIEW	16
2.1 THE CONTEXT OF HOUSING IN NUNAVUT.....	16
2.1.1. CAMBRIDGE BAY (IQALUKTUUTIAQ).....	16
2.1.2. HOUSING GOVERNANCE IN NUNAVUT.....	23
2.1.2. HOUSING CHALLENGES IN NUNAVUT TODAY	26
2.2. METHODOLOGICAL FRAMEWORKS AND APPROACHES TO THE PROJECT.....	30
2.2.1. ACCESS TO JUSTICE	31
2.2.2. INUIT QAUJIMAJATUQANGIT	36
2.2.3. INSTITUTIONAL ETHNOGRAPHY	56
2.3. EXPLORING THE COMPATIBILITY OF INSTITUTIONAL ETHNOGRAPHY, INUIT QAUJIMAJATUQANGIT & ACCESS TO JUSTICE IN NUNAVUT	62
2.3.1. EXPERIENTIALLY-GROUNDED RESEARCH: LOOKING AT WHAT IS ACTUALLY HAPPENING	62
2.3.2. DISJUNCTURE AS INDICATIONS OF COLONIALISM: THE ROLE OF RULING RELATIONS.....	65
2.3.3. DISJUNCTURE AS ACCESS TO JUSTICE ISSUES	70
2.3.4. INSTITUTIONAL ETHNOGRAPHY AS AN EMPOWERMENT TOOL FOR IMPROVING ACCESS TO JUSTICE AND INUIT SELF-DETERMINATION	72
2.4. ORIGINAL CONTRIBUTIONS IN FILLING IN THE RESEARCH GAPS.....	74
CHAPTER 3: METHODS	80
3.1. APPROVALS, COMMUNITY ENGAGEMENT AND SCOPING	81
3.2 KNOWLEDGE DOCUMENTATION	83
3.3 DATA ANALYSIS AND VALIDATION.....	87

CHAPTER 4: “THERE WAS TIMES WHERE I HAD TO BITE MY TONGUE, JUST TO HAVE A PLACE TO STAY”: HOMELESSNESS AND TRANSITIONAL HOUSING	92
4.1. OVERVIEW OF THE CHAPTER	92
4.2. COUCHSURFING DURING RELATIONSHIP BREAKDOWNS.....	94
4.3. UNCOVERING RULING RELATIONS BEYOND TEXTS IN EMERGENCY AND TRANSITIONAL HOUSING	113
4.4. CONCLUSIONS ON HOMELESSNESS AND TRANSITIONAL HOUSING	122
CHAPTER 5: WAITING TO GET INTO PUBLIC HOUSING	125
5.1. OVERVIEW OF THE CHAPTER.....	125
5.2. “WHEN YOU TURN EIGHTEEN, YOU PUT YOUR NAME ON THE LIST”: PROBLEMATIZING THE AUTHORIZED VIEW OF THE ROLE OF PUBLIC HOUSING.....	128
5.3. THE PUBLIC HOUSING ALLOCATION PROCESS (THE WAITING LIST)	139
5.3.1. THE SOCIAL ORGANIZATION OF KNOWLEDGE ABOUT WAITING LIST REQUIREMENTS	139
5.3.2. THE POINT RATING SYSTEM: EXAMINING FAIRNESS IN PUBLIC HOUSING ALLOCATION	150
5.3.3. A ZERO SUM GAME IN A CRUMBLING PIE: UNPACKING FAIRNESS	154
5.4 CONCLUSIONS ON PUBLIC HOUSING ALLOCATION	164
CHAPTER 6: DISREPAIR IN PUBLIC HOUSING UNITS	167
6.1. OVERVIEW OF THE CHAPTER	167
6.2. “LIKE OPENING A WINDOW, AND TAKING A HUNDRED-DOLLAR BILL AND JUST THROWING THEM OUT THE WINDOW”: THE EXPERIENCES OF PUBLIC HOUSING TENANTS DEALING WITH DISREPAIRS	169
6.3. EXAMINING TEXTS ON DISREPAIR: WHAT DO LAWS AND POLICIES SAY?	172
6.4. TRACING THE (DIS)CONNECTIONS TO UNDERSTAND ACCESS TO JUSTICE IN DISREPAIR ISSUES: WHAT HAPPENS WHEN PEOPLE TRY TO GET THEIR PUBLIC HOUSING UNIT REPAIRED?	178
6.5 WHY CAN’T REPAIRS BE DONE? MAKING VISIBLE THE RULING RELATIONS	186
6.6. CONCLUSIONS ON DISREPAIRS IN PUBLIC HOUSING	192
CHAPTER 7: THE INSTITUTIONAL DISCOURSE OF THE UNACCEPTABLE PUBLIC HOUSING TENANT.....	196
7.1. OVERVIEW OF THE CHAPTER	196
7.2. TENANT DAMAGES	197
7.2.1. TALKING ABOUT “BAD” TENANTS WHO DAMAGE THEIR HOMES	197
7.2.2. THE INSTITUTIONAL DISCOURSE OF TENANT DAMAGES	200
7.2.3. TRACING THE COORDINATION OF TENANTS’ EXPERIENCES THROUGH THE TENANT DAMAGES DISCOURSE	210
7.3 RENTAL ARREARS AS A LIVED CONSEQUENCE OF INSTITUTIONAL CATEGORIZATION	219
7.4. CONCLUSION ON THE INSTITUTIONAL DISCOURSE OF THE UNACCEPTABLE TENANT	230
CHAPTER 8: STAFF HOUSING	237
8.1. OVERVIEW OF THE CHAPTER	237
8.2. LOCAL KNOWLEDGE OF STAFF HOUSING ALLOCATION PRACTICES IN CAMBRIDGE BAY	239

8.3. TRACING THE ROLE OF INSTITUTIONAL TEXTS ON STAFF HOUSING ALLOCATION IN PRODUCING LOCAL PERCEPTIONS OF INJUSTICE	246
8.4. UNDERSTANDING THE ROLE OF SYSTEMIC BARRIERS AND RULING RELATIONS: INSTITUTIONAL ETHNOGRAPHY, ACCESS TO JUSTICE, AND INUIT SELF-DETERMINATION IN THE CONTEXT OF STAFF HOUSING.....	251
8.5. THE SOCIAL ORGANIZATION OF STAFF HOUSING PRECARIETY THROUGH THE INSTITUTIONAL DISCOURSE	257
8.6 CONCLUSION ON STAFF HOUSING	263
CHAPTER 9: MARKET HOUSING.....	265
9.1 OVERVIEW OF THE CHAPTER.....	265
9.2 THE INSTITUTIONAL DISCOURSE ON MARKET HOUSING	267
9.3 LIVED EXPERIENCES IN PRIVATE RENTALS	273
9.4 LIVED EXPERIENCES WITH HOME OWNERSHIP	282
9.5 PROBLEMATIZING THE INSTITUTIONAL DISCOURSE ON THE HOUSING CONTINUUM	301
CHAPTER 10: CONCLUSION: REFLECTIONS ON THIS RESEARCH.....	315
10.1. THE NEED FOR HOUSING SOLUTIONS SPECIFIC TO NUNAVUT TO SUPPORT INUIT SELF-DETERMINATION	315
10.2. UNDERSTANDING ACCESS TO JUSTICE IN THE CONTEXT OF HOUSING IN CAMBRIDGE BAY	323
10.2.1. THE STANDARDIZING ROLE OF LAW AND INSTITUTIONAL ACCOUNTS AS DEHUMANIZATION IN THE CONTEXT OF COLONIALISM	324
10.2.2. HOW LAWS SERVE AS TEXTS THAT MEDIATE PEOPLE’S ACTIVITIES... OR DON’T.....	327
10.2.3. “WHY DON’T YOU TALK TO A LAWYER?” EXPLORING THE LIMITS OF THE LAW IN PROVIDING REMEDIES.....	329
10.2.4. SOLUTIONS FOR ACCESS TO JUSTICE MEANS MORE THAN PUBLIC LEGAL EDUCATION	334
10.2.5. EMPLOYING A HOLISTIC VIEW OF HOUSING AND THE LAW	337
APPENDICES.....	342
APPENDIX 1: NUNAVUT RESEARCH INSTITUTE SCIENTIFIC RESEARCH LICENSE	342
APPENDIX 2: UNIVERSITY OF OTTAWA OFFICE OF RESEARCH ETHICS AND INTEGRITY, CERTIFICATE OF ETHICS APPROVAL	343
APPENDIX 3: QUESTION GUIDE	345
APPENDIX 4: KNOWLEDGE MOBILIZATION PLAN	348
APPENDIX 5: SUMMARY OF KEY FINDINGS	354
BIBLIOGRAPHY.....	371
LEGISLATION & TREATIES	371
POLICIES & GUIDELINES.....	371
JURISPRUDENCE	373
SECONDARY SOURCES AND OTHER MATERIALS.....	373

List of Figures

Figure 1: Cambridge Bay in 2013, when I first moved to the community	16
Figure 2: Distribution of the employed labour force aged 15 and over by industry sectors, Cambridge Bay, 2021 (Statistics Canada)	19
Figure 3 Distribution of employment income in Cambridge Bay, 2020 (Statistics Canada)	21
Figure 4 Distribution of employment income in Canada, 2020 (Statistics Canada)	22
Figure 5 A graphic demonstrating the interactions between access to justice, Inuit Qaujimajatuqangit & institutional ethnography.....	30
Figure 6 The methods process for this research.....	81
Figure 7 A window that has been covered in plastic wrapping to keep heat from escaping (photo provided by a participant with permission)	169
Figure 8 Snow building up in my door frame, causing the door to jam	207
Figure 9: Reproduction of Government of Nunavut's conceptions of a complete housing continuum in contrast to the housing continuum in Nunavut.	268
Figure 10: Representation of the housing continuum as presented in the Nunavut Housing Corporation's Nunavut 3000 Public Plan (2000).....	271

Abstract

This institutional ethnography examines access to justice issues with respect to the housing crisis in Cambridge Bay, Nunavut, through interviews with 19 community members and 13 service providers, as well as a review of relevant texts including laws and policies. This project provides an original contribution to the field of research in two ways. First, it does so in *what* was studied, in addressing research needs that has been identified as a priority by Inuit, government, and other actors. Secondly, the project provides an original contribution in *how* it was studied, in proposing to use institutional ethnography, informed by Inuit Qaujimajatuqangit guidance on research practices, to understand access to justice in Nunavut. The research reveals how the ruling relations perpetuate the ongoing impacts of colonialism with respect to people's housing experiences across the housing continuum. This suggests that a broad, holistic understanding of access to justice is required in Nunavut. The research also challenges the suitability of a western, capitalist, individualist private market-based model of a housing continuum that has been transplanted from southern Canadian jurisdictions, which are grappling with their own housing crises themselves. Instead, it is time to envision a housing model that suits the unique needs of Nunavut and supports goals of Inuit self-determination.

Cette ethnographie institutionnelle examine les questions d'accès à la justice en ce qui concerne la crise du logement à Cambridge Bay, au Nunavut, au moyen d'entretiens avec 19 membres de la collectivité et 13 fournisseurs de services, ainsi que d'un examen des textes pertinents, y compris les lois et les politiques. Ce projet apporte une contribution originale au domaine de la recherche de deux manières. Premièrement, il le fait au niveau du *sujet* étudié, en répondant aux besoins de recherche identifiés comme prioritaires par les Inuits, le gouvernement et d'autres parties prenantes. Deuxièmement, le projet apporte une contribution originale dans la *manière* dont le sujet a été étudié, en proposant d'utiliser l'ethnographie institutionnelle, éclairée par les conseils de l'Inuit Qaujimajatuqangit sur les pratiques de recherche, pour comprendre l'accès à la justice au Nunavut. La recherche révèle comment les relations de pouvoir perpétuent les répercussions actuelles du colonialisme en ce qui concerne les expériences de logement des personnes dans l'ensemble du continuum du logement. Cela suggère qu'il faut envisager une compréhension large et holistique de l'accès à la justice au Nunavut. La recherche remet également en question la pertinence d'un modèle occidental, capitaliste, individualiste et basé sur le marché privé d'un continuum de logement qui a été transplanté des provinces du sud du Canada, qui sont elles-mêmes aux prises avec leurs propres crises du logement. Il est temps d'envisager un modèle de logement qui réponde aux besoins uniques du Nunavut et soutienne les objectifs d'autodétermination des Inuits.

Acknowledgements

The statements in this dissertation represent my own personal views as a scholar (or those to whom specific statements are attributed), and do not represent the views of any of my employers, past or current.

To carry out this research, I obtained a research license from the Nunavut Research Institute and approval from the University of Ottawa's Office of Research ethics (see Appendices 1 and 2).

This doctoral dissertation has been a nearly lifelong dream for me, and I am so grateful to everyone who has supported me along this journey. First, I am so grateful to the community members of Cambridge Bay and service providers who participated in my research by allowing me to interview them. I know my topic was a difficult one and I was moved by the bravery that they showed in sharing with me their stories. I am indebted to the community of Cambridge Bay, which has treated me with such warmth and generosity over the last decade, teaching me so many inspiring lessons about what it means to be part of a community and generally a good human being.

My doctoral co-supervisors Dr. Angela Cameron and Dr. Jackie Dawson not only provided me with valuable guidance, but did so with such exemplary kindness and supportive encouragement that gave me the confidence I needed to achieve this dream. I feel incredibly fortunate to have them as my supervisors. Thank you as well to my committee members and internal reviewers, Dr. David Wiseman, Dr. Sonia Wesche, and Dr. Julie Tchoukou, and to my external reviewer Sarah Buhler. A special thank you to my colleague Melisa Handl who I looked up to like a big sister throughout my studies – watching her go through her own PhD journey motivated me to keep going with mine.

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The Kitikmeot Friendship Society kindly offered me space to conduct interviews. Polar Knowledge Canada provided me with accommodations and office space at the Canadian High Arctic Research Station campus during my field research trip to Cambridge Bay. The Law Society of Nunavut generously supplied me with legal and Inuit Qaujimajatuqangit-informed wellness resources to distribute to participants as gifts of gratitude. I am so grateful to these organizations for their logistical support.

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My parents once told me about my late great-grandmother who was passionate about learning and was one of the earliest women in Korea to begin a modern Western formal education in Korea (so I am told). Unfortunately, due to threats from her male relatives, she had to stop her studies. As the first woman in my family to become a lawyer and do a PhD, I'd like to think that my great-grandmother would be proud of me and my love for learning, which perhaps I inherited from her.

Chapter 1: Introduction

1.1 The problematic as a starting point

When I worked as a lawyer in Cambridge Bay, Nunavut supporting my clients with their housing issues, I could only see what was happening from my perspective, as lawyer and a settler born and raised in southern Canada. For example, a client might want me to help them enforce their right to have repairs done to their house. In negotiating with their landlord, I could not understand why the landlord was taking so long to fulfill their legal obligations to repair. Sometimes clients wanted to be moved up the waiting list for housing, and I felt frustrated that there did not seem to be anything I could do for them as a lawyer, if I could not identify a legal issue on which to intervene. And then other times, as a resident living in the community, I was aware that some people had housing issues that a lawyer like me *could* help with, but I did not know the reasons why such people were not seeking legal assistance. I wanted to know what was going on beyond my standpoint, and what made things happen the way they did.

By that time, access to justice had again become a popular topic of discussion in Canada's community of legal practitioners. Puzzled by my experiences as a lawyer, I started working on access to justice projects for the Law Society of Nunavut, creating public legal education materials to help more people become aware of their legal rights. I served as a representative for Nunavut at meetings of the national Action Committee on Access to Justice in Civil and Family Matters started up by the former Chief Justice of the Supreme Court of Canada Beverley McLachlin. I also began working for the federal government in Arctic research policy, where I saw how the housing crisis repeatedly came up as not only a research priority for Inuit, but as an issue that seemed to be connected to nearly every area of a person's life. Throughout this collaborative work with policymakers, lawyers, judges, Indigenous representatives and

clients, I started to wonder what is it that we mean when we as legal practitioners talk about “access to justice”? The term had become such a part of our professional language that sometimes we as legal practitioners were using it without thinking about what it meant exactly, under the assumption that we all knew what it was and that we all meant the same thing. And what does access to justice mean in Nunavut, amidst all the issues I had observed and experienced while working in the area? It was clear to me from these national-level access to justice meeting discussions that Nunavummiut experienced different kinds of law-related problems than many other jurisdictions like Ontario, because Nunavut has its own special history, context, and environment. Did we all actually mean the same thing, across the country, when we talked about access to justice?

1.2. About the research project

Research questions: (Substantive)

1. What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?
2. How do institutional texts prescribe that the processes relating to these housing experiences should play out?
3. What insights do disjunctures between Question 1 (lived experiences) and Question 2 (institutional prescriptions) reveal about access to justice in Nunavut?

Methodological research objective:

4. To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut

The questions that I puzzled over in the preceding section formed what institutional ethnographers call the problematic for this doctoral research project. A problematic often begins with some kind of awareness of a troubling tension or disjuncture between how we are told things are supposed to be (authorized knowledge) and how we actually experience things to be

(experiential knowledge).¹ Grounded in a particular standpoint in the everyday world (like that of a civil litigation lawyer working in a law office in Cambridge Bay), the problematic then sets the stage for the researcher to inquire how things have come to be the way that they have, by tracing what institutional features coordinate people's experiences in the way that they have.

For this research project, I sought out to understand the experiences of community members in Cambridge Bay in navigating their housing needs, as well as those of the service providers who work with them, all in the midst of Nunavut's housing crisis. I wanted to learn what factors and forces influence and shape their housing experiences to unfold as they do. Specifically, I wanted to see how institutional texts prescribe processes relating to these housing experiences should play out, and how differences between those prescribed processes and lived experiences might reveal insights about access to justice in Nunavut.

This doctoral research project provides an original contribution to the field of research in two ways. First, it does so in terms of *what* was researched, as this research on people's housing needs begins to fill in knowledge gaps that have been identified as research priorities by Inuit and institutional actors in Nunavut.² It especially addresses the identified research needs to understand people's *qualitative* experiences related to the housing shortage to expand on what

¹ Rankin, Janet, "Conducting Analysis in Institutional Ethnography: Guidance and Caution" (2017) 16 *International Journal of Qualitative Methods* 1 at 3 ["Rankin, Caution"].

² Inuit Tapiriit Kanatami, *Social Determinants of Inuit Health in Canada* (September 2014) at 21, online (pdf): <https://www.itk.ca/wp-content/uploads/2016/07/ITK_Social_Determinants_Report.pdf> ["ITK Social Determinants"]; Shylah Elliot & Judie Bopp, *The Little Voices of Nunavut: A Study of Women's Homelessness North of 60: Territorial Report* (Qullit Nunavut Status of Women Council, January 2007) at 38, online (pdf): <https://static1.squarespace.com/static/54b93da3e4b096702d3b8bbd/t/56aa3f9f9cad6b6b4b9f0d745/1453997994982/THE+LITTLE+VOICES+OF+NUNAVUT_Nunavut+Territorial+Report+Homelessness_+jan+07.pdf> ["Little Voices"]; Nunavut Housing Corporation, *The GN Long-Term Comprehensive Housing and Homelessness Strategy*, (2013) at 17, online (pdf): *GN's Blueprint for Action on Housing* <<http://blueprintforaction.ca/docs/other/nhc-homelessness-en.pdf>> ["GN Strategy"]; Nunavut Housing Corporation, *The Blueprint for Action on Housing* at 7, 16, and 19, (2016) online (pdf): <https://assembly.nu.ca/library/GNedocs/2016/002302-e.pdf> ["NHC Blueprint"]; also confirmed during my scoping exercises.

statistical data does exist.³ It also fills certain research gaps about people's housing situations at the community level, specifically in Cambridge Bay. The research that does exist tends to present relevant data about Nunavut or Inuit Nunangat generally,⁴ the capital city of Iqaluit,⁵ or communities other than Cambridge Bay.⁶

The second way in which this research provides an original contribution is through *how* the research was done. I used institutional ethnography as a methodology for studying access to justice (focusing on housing issues) in Nunavut, while informed by guidance provided by Inuit Quajimajatuqangit worldviews on how research in Inuit Nunangat should be done. To my knowledge, this is the first time this combination of frameworks has been proposed in this context.

Institutional ethnography is a feminist socio-legal methodology first developed by Dorothy Smith, which starts from the lived experiences of people to examine how their activities are coordinated and managed across different locations – often through mediating texts – by

³ Little Voices *supra* note 2 at 16 and 129; NHC Blueprint, *supra* note 2 at 16; Mumilaaq Qaqqaq, *Sick of Waiting: A Report on Nunavut's Housing Crisis* (2021) at 16, online (pdf): < <https://www.aptnnews.ca/wp-content/uploads/2021/03/Qaqqaq.HousingReport.2021-1.pdf> > ["Qaqqaq"]; also confirmed during my scoping exercises.

⁴ Polar Knowledge Canada, *Northern Housing Policy Recommendations* (Ottawa, Stratos Inc, May 2019), online (pdf): < <https://www.canada.ca/content/dam/polar-polaire/documents/pdf/northern-housing-forum/NHF%20-%20Policy%20recommendations%20-%20EN%20-%20FINAL.pdf> > ["Northern Housing Policy Recommendations"]; Frank Tester, "Iglutaasaavut (Our New Homes): Neither "New" nor "Ours" Housing Challenges of the Nunavut Territorial Government" (2009) 43:2 *Journal of Canadian Studies*, 137 at 146-147 ["Tester"]; ITK Social Determinants, *supra* note 2 at 21-22; F Abele, T J Courchene, F L Seidle & F St-Hilaire, "The new northern policy universe" in F Abele, T Courchene, F St-Hilaire & L Seidle, eds, *Northern Exposure: Powers, peoples and projects* (Montreal: Institute for Research on Public Policy 2009) 561 ["Abele et al"]; Impact Economics, *2013 Nunavut Economic Outlook - Nunavut's Next Challenge: Turning Growth into Prosperity* (Iqaluit: Nunavut Economic Forum, December 2013) at 83 ["Impact Economics"]; Ken Battle and Sherri Torjman, *Poverty and Prosperity in Nunavut* (Ottawa: Caledon Institute of Social Policy, November 2013) ["Battle & Torjman"].

⁵ Little Voices *supra* note 2; Canada Mortgage and Housing Corporation, *Northern Housing Report 2020* (2020) at 17 & 18, online (pdf): < https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/housing_markets/northern_housing_report/northern-housing-report-2020-en.pdf > ["CMHC Northern Housing Report"]; Statistics Canada, *Canadian Housing Statistics Program, 2019 and 2020* (6 January 2022) at 17 & 18, online: < <https://www150.statcan.gc.ca/n1/daily-quotidien/220106/dq220106b-eng.htm?fbclid=IwAR3N16ybpoiCcVi9JTg9ytVc0hB9suzDjVBJGv8MOdUtiFKdVRc7l3RyRQs> > ["Statistics Canada, *Canadian Housing Statistics Program*"].

⁶ Qaqqaq, *supra* note 3; Pauktuutit Inuit Women of Canada, *Study of Gender-based Violence and Shelter Services Needs across Inuit Nunangat* (Ottawa: Pauktuutit, 2019), online (pdf): <https://www.pauktuutit.ca/project/study-of-gender-based-violence-and-shelter-services-needs-across-inuit-nunangat/> > ["Study of Gender-based Violence and Shelter Services Needs"].

what is called the ruling relations, the unseen forces that exert power and control over our everyday activities across different locations.⁷ For this research, the institution that I studied was the housing system in Nunavut. “Institution” in this sense is more than the Nunavut Housing Corporation and its housing programs, more than the policies and laws governing housing in the territory, but the complex of objectified and extra-local relations that coordinate the activities of Nunavummiut – specifically the people in Cambridge Bay - as they work to obtain and maintain safe, adequate sustainable housing.⁸ By starting from the standpoint of the research participant, in the local actualities of their everyday world,⁹ with the aim of exploring how those experiences are put together through the broader picture of the institution that prescribe certain sequences of actions,¹⁰ institutional ethnography can be used to understand people’s experiences of the housing crisis as they navigate their housing needs. When researched in a manner that is informed by how Inuit experts have advised that research should be done according to Inuit Qaujimajatuqangit, this exercise of examining how people’s housing experiences are coordinated in a manner that perpetuate the impacts of colonialism through laws, policies and other text can in turn help us learn about access to justice in Nunavut. In Chapter 2, I discuss the context of housing in Nunavut as well as the frameworks that I used as my methodology in this project.

I conducted this institutional ethnography through interviews with community members about their housing experiences in Cambridge Bay, as well as with service providers who work

⁷ Dorothy Smith, *Institutional Ethnography: A Sociology for People* (New York: Altamira Press, 2005) at 10 and 183 [“Smith, *Sociology for People*”]; Marjorie L DeVault and Liza McCoy, “Institutional Ethnography: Using Interviews to Investigate Ruling Relations” in Dorothy Smith, ed, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006) 14 at 15 [“DeVault & McCoy”]; Dorothy Smith, *The Conceptual Practice of Power: A Feminist Sociology of Knowledge* (Toronto: University of Toronto Press, 1990) at 14 [“Smith, *Conceptual*”].

⁸ Based on the definition by Dorothy Smith, “Texts and the Ontology of Organisations and Institutions” (2001) 7 *Studies in Organisations and Societies* 159 at 161 [“Smith, *Texts*”]; Dorothy E. Smith and Alison I. Griffith, *Simply Institutional Ethnography: Creating a Sociology for People* (Toronto: University of Toronto Press, 2022) at 9 [“Smith & Griffith”]; DeVault & McCoy, *supra* note 7 at 17.

⁹ Smith, *Sociology for People*, *supra* note 7 at 24.

¹⁰ DeVault & McCoy, *supra* note 7 at 18.

in or have worked in housing. I also examined texts such as legislation, policies, and guidelines, but also other documents that form part of housing processes, such as housing application forms and tenant relations officers' manuals. In Chapter 3, I review the specific methods that I used to conduct this research.

The laws, policies, guidelines, manuals, forms, and other texts that I reviewed as part of this research often revealed certain institutional discourses, the authorized view of “how things work” under which people’s actions become institutionally accountable,¹¹ yet which were often at odds with the lived experiences of the participants I spoke to. One specific overarching institutional discourse relates to the housing continuum as conceptualized by the territorial government, based largely on the housing continuums of southern Canadian jurisdictions.¹² This housing continuum, ranging from emergency shelters on one end to private market homeownership on the other, is presented in government strategies and policies according to institutional criteria: who owns the property and whether it is subsidized by the government.¹³ It also articulates the institutional objective to move people along the housing continuum away from dependence on government subsidies towards the ultimate destination of private homeownership.¹⁴ The territorial government’s visions of what a complete housing continuum for Nunavut should look like is, in effect, based on those of southern Canadian jurisdictions like Ontario or British Columbia.¹⁵ These institutional objectives in this meta-discourse drive how

¹¹ *Sociology for People*, *supra* note 7 at 113.

¹² See for example, Nunavut Housing Corporation, “The Framework for the GN Long-Term Comprehensive Housing and Homelessness Strategy” (2012) at 25, online: < <http://blueprintforaction.ca/docs/other/nhc-strategic-framework-en.pdf> > [“GN Framework”]; GN Strategy, *supra* note 2 at 14; Nunavut Housing Corporation, *Igluliuqatigiingniq “Building houses together” Nunavut 3000*, (2022), online (pdf): https://different-basket-89cd87b086.media.strapiapp.com/Igluliuqatigiingniq_Nunavut_3000_Strategy_ENG_8723638a27.pdf [“Nunavut 3000 Strategy”]

¹³ *Ibid.*

¹⁴ The political aspirations for housing are explicitly articulated as policy statements in, for example: GN Strategy, *supra* note 2 at 17 & 21; GN Framework, *supra* note 12 at 49.

¹⁵ GN Framework, *supra* note 12 at 25; GN Strategy, *supra* note 2 at 14.

many housing policies, processes and systems in Nunavut are set up; and yet my research revealed the tensions produced by disparities between institutional discourses and people's lived experiences that became displaced within the institutional processes. These disjunctures often revealed not only access to justice issues but also the various ways in which colonialism continues to have an impact in shaping the lives of community members.

Although I spoke to community members who were living in or had been living in different kinds of situations across this housing continuum, from couchsurfing, to subsidized public housing, to employer-provided staff housing, to private rentals, to privately owned homes, I found that they often struggled with similar issues of overcrowded households and disrepair issues across the continuum. When stitching together these stories of people located at different sites, we see that these issues exist across the continuum because it is the same invisible forces – the relations of ruling – that coordinate their experiences. We see more clearly the role of colonialism in Nunavut, particularly through the results of imposing a Western bureaucratic system of ruling while displacing an entire worldview by which Inuit have lived for millennia. We also see that despite the institutional discourse, all parts of the housing continuum in Nunavut currently require some kind of government subsidization. This allows us to consider whether it makes sense to model Nunavut's housing continuum as transplanted from southern Canadian capitalist, individualist, private market-based political philosophies. Instead, this suggests that new, innovative policy choices could be explored to better suit the unique context of Nunavut and goals of Inuit self-determination.

1.3 Overview of the structure of this dissertation

In Chapter 4, I start with the standpoint of Inuit women who experienced homelessness and housing insecurity in Cambridge Bay, especially during periods of relationship breakdowns, devoting much of their time to finding a place to sleep for the night, whether couchsurfing with a

friend or family member or at shelters. I then begin to hook their stories into the larger picture, hearing from service providers' observations about hidden homelessness in the community, and their challenges in trying to support clients in such situations. I trace how laws and policies as texts prescribe the sequence of actions to be applied when, for example a couple no longer wishes to live together under a lease, or when a person wishes to remove their abuser from the home, and yet in actuality, there are difficulties in enforcing those legal processes. Some women resort to finding their own solutions outside of the legal remedies provided; but these actualities are not reflected in the institutional accounts. We see how these disjunctures also exist between the institutional prescriptions of the law and the experiences of people who may have been convicted of domestic assault as they go through the criminal justice system. While the law may provide options for bail or sentences to be carried out in the community, the lack of effective housing options sometimes mean that they must remain in jail. Examining why such events unfold the way that they do reveals a drastic shortage of transitional and supportive housing, not only in Cambridge Bay, but across Nunavut, causing ripple effects in communities in many ways. I trace the root of this shortage, in part, to inadequate funding and the particular historical funding structures for housing in Nunavut, an issue that continues to come up as an issue throughout the research.

In the subsequent three chapters, I focus on public housing, and the different ways that experiences relating to public housing are coordinated. In Chapter 5, I highlight the disparity between the institutional discourse which sees subsidized public housing as a program for the low-income population, where some tenants will move on to other forms of housing along the continuum, in contrast to community members' local knowledge of subsidized public housing as the main default and permanent form of housing. We connect this local knowledge with the

history of Cambridge Bay, where as part of colonization, the federal government promised to provide Inuit with housing if they settled in the community. This local experientially-based knowledge is not reflected in the institutional discourse, even though with the housing crisis, it is likely that many community members will remain in public housing. I highlight people's experiences of being on the waiting list for public housing, and in particular their frustration and lack of understanding of how public housing units are allocated, resulting in feelings of injustice. I examine the institutional texts prescribing the public housing allocation process, and the role of service providers in activating and interpreting these texts for community members. I also look at the differences between what institutional texts in both housing and law define as fairness – often involving an “impartial” procedural focus – and what community members see as fair, which is focused on the outcome (whether they get a house). This has produced the disjuncture that I experienced as a housing lawyer as described above, where I had done what I could for clients in ensuring procedural fairness in public housing allocation, yet still felt frustrated that I could not address the root issue of the housing shortage – again, partly fuelled by a lack of funding for housing - and help clients get a home. This demonstrates a concrete example of the three different dimensions of access to justice described by MacDonald – procedural, substantive, and symbolic – and the importance of considering all three dimensions when thinking about access to justice.¹⁶

In Chapter 6, I look at the experiences of tenants who have secured a public housing unit, and the challenges they experience in maintaining their home and getting their landlord, the local housing organization, to make the repairs needed in the home. Institutional texts like the

¹⁶ Roderick Macdonald, “Access to Justice in Canada Today: Scope, Scale and Ambitions” in Julia Bass, WA Bogart & Frederick H Zemans, eds, *Access to Justice for a New Century: The Way Forward* (Toronto: Law Society of Upper Canada, 2005) 19 at 106 [“MacDonald”].

Residential Tenancies Act bestow a legal obligation on landlords to maintain the rental homes in a good state of repair while also prescribing a process for enforcing this obligation. Yet during my conversations with community members, these legal mechanisms rarely seemed to be known, let alone used. This suggests that these provisions of the legislation are inactivated texts that do not in fact coordinate the activities of community members or service providers, which I believe are still important to note in an institutional ethnography about access to justice. Instead, some tenants are left to try to make the repairs on their own or otherwise tolerate the problem, sometimes for years. I also share insights from service providers about the practical challenges of making repairs in a timely fashion, attributable again to a shortage of resources, in terms of skilled labour, supplies, and funding.

In Chapter 7, the last chapter on public housing, I outline how institutional discourses create institutional categories distinguishing between “acceptable” and “unacceptable” tenants. Texts provide the criteria for constructing what makes an “unacceptable” tenant, such as those who have accrued rental arrears due to tenant damages. I show how “tenant damages” is defined as an institutional category distinct from ordinary wear-and-tear and vandalism in ways that do not reflect the complexities of tenants’ lives, which may include domestic violence, addictions, and intergenerational trauma from the impacts of colonialism. Instead, through this process of institutional categorization, people’s experiences are worked up into flattened institutional accounts. These may artificially represent their situation but can have very real consequences that shape their lives, such as rental arrears and potential eviction. This can inform how we think about the role of lawyers in helping tenants navigate these processes for solutions, as an important access to justice insight. In the meantime, the ruling relations that perpetuate the role

of colonialism in contributing to the housing shortage in the first place, remain invisible in these institutional discourses.

In Chapter 8, I move on from public housing to look at staff housing, which is provided by employers (largely government employers in the case of Cambridge Bay), as a benefit for their employees. Community members share a sense of injustice regarding staff housing units (often seen to be newer and of much better quality than public housing units), which seem to be reserved for non-Inuit workers who are hired from outside of the community. This serves to exacerbate the socio-economic disparities that already exist along racial lines between Inuit and non-Inuit as a result of colonialism. The institutional texts do not explicitly prioritize the allocation of staff housing to non-Inuit workers over Inuit, but this appears to happen in practice due to local labour shortages for certain skilled professions. These practices are connected to broader challenges with implementing the Nunavut Agreement to support goals of Inuit self-determination. The research also shows that despite the privileges associated with staff housing, it is still a precarious form of housing as a person could legally lose their housing unit within a week of being terminated from their position. I take the position that this institutionally sanctioned precarity of staff housing is connected to the institutional discourse, which dictates that staff housing is meant to only be a transitory measure until employees move into private market housing, despite the reality that this is often not feasible for many workers in Nunavut.

In Chapter 9, I examine private market housing, both private rentals and privately owned homes, which comprise only a fifth of homes in Nunavut. I show how the institutional discourse socially constructs the housing continuum to idealize private market housing, with the specific policy objectives of moving people towards private homeownership. I connect the experiences and knowledge of community members about private market housing to highlight disjunctures

that are produced from this institutional discourse. Private rental units in Cambridge Bay are scarce, expensive, and considered to be unaffordable by many community members. Private homeownership is also expensive and considered to be unaffordable by many. Furthermore, paying for repairs and maintenance creates an additional burden for homeowners that may make their living situation even more unaffordable. The territorial government has begun to provide subsidy programs for both private rentals and privately owned homes, which means that despite institutional goals to reduce dependence on government subsidization, there is no part of Nunavut's housing continuum that is not currently subsidized by the government in some way. This brings up the question about whether the housing continuum in Nunavut *should* be based on southern Canadian capitalist and individualist market-based models. Problematizing the institutional discourse on the housing continuum in Nunavut opens up other possible conceptions of housing in Nunavut, and other possibilities for developing housing models that work specifically for Nunavut and toward the goals of Inuit self-determination.

1.4 Overview of key insights about housing and access to justice in Nunavut

As the concluding chapter, Chapter 10 summarizes key insights about housing and access to justice in Nunavut. This research reveals how certain similar issues persist across the housing continuum, such as overcrowding in households and challenges in maintenance and repair processes, because it is the same invisible forces that shape people's housing experiences across the housing continuum. While the remote and harsh conditions of the Arctic do play a significant role, so too does colonialism: these disjunctures between people's lived experiences and institutional accounts often happen through the imposition of a western bureaucratic system on Inuit societies that already had their own way of governing their everyday living. This reinforces the need to creatively develop solutions for Nunavut's housing crisis that specifically suit the

context of Nunavut and goals of Inuit self-determination, rather than simply following what has been done in southern Canadian jurisdictions.

Using institutional ethnography to examine the housing crisis in Cambridge Bay also serves as an empirical tool for understanding access to justice issues. Insights about the state of access to justice emerge throughout this research not as separate findings, but subtly embedded as part of the disjunctures between what the law says and how people experience it, reinforcing the importance of experiential data in access to justice studies, but also the need for a broad, holistic understanding of access to justice in Nunavut. The standardizing practices in housing and law through the working up of people's experiences into institutional accounts and institutional categories serve as processes that dehumanize (in that the individual human is erased) in Nunavut's context of colonialism. This includes the disjunctures between what is institutionally considered to be fair and just (a procedural focus on treating all people consistently in the same way) and what community members care about as fairness and justice (a focus on results: having access to a safe and well-maintained home). A public-centered discussion of access to justice must consider what matters to community members. This means that access to justice considerations in Nunavut needs to be as much about the substantive component as the procedural.¹⁷

The way institutional texts such as territorial *Residential Tenancies Act* and housing policies dictate the sequence of actions of community members and service providers depends on what is known about these texts, and specifically, how they are activated. In some situations, aspects of some legal texts do not seem to be activated as all, as community members do not seem to make use of remedies provided for by certain legal provisions in the *Residential*

¹⁷ With respect to the components of access to justice described by MacDonald, *supra* note 16 at 106.

Tenancies Act. The limits of the law can be demonstrated in a few ways: sometimes people do not identify their housing issues as a law-related problem, and as such do not seek out legal remedies and are not hooked into legal processes. In other situations, the law does not actually provide a remedy that would be effective for people's housing issue. This again can be attributed to the fact that the Western legal system nor the housing system in the territory was not necessarily designed for the Inuit context, given that Inuit already had their own practices for resolving problems and allocating resources. This could produce a lack of trust in the legal system, which may explain why some people do not turn to the law for help. This invokes the third and final dimension of access to justice described by Macdonald: symbolic access to justice.¹⁸

All of the above insights begin to point towards certain directions for improving access to justice. Solutions must involve addressing Nunavut's housing issues at the root and providing a system through which the needs of Nunavummiut can be met in accordance with their culture and values. This also speaks to the need for a holistic view of housing and access to justice – not just procedural, but also substantive and symbolic - and how these issues intersect with other areas, including health, education, employment, and more broadly, Inuit self-determination.

1.5. A note about my positionality

I will close this introductory section with a few remarks about my positionality as a researcher. Smith noted how in contrast to mainstream sociological research which is often written from an outsider standpoint that is externally located from the everyday lives of people,¹⁹ institutional ethnography recognizes that everyone, including researchers, is always explicitly embodied and located somewhere in a particular place and time: “you are always there, that what

¹⁸ MacDonald, *supra* note 16 at 106.

¹⁹ Smith, *Conceptual*, *supra* note 7 at 31; *Sociology for People*, *supra* note 7 at 50.

you discover is always seen, interpreted, heard, experienced by you as you are situated historically in the ongoing, never-stand-still of the social.”²⁰ Institutional ethnographers do not see themselves as methodologically removed from the inquiry, but always having a particular stance in relation to it²¹ - so long as, of course, they do not impose pre-set interpretations on the research and remain open to changing their minds about what they first thought at the beginning of the research.²²

As such, I am explicit throughout this dissertation that I come to this research with my particular set of experiences and ideas about the topic and pre-existing relationships to the community and the people I worked with. As mentioned, I previously lived in Cambridge Bay where I worked as a lawyer in housing law, human rights, and other areas of civil litigation. I also worked with the Law Society of Nunavut on access to justice projects, and as a policy analyst in Arctic research policy for Polar Knowledge Canada, the federal agency that runs the Canadian High Arctic Research Station Campus in the community. I still currently work for the federal government.²³ Other elements about me are also relevant: I am a non-Inuit person of colour, living in a rental home in southern Canada (Ottawa), where a housing crisis has been unfolding in a different context. All of these experiences have shaped the way I think about the topic and the way I have developed personal relationships with the community. The guidance provided by Inuit on carrying out ethical Inuit Qaujimajatuqangit-informed research suggest that these personal relationships could play a critical role, as meaningful and respectful relationship-

²⁰ Smith, *Texts*, *supra* note 8 at 161; Dorothy E Smith, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006) at 4 [“Smith, *IE as Practice*”]; Smith, *Conceptual*, *supra* note 7 at 33.

²¹ Marie Campbell & Frances Gregor, *Mapping Social Relations: A Primer in Doing Institutional Ethnography* (Toronto: Higher Education University of Toronto Press, 2008) at 46 [“Campbell & Gregor”].

²² Smith & Griffith, *supra* note 8 at 18.

²³ All of the views expressed in this dissertation represent my own personal views as a scholar (or those to whom specific statements are attributed) and do not represent the views of any of my employers, past or current.

building through community engagement is encouraged as an important part of the research.²⁴ As such I will continue to reference my positionality in relation to the research throughout this dissertation, where relevant.

Chapter 2. Literature review

2.1 The context of housing in Nunavut

2.1.1. Cambridge Bay (Iqaluktuuttiaq)



Figure 1: Cambridge Bay in 2013, when I first moved to the community

I focused on the fly-in community of Cambridge Bay as my primary study site. Located above the Arctic circle, Cambridge Bay's population is over 1700 people, predominantly Inuit. It is the sixth most populous community in Nunavut, and the most populous community in the Kitikmeot region. The story of how the area known to Inuit as Ikaluktutiak became the

²⁴ Ikaarvik & OceanWise, *SciQ: Science and Inuit Qaujimajatuqangit: Research and Meaningful engagement of Northern Indigenous Communities: Recommendations from the Ikaarvik Youth SciQ Summit, November 19-23, 2018* (2018) at 10, online (pdf): <https://ocean.org/wp-content/uploads/SciQ-Report-and-Recomendations-lores.pdf> ["SciQ"]; Scot Nickels, Jamal Shirley, and Gita Laidler, eds. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers* (Ottawa and Iqaluit: Inuit Tapiriit Kanatami and Nunavut Research Institute, 2006) at 6, online (pdf): Inuit Tapiriit Kanatami https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf ["Nickels et al"]; Pitquhirmikkut Ilihautiniq Kitikmeot Heritage Society & Polar Knowledge Canada, *A Guidebook for Research with Nunavut Communities: Iqaluktuuttiaq (Cambridge Bay) Edition* at 35 & 36, online (PDF): Kitikmeot Heritage Society < https://70ba67af-38ca-44d9-9ad3-1b20dd9086c5.filesusr.com/ugd/56a2ca_6de27f4ef7f34547ba4abde670d09c52.pdf > ["Kitikmeot Heritage Society"]; Priscilla Ferrazzi, Peter Christie, Djenana Jalvcic, Shirley Tagalik and Alanna Grogan, "Reciprocal Inuit and Western research training: facilitating research capacity and community agency in Arctic research partnerships" (2018) 77 *International Journal of Circumpolar Health*, online: <https://doi.org/10.1080/22423982.2018.1425581> ["Ferrazzi, Christie et al"]; Martha L. Stiegman & Heather Castleden, "Leashes and Lies: Navigating the Colonial Tensions of Institutional Ethics of Research Involving Indigenous Peoples in Canada" (2015) 6:3 *The International Indigenous Policy Journal* ["Stiegman & Castleden"].

settlement of Cambridge Bay in the first place is of key relevance to the housing crisis that residents are experiencing today. For centuries, Inuit in the western Kitikmeot region of Nunavut followed a mobile lifestyle in harmony with nature's seasonal cycle, living in seasonal villages of iglu on the sea ice during the winter to hunt seals, and then moving onto the land in the spring and summer to catch fish and hunt caribou.²⁵ This semi-nomadic pattern became disrupted with increasing contact with non-Inuit. The permanent settlement of Cambridge Bay was developed through waves of rapid change, particularly during the Cold War, when significant military installations such as the Distant Early Warning line and the long range navigation (LORAN) tower recruited Inuit to support construction.²⁶ As we will see from my conversations with community members during our interviews, Kitikmeot Inuit still remember how the government promised to provide them with housing if they moved to the permanent settlement. This was part of a larger trend and broader government policies that had commenced during the mid-1950s, where Inuit across Inuit Nunangat relocated – or in some cases, were forcibly removed – to settlements.²⁷ Lauster and Tester explain that there were multiple reasons behind these policies, including a desire to enforce compulsory schooling, concerns about starvation and illness, and some have suggested that Canadian sovereignty considerations as also played a role.²⁸ As more Inuit began to settle around the area, the need for adequate housing in the permanent settlement increased.²⁹ In response, during the 1960s, the federal government sent prefabricated houses to be built in the community,³⁰ which comprise much of the housing stock currently in Cambridge

²⁵ Kitikmeot Heritage Society, *supra* note 24 at 15; Nathanael Lauster & Frank Tester, "Culture as a problem in linking material inequality to health: On residential crowding in the Arctic" (2010) 16 *Health & Place*, 523 at 526 ["Lauster & Tester"].

²⁶ Kitikmeot Heritage Society, *supra* note 4 at 22.

²⁷ Lauster & Tester, *supra* note 25 at 526.

²⁸ Lauster & Tester, *supra* note 25 at 526.

²⁹ This pattern of settlement & housing shifts is also applicable to other Inuit communities in Canada: Lauster & Tester, *supra* note 25 at 526-527.

³⁰ Kitikmeot Heritage Society, *supra* note 24 at 27.

Bay. In the coming chapters, especially Chapter 5, we will see how these colonialist policies of the Canadian government, which were meant to induce Inuit away from their traditional lifestyles, has directly impacted community members' experiences of the housing crisis in Cambridge Bay. I will also expand further the role and impacts of colonialism with respect to the ruling relations later in this chapter in the section on institutional ethnography.

Today, despite being located in the smaller and poorer Kitikmeot region of Nunavut, Cambridge Bay itself is relatively well off compared to other Kitikmeot communities, as it serves as the region's administrative centre and is home to a number of government offices and employers, including the Nunavut Impact Review Board and the Canadian High Arctic Research Station (CHARS) campus. While living in the community, I observed that the community's role as the administrative core for the Kitikmeot region gave it somewhat the feel of a "government town" (see Figure 2 showing the distribution of the employed labour force aged 15 years and over by industry sectors for Cambridge Bay, indicating that public administration is the largest industry sector in the community).

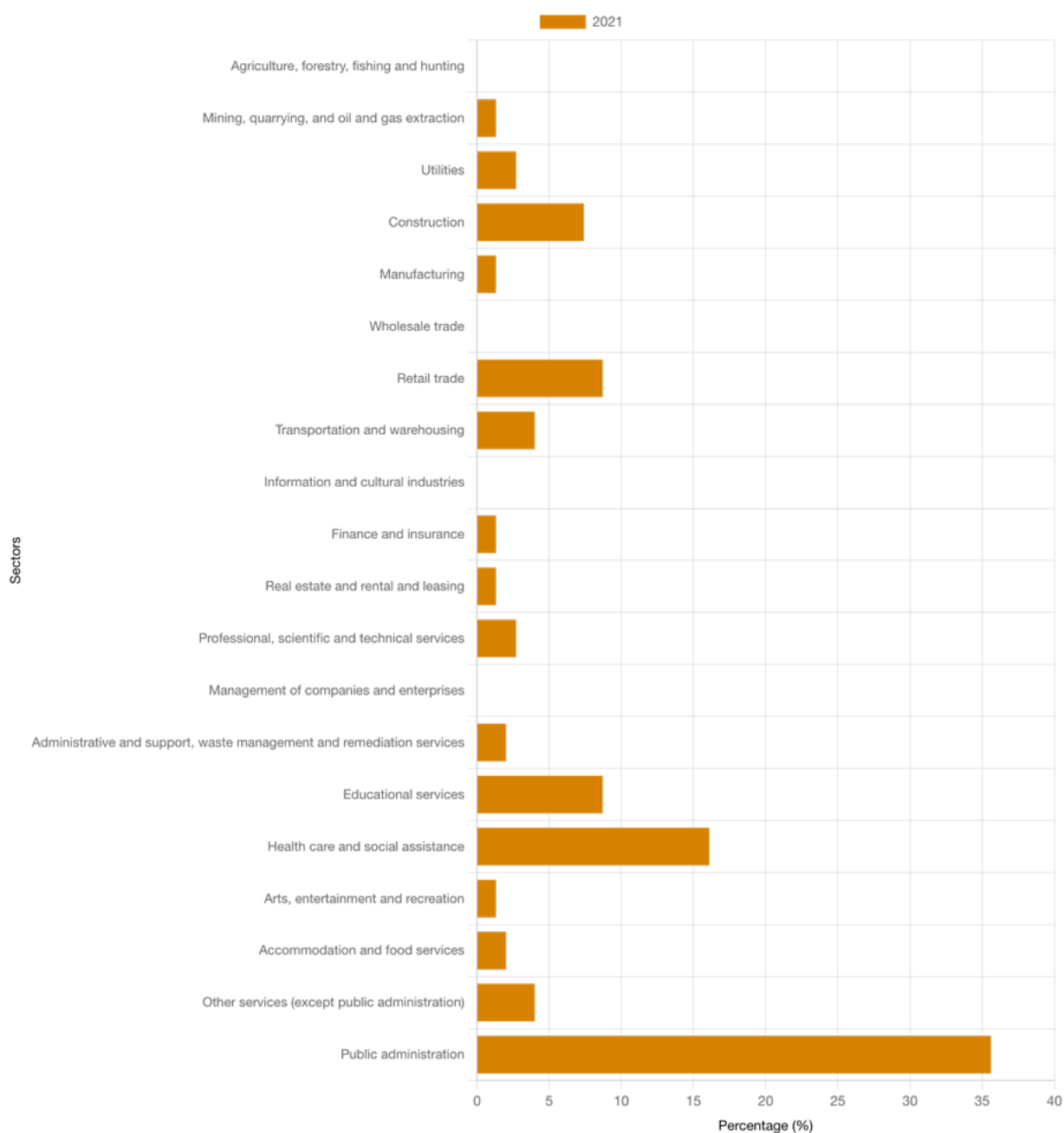


Figure 2: Distribution of the employed labour force aged 15 and over by industry sectors, Cambridge Bay, 2021 (Statistics Canada)³¹

³¹ Statistics Canada, "Focus on Geography Series, 2021 Census of Population: Cambridge Bay, Hamlet" (accessed 20 August 2024), online: <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/fogs-spg/page.cfm?topic=12&lang=E&dguid=2021A00056208073> ["Statistics Canada, *Focus on Geography Series: Cambridge Bay*"].

Cambridge Bay therefore has an interesting characteristic of relatively being a “have” community in a “have-not” region. The Nunavut Housing Corporation considers Cambridge Bay to be one of only three communities in Nunavut along with Iqaluit and Rankin Inlet (the administrative centres for the other two regions) to have an “emerging market” for private housing, as opposed to other communities which have virtually no private housing market at all.³² As a result of a number of recent developments including the official opening of the CHARS campus in 2019, the hamlet has recently been experiencing rapid expansions with the construction of new streets and residential developments, and yet housing issues appear to remain a significant issue, as this dissertation shows.

Despite the recent developments and Cambridge Bay’s relative status as a “have” community in the Kitikmeot region, there are still significant issues of poverty in the community that are masked by the community’s median income,³³ which is distorted by the considerable gap between the rich and the poor. Compare for example Figure 3, which displays the distribution of employment income in Cambridge Bay, with Figure 4, which displays the distribution of employment income for Canada. This research illuminates how those differences in income play out for residents who live in public housing, compared to those in staff housing, and compared to those in market housing.

³² Government of Nunavut, “The GN Staff Housing Policy” (April 2019) at 4, online:

<https://www.gov.nu.ca/sites/default/files/policies-legislations/2024-01/GN%20Staff%20Housing%20Policy%20%28HR%20%26%20NHC%29%200419.pdf> [“GN Staff Housing Policy”].

³³ The median after-tax income of households in Cambridge Bay was \$110,000 in 2020, according to Statistics Canada: Statistics Canada, *Focus on Geography Series: Cambridge Bay*, *supra* note 31.

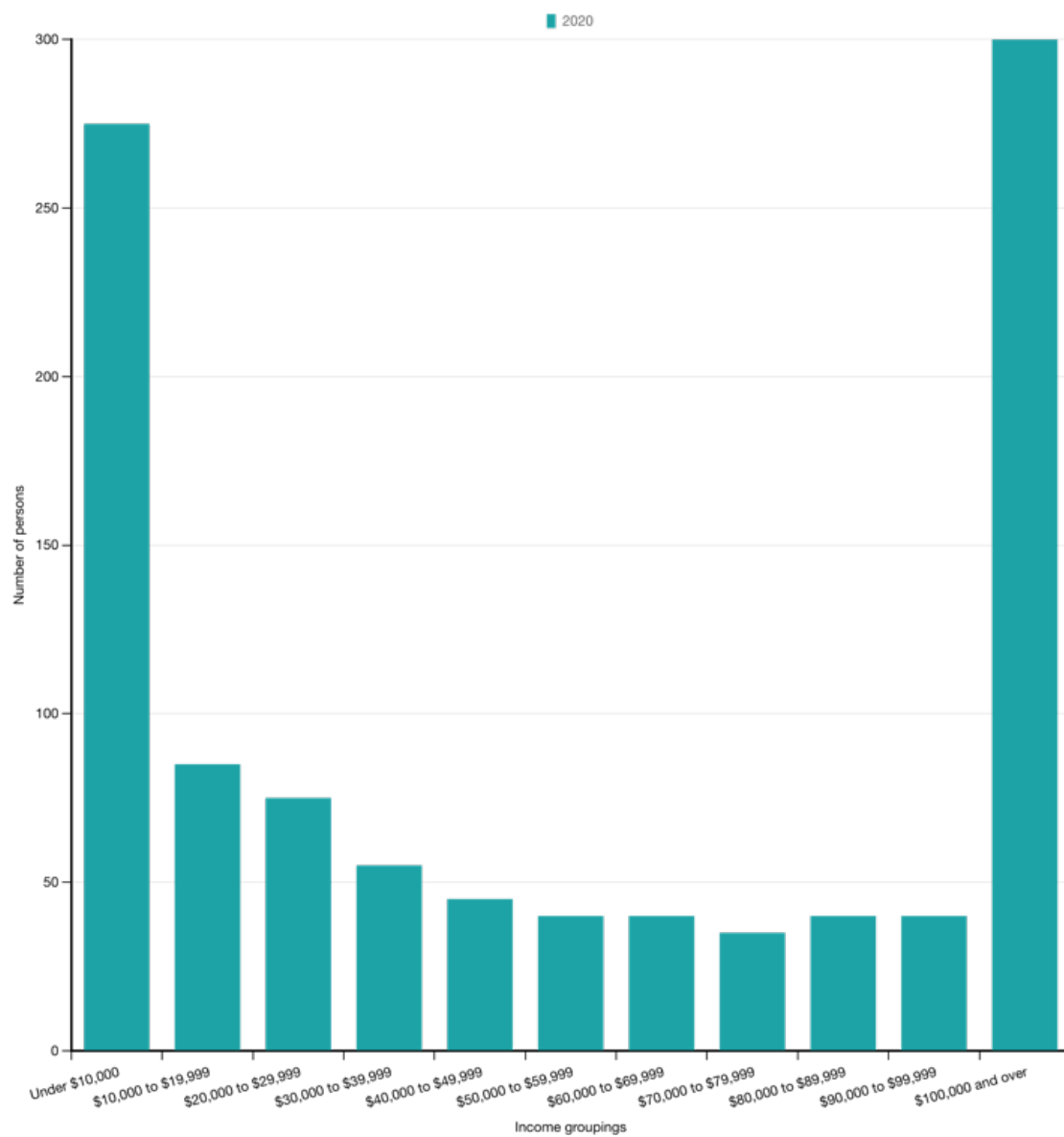


Figure 3 Distribution of employment income in Cambridge Bay, 2020 (Statistics Canada)³⁴

³⁴ Statistics Canada, *Focus on Geography Series: Cambridge Bay*, *supra* note 31.

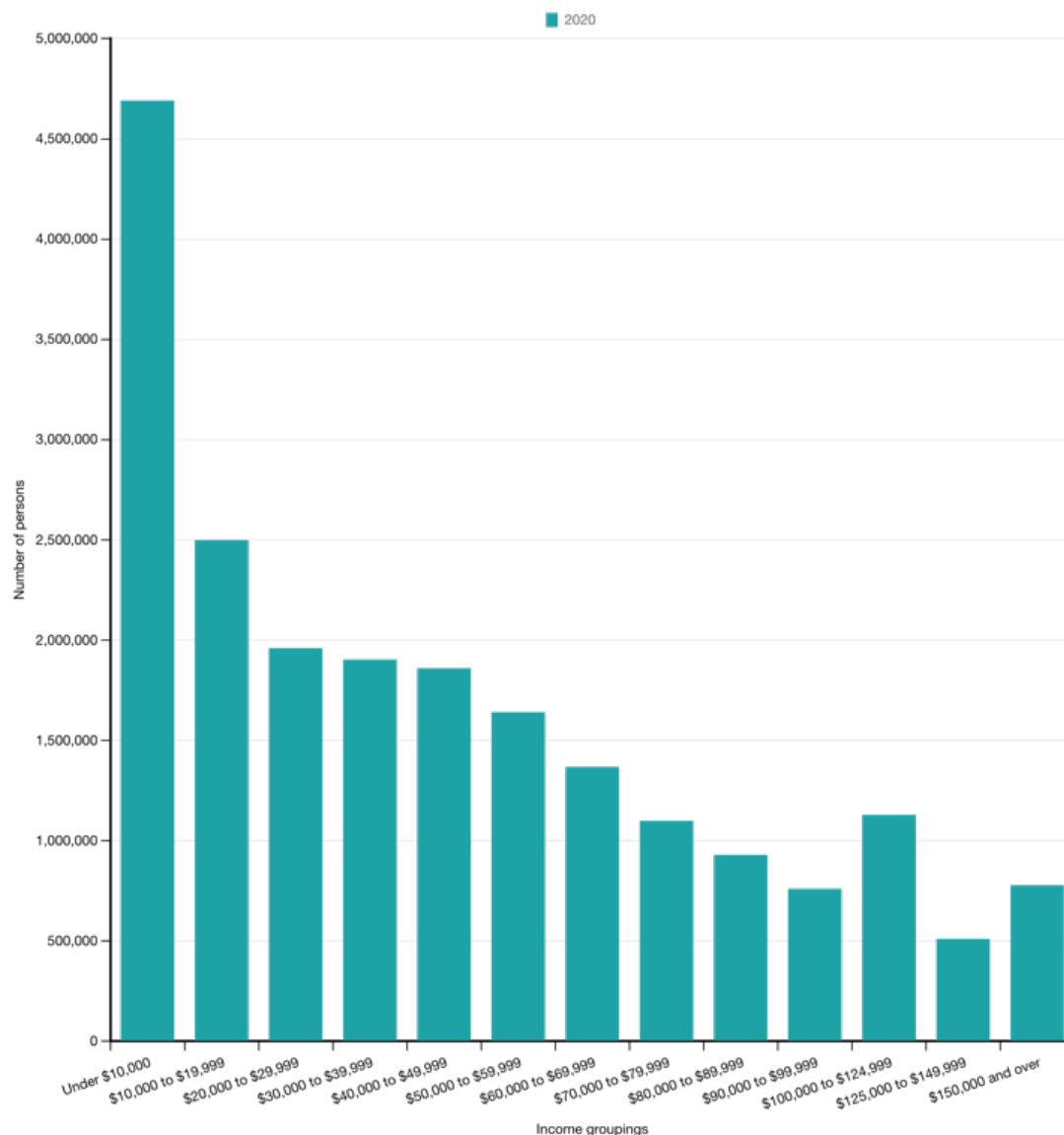


Figure 4 Distribution of employment income in Canada, 2020 (Statistics Canada)³⁵

Cambridge Bay is the community with which I have the closest personal connection and familiarity in Nunavut. I have lived and worked in the community as a civil litigation lawyer (including in housing law) for two years from 2013 to 2015, and then from 2017 to 2021, I worked out of an Ottawa-based satellite office for a federal research agency that is headquartered

³⁵ Statistics Canada, *Focus on Geography Series: Cambridge Bay*, *supra* note 31.

in Cambridge Bay, which operates the Canadian High Arctic Research Station. My position there allowed for a continued connection to the community as well as numerous visits. Subjectively speaking, it is my favourite community in the world; of the various places I have lived around the world, no place has had a profound impact on my life like Cambridge Bay. I loved living in Cambridge Bay, the beautiful Arctic landscape and the wonderful inspiring people that I met there, and I miss the community every day.

2.1.2. Housing governance in Nunavut

As mentioned, the institution that I studied for this research project was the housing system in Nunavut. Various entities play different roles in housing in Nunavut. Local housing organizations deliver the day-to-day services and programs in each community, such as allocating and maintaining public housing units as well as maintaining Government of Nunavut staff housing.³⁶ These local housing organizations, such as the Cambridge Bay Housing Association, are independent non-governmental organizations with their own bylaws and boards of directors, which are made up of local community members. The local housing organizations have legal management agreements relating to the delivery of housing services in the community with the Nunavut Housing Corporation, a public agency of the territorial Government of Nunavut that has the legal responsibility for implementing the housing programs and housing development under the *Nunavut Housing Corporation Act*.³⁷ The Nunavut Housing Corporation therefore carries out its responsibilities through these partnerships. The Nunavut Housing Corporation's arrangements with the local housing organization of each community is unique,

³⁶ Nunavut Housing Corporation “About NHC” (accessed 20 August 2024), online: <https://www.nunavuthousing.ca/about>

³⁷ *Nunavut Housing Corporation Act*, RSNWT (Nu) 1988, c N-1; Inuit Tapiriit Kanatami and Government of Canada, *Inuit Nunangat Housing Strategy* (April 2019) at 25, online (pdf): *Inuit Tapiriit Kanatami* < <https://www.itk.ca/wp-content/uploads/2019/04/2019-Inuit-Nunangat-Housing-Strategy-English.pdf> > [“Inuit Nunangat Housing Strategy”]; Northern Housing Policy Recommendations, *supra* note 4 at 29.

which reinforces the importance of studying Nunavummiut's housing needs at the community level, as was done in this research. In general, the Nunavut Housing Corporation provides funding programs and supports the local housing organizations in managing local housing programs, including through training, advice, and the development of policies and guidelines.³⁸ It has three district offices in Nunavut, including one in Cambridge Bay. In turn, the Nunavut Housing Corporation receives funding from the Government of Canada through the Canada Mortgage and Housing Corporation in the form of partnership arrangements.³⁹

We can therefore see that various actors are involved at the federal, territorial, and community level for housing in Nunavut. The relationships between these entities can be at times complex. Neither the Cambridge Bay Housing Association, the Nunavut Housing Corporation, nor the Canada Mortgage and Housing Corporation are “institutions” on their own in an institutional ethnographic sense; instead, they are “nodes” within a larger organizational system that make up the institution of housing in Nunavut.⁴⁰ Although there is a legal separation of powers, with the community-level local housing organization institutionally structured as an independent non-governmental organization made up of local members of the community, in the coming chapters we will see how the activities of the local housing organization are constrained and coordinated by extra-local relations of ruling, mediated by territorial and federal level texts.

We can also see that within the descriptions of the various partnership arrangements between federal, territorial, and community-level entities, there are no mentions of Inuit organizations. The Government of Nunavut is a public government rather than an Inuit

³⁸ Nunavut Housing Corporation, *Tenant Relations Manual, Version 1.4* (5 January 2015) ROD #743 at 106 [“NHC Tenant Relations Manual”].

³⁹ Inuit Nunangat Housing Strategy, *supra* note 37 at 25; Northern Housing Policy Recommendations, *supra* note 4 at 29; NHC Tenant Relations Manual, *supra* note 38 at 107.

⁴⁰ As per R Erik D Rodriguez, “Chapter 20: Frontline Interpretive Work of Activating the Americans with Disabilities Act” in Paul C Luken & Suzanne Vaughan, eds, *The Palgrave Handbook of Institutional Ethnography* (Springer 2021), 375 at 379 [“Rodriguez”].

government, representing both its Inuit and non-Inuit residents.⁴¹ This means that Inuit have generally received housing services and funding from the federal Crown indirectly through the territorial government, an arrangement that Inuit have critiqued as hindering their goals of Inuit self-determination, goals that originally drove Inuit's participation in the Nunavut Agreement to establish their own territory.⁴²

In the coming chapters, we will see further how the institutional structures I have described have impacted Inuit with respect to their housing needs. While the Government of Nunavut has made efforts to incorporate Inuit Qaujimajatuqangit in its policies and practices, given its predominantly Inuit population, I demonstrate how its housing model is still largely based on a Western capitalist conception of housing as a market commodity, similar to other southern jurisdictions like Ontario and British Columbia. There are also parallel issues with respect to Nunavut's justice system. In the section on Inuit Qaujimajatuqangit later in this chapter, I expand further on historical Inuit practices of governance and resource allocation based on an Inuit Qaujimajatuqangit worldview, which contrast with the institutional approach. In exploring the experiences of community members and service providers who operate in this bureaucratic context that is in many ways based on Western governance models, this research

⁴¹ Article 4.1.1 of the Agreement describes the new recommended Nunavut Territory as having its own public government: *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada as amended*, Canada and Inuit of Nunavut, 25 May 1993 at article 4.1.1 ["Nunavut Agreement"]. In fact, according to one of the federal negotiators, the Government of Canada treated the settlement of the land claim and the creation of Nunavut as two separate issues during the negotiations, viewing the division of the NWT as "a public government issue affecting all NWT residents, not an Aboriginal rights issue." Barry Dewar, "Nunavut and the Nunavut Land Claims Agreement – An Unresolved Relationship" (2009) 30:7 Policy Options 74 at 76 ["Dewar"]. Inuit lawyer Redfern in particular noted with regret that the Nunavut Agreement provides for a public government, rather than an Inuit government: Madeleine Redfern, "Supporting Civil Development" in Louis McComber & Shannon Partridge, eds, *Arnait Nipingit: Voices of Inuit Women in Leadership and Governance* (Iqaluit: Nunavut Arctic College, 2010) 95 at 100 ["Redfern"]. Inuit Tapiriit Kanatami [ITK] is the national representational organization for Inuit in Canada, and Nunavut Tunngavik Incorporated is the representative body of Inuit in Nunavut responsible for ensuring the implementation of the Nunavut Agreement, as the successor form of Tunngavik Federation of Nunavut, the Inuit organization created to negotiate a treaty with Canada: Terry Fenge and Paul Quassa, "Negotiating and Implementing the Nunavut Land Claims Agreement" (2009) 30:7 Policy Options 80 at 82 ["Fenge and Quassa"]. Indeed, the Inuit Nunangat Housing Strategy co-developed by ITK and the Government of Canada acknowledges that no direct funds were provided to Inuit in Nunavut for Budgets 2016, and Budget 2018, as they were provided only indirectly through the Government of Nunavut, despite Inuit advocating for direct funding: Inuit Nunangat Housing Strategy, *supra* note 37 at 17 and 25.

⁴² Inuit Nunangat Housing Strategy, *supra* note 37.

opens up the possibility of exploring alternate conceptions of housing that work specifically for Nunavut and support goals related to Inuit self-determination.

2.1.2. Housing challenges in Nunavut today

Various reports have highlighted the severity of the housing crisis in Nunavut and Inuit Nunangat.⁴³ In the fall of 2020, Member of Parliament for Nunavut, Mumilaaq Qaqqaq, conducted a tour in the Kitikmeot and Kivalliq regions of Nunavut, reporting on housing conditions so severe that she was forced to take stress leave after the tour.⁴⁴ In October 2022, the Federal Housing Advocate Marie-Josée Houle conducted a tour of housing conditions in Nunavut to hear from people with lived experiences of housing precarity and to learn about systemic issues.⁴⁵

The housing crisis in Nunavut is in many ways unique from housing situations in southern Canada.⁴⁶ In an earlier section, I noted observations by others of how historical Canadian government policies have impacted the current housing crisis in Cambridge Bay, and throughout the territory of Nunavut. Today, Nunavut still suffers from a severe shortage of housing.⁴⁷ This has resulted in overcrowding, with 38% of public housing tenants living in

⁴³ The Honourable Lillian Eva Dyck & the Honourable Dennis Glen Patterson, *We Can Do Better: Housing in Inuit Nunangat*, Report of the Standing Senate Committee on Aboriginal Peoples (Ottawa: Senate of Canada, March 2017), online: https://sencanada.ca/content/sen/committee/421/APPA/Reports/Housing_e.pdf [“Senate Report”]; Qaqqaq, *supra* note 3; Marie-Josée Houle, *Federal Housing Advocate’s Observational Report: Inuit Housing* (27 November 2023), online: <https://www.housingchrc.ca/sites/housing/files/2023-11/observational-report-inuit-housing-112723.pdf> [“Federal Housing Advocate’s Report”].

⁴⁴ Qaqqaq, *supra* note 3.

⁴⁵ Emily Blake, “Investments in Inuit housing inadequate to address human rights violations: watchdog” *Globe and Mail* (3 December 2022), online: <https://www.theglobeandmail.com/amp/canada/article-investments-in-inuit-housing-inadequate-to-address-human-rights/?fbclid=IwAR1rGBWfrNIwd6g-IqmGk2VPxbw1l3dDPDCc_Bw1qMyfi6h9UyU_7oYOST4&mibextid=Zxz2cZ> [“Blake”].

⁴⁶ Inuit Nunangat Housing Strategy, *supra* note 37 at 2; NHC Blueprint, *supra* note 2; Little Voices *supra* note 2 at 64; Nunavut has the lowest vacancy rates and highest level of core housing need in all of Canada: CMHC Northern Housing Report, *supra* note 5 at 17 & 18.

⁴⁷ Little Voices *supra* note 2 at 65.

overcrowded households,⁴⁸ and up to 72% in some communities.⁴⁹ Overcrowding is a very Nunavut-specific manifestation of hidden homelessness in the territory, since homeless people are generally not able to sleep outside on the streets during the winter months in the Arctic. In turn, overcrowded conditions exacerbate the problem of disrepair in homes due to increased wear and tear, driving up further the costs of housing operation and maintenance.⁵⁰ This aggravates the already severe housing disrepair issues, including mould, across Inuit Nunangat.⁵¹ Numerous sources also highlight how many houses in Nunavut were not built for the Arctic climate,⁵² contributing to the significant repair and maintenance issues. The impacts of climate change such as the thawing permafrost are now further aggravating housing issues by causing damage to existing community infrastructure.⁵³

It has been said that the lack of housing options in Nunavut makes nearly everyone in Nunavut vulnerable to the threat of homelessness, from those unemployed, to those in the workforce without subsidized housing or an adequate salary to support market rental, to government employees in precarious staff housing.⁵⁴ One report notes, “a small change in their circumstances can jeopardize the fragile structure of their lives that allows them to meet their basic needs.”⁵⁵ Housing issues have cascading negative impacts on the well-being of

⁴⁸ NHC Blueprint, *supra* note 2 at 5.

⁴⁹ In the 2007-2008 International Polar Year Inuit Health Survey, nearly a third of the households surveyed in Nunavut were considered crowded. This prevalence rate was significantly higher for households with children: Katherine Minich, Helga Saudny, Crystal Lennie, Michele Wood, Laakkuluk Williamson-Bathory, Zhirong Cao & Grace M. Egeland, “Inuit housing and homelessness: results from the International Polar Year Inuit Health Survey 2007–2008” (2011) 70:5 International Journal of Circumpolar Health 520 at 526 [“Minich et al”].

⁵⁰ GN Strategy, *supra* note 2 at 9.

⁵¹ The 2007-2008 International Polar Year Inuit Health Survey found that 40% of the households surveyed in the Inuit Nunangat region (which did not include Nunavik) required major repairs: Minich et al, *supra* note 49 at 524. In Nunavut, homes with children were more likely to require major repairs or experience mould problems: Minich et al, *supra* note 49 at 526.

⁵² Kitikmeot Heritage Society, *supra* note 24 at 27.

⁵³ Northern Housing Policy Recommendations, *supra* note 4 at 9; Inuit Nunangat Housing Strategy, *supra* note 37 at 7.

⁵⁴ Little Voices *supra* note 2 at 50.

⁵⁵ Little Voices *supra* note 2 at 15.

Nunavummiut, particularly for the most disadvantaged, including Inuit women.⁵⁶ Housing insecurity directly impacts health in various ways,⁵⁷ and is in fact considered to be a key social determinant of Inuit health.⁵⁸ For example, overcrowded homes can contribute towards the spread of respiratory and communicable illnesses, such as tuberculosis.⁵⁹ Housing insecurity and overcrowding can be linked to mental health issues,⁶⁰ food insecurity,⁶¹ addiction,⁶² and family violence.⁶³ It has been identified as some of the most prevalent factors affecting the quality of early childhood development in Inuit communities⁶⁴ as it can negatively affect children's ability to perform at school, due to a lack of daily routine or spaces to do homework, uncertain sleeping arrangements, and a general lack of sense of security.⁶⁵ These factors all affect one's prospects for education and ability to participate in the economic workforce.⁶⁶ Furthermore, not only does insecure housing affect one's education, but a lack of education and low literacy then contributes to one's future access to housing,⁶⁷ revealing a vicious cycle.

⁵⁶ Little Voices *supra* note 2 at 120; Inuit Nunangat Housing Strategy, *supra* note 37 at 2; Qaqqaq, *supra* note 3 at 3; Tester, *supra* note 4 at 146-147.

⁵⁷ Inuit Tapiriit Kanatami, "Inuit Tapiriit Kanatami Position Paper: Development and Implementation of the Arctic Policy Framework" (November 2018) at 9, online: <<https://www.itk.ca/wp-content/uploads/2018/11/2018-APFPolicyPositionPaper-FINAL.pdf>> ["ITK, Arctic Policy Framework Position Paper"]; Little Voices *supra* note 2 at 76; Tester, *supra* note 4 at 146-147; ITK Social Determinants, *supra* note 2 at 21-22; Minich et al, *supra* note 49 at 526.

⁵⁸ ITK Social Determinants, *supra* note 2 at 8 & 21.

⁵⁹ Little Voices *supra* note 2 at 77; GN Strategy, *supra* note 2 at 9; ITK Social Determinants, *supra* note 2 at 21-22.

⁶⁰ Little Voices *supra* note 2 at 77.

⁶¹ ITK Social Determinants, *supra* note 2 at 30; Qaqqaq, *supra* note 3; Pauktuutit, Study of Gender-based Violence and Shelter Services Needs, *supra* note 6.

⁶² Little Voices *supra* note 2 at 63; GN Strategy, *supra* note 2 at 9; ITK Social Determinants, *supra* note 2 at 21-22.

⁶³ Qaqqaq, *supra* note 3 at 15; Tester, *supra* note 4 at 146-147; ITK Social Determinants, *supra* note 2 at 21-22; Minich et al, *supra* note 49 at 526; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 41-42; also mentioned in ITK, Arctic Policy Framework Position Paper, *supra* note 57 at 9; Abele et al, *supra* note 4 at 572; Little Voices *supra* note 2 at 38.

⁶⁴ ITK Social Determinants, *supra* note 2 at 12.

Abele et al, *supra* note 4 at 572; Little Voices *supra* note 2 at 79 and 80-81; GN Strategy, *supra* note 2 at 9; Tester, *supra* note 4 at 146-147; ITK Social Determinants, *supra* note 2 at 21-22 & 27.

⁶⁶ Impact Economics, *supra* note 4 at 83; Battle & Torjman, *supra* note 4 at 4; Pauktuutit Inuit Women of Canada, *Angiqatigik: Breaking Barriers, Creating Opportunities: Strategy to Engage Inuit Women in Economic Participation* (Ottawa: Pauktuutit, 2016) at 14 and 16, online (pdf): https://www.pauktuutit.ca/wp-content/uploads/Engaging_Inuit_Women_in_Economic_Participation.pdf ["Pauktuutit, Breaking Barriers"]; Inuit Nunangat Housing Strategy, *supra* note 37 at 2; GN Strategy, *supra* note 2 at 9; Tester, *supra* note 4 at 146-147.

⁶⁷ ITK Social Determinants, *supra* note 2 at 26.

The Government of Nunavut conceptualizes the housing crisis as an incomplete housing continuum, where the territory relies disproportionately on government subsidized non-market housing, primarily in form of public housing and staff housing, rather than private rentals or public homeownership.⁶⁸ Through this research, and particularly in Chapter 9, I show how the territorial government's conception of the housing continuum is an institutional discourse that is largely based on the Western capitalist views of housing as a market commodity, rather than an Inuit-specific conception.

Despite the high-level political attention on the housing crisis in Nunavut, there is a gap in the academic research literature regarding community-specific information, especially for Cambridge Bay. The research sources on housing cited in this literature review either speak to Nunavut or Inuit Nunangat generally,⁶⁹ the capital city of Iqaluit,⁷⁰ the Qikiqtani region in which Iqaluit is located,⁷¹ or other communities in the territory or elsewhere in Inuit Nunangat (but not Cambridge Bay).⁷² Member of Parliament Mumilaaq Qaqqaq was particularly concerned about the Kitikmeot region during her housing tour (although she did not visit Cambridge Bay specifically), where she observed that housing conditions were the worst, especially with respect to mould and water damage.⁷³

Focusing this institutional ethnography on a single community within Nunavut allowed for a hyper-local examination of processes and ruling relations as they play out at that particular physical site. By examining on a specific community, this project also highlights local

⁶⁸ GN Strategy, *supra* note 2 at 13.

⁶⁹ Northern Housing Policy Recommendations, *supra* note 4; Tester, *supra* note 4; ITK Social Determinants, *supra* note 2 at 21-22; Abele et al, *supra* note 4; Impact Economics, *supra* note 4 at 83; Battle & Torjman, *supra* note 4.

⁷⁰ Little Voices *supra* note 2 at; CMHC Northern Housing Report, *supra* note 5 at 17 & 18 ; Statistics Canada, *Canadian Housing Statistics Program*, *supra* note 5.

⁷¹ Lauster & Tester, *supra* note 5; T. Kovesi, D. Creery, N. L. Gilbert, R. Dales, D. Fugler, B. Thompson, N. Randhawa, & J.D. Miller, "Indoor air quality risk factors for severe lower respiratory tract infections in Inuit infants in Baffin Region, Nunavut: a pilot study" (2006) 16:4 Indoor Air 266-75 ["Kovesi et al"].

⁷² Qaqqaq, *supra* note 3; Pauktutit, Study of Gender-based Violence and Shelter Services Needs, *supra* note 6.

⁷³ Qaqqaq, *supra* note 3 at 16 and 18.

knowledge and regional differences, resisting the generalization/decontextualization of local knowledge from another Inuit region and to avoid “present[ing] a generic picture of local Inuit knowledge which is, in fact, distinct or unique.”⁷⁴ In studying the local experiences in the community of Cambridge Bay, this project aimed to avoid separating local knowledge from the context from which it has been derived, which has been expressed as a concern regarding research in Inuit communities.⁷⁵ As such, this research project provides a unique contribution to the field of knowledge in looking at the qualitative experiences of people navigating housing needs at the community level in Cambridge Bay.

2.2. Methodological frameworks and approaches to the project

The research problematic

How to conduct the research

How to understand the research

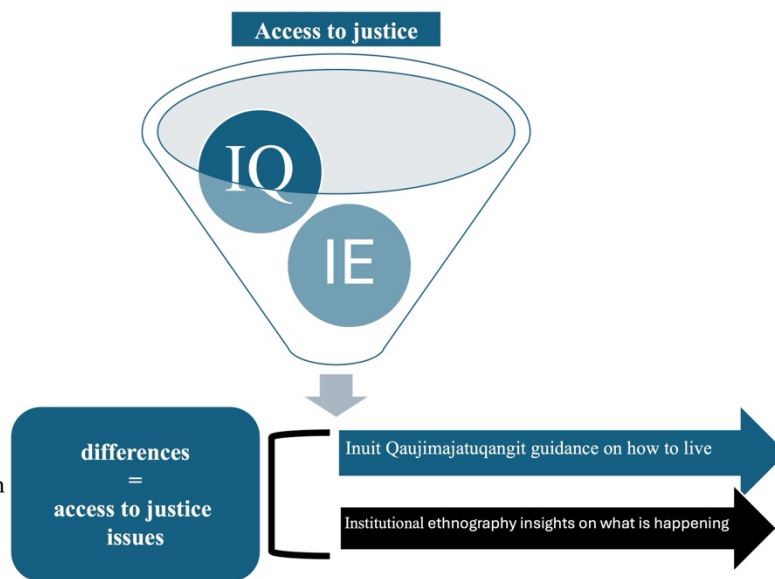


Figure 5 A graphic demonstrating the interactions between access to justice, Inuit Qaujimajatuqangit & institutional ethnography

One aspect of this research that comprises an original contribution to the field of knowledge is the conceptual framework that I used to guide the design of the project. Through this research, I used institutional ethnography, informed by Inuit Quajimajatuqangit guidance as

⁷⁴ Nickels et al, *supra* note 24 at 4.

⁷⁵ Nickels et al, *supra* note 24 at 4.

a practical methodology for understanding access to justice in Nunavut. To my knowledge, this specific combination has not yet been previously explored and therefore serves as a particularly original contribution to the field of knowledge. I will provide a brief overview of each field while also engaging in a comparative analysis of how these different frameworks interact.

2.2.1. Access to justice

My concerns about access to justice served as the entry point for my problematic, as I worried about the limitations of the law and my role as a lawyer to address my client's housing issues. Access to justice has been a widely discussed topic among legal practitioners and scholars in recent decades.⁷⁶ Yet the term "access to justice" seems to represent a goal or a priority, rather than a unified prescribed methodology or theory. Indeed, there are a wide variety of different methodologies used in access to justice research. Sandefur provides a helpful classification system for the different approaches to measuring access to civil justice, from the behavioural approach (including legal effectiveness studies, comparative equal justice studies, etc.) to the perceptual approach which explore people's subjective evaluation of their experiences.⁷⁷ As we will see later in the last section of this chapter 2.3., I see institutional ethnography as a type of "bottom-up" approach that can be used to research access to justice issues.

The different conceptions of access to justice can be seen in how this term is defined. The decision to use a particular definition of access to justice is in some respects a political choice that will influence the scope of the discussion and any solutions proposed.⁷⁸ Some

⁷⁶ For example, In 2007, Supreme Court of Canada Chief Justice Beverley McLachlin established a national Action Committee on Access to Justice in Civil and Family Matters to address the urgent access to justice crisis in Canada: Action Committee on Access to Justice in Civil & Family Matters, "About the Action Committee", *Canadian Forum on Civil Justice* (accessed 8 June 2022), online: <<https://cfcj-fcjc.org/action-committee/about-action-committee/>>.

⁷⁷ Rebecca Sandefur, "Access to Civil Justice and Race, Class and Gender Inequality" (2008) 34 *Annual Review of Sociology* 340 ["Sandefur"].

⁷⁸ Mary Jane Mossman with Heather Ritchie, "Access to Civil Justice: A Review of Canadian Legal Academic Scholarship 1977-1987" in Allan Hutchinson, ed, *Access to Civil Justice* (Toronto: Caswell, 1990) 53 at 68 ["Mossman & Ritchie"].

proponents use a very narrow conception of access to justice, often meaning access to the formal court system or access to lawyers. This narrow definition is often implied rather than explicitly stated, often through the type of court-centered solutions recommended.⁷⁹ This narrow definition is more commonly applied by legal practitioners such as lawyers or judges, and it may be due to that the fact that practitioners, from their standpoint, are more comfortable discussing how to improve the aspects of the legal system in which they work directly and have the most familiar knowledge. However, this narrow conception excludes justice in non-litigious legal settings or in administrative law contexts, or justice seekers who are not litigants in court, but still dealing with law-related problems.⁸⁰ As such, many scholars recognize the need to employ a broader definition of access to justice.⁸¹

Conceptions of access to justice can vary depending on the standpoint that is adopted, such as that of the lawyer providing the service or that of the client navigating their issues.⁸² There are also different ways to categorize access to justice problems.⁸³ Hughes notes, for

⁷⁹ For example, in proposing access to justice solutions specifically relating to court processes, Lucinda Vandevort and Chief Justice Chase Rogers of the Connecticut Supreme Court implicitly equates access to justice is about improving the court system: Lucinda Vandevort, “Access to Justice and the Public Interest in the Administration of Justice” (2012) 63 *University of New Brunswick Law Journal* 125; Chase T Rogers, “Access to Justice: New Approaches to Ensure Meaningful Participation” (2015) 90:5 *New York University Law Review* 1447.

⁸⁰ Mossman & Ritchie, *supra* note 78 at 59.

⁸¹ See for example expanded definitions from Thomas A Cromwell, “Access to justice: Towards a Collaborative and Strategic Approach” (2012) 63 *University of New Brunswick Law Journal* 38 at 39 [“Cromwell”]; Brent Cotter, “Thoughts on a Coordinated and Comprehensive Approach to Access to Justice in Canada” (2012) 63 *University of New Brunswick Law Journal* 54 at 55; Adriaan Bedner, & Jacqueline A.C. Vel, “An analytical framework for empirical research on access to justice” (2010) 1 *Law, Social Justice & Global Development Journal* 1 at 7 [“Bedner & Vel”]; MacDonald, *supra* note 16 at 104 [“Macdonald”]; Jennifer Bond, Emily Bates & David Wiseman, “The Cost of Uncertainty: Navigating the Boundary Between Legal Information and Legal Services in the Access to Justice Sector” (2016) 25:1 *J of L and Social Policy* 1 at 3 [“Bond, Bates & Wiseman”]; Trevor Farrow, “What is Access to Justice?” (2014) 51:3 *Osgoode Hall Law Journal* 957 at 983 [“Farrow”].

⁸² Plett and Roman both compares the different objectives that a plaintiff/citizen might have, compared to the objectives of lawyers, judges, or the government: Konstanze Plett, “Competing Objectives in Civil Justice: The German Experience” in Allan Hutchinson, ed, *Access to Civil Justice* (Toronto: Caswell, 1990) 155 at 169; Andrew J Roman, “Barriers to Access: Including the Excluded” in Allan Hutchinson, ed, *Access to Civil Justice* (Toronto: Caswell, 1990) 177 at 180 & 181.

⁸³ Greene discusses structural barriers to access versus cultural and cognitive barriers to access: Sara Sternberg Greene, “Race, Class and Access to Civil Justice” (2016) 101 *Iowa Law Review* 1263 at 1317 [“Greene”]; MacDonald, supported by Morrison and Mosher, critiques the use of the barrier metaphor as implying that “justice exists somewhere...and that the goal is to identify and remove obstacles” while ignoring problems of perception and formulation: MacDonald, *supra* note 16 at 29; Ian Morrison & Janet Mosher, “Barriers to Access to Civil Justice for Disadvantaged Groups” in Ontario Law Reform Commission, *Rethinking Civil Justice: Research Studies for the Civil Justice Review Vol 2* (Toronto: Ontario Law Reform Commission, 1996) 637 at 648-649 [“Morrison & Mosher”]; Bond, Bates and Wiseman suggest instead the term “deficits”: Bond, Bates & Wiseman, *supra* note 81 at 3.

example, that “[o]ne person’s justice is often someone else’s injustice.”⁸⁴ In this research, we will see how community members might base their idea of fairness on outcomes, while service providers and institutional texts corresponded to a different understanding based on procedural fairness. MacDonald discusses three components of access to justice – procedural, substantive, and symbolic - that are useful in framing these differences in conceptions of fairness that my research found. The first involves a procedural focus on each decision-making step, independent of the outcome that is produced, based on the assumption that “the credibility of the outcome depends on a minimum respect for fair procedure.”⁸⁵ The second component is substantive access to justice, based on the idea that the substance of the law that gives rise to remedies must be just; that the rules being applied are not pre-ordained to favour one party for irrelevant reasons; and that the rules do not operate in such a way to defeat an otherwise meritorious claim.⁸⁶ As MacDonald notes, “the system must be responsive to the desires, needs and expectations of users and its outcomes must, from the outset, be reasonably predictable or certain.”⁸⁷ Beyond fair processes and outcomes, the third component of symbolic access to justice is about people’s respect for and confidence in the system.⁸⁸ Macdonald argues that it is only when a system of law is symbolically effective that it is a system of justice.⁸⁹

These three components of access to justice –the ability to participate in a process, the ability to attain fair outcomes, and respect and recognition for the system as a whole⁹⁰ – provide a useful way to understand the access to justice implications arising from my research. We will

⁸⁴ Patricia Hughes, “Defining Access to Justice: the Charter and the Courts (and the Law Commission of Ontario)” (2011) 29:1 National Journal of Constitutional Law 119 at 125 [“Hughes”].

⁸⁵ MacDonald, *supra* note 16 at 105.

⁸⁶ MacDonald, *supra* note 16 at 106.

⁸⁷ MacDonald, *supra* note 16 at 106.

⁸⁸ MacDonald, *supra* note 16 at 106.

⁸⁹ MacDonald, *supra* note 16 at 106.

⁹⁰ As succinctly summarized in Bond, Bates & Wiseman, *supra* note 81 at 3.

see that while there is an institutional focus on procedural fairness (such as how public housing is allocated), community members are more interested in the substantive outcome (whether they get a home). We observe differences between the institutional priorities and community members' ideas of justice. Issues of symbolic access to justice also emerge in the research, suggesting that community members may not rely on the law for housing remedies, given the differences between Inuit legal practices and the systems imposed on Inuit through colonization. Unless all three of these dimensions of access to justice are addressed, I argue that there will continue to be a lack of access to justice, as community members will continue to feel alienated from these systems that do not recognize and address their needs and aspirations.

Trevor Farrow states that access to justice is about “access to the kind of life – and the kind of communities in which – people would like to live.”⁹¹ In his view, this means “helping people to achieve the good life – whatever that might mean.”⁹² This requires centering the perspective of the public, those who use the system.⁹³ As I will show further in this chapter, this may also serve as a useful reference for thinking about access to justice in Nunavut, especially because Inuit Qaujimajatuqangit is also about *living a good life*.⁹⁴ Farrow's statement emphasizes fluidity depending on context (“whatever that may mean”) and depending on the goals of people and communities (“the kind of life – and the kind of communities in which –

⁹¹ Farrow, *supra* note 81 at 983.

⁹² Farrow, *supra* note 81 at 971.

⁹³ Farrow, *supra* note 81 at 959.

⁹⁴ Joe Karetak & Frank Tester, “Inuit Qaujimajatuqangit, Truth and Reconciliation” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 1 at 6 [“Karetak & Tester”]; Alice Ayalik, “Inutsiapagutit (Inuit Teachings)” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 89 [“Ayalik”]; Atuut Akittiq and Rhoda Akpaliapik Karetak, “Inunnguiniq (Making a Human Being)” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 112 at 118 [“Akittiq & Karetak”]; Mariano Aupilaarjuq, “Planning and Preparing Well” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 174 at 179 [“Aupilaarjuq”]; Shirley Tagalik, *Inuit Qaujimajatuqangit: The Role of Indigenous Knowledge in Supporting Wellness in Inuit Communities in Nunavut* (Prince George, National Collaborating Centre for Aboriginal Health, 2010) at 1 [“Tagalik”].

people would like to live”). Previous research on access to justice in Nunavut, though limited, has found that access to justice in Nunavut requires a broad holistic, multi-disciplinary and collaborative approach, specific to the Inuit context.⁹⁵ This seems especially appropriate given the multi-faceted nature of housing issues in Nunavut, as discussed in earlier sections.

As an illustration, if I were to use a narrow conception of access to justice as access to the legal system, and only examine jurisprudence on housing law in Nunavut, there would be a very limited dataset to study that would not necessarily be accurately reflective of *what is happening* to people with respect to their housing experiences. This is because there have been very few housing cases that have gone through the legal system in Nunavut. Furthermore, in areas of civil law, many people may deal with law-related problems without going through the legal system at all for various reasons. I am interested in capturing those experiences as well, and as such I need to employ a broader conception of access to justice.

Access to justice is therefore a concept that frames my research problematic, but it does not necessarily prescribe how that research is to be done. In the following sections, I will look at two more frameworks to guide the “how” question to my research about access to justice: Inuit Qaujimajatuqangit as an ethical approach to research in Inuit Nunangat, and institutional ethnography as a research methodology to explore the problematic. Through these overviews, I will also show how a broad multi-faceted conception of access to justice can align well with Inuit goals of self-determination and institutional ethnography’s emancipatory goals to open up possibilities for enabling people to take action by equipping them with more knowledge about how their lives are tangled in the ruling relations.⁹⁶

⁹⁵ Law Society of Nunavut & Pauktuutit Inuit Women of Canada, *Access to Justice for Family Violence in Nunavut: Phase I Research Preliminary Findings* (Iqaluit: Law Society of Nunavut, 2020), online (pdf): *Law Society of Nunavut* <https://www.lawsociety.nu.ca/sites/default/files/public/Access-to-Justice/Preliminary_Findings_Report.pdf> [“Preliminary Findings Report”].

⁹⁶ Marie L Campbell, “Institutional Ethnography and Experience as Data” (1998) 21 *Qualitative Sociology* 55 at 91 & 105.

2.2.2. Inuit Qaujimajatuqangit

Inuit Qaujimajatuqangit is “that which are long known by Inuit”, representing an epistemological worldview that provides a holistic system of laws, principles, and values for living in relation to other life forms in a rewarding, meaningful and ethical manner.⁹⁷ It defines Inuit culture.⁹⁸ It is intergenerational wisdom of the land, history, and the skills required for a strong healthy life, gained from life experience.⁹⁹

I am a non-Inuit scholar, and I believe there are inherent limitations in my ability to comprehensively adopt an Inuit Qaujimajatuqangit worldview. But it has been suggested that all people, including non-Indigenous people, can learn from studying Inuit Qaujimajatuqangit, which can offer meaning and truth about living in harmony and balance beyond the Arctic environment.¹⁰⁰ As some Elders have said, learning is living Inuit Qaujimajatuqangit.¹⁰¹ Inuit have asked all researchers, policy-makers, and other actors involved with issues relating to Inuit Nunangat to learn about Inuit Qaujimajatuqangit and respectfully integrate it into the work that they do.¹⁰²

I do not characterize this research as having an Inuit Qaujimajatuqangit methodology or as a source that documents Inuit law. However, I have purposefully strived to learn about Inuit Qaujimajatuqangit worldviews in order to inform and guide my research in at least two significant ways. The first is through the design of the research, following the guidance that Inuit

⁹⁷ Karetak & Tester, *supra* note 94 at 3; Jaypeetee Arnakak, “Incorporation of Inuit Qaujimajatuqangit, or Inuit Traditional Knowledge, into the Government of Nunavut” (2002) 3:1 *Journal of Aboriginal Economic Development* 33 at 35 [“Arnakak”].

⁹⁸ Karetak & Tester, *supra* note 94 at 17.

⁹⁹ Mark Kalluak, “About Inuit Qaujimajatuqangit” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 41 at 41 [“Kalluak”].

¹⁰⁰ Margo Greenwood, “The Value of Relational Ways of Knowing and Being” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 220 at 221-223.

¹⁰¹ Donald Uluadluak, “Pamiqsainirmik (Training Children)” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 147 at 162 [“Uluadluak”].

¹⁰² ScIQ, *supra* note 24.

have provided, based on Inuit Qaujimajatuqangit, on how to conduct respectful research in Inuit Nunangat. Chapter 3 describes the methods that I used for this research to try to follow such guidance. The second is through the analysis of the research: bringing into view Inuit Qaujimajatuqangit approaches to issues such as governance, dispute resolution, problem solving, resource allocation, and generally living as a community provides a contrasting lens through which we can better understand the impacts of the Western-based bureaucratic systems of governance imposed on Inuit through colonialism. I provide a brief overview of these approaches here, and then apply them throughout the data analysis chapters.

2.2.2.a. Inuit Qaujimajatuqangit approaches to law, dispute resolution, and problem solving

The goal of Inuit Qaujimajatuqangit is to equip people so they can live a good life.¹⁰³ A good life can mean living well in one's community,¹⁰⁴ living a long prosperous life,¹⁰⁵ helping and supporting others,¹⁰⁶ and being an able human being that is resourceful and resilient.¹⁰⁷ Inuit Elders have described four laws (*maligarjuat*): maintaining harmony, working for the common good (rather than personal interest or gain), being respectful of all living things, and continually planning and preparing for the future.¹⁰⁸ Although Inuit laws historically were not written down, Inuit have been clear that Inuit Qaujimajatuqangit prescribes a system of laws, informed by their

¹⁰³ Karetak & Tester, *supra* note 94 at 6; Ayalik, *supra* note 94 at 89; Akittiq & Karetak, *supra* note 94 at 118; Aupilaarjuq, *supra* note 94 at 179; Tagalik, *supra* note 94 at 1.

¹⁰⁴ Karetak & Tester, *supra* note 94 at 9; Rhoda Akpaliapik Karetak, "Healing Unresolved Issues" in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 182 at 196 ["Karetak, *Healing*"].

¹⁰⁵ Kalluak, *supra* note 99 at 45.

¹⁰⁶ Karetak & Tester, *supra* note 94 at 6; Atuat Akittiq, "The Role of Family" in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 61 at 64 ["Akittiq"].

¹⁰⁷ Akittiq & Karetak, *supra* note 94 at 133 & 139.

¹⁰⁸ Karetak & Tester, *supra* note 94 at 3; Karetak, *Healing*, *supra* note 104 at 202. Besides the four *maligarjuat* laws, there are also *piqujaruat*, which provides guidelines on how to conduct oneself to have a good life; these tended to be flexible, applying differently according to context: Karetak & Tester, *supra* note 94 at 4.

worldview, to guide Inuit society towards a good life.¹⁰⁹ Inuit already had established their own methods to resolve problems, before the Euro-Canadian justice system was imposed on them.¹¹⁰

Given this, it is important to avoid imposing Western notions and applications of words like “law” and “justice” to the Inuit context, as these can have different meanings. Inuit have historically understood justice through a worldview where people, animals and the environment are all interconnected and interdependent as part of an overarching system.¹¹¹ All aspects of social control were aimed at ensuring the survival of families and communities by working together,¹¹² with an emphasis on peace, order, and stability.¹¹³ Inuit laws were designed to help Inuit live in respectful relationships with all living things, as well as to each other,¹¹⁴ and as such, connected to these laws is the expectation of *tunnganarniq*, being open-hearted, approachable, and ready to assist.¹¹⁵

Starting from childhood, Inuit would learn to be guided by these laws through *innunguiniq*, the process of making a capable human being that can help others.¹¹⁶ This includes

¹⁰⁹ Kalluak, *supra* note 99 at 48; Karetak, *Healing*, *supra* note 104 at 202; Norman Attangalaaq, “Conscientious Planning” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 102 at 107 [“Attangalaaq”]; Karetak & Tester, *supra* note 94 at 3; Mariano Aupilaarjuk, Marie Tulimaaq, Akisu Joamie, Emile Imaruittuq, & Lucassie Nutaraaluk, ed by Jarich Oosten, Frederic Laugrand, & Willem Rasing, *Inuit Laws: Tirigusuusiit, Piqujait, and Maligait* (Iqaluit: Nunavut Arctic College, 2017) at 20 & 33 [“Aupilaarjuk et al, *Inuit Laws*”].

¹¹⁰ Nunavut Tunngavik Incorporated, “Annual Report on the State of Inuit Culture and Society 13-14: Examining the Justice System in Nunavut” (Iqaluit: Nunavut Tunngavik Incorporated, 2014) at 4, online (pdf): *Nunavut Tunngavik Incorporated* <<https://www.tunngavik.com/files/2014/10/2013-14-SICS-Annual-Report-ENG.pdf>> [“NTI”]; Attangalaaq, *supra* note 109 at 106.

¹¹¹ NTI, *supra* note 110 at 7; Qikiqtani Inuit Association, “Paliisikkut: Policing in Qikiqtaaluk” (2013) at 12, online: <https://www.qtcommission.ca/sites/default/files/public/thematic_reports/thematic_reports_english_paliisikkut.pdf> [“QIA”]; Jarich Oosten & Frederic Laugrand, “*Qaujimajatuqangit* and social problems in modern Inuit society: An elders workshop on *angakkuuniq*” (2002) 26:1 *Inuit Studies* 17 at 21 [Oosten & Laugrand].

¹¹² Oosten & Laugrand, *supra* note 111 at 30; Pauktuutit Inuit Women of Canada, *Engaging Inuit Men and Boys in Ending Violence Against Women and Girls – A Gender-Based Analysis* (Ottawa: Pauktuutit, 2014) at 11, online: https://www.pauktuutit.ca/wp-content/uploads/EMB_GBA_Report.pdf [“Pauktuutit, *Gender-Based Analysis*”].

¹¹³ John Bennett and Susan Rowley, eds, *Uqalurait: An Oral History of Nunavut* (Montreal: McGill-Queen’s University Press, 2004) at 99 [“Bennett & Rowley”].

¹¹⁴ Karetak & Tester, *supra* note 94 at 6; Kalluak, *supra* note 99 at 49; NTI, *supra* note 110 at 7; QIA, *supra* note 111 at 12; Oosten & Laugrand, *supra* note 111 at 21; Attangalaaq, *supra* note 109 at 107.

¹¹⁵ Kalluak, *supra* note 99 at 44.

¹¹⁶ Kalluak, *supra* note 99 at 46; Akittiq & Karetak, *supra* note 94 at 112; Louis Angalik, “We Inuit Call Our Children *Qiturngat*” in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 83 at 86 [“Angalik”]; Karetak & Tester, *supra* note 94 at 4.

making sure that people, particularly children, understand the relevance and intent of the laws.¹¹⁷ This process usually starts during the child-rearing phase, and was drastically interrupted when Inuit children were sent to residential schools.

Inuit justice was administered with a personal approach, often involving elders rehabilitating offenders by counseling them in person.¹¹⁸ Inuit believe that even without police or a court, a person who violated a law would face consequences, one way or another.¹¹⁹ Elders often held the highest authority in maintaining social order in Inuit society, and played an important role in providing advice and counselling wrong-doers, with a particular emphasis on forgiveness and moving forward in a timely manner.¹²⁰ Elders and other community leaders were therefore not necessarily perceived to be agents of social control in the way judges and police officers are; but they held the responsibility of providing counsel, analyzing threats to the well-being of the community, and working with the community to arrive at solutions.¹²¹

Ajigatigiigni is a process used to resolve conflicts, but also to otherwise solve problems or make plans, usually though working together in consultation and consensus.¹²² These issues were usually dealt with as soon as possible, to avoid letting them fester into a larger problem to threaten the harmony of the community.¹²³ Processes to deal with violations of laws used progressive measures where interventions were escalated if problems persisted,¹²⁴ motivated by a desire to heal the individual, who was understood to be someone that could be valuable to the

¹¹⁷ Karetak & Tester, *supra* note 94 at 17; Angalik, *supra* note 116 at 86.

¹¹⁸ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 82; Bennett & Rowley, *supra* note 113 at 979.

¹¹⁹ Karetak & Tester, *supra* note 94 at 4; Attangalaaq, *supra* note 109 at 107; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 5.

¹²⁰ Kalluak, *supra* note 99 at 43-44; Akittiq & Karetak, *supra* note 94 at 125; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 67-70; although note another source that suggests that Elders did not necessarily see themselves as agents of law and order: Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 4.

¹²¹ NTI, *supra* note 110 at 7; Oosten & Laugrand, *supra* note 111 at 21-22.

¹²² Karetak & Tester, *supra* note 94 at 4, 10 & 11.

¹²³ Karetak, *Healing*, *supra* note 104 at 194; Akittiq, *supra* note 106 at 66.

¹²⁴ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 69; QIA, *supra* note 111 at 12; Karetak & Tester, *supra* note 94 at 5.

community and therefore deserved care.¹²⁵ For example, an elder might first counsel an offender in private, allowing the offender to avoid being embarrassed. If his problematic behaviour continued, then more people might become involved.¹²⁶ These interventions were motivated by a desire to heal the individual, who was understood to be someone that could be valuable to the community and therefore deserved care. Inuit understood that offenders might be more likely to change their behaviour if they understood the issue, rather than being humiliated.¹²⁷ These processes were therefore usually not about punishing or ostracizing offenders, but trying first to re-integrate them back into the community.¹²⁸ In fact, Karetak and Tester suggest that Inuit might challenge the idea of justice, arguing that it is more important to remove guilt, acknowledge a wrong, and change behaviour than to seek justice, with a focus on pursuing the truth and returning to balance.¹²⁹

Inuit therefore specifically recognize the important role that social relationships play between people in these processes, in contrast to Western-based practices where such connections are made invisible and hidden, which will be useful to note later as we move deeper into the institutional ethnography.

The drastic impacts of colonization on Inuit and their laws play a key role in access to justice issues in Nunavut. The devastating impact of colonization on Inuit legal practices – as well as every other aspect of Inuit culture – cannot be overstated. The Canadian government increased its presence in the Canadian Arctic, including by establishing RCMP posts for a permanent police presence and through the enforcement of Canadian laws (including game

¹²⁵ Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 71; Oosten & Laugrand, *supra* note 111.

¹²⁶ Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 67; QIA, supra note 111 at 12; Bennett & Rowley, *supra* note 113 at 98.

¹²⁷ Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 71; Oosten & Laugrand, supra note 111.

¹²⁸ Karetak & Tester, *supra* note 94 at 4 & 5; NTI, *supra* note 110 at 6; Oosten & Laugrand, *supra* note 111; Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 8.

¹²⁹ Karetak & Tester, *supra* note 94 at 4.

laws).¹³⁰ While it is beyond the scope of this thesis proposal to fully outline this history, numerous sources recount the historical imposition of the Canadian justice system over the Inuit, including early criminal justice cases involving the first murder trials of Inuit men, and establishment of the circuit court system in the region.¹³¹ It has been argued that the government's imposition of Canadian law over Inuit was not purely motivated by a paternalistic concern for protecting the physical security of Inuit, but was also related to the Canadian government's interests in asserting its territorial sovereignty claims against foreign interests in the High Arctic by demonstrating the rule of law there.¹³² Inuit have argued that these efforts were also meant to de-legitimize existing Inuit legal practices.¹³³ For example, Rhoda Akpaliapik Karetak recounts how Inuit hunters suddenly had their meat confiscated for breaking game laws that were unknown to Inuit, and how these new laws imposed on them suddenly without consultation or explanation.¹³⁴ These unknown laws forever disrupted Inuit ways, and she remarks that Inuit laws that prioritized the preservation of community harmony played a large role in Inuit keeping quiet, as Inuit were reluctant to raise objections, for fear of disrupting harmonious relations.¹³⁵ Now, many Elders lament with regret that Inuit laws are not being followed,¹³⁶ and have been replaced, by those imposed by the church, the government, and schools.¹³⁷ The devaluing of Inuit laws have resulted in a loss of Inuit culture and values,

¹³⁰ NTI, *supra* note 110.

¹³¹ See for example: Shelagh D. Grant, *Arctic Justice: On Trial for Murder, Pond Inlet, 1923*, (Montreal: McGill-Queen's University Press, 2002); QIA, *supra* note 111; Jack Scissons, *Judge of the Far North: The Memoirs of Jack Scissons* (Toronto: McLelland and Stewart, 1968) and Dorothy Eber, *Images of Justice* (Montreal: McGill-Queens University, 1997).

¹³² QIA, *supra* note 111 at 17; NTI, *supra* note 110 at 4-5; Jeanette Gevikoglu, *Sentenced to Sovereignty: Sentencing, Sovereignty, and Identity in the Nunavut Court of Justice* (LLM thesis, University of Victoria, Faculty of Law, 2011) at 65 ["Gevikoglu"].

¹³³ NTI, *supra* note 110 at 5; also noted in Gevikoglu, *supra* note 132 at 50.

¹³⁴ Karetak, *Healing*, *supra* note 104 at 184.

¹³⁵ Karetak, *Healing*, *supra* note 104 at 185-186 & 191.

¹³⁶ Aupilaarjuq, *supra* note 94 at 178, 181; Karetak & Tester, *supra* note 94 at 15; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 21.

¹³⁷ Karetak & Tester, *supra* note 94 at 7; Akittiq & Karetak, *supra* note 94 at 140.

replacing Inuit Qaujimajatuqangit priorities of sharing, interconnectedness, respect, and mutual reliance with a culture that values ownership of property and using nature for profit.¹³⁸

Elder Norman Attangalaaq reflects on how he and others feel uncomfortable answering questions about Inuit laws because they have been made to feel ashamed of their practices, but he worries that Inuit today might have difficulty comprehending the truths of Inuit laws without the cultural background or capacity that should have been embedded throughout their lives.¹³⁹

Atuat Akittiq points out that people from Western culture have been raised under Western laws and can therefore understand Western laws well, but Inuit have experienced a separation from their laws and culture.¹⁴⁰ The difference between Inuit laws and the common law system imposed through colonization has resulted in a significant dissonance. While Inuit laws encouraged people to confess their wrongdoing in a timely manner in order for it to be forgiven and never brought up again, the manner under the common law system in which confessions can be used against them punitively with permanent consequences such as criminal records has resulted in unresolved issues and buried hurt, due to people's fear of confessing.¹⁴¹ Some Elders believe that the incarceration rate would be lower if a system of Inuit laws had been integrated to allow for counselling; instead, under the common law system, offenders feel intimidation, fear, and shame, and therefore become hopeless and alienated.¹⁴² Elders express much worry about the future generations of Inuit if they do not have the guidance of Inuit laws to lead them to live a good life:

“Like wasted food, which was never allowed, we are wasting the lives of our children by not instilling in them the laws and values that should be guiding them.” -Donald Uluadluak¹⁴³

¹³⁸ Karetak & Tester, *supra* note 94 at 7.

¹³⁹ Attangalaaq, *supra* note 109 at 107.

¹⁴⁰ Akittiq & Karetak, *supra* note 94 at 118.

¹⁴¹ Karetak, *Healing*, *supra* note 104 at 202.

¹⁴² Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 79; Akittiq & Karetak, *supra* note 94 at 125 & 129.

¹⁴³ Uluadluak, *supra* note 101 at 154.

“We can’t see the inevitable future, because as a society, we are breaking too many laws.” - Mariano Aupilaarjuq¹⁴⁴

When Inuit negotiated the Nunavut Agreement with the Government of Canada to advance their ambitions for self-government through the creation of the territory of Nunavut on April 1, 1999,¹⁴⁵ there was much hope for the revitalization of Inuit self-determination, including through, in particular, the design of a more restorative, community and culturally relevant legal system that reflected Inuit Qaujimajatuqangit¹⁴⁶ The Nunavut Court of Justice was designed with the intention to better reflect the unique characteristics of the territory, including a single-level trial court that would be less cumbersome than a two-tier system, and a circuit court that would bring law to the communities of Nunavut by members of the court travel to the communities, to hold court in public spaces such as community halls or school gyms.¹⁴⁷

However, over twenty years since the creation of Nunavut, concerns have emerged about the common law system in Nunavut. Nunavut’s many small remote communities and Arctic climate means that Nunavut’s legal system experiences a number of unique challenges, such as the circuit court’s ability and timing to travel into each community.¹⁴⁸ When these factors

¹⁴⁴ Aupilaarjuq, *supra* note 94 at 181.

¹⁴⁵ Nunavut Agreement, *supra* note 41 at article 4.

¹⁴⁶ Dennis Glen Patterson and IER, “Legal Aid Research Series: Nunavut Legal Services Study Final Report” (Ottawa: Department of Justice, 2002) at 8, online: < http://www.justice.gc.ca/eng/rp-pr/aj-ja/rr03_la14-rr03_aj14/rr03_la14.pdf > [“Patterson”] at 8; Kelly Gallagher-Mackay, “Affirmative Action and Aboriginal Government: The Case for Legal Education in Nunavut” (1999) 14:2 Canadian Journal of Law and Society 21 at 22; Shauna Labman, “Experiment in Innovation: Nunavut’s Single-Level Trial Court” (2003) 28:1 LawNow 54 at 1, 3, and 7 [“Labman”].

¹⁴⁷ Labman, *supra* note 146 at 4.

¹⁴⁸ Travis Anderson & Mary Stratton, The Civil Justice System and Public, Justice for Nunavummiut: Partnership for Solutions, Final Report (Edmonton: Canadian Forum on Civil Justice, University of Alberta, 2008) <online: <http://cfcj-fcjc.org/sites/default/files/docs/2008/cjsp-nunavummiut-en.pdf> > [“Anderson and Stratton”]; Scott Clark, “The Nunavut Court of Justice: An Example of Challenges and Alternatives for Communities and for the Administration of Justice” (2011) 53 Canadian Journal of Criminology and Criminal Justice 343 [“Clark”]; Patterson, *supra* note 146; Justice Canada, Office of Strategic Planning and Performance Management, Evaluation Division, *The Nunavut Court of Justice - Formative Evaluation: Final Report* (January 2007) at 20, online (pdf): *Justice Canada* <<https://www.justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/07/ncj-cjn/toc-tdm.html>> [“Formative Evaluation”]. Also note the Court’s remarks in *Mazhero v. Federation of Nunavut Teachers*, 2003 NUCJ 2 at para 7: “It continues to be a challenge to case manage these files because of the ongoing problems with reliability of fax machines and telephone lines and the significant geographic distance between the Plaintiff, Counsel for all

translate into subsequent delays in resolving a case through the legal system, it can produce additional stress for the parties involved, and for family violence cases, there may be further concerns in small communities that do not have a women's shelter.¹⁴⁹ Previous reports have also noted inadequate numbers of legal professionals in Nunavut, including lawyers, resulting in heavy caseloads and staff burn-out, which affects the quality of service they are able to provide.¹⁵⁰

Concerns have been raised about a lack of trust in the legal system amongst Nunavummiut, given the colonizing history of the western legal system imposed on Inuit in Nunavut.¹⁵¹ Some Inuit are reluctant to call the police or rely on the legal system to resolve issues such as family violence, as this may result in the arrest of their partner, the apprehension of their children, or any number of other outcomes that do not align with the way they wish to address the issue.¹⁵² The Nunavut Court of Justice has also commented in its jurisprudence on certain access to justice issues, including problems of communication, access to legal resources, and the power imbalances that can exist between Inuit clients and their lawyers, leaving some clients vulnerable.¹⁵³ There are also concerns that the underlying causes that manifest as legal issues are not being addressed, due in part to a lack of community-based resources and programming to deal with issues such as substance abuse and anger management.¹⁵⁴ These existing access to justice issues are likely to have only been exacerbated during the COVID-19

the Respondents and the Court.”

¹⁴⁹ Clark, *supra* note 148 at 350; David Matyas, “Short Circuit: A Failing Technology for Administering Justice in Nunavut” (2018) 35 Windsor Yearbook of Access to Justice 379 at 391 [“Matyas”]; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 39; Formative Evaluation, *supra* note 148 at 18.

¹⁵⁰ Anderson and Stratton, *supra* note 148; Clark, *supra* note 148, Patterson, *supra* note 146.

¹⁵¹ Preliminary Findings Report, *supra* note 95.

¹⁵² Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 38.

¹⁵³ *JD1H1 et. al. v. Budden et. al.*, 2018 NUCJ 15 at paras 58, 61-64; *JD1H1 v. Budden*, 2020 NUCA 3 at 23.

¹⁵⁴ Kate J Burkhardt, *Narratives of Inuit Inmates: Crime, Identity and Cultural Alienation* (masters thesis, University of Windsor, Department of Psychology, 2000) (unpublished) at 92 [“Burkhardt”]; Formative Evaluation, *supra* note 148 at 24-25.

pandemic due to interruptions in the provision of legal services during lockdowns and travel restrictions.¹⁵⁵

Problems with the legal system extend beyond criminal justice into civil law, including administrative law,¹⁵⁶ although there is even less literature overall on “every day” civil justice issues in Nunavut than for other areas of law. The number of lawyers resident in Nunavut who are available to offer civil litigation and solicitor services in Nunavut is relatively small.¹⁵⁷ I am of the understanding that I was one of the first full-time resident civil litigation legal aid lawyers to be based in the Kitikmeot region when I first arrived in 2013. At that time, there was only one other civil litigation legal aid lawyer resident in the territory, based in Iqaluit, and there were less than a handful of resident private lawyers working in civil litigation and solicitor work. Some studies have reported issues relating to a limited use of administrative law and a lack of accessible processes for remedies, commenting that Nunavummiut commonly do not recognize their legal rights to resolve their housing or employment issues through court.¹⁵⁸ For example, northern scholars have observed issues with respect to the quasi-judicial nature of co-management boards, which are shaped by western legal principles, policies and procedures such as reliance on print records for evidence, highly technical language, and intimidatingly formal

¹⁵⁵ The Nunavut Courts had for some time suspended most of their operations due to the pandemic: C Nunatsiaq News, “Nunavut courts suspend most operations due to COVID-19” (6 January 2022) *Nunatsiaq News*, online: <https://nunatsiaq.com/stories/article/nunavut-courts-suspend-most-operations-due-to-covid-19/?fbclid=IwAR1GUKIGMp0rSLXM4dElAbm7xcewCY4p-eeFMPkL9H55kpkzqzlfOm4YYQk#.Ydd6Tc2tRiA.facebook>.

Also see *R. v. Komoartok*, 2020 NUCJ 29 at para 9 references how the Legal Services Board of Nunavut, the legal aid organization for the territory, has not been able to bring any non-resident private lawyers into Nunavut while the travel restrictions for non-residents remained in place in Nunavut, which in turn affected the accused’s choice of counsel. For a more global forecast of the impacts of the COVID-19 pandemic on access to justice, see David Steven, Maaik de Langen, Sam Muller and Mark Weston, “Justice in a Pandemic – Briefing One: Justice for All and the Public Health Emergency” (Justice for All & Pathfinders for Peaceful, Just, and Inclusive Societies, April 2020), online: <<https://static1.squarespace.com/static/5f04c531079923456a1fff17/t/5f10848812400841c9a40e74/1594918028334/Justice+for+all+public+health+emergency.pdf>>.

¹⁵⁶ An evaluation by Justice Canada noted the continuing lack of access to civil justice in Nunavut: Formative Evaluation, *supra* note 148 at 28, 30-31, and 40.

¹⁵⁷ In 2007, there were no private lawyers resident in Nunavut who could provide such services: Formative Evaluation, *supra* note 148.

¹⁵⁸ Anderson and Stratton, *supra* note 148 at 36 and 39; A lack of understanding of civil law matters was also noted in Formative Evaluation, *supra* note 148 at 44.

presentations that do not suit local customs of consultation.¹⁵⁹ This leaves minimal space for Indigenous law to influence decision-making in these administrative law processes.¹⁶⁰ The function of co-management boards and other institutions of public government play an important role but complicated role in shaping administrative law in Nunavut. Not only is there jurisdictional complexity in that relief from administrative actions can be sought from either the Nunavut Court of Justice or the Federal Court, but there are also questions about how decisions made by Inuit decision makers – and the use of Inuit Qaujimajatuqangit - are to be reviewed.¹⁶¹

These findings from reports and arguments by scholars point to deeper cultural issues with the legal system, beyond simply language barriers,¹⁶² relating to the disparities between the Canadian legal system and Inuit legal traditions.¹⁶³ Although it was initially envisioned during the creation of Nunavut that the Nunavut Court of Justice would more closely reflect Inuit values and practices, the legal system is still perceived to represent a non-Inuit institution that does not align with the local realities and priorities of communities in Nunavut.¹⁶⁴ For example, the aforementioned delays in processing a case through the court system runs counter to Inuit legal methods of dispute resolution, which aimed at resolving potential problems as soon as

¹⁵⁹ Killulark Arngna'naaq, Heather Bourassa, Don Couturier, Kaviq Kaluraq, Kelly Panchyshyn, "Realizing Indigenous Law in Co-Management", in The Gordon Foundation, ed. *Jane Glassco Northern Fellowship 2018-2019: Policy Recommendations*. (Toronto: Gordon Foundation, 2020) at 287 ["Arngna'naaq et al"].

¹⁶⁰ Arngna'naaq et al at 400.

¹⁶¹ Cindy Kieu, "Judicial Review in Nunavut: The Record and Other Emerging Issues" (2016) 29:1 Canadian Journal of Administrative Law & Practice 33 at 37-37 and 40-41 ["Kieu"].

¹⁶² Language is however, also noted as an issue: Clark, *supra* note 148; Patterson, *supra* note 146; Matyas, *supra* note 149 at 391.

¹⁶³ NTI, *supra* note 110 at 6; Anderson and Stratton, *supra* note 148; Tim Stuempel, Towards a Northern Justice: A Preliminary Exploration of Inuit Qaujimajatuqangit and the Nunavut Criminal Justice System (MCA Thesis, University of Ottawa, Department of Criminology, 2004) [unpublished] at 79 ["Stuempel"]; Mary Crnkovich and Lisa Addario with Linda Archibald, Department of Justice Canada, "Inuit Women and the Nunavut Justice System" (4 June 2016), Government of Canada, online: <http://www.justice.gc.ca/eng/rp-pr/ai-ja/rr00_8/rr00_8.pdf> at 7 ["Crnkovich & Addario"]; Matyas, *supra* note 149 at 393.

¹⁶⁴ NTI, *supra* note 110 at 6; Matyas, *supra* note 149 at 393; Stuempel, *supra* note 163 at 78-79; Crnkovich & Addario, *supra* note 163 at 9; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 38; Oosten & Laugrand, *supra* note 111 at 23; however, Justice Canada's formative evaluation of the Nunavut Court of Justice noted that key informants gave positive assessments about the Court's cultural sensitivity, but still felt that "the Court is and will remain a somewhat foreign institution in communities and that there are fundamental questions about the ability of the Court to transform itself to improve cultural 'fit' without compromising its identity as a Court." Formative Evaluation, *supra* note 148 at 32.

possible.¹⁶⁵ As mentioned, confession of one's wrongdoing is an important aspect of Inuit legal traditions in order to heal,¹⁶⁶ and yet admission of guilt has specific implications within the court system. The majority of the lawyers licensed to practice law in Nunavut are non-Inuit and are not even resident in the territory, leading to a motion at the Law Society of Nunavut's Annual General Meeting in 2017 calling for action to increase Inuit representation in the legal bar.¹⁶⁷ It has been suggested that the Nunavut Court of Justice's scope of adjudication is too narrow to address the underlying context of social issues in the territory.¹⁶⁸ This again suggests the need for a broader understanding of access to justice. As noted by one scholar, "Canadian law dressed up as Inuit law is not a substitute for an Inuit justice system."¹⁶⁹

Although there was an implicit understanding that Inuit wanted to use the best of Inuit Qaujimajatuqangit with other forms of governance when establishing the territory of Nunavut,¹⁷⁰ some have argued that Nunavut adopted a governance system that is essentially the same as the colonized system, reducing Inuit Qaujimajatuqangit into "a limited definition of a set of principles, minimizing the critical concepts of Inuit worldview."¹⁷¹ Rhoda Akpaliapik Karetak has noted that those in positions of authority in Nunavut are in place due to their expertise in the *Qallunaat* way, and that supporting leaders who are willing to let go of their own culture is harmful to the Inuit way.¹⁷²

¹⁶⁵ Stuempel, *supra* note 163.

¹⁶⁶ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 36; Oosten & Laugrand, *supra* note 111 at 29.

¹⁶⁷ Jonathan Park, Gloria Song, Anne Crawford, and Steve Hayward, "Report for the 2018-2019 Annual General Meeting" (17 May 2019), Law Society of Nunavut Standing Committee on Inuit Representation, online: https://www.lawsociety.nu.ca/sites/default/files/AGM/AGM%20Report%20Inuit%20Rep%20Legal%20Prof%20May%202019_0.pdf

¹⁶⁸ Anderson and Stratton, *supra* note 148 at 10-11; Don Clairmont, "Review of Justice System: Issues Relevant to Nunavut: Part One" (Atlantic Institute of Criminology, 1999).

¹⁶⁹ Gevikoglu, *supra* note 132 at 116.

¹⁷⁰ Arnakak, *supra* note 97 at 36.

¹⁷¹ Tina Piulia DeCouto, "Uncomfortable Inuk – Exploring Inuit Qaujimajatuqangit" in The Gordon Foundation, ed. *Jane Glassco Northern Fellowship 2018-2019: Policy Recommendation* (Toronto: The Gordon Foundation, 2020) at 165 ["DeCouto"].

¹⁷² Karetak, *Healing*, *supra* note 104 at 201.

The question of how Inuit Qaujimajatuqangit principles can be integrated into Nunavut's current justice system is a complex debate. In a workshop in Rankin Inlet focused on discussing Inuit values and the Canadian court system, some elders explained that this integration was not only possible, but important.¹⁷³ Other thinkers have questioned whether certain aspects of the different value systems could be integrated, practically speaking, given the dramatic restructuring that would be required.¹⁷⁴ As noted earlier, the Federal Court of Appeal has already been faced with the administrative law question of how to judicially review a decision involving the use of Inuit Qaujimajatuqangit.¹⁷⁵ Some northern scholars have argued that Indigenous laws, and Indigenous led-methodologies of knowledge gathering, must serve as the foundation for designing policies and procedures, rather than using an “add Indigenous law and stir” approach.¹⁷⁶ Snyder, Napoleon and Borrows have emphasized that the revitalization of Indigenous legal orders must incorporate a critical gendered approach that understands Indigenous legal traditions and historic gender roles as fluid and evolving rather than frozen in history.¹⁷⁷ Various reports have outlined the need for a holistic, Inuit-specific, trauma-informed system with coordination across sectors and community-based collaboration.¹⁷⁸

Elders have been adamant that Inuit Qaujimajatuqangit is still relevant in today's modern world, to provide laws to govern behaviour for a good life.¹⁷⁹ Inuit Qaujimajatuqangit is not

¹⁷³ Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 79; Oosten & Laugrand, supra note 111 at 18, 20.

¹⁷⁴ Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 41; Stuempel, supra note 163 at 79, 107; Redfern, supra note 41 at 103; also posited by Gevikoglu, supra note 132 at 42.

¹⁷⁵ *Makivik Corporation v. Canada (Attorney General)*, 2021 FCA 184; see also for further academic discussion Daniel W Dylan, “Wildlife Management, Privative Clauses, Standards of Review, and Inuit Qaujimajatuqangit: The Dimensions of Judicial Review in Nunavut” (2021) 43:3 Canadian Journal of Administrative Law & Practice 265 [“Dylan”].

¹⁷⁶ Arngna'naaq et al, supra note 159 at 303.

¹⁷⁷ Emily Snyder, Val Napoleon & John Borrows, “Gender and violence: Drawing on Indigenous legal resources” (2015) 48:2 University of British Columbia Law Review Society 624 [“Snyder, Napoleon & Borrows”].

¹⁷⁸ Pauktuutit Inuit Women of Canada, *Strategic Plan for Inuit Violence Prevention and Healing* (Ottawa: Pauktuutit, 2016) at 4, online (pdf): *Pauktuutit Inuit Women of Canada* <https://www.pauktuutit.ca/wp-content/uploads/StrategicPlan_English.pdf> [“Pauktuutit Strategic Plan”]; Patterson, supra note 146 at 58, 69, 70. NTI, supra note 110 at 22, 30; Study of Gender-based Violence and Shelter Services Needs, supra note 6; Preliminary Findings Report, supra note 95.

¹⁷⁹ Akittiq & Karetak, supra note 94 at 146; Uluadluak, supra note 101 at 154; Kalluak, supra note 99 at 56; Angalik, supra note 116 at 88; Oosten & Laugrand, supra note 111 at 34.

about going back to the past; instead, Elders have pointed to how Inuit have always been adaptive to new contexts, and as such, Inuit Qaujimajatuqangit can be applied to modern problems and institutions, including the justice system.¹⁸⁰ For example, some Elders have suggested that could deal with more minor criminal offences by counselling offenders.¹⁸¹

Karetak suggests that the integration of Inuit Qaujimajatuqangit to the current context requires a carefully considered critical approach, studying how Inuit laws were designed and applied,¹⁸² rather than blindly applying to them. We will see in later chapters that from an institutional ethnographic lens, one might say there is a resistance to standardizing Inuit laws to have rigidly fixed applications like institutional texts. For example, although Inuit have been taught to patiently avoid complaining about a problem in certain contexts in order to maintain harmony,¹⁸³ Rhoda Akpaliapik Karetak points out that settlers took advantage of this Inuit law in harmful ways, including sexual abuse:

Women were especially targeted as they had been trained never to be disobedient and to never tattle-tale about any harm to them that was not life-threatening. This belief was applied to children to keep harmony in the camp... The Inuit law was not meant for these adult situations. Adults were supposed to distinguish the difference between silent suffering and the pain caused by the abuse of these men in authority. When abused was involved, the intent of our law was also clearly being abused. The laws and our belief that you should never tattle-tale or tell on another person, never talk back to an older person and should be submissive, was turned against us at a time when we also had no other authority to appeal to.¹⁸⁴

Similarly, although the focus on moving forward is an important Inuit law, Rhoda Akpaliapik Karetak explains that in the past, one's pain would be noticed and addressed

¹⁸⁰ Akittiq & Karetak, *supra* note 94 at 118; Oosten & Laugrand, *supra* note 111 at 34; Angalik, *supra* note 116 at 84. It should be noted, however, that some elders do not think all of Inuit Qaujimajatuqangit can be learned and applied now, but at least some of it can: Aupilaarjuq, *supra* note 94 at 175; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 89.

¹⁸¹ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 80.

¹⁸² Karetak, *Healing*, *supra* note 104 at 202.

¹⁸³ Uluadluak, *supra* note 101 at 162; Karetak, *Healing*, *supra* note 104 at 183.

¹⁸⁴ Karetak, *Healing*, *supra* note 104 at 193.

immediately; since one cannot move forward without healing, today, it is important for focus on healing.¹⁸⁵

In highlighting these teachings from Inuit Elders, I do not propose to develop new comprehensive legal frameworks based on Inuit Qaujimajatuqangit, nor to solve the questions of how Inuit laws can be better integrated in Nunavut today. Neither am I proposing to record Indigenous customary law. I believe that is important work for Inuit to lead, perhaps the new generation of Inuit lawyers and legal scholars that are currently establishing their careers after the second iteration of the Nunavut Law Program. Instead, I use these insights to contextually ground my approach to understanding access to justice in Nunavut: I am reminded that Inuit laws already existed longer before settlers arrived and imposed the Canadian common law system, and that colonization has had a devastating impact on the practice of Inuit laws. These Inuit laws are part of the Inuit Qaujimajatuqangit epistemological framework for living a good life harmoniously in an interconnected world. As we will see, when contrasting this approach with the institutional practices of Canadian bureaucratic systems in housing and law, we see a striking disjuncture that reinforces the impacts that colonialism has had on Inuit.

This reinforces the importance of understanding access to justice in Nunavut as being about more than formal court processes or the provision of legal services under the common law system. This also means that my work must be informed by this Inuit context, and if we are to work on access to justice in Nunavut, we must be aware of Inuit laws and practices which use a significantly different approach from the practices prescribed by Nunavut's legislative texts. Talking about access to justice in Nunavut requires a holistic view, informed by Inuit

¹⁸⁵ Karetak, *Healing*, *supra* note 104 at 193.

Qaujimajatuqangit worldviews, with a strong awareness of the history and ongoing processes of colonialism.

2.2.2.b. Inuit Qaujimajatuqangit approaches to resource allocation

In section 2.1, I discussed how Inuit approaches to housing were tied to the seasonality of nature, allowing for mobility to adapt to the seasons, as a contrast to the permanent settlements in Nunavut today. To provide a comparative lens through which we can understand how housing allocation today contrasts with Inuit Qaujimajatuqangit approaches to resource allocation in general, I will briefly discuss Inuit Qaujimajatuqangit approaches and perspectives for allocating another resource, food, to draw a parallel.

Sharing is an essential aspect of Inuit approaches to resource allocation, based on, among others, principles of *tunnganarniq*, being kind-hearted and caring in the context of working for the common good.¹⁸⁶ Sharing food has been described by Elders as an Inuit law¹⁸⁷ and an important part of Inuit knowledge.¹⁸⁸ Some believe this resource-sharing practice developed in part to reduce inequalities amongst individuals and households, as well as to maximize the well-being of the group, given the environment where there have been historic fluctuations in food availability.¹⁸⁹ The practice of sharing country food (rather than selling) plays an important role of strengthening bonds within the community,¹⁹⁰ and has also been linked to not only food security, but cultural continuity and community well-being.¹⁹¹ In Chesterfield Inlet, a study

¹⁸⁶ Karetak & Tester, *supra* note 94 at 13; see also Andreas Tomaszewski, “Inuit Customary Law meets Criminal Law in Nunavut – What’s the status ten years after?” (2009) September/October Law Now 18 at 19 [“Tomaszewski”].

¹⁸⁷ Attangalaaq, *supra* note 109 at 109.

¹⁸⁸ Sarah L. Newell, Nancy C. Doubleday & Community of Chesterfield Inlet, Nunavut. “Sharing country food: connecting health, food security and cultural continuity in Chesterfield Inlet, Nunavut” (2020) 39 Polar Research 3755, online: <http://dx.doi.org/10.33265/polar.v39.3755> [“Newell et al”].

¹⁸⁹ Mariam T. Harder & George W Wenzel, “Inuit Subsistence, Social Economy, and Food Security in Clyde River, Nunavut” (September 2012) 65:3 *Arctic* 305 at 314 [“Harder & Wenzel”].

¹⁹⁰ ITK Social Determinants, *supra* note 2 at 17; Bennett & Rowley, *supra* note 113 at 87.

¹⁹¹ Newell et al, *supra* note 188.

documented how the practice gives the community “a good feeling, makes people feel welcome, connects people” and fosters a positive social environment in promoting healthy connections in the community.¹⁹² Food sharing plays such an important role that Inuit have rules about how food should be distributed, including who gets what parts of the animal and in what order.¹⁹³ One reason underlying these sharing practices was the belief that hunger could lead to a breakdown of Inuit social values.¹⁹⁴ Historically, people who did not share food were viewed negatively as selfish, and seen as the most likely to resort to cannibalism.¹⁹⁵ The role of resource-sharing practices has been noted in studies of other communities as well, including Cambridge Bay,¹⁹⁶ Igloolik,¹⁹⁷ and Clyde River, where researchers noted that it was clear that households do not function independently of each other, calling for a more nuance understanding of the social dynamics and socioeconomic context of food systems in Inuit communities.¹⁹⁸

To be clear, the practice of sharing country food is not simply of the past but continues today, especially in the current context of food insecurity.¹⁹⁹ However, Inuit have observed contemporary changes in food-sharing practices. In Igloolik, decreased sharing was observed in the context of changing social relations.²⁰⁰ For that study, this was linked to the increasing costs of hunting but also cultural changes affecting Inuit society, with household relationships being

¹⁹² Newell et al, *supra* note 188.

¹⁹³ Bennett & Rowley, *supra* note 113 at 87-88. Note that there are regional variations in these rules.

¹⁹⁴ Bennett & Rowley, *supra* note 113 at 89.

¹⁹⁵ Bennett & Rowley, *supra* note 113 at 89.

¹⁹⁶ Hing Man Chan, Karen Fediuk, Sue Hamilton, Laura Rostas, Amy Caughey, Harriet Kuhnlein, Grace Egeland & Eric Loring, “Food security in Nunavut, Canada: barriers and recommendations” (2006) 65:5 *International Journal of Circumpolar Health*, 416 at 425, online: 10.3402/ijch.v65i5.18132 [“Chan et al”]; Matilde Tomaselli, S Craig Gerlach, Susan J Kutz, Sylvia L Checklay, and the Community of Iqaluklutiaq, “Iqaluklutiaq Voices: Local Perspectives about the Importance of Muskoxen, Contemporary and Traditional Use and Practices” (March 2018) 71:1 *Arctic* 1 at 4 with respect to the sharing of muskox meat specifically.

¹⁹⁷ James D Ford and Maude Beaumier, “Feeding the family during times of stress: experience and determinants of food insecurity in an Inuit community” (March 2011) 177:1 *The Geographical Journal*, 44 at 48 [“Ford & Beaumier”].

¹⁹⁸ Harder & Wenzel, *supra* note 189 at 315.

¹⁹⁹ See for example Ford & Beaumier, *supra* note 197 at 50; Harder & Wenzel, *supra* note 189 at 315.

²⁰⁰ Ford & Beaumier, *supra* note 197 at 53 & 58.

fundamentally altered with the development of wage labour and the importance of money.²⁰¹

This has played out in various ways, such as younger household members with wage employment refusing to support family members who are hunters, or some hunters asking for money for country foods (although many felt this should not be done), or some community members being reluctant to ask for food in the event that they are refused or asked to pay.²⁰²

Societal changes have been observed in Arviat as well, where the systems of sharing have been stressed by the decreasing availability of country food per capita.²⁰³ That study noted evolving perceptions of sharing and self-reliance, where people have become accustomed to receiving money and other resources through governmental support programs such as income support, and have consequently begun to view country food as being something that should be similarly “free” without reciprocity (such as contributions towards fuel expenses).²⁰⁴ In that study as well, it was observed that some families have become less willing to share country food outside of their family due to the costs of hunting.²⁰⁵

Housing in Nunavut is about more than the Western capitalist view of housing as a market commodity. Inuit laws and practices about sharing indicate how Inuit may conceptualize housing as a resource to be shared, to strengthen relational bonds and support overall community well-being. This Inuit Qaujimajatuqangit perspective can also deepen our understanding of phenomena like homelessness and overcrowding: as noted in one report, homeless Inuit in Nunavut survive because of the cultural values of maintaining family ties and sharing.²⁰⁶ This

²⁰¹ Ford & Beaumier, *supra* note 197 at 58.

²⁰² Ford & Beaumier, *supra* note 197 at 58.

²⁰³ Maude C Beaumier, James D Ford, & Shirley Tagalik, Shirley, “The food security of Inuit women in Arviat, Nunavut: the role of socio-economic factors and climate change” (2015) 51:260 *Polar Record* 550 at 555, online:

<http://dx.doi.org/10.1017/S0032247414000618>

[“Beaumier, Ford & Tagalik”].

²⁰⁴ Beaumier, Ford & Tagalik, *supra* note 203 at 554.

²⁰⁵ Beaumier, Ford & Tagalik, *supra* note 203 at 555.

²⁰⁶ *Little Voices*, *supra* note 2 at 57.

perspective also highlights the impacts of colonialism in imposing Western values and conceptions. Inuit have noted how these relationship-based values of sharing, interconnectedness, and mutual reliance have been replaced with “the logic of a culture based on attempts to manipulate nature for profit and the importance of owning things.”²⁰⁷ In particular, we can see how this has impacted resource allocation, including how housing is allocated in Nunavut, such as in Chapter 5’s discussion about applying for public housing. For example, Tina Piulia DeCouto explains that sharing as a specific meaning in its application for Inuit: “[S]haring is applied in the context of perceiving a need and not putting others in a position to have to request something. This fosters our values and ensures Inuit are able to keep our dignity intact.”²⁰⁸ She suggests that territorial government policies could better reflect this Inuit concept through government procedures that recognize people’s needs without putting them in positions to have to request the assistance.²⁰⁹ We will see how this is not the current practice for public housing in Nunavut, where people must apply for it and are put on long waiting lists. Inuit have suggested that many conflicts in Western society are the result of inequality, where laws in Western society deal with the consequences of a culture of unequal people: “The imbalance caused by a failure to internalize the value of *tunnganarniq* [being kind-hearted and caring] is the eventual suffering of all people.”²¹⁰

2.2.2.c. Ethical implications for research methodologies

Inuit Qaujimajatuqangit also has ethical implications for research methodology. Inuit have criticized the harmful role that scientific research in Inuit Nunangat has played throughout history as a tool of colonialism against Inuit, while also displacing Inuit and their knowledge

²⁰⁷ Karetak & Tester, *supra* note 94 at 7.

²⁰⁸ DeCouto, *supra* note 171 at 174.

²⁰⁹ DeCouto, *supra* note 171 at 174.

²¹⁰ Karetak & Tester, *supra* note 94 at 13.

from these scientific research processes.²¹¹ Concerns include the lack of community input in identifying research questions and in designing studies, lack of local involvement in the research process, and the use of inappropriate research methodologies.²¹²

Recognizing the harm that has been done by researchers for many decades, there has been a push to transform the way research practices in Inuit Nunangat should be conducted.²¹³ Inuit want research that empowers them and meets the need and priorities of their communities.²¹⁴ Incorporating Inuit Qaujimajatuqangit into research means more than extracting data sets from Inuit sources: it is about conducting research with certain respectful and inclusive attitudes and actions throughout the life of the research project, one that is consistent with Inuit Qaujimajatuqangit principles and supports Inuit self-determination in research.²¹⁵ As one example, one of the key aspects to informing respectful research practices in Inuit Nunangat is community engagement through meaningful personal relationship building, in order to ensure that the research will benefit the community.²¹⁶ This relationship-based approach requires researchers to respectfully engage with communities with an honest, informed but open-minded approach about proposed research projects prior to the start of the research and throughout, and strive to have the research benefit the community by addressing community concerns.²¹⁷

In Chapter 3, I describe how I have tried to follow this guidance in the design of my research project. There have been a number of successful examples of research being carried out

²¹¹ Inuit Tapiriit Kanatami, *National Inuit Strategy on Research*, (2018) at 5, online (pdf): <https://www.itk.ca/wp-content/uploads/2018/04/ITK_NISR-Report_English_low_res.pdf> at 5, 8 and 11 [NISR]; Kitikmeot Heritage Society, *supra* note 24 at 2.

²¹² Nickels et al, *supra* note 24 at 2 and 4.

²¹³ NISR, *supra* note 211; Kitikmeot Heritage Society, *supra* note 24 at 38; ScIQ, *supra* note 24.

²¹⁴ NISR, *supra* note 211 at 8.

²¹⁵ ScIQ, *supra* note 24 at 4; Oosten & Laugrand, *supra* note 111 at 19.

²¹⁶ ScIQ, *supra* note 24 at 10; Nickels et al, *supra* note 24 at 6; Kitikmeot Heritage Society, *supra* note 24 at 35 & 36; Ferrazzi, Christie et al, *supra* note 24; Stiegman & Castleden, *supra* note 24.

²¹⁷ Nickels et al, *supra* note 24 at 5, 8 and 22; ScIQ, *supra* note 34 at 8; Kitikmeot Heritage Society, *supra* note 24 at 37.

in Inuit Nunangat in a manner aligned with Inuit Qaujimajatuqangit,²¹⁸ and there are various ways in which this approach can be operationalized. For this doctoral research, I implement institutional ethnography as research methodology, which, when informed by Inuit Qaujimajatuqangit, can serve as a suitable tool for understanding access to justice in Nunavut.

2.2.3. Institutional ethnography

Institutional ethnography is a feminist socio-legal methodology first developed by late Canadian sociologist Dorothy Smith, which aims to reveal to people how their activities form part of the ruling relations, beyond themselves, their perspectives, and their experiences.²¹⁹ Ruling relations can be understood as “the extraordinary yet ordinary complex of relations that are textually mediated, that connect us across space and time and organize our everyday lives”²²⁰ from which power is generated and exercised in modern society.²²¹ I will expand more on ruling relations later in this section. Institutional ethnography’s notion of institution does not refer to a particular formalized organization, such as the Nunavut Housing Corporation, but instead represents the nexus of processes, courses of action, and relations that coordinate people’s activities across multiple local sites that is the subject of study in institutional ethnography.²²²

The goals of institutional ethnography are, first, to understand and appreciate the embodied experiences of individuals, and secondly, to hook up the accounts of these individuals to the complex institutional sites and processes that shape, coordinate, and organize individuals’

²¹⁸ See for example: Jackie Dawson, Natalie Ann Carter, Nicolien van Luijk, Melissa Weber, & Alison Cook, “Arctic corridors and northern voices project: Methods for community-based participatory mapping for low impact shipping corridors in Arctic Canada” (2020) 7 *MethodsX* [“Dawson et al.”]; Oosten & Laugrand, *supra* note 111; Ferrazzi, Christie et al, *supra* note 24.

²¹⁹ Smith & Griffith, *supra* note 8 at 4.

²²⁰ Smith, *Sociology for People*, *supra* note 7 at 10.

²²¹ Devault & McCoy, *supra* note 7 at 15.

²²² Smith, *Texts*, *supra* note 8 at 161; Devault & McCoy, *supra* note 7 at 17; Smith, *Sociology for People*, *supra* note 7 at 101; Smith & Griffith, *supra* note 8 at 9.

experiences.²²³ Rather than employing a prescribed orthodoxy or a pre-given theoretical destination, it is an emergent mode of inquiry that discovers, rather than theorizing, the connections between people's activities and the extended social relations that are not visible to them, to reveal these ongoing social processes.²²⁴

As a research process, institutional ethnography projects begin with the actual lived experiences of people involved in the institutional processes as the entry, building an account of their situation and, the work that they do, explored from their perspective.²²⁵ However, it is important to move beyond their immediate experiences, and these accounts of their experiences will help define the direction of the institutional ethnographer's further steps – to discover how these local activities are embedded in and coordinated by the ruling relations.²²⁶ This involves stitching together these lived experiences and hooking them up into the larger picture that is the institutional complex – somewhat like the pieces of fabric and fur that Inuit women sew together into wall hangings. But this big picture, though present, is not readily observable by any one person from their standpoint within these institutional processes, until they are made visible by the institutional ethnography in stitching them together.²²⁷ The purpose of an institutional ethnography is therefore not to generalize about the participants being interviewed, or to report an account of an event, but rather to take the participant's knowledge of how something was done, and connect it to social processes beyond the individual in a way that has generalizing effects – allowing the institution to be recognized as the same across multiple local sites.²²⁸

²²³ Liza McCoy, "Keeping the Institution in View: Working with Interview Accounts of Everyday Experience" in Dorothy Smith, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 109 at 113 & 117 ["McCoy, *Keeping the Institution*"].

²²⁴ Smith, *Sociology for People*, *supra* note 7 at 3, 38, 52; Devault & McCoy, *supra* note 7 at 16; Smith & Griffith, *supra* note 8.

²²⁵ Smith, *Sociology for People*, *supra* note 7 at 31; Devault & McCoy, *supra* note 7 at 18.

²²⁶ Smith, *Texts*, *supra* note 8 at 160 & 161; Smith, *Sociology for People*, *supra* note 7 at 31; Devault & McCoy, *supra* note 7 at 18.

²²⁷ Smith, *IE as Practice*, *supra* note 20 at 4.

²²⁸ Smith, *Texts*, *supra* note 8 at 164; Devault & McCoy, *supra* note 7 at 18; Smith & Griffith, *supra* note 8 at 18 & 19.

Institutional ethnography diverges from more mainstream sociological approaches in a number of ways. First, rather than focusing on abstract concepts or categories that are detached from reality and displaced from what is actually happening,²²⁹ institutional ethnography is meant to be a sociology *for* the people, exploring actual people's actual activities.²³⁰ Furthermore, not only do institutional ethnography researchers focus on people and their doings, they focus on people as subjects, knowers whose experiences serve as the researcher's authoritative source, rather than see participants as objects of study lacking agency whose behaviours are to be explained, as is done in more mainstream forms of sociology.²³¹ Institutional ethnography researchers do not focus on using these brief glimpses into people's lives to make generalizations of pre-given categories, as they argue has been done in mainstream sociology; instead, the focus is on how these activities are organized across different local settings,²³² in order to reveal more about the ruling relations that hold such power over our lives.²³³

There are a few concepts commonly used by institutional ethnographers, but these concepts are not meant to be abstract theoretical concepts, but rather are meant to guide the direction of the ethnographer's research practice, helping ethnographers to know what to pay attention to.²³⁴ One important concept is work, which institutional ethnographers see as more than paid labour, using a more expansive conception that includes anything intentionally done by people that requires time and effort, done within definite local conditions.²³⁵ This generous conception is linked to the practical activities of everyday life, allowing institutional ethnographers to study how people get

²²⁹ Smith, *Sociology for People*, *supra* note 7 at 31 & 54; Smith, *Texts*, *supra* note 8 at 166; Smith, *Conceptual*, *supra* note 7 at 42; Smith & Griffith, *supra* note 8 at 5.

²³⁰ Smith, *Texts*, *supra* note 8 at 161; Smith & Griffith, *supra* note 8 at 23.

²³¹ Smith & Griffith, *supra* note 8 at 10 and 23; Smith, *Sociology for People*, *supra* note 7 at 22 & 31.

²³² Smith, *Sociology for People*, *supra* note 7 at 129; Devault & McCoy, *supra* note 7 at 18.

²³³ Smith & Griffith, *supra* note 8 at 23.

²³⁴ Smith & Griffith, *supra* note 8 at 30 & 31.

²³⁵ Smith, *Sociology for People*, *supra* note 7 at 152 & 154; Smith & Griffith, *supra* note 8 at 41.

things done in real situations, and how they are connected to the vast network of institutional relations, discourses, and work processes.²³⁶ The paid work that I did as a housing lawyer in talking to my clients and researching their cases was, indeed work. But when my client calls a baby-sitter to watch her kids while she meets with me, or when she asks her neighbour to borrow a camera so she can take a photo of the disrepair in her house, or when she simply waits for me to call her with an update on her file – institutional ethnographers could consider all of these activities to be work as well.

Another important concept for this institutional ethnography is discourse, specifically institutional discourse, which are the authoritative terms or ways of knowing that keep people institutionally accountable.²³⁷ It is the institutional view of how things are and how things work, without regard for how people actually experience such things. We will see in this research how the institutional discourse on the housing continuum as reflected in institutional laws and policies simultaneously coordinate the activities of community members in Cambridge Bay, while at the same time being at odds with their actual experiences.

A key concept in institutional ethnography is the critical role of texts in coordinating people's actions. Texts are words, images, or sounds set into some kind of material form with a relatively fixed and replicable character which allows them to play a mediating / standardizing role in coordinating people's work.²³⁸ They have a quality that allows them to be “stored, transferred, copied, produced in bulk, and distributed widely, allowing them to be activated by users at different times in different places.”²³⁹ Texts tell people what to do, and transforms the activities of people into more than just things that they are doing but also into “expressions of a

²³⁶ McCoy, *Keeping the Institution*, *supra* note 223 at 110 & 111; Smith & Griffith, *supra* note 8 at 31.

²³⁷ Smith, *Sociology for People*, *supra* note 7 at 113; McCoy, *Keeping the Institution*, *supra* note 223 at 118.

²³⁸ Smith, *Sociology for People*, *supra* note 7 at 66; Devault & McCoy, *supra* note 7 at 34.

²³⁹ Devault & McCoy, *supra* note 7 at 34.

higher source of organization, independent of particular people.”²⁴⁰ Text-based forms of knowledge and discursive practices play a central role in large-scale organization and ruling relations in modern societies.²⁴¹ Institutional ethnographers are interested in discovering *how* texts - for example, the *Residential Tenancies Act* in Nunavut - coordinate and subordinate the activities of people, such as tenants, landlords, and service providers, across multiple sites in a way that allows ruling relations to exist beyond any one particular locality.²⁴²

Finally, a central focus in institutional ethnography is ruling relations, the unseen forces that coordinate our everyday actions across different locations, but exist beyond what we can see from our standpoints. Smith explains that the term ruling in this context is more than the idea of government as political organization, but rather:

That total complex of activities, differentiated into many spheres, by which our society is ruled, managed and administered. It includes what the business world calls *management*, it includes the professions, it includes government and the activities of those who are selecting, training, and indoctrinating those who will be its governors. The last includes those who provide and elaborate the procedures by which it is governed and develop methods for accounting for how it is done--namely, the business schools, the sociologists, the economists.²⁴³

Smith conceptualizes these governing processes of society as being organized as social entities constituted as external to the people participating and performing in the processes.²⁴⁴ She traces how this evolved in Western society, in how the organization of ownership and control of capital changed from patronage by those who held power in their personal capacity toward bureaucratic administration, along with the increasing prominence of practice standards, professional credentials, technical specialization, rules of procedure, etc.²⁴⁵ This shift in power,

²⁴⁰ Smith, *Texts*, *supra* note 8 at 67 and 82.

²⁴¹ Devault & McCoy, *supra* note 7 at 33.

²⁴² Smith, *Texts*, *supra* note 8 at 66 and 164; Griffith, *supra* note 1 at 137; Smith & Griffith, *supra* note 8 at 50.

²⁴³ Smith, *Conceptual*, *supra* note 7 at 14.

²⁴⁴ Smith, *Conceptual*, *supra* note 7 at 15; Smith, *Sociology for People*, *supra* note 7 at 13.

²⁴⁵ Smith, *Sociology for People*, *supra* note 7 at 17.

- not just in government bureaucracies, but corporations, academia, other professions, and mass media - means that people's activities are coordinated by ruling relations that operate in the abstract outside of their subjective lived realities, even though the ruling still very much shapes people's lives in a real way.

In earlier sections of this chapter, I discussed how the activities of Inuit have been coordinated for millennia by various kinds of relations – their relationship with the environment and wildlife, as well as relations with their family and extended camps, all according to Inuit Qaujimajatuqangit. However, through colonialism, Inuit are now also ruled by something else, something that is outside of their local context, beyond the extended familial relations they know. The abstract laws, regulations, policies, procedural texts and other features of western bureaucratic administration produced in Ottawa or Iqaluit or elsewhere are now imposed on Cambridge Bay residents, shaping their experiences even as aspects of these subjective lived realities are not accounted for in these institutional texts. This is what I refer to as ruling relations in the institutional ethnographic sense.

As an illustration, a law under the *Residential Tenancies Act* states that a person living in a house provided by their employer whose job is lawfully terminated must move out of the home within one week.²⁴⁶ This is a rule enacted by the territorial government, which I argue in Chapter 8 was set in place under an assumption that employer-provided housing is meant to be a transition measure for workers until they privately rent a home or buy a house. Everyone has to follow this rule. Employers can invoke this rule; workers who have been terminated must move out; and if the matter is brought up before the Residential Tenancies Officer, that official must apply the rule and order the worker to vacate the home. It is a standardizing rule dictating

²⁴⁶ *Residential Tenancies Act*, R.S.N.W.T. 1988,c.R-5, s.56(1), to be further explored in Chapter 8 on staff housing.

impersonally a sequence of events to be followed in all relevant situations. It does not account for the particular details of a situation, such as the fact that there is a housing crisis and the worker may not have another place to move to, or may not be able to afford a move into private market housing. Institutional ethnography looks at how these standardizing forms coordinate people's lived experiences.

As mentioned, as this shift in the practices of ruling emerged in Western society, it was also imposed on Inuit during processes of colonization where Western practices of governing were implemented in Inuit societies, even though Inuit had and have their own worldviews, rules, and methods for going about their everyday activities, as described in the previous section. As the next section and the following data analysis chapters will expound, it is in this context that the ruling relations continue to shape the impact of colonialism on Inuit societies.

2.3. Exploring the compatibility of Institutional ethnography, Inuit Qaujimajatuqangit & access to justice in Nunavut

Through this doctoral research, I look at how institutional ethnography can contribute to the field of law in offering a practical tool for studying access to justice. Given my focus on a community in Inuit Nunangat, as discussed earlier, it is equally important that the project be informed by the ethical framework of Inuit Qaujimajatuqangit. For the rest of this section, I will provide a further comparative analysis on how these three frameworks interact.

2.3.1. Experientially-grounded research: Looking at what is actually happening

Rankin warns about inappropriately blending institutional ethnography with other conceptual frameworks due to the risk that this combination may detract from institutional ethnography's purpose in explicating the social relations coordinating people's activities as

problematized by the researcher.²⁴⁷ While understanding this concern, I believe this can be managed with this project. As noted, access to justice is a diverse topic of study that does not prescribe a specific theoretical lens or mode of inquiry. Instead, I see access to justice as providing the problematic for an institutional ethnography. It asks the question. It can present a concern about a particular law-related problem in the everyday world as a starting point, such as a person's story revealing conflicts between the "authorized" knowledge as stated by the law and their actual experience of the law.²⁴⁸ Using this access to justice concern as a starting point, the institutional ethnographer can conduct an inquiry to explore how things are put together beyond this starting point.²⁴⁹ In this way, institutional ethnography can provide a practical investigatory tool for studying an access to justice issue. Rodriguez's institutional ethnography on the work of professional frontline workers applying the *Americans with Disabilities Act* in academic disability services departments could be characterized as an access to justice project, even if the term is not specifically used, in revealing how the legislation is applied on the ground and highlighting challenges.²⁵⁰

I have grounded this access to justice research project on the lived experiences of people. Inuit have emphasized the importance of including their perspectives, knowledge, and lived experiences in Inuit Nunangat research.²⁵¹ Institutional ethnography could potentially serve as a useful methodology for respectfully listening to and centering Inuit voices in research. In an institutional ethnography, the knowledge and experiences of people serve as the researcher's fundamental resource for data, and their understanding and viewpoints are to be preserved in the

²⁴⁷ Rankin, *Caution*, *supra* note 1 at 8-9.

²⁴⁸ Rankin, *Caution*, *supra* note 1 at 3.

²⁴⁹ Smith, *Sociology for People*, *supra* note 7 at 40.

²⁵⁰ Rodriguez, *supra* note 40 at 393.

²⁵¹ Oosten & Laugrand, *supra* note 111 at 19; NISR, *supra* note 211; Nickels et al, *supra* note 24 at 5; Kitikmeot Heritage Society, *supra* note 24; SciQ, *supra* note 24.

data when writing the institutional ethnography.²⁵² This focus on “what’s actually going on among people” rather than relying on abstract concepts and theorization that subsume and displace people’s experiences²⁵³ not only centres the lived experiences and knowledge of Inuit in my research, but is also consistent with Inuit Qaujimajatuqangit’s practical approach to learning about things through experience.²⁵⁴

As mentioned, the experientially-grounded nature of institutional ethnography also offers a practical approach to study access to justice issues from the perspective of the people navigating their law-related problems, in looking at the actual experiences of people, and how things work in reality and are empirically linked.²⁵⁵ This aligns with Trevor Farrow’s public-centered approach to access to justice, as described earlier.²⁵⁶ In her classification system of different approaches for measuring access to justice, Sandefur identifies a “bottom-up” approach, which “starts with individual or shared experiences of trouble or adversity and trace these experiences through parts of their social and legal histories” and often involve surveys, ethnographies and other qualitative research.²⁵⁷ This category of research include legal scholars who have interviewed members of the public about their experiences and perceptions of justice, such as Mosher’s study of racialized youth in the Jane & Finch neighbourhood of Toronto²⁵⁸ or Greene’s interview of residents of public housing communities.²⁵⁹ For his study, Farrow and his colleagues asked members of the public open-ended questions about their ideas of justice and experiences of justice barriers, to understand

²⁵² Smith, *Sociology for People*, *supra* note 7 at 124; Smith & Griffith, *supra* note 8 at 17 & 21.

²⁵³ Smith & Griffith, *supra* note 8 at 10 & 23.

²⁵⁴ Uluadluak, *supra* note 101 at 163-164; Karetak & Tester, *supra* note 94.

²⁵⁵ Smith, *IE as Practice*, *supra* note 20 at 1-2; Devault & McCoy, *supra* note 7 at 15; Smith, *Sociology for People*, *supra* note 7 at 70.

²⁵⁶ Farrow, *supra* note 81 at 966.

²⁵⁷ Sandefur, *supra* note 77 at 341.

²⁵⁸ Janet Mosher, “Lessons in Access to Justice: Racialized Youths in Ontario’s Safe Schools” (2008) 46:4 Osgoode Hall Law Journal 807 [“Mosher”].

²⁵⁹ Greene, *supra* note 83.

their perspectives.²⁶⁰ Institutional ethnography can be classified under this bottom-up category, although the methodology differs from the aforementioned studies by Mosher, Greene, and Farrow. While those pivotal studies revealed important empirical insights about the every-day experiences and perceptions of members of the public, institutional ethnography adds an additional focus by looking at how these experiences and perceptions of actual people are put together by the ruling relations through texts such as laws, regulations and policies. In the next sections, I will explain how this focus on the ruling relations can in turn reveal not only access to justice insights but also broader insights about the ongoing impacts of colonialism.

2.3.2. Disjuncture as indications of colonialism: the role of ruling relations

Turner and Bomberry applied institutional ethnography in another Indigenous context, specifically to using Haudensaunee principles to study police services for Six Nations victims of sexual violence.²⁶¹ This involved adapting certain institutional ethnography terms for the Six Nations context, to avoid taking on any words that could “mistakenly be taken to stand in for our people, our realities, our views, laws, and ways of working for our people.”²⁶² For example, they noted how they did not talk about social relations because “the Haudenosaunee understand relations are among all living things, not only human beings.”²⁶³ Their work illustrates how while applying institutional ethnography in an Indigenous context may require certain considerations, it can be done in a manner that can align with institutional ethnography’s orientation to explicate the relations that coordinate people’s every day activities.

²⁶⁰ Farrow, *supra* note 81 at 966.

²⁶¹ Susan Marie Turner and Julia Bomberry, “Chapter 16: Building Change on and Off Reserve: Six Nations of the Grand River Territory” in Paul C Luken & Suzanne Vaughan, eds, *The Palgrave Handbook of Institutional Ethnography* (Springer 2021), 283 at 284 [“Turner & Bomberry”].

²⁶² Turner & Bomberry, *supra* note 261 at 286 & 287.

²⁶³ Turner & Bomberry, *supra* note 261 at 288.

Inuit have long recognized that there are many forces that shape their experiences and activities – including social relations, in the popular sense of the term. Harder and Wenzel have highlighted, for example, the role of social relations as influencing how individuals and households access food and other resources through Inuit food sharing practices within the *ilagiit* social unit, even though these social relations may not be accounted for in conventional Arctic food security studies that might only focus on food production or food consumption.²⁶⁴ Institutional ethnography focuses on a specific dimension of these unseen social relations, particularly the ruling relations that coordinate and subordinate those who are not members of dominant classes of privilege from afar, from beyond their immediate local standpoint.²⁶⁵

In this way, institutional ethnography can be used to highlight the disjuncture between long-held Inuit Qaujimajatuqangit practices of governance and the way that the ruling relations organize Inuit experiences in the context of a Western bureaucratic-based system imposed through processes of colonization. For example, through their interviews with Inuit elders on Inuit Qaujimajatuqangit, Bennett and Rowley describe how Inuit systems of leadership were practical and based on personal relationships – through a leader whose skills and wisdom people knew and trusted.²⁶⁶ Part of the role of a leader was to orally pass on repositories of knowledge accumulated over generations and to remind people of Inuit values and laws.²⁶⁷ We can see how Inuit authority in this context is based on personal characteristics and relationships. One does something because someone they know and trust is experienced has told them they should do it. In contrast, Smith describes how the nature of ruling has shifted in Western society, flowing through institutional positions:

²⁶⁴ Harder & Wenzel, *supra* note 189 at 315 & 316.

²⁶⁵ Smith, *Conceptual*, *supra* note 7 at 28.

²⁶⁶ Bennett & Rowley, *supra* note 113 at 95.

²⁶⁷ Bennett & Rowley, *supra* note 113 at 96-97.

In general, instead of being ruled directly by individuals whom we've known (and perhaps hated) for years and who were known before us by our parents, we are ruled by people who are at work in corporations, government professional settings and organizations, universities, public schools, hospital and clinics, and so on and so on. Though they are, of course, individuals, their capacities to act derive from the organizations and social relations that they both produce and are produced by. The relations and organization in which they are active are also those that organize our lives and in which we in various ways participate.

[...]

Watching television, reading the newspaper, going to the grocery store, taking a child to school, taking on a mortgage for a home, walking down a city street, switching on a light, plugging in a computer – these daily acts articulate us into social relations of the order I have called *ruling* as well as those of the economy; what we pick up when we're out shopping will likely have been produced by people living far away from us whom we'll never know. And so on. These transactions aren't with people we know as particular individuals, such as family members or neighbors. It doesn't matter whether the taxman or the supermarket clerk is someone we have a personal relationship with; it's their job that is the basis on which we interact with them. It doesn't matter that we'll never know – except as screen images – the people who tell us news stories on CNN or CBC. The functions of 'knowledge, judgment, and will' have become built into a specialized complex of objectified forms of organization and consciousness that organize and coordinate people's everyday lives.²⁶⁸

Smith explains how unseen ruling relations coordinate the work of people elsewhere whom we may not know (or ever know) across time and space with our own everyday activities, through the use of texts like laws, policies, guidelines, and rules of procedures.²⁶⁹ Through colonization, these western bureaucratic practices of large-scale organization have been imposed on Inuit in a manner that sharply contrasts with Inuit practices of governance. Institutional ethnography's focus on explicating the ruling relations can help illustrate how colonialism has had continuing impacts on Inuit by revealing the disjunctures between these western and Inuit practices of governance.

This is particularly evident when comparing the role of texts in producing these institutional accounts to the Inuit practices of ruling that colonialism has sought to usurp and

²⁶⁸ Smith, *Sociology for People*, *supra* note 7 at 18.

²⁶⁹ Smith, *Sociology for People*, *supra* note 7 at 24.

displace. Texts can indefinitely replicate identical forms of meaning across many settings and therefore play a key role in how the ruling relations coordinate people's activities,²⁷⁰ and it is these text-mediated relations that serve as the forms through which power is generated and held in contemporary (Western) societies.²⁷¹ In contrast, Inuit had established their own practices of sharing knowledge to guide their activities long before Western bureaucratic systems were imposed, including through oral traditions and story-telling. These orally-based practices feature characteristics that differ sharply with these institutional texts of infinite identical replicability. Inuit have indicated that their stories may have different versions and emphases in different contexts, in order to provide the principle needed for the specific context.²⁷² In general, the knowledge contained within Inuit Qaujimajatuqangit is considered to be one that is dynamic, flexible, adaptable to specific contexts.²⁷³

Some Inuit Elders have expressed concerns about writing down Inuit Qaujimajatuqangit concepts on paper – and what we could surmise might convert them into texts in the institutional ethnography sense - due to some of the differences between written and oral communication.²⁷⁴ In particular, Karetak and Tester noted “if one person writes something, it can easily be interpreted to mean that the author is speaking for the collective – that their words represent the ideas of others. An oral culture doesn't so easily present ideas as final or definitive.”²⁷⁵ Inuit

²⁷⁰ Dorothy E Smith, *Writing the social: critique, theory, and investigations* (Toronto: University of Toronto Press, 1999) at 79 [“Smith, *Writing the Social*”].

²⁷¹ Smith, *Writing the Social*, *supra* note 270 at 79.

²⁷² Karetak & Tester, *supra* note 94 at 4.

²⁷³ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 15; Akittiq, *supra* note 106 at 70.

²⁷⁴ Karetak & Tester, *supra* note 94 at 17. It also should be noted that written forms of text specifically are not always the most preferred/popular formats for conveying information in Nunavut, given the generally low averages of literacy levels. For example, it has been advised the public legal education materials should not be distributed solely in print: form, but in other audio / visual formats as well: Justice Canada, Evaluation Division, “Access to justice services agreements evaluation” (October 2012), online: <https://justice.gc.ca/eng/rp-pr/cp-pm/eval/rep-rap/12/ajs-sja/ajs-sja.pdf>; Patterson, *supra* note 146 at 85; Pauktuutit Strategic Plan, *supra* note 178 at 6; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 75; Pauktuutit Inuit Women of Canada, *Abuse Prevention Services in Inuit Communities* (Ottawa: Pauktuutit, 2004) at 14, online (pdf): https://www.pauktuutit.ca/wp-content/uploads/AbusePreventionServices_e.pdf [“Pauktuutit, *Abuse Prevention Services*”].

²⁷⁵ Karetak & Tester, *supra* note 94 at 18.

elders have expressed concern that the intended meaning in a written text may be misunderstood or change from what they intended.²⁷⁶ There is a risk that by writing about Inuit Qaujimajatuqangit, it will be seen as simply a list of rules, or a way of thinking, when it is “a way of thinking and doing based in beliefs, experience and wisdom.”²⁷⁷ They noted that communication is seen as a relationship in Inuit culture, and “[o]ne cannot have a relationship with someone who has written a book hundreds or thousands of miles away.”²⁷⁸ Some of the concerns raised about writing down Inuit laws and other aspects of Inuit Qaujimajatuqangit are similar to the considerations expressed by Val Napoleon with respect to recording Indigenous law.²⁷⁹

These concerns by Inuit Elders reflect what institutional ethnographers might describe as the alienating characteristics of institutional texts, which coordinate the activities of people located at other sites and erase the relationships that would have existed between the knowledge-sharer and the knowledge receiver.²⁸⁰ These qualities of texts identified by Inuit elders are what produce the institutional accounts that I will examine further later, especially in chapter 7, in fixing an idea or meaning in a written text as final, definitive, standardized and absent of context.

Through this institutional ethnography, I will show how people’s experiences in navigating the housing crisis in Cambridge Bay are coordinated by ruling relations in a manner that does not reflect – and in fact stand in stark contrast to – Inuit worldviews and practices. These disparities in imposing a Western capitalist bureaucratic system of large-scale organization demonstrate the ongoing impacts of colonialism on Inuit. Institutional ethnography

²⁷⁶ Karetak & Tester, *supra* note 94 at 17 & 18.

²⁷⁷ Karetak & Tester, *supra* note 94 at 19.

²⁷⁸ Karetak & Tester, *supra* note 94 at 17.

²⁷⁹ Val Napoleon, “Did I Break It? Recording Indigenous (Customary) Law” (2019) 22 Potchefstroom Electronic Law Journal.

²⁸⁰ Smith, *Conceptual*, *supra* note 7 at 4.

therefore can serve to illuminate these disjunctures from Inuit Qaujimajatuqangit. In highlighting these disjunctures, it also reveals insights about access to justice issues, which I will discuss next.

2.3.3. Disjuncture as access to justice issues

Not only can institutional ethnography illustrate the disjunctures between western institutional practices of governing and Inuit Qaujimajatuqangit approaches, it also has much to offer to access to justice discussions in the way it can reveal the juxtaposition – and disjunctures – of institutionally-oriented accounts (the law as a standard/standardizing text of ruling relations) and primary narratives (the local actualities of people).²⁸¹ Smith, Mykhalovskiy, and Weatherbee explored the organizational disjunctures between the way people living with HIV/AIDS carried out their lifework and the institutionalized work processes of social agencies as organized by legislation, regulation, and policy directives.²⁸² Their research proposal remarked on “the way legislation, passed in one location, comes to impact people’s lives in other locations across time.”²⁸³ Similar to Tim Diamond’s observation of how aspects of the nursing assistants’ work that were erased from the charts (the texts that represent the institutional account of what is happening) in his institutional ethnography of nursing homes,²⁸⁴ institutional ethnographies can make visible how people’s experiences of legal processes might differ from the how a specific legislation as an institutional text prescribes these processes.

Alex Wilson and Ellen Pence’s institutional ethnography analyzing the United States criminal justice system’s handling of domestic assault cases involving Indigenous women²⁸⁵ is a

²⁸¹ Devault & McCoy, *supra* note 7; Smith & Griffith, *supra* note 8 at 58; Campbell & Gregor, *supra* note 21 at 48.

²⁸² George W. Smith, Eric Mykhalovskiy, and Douglas Weatherbee, “A Research Proposal” in Dorothy Smith, ed, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 167 at 169 & 170 [“Smith, Mykhalovskiy, & Weatherbee”]

²⁸³ Smith, Mykhalovskiy, & Weatherbee, *supra* note 282 at 175.

²⁸⁴ Timothy Diamond, “‘Where did you get the fur coat, Fern?’ Participant Observation in Institutional Ethnography” in Dorothy Smith, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 45 at 55 [“Diamond”].

²⁸⁵ Alex Wilson & Ellen Pence, “U.S. Legal Interventions in the Lives of Battered Women: An Indigenous Assessment” in Dorothy Smith, ed, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 199 at 200 [“Wilson & Pence”].

concrete example of how institutional ethnography can be used to study access to justice in an Indigenous context, even if the term “access to justice” may not have been a central concept in the study. In tracing how domestic assaults cases were processed through the system, Wilson and Pence observed how the real experiences of Indigenous peoples were pulled apart from the cases as they were managed and replaced with a fabricated institutional accounts of the experience, using methods rooted in Westernized concepts.²⁸⁶ They noted how rules, regulations, guidelines, and other texts regulated and standardized the work of legal practitioners in such a way that the reality of women’s situations were distorted to fit into abstract categories to meet institutional needs, resulting in the obstruction rather than promotion of the protection of abuse victims.²⁸⁷

Institutional ethnography offers a different way to analyze legal texts than approaches used by some other legal scholars. For example, while a positivist legal scholar might study a piece of legislation to analyze the legal terms, propositions, and reasoning contained within it, as well as how case law may have further refined interpretations of the legislation, institutional ethnography researchers would consider how a piece of legislation serves as an authorizing text that coordinates a sequence of actions, written in a standardized/standardizing manner to be applied to the local doings of people across different sites of the institution, such as the police station, the jail, the court, and the office of the public attorney.²⁸⁸

These disjunctures between people’s experiences of bureaucratic processes and institutional accounts of these processes can also deepen our understanding of access to justice as not simply having a procedural element, but also substantive and symbolic dimensions as well. In this research, I show how institutional systems are set up to focus on procedural fairness, but the

²⁸⁶ Wilson & Pence, *supra* note 285 at 207.

²⁸⁷ Wilson & Pence, *supra* note 285 at 210.

²⁸⁸ Smith & Griffith, *supra* note 8 at 55.

community members I interviewed were interested in different elements of justice, such as a particular substantive result (having a good home). MacDonald discusses the importance of addressing not just objective barriers to access to justice (such as whether people can, for example, physically access the court), but also subjective barriers, in looking at whether social systems are able to meet the needs of people.²⁸⁹ He argues that Canada's civil justice system favours certain characteristics over others, such as social superiors over social inferiors and organized interests over unorganized interests, as well as favouring inequality dependent on wealth.²⁹⁰ The perceptions that people have about a system's ability to substantively meet their needs in turn lead to insights about symbolic access to justice. MacDonald notes that many groups "actually do not want better access to institutions of 'white man's justice' – notably lawyers and courts. They want their own legal advisers and their own dispute resolution institutions so they can better express their needs."²⁹¹ These dynamics of substantive and symbolic access to justice come into play in this institutional ethnography, particularly where the research prompts questions about Inuit's trust and comfort with using the legal system and housing processes to achieve the results they want.

2.3.4. Institutional ethnography as an empowerment tool for improving access to justice and Inuit self-determination

The three frameworks of access to justice, Inuit Qaujimajatuqangit and institutional ethnography can also share a common empowerment orientation, as a people-centered approach to access to justice can align well with institutional ethnography's emancipatory goals and respectful research practices that support goals for Inuit self-determination. As mentioned, institutional ethnography focuses on people as not objects to be studied, but subjects whose

²⁸⁹ MacDonald, *supra* note 16 at 28.

²⁹⁰ MacDonald, *supra* note 16 at 28.

²⁹¹ MacDonald, *supra* note 16 at 87.

experiences and knowledge serve as sources of authority for the research.²⁹² By inquiring into the institutional practices that govern people's experiences and produce experiences of subordination, institutional ethnography can allow people to learn about how they are intertwined in these processes and relations that are bigger than themselves, and open up possibilities to develop intervention strategies for taking action.²⁹³ As noted by Campbell, "Knowing more about how our lives are tangled in ruling relations can help reduce the frustration we feel about living and working in societies such as ours where things seem to get decided behind our backs, or at least outside of our control."²⁹⁴

In writing about his experience of being trapped on a sinking boat on thin sea ice, Joe Karetak recounted, "I was thinking of everything as if I was looking down at us from above, using my knowledge and imagination to get a clear picture of what was actually happening."²⁹⁵ Understanding one's conditions and sharing this knowledge has been a key part of surviving for Inuit.²⁹⁶ Similarly, understanding and sharing what has happened to Inuit – including sharing these experiences with non-Inuit – has been identified as a key step for healing.²⁹⁷ Institutional ethnography could support this healing by connecting together people's housing experiences to understand how these experiences are organized within Nunavut's housing system, and could potentially inform ideas for how processes within these systems could work to provide a better fit with the everyday lives of Nunavummiut.²⁹⁸

²⁹² Smith & Griffith, *supra* note 8 at 23.

²⁹³ Susan Marie Turner, "Mapping Institutions as Work and Texts" in Dorothy Smith, ed, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 139 at 159 ["Turner"]; Devault & McCoy, *supra* note 7 at 19; Campbell, *supra* note 96 at 91.

²⁹⁴ Campbell, *supra* note 96 at 105.

²⁹⁵ Joe Karetak, "Inuit Knowledge Applies Today" in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), 208 at 211 ["Karetak, *Inuit Knowledge Applies Today*"].

²⁹⁶ Karetak & Tester, *supra* note 94 at 16; Uluadluak, *supra* note 101 at 147.

²⁹⁷ Karetak, *Healing*, *supra* note 104 at 205 and 205.

²⁹⁸ As proposed in Smith, Mykhalovskiy, & Weatherbee, *supra* note 282 at 179; see also Turner & Bomberly, *supra* note 261 at 305.

2.4. Original contributions in filling in the research gaps

In this chapter, I have discussed the context of the housing crisis in Nunavut, as well as the three different fields that have shaped my research: access to justice, institutional ethnography, and Inuit Qaujimajatuqangit. My research uses institutional ethnography as a methodology informed by Inuit Qaujimajatuqangit guidance to understand access to justice as a problematic. This doctoral research project therefore provides an original contribution to the field of knowledge in two different ways: first, in *what* it studies, filling knowledge gaps that have been identified as research priorities by Inuit and others in Nunavut, and secondly, in *how* it approaches the inquiry, in practicing institutional ethnography, informed by Inuit Qaujimajatuqangit, as a practical methodology for understanding access to justice in Nunavut.

My doctoral research on housing addresses a research need that has been identified by Inuit as a significant priority.²⁹⁹ Inuit have been increasingly vocal about the need for research – especially in the social sciences – to reflect local community priorities to benefit them directly, rather than only reflecting external researchers’ interests. Inuit have highlighted the role that research can serve as a tool for creating social equity for Inuit, by providing evidence to make informed policy decisions.³⁰⁰ Inuit have criticized how research funding in Inuit Nunangat is biased towards biological/physical scientific research, rather than responding to Inuit-identified priorities that would provide tangible benefits to their communities.³⁰¹ Social science research activity in Nunavut had in fact decreased in recent years as of 2017³⁰² when I began to develop my research proposal. Academic research focused specifically on housing needs in Nunavut is

²⁹⁹ ITK Social Determinants, *supra* note 2 at 21; Little Voices *supra* note 2 at 38; also confirmed during my scoping exercises.

³⁰⁰ NISR, *supra* note 211 at 5, 8 and 11; Kitikmeot Heritage Society, *supra* note 24 at 34.

³⁰¹ NISR, *supra* note 211 24 & 25.

³⁰² Nunavut Research Institute, 2017 *Compendium of Nunavut Research* (27 August 2018), online (pdf): <https://www.nri.nu.ca/sites/default/files/public/2017_compendium_nunavut_research.pdf>.

limited.³⁰³ Even grey literature outside of academia is limited,³⁰⁴ which is why housing needs in Nunavut has been identified as a research gap, including by the Government of Nunavut, especially those of vulnerable populations.³⁰⁵ None of these existing sources focus specifically on Cambridge Bay. While sources such as Statistics Canada have collected statistical data about housing in Nunavut,³⁰⁶ there is a particular need to understand people's qualitative *experiences* of the housing shortage, including for Inuit women³⁰⁷ and vulnerable populations³⁰⁸ and the barriers that confront them, in order to learn how to improve access to services and resources that they require.³⁰⁹ Mumilaaq Qaqqaq described the need to “hear the stories of complexities from individuals in communities that come as a result of lack of access to housing” in order to gain a holistic perspective and bring a human component beyond the statistics already known.³¹⁰ The need for more personalized stories to understand the “why” of the housing crisis in Nunavut beyond the macro pictures was also affirmed during my preliminary scoping with the Canadian Mortgage and Housing Corporation.

My research addresses these identified research needs to understand people's qualitative experiences related to the housing shortage. It also fills certain research gaps about people's housing situations at the community level, specifically in Cambridge Bay. The research that does

³⁰³ See, however, some academic discussion in: Tester, *supra* note 4 and Lauster & Tester, *supra* note 25. There is some research on the links between housing and health for Inuit: Minich et al, *supra* note 49.

³⁰⁴ Grey literature includes Study of Gender-based Violence and Shelter Services Needs, *supra* note 6; Senate Report, *supra* note 43; Little Voices *supra* note 2; Qaqqaq, *supra* note 3; Federal Housing Advocate's Report, *supra* note 43; Northern Housing Policy Recommendations, *supra* note 4; CMHC Northern Housing Report, *supra* note 5.

³⁰⁵ GN Strategy, *supra* note 2 at 17; NHC Blueprint, *supra* note 2 at 7, 16 and 19.

³⁰⁶ See for example Zachary Thurston and Jeff Randle, Statistics Canada, “Housing Statistics in Canada: Housing Experiences in Canada: Inuit in 2016” (15 August 2022), online: <https://www150.statcan.gc.ca/n1/pub/46-28-0001/2021001/article/00015-eng.htm>

³⁰⁷ Little Voices *supra* note 2 at 16.

³⁰⁸ NHC Blueprint, *supra* note 2 at 16.

³⁰⁹ Little Voices *supra* note 2 at 129.

³¹⁰ Qaqqaq, *supra* note 3 at 16.

exist tends to present relevant data about Nunavut or Inuit Nunangat generally,³¹¹ the capital city of Iqaluit,³¹² or communities other than Cambridge Bay.³¹³

This research also responds to research needs in relation to access to justice in Nunavut. The need for more research on access to justice in general – and specifically the legal needs of the public – has been highlighted.³¹⁴ MacDonald also suggests that access to justice research requires a well-constructed theory of what kind of data needs to be collected.³¹⁵ This is especially the case in Nunavut. I have not yet found academic literature specifically focusing on access to justice relating to housing in Nunavut, and even academic and grey literature on the more general topic of access to justice in Nunavut is limited. Academic literature on Nunavut’s laws – in the sense of the Western common law system – tend to deal with criminal justice in Nunavut,³¹⁶ such as the corrections system in Nunavut.³¹⁷ There is even less academic literature overall on “every day” civil justice issues in Nunavut than for criminal law. Academic research on non-criminal law topics include the Nunavut Agreement³¹⁸ and conjugal succession rights in estates law in Nunavut,³¹⁹ the effectiveness of the *Family Abuse Intervention Act*,³²⁰ the application of

³¹¹ Northern Housing Policy Recommendations, *supra* note 4; Tester, *supra* note 4 at 146-147; ITK Social Determinants, *supra* note 2 at 21-22; Abele et al, *supra* note 4; Impact Economics, *supra* note 4 at 83; Battle & Torjman, *supra* note 4.

³¹² Little Voices *supra* note 2; CMHC Northern Housing Report, *supra* note 5 at 17 & 18; Statistics Canada, *Canadian Housing Statistics Program*, *supra* note 5 at 17 & 18.

³¹³ Qaqqaq, *supra* note 3; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6.

³¹⁴ MacDonald, *supra* note 16 at 102- 103.

³¹⁵ MacDonald, *supra* note 16 at 104.

³¹⁶ For example, see Clark, *supra* note 148 and JC MacDougall, “Access to Justice for Deaf in Inuit in Nunavut: The Role of ‘Inuit Sign Language’” (2001) 42:1 Canadian Psychology 62 [MacDougall]; Priscilla Ferrazzi & Terry Krupa, “Remoteness and its impact on the potential for mental health initiatives in criminal courts in Nunavut, Canada” 77:1 *International Journal of Circumpolar Health* (2018) 1 [“Ferrazzi & Krupa”]; Gevikoglu, *supra* note 132; Matyas, *supra* note 149; Stuempel, *supra* note 163.

³¹⁷ Tammy Landau, “Plus ça? ‘Correcting’ Inuit Inmates in Nunavut, Canada” (2006) 45:2 Howard Journal 191.

³¹⁸ Kate Darling, “Still waiting for the benefits to trickle-down: International children’s rights under a land claim agreement” (2013) 21 *International Journal of Children’s Rights* 543.

³¹⁹ Sarah A E Kay, “Conjugal Succession Rights in the Northwest Territories and Nunavut” (2007) 26 *Estates, Trusts & Pensions Journal* 356.

³²⁰ *Family Abuse Intervention Act*, SNU 2006, c 18; Chris Durrant, “None of that paper stuff works: A critique of the legal system’s efforts to end domestic assault in Nunavut” (2014) 19 *Appeal* 43 [“Durrant”]; Preliminary Findings Report, *supra* note 95.

administrative law principles of judicial review in Nunavut,³²¹ environmental law in Nunavut, especially with respect to climate change³²² and the mining industry.³²³ Grey literature also tends to focus on the criminal justice system,³²⁴ although some grey reports have been published reviewing the civil justice system in general.³²⁵ There has been virtually no academic - or grey literature - focus on housing law in Nunavut.

From my literature review, there are generally two types of information sources that discuss the impacts of colonization on Inuit and their laws, a key aspect of access to justice in Nunavut. The first type consists of grey literature reports as well as academic papers on access to justice problems in Nunavut, mostly examining formal court processes under the common law system and legal service provision.³²⁶ The second type involves sources interviewing Inuit elders and knowledge holders about Inuit laws and Inuit Qaujimajatuqangit, without necessarily

³²¹ Kieu, *supra* note 161; Dylan, *supra* note 175.

³²² See for example Jessie Hohmann, "Igloo as Icon: A Human Rights Approach to Climate Change for the Inuit?" (2009) 18 *Transnational Law & Contemporary Problems* 295; Bradford W Morse and Michelle Zakrisson, "The Impact on the Inuit of Environmental Degradation to the Canadian Arctic" (2010) 39 *Common Law World Review* 48; Konstantia Koutouki and Natasha Lyons, "Canadian Inuit Speak to Climate Change: Inuit Perceptions on the Adaptability of Land Claims Agreements to Accommodate Environmental Change." (2009-2010) 27 *Wis Int'l L J* 516; David Vanderzwaag, Rob Huebert, Stacey Ferrara, "The Arctic Environmental Protection Strategy, Arctic Council and Multilateral Environmental Initiatives: Tinkering while the Arctic Marine Environment Totters" (2002) 32:2 *Denver Journal of International Law & Policy* 132. For an overview and gap analysis of the literature on the human dimensions of climate change in Nunavut (not restricted to legal studies), see James D Ford, Kenyon C Bolton, Jamal Shirley, Tristan Pearce, Martin Tremblay, & Michael Westlake, "Research on the Human Dimensions of Climate Change in Nunavut, Nunavik, and Nunatsiavut: A Literature Review and Gap Analysis" (2012) 65:3 *Arctic* 289 at 292.

³²³ Laura Bowman, "Sealing the Deal: Environmental and Indigenous Justice and Mining in Nunavut" (2011) 20:1 *Review of European Community & International Environmental Law* 19; Katja Gocke, "Uranium Mining in Nunavut" (2013) 5 *Yearbook of Polar Law* 119.

³²⁴ Clairmont, *supra* note 168; Crnkovich & Addario, *supra* note 163 (focusing on the criminal justice system); NTI, *supra* note 110; QIA, *supra* note 111.

³²⁵ Patterson, *supra* note 146; Anderson and Stratton, *supra* note 148 at 9.

³²⁶ For example: Formative Evaluation, *supra* note 148; Pauline de Jong, *Legal Aid Research Series: Legal Aid Provision in Northern Canada: Summary of Research in the Northwest Territories and the Yukon*, (Department of Justice Canada, Planning, Research & Management Services, Programs Branch, Research and Statistics Division, January 2003), online (pdf): < https://www.justice.gc.ca/eng/rp-pr/aj-ja/tr03_la15-rr03_aj15/tr03_la15.pdf >, summarizing Patterson, *supra* note 146; Anderson and Stratton, *supra* note 148; Clairmont, *supra* note 168; Crnkovich & Addario, *supra* note 163; NTI, *supra* note 110; MacDougall, *supra* note 316; Mary Stratton, "Creating Access to Justice in Nunavut" (2009) September/October *Law Now* 13; Scott Clark Consulting Inc, "Review of the Nunavut Community Justice Program: Final Report" (Department of Justice Canada, Research and Statistics Division, 2004); Clark, *supra* note 148; Ferrazzi & Krupa, *supra* note 316; Burkhardt, *supra* note 154; Gevikoglu, *supra* note 132; Dylan, *supra* note 175. Not all of these sources explicitly use the term "access to justice", although many do.

limiting its scope to formal court processes under the common law system.³²⁷ As I have outlined in this section, these various different sources help us to begin to understand how colonization has impacted access to justice in Nunavut,³²⁸ and also to situate my research, which provides an original contribution to the field of knowledge by emphasizing a broader conception of access to justice starting from the standpoint of Inuit community members as they navigate their law-related problems respect to housing.

As mentioned, this research also provides an original contribution to the field of knowledge through its unique methodological approach. This research uses institutional ethnography, informed by Inuit Qaujimajatuqangit, as a practical methodology for understanding access to justice in Nunavut. While in this chapter, I have discussed institutional ethnographies that arguably address access to justice issues (even if the specific term may not be used), including in other Indigenous contexts, I have not yet found an institutional ethnography used in the Inuit context. As such, I am of the understanding that this is the first time this combination of frameworks has been proposed in this context. This provides an opportunity to think creatively about housing. There are many ways to conceptualize housing, including as a financial investment, but also as a human right. Mindful of some Indigenous scholars' critiques of the limitations of rights discourse that relies on state recognition of Indigenous self determination,³²⁹ I did not focus on a human rights-based approach for this research project, but I instead used

³²⁷ For example: Joe Karetak, Frank Tester & Shirley Tagalik, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to be True*, (Halifax & Winnipeg: Firewood Publishing, 2017) ["Karetak, Tester & Tagalik"]; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109; Oosten & Laugrand, *supra* note 111. Some sources are academic papers that have interviewed Inuit knowledge holders.

³²⁸ There are some examples of sources that have looked at the impacts of colonization on the relationship between Inuit Qaujimajatuqangit / Inuit laws and the criminal justice system in Nunavut, but less so outside of the area of criminal law: Stuempel, *supra* note 163; Tomaszewski, *supra* note 186; QIA, *supra* note 111.

³²⁹ See for example Glen S. Coulthard, "Subjects of Empire: Indigenous Peoples and the 'Politics of Recognition' in Canada" (2007) 6 Contemporary Political Theory 437 ["Coulthard"]; also Jeff Corntassel, "Cultural Restoration in International Law: Pathways to Indigenous Self-Determination" (2012) 1:1 Can J Hum Rts 93 ["Corntassel"]. Note however that other Indigenous scholars do support a human rights-based approach for advancing Indigenous issues: see for example Rauna Kuokkanen, "Self-Determination and Indigenous Women's Rights at the Intersection of International Human Rights" (2012) 34:1 Human Rights Quarterly 225.

institutional ethnography as a less commonly used approach in the field of law, in order to think about housing in the context of social relations. While human rights can indeed provide important international benchmarks for housing, the methodology I chose for this project helps us to understanding how community members and service providers experience housing issues locally in relation to Inuit Qaujimajatuqangit, including Inuit practices of sharing resources like housing and resolving disputes about living together.

Thus far, this dissertation has set the stage for the research, in discussing the context of housing and justice in Nunavut, along with the frameworks grounding the project. In the next section, I will discuss the specific methods that I used to carry out the research, followed by an analytical reflection on my experiences in using the methodology I proposed, before moving on to look at what community members and service providers shared about their experiences.

Chapter 3: Methods

Having now laid out the frameworks guiding this research, I will now describe the methods used to carry out this research.

Below is a summary and an illustrative graphic of the methods used for this project.

Method	Details
Scoping & community engagement	Ongoing community engagement, starting in 2013 when I first moved to the community Project-specific pre-data collection scoping with 18 representatives of organizations based or working in Nunavut, service providers and community members.
Interviews (November 2022-January 2023)	Semi-structured interviews directed by participants 19 community members, 13 service providers
Review of institutional texts	<i>Residential Tenancies Act</i>, R.S.N.W.T. 1988, c.R-5. <i>Family Abuse and Intervention Act</i>, S.Nu 2006, c 18. <i>Criminal Code</i>, RSC, 1985, c C-4. <i>Nunavut Housing Corporation Act</i>, RSNWT (Nu) 1988, c N-1 <i>Legal Services Act</i>, RSNWT 1988, c.L-4. <i>Nunavut Agreement</i> Government of Nunavut, Nunavut Housing Corporation: <i>Framework for the Government of Nunavut's Long-Term Comprehensive Housing and Homelessness Strategy</i> <i>Government of Nunavut Blueprint for Action on Housing</i> <i>Nunavut Housing Corporation</i> <i>The Blueprint for Action on Housing</i> <i>Nunavut 3000 Strategy</i> <i>Collections Policy</i> <i>Tenant Relations Officer Manual</i> <i>Rent Scale Procedures Manual</i> <i>Staff Housing Policy</i> <i>Staff Housing Procedures Manual</i> <i>Staff Housing Tenant Information Booklet</i> <i>Verification of Income Guidelines for Homeownership Programs</i> <i>Home Renovation Program</i> <i>Emergency Repair Program</i> Government of Nunavut, Department of Family Services: <i>Canada-Nunavut Housing Benefit Program</i> Cambridge Bay Housing Association: <i>Application Point Rating Form</i> <i>Residential Tenancy Agreement</i> (sample) <i>Note to File template</i> <i>Tenant Damage Policy</i> <i>House Rules</i>

	<i>Rent Collection Policy</i> Inuit Tapiriit Kanatami and Government of Canada, <i>Inuit Nunangat Housing Strategy</i>
Data analysis	Institutional ethnography (analyzing talk and text to explicate how people's experiences are put together and coordinated by the ruling relations).
Validation process	2 stages: 1. After the interview: sharing interview transcript with each participant (where applicable), inviting further comments or changes 2. After preliminary analysis: sharing preliminary summary report, visual presentation, and personalized dissertation excerpts with each participant
Knowledge Mobilization	Appendix 4



Figure 6 The methods process for this research

I will now explain the methods in further detail.

3.1. Approvals, community engagement and scoping

I applied for and successfully obtained a research license from the Nunavut Research Institute, the relevant licensing body for research conducted in Nunavut under the *Scientists Act*.³³⁰ I also received approval from the University of Ottawa's Office of Research Ethics.³³¹ But beyond any academic requirements, an important aspect of conducting research in Inuit

³³⁰ *Scientists Act*, RSNWT (Nu) 1988, c S-4. ITK and the Nunavut Research Institute recommend initiating this process early: Nickels et al, *supra* note 24 at 22. See Appendix 1 for the NRI license.

³³¹ See Appendix 2.

Nunangat in a manner that is respectful of Inuit Qaujimajatuqangit values is community engagement throughout the research.³³² My personal engagement with the community of Cambridge Bay began long before this PhD research project, as I have been fostering my personal ties with the community of Cambridge Bay as well as other relevant actors across the territory in the area of access to justice, housing, and gender for over a decade. This has been done through my previous work experience as a civil litigation legal aid lawyer based in Cambridge Bay, serving Inuit clients across the territory in areas such as housing and human rights law; my previous role as the co-chair of the Law Society of Nunavut's Access to Justice Committee; and my subsequent role as the Law Society of Nunavut's access to justice co-representative. Through these roles, including as a former resident of Cambridge Bay, I have been in regular discussion with service providers and community members to help inform my understanding of housing and access to justice needs in the territory and to support the development of resources on Inuit Qaujimajatuqangit for the legal community in Nunavut. Up until recently, I also worked for over four years as a policy analyst in the Knowledge Management and Engagement directorate for Polar Knowledge Canada, the federal agency responsible for advancing polar research. This work involved engaging with and learning from Inuit partners about how respectful research should be done in Inuit Nunangat in accordance with Inuit Qaujimajatuqangit. In the development of my thesis proposal, I built on my personal ties to the community to conduct preliminary scoping with community members and service providers to ensure that the focus of my research would be relevant and beneficial to the community of Cambridge Bay and to develop an informed perspective aligned with Inuit priorities and needs.

³³² ScIQ, *supra* note 24 at 10; Nickels et al, *supra* note 24 at 6; Kitikmeot Heritage Society, *supra* note 24 at 35 & 36; Ferrazzi, Christie et al, *supra* note 24; Stiegman & Castleden, *supra* note 24.

I considered hiring a local research assistant for this research, as has been done with other projects in Nunavut to support local capacity building and knowledge exchange opportunities,³³³ but ultimately decided against it when weighing various ethical considerations. Hiring local assistants is generally an excellent research practice with many rich benefits for both the researcher and the assistant. However, I have learned from previously working with assistants on law projects (including in Nunavut) that there are additional ethical risks and considerations if an assistant may be confronted with heavy topics that may emerge in the research, such as family violence and intergenerational trauma, especially if it involves participants who may be the assistants' neighbours, friends, or family members (which would not be uncommon in Inuit communities). In my experience, I have observed how working on such topics in one's own community can be emotionally triggering for assistants, and it would be important for me to be sensitive to their well-being on an ongoing basis and to ensure that the research does not harm them. I believe it is possible to hire local assistants for social justice work, but additional safeguards and considerations would be imperative, which I felt were beyond my current capacity as a single doctoral student based thousands of kilometres away.

3.2 Knowledge documentation

Institutional ethnography can involve many different kinds of methods.³³⁴ I chose interviews and reviewing institutional texts (including laws, policies, guidelines and administrative forms) as my methods for understanding what people do and how they do it within the work processes mediated in texts and institutional discourses.³³⁵ I prefer to use the term “knowledge documentation” over data collection, in recognition that I was talking to people

³³³ See for example: Ferrazzi, Christie et al, *supra* note 24; Dawson et al, *supra* note 218.

³³⁴ Peter R Grahame and Kamini Maraj Grahame, “Official Knowledge and the Relations of Ruling: Explorations in Institutional Ethnography”(2001) 2:1 Journal of Pedagogy, Pluralism and Practice [“Grahame & Grahame”].

³³⁵ Ann Christin E. Nilsen, “Chapter 19: Professional Talk: Unpacking Professional Language” in Paul C Luken & Suzanne Vaughan, eds, *The Palgrave Handbook of Institutional Ethnography* (Springer 2021), 359 at 362 [“Nilsen”]; Rodriguez, *supra* note 40 at 378.

about their knowledge and their experiences. As such, I conducted interviews with community members and service providers, while also reviewing relevant texts.

Community engagement played an important role in my recruitment of participants for these interviews. I stayed in Cambridge Bay for the month of November 2022 to conduct the bulk of my interviews. Soon after I arrived in Cambridge Bay for the knowledge documentation, I posted in the Cambridge Bay News group on Facebook, (re)introducing myself and my research project, while sharing my gratitude at being back in the community that I loved so much after being away during the pandemic. From my experiences of living in the community and continuing to interact with the community after I moved away, this Facebook group is one of the most effective forms of sharing information quickly and broadly in the community.³³⁶ I attended community events and generally tried to be out and about in the community during my stay to make my presence known, to strengthen my relationships as well as to recruit for my project. I felt this was a useful approach as it was much easier to run into people in person to share information about my research project than merely by email or by phone. I was touched by how many people remembered me from when I used to live there and welcomed me back to the community, and community members told me they were glad that I was researching the topic of housing in the community, which helped reaffirm the direction of my research.

From November 2022 to January 2023, I interviewed 19 community members who were either current or former residents of Cambridge Bay and 13 service providers who were either based in Cambridge Bay or provided services to residents in Cambridge Bay, including (but not limited to) services in law and in housing. These numbers and categories are not perfectly

³³⁶ Facebook as a source of community building and cultural resilience in Cambridge Bay was explored in Laura Dunn, "Networks of Resilience: Online Sharing and Vision of Community in Cambridge Bay, NU" (MA Thesis, McGill University Department of Art History and Communication Studies, 2015) [unpublished].

discrete, because many community members also provide or had provided housing-related services in Cambridge Bay, and service providers living in Cambridge Bay often personally experienced themselves the dynamics of the housing shortage in the community. With that in mind, most of the participants interviewed in their capacities as community members were Inuit, as is the predominant population in the community, and had lived experiences in different kinds of housing, such as couchsurfing, public housing, staff housing, private rentals, or home ownership. The majority of the service providers were not Inuit, but did work from a variety of different sectors that all dealt with housing in some way or another, and most, but not all, of the service providers lived in or had lived in Cambridge Bay.

In the recruitment of community members, I generally let participants approach me after putting out my invitation for participants on Facebook, to try to avoid making them feel pressured to participate. For service providers, I had some ideas of who to reach out to when I arrived, but as I conducted each interview, it became more evident who I should try to reach out to next. Sometimes the participant would recommend specific people that I should interview; other times, I became aware that a particular perspective (for example, the perspective of a police officer) was missing from a participant's description of a sequence of events, and I then pursued these standpoints that could potentially provide valuable insights.

Each interview ranged from approximately thirty minutes to an hour and a half. I provided each participant with three types of "privacy options": using their real name, using a pseudonym, or having their information anonymized and aggregated. Participants were also free to change their option at later stages of the research, such as when I shared with them their interview transcripts and when I validated with them my preliminary results. While I did not offer compensation to service providers participating in the interviews as part of their work, I

offered an honorarium to community members for their participation, in the form of a \$75 gift card for the Northern grocery store. I allowed each participant to choose the location of the interview, whether it was in their home, workplace, a room at the Kitikmeot Friendship Society, or at the Canadian High Arctic Research Station (CHARS) campus which offered private interview rooms. For those community members that chose to be interviewed at the CHARS campus, I offered to pay for their transportation to and from the CHARS campus because it was located slightly outside the core of the municipality.³³⁷ I also conducted a limited number of interviews by phone or over by videoconference using Zoom, including after I left Cambridge Bay to return to my home in Ottawa in December 2022, for participants who were not based in Cambridge Bay or had not been able to meet with me during my field visit.

Where possible, I sent participants a copy of the consent form in advance of the interview. However, I made sure to verbally review the contents of the consent form at the start of each interview, in order to ensure that their consent to participate in advance. This was particularly important, given the varying levels of literacy, willingness to read the lengthy consent form, and my understanding of the importance of a person's (spoken) word in Inuit culture.³³⁸

After going over the consent form and discussing any questions that they had, I generally aimed to allow each participant to steer our conversation. I did have a question guide that I developed based on my research questions to use as a prompt that was generally handy (see Appendix 3),³³⁹ but I often found that participants came to the interviews with particular

³³⁷ I remain profoundly grateful to my co-supervisor Dr. Jackie Dawson for providing funding support through her Environment, Society, and Policy Group for the majority of my research expenses.

³³⁸ Shirley Tagalik, "Foreword: Creating the Book" in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimagatugangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), xi ["Tagalik, Foreword"]; Aupilaarjuk et al, *Inuit Laws*, supra note 109 at 15.

³³⁹ Question guides are often required as part of academic approval processes but can sometimes be an awkward fit with institutional ethnography's open-ended methodology of inquiry which might be resistant to the application of a prepared

experiences and insights that they wanted to share with me. We talked about their experiences and activities with respect to housing, and what they knew about housing. In particular, I listened for – and asked follow-up questions about – mentions about work that the participants would do with respect to a housing issue (and the sequence of actions involved), mentions of texts that might be connected to the work that they performed, and any other indications of the ruling relations that may be coordinating their experiences. These interviews allowed me to start my inquiry into the ruling practices of the institutional regime from their various standpoint, in order to see how they are subject to these practices and what actually happens.³⁴⁰

Where a community member or service provider mentioned texts during the interview, such as a law, policy, an application form, or a guideline, I studied those texts to understand the role of the texts in the participants' experiences. As discussed in the previous chapter, the analysis of texts was not done using a traditional legal doctrinal method, but with an institutional ethnographic focus on how they standardize people's activities across multiple local settings and times.³⁴¹ In situating texts in relation to the stories shared by participants, I observed how these texts were activated (or in some cases, not activated) by people working in these processes. Where a text referenced another text, I followed the trail to see where that text would lead, as part of my open-ended exploratory approach to examining texts, similar to my recruitment of interview participants.³⁴²

3.3 Data analysis and validation

standardized question form. As Dorothy Smith once noted, "You aren't able to previsualize what it is you are going to do, or what you are going to discover. Isn't stumbling around integral to the process? ...[T]hat is a difficulty with institutional ethnography because you actually don't even know what questions you're going to ask." Diamond, *supra* note 484 at 46-47; also see DeVault & McCoy, *supra* note 7 at 20.

³⁴⁰ Smith, *Sociology for People*, *supra* note 7 at 31 and 128; Rankin, *Caution*, *supra* note 1 at 2; DeVault & McCoy, *supra* note 7 at 18.

³⁴¹ Smith, *Texts*, *supra* note 8 at 160; Smith, *Sociology for People*, *supra* note 7 at 166.

³⁴² Smith & Griffith, *supra* note 8 at 16.

My objective during the analysis and writing up of this institutional ethnography was not a thematic analysis. My goal was not to identify common themes for the purpose of proving how prevalent a particular phenomenon was, which institutional ethnographers have warned serve to generalize in a standardizing mode by developing themes abstracted from the data, but rather to connect together the experiences and insights of participants from their various local standpoints to explicate how their activities within the institutional processes as well as their knowledge are socially organized.³⁴³ The focus of an institutional ethnography is not simply about describing what is happening, but how those activities are coordinated through relations of ruling, often mediated through texts.³⁴⁴

Nearly all of the interviews were audio-recorded with the participants' consent, except for the rare instance where a participant preferred that I take notes instead. After each interview, I provided a copy of the consent form to the participant. I also typed up the transcripts for each interview and shared the transcripts in their entirety with the participant (or my interview notes, for those who did not want to be recorded). This provided them with the opportunity to correct any of their statements, as well as to reflect on whether they wanted to change their privacy options after having reviewed what they had said, which did happen in some situations. This was an important part of ensuring the "continuing" part of continuing informed consent, as well as for maintaining relationships.

Transcribing the interviews was an important part of my data analysis process. While typing up the conversations, I paid attention to the "clues" of institutional ethnography, small problematics suggesting tensions or unease between what was institutionally prescribed and what

³⁴³ Smith & Griffith, *supra* 8 at 28, DeVault & McCoy, *supra* note 7 at 18; Dorothy E Smith, "Chapter 5: Exploring Institutional Words as People's Practices" in Paul C Luken & Suzanne Vaughan, eds, *The Palgrave Handbook of Institutional Ethnography* (Springer 2021) 65 at 77 ["Smith, *Exploring*"]; Rankin, *Caution*, *supra* note 1 at 2 and 6; Campbell & Gregor, *supra* note 21 at 86 & 89.

³⁴⁴ Smith, *Sociology for People*, *supra* note 7 at 129; Campbell & Gregor, *supra* note 21 at 90.

people experienced, differences in accounts and perspectives, as well as that which was taken for granted (including specialized jargon) to examine the social construction of knowledge. I marked these clues using the Microsoft Word comment feature, cross-referencing other interviews where relevant, and taking notes of my broader overall observations in another master document.

In this way, re-living these conversations allowed me to notice features and connections relevant to institutional ethnography and access to justice that I might not have noticed during the interview itself. This formed part of “secondary dialogue” that Smith refers to where “in reading a transcript from an audio-recording or the researcher’s own field notes, the institutional ethnographer rediscovers what was said or observed.”³⁴⁵ Sometimes the participants would also later comment on the conversation, which added somewhat of an interesting meta-quality of the reader-text discourse, as the participants were brought in again during the secondary dialogue, and both of us were engaging in the reader-text discourse.

I made a conscious decision to transcribe the interviews from community members first, followed by the service providers’ interviews. Then, finally, I reviewed the other institutional texts that participants referred to during our conversations, whether it was the *Residential Tenancies Act* or the housing policies, or other texts. I employed this order to center the experiences of people, the participants, in order to see how the various processes and texts that formed part of the ruling relations coordinated their particular experiences. This was done instead of starting with reviewing the texts that formed the legal framework of housing, detached from context or reality, and then forcing participants’ experiences to fit into those abstract concepts. This is because the grounding of the institutional ethnography should be “the actual practices of actual individuals as they go forward in actual settings and actual times in

³⁴⁵ Smith, *Sociology for People*, *supra* note 7 at 137; also Smith & Griffith, *supra* note 8.

coordination with others.”³⁴⁶ A people-centered conception of access to justice, after all, is concerned not simply with what the law says, but what happens to people with respect to that law.³⁴⁷

This process therefore required many layers of analysis. For example, in speaking to women who had been couchsurfing, I observed that the experiences of these housing-insecure people were affected by the way that the waiting list for public housing worked. In speaking to people living in public housing and service providers who worked in housing, I learned how people often had to remain in public housing rather than eventually move into private market housing because private market housing was unaffordable, and this was partly why the waiting list for public housing was so long, which led me to look at why private market housing was unaffordable, and so on.

After my first round of analysis, I validated my preliminary observations with participants again. I reached out to each participant through various methods (phone, email, instant messaging) with a high-level summary of my findings (in the form of a plain language preliminary report and a PowerPoint visual presentation) as well as personalized excerpts from my dissertation where I had quoted/referenced the participant personally.³⁴⁸ This was both for verifying the accuracy of my analysis, but also to give participants another opportunity to consider and change the nature of their participation in the project if they wished, including changing their participation to be anonymous. At this point, over a year had passed since the initial interviews, and some participants had further reflections to share. I incorporated the feedback that I received into subsequent drafts.

³⁴⁶ Smith & Griffith, *supra* note 8 at 13. With that said, having practiced law in this area previously, I was already familiar with a number of the relevant texts.

³⁴⁷ Farrow, *supra* note 81 at 959.

³⁴⁸ Note that a few participants indicated on their consent form that they did not wish to be contacted further about this research; I did not contact those participants for further validation.

It is also important to share the results of my research, including with the community I worked with, to increase the impact of the research. Through the University of Ottawa's Knowledge Mobilization Training Scholarship, I have developed a knowledge mobilization plan (Appendix 4) for this project which identifies key knowledge users, objectives, strategies, and activities, to guide the knowledge mobilization phase of this research.

Having now described the methods I used for this institutional ethnography, I will now turn to the findings of my research. A summary of the findings can also be found in Appendix 5.

Chapter 4: “There was times where I had to bite my tongue, just to have a place to stay”: Homelessness and transitional housing

4.1. Overview of the chapter

PARTICIPANT: So one interesting fact that I observed, at least, there’s little to no quote-unquote “homeless” here. There’s nobody...

INTERVIEWER: Actually sleeping on the streets?

PARTICIPANT: Correct. And that goes for the summertime as well. Because wintertime, obviously, for obvious reasons it’s cold. But in the summertime, there’s no obvious homelessness. People have generally a place to stay. Whether or not they are bunking with friends or relatives. But in terms of reaching what I think a lot of people are looking for, which is their own home...

INTERVIEWER: Something more comfortable, yeah?

PARTICIPANT: That goal may be more far off.

As noted in the above quote by the RCMP officer based in Cambridge Bay, one does not generally see people sleeping in the streets, due to the cold conditions. Homelessness and housing insecurity manifests differently in Nunavut in an arguably less obviously visible manner³⁴⁹ than in some of Canada’s urban centres in the south where one might see tent encampments, for example. As people cannot live on the streets as some might in southern cities due to the harsh cold weather, they turn to family members or friends for housing.³⁵⁰ Homelessness in Nunavut is therefore primarily manifested in the high average of people living in a particular household, with several generations of families living in one home and people sleeping in shifts in rooms shared with several others.³⁵¹ One service provider commented, for example:

Hidden homelessness is severe, it’s huge, in a sense that one, for people to ask for help, it takes a lot of courage and bravery to do that. So you will find most times, people tend to

³⁴⁹ See also: Department of Family Services, Government of Nunavut, “Nunavut Hidden Homelessness Survey” (2020) online: [https://assembly.nu.ca/sites/default/files/TD-288-5\(2\)-EN-Nunavuts-Hidden-Homelessness-Survey.pdf](https://assembly.nu.ca/sites/default/files/TD-288-5(2)-EN-Nunavuts-Hidden-Homelessness-Survey.pdf)

³⁵⁰ Little Voices *supra* note 2 at 70-71. Despite the harsh winter climates, absolute homelessness does exist, as reports have noted stories of Inuit women sleeping in empty shipping containers on the beach, unlocked cars, or even using decomposing garbage for warmth: Little Voices *supra* note 2 at 37. In a 2007/2008 survey, approximately a fifth of Inuit households reported that they had provided temporary shelter to homeless individuals, a prevalence rate much higher than non-Inuit households in Nunavut: Minich et al, *supra* note 49 at 526.

³⁵¹ Little Voices *supra* note 2 at 50 and 57.

keep to themselves. But when you do come into contact with such people, you'll find that some people are moving from home to home. So there's a lot of couchsurfing.

For this chapter, we start with the local standpoint of housing-insecure people looking for housing. We hear the experiences of Inuit women who for years had to sleep on couches, stay at shelters, and find other ways to find a place to sleep for the night while navigating their relationship problems. We also hear from a service provider, a criminal defence lawyer, who describes how his clients sometimes have to remain in jail for their domestic assault charges, even though they would otherwise be eligible to be released on bail or on conditional sentencing, due to a lack of housing options in the community where they could be released. Although laws such as the *Family Abuse Intervention Act*, SNu 2006, c 18 prescribe certain legal solutions as institutional texts, we see that some women have issues accessing such processes in actuality. From this problematic, I then trace the institutional arrangements of ruling that are not wholly visible from inside people's experiences, to understand how their experiences are put together. While in other jurisdictions, housing-insecure people might have available to them emergency shelters or transitional housing such as halfway homes, the Government of Nunavut identifies the lack of transitional housing in the territory as a critical gap in how it envisions the housing continuum. The community of Cambridge Bay does, in fact, have emergency shelters, but because other communities do not and therefore send some of their housing insecure people to the shelters in Cambridge Bay, the shelters are at times full, and people must continue to couchsurf or remain in jail. Although shelter stays are meant to be temporary, the lack of other available housing options – including the long waiting list for public housing – mean that stays may not be so temporary.

Although the question of why there hasn't been enough funding to supply shelter space to meet demand is complex, I look at how Inuit have linked the housing shortage to colonialism, in

criticizing the indirect funding structure for governance in Nunavut. As such, we begin to see how the ruling relations organizing the housing experiences of people in Cambridge Bay exacerbate the impacts of colonialism in Nunavut. This is about more than funding for Inuit, but also incorporating Inuit Qaujimajatuqangit in the design of housing policies and programs. Inuit leaders argue that in order to truly support Inuit self-determination, Inuit should play a leading role – with direct funding – in overcoming social issues such as the housing crisis in Nunavut. I also suggest that this could provide an opportunity to address situations of homelessness in a manner that better reflects Inuit Qaujimajatuqangit. After all, Inuit practices of sharing resources and working together to solve problems means that people will generously open their doors to those in need, even if it results in a crowded household and strains their existing resources. These sharing practices rooted in Inuit Qaujimajatuqangit should be accounted for in housing designs and policies in order to reflect Inuit realities and values. This sets the stage for the problematic in the next chapter, which reveals how people do not always understand how the waiting list works or why their applications are processed in the way that they are, contributing to their sense of frustration with their housing situation, in order to reach beyond what they know and their everyday experiences to discover how their activities are organized by ruling relations that extend beyond them.³⁵²

4.2. Couchsurfing during relationship breakdowns

We first start with stories from Inuit women in Cambridge Bay who had experienced extensive housing insecurity, particularly during unstable periods of their relationship. J.D. has spent several years couchsurfing in Cambridge Bay, moving from couch to couch, dreaming of a safe home to call her own:

³⁵² Smith & Griffith, *supra* note 8 at 13.

I moved around a lot. I mean, like, in two years, I must have moved about a hundred times. Yeah. I got kicked out every two weeks from a relationship that I was in, an abusive relationship. So... I couldn't stay long in one place. Of course, there's many family members with a lot of children, and not much space provided for them. So, either I got a couch, or a little mattress on the floor. So, I struggled with that.

As she mentioned, one of the main reasons why J.D. was forced to hop from house to house was because of the abusive relationship she was in:

INTERVIEWER: So part of the reason why you were moving from house to house was because...you were dealing with him?

PARTICIPANT: Yup.

INTERVIEWER: Like he would kick you out or you would want to leave...?

PARTICIPANT: Every... Honestly, from what I could remember now, he kicked me out like every two weeks. [...]

INTERVIEWER: He was abusive, eh?

PARTICIPANT: He was very abusive. And once I move out, he would leave me alone for a few days. But then once he did his own thing, and he would come back, looking for me all over town.

J.D. described at length the work that would be involved in trying to stay safe for the night, while holding down a job. Institutional ethnographers define work in a broader sense to mean things that are done by people “that is intended, involves time and effort, and is done in a particular time and place and under definite local conditions.”³⁵³ I also associate institutional ethnography's concept of work with popular concepts of emotional labour and mental load, those things that you have to think about and take care of, and so they take up space in your brain, and they take up your time.³⁵⁴ Looking for a place to live requires an enormous amount of work, as can be seen from J.D.'s account:

INTERVIEWER: Did you find yourself spending a lot of time worrying about where you were going to sleep next?

PARTICIPANT: Yup. A lot. Like, there's probably... a good eighty percent of the time that where I stayed, I would like, “Okay, if this doesn't work out, where would I go

³⁵³ Smith, *IE as Practice*, *supra* note 20 at 10.

³⁵⁴ I particularly enjoyed the explanation of mental load provided by feminist artist Emma in her comic “You Should Have Asked” which helped popularize the term in mainstream society: <https://english.emmaclit.com/2017/05/20/you-shouldve-asked/>

next?” So I would constantly have to ask people around town if they have an actual space for me to stay.

INTERVIEWER: So you were often, like, just constantly thinking about where your next place was going to be, eh?

PARTICIPANT: Yeah. I’d usually use the women’s shelter as a last resort, if I couldn’t find family to stay with.

It was important to J.D. that she be seen as contributing to the household. As a result, in addition to the work of securing safe housing, much of her time and energy was spent earning income through jobs so she wouldn’t be seen as “free-loading”, and could contribute towards food in the household where she was staying. This calls to mind Tina Decouto’s explanations of Inuit Qaujimajatuqangit practices of sharing, noting that Inuit share without expectation of repayment but as practice, the receiver will find a way to give back by providing something that they are able to give, “no matter how big or small.”³⁵⁵

On top of the work of securing a place to sleep for the night, these couchsurfing arrangements can sometimes make it difficult to avoid being confronted with substance use, especially when one is recovering from addiction. J.D. observed:

I was trying to work. And you know, have a stable lifestyle. But it’s hard when other people, like maybe some of the homeowners, were into the addictions.

[...]

There was a couple of times where I was substance-free, and the place where I was living, they were into alcohol and drugs and stuff, and it was very tough because you smell it. And it’s like right there. And it’s so hard. And you don’t have your...have a safe place to go to.

These concerns about substance abuse add further stressors to one’s precarious housing situation. Couchsurfers – especially women – might also worry about being potentially vulnerable to other forms of harm as well. J.D. reported:

INTERVIEWER: Did you ever feel unsafe when you were staying at some of these places?

PARTICIPANT: Yeah, a couple of times. Like they have friends that I’m not really familiar with. And it made me nervous because I don’t know who they are, what they do.

³⁵⁵ DeCouto, *supra* note 171 at 174.

I remember this one house where... I don't know. It just seemed like because you're a single person, and you don't have your own home, they prey... Like, I don't know. It seemed like that crowd that, where I was staying, seemed to prey on younger women.

INTERVIEWER: Like they were creepy?

PARTICIPANT: Yes. Yeah.

Coping with housing insecurity has significant impacts on one's mental health. One service provider has observed this in people struggling with homelessness in Cambridge Bay:

There's a lot of intersectionality between, you know, the challenges that clients are faced with, especially when it comes to housing and mental health. There's a lot of correlation in that because once a person is challenged with homelessness, you begin to recognize a lot of cognitive deficits within that. So some past traumatic experiences begin to surface. I often talk about adverse childhood experiences. It also begins to surface, which in turn can overall impact their health? When a person has stable housing, you can see a good striking balance between their mental health and general well-being.

When there is challenges with homelessness, then you begin to see self-deprecatative thoughts, leading to mental health challenges and issues.

INTERVIEWER: Like they think negatively, negative things about themselves?

PARTICIPANT: Yes. And we begin to see increased thoughts in suicidal ideation.

People begin to self-medicate, so whether it's through drugs or alcohol or whatever substance they can get their hands on, prescribed medication, you know... So you begin to see a lot of that.

The service provider describes one more element in the vicious cycle intertwining housing and substance addiction: one's housing insecurity might in fact drive them to drugs and alcohol as a coping mechanism.³⁵⁶

Fortunately, within the last few years, J.D. has found a new supportive caring partner and was also allotted a public housing unit of her own, which has taken some time for her to get used to, after years of couchsurfing:

INTERVIEWER: So now you've got a public housing unit, eh?

PARTICIPANT: Yes.

INTERVIEWER: How do you feel about that?

PARTICIPANT: I still can't... I'm still shocked that I have a home. The first two weeks, it felt odd. Because I was so used to living with other people. And I have my own space now. I was like, "Really? Is this for real?" Like, did I win a million dollars or something? You know, that's what I felt like.

³⁵⁶ Addiction has been linked to housing insecurity in other reports: Little Voices *supra* note 2 at 63; GN Strategy, *supra* note 2 at 9; ITK Social Determinants, *supra* note 2 at 21-22.

I want to turn for a moment to the story of E.S., a young Inuk woman in Cambridge Bay with extensive experiences of couchsurfing while housing insecure. She had experiences of getting kicked out of her home as a teenager and having to find a safe place to go, noting that “There was times where I had to bite my tongue, just to have a place to stay.” As an adult, E.S. found herself couchsurfing once again, this time with her young child, whenever her partner kicked her out of the house after a fight:

And then him [*indicating her son*] and I ended up getting kicked out. So [*takes a breath*] we ended up going house to house... quite a few times. And there was like... It was really hard because when we go house to house, most places we go, was like two-bedroom houses. And not very many options for beds. And then I got tired of going house to house.

Like J.D., E.S. described at length the onerous work involved in trying to find a safe home for her and her young child for the night whenever they were kicked out of the house:

INTERVIEWER: Where were some of the places that you would try to go?

PARTICIPANT: Families. Close family. My elder sister. Cousins. Distant relatives, even. And...so it took us about five, four or five years on housing.

INTERVIEWER: Like waiting for...to get your own house, right?

PARTICIPANT: Yeah.

INTERVIEWER: And that must have taken a lot of your time and energy to try to figure out where you were going to sleep, right?

PARTICIPANT: Yeah, it did mentally. Mentally, it was draining. Physically, it was draining, because I had to carry everything while packing him.

INTERVIEWER: Like, all of your stuff?

PARTICIPANT: Yeah. While packing him. Because, like, he's a big boy. And I had him in my back, most of the time [...] And, like, it was... kind of hard to pack him while carrying all our luggages around.

INTERVIEWER: Yeah, from house to house? Plus in the winter-time you'd have your coat and stuff too, right?

PARTICIPANT: Yeah.

[...]

PARTICIPANT: It was like really tough for me because trying to be a mother, trying to provide him with a safe environment, a safe home, and for him to really feel at home, because it... Where home really felt was at my mother-in-law's for him. But it didn't really feel like home for me. And so I got tired of it. I really did grow tired of it. So we ended up moving into a motel over at Green Row.

INTERVIEWER: Wow, that must have been expensive.

PARTICIPANT: We stayed there for two, three months. And it was very expensive.

INTERVIEWER: Yeah, that is really expensive.

PARTICIPANT: It was. Financially, it was.

INTERVIEWER: Do you mind me asking, do you have a job, or...?

PARTICIPANT: I did have a job then.

INTERVIEWER: Okay. All of your money must have gone towards the hotel.

PARTICIPANT: It did. It did. [...] I had to have, like two jobs, just to pay off the motel and try to have like food on the table. So I was like, only seeing him eight hours, or less, a day.

INTERVIEWER: Do you mind me asking how much was it to stay at the hotel? Like, were they charging you a nightly rate?

PARTICIPANT: Yeah, they were charging me a nightly rate. A hundred dollars a night.

Here, E.S. describes moving into the Green Row hotel. Moving into a hotel in Nunavut can be a desperate act because it is prohibitively expensive, even for working professionals. But E.S. did it anyway, even though it was not financially sustainable for her, because keeping her young son safe was important to her.

The work of finding a safe place to stay is an exhausting, all-consuming preoccupation for Inuit women like J.D. and E.S, because housing is connected to so many other aspects of one's life – including E.S.'s concerns about the well-being of her child:

INTERVIEWER: That must have been tough.

PARTICIPANT: Oh, it was. Even on storm days, we'd be getting kicked out.

INTERVIEWER: So you'd have to find some place to go?

PARTICIPANT: Yeah.

INTERVIEWER: Did you ever get *really* worried about not having a place to go?

PARTICIPANT: Oh. I did. [*soft voice*] Many, many nights. Yeah.

INTERVIEWER: How did that make you feel?

PARTICIPANT: It was like... [*pause*] It was so heart-breaking. Because all the times I thought I'd have to put him through child care. Just for him to have a safe place.

INTERVIEWER: Like put him into child care? Oh, like...

PARTICIPANT: Family services.

In the above passage, E.S. is talking about considering whether she might have to voluntarily give up her child into the foster care system, in order to provide a safe environment for her son. When I worked as a housing lawyer in the community, I had heard other housing-insecure women consider this as well, and previous reports have noted how some women in

Nunavut have been forced to surrender their children to social services due to a lack of access to emergency shelters.³⁵⁷ These women clearly loved their children, and the fact that they had to consider whether giving them up would be best for their children, despite the anguish it would cause them, indicates the desperation of their situation.

Fortunately, E.S. did not have to give up her child:

I made it work out in the end. While we were staying at family, relatives, whatever, I'd have to be the one putting food on the table. Spending about half my pay on groceries, wherever we were staying. We would put some on their bills, while trying to have him, Pampers, milk.

E.S.'s childcare needs therefore also affected her ability to earn an income, leaving her vulnerable to being trapped in a cycle of needing money, housing, and childcare, and requiring each of these things to be able to obtain the other. Stories like E.S. also demonstrate the impact that the housing crisis has on children:

Because when we were going house to house, he was trying to understand why we're here. "How come we're here? I want to go home. Mom, can you bring me home?" So it was really tough for him to cope while I was trying to cope myself. There was nights where I had to tell him that we're staying here because Mommy and Daddy are not being nice to each other. Mommy and Daddy need to be nice to each other. Mom and Dad have to say sorry first before we could even talk to each other. And so it was hard for him for a while. And when we're staying at Green Row, it was, "Why are we here?"

INTERVIEWER: He was confused?

PARTICIPANT: Yeah. And I understand. I helped him understand that: "We don't have a place to stay. Most places we were staying at, they don't want us there. Because Mommy is working, Mommy can help you have this house for now. It's something for now, son."

We can begin to explicate the experiences of J.D. and E.S. and other housing insecure people by moving beyond their local standpoints to understand what is happening. One service provider has observed how hidden homelessness unfolds in the community:

What you also find is that sometimes there are nuances between a family's... So when you took a look at the family dynamics, of a family structure, it impacts most lifespans,

³⁵⁷ Little Voices *supra* note 2 at 81.

from child to elders. So you'll find that, let's say there's an altercation in one home, where a person feels that they aren't safe. They begin to evict themselves, or sometimes they're forcefully moved out of the home, and they need to find a new place to stay. And they'll go and stay at a certain place, and they're not welcome or accepted. Then they have to go to another home. Right, so you begin to see a lot of that.
[...]

And also, the other factor really depends on which family you belong to. Some families here are much more dominant than other families, so there's that family dynamic at play. So if I'm a woman who is experiencing family violence, or intimate partner violence, and my partner has a very strong family ties in the community, there's that fear of reproach. there's a fear of being charged. There's a fear of not being asserted. There's just so many layers.

The family dynamics that the service provider describes here reflect how social relations can influence people's behaviours in a small Inuit community like Cambridge Bay, even though they are often invisible or unspoken. In big urban Canadian cities like Toronto, you can break up with your partner and generally try to avoid him and his family during your daily routines. But in Cambridge Bay, it is difficult to avoid running into one's ex-partner, or his sister or auntie who might work at a local government office where you might require services. And as the service provider explained, if your ex's family is a powerful one in the community, it may be harder to escape their influence in your daily life.³⁵⁸

Stories like J.D. and E.S. also demonstrate the links between housing and unhealthy relationships, highlighting in particular the vulnerability of Inuit women in Cambridge Bay. One service provider and I talked about how this vulnerability could potentially lead to some forms of sexual exploitation:

Have you had situations where women have – in order to find a place to sleep – where they've offered sex... sexual favours, in less-than-ideal situations?

PARTICIPANT: Yes, yes, yes.

INTERVIEWER: In Cambridge Bay, that's an issue?

PARTICIPANT: In Cambridge Bay, that's an issue so... Yes, so I've come across those... of women providing sex in exchange for a place to sleep. And it's becoming much more prevalent in Cambridge Bay. And it saddens my heart. It saddens my heart. I

³⁵⁸ Other sources have reported that given the strong influence of family structures on Nunavut communities, women may be forced to leave her community: Little Voices *supra* note 2 at 57.

think, you know, some men are really taking advantage of them. And most times, the woman might end up being pregnant, and then...

INTERVIEWER: That's a whole other thing.

PARTICIPANT: That's a whole other cumulative issue that's just waiting to happen.

This highlights further the vulnerability of Inuit women who are housing insecure.³⁵⁹

Kerenza Plohman, Policy and Research Analyst at Pauktuutit Inuit Women of Canada, the national advocacy group for Inuit women, describes the how housing affects Inuit women in abusive relationships:

I think that there are a lot of very specific issues facing Inuit women. One is just the remoteness. They're so away from help, away from just a simple 911 call sometimes. So there's a lot of issues are amplified just because of their location, and how difficult it is to get help.

[...]

And also because just again, just because of the remoteness, very often just the remote location, even if they leave, if the abuse is really bad and they decide to leave that night, and they go to the police or something, then maybe about three days, they'll go back to the abusive situation. Even though they know they're going to keep getting repeated abuse. It's that they don't have any long-term solutions, so a lot of them go back only for that one reason. Safety is a steady stable place they can go to. Then they won't keep going back. Because a lot of times, they've been injured and hurt and eventually they might be murdered, right? But it doesn't start with that. It leads to that.

Some Inuit women in Nunavut who cannot find housing in their local communities end up moving to urban centres in southern Canada such as Edmonton, where they face different dangerous risks in these new unfamiliar environments directly linked to the issues reported by the National Inquiry into Missing and Murdered Indigenous Women and Girls.³⁶⁰ As such, Pauktuutit has identified that addressing housing issues - and specifically having a safe place to

³⁵⁹ This has also been reported elsewhere: Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 41-42; also mentioned in ITK, Arctic Policy Framework Position Paper, *supra* note 57 at 9 and in Abele et al, *supra* note 4 at 572; Little Voices *supra* note 2 at 38.

³⁶⁰ National Inquiry into Missing and Murdered Indigenous Women and Girls, "Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls: Volume 1a" (2019) at 276, online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf

live without depending on the abuser - is a key priority to ensuring the safety of women and children in Inuit communities.³⁶¹

When exploring what happens to people in Cambridge Bay by listening to their stories, we begin to glimpse traces of the ruling relations coordinating their experiences from across different multiple standpoints.³⁶² We start to see how a particular person's experience is shaped by something unseen from beyond their local site and immediate perspective.

For example, I asked an RCMP officer if he observed connections between the housing situation in Cambridge Bay and domestic violence. He mused out loud:

That's tough to say because in theory, what I've come across is that regardless of whether or not... Usually domestic partners choose to live together, right? I see more of a link between the alcohol use and the rate of domestic violence, rather than it being an issue with housing. Because for the most part, domestic partners choose to live together. The issues come when they have decided to split ways. And I can think of a couple situations where they were living in one house, were together... And actually a lady came to me today, and she was joking about it. She has to live with her ex-husband because there's just no alternative. There's nowhere for her to go. So she continues to live with him.

From his standpoint as a law enforcement officer who is called on to resolve conflicts and solve problems, the RCMP officer notices that people in the community sometimes still have to live together even when they no longer want to be together, due to a lack of alternative available housing arrangements. We are reminded of the precarious cycle that ensnared both J.D. and E.S., getting kicked out of their home after fighting with their partner, couchsurfing, and then returning back home. The RCMP officer observes how he has seen the issue has come up in other situations:

Another type of call that was related to housing was we'd get a call for intoxicated people yelling and screaming, whether they're being physical with each other or whether they're... And we know that if we leave them there, it's going to result in a fight. A physical fight. So the idea is to separate. Not to charge, but say, "Okay, why don't you go

³⁶¹ Pauktuutit Strategic Plan, *supra* note 178.

³⁶² DeVault & McCoy, *supra* note 7 at 18 & 23.

cool off somewhere. Where can we take you?” And then we start going through the list. And then we start driving around and either somebody answers the door and is intoxicated themselves; answers the door and says, “Absolutely not.”; answers the door and says, “You know, I’ll only take them if I can have this, this, this, and this in return.”

INTERVIEWER: Are they asking for money usually?

PARTICIPANT: No, they’d want just conditions, stuff that I can tell the person and say...So we have that as an issue. There’s no...There’s not real official mechanism for us to figure it out. It’s just all, what can we think of, off the cuff?

The RCMP officer’s remarks at the lack of “real official mechanism for us to figure it out” indicates how the institutional texts that would normally prescribe the sequence of actions to be followed do not address these types of specific situations, where police officers are required to figure it out on their own in these situations. This gap between the kinds of situations that police policies might prescribe and the actual situations the police may encounter forms a problematic of its own that would be relevant to discussions of access to justice. But it also highlights how text-mediated ruling relations can be detached from the reality in which the service providers work. Teija Nakashook, who has also observed a different form of this phenomenon from her standpoint as the former coordinator for the women’s shelter and a community member:

A couple, they both have their name on the lease, and then something goes south, and one tries to get the other to leave. But they legally cannot because they both own the house. In those cases, it’s often it’s the women and children who leave, and they have nowhere to go.

INTERVIEWER: Would having adequate housing available help them leave?

PARTICIPANT: I would think so. I’ve heard plenty of times where they say they just wish to not be stuck in that situation.

Teija brings up not only the vulnerability of women and children again, but she’s also mentioned the lease, a text prescribed under the *Residential Tenancies Act*³⁶³ that sets out the terms and conditions for renting a housing unit. A lease designates who is the primary tenant in the unit, and through that designation, the tenant has certain rights and responsibilities along with

³⁶³ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5.

the landlord, all of which correspond to certain processes. I will further examine the *Residential Tenancies Act* later in this dissertation, but for this section, what matters is that we can start to see how texts play a role in the institutional ethnography. Although many of my participants did not characterize their experiences as being legal issues, by connecting these experiences with texts like legislation, we begin to see how laws affect people, sometimes in ways that are different from how lawyers have been trained to spot legal issues. We see how laws and policies serve as the regulatory frames described by Smith that are established by positions of power in the institutional regime and “operate at a general level to structure the institutional action and reality coordinating people’s work at local levels.”³⁶⁴

While we have started from the perspective of women like E.S. and J.D. who have been kicked out of their homes by their partners and are forced to couchsurf, we now turn to examine how texts dictate the sequence of actions that is to unfold when there is a couple in a home who does not wish to live together anymore, whether temporarily or permanently. In perusing the Nunavut Housing Corporation’s Rent Scale Procedures Manual, we can see the following instructions to a local housing organization (LHO) in under “Family Breakdown”:

42. In cases of family breakdown, the LHO shall follow the principle that the Primary Tenant or adult who has custody of and is the primary caregiver of the child(ren) and/or dependant(s) shall be the preferred Primary Tenant and remain in possession of the unit. Normally the unit would have been allocated partially based on the bedroom requirements of the child(ren).

43. The rent assessment would be re-calculated. The LHO may either charge the new rent from the month following its calculation or backdate the new rent to the month of the family breakdown, if verified by supporting documents. A credit may be applied to the account.

44. If there are no children and or dependant adults, or the parents have joint custody, the LHO may select the Primary Tenant based, in order of priority, on:

1. Its determination of who would be the most responsible Primary Tenant.
2. Relevant legal rulings or recommendations
3. The unanimous wishes of the parties involved

³⁶⁴ Smith, *Sociology for People*, *supra* note 7 at 191.

4. In the above (a., b. & c.), the Primary Tenant selected must be eligible to be allocated the unit.
45. The Primary Tenant who was not allocated the unit may be placed on the Waiting List if they qualify.³⁶⁵

The local housing organization, which in this community is the Cambridge Bay Housing Association, is authorized with the important task of deciding who is to stay in the unit and who is to move out, based on a number of factors listed in the manual. However, this applies to a situation where both partners have their name on the lease as tenants. What about situations, for example, where the woman is not named as a tenant on the lease?

The *Family Abuse and Intervention Act*, SNU 2006, c 18 (FAIA) is a law that allows a person subjected to family abuse to apply to a Justice of the Peace for remedies in the form of emergency protection orders.³⁶⁶ These remedies can include a broad range of options, such as ordering the abuser (the respondent) not to contact the person making the order (the applicant), or, notably, temporary removal of the respondent from the residence:

(7) If a designated justice of the peace finds that the respondent would be a danger to the applicant and any other specified person if the respondent remained in the family home or a residence, the designated justice of the peace may include one or more of the following provisions:

- (a) a provision granting the applicant and any other specified person temporary exclusive occupation of the family home or a residence, regardless of ownership, for a specified period not to exceed 90 days;
 - (b) a provision requiring the respondent to vacate the family home or a residence, either immediately or within a specified period of time;
 - (c) a provision directing a member of the Royal Canadian Mounted Police to remove, immediately or within a specified period of time, the respondent from the family home or a residence.³⁶⁷
- [emphasis added]

³⁶⁵ Nunavut Housing Corporation, *Rent Scale Procedures Manual, Version 3.8* (June 2015) [“Rent Scale Procedures Manual”]

³⁶⁶ *Family Abuse Intervention Act*, SNU 2006, c 18, s.5. FAIA provides for a number of other orders as well, but EPOs are the most common orders, as the other orders are rarely used, if ever: Preliminary Findings Report, *supra* note 95; Durrant, *supra* note 320.

³⁶⁷ *Family Abuse Intervention Act*, SNU 2006, c 18, s.7(7).

According to this text, a woman could in theory use emergency protection orders under FAIA to temporarily remove an abuser from the home, even if he is listed on the lease as a primary tenant or is the homeowner. In this way, FAIA acts as a higher-order text in the intertextual hierarchy that subordinates other texts such as the *Residential Tenancies Act* or a lease which outlines who is normally legally entitled to occupy the home, notwithstanding this FAIA provision.³⁶⁸ Section 9 also outlines that emergency protection orders have priority over existing orders made under family laws such as the *Child and Family Services Act*, *Children's Law Act*, *Family Law Act* or *Divorce Act*, although it is subject to any subsequent orders made under those Acts.³⁶⁹

On its face then, FAIA presents as a powerful text that outlines a sequence of actions to be followed. A person applies for an emergency protection order to a justice of the peace through an *ex parte* application (s.7(1)). If granted, the RCMP serves notice of the order to the respondent (s.38). The justice of the peace forwards the order to the Nunavut Court of Justice, where a judge reviews the order within five days to either confirm the order or direct a rehearing (s.15). If the respondent does not comply with the order, the RCMP can arrest the respondent (s.42).

But Smith notes that texts do not regulate just by their mere existence; instead, what matters is how people treat and respond to such texts.³⁷⁰ Previous reports and articles have noted practical issues with how that process unfolds in actuality, including a lack of trust in the effectiveness in the remedies offered.³⁷¹ J.D. offered her own experience of emergency protection orders (sometimes called EPOs) that reflect these concerns:

³⁶⁸ Smith, *Texts*, *supra* note 8 at 67 & 79.

³⁶⁹ *Family Abuse Intervention Act*, SNU 2006, c 18, s.9.

³⁷⁰ Smith, *Texts*, *supra* note 8 at 81 and 83.

³⁷¹ Preliminary Findings Report, *supra* note 95; Durrant, *supra* note 320.

INTERVIEWER: Did you ever try to get help with dealing with him? Like either by talking to a lawyer or by going to the police, or you know those EPOs? Did you ever try those?

PARTICIPANT: Mmhmm. I've tried EPOs...

INTERVIEWER: Yeah? No luck, there?

PARTICIPANT: Not really.

INTERVIEWER: He just... he didn't care?

PARTICIPANT: In the evenings, he would find a way to... get a hold of me, or see me. When, you know... After hours. So that was...

INTERVIEWER: So he didn't respect the order at all?

PARTICIPANT: No. No. And...

INTERVIEWER: How about the others? Did you try... Sorry, I'm not saying you should have, I just want to know what people have tried. Like, did you try to get the police involved, or did you ask a lawyer for help or anything like that.

PARTICIPANT: I've asked the Department of Justice to help me get an EPO many times. I've gotten probably about four?

INTERVIEWER: Yeah, and no luck, eh?

PARTICIPANT: No. And so once you've tried so many times with an EPO or peace bond, and they don't comply, to me, it's like okay, I give up. These documents don't mean anything to that person. So it's like, what do I have, what do I do now?

The RCMP officer I spoke to in Cambridge Bay made similar observations about the practical limitations of these types of orders:

...[P]eople that are now under charge, and they're on a release order, or an undertaking, or a peace bond, or an EPO, and essentially, well, as you know in your career, those documents are basically saying you can't contact this person, you can't go there. And frequently or not, those things come up within domestic relationships. And my retort to that is, how are you going to tell somebody? They've grown up with these people, they've lived here, they've lived here before you, they're going to live here after you leave. And this is how they've lived before. Not to see each other? In a town of 1700 people?

INTERVIEWER: It's also kind of hard to avoid... Like, you run into everyone at some point if you go to the grocery store, right?

PARTICIPANT: Right. The amount of calls that we get about, "Oh, I saw Person there." Okay. What did you do? "Well, I yelled at them, because I don't want to see them." I was like, "Well, you saw them at the Co-op. Like, you gotta let them buy groceries."

INTERVIEWER: So there's the feasibility aspect to the no-contact orders, right?

PARTICIPANT: There's what's in the Criminal Code that needs to be done. And there's what's in policy, which is, unfortunately, applied to all of Canada, not Nunavut specifically. And then there's the reality of the situation. The situation is, those two people, no matter what piece of paper you give them, are going to be back together. If not the same day, the very next day.

Both J.D. and the RCMP officer observe that EPOs granted under FAIA (as well as other similar orders under the Criminal Code) sometimes have limited effect in organizing people's behaviour. In thinking about access to justice, we see that FAIA sometimes is not activated by people and therefore does *not* organize people's activities, or at least to the extent that it proposes to. We also heard earlier in this section from a service providers about how social relations in the form of family dynamics may also influence how Inuit behave in these types of situations. Conversely, we also see that people's actual experiences are not reflected in the institutional texts, as can be seen in the police officer's reference the disjuncture between "what's in policy, which is unfortunately applied to all of Canada, not Nunavut specifically" and "the reality of the situation". As a result, such actualities are not reflected in the institutional processes, which continue to impose national-level requirements to the local.³⁷²

Emergency protection orders can also be used against women as well, leaving them without housing, as seen by one service provider:

And the other thing too is one partner whose name is on the lease agreement files for an EPO, an emergency protection order, then you know, they kind of have the upper hand and they can tell the other partner, you've got to move. So I've come across women who have children in that similar situation, where their partners are asking them to leave.

Ukuak has provided housing-related services in Cambridge Bay, and she notes how it is useful to encourage people to think about this potential power dynamic in relationships:

We're not trying to encourage men and women who have babies together... we're not trying to encourage them to consider themselves a couple, because that doesn't necessarily make them a couple. Just because you're a baby daddy, doesn't mean you're the love, you know? You don't have to live together. You don't have to be on the lease. You don't have to be co-leasee. We're trying to protect the women, protect the men. In many ways, you don't need to put his name as co-leasee. He wants to live with you? Fine. It's your unit, you're the primary tenant. You're in charge.

³⁷² In Chapter 7, we will further examine how institutional accounts subsume the reality of people's actual lived experiences.

Texts such as a residential tenancy agreement in the form of a lease can therefore coordinate the housing experiences of women in relationships in a number of ways. In the cases of E.S. and J.D., neither of whom originally had their names listed as primary tenants on the lease, made them vulnerable to being kicked out of their home by their partners. On the other hand, if a woman only has her name on the lease as the primary tenant, or if both partners are named on the lease, she could also be vulnerable to being responsible for damages that her partner may cause to the rental unit, as will be seen in Chapter 7 on tenant damages.

For some of the women I spoke to, instead of relying on the remedies provided under laws such as FAIA or the *Criminal Code*, they have found their own solutions and strategies elsewhere, because they have found these laws to be limited in providing a solution that they need. E.S. was also eventually allocated her own public housing unit, where she now lives with her son and her partner. Now that she has a secure home, E.S. has been working on healing her relationship with her partner.

These housing insecurity issues also affect people who have been arrested for domestic-related incidents. These people are located at a different standpoint from J.D. and E.S., but their experiences are also mediated by institutional texts in very specific ways as they go through the criminal justice system. Paul Falvo, a criminal defense lawyer who has served communities across the Kitikmeot region, explains how the housing shortage affects a client's prospects:

PARTICIPANT: Well, a conditional sentence is an option as a sentence for some crimes in some situations. So instead of being sent to an actual jail, I can serve my sentence in the community. But to serve my sentence in the community, there has to be a place that I can do it.

So if I'm charged – well, now convicted - of assaulting somebody, the court will be reluctant to put me "in jail" with that person. Because if I'm doing a conditional sentence and – so to speak – I'm in jail, but in my home, serving my sentence in the community, and the victim of that crime is in there with me, that might be what I want. It might be what the victim wants, or says that they want. But it's a tough pill for the court to swallow. And it would be members of the public, depending on where

they are, might find that difficulty as well. If you're part of an advocacy group and your client base, you see a member of your client base now sharing space with somebody who's serving time for assaulting them...

You know, I'm using gender-neutral terms on purpose, but reality is that most of the domestic assaults are men assaulting women. And so are we going to say to a woman in Nunavut who may already be economically and socially disadvantaged that she has to share jail space essentially with somebody who now isn't allowed out?

Paul is describing here what is colloquially known as house arrest. The text serving as the regulatory frame here is the *Criminal Code*, specifically section 742.1, which states:

If a person is convicted of an offence and the court imposes a sentence of imprisonment of less than two years, the court may, for the purpose of supervising the offender's behaviour in the community, order that the offender serve the sentence in the community, subject to the conditions imposed under section 742.3, if

(a) the court is satisfied that the service of the sentence in the community would not endanger the safety of the community and would be consistent with the fundamental purpose and principles of sentencing set out in sections 718 to 718.2;³⁷³

While the institutional texts prescribe ways to allow an offender to serve their sentence in the community rather than in a correctional facility, Paul explains as a service provider why conditional sentencing is not realistically available for some of his clients, if they have been convicted of assaulting their partner or a family member, and the only place to serve out their sentence is in a home shared with the victim. In larger southern Canadian cities, there may be other transitional housing options available, but in a territory where there is already a severe housing shortage, an offender's options are limited and despite what the law offers, they may have to instead serve out their sentence at a correctional facility instead due to a lack of space in the community.

I asked Paul to explain further the work that he is expected to do as a lawyer trying to present sentencing options for his client to the court:

The court will expect me to have a plan. If I come there saying conditional sentence, the court is not expecting me to just pull it out of the air. The court is expecting me to

³⁷³ *Criminal Code*, RSC, 1985, c C-4, s. 742.1

say yes, this is the residence. It can be here. And if it's not, that person's residence may be... The court will presume I might have checked with the people who lived there. Like if the person was going to be living with their parents, are their parents okay? Are they willing to effectively act as jailers? Because even though they aren't responsible for enforcing the conditions, it's still their place. So if Johnny had a place to go to in the past, but now he's going to be there on an almost 24-hour curfew, then it affects them. It affects the situation.

INTERVIEWER: And then... Sorry... So do you find that often part of the work that you're doing as a criminal defence lawyer is exploring housing options for your client if you wanted to propose conditional sentencing?

PARTICIPANT: Yes, sometimes it is. Like I'm not so much doing the fieldwork or knocking on doors, but it's explaining to the client why his girlfriend isn't the best choice for that.

Paul explains how the same housing issues arise before conviction, during the bail stage as well:

It could be we're talking about bail, for example. He wants to get out on bail. But he's got nowhere to go. So you've got people who are... I've had people that were releasable for long-term. I'm thinking of a case where yeah, a fellow was facing very serious charges, but he was entirely releasable.

INTERVIEWER: Like on bail, you mean?

PARTICIPANT: On bail. The Crown was consenting to his release, as long as a suitable place could be shown. And neither him nor anyone in his extended family could come up with a place where this guy could live. In this case, it had to be a place away from children. So where can a person live in Nunavut away from children?

Maybe you could have a hotel room in Iqaluit. But where in Cambridge Bay would you have that? So not only you've got somebody who's in jail, but wouldn't be in jail if he had money. So he's not in jail because he's poor, but he's in jail because he's poor.

Here Paul has observed how people who are poor are particularly vulnerable to the housing crisis, because they do not have the money to secure appropriate living arrangements (such as a hotel room) while awaiting their trial. Like sentencing, a bail hearing serves as an institutional processing interchange in the criminal justice process. In sentencing, once an accused person has been found guilty, their case may be routed in a number of directions, each with their own sequence of actions, including serving a sentence in the community through conditional sentencing, or serving a sentence in a correctional facility. The earlier cited passage

from the *Criminal Code* is a text that coordinates the sequence of actions by enumerating the conditions that must be met in order to be eligible for conditional sentencing. Similarly, prior to a conviction, a person may have the option to post bail and live in the community rather than awaiting their hearing in jail, if certain conditions under the *Criminal Code* are met. But as we can see, there are other elements in actuality outside of the institutional texts that affect whether the person must remain in jail or can live in the community. In the next section of this chapter, we will trace these elements in order to gain more insights into ruling relations that, beyond laws like the *Criminal Code* and FAIA, organize people's housing experiences.

4.3. Uncovering ruling relations beyond texts in emergency and transitional housing

One resource that was sometimes available (but not always) to J.D. and E.S. was the women's shelter. In southern Canada, people going through the criminal justice system may have a different option of transitional housing, such as in the form of a halfway house, to support their re-integration into the community. These options are not as easily accessible to people in Nunavut due to the shortage of emergency shelters and virtually no transitional or supportive housing in the territory.³⁷⁴ In this section, we begin to move past the individual stories of housing insecure people like J.D., E.S., or Paul Falvo's clients in the criminal justice system to understand what is happening beyond their local standpoints with respect to emergency and transitional housing.

In examining the Government of Nunavut's diagnosis of the territory's housing crisis, it identifies the lack of emergency and transitional housing as a critical gap in its conception of the housing continuum:

Another major drawback of the territory's existing continuum is the huge discrepancy in the quantity and diversity of shelter for the housing vulnerable. To date, the GN has not

³⁷⁴ Inuit Nunangat Housing Strategy, *supra* note 37 at 7.

been in a position to determine the full range of supportive housing needed to meet the specific needs of the population with mental wellness issues, physical disabilities, seniors' needs and other supportive housing. Consequently, by necessity, all needs tend to fall into public housing as a catch all, worsening the already overcrowded living in these units.³⁷⁵

According to the Government of Nunavut, the lack of transitional housing has contributed to over-dependency on government-subsidized public housing, which we will examine in further detail in the following chapters. It sees this shortage being due in part to “the lack of a robust non-profit, non-government organization [...] [that] has the ability to provide supportive housing targeted to very specific groups that the GN does not have the capacity to offer.”³⁷⁶ We saw from this chapter that the lack of transitional housing also results in people couchsurfing or having to remain in jail.

Despite the shortage of transitional housing, Cambridge Bay is relatively fortunate enough (compared to other communities) to have three shelters, one each for men, women and youth. Most of the other communities in Nunavut do not have shelters, and as a result, the shelters in Cambridge Bay serve more than just the local housing-insecure population within the community, as they often receive people from other communities as well. However, this means that shelters are often full. Teija Nakashook formerly served as the coordinator running the women's shelter through the Kitikmeot Friendship Society, and she saw high demand for space there.

INTERVIEWER: It must get busy at times?

PARTICIPANT: We do have fourteen beds, and it seems they're always full.

INTERVIEWER: Do you have to turn people away?

PARTICIPANT: Yeah, we do have to turn people away, mainly from outer communities, because we don't have the capacity. We've been having good reviews on the shelter because of the programs we run internally and externally, so it's in high demand. We're here to provide a safe and healthy environment. [...] It's rare that people get turned away, other than for space.

³⁷⁵ GN Strategy, *supra* note 2 at 14; see also NHC Blueprint, *supra* note 2 at 7.

³⁷⁶ NHC Blueprint, *supra* note 2 at 16.

Solomon Bucknor previously served as the director of the municipal Department of Healthy Living, which runs the men's shelter, and he also observed the high demand for space at the men's shelter and the need to extend temporary stays at the shelter. At the time of the interview, he noted that the shelter was completely full, and often was full, because they receive people from other communities like Baker Lake, Rankin Inlet, Gjoa Haven, with no other place to go.

Solomon's observations highlight just how much Cambridge Bay's housing situation is connected to other elements, which we will start to examine. It is affected by the housing situations in other communities, where there are no homeless shelters, and therefore people in those communities are brought to the shelter in Cambridge Bay. Solomon also confirmed that the youth shelter also takes in children in need from other communities. Furthermore, due to a lack of transitional housing to rehabilitate recently released inmates, such as perhaps Paul Falvo's former clients, the men's shelter in Cambridge Bay ends up filling that role as well. There are parallels to the impacts of interconnected communities in the area of food insecurity as well. In Ford and Beaumier observed in their Igloodik study that traditional food is shared between communities, but such practices depend on the availability of wildlife to be harvested and accessibility factors such as the high costs of air freight and the distances between communities.³⁷⁷ They noted that in recent years, Igloodik hunters have been sending less walrus meat to other communities.³⁷⁸ This shows how multiple communities can be affected by what happens in one community, and strains on resources can be felt across the territory.

³⁷⁷ Ford & Beaumier, *supra* note 197 at 50 & 53.

³⁷⁸ Ford & Beaumier, *supra* note 197 at 53.

Similarly, when it comes to housing, because of the interconnected nature of Inuit communities, the local community of Cambridge Bay is affected by what happens in other communities. Solomon also explained that sometimes people's stays at the shelter must be extended because they do not have anywhere else to go. According to him, typically people are supposed to stay at the shelter for about three months, but it is difficult to have people leave if they don't have anywhere to go. As a result, some people have stayed for three years, or even longer. From his experiences working on housing issues and as a long-time community member, Harry Maksagak explained to me how some people end up staying at the men's shelter for much longer than intended:

PARTICIPANT: Now under the men's shelter situation, I know for a fact that we would take John Doe to come in. But we would let John Doe know that we're going to give you 90 days in this unit. So within that 90 days, would you -

INTERVIEWER: So this is at the shelter?

PARTICIPANT: Yeah. You should be able to find work and you should be able to have your name put on a list for your own unit.

INTERVIEWER: On the waitlist for public housing, right?

PARTICIPANT: On the wait list, yeah. But that 90 days now has ballooned to about five years, because there is no unit available.

INTERVIEWER: So they've stayed there. They're staying there for much longer...

PARTICIPANT: They're in the shelter, and the demand for more to move into the shelter has become greater, because, like I said, we have outsiders moving in now and we just cannot say no, we've got no place for you. So we will temporarily put them up in this shelter, with the understanding that there is a 90 days' pause we'd like to look at, where you might be able to find work. Even if it's part-time temporary work, at least you begin to make some money for yourself. And then, if you've met someone, at your workplace that you've built a friendship with and you have this trust between you, then John Doe and Philip Joe might come together and say, let's go down and put our application in. And we can co-lease this unit. Just so that we're out of the shelter. Because that shelter that we have now should have a good rotational system.

INTERVIEWER: It's supposed to be temporary.

PARTICIPANT: A 90 day cycle. But because there are no units available, their 90 days have been extended.

We see that when people can end up staying at shelters for longer periods of time, this may affect how many beds are available at the shelter at any given time.³⁷⁹ Institutional texts designate shelters as temporary arrangements. For example, in outlining its policy objectives, the Framework for the Government of Nunavut's Long-Term Comprehensive Housing and Homelessness Strategy, states "Emergency shelters, the first response to housing loss, are typically designed for short-term stays."³⁸⁰ Service providers such as Teija Nakashook also confirmed that the shelter is meant to serve as a temporary reprieve. The same can be said for transitional housing, noting the word "transitional": these homes not institutionally designed to be one's forever home, but just a site where people are to pass through until they are moved to other parts of the housing continuum, according to institutional texts. Shelters are not covered by the *Residential Tenancies Act*,³⁸¹ as people staying there are not considered by the law to be in a landlord-tenant relationship. Yet despite institutional prescriptions that shelter stays are supposed to be short-term, we hear from participants that in reality people may have to stay in shelters for much longer, due to a lack of housing options elsewhere, while they wait on the waiting list for public housing. In the next chapter, we will hear more about the experiences of people on the public housing waiting list. For now, we see that the lack of housing in the community, as well as the lack of shelters and other forms of housing in other communities in the territory, have affected the availability of what emergency and transitional housing is available in Cambridge Bay. Even though Cambridge Bay is considered to be better off than other communities in certain respects, it is still affected by what is happening at the territorial level and in other communities.

³⁷⁹ This is an issue that occurs across the territory: GN Framework, *supra* note 12 at 27.

³⁸⁰ GN Framework, *supra* note 12 at 27.

³⁸¹ *Residential Tenancies Act*, R.S.N.W.T. 1988,c.R-5 ,s.6(2)(e).

There are plans to build more shelters across the Canadian north, as explained by Kerenza Plohman from Inuit Pauktuutit Women of Canada, which recently received funding to build women's shelters:

Pauktuutit had been advocating for a really long time to get funding for shelters in Inuit Nunangat as well as in different places in urban areas. So we're very happy with the funding that the government has given, and CMHC is going to be involved with the initial construction funds, and then the ongoing annual operational funds and maintenance that will be given by Indigenous Services Canada.

[...]

The different regions each have one shelter and then there are transitional homes as well, which would be, you know, the second-stage housing kind of thing. So altogether, there are several up there.

However, Kerenza notes that there is a question of how much funding will continue to be available in the long-term:

PARTICIPANT: The way that it has been set is that there is right now guaranteed funding for five shelters, and then the others are... the words that they have used is notional allocation. So as we go along, you know, it will depend on availability and how much funding is available as well as applications and things like that.

It is this aspect of notional funding where we start to piece together the large puzzle of why there have not been enough shelters and other forms of emergency and transitional housing in the territory. In the earlier quote from the Government of Nunavut's housing strategy, we see that the Government of Nunavut has not even been able to accurately measure the *need* for different types of transitional housing,³⁸² let alone secure the fundings to meet such needs. While the capacity issue of the resource-strapped Government of Nunavut is a larger topic to be more fully explored beyond this dissertation, we can take the funding structures in the territorial to start to see how colonialism, as a ruling relation, has played a key role shaping what has happened in this area.

³⁸² GN Strategy, *supra* note 2 at 14; see also NHC Blueprint, *supra* note 2 at 7.

Inuit organizations have criticized the funding arrangements in the governance structure of Nunavut, which involves indirect funding that flows from the federal government to the territorial government, which is a public government that represents both its Inuit and non-Inuit residents.³⁸³ Federal funding towards housing in Nunavut has been criticized as historically being sporadic, uncoordinated, and “in isolation in amounts untied to outcomes other than assisting family in need”, producing a reactive approach.³⁸⁴ The Government of Nunavut’s (GN) Housing Strategy has noted that “since inheriting the housing shortage that began with settlement, the GN has never had a sufficiently funded housing program to meet demand.”³⁸⁵ Inuit organizations have further argued that the indirect nature of federal funding for Inuit housing, through the territorial government, has not adequately produced culturally appropriate housing solutions to benefit Inuit.³⁸⁶ Some Inuit have described the resulting housing crisis and the social issues arising from it as the destruction of their culture.³⁸⁷

As a result of this inadequate sustainable funding, the shortage of available shelter space is a significant operational constraint for existing shelters in the North.³⁸⁸ As we saw in this chapter, the shortage of shelters and shelter space then presents further challenges for women looking to leave abusive situations at home.³⁸⁹ There are also not enough emergency shelters in Nunavut for homeless people facing other forms of crises,³⁹⁰ including those suffering from mental illness and/or addiction, those recently released from prison, and those relocating from

³⁸³ The Inuit Nunangat Housing Strategy co-developed by ITK and the Government of Canada acknowledges that no direct funds were provided to Inuit in Nunavut for Budgets 2016, and Budget 2018, as they were provided only indirectly through the Government of Nunavut, despite Inuit advocating for direct funding: Inuit Nunangat Housing Strategy, *supra* note 37 at 17 and 25.

³⁸⁴ NHC Blueprint, *supra* note 2 at 4; Tester, *supra* note 4 at 151; Senate Report, *supra* note 43 at 5.

³⁸⁵ GN Strategy, *supra* note 2 at 19.

³⁸⁶ Inuit Nunangat Housing Strategy, *supra* note 37 at 3.

³⁸⁷ Little Voices *supra* note 2 at 120.

³⁸⁸ Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 57.

³⁸⁹ Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 54; ITK, Arctic Policy Framework Position Paper, *supra* note 57 at 9; see the example of a story of an elderly woman unable to escape her nephew’s violence in Qaqqaaq, *supra* note 3 at 17

³⁹⁰ Little Voices *supra* note 2 at 102 and 122.

another community.³⁹¹ Furthermore, there are limited options for transitional/second-stage housing or other forms of supportive housing when it is time to leave the shelter.³⁹² This means that women fleeing abusive homes may have to return to their abusers,³⁹³ and Nunavummiut may need to leave the territory for the support they need,³⁹⁴ or otherwise rely on already over-taxed public housing programs as a “catch-all”³⁹⁵ that may not meet their specific needs.

In her recommendations for incorporating Inuit Qaujimajatuqangit, Tina DeCouto calls for more support for Inuit to work together for the common good (*ikajuqtigiinni*) by addressing the social and infrastructure gap that exists between Inuit and other Canadians, “to ensure Inuit have appropriate and adequate access to resources to fulfill our basic needs” without which Inuit cannot progress towards self-actualization and self-determination.³⁹⁶ This includes ensuring adequate, long-term core funding for the delivery of Inuit-specific and Inuit led programs that are fully recognized and valued by the government, which may include changing existing legislation, regulations, and other policies.³⁹⁷

Specifically, Inuit and other northerners have called for adequate, appropriate and sufficiently-funded emergency shelters, to support people facing all forms of crises beyond family violence, using gender- and culturally sensitive models.³⁹⁸ They also call for supportive and transitional housing that involves multi-disciplinary partnerships and coordinated resources between local service providers with lived experiences, providing a safe, supportive environment

³⁹¹ Little Voices *supra* note 2 at 51 and 122.

³⁹² Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 52 and 62; Little Voices *supra* note 2 at 124. Supportive housing refers to a model where, instead of having individuals seeking out support through services on their own, such services are brought to them, in order to address the root causes of housing insecurity. It is important for meeting the needs of other housing vulnerable populations, such as those with mental health issues and physical disabilities: Northern Housing Policy Recommendations, *supra* note 4; Little Voices *supra* note 2 at 111-112.

³⁹³ Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 52 and 62; Little Voices *supra* note 2 at 112.

³⁹⁴ Qaqqaq, *supra* note 3 at 18

³⁹⁵ GN Strategy, *supra* note 2 at 14.

³⁹⁶ DeCouto, *supra* note 171 at 180.

³⁹⁷ DeCouto, *supra* note 171 at 181.

³⁹⁸ Little Voices *supra* note 2 at 110.

that is gender-, culture-, and child-friendly to allow people to gain the skills and networks they need.³⁹⁹

This is also about more than funding, but also Inuit priorities and values in how policies are designed and how programs are delivered. In the context of resource allocation of food, Inuit have explained how in the past, people often spread out to live in many camps in the summer because it would be difficult to feed people and their dogs if they all lived together.⁴⁰⁰ In the winter, they would love together to share meat while also accessing nearby meat caches that they prepared during other parts of the year.⁴⁰¹ This arrangement helped Inuit to avoid strains on available resources in a manner that was attuned to their surrounding environment. These habitation patterns were disrupted through the imposition of government policies to establish permanent settlements in Nunavut, policies that did not reflect Inuit Qaujimajatuqangit. While the Government of Nunavut identifies the shortage of a robust non-profit / non-governmental organization sector as a contributing cause of the lack of supportive housing,⁴⁰² it is specifically Inuit involvement that needs to be increased. Inuit argue that Inuit should play a leading role with a direct relationship with the federal crown to achieve Inuit self-determination in housing, in order to move past the history of colonialism in Nunavut.⁴⁰³ This would involve Inuit in all aspects of housing, such as determining priorities, implementation strategies, and the allocation of resources.⁴⁰⁴

The Inuit Nunangat Housing Strategy, co-developed in 2018 together by Inuit of Nunavut and the Government of Canada partly in response to these critiques, envisions a long-term

³⁹⁹ Northern Housing Policy Recommendations, *supra* note 4 at 17; Little Voices *supra* note 2 at 111-112.

⁴⁰⁰ Bennett & Rowley, *supra* note 113 at 247.

⁴⁰¹ Bennett & Rowley, *supra* note 113 at 247.

⁴⁰² NHC Blueprint, *supra* note 2 at 16.

⁴⁰³ Inuit Nunangat Housing Strategy, *supra* note 37 at 2; also as affirmed Northern Housing Policy Recommendations, *supra* note 4; Senate Report, *supra* note 43 at 6.

⁴⁰⁴ Northern Housing Policy Recommendations, *supra* note 4 at 10; Little Voices *supra* note 2 at 115 & 137.

affordable housing program that involves multi-year funding directly to Inuit organizations, to be designed for and delivered by Inuit, specifically with Nunavut Tunngavik Incorporated as the strategic organizational lead in partnership with the regional Inuit Associations for program development, and the Inuit development corporations for program delivery.⁴⁰⁵ Built into these goals for Inuit self-determination is an eventual move away from federal funding dependency.⁴⁰⁶

While time will tell how this new strategy will unfold, I suggest that this moment in time could provide an opportunity to address situations of homelessness that better reflect Inuit Qaujimajatuqangit. Inuit emphasize their practices of sharing resources and working together to solve problems: we have seen how this means that people will open their doors to the people they know who are in need, such as J.D. and E.S., even if it might result in a crowded household and strains their limited resources. One report on Nunavut notes that “Inuit who are homeless in Nunavut survive because of the values that are placed on maintaining family ties and sharing.”⁴⁰⁷ The same can be said at the inter-community level, where communities will often share resources, whether by sending country food to other communities or accepting people from outside of the community into their shelters. These collective sharing practices driven by Inuit Qaujimajatuqangit must also be reflected in housing designs and policies, rather than importing Western capitalist perspectives of resources as commodities in an individualist competitive market, or assumptions that one nuclear family will reside in one dwelling. Planning must be done with a goal of supporting all communities collectively, because resource strains in one community will affect others.

4.4. Conclusions on homelessness and transitional housing

<i>Key insights:</i>

⁴⁰⁵ *Inuit Nunangat Housing Strategy*, *supra* note 37 at 12.

⁴⁰⁶ *Inuit Nunangat Housing Strategy*, *supra* note 37 at 12.

⁴⁰⁷ Little Voices *supra* note 2 at 57.

- Inuit women shared their stories about being kicked out by their partners, and drifting from house to house, looking for a place to stay for the night. They were often worried about their health, safety, and their children's well-being.
- Laws like the *Family Abuse Intervention Act* allow a person dealing with family violence to apply for an emergency protection order, which can include ordering an abuser to leave the house for period of time. But it can be difficult to make an abuser to follow the order, especially in a relatively small community like Cambridge Bay.
- As a result, some women have to find their own ways to deal with their situation, without relying on the law to help them. This can involve couchsurfing with friends or family, staying at a shelter when possible, or returning to their partner.
- People going through the criminal justice system for crimes such as domestic assault are also affected by the housing shortage.
- When a person is charged, the law sometimes allows them to still live in the community on bail while they wait for their trial. But if the only place they can live is with the victim that they have been accused of assaulting, the court will probably not release them on bail. Instead, they will have to wait for their trial in jail.
- This is the same situation for people who have been convicted of a crime: the law sometimes allows them to serve their sentence in the community, rather than in jail, as a conditional sentence (what people sometimes call "house arrest"). But if the only place they can live is with the victim, the court will probably not grant a conditional sentence.
- This means that people who do not have to be in jail must stay in jail, all because of the housing shortage in the community. Often these are people who are poor, because a person with more money might be able to rent a hotel room.
- In southern Canada, there are emergency shelters and transitional homes like halfway houses to help meet the needs of women who are trying to leave an abusive relationship, people going through criminal justice system, or other people looking for housing.
- There are very few emergency shelters and almost no transitional/supportive housing in Nunavut.
- As a result, homelessness often appears in the form of couchsurfing and overcrowded homes.
- Cambridge Bay has homeless shelters, but they are often full. Other communities in Nunavut do not have shelters, so people come from all over the territory to stay in Cambridge Bay's shelters.
- There needs to be enough long-term funding for shelters and transitional housing across the territory. These programs should be Inuit-specific and Inuit-led, to make sure Inuit needs are met.

In the colonialist context of Nunavut's history, we can start to see how these governance arrangements have shaped Inuit experiences housing issues as they do. For people struggling to find a home – or even simply a place to sleep for the night – while dealing with relationship problems or navigating the criminal justice system, the territory-wide lack of funding for emergency shelters and transition housing has meant that they must sleep on someone's couch in already overcrowded households, or spend money they can't afford on hotel rooms, or remain in

jail. These all not only affect other sites of the housing continuum, such as public housing, but they negatively affect various other aspects of their life including health and economic prospects. Conversely, having a stable secure home can have enormous positive impacts on a person, as can be seen in the case of E.S. who has been able to make big changes in her life in providing a healthy environment for her family, now that she is moved into a public housing unit:

I want to break that chain. Especially for my kids. And I really wished for a safe home, growing up. Like, it was an almost everyday wish. And having my kids, I really don't want them to go through what I went through.

As we move on to the following chapters, we will see the different ways that the relations of ruling shape the lives of people navigating their various housing situations. For example, in the next chapter, we will look at the experience of those applicants waiting to be allocated a public housing unit, who are subject to institutional processes and requirements that they do not fully understand, based on rules imposed on them through an institutional view of what is fair that does not match what they understand as fair.

Chapter 5: Waiting to get into public housing

5.1. Overview of the chapter

In the previous section, we looked at the experiences of housing insecure people who must resort to couchsurfing and other temporary housing strategies while they wait for their own secure housing, usually a public housing unit. We now connect those experiences with what is happening in public housing, and specifically for this section, the waiting list for public housing. In this way, the inquiry of this institutional ethnography continues to move beyond the locally-situated everyday activities and knowledge of individuals looking for a home, to trace the ruling relations that are not immediately visible locally but still coordinate these actions.⁴⁰⁸ I first examine how people talk about public housing, to reveal their local understanding about the role of public housing as the *de facto* form of housing, connected to the historical representations made by the Canadian government, which set in motion the reach of the ruling relations that are omnipresent today. I then trace how the community's local understanding comes into conflict with the institutional discourse about the role of public housing. The institutional processes for public housing are structured according to this "authorized view" of public housing through institutional texts, and the conflicts between these discourses result in the disjuncture that community members and service providers experience throughout these processes. We see that community members' local knowledge, based on their experience of promises made by the Canadian government to offer them housing if they settled into the community, are not reflected in the institutional discourse. In this way, the ruling relations coordinate Inuit experiences of

⁴⁰⁸ Lauren E Eastwood, "Chapter 12: Intergovernmental Environmental Policy-Making" in Paul C Luken & Suzanne Vaughan, eds, *The Palgrave Handbook of Institutional Ethnography* (Springer 2021), 193 at 197 ["Eastwood"]; Smith, *Conceptual*, *supra* note 7 at 25; Smith & Griffith, *supra* note 8 at 10 & 13; Rankin, *Caution*, *supra* note 1 at 8.

public housing in a manner that perpetuate the subordination of Inuit set in motion by colonialism.

After examining how the different understandings about the role of public housing in the community interact, I then turn to the experiences of participants with the public housing waiting list, where community members describe the work they do to meet the application requirements for applying for housing, while struggling to understand what exactly is required or how the housing allocation works, revealing their sense of unfairness at how the process is carried out. Their experiences of being unable to see beyond their local standpoint can lead to a sense of frustration and a lack of justice. While these requirements and allocation formulas are prescribed through institutional texts, it is often service providers (playing the role of trusted intermediaries, as described in access to justice literature)⁴⁰⁹ who activate the texts in their work and relay the information to community members through talk and secondary texts. This demonstrates how knowledge is textually and socially organized in the specific context of Cambridge Bay, in a manner that sharply diverges from how Inuit have shared knowledge for centuries before colonialism. It also highlights the role that service providers now play, as what is known in some access to justice literature as “trusted intermediaries”⁴¹⁰ in shaping local knowledge about how the waiting list works for community members.

I then examine the institutional texts that service providers rely on, describing how the quantitative point-rating system produces a “flattened” institutional account of applicants’ lives,

⁴⁰⁹ Julie Mathews and David Wiseman, *Community Justice Help: Advancing Community-Based Access to Justice* (Toronto: Community Legal Education Ontario, June 2020) at 7, online (pdf): Community Legal Education Ontario <<https://cleoconnect.ca/resource/research/community-justice-help-advancing-community-based-access-to-justice/>> [“Mathews & Wiseman”]. Also see Karen Cohl, Julie Lassonde, Julie Mathews, Carol Lee Smith, George Thomson, *Trusted Help: The role of community workers as trusted intermediaries who help people with legal problems: Part 1: Key findings and recommendations* (1 May 2018) Law Foundation of Ontario, online: <https://lawfoundation.on.ca/download/part-1-trusted-help-the-role-of-community-workers-as-trusted-intermediaries-who-help-people-with-legal-problems-2018/#:~:text=Trusted%20intermediaries%20provide%20people%20with.and%20navigate%20the%20legal%20system> [“Cohl et al.”]

⁴¹⁰ As discussed in research reports such as Mathews & Wiseman, *supra* note 409.

in order to assess their applications in a manner that is considered “fair”. Fairness, in the context of this institutional discourse, refers to treating everyone the same way, a procedurally-based definition that is different from the understanding of community members I interviewed, who were most interested in the results – getting a home.

To further understand how this connects to the access to justice problematic of disjunctures between institutional prescriptions and people’s experiences, I turn to the work of lawyers navigating these situations for their clients. Lawyers are generally only able to take legal courses of action when, to use their professional framing, they can find a legal basis for challenging a decision about the allocation of public housing units. From an institutional ethnographic lens, they can only take certain actions when their clients’ actualities can be articulated in an institutionally accountable manner. In analyzing my interviews with lawyers, I unpack lawyers’ professional talk to examine how the institutional texts that coordinate their activities reveal institutional discourses about fairness, one that is also focused on process, through principles of administrative law. Here, then, we also find different underlying assumptions of what is fair, which brings us back to the access to justice problematic that began this course of inquiry, where I struggled to understand what was happening beyond my own standpoint as a housing lawyer in Cambridge Bay, as I became aware of the disjunctures between what the law prescribed and what my clients were experiencing. Both institutional discourses – fairness-as-sameness in the housing context, and procedural fairness as natural justice in the law context – are different from what community members are most interested in: the results. These differences bring to mind the different dimensions of access to justice (procedural versus substantive) described by MacDonald.⁴¹¹ These conflicting assumptions about fairness produce

⁴¹¹ MacDonald, *supra* note 16.

the disjunctions I had begun to observe as a housing lawyer before this research, where from an institutional standpoint, the applicant may have been afforded procedural access to justice because an application has been processed exactly as prescribed in the texts, but applicants may still be left with a sense of injustice from their own standpoint. This, we will see, is the result of imposing Western systems on an Inuit society that already had their own ways of working before colonialism.

5.2. “When you turn eighteen, you put your name on the list”: Problematizing the authorized view of the role of public housing

When people in Nunavut talk about public housing, they are referring to housing that is operated by the local housing organization and subsidized by the territorial government, with rent adjusted according to household income. It is the main form of housing in Nunavut: more than half of the population of Nunavut lives in public housing.⁴¹² Most of those tenants (70%) live on either income support or paying only the minimum rent.⁴¹³ According to the Government of Nunavut, the demand for public housing in the territory is more than demand anywhere else in Canada except Nunavik, and this demand is predicted to increase with the growth of the territory’s population.⁴¹⁴

Most of the community members I spoke to who had grown up in Cambridge Bay were either living in public housing or had lived in it previously before moving to other forms of housing, and therefore had much to share about their experiences. As I spoke to participants, I began to hear a repeating narrative for how one is expected to conduct their housing affairs: You reach the age of majority, you apply for public housing, and you live with your parents until you are allocated a unit of your own. One participant I spoke to was a returning university student

⁴¹² NHC Blueprint, *supra* note 2 at 5; GN Framework, *supra* note 12 at 30 & 31.

⁴¹³ GN Framework, *supra* note 12 at 31; Inuit Nunangat Housing Strategy, *supra* note 37 at 3; NHC Blueprint, *supra* note 2 at 5; GN Strategy, *supra* note 2 at 11.

⁴¹⁴ GN Strategy, *supra* note 2 at 11.

who grew up in Cambridge Bay but moved to southern Canada for her post-secondary education. She was trying to find housing in Cambridge Bay so she could return to his community to work after she graduates, and she regretted not following the above-described sequence of actions earlier:

I had also tried to put my name on the housing list for the public housing, and apparently the wait is years. So, this is something that I wish I had known earlier in my life, that I would have applied as soon as I got out of high school, or as soon as I became of age, as a legal adult, who is able to take care of themselves.

Here, the university student believes she should have applied for public housing as soon as she reached the age of majority. That way, she might be allocated a housing unit sooner, rather than scrambling to find housing the way she is now. Hearing this narrative of what people should do from various participants was, as researcher Nilsen described, “almost as if someone had pressed a repeat button, using the same words and the same arguments to describe quite different situations and different people.”⁴¹⁵ One service provider observed this view of public housing amongst their clientele:

[T]he narrative in Nunavut right now is that children are told, wait and when you turn eighteen, go put your name on the housing list. That needs to change. Because one, as you know, the Government of Nunavut’s housing corporation cannot provide housing everyone on the housing list.

[...]

INTERVIEWER: Do you find that the default assumption is that they should get public housing? Like, that’s the default?

PARTICIPANT: Yeah. That’s the default assumption. “I’m going to get to this age so I can put my name and get a unit.” But that sense of taking the initiative and leadership to actually becoming self-sufficient. That sense, I find is missing.

This local narrative understands public housing as the expected default option for housing. Amanda Doiron and Stuart Rostant are residents of Cambridge Bay as well as service

⁴¹⁵ Nilsen, *supra* note 335 at 364.

providers that build new homes in the community, and they also described this local understanding:

STUART: So at the end of the day, I think a lot of kids don't even realize that homeownership is a thing. You know, you put your name on a list....

INTERVIEWER: For housing?

AMANDA: Yes, at eighteen.

STUART: When you become of age, that's how you get a house. You know, talking with [*name of local teacher*], as a teacher, he says that everybody, that is the understanding of getting a home. You put your name on a list. So he's trying to teach kids, no, you can own your own home by saving money and putting aside. You know, so it has to be taught at a young age as well that homeownership is achievable. And the government really has to put things in place to really incentivize that homeownership. You know. If not, then we're just spinning our wheels, and what not....

These comments also hint at a contrasting discourse about public housing that is different from this local perspective. This reflects what I will explicate as the ruling discourse, the “authorized view” of public housing, describing a conceptual order reproduced in texts to organize for participants what is to be done.⁴¹⁶ Institutional discourse is about authoritative ways of knowing, set out in texts, through which the actions and experiences of people becoming institutionally accountable.⁴¹⁷ It reveals a certain assumption of how the world works from the perspective of the institution, without necessarily taking into account the perspectives derived from the particularities of everyday lived experiences of agents and subjects that move within the institution.⁴¹⁸

The institutional discourse on housing is reflected in texts like the framework, strategy, and blueprint for action developed under the Government of Nunavut's *Igluliuqatigiilauqta* (“Let's Build a Home Together”) initiative outlining the government's strategic direction, goals,

⁴¹⁶ Smith, *Sociology for People*, *supra* note 7 at 118; Smith & Griffith, *supra* note 8 at 39.

⁴¹⁷ Smith, *Sociology for People*, *supra* note 7 at 113; McCoy, *Keeping the Institution*, *supra* note 223 at 118.

⁴¹⁸ Smith, *Sociology for People*, *supra* note 7 at 113.

and objectives for addressing housing needs in Nunavut.⁴¹⁹ These texts contain not only the Government of Nunavut's visions and plans, but the underlying assumptions relating to how the government understands the issue itself, forming an important aspect of the institutional discourse.

According to this institutional discourse, the subsidized public housing program is meant to be for the low-income population, with the intention that eventually some of Nunavut's population would move out of public housing to other forms of housing located on other sites along the Nunavut Housing Corporation's housing continuum, perhaps into staff housing, private rentals, or home ownership as part of the housing market.⁴²⁰ Public housing is not meant to be the main source of housing for Nunavummiut, according to the Government of Nunavut's policy statements about "the challenge of moving Nunavummiut along the housing continuum"⁴²¹ and generally reducing dependence on public housing.⁴²²

We can see further evidence of this institutional discourse in texts such as the Nunavut Housing Corporation's Rent Scale Procedures Manual, which states outright: "Public housing is a needs-based social program. Primary Tenants must be in core housing need to remain in Public Housing unless they have written permission from the NHC."⁴²³ In the chapters that follow, we see how much of the public housing system is structured according to this institutional view of public housing, and yet the experiences and knowledge of community members diverge from this view, while they are simultaneously subjected to its ruling.

Professionals who work in housing participate in this institutional discourse. For example, Ukuak, who has experience as a service provider working in housing, explains:

⁴¹⁹ GN Framework, *supra* note 12; GN Strategy, *supra* note 2; GN Blueprint, *supra* note 2.

⁴²⁰ GN Framework, *supra* note 12 at 24.

⁴²¹ GN Framework, *supra* note 12 at 32.

⁴²² NHC Blueprint, *supra* note 2 at 6; GN Framework, *supra* note 12 at 22.

⁴²³ Rent Scale Procedures Manual, *supra* note 365.

Well, our role for public housing is we are serving the indigent community, basically. That's our priority. We're serving the people who can't maintain employment, who can't afford much, the lower income earners. That's why they qualify for this public housing.

So there's people out there that don't understand. There's a whole level of housing missing in Nunavut. So people think public housing, which is subsidized housing, is a God-given right, and that's where the error... That's what has happened. They've created this God-given right for subsidized housing. No, no, no. Housing, yes. But not subsidized housing.

Ukuak articulates the institutional discourse set out in texts. According to this institutional discourse, public housing is not intended to be the primary, default, and permanent form of housing for Nunavummiut.

As noted in the previous excerpts with participants, there is a disjuncture between this institutional discourse and the experiences and knowledge of community members. Statistically, subsidized public housing *is* the main form of housing for the majority of Nunavummiut. Over half of Nunavummiut live in social housing, and almost three quarters of public housing tenants earn less than \$22,800 annually.⁴²⁴ This disjuncture from the institutional discourse is explicitly noted by the Government of Nunavut, framed as a divergence from the institutional view of how things should be: “This aspect of Nunavut’s public housing runs counter to the housing continuum goal, in which public-housing tenants migrate towards higher rents, toward housing that relies less on subsidies, and ultimately into private homeownership.”⁴²⁵

In tracing how community members have come to see government-subsidized public housing as the default form of housing, the role of ruling relations begins to be revealed. It is related to how the area known to Inuit as Ikaluktutiak became the settlement of Cambridge Bay

⁴²⁴ Nunavut Housing Corporation, “Nunavut is Facing a Severe Housing Crisis” (23 March 2016) Nunavut Housing Corporation’s Appearance before the Standing Senate Committee on Aboriginal Peoples, online: [https://assembly.nu.ca/sites/default/files/TD%20158-4\(3\)%20EN%20Nunavut%20is%20Facing%20a%20Severe%20Housing%20Crisis.pdf](https://assembly.nu.ca/sites/default/files/TD%20158-4(3)%20EN%20Nunavut%20is%20Facing%20a%20Severe%20Housing%20Crisis.pdf)

⁴²⁵ GN Framework, *supra* note 12 at 31.

in the first place. As described earlier in the literature review section, as part of colonization, the government promised to provide Inuit with housing if they settled into the community. Long-time community member Harry Maksagak recounted the story to me in drawing this discursive connection:

Perry River, Perry Island, we had people out there that sustained themselves. They heard of this little place, Ikaluktutiak, as it was at the time, recognized as Ikaluktutiak, because of the good fishing grounds, the rivers to provide with many fish. We got Wellington Bay that had several families that were there, that came into Cambridge, into Ikaluktutiak, to pick up supplies and go back again. Thirty Mile River again is just down the Strait, or down the Bay from Wellington, and again, we had a couple of families that looked after themselves over there. And then we have people on Kemp Peninsula that were along the portage area. And east of the portage area, they would come into Ikaluktutiak, re-supply, and go back out again.

But then when they did come in, again, the government was saying, we could provide housing for you, we will provide housing for you. They came up with these little projects called the matchboxes, which is a one-unit shell.

[...]

And that was the promise to the people, if they would come in. And in fact, in 1971, when [spouse] and I married, we were actually given a matchbox, just at the edge of what is the Green Row housing here. And that is where we spent the first year of our union.

As Harry describes, Inuit moved from their arrangements of living in extended family hunting camps to settlements, first into shacks, and then wooden houses as a result of government policies during the 1950s and 1960s.⁴²⁶ Harry explicitly connects this story of the permanent settlement of Cambridge Bay with the promises made by the Government of Canada. He also explains the results that this has had today:

The first unit we got was actually called a matchbox. It goes back into the 70s, which was part and parcel of the government of the day's persuasion for the Inuit - in this particular community, anyway - to move in, and that they would be provided with these houses.

[...]

...[T]he housing situation reminds me of the treaties that were signed by First Nations with the federal government, only to be broken and largely ignored. The housing situation - and I can only refer to Cambridge, but probably has underlying effects right

⁴²⁶ Frank Tester, "Colonial Challenges and Recovery in the Eastern Arctic" in Joe Karetak, Frank Tester, & Shirley Tagalik, eds, *Inuit Qaujimajatuqangit: What Inuit Have Always Known to Be True* (Halifax & Winnipeg: Fernwood Publishing, 2017), at 22 ["Tester, *Colonial Challenges*"]; GN Framework, *supra* note 12 at 17.

across Nunavut, from Kugluktuk all the way over to the Baffin area, and into Grise Fjord - that: “You move into this place. We will give you a house, we will give you a job. You will get money. You will be more comfortable than having to build your igloos and make your skin tents and sod houses and so on.” That was kind of appealing to the ears, because it was felt then, okay good, I don’t have to labour when I come to this particular camping area. But that all changed.

As Harry Maksagak notes, the housing arrangements that presently exist in communities such as Cambridge Bay are relatively recent. As more Inuit began to settle around the area, the need for adequate housing in the permanent settlement increased, sparking a housing shortage that has never been fully resolved since.⁴²⁷ And as Harry explains, the settlement of Inuit to live permanently in Cambridge Bay was directly tied to promises from the government to provide for their housing needs.

We see here then that community members’ knowledge of public housing is related to their local not-so-distant memories of colonial relations with the government. And yet, this is masked in the textually-mediated institutional discourse which prescribes a different frame for public housing as the authoritative view. Given this mediation, one lawyer who has provided legal services in housing across the Kitikmeot region noted that he understands how some community members would view public housing as their permanent home, spanning generations:

[I]t would be quite natural from their cultural perspective, and quite natural as a matter of fact, based on the conditions here, with scarcity and overcrowding – to consider a public house, held by a family for decades, to be that family’s public house. Right?

So, that, the state in that situation will obviously rebel completely from any such interest. And will in fact fight that tooth and nail, in order to insist that the relationship is simply one between the LHO [local housing unit] and that adult, or adults, that are on the lease. And that the LHO is totally entitled at all times, for example, to transfer that family.

The lawyer reveals the problematic: the hidden disjuncture between the local knowledge from the standpoint of the family living in the home provided to them by the government as

⁴²⁷ This pattern of settlement & housing shifts is also applicable to other Inuit communities in Canada: Lauster & Tester, *supra* note 25 at 526-527; GN Framework, *supra* note 12 at 17.

promised to the Inuit decades ago, and the institutional discourse, which prescribes that tenants merely rent their unit from their landlords, recognized by the law as the owners. According to this ruling discourse, the home is not *theirs*, as in property that they own; their housing situation is subject to the power of the landlords, the legal owners of the home. This can be seen in the institutional texts, such as the *Residential Tenancies Act*:

2. (1) For the purpose of this Act, the relationship of landlord and tenant created under a tenancy agreement is one of contract only and does not create any interest in land in favour of the tenant.⁴²⁸

This prescription in the regulatory text that is the *Residential Tenancies Act* is repeated and applied in the other texts within the intertextual hierarchy that it regulates, such as the Nunavut Housing Corporation's Tenant Relations Manual, which reaffirms the subordinated relationship of power between landlords and tenants:

The landlord is the owner of a housing unit. NHC has the right to permit occupancy of the units that it owns. The LHOs are agents of NHC because they are contracted to act as the legal representative of the NHC and carry out all the legal responsibilities and rights of the landlord.⁴²⁹

The disjuncture that occurs from these discursive negotiations about home reveal insights about access to justice with respect to housing issues in the territory. This returns us to the problematic I described at the beginning of this dissertation where I observed disjunctures between what the laws prescribed and what my clients were experiencing. In her institutional ethnography, Gillian Walker explored how institutional concepts about violence against women differed from – and transformed, and absorbed - how women's advocacy groups understood violence against women.⁴³⁰ Chen Wang also found conflicts between Chinese society's discourse

⁴²⁸ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.2(1).

⁴²⁹ NHC Tenant Relations Manual, *supra* note 38 at 107.

⁴³⁰ Smith, *Exploring*, *supra* note 343 at 72.

and Canadian public discourse about the role of family members, constructing immigrant women's gendered experiences created by discrepancies from institutional expectations.⁴³¹

Similarly here, the institutional processes and rules set out through the texts articulate the institutional discourse about public housing and are imposed on community members and the service providers that serve them to hold their actions accountable within the institutional context.⁴³² But in actuality, regardless of whether it is reflected in the institutional discourse, the housing crisis means that they will likely remain in public housing (if and when they are able to get their own public housing unit in the first place). Institutional discourses as reflected in texts tend to swallow the local perspective and particular subjective experiences.⁴³³ When we try to understand this in terms of access to justice, we see a resulting tension of the bifurcated consciousness of having to exist in the everyday world of one's immediate, local and particular place, while being subjected to governing rules and processes articulated through organizational texts that construct a different conceptual mode.⁴³⁴ In tracing the women's rights movement in North America, Smith describes the experiences of middle-class women in living with the fundamental contradictions between on one hand, ruling discourses mediated by texts organized translocally in objectified modes of the ruling relations where men were at work as subjects and agents, and on the other hand, "the traditional particularization of both locale and relationships that still characterized family households."⁴³⁵ As a result, women had to navigate the dual consciousness of being a mother/housewife and abstracted discourses and the organization of power, knowledge and opportunity that creates its own consciousness that exists outside of the

⁴³¹ Chen Wang, "An institutional ethnography analysis on skilled Chinese immigrant mothers' experiences in Canada" (2023) 29(3) *Asian Journal of Women's Studies* 364 at 373 at 373 & 378.

⁴³² Smith, *Sociology for People*, *supra* note 7 at 113; McCoy, *Keeping the Institution*, *supra* note 223 at 118.

⁴³³ Smith, *Sociology for People*, *supra* note 7 at 156.

⁴³⁴ Campbell, *supra* note 84 at 94; Smith, *Conceptual*, *supra* note 7 at 17.

⁴³⁵ Smith, *Sociology for People*, *supra* note 7 at 19 and 22.

local and particular.⁴³⁶ This dual consciousness also exists in Nunavut, between the institutional discourse about public housing and people's knowledge and experiences of it. Ukuak, as a housing-related service provider, expresses her awareness of this disjuncture:

PARTICIPANT: There has to be some private, and some more affordable housing.

INTERVIEWER: Just so that public housing isn't the default thing that everyone expects to be in? And to be fair, it *is* the default housing now.

PARTICIPANT: Yeah, it's the default. And that's what everybody thinks.

[...]

There's too much burden on Public Housing. Too many expectations. And there's another piece to housing that people need to understand.

Ukuak's observation about what she believes people need to understand about housing reveals another insight about how institutional ethnography can enhance our understanding of access to justice. Legal practitioners might frame the differences between what the law says and what people understand as an indication that the public does not sufficiently understand the law or that their understanding is incorrect. To borrow Ukuak's words, it's "another piece... that people need to understand." Indeed, other reports have recorded concerns about the lack of public understanding about the law among Nunavummiut.⁴³⁷ This legal diagnosis prescribes specific legal actions, such as empowering people through public legal education efforts about what the law says. But it is not simply a matter of people being incorrect in their understanding of the public housing system and needing to be corrected through public legal education. MacDonald has highlighted the perils of public legal education programmes, which are often premised on the belief that citizens have a right to know about the "law" – the law being rules made by legislature and applied by courts.⁴³⁸ But he says that as much as this is about the legal system educating the public, it should also be just as much about the public educating lawyers

⁴³⁶ Smith, *Writing the Social*, *supra* note 270 at 73.

⁴³⁷ Anderson and Stratton, *supra* note 148; Formative Evaluation, *supra* note 148 at 43-44.

⁴³⁸ MacDonald, *supra* note 16 at 97.

about how they understand and live the law.⁴³⁹ Public legal education efforts should strive to provide information and resources for citizens to allow them to “marry their own understanding of the requirements of a just legal order with more general perspectives in order to make the official system more sensitive and response.”⁴⁴⁰ Otherwise, public legal education aiming to “correct” people’s understanding about housing decontextualizes the power dynamics of colonialism that the ruling relations reifies on the lives of Inuit, a theme that will continue to be explored in the following sections. Institutional ethnography reveals the relations that have been hidden showing that this knowledge is produced in the specific context of people’s actualities. People have arrived at their present understanding of the role of housing in part through their experiences of colonialism, where the Canadian government promised to provide Inuit with housing if they settled in permanent communities. These colonialist policies set into motion what we see now of ruling relations which continue to organize and subordinate the lives of community members today. This offers a more nuanced understanding of access to justice issues and specifically the disjuncture between institutional frames and local actualities.

Despite the institutional discourse prescribing the housing continuum as a movement from subsidized to market housing, Chapters 8 and 9 show that there are challenges to moving out of public housing, from the shortage of available houses overall to the high costs of renting private units or buying a home. Ultimately, other forms of unsubsidized housing are not available or affordable for many people. As a result, the default expectation for many is to get into a public housing unit, to stay there, and to see this arrangement as one’s permanent home. Having public housing as the default arrangement for the majority of Nunavummiut has resulted in an enormous strain on the public housing system. At the same time, there simply are not enough

⁴³⁹ MacDonald, *supra* note 16 at 98.

⁴⁴⁰ MacDonald, *supra* note 16 at 97.

public housing units to meet demand, as the next section on the public housing waiting list describe.

5.3. The public housing allocation process (the waiting list)

5.3.1. The social organization of knowledge about waiting list requirements

Even if one does submit an application in for a public housing unit as soon as they are old enough to be eligible at the age of eighteen, it will likely be many years until they are actually allocated a housing unit. Their name is put on a long waiting list for public housing. Participants spoke of people who had been on the waiting list for over ten years. At the time of my knowledge documentation trip in November 2023, I learned that the Cambridge Bay Housing Association (CBHA) had 150 applications on the waiting list, representing about 264 individuals, along with over 60 requests for transfers. In a community of 1700 people with approximately 300 existing public housing units, the CBHA requires at least 150 more housing units to serve 264 people waiting for housing, not including other people who may not be on the wait list for other reasons (such as lack of eligibility). In other words, this means that the CBHA requires at least 50% more public housing units to meet the needs identified during the knowledge documentation.

As this section addresses, for many residents in Cambridge Bay, a significant portion of their everyday activities is coordinated by institutional exigencies relating to the long waiting list, even if they are not always able to understand what is happening or how such processes work beyond their local standpoint, including how their applications are processed. Indeed, my discussions with community members revealed uncertainty around what the actual institutional requirements are for the waiting list and how public housing units are allocated.

This lack of clarity can produce feelings of frustration. D. is an Inuk man in his thirties who first applied for housing in Cambridge Bay when he was in his early twenties. Although he would very much like to get a house of his own, he struggles to understand why things happen as they do during the housing application process:

PARTICIPANT: I applied for a house again, and I tried asking if I'm still on the list.

INTERVIEWER: Did they tell you?

PARTICIPANT: When I went to the office, they were telling me that my application's been terminated. [...]

INTERVIEWER: Did they tell you why it was terminated?

PARTICIPANT: No.

INTERVIEWER: So you don't know, eh?

PARTICIPANT: So I re-applied, and after I re-applied, I went right back on the bottom. Like, I was close to getting a house, but they terminated my application that time and I had to re-apply. That's when I went back on the bottom, after this.

D. does not understand what happened to his previous public housing application or why it was terminated. D. describes how he tries to do as he's told, but he is not sure of the requirements:

I got a letter from the housing, saying that I had to update my application again, and then I updated it.

[...]

I'm not sure if it's every four months or six months you've got to renew your application. I'm not sure.

INTERVIEWER: Okay.

PARTICIPANT: Cus they don't tell us anything. They just give us a housing application and they don't say anything. They don't tell us about housing maintenance, or anything like the next update. Because the employees at housing, they're really picky. They only want to pick the people that they want the house.

D. expresses frustration at not understanding how the housing application works, and feels like he is being left in the dark on purpose, as though those in power do not want him to get a house. Other community members echoed D.'s confusion about the requirements for housing applications, including whether applicants should show up at meetings of the Cambridge

Bay Housing Association to support their applications. For example, one community member remarked:

I keep renewing my application, every three months like they say. And they say, “You don’t need to attend meetings.” I’m like, I need to. They’re like, you don’t. What the heck?

INTERVIEWER: Why do you think they are telling you that?

PARTICIPANT: I don’t know why they say that. I’m just so busy with working and looking after my kids that I just don’t even have time to do anything.

Here, the community member describes how the work of applying for public housing and supporting one’s application for public housing - as well as understanding the requirements to do so - adds to the already existing heavy workload of community members trying to make a living and care for their children. As a result, she feels that she has limited time and capacity to try to understand what understand how to navigate the processes of the local housing organization.

Not only do some participants have difficulty ascertaining what is expected of them for their individual applications, they also indicated not understanding more broadly how housing units are allocated amongst those on the waiting list. As a result of this lack of insight into how applications are prioritized on the waiting list, some reported how people felt frustrated or hurt when some people receive housing while others do not. For example, D. recounts how the lack of fairness from his perspective is connected to his sense of self-worth:

After I updated my housing application, I noticed people that applied got a house right away, and they were posting on Facebook their keys, saying, “We just got our house!” And there were people commenting saying that they’ve been waiting for a house for over ten years, there’s lots of us on the list, and there’s lots of people that are getting houses just like that from the housing board. People working at the housing, in office, they’re giving their family members houses. And there’s people that are waiting for houses for a long time that don’t even get a chance to get a house.

[...]

It kind of makes me feel like I’m not even...don’t even exist.

We begin to see here the ways in which community member's knowledge about the waiting list is socially organized, in the way that its textual forms carry and replicate social relations.⁴⁴¹ According to Smith, institutional ethnography begins with the idea that a person, as a knower, is always "a particular individual embodied and active in the local historicity of her everyday/everynight world", located in "particular, actual places."⁴⁴² Conversations with community members demonstrate Campbell's point that where one is located determines their experiences and to a large extent shapes what can be known.⁴⁴³ This is related to how organizational knowledge in contemporary societies is mediated by texts, but people's practices build their own textual realities, as explained by Campbell.⁴⁴⁴ To put it differently as described by Murray, knowledge is discursively organized, when understanding discourse as social organization, where people go back and forth between experiences and texts to make sense of things.⁴⁴⁵ This is how, according to both Campbell and Murray, there can be different versions of what is known and what is happening, as people have different ways of knowing their work.⁴⁴⁶ Through this inquiry, we make the move described by Smith from the "situated imperfections of the knower to the status of knowledge as socially and materially organized, as produced by individuals in actual settings, and as organized by and organizing definite social relations."⁴⁴⁷ Smith frames one goal of institutional ethnography as to reorganize the social relations of knowledge to allow people to take that knowledge up as an extension of their local knowledge of their lives.⁴⁴⁸ I argue this can help address access to justice issues. Not understanding how the

⁴⁴¹ Smith, *Sociology for People*, *supra* note 7 at 27.

⁴⁴² Smith, *Conceptual*, *supra* note 7 at 33 & 66.

⁴⁴³ Campbell, *supra* note 84 at 94.

⁴⁴⁴ Campbell, *supra* note 84 at 94.

⁴⁴⁵ Orla Meadhbh Murray, "Text, process, discourse: doing feminist text analysis in institutional ethnography" (2022) 25:1 *International Journal of Social Research Methodology* 45 at 53 ["Murray"].

⁴⁴⁶ Campbell, *supra* note 84 at 94; Murray, *supra* note 445 at 54.

⁴⁴⁷ Smith, *Conceptual*, *supra* note 7 at 62.

⁴⁴⁸ Smith, *Sociology for People*, *supra* note 7 at 29.

public housing allocation process works indicates issues with what MacDonald describes as the procedural dimension of access to justice, which requires that a process be understandable to users and responsive to their sense of fairness.⁴⁴⁹ After all, he points out, “[a] process that is efficient and expeditious, but is either a mystery to those who participate in it, or leaves them with a sense of not having been treated fairly, is not a process that enhances access to justice.”⁴⁵⁰

In her research on university audit processes, Murray observed the presence of “common myths” – things that were not written in the texts but mentioned as guiding principles for work practices. She noted that some of her interviewees had not actually read the institutional text in question (the Research Excellence Framework guidelines) due to limited time and energy, and their understanding of the text was in fact based on talk or secondary text rather than a reading of the text itself.⁴⁵¹ Murray found that these myths would then become “fact” at the local level, demonstrating the power of discursive understandings of texts.⁴⁵² It also indicated that the same national authoritative texts would mean different things in practice at the local level, depending on the interpretation of those locally situated.⁴⁵³

While Murray’s research traces the discursive social organization of textual knowledge in an academic university setting where written texts are common and prevalent, we see this also happening in the context of housing allocation in Cambridge Bay, where Inuit have historically preferred oral transmission of knowledge and laws, rather than the written print form in which many institutional texts are based under the current system that colonialism has imposed on Inuit communities. Inuit culture throughout history has been an oral one, with Inuit laws orally

⁴⁴⁹ MacDonald, *supra* note 16 at 105.

⁴⁵⁰ MacDonald, *supra* note 16 at 105.

⁴⁵¹ Murray, *supra* note 445 at 54.

⁴⁵² Murray, *supra* note 445 at 54.

⁴⁵³ Murray, *supra* note 445 at 55.

transmitted rather than codified in a written text form.⁴⁵⁴ Before the Inuktitut syllabic writing system was developed in the 1890s, Inuit shared teachings about Inuit laws orally, including through songs, stories, and sayings called *inutsiapaqutit*, which after repetition would become “written on the heart of a child.”⁴⁵⁵ Stories are still considered by Inuit elders to be an effective tool for learning Inuit laws.⁴⁵⁶ Mark Kalluak notes how these stories “help us understand things that are not visible with our naked eye or circumstances we have not experienced yet”⁴⁵⁷ and it is clear that these oral narratives have played a key role in coordinating the activities of Inuit across sites and time for many generations.

Through colonialism, texts in print form have been imposed on Inuit in Canada to displace the role of oral knowledge transmission as a new mode of organizing society. Now, returning to the situation of applying for public housing, people may not have read the institutional texts prescribing the processes for the waiting list themselves. As community members explained, as busy working parents, such texts may not be easily accessible for some.⁴⁵⁸ For this knowledge, they may instead rely on talk (such as what friends or service providers tell them) or secondary texts, such as notices from the local housing organization in the community’s Facebook group.

Recent access to justice literature has highlighted the role of trusted intermediaries in helping people navigate legal information, as many people - particularly those who are vulnerable or have low income - do not receive help with legal problems without intervention

⁴⁵⁴ Tagalik, *Foreword*, *supra* note 338; Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 15.

⁴⁵⁵ Kalluak, *supra* note 99 at 42 & 59; Karetak & Tester, *supra* note 94 at 17; Attangalaaq, *supra* note 109 at 109; Uluadluak, *supra* note 101 at 147; Angalik, *supra* note 116 at 85; Ayalik, *supra* note 94 at 90; Karetak, *Healing*, *supra* note 104 at 197 and 199; Kitikmeot Heritage Society, *supra* note 24 at 37.

⁴⁵⁶ Akittiq & Karetak, *supra* note 94 at 115; Kalluak, *supra* note 99 at 48 & 59.

⁴⁵⁷ Kalluak, *supra* note 99 at 51

⁴⁵⁸ For example, Nunavut’s literacy rate is lower than the national average, which may also affect the accessibility of texts that are in written form: Bagala Biswal, “Literacy Performance of Working-Age Aboriginal People in Canada: Findings based on the International Adult Literacy and Skills Survey (IALSS) 2003 Report” (July 2008) Human Resources and Social Development Canada, online: https://publications.gc.ca/collections/collection_2008/hrsdsc-rhdsc/HS28-147-2008E.pdf

from a trusted intermediary.⁴⁵⁹ Trusted intermediaries are frontline workers, such as those in non-legal community organizations but also government office workers, hospital workers and other service providers who help clients with legal problems.⁴⁶⁰ According to the Nunavut Housing Corporation's Tenant Relations Officer Manual, the Tenant Relations Officer (or whoever plays this role within a local housing organization) bears the responsibility of explaining the application process to people interested in applying for public housing, and to assist them in completing the requisite forms.⁴⁶¹ From an institutional ethnographic perspective, we can see how service providers play this role of trusted intermediaries in discursive textual organization through talk and secondary texts, relaying information to applicants about the requirements of the public housing waiting list. For example, according to institutional texts such as the Nunavut Housing Corporation's Tenant Relations Officer Manual, it is the responsibility of the applicant to renew or update their applications at least every six months.⁴⁶² Ukuak has worked in the housing-related services in Cambridge Bay, and explains how service providers convey this information to community members on the waiting list:

When it comes time, and people haven't updated, then we send letters out, reminders, come and update. And then they come. I think she just sent out thirty, forty out.... So we're communicating more and more and more with tenants. Way more than ever before. [...]

INTERVIEWER: Okay. Do you help- If they have some literacy issues, do you help them fill out the update forms?

PARTICIPANT: Absolutely.

Here, Ukuak describes service providers' role in activating texts in work processes not only by reminding applicants of the requirement to update their applications, but also in shaping

⁴⁵⁹ Cohl et al, *supra* note 409 at 4.

⁴⁶⁰ Karen Cohl, Julie Lassonde, Julie Mathews, Carol Lee Smith & George Thomson, *Trusted Help: The role of community workers as trusted intermediaries who help people with legal problems: Part 2: Detailed research findings* (1 May 2018) Law Foundation of Ontario at 8, online: <https://lawfoundation.on.ca/download/part-2-trusted-help-the-role-of-community-workers-as-trusted-intermediaries-who-help-people-with-legal-problems-2018/> ["Cohl et al, Part 2"].

⁴⁶¹ NHC Tenant Relations Manual, *supra* note 38 at 114.

⁴⁶² NHC Tenant Relations Manual, *supra* note 38.

how applicants perform the work of meeting those requirements by helping them with filling out the forms. Ukuak explains the significance of updating one's application as required:

They need to update their situations with us. If something has changed, they need to update it that day. The next day.

INTERVIEWER: Because that might change their priority, right?

PARTICIPANT: Exactly. If nothing is changed, same old, same old, then once every six months is sufficient. But if they were booted out, or moved to a cabin, or they got sick or something, we want to know that. That changes their rating. So then we want to make sure we have the most up-to-date information.

[...]

We usually look at the top five in that list. And if somebody's up there, but they haven't actually updated their application for like two years, you don't want to take them off the list. But at the same time, they haven't updated, so we're not going to give them priority, because we don't even know if they really want to be on the list.

But I hate to take people off the waiting list, because then it lowers our ability to get more units. So... it's rare that someone gets removed from the list. But we do indicate whether they have never updated. We have some people on the list who haven't talked to us for two years.

INTERVIEWER: Yeah, and so you don't know if they actually still need a house at that point, right?

PARTICIPANT: Exactly. So we can't just take their silence as a no. We don't want to remove them. But at the same time, we try to reach them before the meeting. And if they still don't communicate, well, they're skipped.

We can see from Ukuak's statements that when an application form is updated, it is subject to a particular course of institutional action - that is, it may be considered for housing allocation - that is different from an application form that has not been updated at that processing interchange, where it will not be considered for allocation and potentially taken off the list, even if the applicant still needs housing.⁴⁶³ Earlier, we had noted how some participants like D. received notifications from service providers to update his housing application, which prompted him to follow the sequence of updating his application as prescribed by institutional texts, even though he does not completely understand what the requirements are. In this way, institutional ethnography reveals how service providers do not simply help the public access the information

⁴⁶³ Smith, *Sociology for People*, *supra* note 7 at 173.

they need as trusted intermediaries, as is well documented in access to justice literature, but actively shape the discourse that constructs local knowledge about the waiting list in carrying out institutional courses of action as part of their work. In other words, it is through service providers' activation of the texts that texts coordinate the sequence of activities of community members as part of the waiting list process.

Because of the discursive nature of work knowledge, here we can also see some of the “common myths” that Murray had found in her research. Earlier, a community member described being confused about being told that applicants do not need to show up to meetings of the Cambridge Bay Housing Association to support their applications. The community member indicated that this had been previously required. D. expressed this as well:

The thing that I really want to know is, when are then dates for housing meetings? Because they don't tell nobody about housing meetings. And when people go to housing meetings, they get points. And they don't even tell me. Because they don't want me to get points to get a house.

D. explains that he feels like he is being left in the dark, perhaps deliberately. As a service provider, Ukuak explains that it is not in fact a requirement to show up to meetings to support one's housing application:

We don't want them to show up to meetings. They don't need to. That's a wasted exercise. You have a point rating system based on need. Just because you're standing in front... That was just a wasted exercise for people, for the Board. And you hear all the sob stories. So now I hear it all, every day. We're open to it. Every day. They don't have to wait for a board meeting to come and tell us their situation. They come and tell me every day. So we get that updated information right away.

This could be seen as a “common myth” as observed by Murray. With relatively recent changes in staffing and board members in the Cambridge Bay Housing Association, it is also possible that this may have been a previous practice, if not an institutional requirement, that has now changed. Some applicants may feel more comfortable sharing their story orally rather than

on paper, given the long rich history of Inuit oral tradition as well as low average levels of literacy across the territory. Whatever the situation may be, we can see here that institutional texts prescribe how and how often housing applications are to be updated,⁴⁶⁴ but such texts must first be activated by service providers in order to actually have the effect of coordinating the activities of community members on the waiting list. Meanwhile, as community members are reliant on service providers to navigate their applications into these institutional processes, rather than directly relying on the institutional texts, they feel unsure about how the process actually works, and how public housing units are actually allocated.

Smith discusses how the intersection of knowledge and power is “an effect of the integration of the ruling relations, establishing subject positions within discourse from which experience can be known only externally and from within an order of domination.”⁴⁶⁵ This interplay between knowledge and power has been addressed in another context, the *Nunavut Human Rights Act*, in Amautiit Nunavut Inuit Women's Association's recent report which concluded that there is no adequate source of public information about the processes of the Nunavut Human Rights Tribunal, which it also found does not advise parties of essential aspects of the *Nunavut Human Rights Act*.⁴⁶⁶ The report observed that the Tribunal's website does not explain human rights, the legal duty to accommodate, harassment, the statutory right to be heard in a timely manner, the full powers of the Tribunal, or the remedies available for human rights violations.⁴⁶⁷ Of the information that is provided, the report notes that the Tribunal's website contains incorrect, incomplete or biased information and language that is unfriendly to potential

⁴⁶⁴ NHC Tenant Relations Manual, *supra* note 38.

⁴⁶⁵ Smith, *Writing the Social*, *supra* note 270 at 94.

⁴⁶⁶ Amautiit Nunavut Inuit Women's Association, *The Nunavut Human Rights Act and Nunavut Human Rights Tribunal: A report by Amautiit Nunavut Inuit Women's Association* (March 2024) at 5, executive summary online here: <https://amautiit.ca/wp-content/uploads/2024/04/Executive-Summary-NHRT-Report-2024-04-13.pdf> [“Amautiit”]; *Nunavut Human Rights Act*, C.S.Nu., c.H-70.

⁴⁶⁷ Amautiit, *supra* note 466 at 32-33.

applicants.⁴⁶⁸ Furthermore, the report concludes that the NHRT process perpetuate the worst features of colonialism.⁴⁶⁹ The report explains:

Colonialism requires a power difference between the colonizers and the colonized. In a colonialist structure, rights and privileges are largely for the agents of colonialism – the businesses and institutions that have the money and power, and the people who run them. The people who work in colonialist bureaucracies learn those values; they come to accept the importance of businesses and institutions over individuals, and to see the role of government as serving businesses and institutions. They understand that the law is to be read in that light, that when an authority is implementing legislation and rules, it must do so in a way that defers to businesses and institutions so they can get on with their important work. In that worldview, individuals who are otherwise unimportant but who expect service anyway are by their nature problematic – especially the complainers, who must be dealt with firmly.

[...]

“All organizations and governments must have rules and procedures. In a colonialist bureaucracy, those rules and procedures favour businesses and institutions. One of the features of colonialism is that businesses and institutions with very different stated goals and purposes nevertheless work together to exclude, exploit, and control the colonized people. Each colonial institution tends to uphold and support the others, and one of the ways that is accomplished through the standard procedures and rules by which they operate.”⁴⁷⁰

The report connects these statements about the features of colonialism to the Nunavut human rights system:

Knowledge is power. The colonialist bureaucracy does not give away power; it does not give away knowledge. It does not prioritize being helpful or transparent. The NHRT website and materials withhold vital information from applicants, notably the duty to accommodate, the powers of the Tribunal and the 2017 amendments with respect to gender.⁴⁷¹

As a result of these issues, the report found that access to justice for applicants navigating the Nunavut human rights process depends on “unknown persons applying unknown criteria.”⁴⁷²

Though the report was not an institutional ethnography and does not analyze the role of ruling

⁴⁶⁸ Amautiit, *supra* note 466 at 34.

⁴⁶⁹ Amautiit, *supra* note 466 at 67.

⁴⁷⁰ Amautiit, *supra* note 466 at 67, 68.

⁴⁷¹ Amautiit, *supra* note 466 at 69.

⁴⁷² Amautiit, *supra* note 466 at 68.

relations, these insights are nonetheless useful to note here – not because I am suggesting that there is a deliberate attempt to mislead public housing applicants – but in demonstrating as an access to justice issue through another analogue in Nunavut the relation between power and socially organized knowledge in the context of colonialism, which keep Inuit in Nunavut subordinated, long after the establishment of their own territory.

5.3.2. The point rating system: examining fairness in public housing allocation

In light of the confusion that some community members expressed about the waiting list, service providers explained to me how the housing allocation process works and pointed me towards relevant texts such as the Nunavut Housing Corporation’s Tenant Relations Officer Manual and the Cambridge Bay Housing Association’s Application Point Rating Form.⁴⁷³ This revealed the ways in which institutional texts coordinate the sequence of actions in the work processes for prioritizing housing applications on the waiting list to determine how to allocate available public housing units.

Service providers explained that a point-rating system is used to evaluate applications.⁴⁷⁴ This system was developed according to institutional requirements from the Nunavut Housing Corporation,⁴⁷⁵ based on the underlying principle that allocations must be based on “greatest need” as determined through the point rating system.⁴⁷⁶ While administrative staff can make recommendations, ultimately, it is the local housing organization’s board of directors that is responsible for allocating public housing units.⁴⁷⁷ Through this process, applications are assigned

⁴⁷³ Cambridge Bay Housing Association, “CBHA – Application Point Rating” (form). The Nunavut Housing Corporation’s Tenant Relations Officer Manual also explains how to evaluate applications: NHC Tenant Relations Manual, *supra* note 38 at 307.

⁴⁷⁴ This process is explained in NHC Tenant Relations Manual, *supra* note 38 at 409.

⁴⁷⁵ NHC Tenant Relations Manual, *supra* note 38 at 401.

⁴⁷⁶ NHC Tenant Relations Manual, *supra* note 38 at 600.

⁴⁷⁷ NHC Tenant Relations Manual, *supra* note 38 at 600.

a certain number of points under three categories: suitability (number of bedrooms), adequacy (rating for the physical condition of the unit), and affordability (basic shelter costs compared to income). The board members of each local housing organization are also allowed to consider what are referred to as “community specific factors”. For Cambridge Bay, service providers explained that these community-specific factors take into account how long one has been on the waiting list (with more points awarded for the longer the wait); accessibility needs; family separation due to lack of housing; and the number of nuclear family units within the residence.

Through these institutional texts activated by board members and other service providers, this point rating-based system of public housing allocation takes the messy complexities of an applicant’s housing situation and flattens it into an institutional account that can be moved through sequence of actions of the process to prioritize applications on the waiting list. Specifically, it subsumes the applicant’s actualities into a quantifiable format that can be compared to the institutional accounts of other applicants and their housing need, in a manner that can be considered “fair” according to the institutional discourse. These actions of local housing organizations are governed through coordinating texts, including requirements from the Nunavut Housing Corporation that tenant allocation should be “open, fair, transparent, and consistent.”⁴⁷⁸

It is worth examining this specific construction of fairness as produced by institutional discourses. The Nunavut Housing Corporation prescribes fair practices with respect to policies in its Tenant Relations Officer Manual:

The important thing to remember about implementing an LHO policy is that it must be applied consistently. In other words, the LHO must apply the policy to all applicants. It is not considered fair practice to apply a policy to only some applicants and not others.⁴⁷⁹

⁴⁷⁸ NHC Tenant Relations Manual, *supra* note 38 at 600.

⁴⁷⁹ NHC Tenant Relations Manual, *supra* note 38 at 401.

Here, the text describes consistency as an approach for fair practices. Elsewhere, the manual explains how such fair practices work with respect to tenant relations:

It is most important that all tenants are dealt within a fair and equal manner. If the community or other tenants believe that some tenants are treated differently than others, problems will result. Good tenant relations is the key to ensuring that tenants are treated with understanding, consistency and fairness.⁴⁸⁰

We see here that fairness is equated with the notion of treating people in the same manner. The manual provides further advice to service providers on how to act fairly:

It is very important that you treat everyone fairly and equally. This may be one of the more difficult things a tenant relations person must do when counselling. The hardest thing about your job may be to tell a friend or family member something they don't want to hear. Sometimes people want to be treated differently or special because they are close to you. In a difficult situation with a friend or a relative it may be helpful to explain the following:

- all tenants must be treated fairly and equally, or others will say the LHO is not fair with everyone.
- you must follow LHO By-Laws, NHC policies and the Tenancy Agreement.
- you represent the LHO in tenant relations and you are only doing your job.⁴⁸¹

These passages demonstrate how the Tenant Relations Officer Manual as an institutional text discursively constructs fairness as sameness: treating everyone the same, using the same method and quantitative criteria. This institutional discourse is prevalent throughout the text. For example, the instructions for how to deal with two or more applicants with the same point rating states: “The Board of Directors should indicate the reason one applicant was chosen over another with the same point rating to receive a unit. The same reasoning should be applied in each case applicants are tied (it must be applied consistently).”⁴⁸²

⁴⁸⁰ NHC Tenant Relations Manual, *supra* note 38 at 114.

⁴⁸¹ NHC Tenant Relations Manual, *supra* note 38 at 1108.

⁴⁸² NHC Tenant Relations Manual, *supra* note 38 at 601.

Smith describes how objectified forms and rational procedures “create an appearance of neutrality and impersonality that conceals class, gender, and racial subtexts.”⁴⁸³ Understanding fairness as similar treatment is a specific choice; it is one of many ways that fairness can be conceptualized,⁴⁸⁴ similar to how MacDonald describes the different dimensions of access to justice.⁴⁸⁵ But institutional texts ordain the ideological code of fairness-as-sameness as the authorized view over other local understandings of fairness, an example of textually-mediated management subordinating local experiential knowing to the institutional discourse as described by Campbell.⁴⁸⁶

Yet despite these institutional prescriptions to make the processes “fair”, community members that I spoke to did not feel that this process was in fact fair, as noted in earlier quotes such as D, who had expressed the lack of transparency in the allocation of public housing made him feel like he “didn’t even exist.” While the institutional approach to fairness-as-sameness might be described as an approach for equality of opportunity, it does not produce equality of results: with public housing units as a scarce resource in the context of the territory’s housing crisis, not everyone who applies for public housing will get it. Those who are unable to secure housing may not feel that the allocation process is fair from their standpoint.

These concerns are noteworthy from an access to justice perspective, even if they do not involve courts or tribunal, but only the administrative processes of the local housing organization. MacDonald observes how sites of law exist in contemporary Canadian society outside of state institutions like legislatures and courts, as significant amounts of law are created and administered by non-public bodies such as standards organizations or property owners which

⁴⁸³ Smith, *Conceptual*, *supra* note 7 at 66.

⁴⁸⁴ For example, the legal community has for decades explored the paradigmatic differences between formal equality and substantive equality, or equality of opportunity versus equality of result: see differing views in *R v Sharma*, 2022 SCC 39.

⁴⁸⁵ MacDonald, *supra* note 16.

⁴⁸⁶ Campbell, *supra* note 84 at 95.

operate like “little legal systems” and form an indispensable part of organic civil society.⁴⁸⁷ He argues that true access to justice requires that everyone has an equal right to participate in every institution where law is created, organized, interpreted and applied.⁴⁸⁸ Even so, in the next section, we will see how this disjuncture resulting from multiple conceptions about fairness can also be found with respect to what some might refer to as formal legal processes, when lawyers try to assist their clients on the waiting list in obtaining public housing.

5.3.3. A zero sum game in a crumbling pie: Unpacking fairness

Legal professionals such as lawyers seem to be constrained by other institutional texts in their ability to address this disparity in conceptions of fairness, when people want to challenge how the allocation process is being carried out in actuality. A lawyer who has provided legal services in the Kitikmeot region of Nunavut explained:

Well, a list case where an individual is unable to acquire housing in the context of all the collective of that particular community, there’s no legal remedy in that circumstance, apart from certain cases where judicial review might be able to... or practically speaking, the promise of judicial review might be able to assist. We can’t do anything about list cases.

Here the lawyer describes the difficulties of finding a legal basis – something that can be made institutionally accountable - for challenging the board’s decisions about allocating public housing units, which he calls “list cases”. Keith Cruz is a lawyer who has also provided legal services across Nunavut including in housing, and explains his work processes for these types of cases for his clients:

So someone has been on the waitlist for years and years and years, and their file is not moving forward. Or there’s allegations of nepotism for line jumping and we try to assist in those.[...] So Client A comes to us and says, “I’ve been on the wait list for ten years.” So we look into this, and then, you know, you trust your clients but sometimes you do

⁴⁸⁷ MacDonald, *supra* note 16 at 25.

⁴⁸⁸ MacDonald, *supra* note 16 at 23.

find some holes in their stories. So for example, one of the housing communities, like Iqaluit, are a lot more active with the wait list. They will expunge you and remove you from a wait list if you haven't correctly a) filed the correct material, or b) you haven't renewed your application for the wait list.

Lawyers here describe how they can only intervene in public housing allocation when a person's situation presents what is institutionally recognized by the legal system as legal issues. To use the words of Smith, "[i]ssues are formulated because they are administratively relevant, not because they are significant first in the experience of those who live them."⁴⁸⁹ As noted by the first lawyer, there are only certain situations where there is a legal basis to do so, essentially acting as a processing interchange that allows the client's file to be hooked into the institutional processes of the legal system. Indeed, as noted in other reports, sometimes there are concerns about how housing allocation policies on matters such as eligibility criteria for public housing have been applied in an inconsistent or incorrect manner, which may affect whether the housing units may not be provided to households with the greatest need.⁴⁹⁰ In this way, the lawyer explains how lawyers must fit clients' realities into institutional categories in order to trigger an institutional course of action.⁴⁹¹

[T]he only way to do this is by using basic core fundamental judicial review concepts. So a delegation committee meeting itself does not attract an enormous quantity of – or incidence of what we would call the rights of natural justice and procedural fairness, but every now and then, there is a matter where something like that happens. And for example, when a delegation committee will not give a decision. Or if it gives a decision in writing, whether or not there's something in it that can attract judicial review, or more accurately, the availability of judicial review. The promise of judicial review.

As a frontline professional making the linkages between clients and ruling discourses, the lawyer is describing the process of working up what Devault and McCoy call "the messiness of

⁴⁸⁹ Smith, *Conceptual*, *supra* note 7 at 15.

⁴⁹⁰ Auditor General of Canada, *Report of the Auditor General of Canada to the Legislative Assembly: Nunavut Housing Corporation* (May 2008) at 7-8, online (pdf): *Government of Canada* <<https://publications.gc.ca/site/eng/9.829051/publication.html> > ["Auditor General Report"].

⁴⁹¹ Smith, *Exploring*, *supra* note 343 at 73.

an everyday circumstance so that it fits the categories and protocols of a professional regime.”⁴⁹²

The lawyer uses what institutional ethnographers call professional language, mentioning legal terms such as judicial review. The main recourse for decisions made under housing policies, once any available internal appeal process is exhausted, is through judicial review, based on administrative law principles.

Institutional ethnographers must unpack the words, concepts, phrases and discourses of professional language in order to meaningfully link them to the empirical world.⁴⁹³ Here, new institutional texts are at play because we are dealing with the legal system, a different professional field from housing. The work of legal professionals is coordinated not only by legislation, but also common law principles derived from previous cases (jurisprudence) that also serve as institutional texts that prescribe certain sequences of actions for people across various local sites. For example, the factual basis of the Supreme Court of Canada case, *Canada (Minister of Citizenship and Immigration) v Vavilov*, started with a man who was born in Toronto whose parents were later revealed to be undercover Russian spies.⁴⁹⁴ The decision by the Canadian Registrar of Citizenship to cancel his certificate of Canadian citizenship led to the Supreme Court reconsidering the framework for conducting judicial reviews of administrative decisions.⁴⁹⁵ As a result, the *Vavilov* case serves as a text that coordinates the activities of people across Canada, particularly when legal professionals are dealing with judicial reviews, in many different types of situations beyond citizenship. Interestingly, the Supreme Court majority also acknowledged the enormous power of administrative law over people’s lives in its reasons for decision, though not from an institutional ethnographic perspective:

⁴⁹² DeVault & McCoy, *supra* note 7 at 27.

⁴⁹³ Nilsen, *supra* note 355 at 359.

⁴⁹⁴ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at para 147.

⁴⁹⁵ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

This area of the law concerns matters which are fundamental to our legal and constitutional order, and seeks to navigate the proper relationship between administrative decision makers, the courts and individuals in our society. In parallel with the law, the role of administrative decision making in Canada has also evolved. Today, the administration of countless public bodies and regulatory regimes has been entrusted to statutory delegates with decision-making power. The number, diversity and importance of the matters that come before such delegates has made administrative decision making one of the principal manifestations of state power in the lives of Canadians.⁴⁹⁶

According to *Vavilov* and other jurisprudence, professionals making certain types of administrative decisions are required to follow a duty of procedural fairness, related to the doctrine of natural justice, although the specific procedural requirements of this duty depend on the circumstances.⁴⁹⁷ Where a decision-maker is required to act in a procedurally fair manner but fails to do so, or has proceeded with some other action that is institutionally accountable, a person can challenge the decision by applying to courts for judicial review.

Administrative law principles of procedural fairness and human rights laws prohibiting certain forms of discrimination also apply to the actions of local housing organizations as mediating texts.⁴⁹⁸ To unpack the lawyer's statement above, the local housing organization's board (which he refers to as the delegation committee) are required to make decisions in a procedurally fair manner. It is only when the board's actions fit within an institutional category can a lawyer pursuing legal remedies through the institutional processes of the legal system. Otherwise, if one is simply unhappy about not being allocated a house – what the lawyer refers to as “list cases” – generally, they are not hooked into the legal system because their situation is not institutionally recognized as an actionable “legal issue”.

⁴⁹⁶ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 4.

⁴⁹⁷ *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, *Bell Canada v Canada (Attorney General)*, 2019 SCC 66; *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817.

⁴⁹⁸ As part of its guiding principles, the Nunavut Housing Corporation's Tenant Relations Officer Manual prohibits discrimination in tenant allocation on certain grounds of discrimination, although it should be noted this list excludes a number of prohibited grounds of discrimination outlined in section 7 of the *Human Rights Act*, C.S.Nu.,c.H-70, such as disability, gender identify and family status: NHC Tenant Relations Manual, *supra* note 38 at 600.

Even though the law, through legislation and case law that form its institutional texts, prescribes processes for the judicial review of administrative decisions in certain situations which are institutionally recognized, lawyers noted how other elements affect whether such a challenge can produce a positive result for their clients in actuality. For example, one lawyer explained:

[A]ssuming there's some substantive merit – which doesn't go to judicial review, but in the real world, if there's any substance to it, we can find that there will be a response that's positive for our clients. So it really comes down to, in a sense, how advanced or alternatively or both, how easy it is for those organizations to require legal advice from, I guess, GN lawyers or from retained counsel-

INTERVIEWER: You're talking about the housing boards, if they can get legal advice about their procedures?

PARTICIPANT: If they can get it, if they require it. If they recognize a need for it, if they acquire it and it turns out that the legal advice would in fact be coincident with the legal position taken on behalf of the applicant, then we have found at times that there are ways to persuade boards in individual cases to do something about list issues.

The lawyer here outlines other variables that shape clients' experiences of the institutional processes, factors that are not explicitly contemplated in the institutional texts, such as whether the local housing organization's board has access to legal advice of their own.

Ultimately, however, even if a lawyer is able to successfully challenge a particular housing allocation decision, someone, if not their client, will still be left without a home. As a lawyer, Keith Cruz reflects on the limited ability of legal interventions to impact the overall housing crisis, in only providing individualized remedies:

So the clients that we helped were able to get housing. But unfortunately it's a bit of a zero sum game in a crumbling pie, because if you help one, you're not helping the other. Especially if there's only like five housing units available, and there's ten of them, five of them will be left out, no matter what you do. It's not a fun practice.

Keith's phrasing "a zero-sum game in a crumbling pie" is a vivid metaphor. These work processes described by the lawyers can only offer remedies on an individual basis. However, this

is often done at the expense of someone else who has also likely been on the waiting list for some time. This makes the allocation of scarce housing a somewhat adversarial process. The law is not a magical wand that can create more housing units; it only coordinates to a limited extent who might receive the houses that are already available. It is fair according to the institution, because the process has been followed correctly, even if some people may not see it as fair. This calls to mind the earlier discussion in the literature review of how conceptions of access to justice can differ, depending on whether one is taking the standpoint of the client/plaintiff/citizen, the lawyers, judges, or the government.⁴⁹⁹

As mentioned, there do not seem to be any legal issues that allow for lawyers to intervene in many cases. One of the lawyers who has provided legal services in the Kitikmeot region of Nunavut explains that even though there is often not much lawyers can do to assist in these situations, for the sake of access to justice, they still try to at least investigate the situation:

We always try to help in the sense of the provision of access to justice. We look at the model of access to justice that has been developed in the case law for class actions, which has three levels: One is access to a lawyer. One is access to a tribunal process. And the third is access to a decision of that tribunal process. So we consider ourselves duly bound not simply to dismiss any housing matter, because it's of such vital importance that Nunavummiut, that their affairs be – in that particular area, in that one area – receive counsel and advice, even in matters where there is no availability to the second and third levels of access to justice. So we open files for those. We don't... It's not just, "Sorry, we can't help you." No, we will meet with them, if they're in the same community. We will talk with them. We will open a file. We will look into it. For example, it's very common for us to get into the issue of scoring and to ensure that there were no cultural competency issues, or any errors that might have been made in scoring. And contact the LHO about that, if anything's been identified, and see if there's any way to raise them, to help them raise their place on the list fairly. Fairly raise it, and do something.

The lawyer refers to a particular discourse on access to justice in the context of class action litigation objectives.⁵⁰⁰ As noted earlier in the literature review, there are different ways to

⁴⁹⁹ Plett, *supra* note 82 at 169; Roman, *supra* note 82 at 180 & 181.

⁵⁰⁰ See for example, Jasminka Kalajdzic, *Class Actions in Canada: The Promise and Reality of Access to Justice* (UBC Press, 2018).

think about access to justice. Legal scholars have also referred to three dimensions of access to justice: procedural (the ability to invoke and participate in justice processes), substantive (the ability to attain fair outcomes), and symbolic (respect and recognition accorded to the whole system).⁵⁰¹ From that categorization, judicial review as a legal mechanism might attend to the first dimension, but perhaps not the latter two. As MacDonald notes, “it is no solace to anyone to have easily judicial remedies if the substance of the law that gives rise to these remedies is unjust.”⁵⁰² Here, we see how the institutional discourse on fairness articulated through coordinating texts focuses on how the process is conducted, regardless of the result. This bears similarities to the approach to fairness contained in housing texts, defining fairness as treating everyone in the same manner. This process-oriented institutional discourse on fairness and natural justice is markedly different from the discourse of community members as noted earlier, who were interested in the result as the most important consideration – whether or not they could be allocated a public housing unit.

This brings us back to the problematic that has been guiding this research. I distinctly remember experiencing frustration when I practiced as a legal aid lawyer in Cambridge Bay myself, listening to stories of clients who had been on the waiting list for a long time, but not being able to help them because often there was nothing that I could do. Even if everything appeared to be fair according to the institutional discourse of housing (in using a point rating system to treat everyone the same way) and the institutional discourse of the law (in ensuring that the duty of procedural fairness has been met), there still remained some sense that *something was still not fair*, because so many people were still waiting for a home. It was during those interactions with clients where I began to think about what does access to justice mean for

⁵⁰¹ MacDonald, *supra* note 16 at 106; Bond, Bates & Wiseman, *supra* note 81 at 3.

⁵⁰² MacDonald, *supra* note 16 at 104-105.

community members living in Nunavut. Through this institutional ethnography, we begin to see the disjunctures in the discourses regarding what is fair. From an institutional standpoint, applicants may have access to justice because their applications are being processed exactly in the way that the laws and policies have set out the procedures. They have the legal remedy to challenge the decision through judicial review. These processes are set out in institutional texts according to the authorized view of fairness. But Trevor Farrow and other access to justice scholars have recognized the importance of understanding access to justice from perspective of the user or the public, and the inquiry of an institutional ethnography is taken up from a standpoint in the everyday world.⁵⁰³ While the authorized view may conclude there is access to justice, from the standpoint of applicants who are still left waiting for a home with no further recourse for action, there is a deficit. These disjunctures are the result of the imposition of one system and its corresponding worldview (Western bureaucracy) over a society that already had its own existing system and worldview (Inuit societies). In this way, we see how ruling relations coordinate the experiences described to me by participants in a manner that continues the impacts of colonialism.

This role of ruling relations becomes further visible when we interrogate *why* this “zero sum game in a crumbling pie” exists in the first place. The simple answer, of course, is that there aren’t enough housing units in the first place to meet current demand. But why aren’t there enough houses? There are a number of reasons relating to the remote location and unique environmental context of the Arctic. Housing development in Nunavut carry particularly high costs, at almost three times that of Southern Ontario in constructions and five to ten times in

⁵⁰³ Farrow, *supra* note 81; Campbell & Gregor, *supra* note 21 at 48.

household operating costs than in southern Canada.⁵⁰⁴ Building new houses requires advance planning and is affected by the short construction season and short window for shipping materials by sealift due to the cold and changing climate of the Arctic.⁵⁰⁵ Even when funding is made available to construct new homes, there are other challenges, including the limited availability of contractors to carry out construction work, labour supply issues, and delays in the shipment of materials.⁵⁰⁶ Indeed, lack of resources is undeniably a significant factor. In Nunavut, the territorial government and federal government shares responsibilities for finding solutions for increase access to housing, with the federal government providing funding that is cost-matched from the territory and municipalities.⁵⁰⁷ It would appear that these funding arrangements have not been adequate to meet the housing needs in Nunavut, as the Federal Housing Advocate cautioned in her recent report after touring Nunavut that “The right of Inuit in Nunavut to adequate housing is being violated.”⁵⁰⁸ She repeated the recommendations made by Inuit leaders, calling for the federal government to transfer jurisdiction over Inuit housing programs and service to Inuit governments and ensuring that funding for Inuit housing is adequate for Inuit needs, consistent with Inuit rights to self-determination and self-government.⁵⁰⁹ If there is not enough funding to have enough homes for the existing population, the resulting scarcity of homes produces the need for public housing applicants to compete with each other through a somewhat adversarial quantitative points system in order to have a home.

⁵⁰⁴ Inuit Nunangat Housing Strategy, *supra* note 37 at 3; Northern Housing Policy Recommendations, *supra* note 4 at 7; NHC Blueprint, *supra* note 2 at 38; GN Strategy, *supra* note 2 at 20.

⁵⁰⁵ Northern Housing Policy Recommendations, *supra* note 4 at 7; CMHC Northern Housing Report, *supra* note 5 at 16.

⁵⁰⁶ Auditor General Report, *supra* note 490 at 16 & 17.

⁵⁰⁷ Canada Mortgage and Housing Corporation, CMHC – Nunavut Bilateral Agreement, (2018), online: <https://assets.cmhc-schl.gc.ca/sites/cmhc/nhs/fpt-housing-agreements/cmhc-nunavut-bilateral-agreement-en.pdf?rev=914812c3-3719-4649-b48f-d220eeda2f3b>

⁵⁰⁸ Federal Housing Advocate’s Report, *supra* note 43.

⁵⁰⁹ Federal Housing Advocate’s Report, *supra* note 43.

We can also trace the ongoing influence of colonialism not only with respect to funding issues, but also in the institutional design of the system. While institutional views frame housing as a commodity in a capitalist market, Inuit Qaujimajatuqangit might frame housing differently as a resource to be shared, with a relational aspect to strengthen social bonds and better ensure collective survival as part of the principle of *tunnganarniq*, working for the common good.⁵¹⁰ These differences in worldviews become evident when we contrast the processes described above for applying for public housing with the earlier discussion of how resource is allocated according to Inuit Qaujimajatuqangit. For example, Tina DeCouto notes that sharing for Inuit has a particular application, where one perceives a need and does not put others in a position to have to request something, in order to foster Inuit values and allow Inuit to keep their dignity intact.⁵¹¹ She suggests that territorial government programs like income assistance could reflect this principle by recognizing people's needs and not putting people in positions to have to request the assistance.⁵¹² Yet we see here that people must apply for subsidized public housing, which appears to run counter to this aspect of Inuit practices of sharing. Although there have been public commitments to incorporating Inuit Qaujimajatuqangit into the territorial government, Decouto argues that "[e]thical space was never created to enable Inuit to truly build a system reflective of our culture" and that in adopting a western style system of governance, the territorial government has reduced Inuit Qaujimajatuqangit to "a limited definition of a set of principles, minimizing the critical concepts of Inuit worldview."⁵¹³ Karetak and Tester also observe that Inuit values of sharing, interconnectedness, mutual reliance and respect in order to

⁵¹⁰ Karetak & Tester, *supra* note 94 at 13. For example, the *Little Voices* report found that "Inuit who are homeless in Nunavut survive because of the values that are placed on maintaining family ties and sharing." *Little Voices supra* note 2 at 57.

⁵¹¹ DeCouto, *supra* note 171 at 174.

⁵¹² DeCouto, *supra* note 171 at 174.

⁵¹³ DeCouto, *supra* note 171 at 167.

have a good life have been replaced with “the logic of a culture based on attempts to manipulate nature for profit and the importance of owning things.”⁵¹⁴ They argue that many laws in Western society deal with the consequences of a culture where significant inequalities exist amongst people.⁵¹⁵ Failing to internalize the value of *tunnganarniq*, working for the common good, results in an imbalance that leads to the eventual suffering of all people.⁵¹⁶

In this way, Inuit are subjected to and ruled by these institutional processes that do not reflect their worldviews. Perhaps it is less surprising then, that there is a disjuncture between the institutional views of (procedurally-based) fairness and community members’ interests in substantive access to justice. MacDonald suggests that recognizing these different conceptions of justice is an important first step:

If the goal of law comprises at least in part the quest for social justice, jurists cannot escape responsibility for the substantive injustice of the rules of the system by saying that these questions are more political than legal. The future of access to justice is clearly going to compel a re-examination of the substance of many of the private law rules that emerged at the same time as a market economy and that are increasingly contested today in their application to a consumer society.⁵¹⁷

5.4 Conclusions on public housing allocation

Key insights:

- There is a difference between how the government and community members see public housing: According to the government, public housing is not meant to be the main form of housing. The government expects people to eventually move out of public housing to other kinds of housing, especially housing that is not funded by the government, like private homes. But in reality, public housing is the main form of housing: more than half of Nunavummiut live in public housing. People in the community are expected to apply for public housing when they turn eighteen years old.
- Community members’ views of the role of public housing should be understood in the context of the story of Cambridge Bay: Inuit in the Kitikmeot region had their own lifestyle living on the land, until the Canadian government persuaded them, through policies of colonialism, to move permanently to the settlement of Cambridge Bay by promising to provide them with housing.
- When we talk about access to justice, we need to think about how Inuit must live under laws, policies, and programs that reflect the government’s view of public housing. It does not reflect

⁵¹⁴ Karetak & Tester, *supra* note 94 at 7.

⁵¹⁵ Karetak & Tester, *supra* note 94 at 13.

⁵¹⁶ Karetak & Tester, *supra* note 94 at 13.

⁵¹⁷ MacDonald, *supra* note 16 at 87.

their view of public housing, based Inuit's memories of the promises the government made to them under colonialism.

- Some people are confused about how the waiting list for public housing works: what they need to do, how public housing is given out to people on the waiting list, and whether the process is being followed fairly.
- Service providers play an important role helping people to understand the process for applying for public housing, especially if the requirements are hard to understand.
- Public housing is given out using a system based on points, to give housing to people with the greatest need. Each application is rated with a number of points, and that number determines where a person will be on the public housing waiting list.
- It can be challenging to translate people's housing needs into number-based points, especially if people's situations are complicated.
- This point-rating system for public housing is meant to be fair by treating everyone in the same way, but some community members still do not feel that the system is fair, because they do not understand why other people get housing and while others do not.
- There are different ways to view fairness and justice: the housing systems focus on the fairness of the process, while people often care about the fairness of the results. This means that even if the process has been fair, people may still feel like there is a lack of justice.
- There is not a lot that the law can do to help people who are unsatisfied with how public housing is given out, unless there has been a specific mistake in how the rules have been applied.
- The root issue underlying all this is the housing shortage, which means that some people will get public housing while others will not.
- As with the earlier section, increased funding support for public housing programs, for Inuit and led by Inuit, will start to address these root issues.

In this section, our problematic started with the frustrations of community members in not understanding how the housing allocation process works, as they articulated issues of fairness. But we do not remain in the standpoints of these community members; we move beyond the local to see how what is happening to them is coordinated through the work of service providers activating the institutional texts that prescribe the processes for public housing allocation.⁵¹⁸ Service providers working in housing play a significant role in what some access to justice scholars have called “trusted intermediaries” in helping people to navigate what is required by institutional texts for the waiting list processes. As Ukuak notes, “We’re paperwork people. [...] There’s paperwork for everything. We will help you fill it out. Just come over.”

⁵¹⁸ Rankin warns against institutional ethnographers becoming trapped in the local instead of explicating something happening: Rankin, *Caution*, *supra* note 1 at 9.

These processes involve constructing an institutional account of an applicant's housing situation, flattening the messy complexities of a person's life in order to be presented as a quantitatively comparable application in the points rating system. This approach in turn shapes people's experiences, who must live out these disjunctures.

Someone who scores low – say perhaps a thirty-year-old person who still lives with their parents in a home that is only mildly overcrowded - might have to wait indefinitely before being allocated a house, because those scoring higher will always be prioritized first, unless they move into a cabin. This may explain why some people may wait longer for housing than others in a manner that is not immediately obvious to them, from their localized standpoint. This is fair, according to the institutional discourse where fairness is achieved by treating everyone in the same manner. This may also be considered fair, according to the institutional discourse of the legal system, which focuses on procedural fairness. But, as noted in my scenario I described where the problematic began, it does not seem to feel fair for the community members, who want to see a particular result – a home for themselves.

This highlights how institutional ethnography can be a useful approach for understanding access to justice. While other methodologies for access to justice studies might simply conclude that people do not understand the law, institutional ethnography allows us to explore the work knowledge of various community members and service providers situated differently within the institution⁵¹⁹ to understand how these disjunctures are constructed through text-mediated discourses to perpetuate the impacts of colonialism.

⁵¹⁹ Smith, *Sociology for People*, *supra* note 7 at 159.

Chapter 6: Disrepair in public housing units

6.1. Overview of the chapter

After years of being on the waiting list, it can be a relief for people to finally be allocated a public housing unit. However, just as the process of securing housing requires work, there is also work involved in being a public housing tenant and maintaining one's unit. One community member shared with me her story of moving into one of the older public housing units as part of a transfer:

PARTICIPANT: We moved in [*date*] and [one of the doors] was boarded up.

INTERVIEWER: Okay, because it had been broken?

PARTICIPANT: Somebody... the previous tenant and her ex-boyfriend were staying there before we traded. And the boyfriend kicked in the door. From there, since the winter started that year, we've been having problems with the tub freezing, and there was ice buildup in the walls and whatever. Very cold. We always have to put plastic around the windows. There was... It was so gross.

[...]

INTERVIEWER: It was like that when you moved in?

PARTICIPANT: Yeah.

INTERVIEWER: Oh.

PARTICIPANT: The previous tenants had... "It's all clean for you, ready to move in." And then we moved in, and I'm like.... [*Exhales sharply*], something really stinks in here, every time I went into the kitchen. So I lifted it up and there it was, with grease. So I scraped it off.

INTERVIEWER: Like, you cleaned it yourself?

PARTICIPANT: Yeah. It was so gross.

Here, the community member begins to describe the work involved in dealing with the condition of her rental unit. While the previous chapter examined the public housing allocation process, we now turn our attention to the experiences of people who have successfully been allotted a public housing unit. While public housing tenants may be less worried about where they will sleep, compared to those who are couchsurfing or otherwise homeless, tenants must perform a different set of work activities: that of maintaining their home. For the next two chapters, my analysis focuses on the role of texts in coordinating the activities of public housing

tenants and the service providers who work with them with respect to navigating the processes involved with respect to tenancy. For this chapter, we will focus on the work of getting repairs done to maintain one's public housing unit.

Our problematic for this section opens from the lived experiences of public housing tenants who try to navigate various processes to get repairs for their housing units. I examine the procedures and remedies provided in the *Residential Tenancies Act* and the texts it regulates, relating to the landlord's legal obligation to maintain the housing unit. When asking people about what they do to try to resolve their disrepair issues, I find that it is not clear how certain provisions in texts like the *Residential Tenancies Act* are hooked into the activities of tenants: community members seem to be either unaware or uninterested in pursuing these legal options, and service providers also may not refer their clients to these procedural remedies. Insofar as these texts do not seem to mediate people's activities, this suggests that the texts may not be activated in some settings. While institutional ethnography generally examines texts as they enter people's work processes, rather than in the abstract, I make the point that such inactivated texts – and in particular laws and policies – are significant from the perspective of understanding access to justice in Nunavut, in the way that such laws and policies do *not* coordinate people's activities as prescribed. We also note the role of ruling relations in coordinating people's experiences of disrepair issues in public housing. It is not by pure coincidence that people's homes in the Arctic are inadequately heated or are in otherwise poor condition: it is the result of government practices to import prefabricated homes designed for southern Canadian weather, rather than following Inuit Qaujimajatuqangit guidance that Inuit have used to construct their own homes for centuries before colonization. Inuit have also noted that inadequate funding has hindered the Nunavut Housing Corporation from making progress on remediating housing units

and building new ones in the midst of the housing crisis. We therefore see how the ruling relations serve to exacerbate the impacts of colonialism on Inuit in this context of housing disrepairs.

6.2. “Like opening a window, and taking a hundred-dollar bill and just throwing them out the window”: The experiences of public housing tenants dealing with disrepairs



Figure 7 A window that has been covered in plastic wrapping to keep heat from escaping (photo provided by a participant with permission)

Many participants, both community members and service providers, spoke extensively about disrepair issues in homes, especially public housing units, whether they were problems with doors, floors, sinks, toilets, windows or walls. One community member described to me in detail her efforts to get the local housing organization as the landlord to fix her various issues. Sometimes the staff are not able to solve the problem properly, like one incident she described where she asked the local housing organization to fix her wiring problem:

PARTICIPANT: So I had to call Housing right back. He was... The electrician came, eleven in the morning. He left at lunch time. Came back at one. Left at quarter to two. Only to come back, an hour and a half later.

INTERVIEWER: But you still have a problem?

PARTICIPANT: Yeah. And he goes, well, you shouldn't have too many lights on.

As she recounts, she is blamed for the wiring problems for turning on too many lights, even though one would presume that tenants generally should be able to turn lights on in a residence as needed without worrying about electricity shorting out. The shortcomings of the rental unit are her burden to bear; and when the local housing organization is unable to fix it, she has to do the work of living with the problem, carefully planning what electricity she and her family can use, and when:

PARTICIPANT: Yeah. Because I tried to have the living room light and the kitchen light, and my daughter had her bedroom light on. That's the time she tried to turn her lamp on. And that's when the kitchen light busted. So I tried to turn the bathroom light on. Nothing. So I went to the furnace room. Nothing. That line is connected. That bathroom, kitchen, and the furnace room, they're all connected to the same wire for the lighting. That's why the fuse busted.

[...]

PARTICIPANT: And they always have to shower in the dark. Like, there's a flashlight, but... Even put a lamp in the bathroom, so they can have light, but then they were like, it's too much work, mom. Look at what if water go on the wire and start a fire?

The community member discussed how the various disrepair issues, including electrical problems, affect her ability to have visitors in her home, thus impacting her social ties to the community:

PARTICIPANT: Very tough. And I was trying to have visitors yesterday.

INTERVIEWER: Yes? How did that go?

PARTICIPANT: She's like, "I'm leaving. Your lights keeps..." [*Gestures*]

INTERVIEWER: Oh really? Like a haunted house?

PARTICIPANT: Yeah. [*Laughs*] I went to the bathroom, maybe three weeks ago, when she visited. She went after me, and she was like "Ahhh!"

INTERVIEWER: Because the light was off?

PARTICIPANT: Yeah. It started to flicker, like, it went off, and then it started flickering. It shut right off.

INTERVIEWER: Scary!

PARTICIPANT: It's like a fucking scary movie. [*Laughs*]

INTERVIEWER: It's like a haunted house? Halloween?

PARTICIPANT: Oh, my poor house. People must think we're so sad all the time, from living in the dark. We're trying to leave all the lights off, and not have that. Fuse bust, all the fuses.

As we can see, not only does the condition of her home turn away some of her visitors, but she also worries about how others in the community think about her. She is also discouraged by what her children think of the situation:

PARTICIPANT: Yeah. It's very difficult to live in that house. It's ... I get depressed at times, because of all of the issues we deal with and, like, it's not my fault, it's... what they're supposed to be doing that they're not working on. My youngest girl stays with my mom most of the time, because of that house. It's so funky.

INTERVIEWER: I was going to ask how this makes you feel, and your family, what kind of... effect?

PARTICIPANT: My younger girl, she goes, "Mom, this house is so poor." Even my eldest, she says the same thing. My youngest, she decides to stay at my mom's for a couple of days. And when she finally misses me, she comes home. Stay home for one night, and she's like, "Mom, I wish we could just get another house." It was so bad at one point.

Numerous participants described how persistent disrepair issues in their homes preoccupied their thoughts and their time. Even after moving out of a home, some participants reported associating their former home with the stress they experienced as a tenant there. These experiences sometimes produced a sense of helplessness as participants struggled to take control of their problems. As the former chair of the Cambridge Bay Housing Association's board, Harry Maksagak shared:

I had one individual say to me, "The house I'm in, that I've been in for fifteen maybe eighteen years, is shrinking. Every time they come in and do a repair, they add something on to cover up what was damaged." So now the walls are where... where the wall is supposed to be, is now coming in closer and closer, they're adding, covering.

INTERVIEWER: So it's actually, actually, getting smaller?

PARTICIPANT: Yeah, actually closing in. and so the frustration is there: "I keep calling housing. And sometimes they ignore my call. And we have to wait until, I wait until next week to make another call."

But the longer we delay the actual request for repairs, the more serious the damage becomes.

Harry describes this tenant's vivid feeling of having the walls of their home literally closing in on them. While participants expressed at times a sense of frustration and helplessness

at not understanding what is happening beyond their standpoint, institutional ethnography can offer a launching point to move beyond these local sites to understand how things unfold in the way that they do. At this point, we shift our inquiry to examine the institutional processes shaping their experiences from beyond their local standpoint.⁵²⁰

6.3. Examining texts on disrepair: What do laws and policies say?

Institutional ethnography looks at how these local activities are shaped by the broad reach of ruling relations. This is done through texts, the material objects carrying various kinds of messages to allow the ruling relations to coordinate what people do across multiple sites and times.⁵²¹ For service providers working in housing and in the law, texts formulate processes which articulate people's doings as "expressions or instances of a higher order organization, independent of particular people".⁵²² In institutional ethnography, texts such as laws and policies (sometimes referred to as "boss texts" ⁵²³) can play the important role of institutionally authorizing the sequence of stages to be scheduled within the whole work process.⁵²⁴ However, these laws and policies are not typically studied in isolation as might be done through discourse analysis or positivist legal methodologies, but in their role to "coordinate what is being done as a moment in a sequence of action among people", as they are being activated from within the everyday of people's experience.⁵²⁵ As described by Smith:

At each stage the law requires that this or that be done, and the validity of the steps taken depends on conformity. But the prescriptions of the law do not exist in an abstract theoretical space; they are locally incorporated into people's work and the coordinating of their work as a sequence of action.⁵²⁶

⁵²⁰ DeVault & McCoy, *supra* note 7 at 21.

⁵²¹ Smith & Griffith, *supra* note 8 at 50; Smith, *Texts*, *supra* note 8 at 164 and 173.

⁵²² Smith, *Texts*, *supra* note 8 at 180.

⁵²³ Rodriguez, *supra* note 40 at 376.

⁵²⁴ Smith, *Sociology for People*, *supra* note 7 at 172 & 173; Smith & Griffith, *supra* note 8; as was proposed to be done in Smith, Mykhalovskiy, & Weatherbee, *supra* note 282 at 175.

⁵²⁵ Smith & Griffith, *supra* note 8 at 50 and 51; Smith, *Sociology for People*, *supra* note 7 at 66.

⁵²⁶ Smith, *Sociology for People*, *supra* note 7 at 67.

The reader, often the service provider in this context, activates the text by inserting the message of the text into their local setting and their sequence of action.⁵²⁷ Institutional ethnography's aim is therefore to investigate and make visible "how key texts coordinate the local sites of people's work."⁵²⁸

However, I think it would also be important for an institutional ethnography with an access to justice-related problematic to look at how certain texts do *not* coordinate and regulate people's activities, because they are not activated by the reader. Even though such texts might not normally be considered in an institutional ethnography if they are not taken up and incorporated into people's work, I believe their very absence of coordinating power can still be noteworthy. If part of an institutional ethnography's liberatory goals are to open up possibilities for the people living these experiences to have more room and act on the basis of having more knowledge about what is happening to them,⁵²⁹ understanding how certain texts do *not* standardize their work activities - and why people may not activate such texts - may be as important as how other texts do. It provides an important picture of what is actually happening, with implications for lawmakers and legal practitioners if laws are not being used.

To put this more concretely, the *Residential Tenancies Act* is a text setting out rules, rights, responsibilities, and procedures relating to residential tenancies. As part of the intertextual hierarchy, it regulates other texts, such as the public housing tenancy agreements and policy manuals that refer to the *Residential Tenancies Act* and further spell out how its provisions are to apply to a given situation.⁵³⁰

⁵²⁷ Smith, *Sociology for People*, *supra* note 7 at 105.

⁵²⁸ Smith, *Texts*, *supra* note 8 at 160; Smith, *Sociology for People*, *supra* note 7 at 180 and 200.

⁵²⁹ Campbell, *supra* note 84 at 91.

⁵³⁰ Murray, *supra* note 445 at 52.

The *Residential Tenancies Act* stipulates that it is the landlord's legal responsibility to "provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy" and to ensure that it complies with all health, safety and maintenance and occupancy standards.⁵³¹ Landlords are required to remedy any breach of this legal obligation within 10 days after a tenant has notified the landlord of any such breach.⁵³² Although this text sets out the institutional processes to be followed, we will see that many disrepair issues persist well beyond the ten-day deadline, including for reasons that are beyond the control of the landlord, the Cambridge Bay Housing Association, and that the community members I spoke to did not seem to be aware of the legal mechanisms provided by the *Residential Tenancies Act* to resolve issues of disrepair, nor did they initiate such processes. If it is in their replicability and replication that texts standardize work activities across time and place,⁵³³ the fact that aspects of the *Residential Tenancies Act* are not replicated in this way is a significant finding when discussing access to justice, because a text that is not activated in the actual could be seen as, in a sense, a law that has no effect, as we will see in the rest of the chapter. As such, even though Smith warned against generally analyzing texts "in abstraction from how they enter into and coordinate sequences of action"⁵³⁴ I believe examining certain inactivated texts in some situations can serve the purposes of institutional ethnography while explicating access to justice issues. It still reveals the sequence of activities that community members and participants follow in actuality, which are not visible in official accounts of the

⁵³¹ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.30(1).

⁵³² *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.30(6).

⁵³³ Smith, *Texts*, *supra* note 8 at 174.

⁵³⁴ Smith, *IE as Practice*, *supra* note 20 at 67 & 79.

processes as represented in texts,⁵³⁵ and recognizes how those active in the sequence do not carry out their activities exactly the same way on every occasion and as other people.⁵³⁶

To illustrate, a community member described at length how cold her home would get in the winter months, explaining, “It’s like it’s actually a cabin. It’s not a house, it’s a cabin. Very cold.” She described the efforts of her family to keep warm:

So all winter, we have to keep the heat cranked up, because it’s always cold. And my kids, they all have to sleep like... The girls have their own room, and my boys have their own rooms. My girls share a room. But my youngest, he goes to sleep with his sisters so they can all be warm. And my oldest son, he uses two blankets to keep warm.

The cold temperature in her home impacts other aspects of her home as well:

And then the tub kept freezing. And it still froze up until last year. It was still freezing until this, no, this year, February or March, when COVID hit here. The tub kept freezing and freezing every year. And I kept calling and calling and finally this year, they put, um.... In the kitchen, in the corner of the cupboard inside, they cut a hole so they can put a vent that can meet with the pipe that can flow warm air into there. But it still froze.

INTERVIEWER: When you say the tub is frozen, do you mean?

PARTICIPANT: The water doesn’t drain at all. And then when it freezes, when I don’t know about it, and I do laundry, it comes out of the bathroom sink.

The creeping cold therefore also interferes with her family’s ability to bathe and do laundry. Other participants complained about their homes being cold due to improper insulation, with some confining themselves to a single room with their children with a space heater. Many of the issues with heat retention for homes in Cambridge Bay are related to the fact that a number of these homes were built based on designs from southern Canada which were not specifically suited for the Arctic climate.⁵³⁷ Doors or windows that cannot properly close exacerbate the

⁵³⁵ As also noted in Turner’s research: Turner, *supra* note 293 at 141.

⁵³⁶ Smith, *Exploring*, *supra* note 343 at 69.

⁵³⁷ Northern Housing Policy Recommendations, *supra* note 4 at 16; Blake, *supra* note 45; Qaqqaq, *supra* note 3 at 6, 10; Senate Report, *supra* note 43.

problem.⁵³⁸ This issue of cold homes is not limited to public housing rental units either; homeowners and those in older staff housing units also noted these issues as well.

As a regulatory text, the *Residential Tenancies Act* states the following with respect to heating:

33. (1) In this section, "vital service" includes heat, fuel, electricity, gas, hot and cold water and any other public utility.

Prohibition against withholding vital services

(2) No landlord shall, until the date the tenant vacates or abandons the rental premises,

- (a) withhold or cause to be withheld the reasonable supply of a vital service that the landlord is obligated to supply under the tenancy agreement; or
- (b) deliberately interfere with the supply of a vital service, whether or not the landlord is obligated to supply that service under the tenancy agreement.

Remedies

(3) Where, on the application of a tenant, a rental officer determines that the landlord has breached the prohibition imposed by subsection (2), the rental officer may make an order

- (a) requiring the landlord to not withhold vital services;
- (b) requiring the landlord to not withhold vital services again;
- (c) requiring the landlord to compensate the tenant for loss suffered as a direct result of the breach;
- (d) directing the tenant to pay to the rental officer all or part of his or her rent that would otherwise be payable to the landlord; or
- (e) terminating the tenancy on a date specified in the order and ordering the tenant to vacate the rental premises on that date.⁵³⁹

The text confirms that heat is considered a vital service (s.33(1)), establishes the responsibility of the landlord not to withhold vital services (s.33(2)), and provides the remedies that are available if the landlord has not met their legal obligation (s.33(3)). The provision, originally transplanted from the Northwest Territories, contemplates a scenario where the landlord has withheld or caused to be withheld the supply of a vital service, such as by cutting

⁵³⁸ Conversely, during her tour, Qaqqaq noted that many of the porches of the housing units directly faced the direction of the wind, resulting in doors being frozen shut during the winter, leaving units inaccessible: Qaqqaq, *supra* note 3 at 17.

⁵³⁹ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.33.

off the heat to a house. If the community member's improperly insulated Arctic home can indeed be characterized as a situation where the landlord is causing the supply of a vital service to be withheld, we would want to know whether the institutional remedies provided under s.33(3) would be able to address the realities facing public housing tenants. But an order from the Rental Officer might not solve the problem, if the cause of the persistent cold in the home is due to factors outside of the landlord's control, such as a delay in the delivery of repair materials to the community, a shortage of skilled labour within the community to make the necessary repairs, or a limited maintenance budget, all issues described to me by participants and reported in previous literature.⁵⁴⁰ Withholding rent under s.30(3)(d) is not an effective option for subsidized public housing units, if the tenants may be paying very little rent in the first place. And in the context of the housing shortage, tenants generally are not interested in the remedy of breaking their lease, as provided for in s.30(3)(e).

We see here then that the institutional texts set out the roles and responsibilities of landlords as well as the processes to be followed to enforce these obligations, including to effect repairs. We also see that despite these texts, community members still experience difficulties in addressing their disrepair issues in their public housing unit. It is not evident that the legislation was drafted with the unique environmental conditions of Nunavut in mind. In this way, we can start to see how these provisions under the *Residential Tenancies Act* may have limited effects in coordinating the lives of community members in Cambridge Bay. I will now further examine this disjuncture that forms this access to justice problematic, to demonstrate how it seems that the relevant provisions from the *Residential Tenancies Act* do not seem to have a mediating effect, as participants do not seem to directly or indirectly activate these portions of the text. This then will

⁵⁴⁰ These issues will be further discussed in the next section.

provide us with the opportunity to uncover and trace the invisible elements that *do* coordinate people's activities and experiences.

6.4. Tracing the (dis)connections to understand access to justice in disrepair issues: What happens when people try to get their public housing unit repaired?

As mentioned earlier, the institutional texts set out the responsibility of the Cambridge Bay Housing Association as the landlord to maintain the rental units.⁵⁴¹ This arrangement is somewhat reflected in another text, the Cambridge Bay Housing Association tenancy agreements, containing the landlord's promise to "maintain the premises in a good state of repair and fit for habitation" while requiring tenants to "[p]romptly notify the maintenance manager for foreman for any repairs needs to the unit or equipment."⁵⁴² The Cambridge Bay Housing Association uses a Note to File to record issues tenants have reported about their unit, whether by phone, an in-person visit, email, or even over social media. A section in the template form records what follow-up action is required.⁵⁴³ The institutional processes are thus set out to deal with disrepair issues, complete with texts at each institutional processing interchange to record and direct how a tenant's repair request will be handled.

However, when we try to trace how these institutional processes are carried out in actuality, we see different experiences from community members sharing their stories with me of living with disrepair issues in their unit. For example, although the law sets out the sequence of actions to be followed in order to effect required repairs, in actuality, community members may still be left dealing, as in the case of this community member with the freezing problem:

INTERVIEWER: So you've been asking all this time for them to fix it and... have they done anything?

PARTICIPANT: They put a vent where the bathroom pipe meets with the kitchen sink.

⁵⁴¹ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.30.

⁵⁴² Cambridge Bay Housing Association, "CBHA Residential Tenancy Agreement & Schedule C House Rules" (Updated November 3, 2006) (form).

⁵⁴³ Cambridge Bay Housing Association, "CBHA Note to File" (form).

INTERVIEWER: That was the hole that they made there?

PARTICIPANT: Yeah. But then it still freezes. Not as bad as it did the years before,

INTERVIEWER: But it still...

PARTICIPANT: It still freezes.

If community members are unable to get the landlord to address their housing problems, they are left to try to find solutions on their own. This community member describes how she tries to cope with problems with her doors:

PARTICIPANT: We buy different doorknobs all the time, to see which ones will work and they stay on for a week, and then they start to wobble, so we fix it, thinking it will be working properly.

INTERVIEWER: Like, are you doing it yourself or are you asking Housing-

PARTICIPANT: Yeah.

INTERVIEWER: Oh, you're doing it yourselves, eh?

PARTICIPANT: Doing it ourselves. They did that for a while... They were changing the doorknobs and then still nothing. They were not the right ones and...

INTERVIEWER: Is that why you decided to try to do it yourself, because they weren't helping?

PARTICIPANT: Yeah. The doorknobs that they brought, they were all... All the doorknobs that we buy, and the ones that Housing brought, they're all too small for the door that we have for the front door.

As the community member explains, she ended up having to take on the responsibility of making repairs herself, despite the fact that the landlord's legal obligation. Participants discussed problems with having the landlord fix their disrepair issues properly and in a timely manner, contributing to a sense of unfairness. They simply did not understand, from their perspective, why things took so long to be fixed, or were not fixed at all.

As noted, *Residential Tenancies Act* as a text explicitly outlines the sequence of actions to be followed to enforce the landlord's obligations to repair in the legislation. In the subsection following the provision setting the landlord's obligation to repair (s.30(1)), the legislation states:

30. (4) Where, on the application of a tenant, a rental officer determines that the landlord has breached an obligation imposed by this section, the rental officer may make an order

(a) requiring the landlord to comply with the landlord's obligation;

(b) requiring the landlord to not breach the landlord's obligation again;

- (c) authorizing any repair or other action to be taken by the tenant to remedy the effects of the landlord's breach and requiring the landlord to pay any reasonable expenses associated with the repair or action;
- (d) requiring the landlord to compensate the tenant for loss that has been or will be suffered as a direct result of the breach; or
- (e) terminating the tenancy on a date specified in the order and ordering the tenant to vacate the rental premises on that date

According to this provision, assuming the tenant is unable to resolve their repair request informally through the local housing organization, the law states that the tenant can then make an application to the Rental Officer.⁵⁴⁴ Once the Rental Officer receives the application, the Rental Officer can investigate the matter, obtain information, offer mediation, or hold a hearing, which is often conducted over the telephone.⁵⁴⁵

This is how the institutional processes are laid out as prescribed by texts. But what happens in reality? As noted earlier in this section, community members who were public housing tenants did tell me that they had reported disrepair issues to their landlord, the local housing organization. Some also spoke to the fire marshal about fire safety concerns and even the health inspector as a means of taking action. Notably, community members did not mention to me pursuing these processes before the rental officer under the *Residential Tenancies Act*. This matched my previous experiences working in the field where I observed a lot of people did not seem to be aware of this legal option. Sometimes participants would ask me for help with their housing issue in the midst of our research interviews, which left me in a challenging predicament, in trying not to mix my roles as a researcher collecting data and a former housing lawyer in the community. When I asked participants if they had engaged with legal processes at

⁵⁴⁴ For an example of the tenant application form, see Nunavut Residential Tenancies Office, "Tenant's Application to a Rental Officer", online: <https://nu-rto.ca/index.php/forms/category/3-applications?download=9:application-to-rental-officer-tenant>

⁵⁴⁵ Nunavut Residential Tenancies Office, online: <https://nu-rto.ca/>.

all, including asking for help from lawyers, none of the participants that had been asked reported speaking to a lawyer, and some told me they did not know they could speak to a lawyer about disrepair issues in their home.

This could be linked to larger concerns in Nunavut about the lack of awareness of remedies provided by the law. In Amautiit Nunavut Inuit Women's Association's report on the Nunavut *Human Rights Act*, the report found that the low profile of human rights in Nunavut – and specifically the lack of public information about human rights and the Nunavut Human Rights Tribunal process – could account for the low number of complaints received by the Tribunal, noting that it almost never makes decisions or orders, and only two complaints in Nunavut have ever gone through a hearing and final order.⁵⁴⁶ As a result, the report concluded that the Nunavut Human Rights Tribunal “cannot be said to have made any difference to systematic discriminatory practices in Nunavut.”⁵⁴⁷

In the present context, if community members are unaware of the legal remedies provided as an option under the *Residential Tenancies Act*, it would be unsurprising that this aspect of the legislation may serve as an inactivated text. On the other hand, the issue may be more complex than people simply not knowing about their legal options. I also asked some service providers if they ever refer their clients with housing issues to get legal assistance. They generally reported not doing so. Some indicated that it was because they hadn't thought about legal remedies as an option, while others were more deliberately cautious about the situation turning adversarial if lawyers became involved, such as Solomon Bucknor, the former director of the municipal Department of Healthy Living:

It's possible that some people may not know that the lawyers are there to support them, to help them in that. But we have not deliberately sent people out to lawyers. The reason

⁵⁴⁶ Amautiit, *supra* note 466 at 5, 62.

⁵⁴⁷ Amautiit, *supra* note 466 at 64.

why we deliberately refused to do that, it's because it's like setting Housing against them... So we have to be very careful how we do these things, you know?

He explained that they need to have a good relationship with all the agencies in town.

These observations from this service provider are significant to note with respect to access to justice: while people want to get help for their housing issues, they must do so in the context of a small Nunavut community where harmonious relations are particularly important, and as such there may be a reluctance to introduce adversarial elements of the legal system.

This reluctance might evoke what MacDonald describes as the symbolic dimension of access to justice. MacDonald noted that some groups are underrepresented in the legal system for a number of reasons, including “a failure to interpret a particular dispute as a legally cognizable dispute; a sense that because they have less confidence, less personal resilience and less energy to invest in litigation, vindication by law is unlikely; and a belief that neither the process nor its remedies speak meaningfully to their situation.”⁵⁴⁸ If people do not have confidence in the legal system’s ability to call into account those who are not acting appropriately, they will not use the system.⁵⁴⁹ If, for example, Inuit do not feel comfortable with the adversarial aspects of a residential tenancy dispute resolution process, or if they do not feel confident that this legal system will serve Inuit interests, they may be less inclined to invoke such options, even if they are aware of it.

Yet disrepairs are something that lawyers can frame as a legal issue, unlike many waiting list cases as discussed in the earlier section. A lawyer who has provided legal services in the Kitikmeot region of Nunavut commented on these types of legal issues:

In terms of house repairs, yes, that is one of the most sensitive issues that we face. And I don't really know how to put it, but in essence, without probably any real understanding of how things work in the south, there are cases where Nunavummiut do in fact withhold

⁵⁴⁸ MacDonald, *supra* note 16 at 99.

⁵⁴⁹ MacDonald, *supra* note 16 at 86 and 106.

payments of rent, based on the failure of the housing authority to fix their house. And there are also cases where through whatever circumstances, houses have not been – I don't know how to put it – restored, cared, or remediated for extended periods of time, sometimes decades, and are in very poor condition. [...] The bottom line is, they have a lot of high-need situations. There's overcrowding. You know, there's various issues with the experience with respect to acquiring trained tradespeople in numerous of the trades that are required. And there are budgetary constraints, and all of that. So that all has to be acknowledged and seen.

But in my view, in my view, in the context of all of that, I would think that repairs are the most sensitive areas of any proposed Rental Officer litigation. The jurisdiction is there. There's no doubt. In the case where there is arrears existing, even if they are withheld – and it is possible under the legal system for a tenant who is otherwise defaulted to withhold rent in case of premises that are in such a poor condition, and there's law on that. It's being researched by us. It's a matter where angels fear to tread.

The lawyer notes the difficulties of having local housing organizations repair homes. At the beginning of his statement, he notes that some tenants withhold rent because the landlord has not upheld its obligation to make repairs to the home. This practice diverges from the legally prescribed process under the Residential Tenancies Act, which allows for tenants to provide rent payments to the Rental Officer instead of the landlord, if the landlord has not made repairs within the prescribed 10-day period – but this would have to be done by way of filing an application to the Rental Officer.⁵⁵⁰ Instead, if tenants are simply withholding rent on their own initiative as retribution for the landlord's failure to repair – an unauthorized action, according to institutional texts - the landlord may view this as merely an arrears issue, where the tenant simply has not paid rent. The lawyer as such describes this as being a “sensitive area” with respect to legal processes. In sharing his experiences as a lawyer providing legal services in this area across the territory, Keith Cruz also noted the opposite relationship between the two issues, where the landlord has held off on making repairs due to the tenant's arrears:

So this is a case where the tenant has asked for repairs and the landlord has not corrected it. Usually there's a reason why the landlord has not done it. So we find out belatedly that

⁵⁵⁰ *Residential Tenancies Act*, R.S.N.W.T. 1988,c.R-5, s.32(1) and (2).

the client has not... the tenant has not been paying rent, or they have arrears or... there's a reason why the landlord has not acted on it.

Keith explains how the landlord's inaction on disrepair issues can have a snowball effect on the condition of the home and for those living in it:

Yeah so, this is an interesting one with housing, because someone could be living in squalor or an inhabitable place, but the landlord refuses to repair because it alleged rental payments, there's arrears, so they're in breach of a contract. So what happens is that a client is forced to live in a place that is uninhabitable. An example of this is mould. So mould would form so easily in Nunavut, particularly because you always have to shut the windows in the winter, so all that steam and water and moisture with so many people living in a single space, like, you will have that. And then there's obviously like... building materials and repairs are so hard to come by that tenants wouldn't do it themselves, so you have a unit that is in disrepairs for a very long time, and that's why you'll have, like, sometimes people wouldn't have running water in the toilet. They'd just go to the sink in the kitchen and that's where they're going to do their toilet business. [Inaudible]. So you have situations like that. But then they come so often they're like, "No, the landlord really has to repair this." They send us pictures. Some of them are pretty horrific. I'm like, I don't know how you're able to tolerate this. So you file an application, and then you get the landlord's side, and the landlord responds with, they haven't honestly paid rent in like the last eight months. And there's arrears of like over seven thousand dollars, in arrears.

And what's sort of difficult about the case is that they're both in breach of their obligations. So neither of them are coming before a Rental Tenancies Office with clean hands. And as you know in equity, you can't come with dirty hands. And so now there's a promise to pay that needs to be made, and then a promise to repair. What is kind of, you know... I don't have a lot of [visibility] into how employer – or local housing authorities are financed, but my suspicion is they also generate some of their income through rent collection, and if they're unable to collect rent, then how are they paying the labourers, the parts, for the repairs? So it does put them in a bind, where you're going to repair the most desperate of situations, but it's almost like you have to get to a desperate situation before something gets done.

Keith describes an interesting predicament, where – despite whichever party may have initially defaulted on their obligations – both the landlord and tenant are now at fault. Other service providers also explained that the local housing organization places tenants who are in arrears as lower priority for repairs, unless emergency work is required, or unless a payment plan has been arranged to show goodwill. This indicates a context that not only has already turned adversarial, but parties have taken matters into their own hands rather than following the

prescribed procedures under the *Residential Tenancies Act*. This is in the context of a power imbalance, where it is the tenant that must bear the work of living in daily squalor, with all of the particularly harsh consequences that spread to other aspects of the tenant's life, as disrepair issues get worse and worse over time. Keith offers a particularly vivid metaphor for this issue:

So this is one of those classic cases that you see a lot in health, where you know, if you have a little toothache, fine, you just let it be, let it go, until it's just so bad that you can't even open your mouth, and now you've flown down south, and now you're spending like ten times more than you needed to, if you'd just fixed the problem in the first place.

Keith's metaphor of the toothache can be seen as an illustration of the concept of "legal health" noted in some access to justice discussions, reflected in legal health check-up projects in southern Canada that help people to identify where some of their everyday problems may be unmet legal needs in order to seek solutions on a preventative basis.⁵⁵¹ The underlying idea is that like physical health, law-related problems should be dealt with at an early stage before they become worse and spread. Communities like Cambridge Bay do not have a resident full-time dentist and instead dentists fly to the community several times a year or otherwise residents have to fly out of the territory for dental treatment. But unlike other communities, Cambridge Bay is fortunate enough to have a legal aid office in the community that can assist with law-related problems in housing, like a landlord's failure to repair under the *Residential Tenancies Act*. Yet in this section, we have seen that public housing residents in Cambridge Bay struggle to get help with the assortment of disrepair problems in their homes, and they may not use this process outlined in the regulatory texts. If these provisions of the *Residential Tenancies Act* are not activated as texts to coordinate people's actions, then what *does* coordinate their

⁵⁵¹ See for example, Legal Health Checkup: <https://www.legalhealthcheckup.ca/en/> and Community Advocacy & Legal Centre, "Legal Health Check" (accessed 24 August 2024), online: <https://communitylegalcentre.ca/wp-content/uploads/2022/03/Legal-Health-Check-2022.pdf>.

experiences? In the next section, we will look at the reasons why local housing organizations struggle to meet their legal obligations to repair public housing units, which will allow us to trace the ruling relations that *do* mediate their actions.

6.5 Why can't repairs be done? Making visible the ruling relations

As former chair of the Cambridge Bay Housing Association's board, Harry Maksagak shared his perspective of the struggles faced by the local organization in responding to repair requests:

[W]hen we go back to the public housing situation, it's not quite that easy. Because now, if the furnace is blown up, and the hot water system has blown up as well, there's going to be several days that there's going to be no heat, and there's going to be no water. So now what do we do? We may have one or two units that have been identified as emergency transitional units.

INTERVIEWER: So they move into there while it's being repaired.

PARTICIPANT: The folks that were in this house, with the furnace and the hot water blowing up the way that it did, everything is still in the unit, and we take a suitcase and my clothing and some bedding and we go into this transition house, while the repairs are being done. Which could go anywhere from two weeks to two months. And so, because of the lack of what we need for the waitlist, we don't have that privilege anymore of having these identified units.

INTERVIEWER: You can't move them out temporarily?

PARTICIPANT: We can't... We just don't have the space. And whatever space we do have leftover, we need to turn it over to the unit, to the individuals who've been on the list for five years. Eight years. Ten years. And put them in a unit.

INTERVIEWER: So that really puts a... that's a big challenge to fixing some of the problems that exist in public housing.

PARTICIPANT: That's right.

Part of the issue is that numerous public housing units are older buildings using designs that were not meant for the Arctic environment, which has over the years produced problems with the houses. As Harry noted, the already-existing shortage of houses in Cambridge Bay makes it difficult to simply transfer tenants to another home, if none are available. It also makes it difficult to decide to tear a home down and build a better home in its place, rather than making temporary repairs over and over again, when there is already such a high demand for houses.

From her experience working as a service provider in housing, Ukuak explains:

They've exceeded their use. So on Okpik Street, for example, we've closed down two. We tried to fix one. When we move somebody out that was in there for a long time, one person in a three-bedroom, we got this person out. We went in there and as we were fixing it, we said, "Uh oh." Uh oh. Then we just had to close it right down, because the repairs are too much. It's not worth it. Nothing's to code. It hasn't been fixed for too many years. So now we have a few that we need to tear down. Basically. They're closed up. And then build multiplexes.

From his perspective, Harry Maksagak thinks it makes sense to demolish the older houses and build new multiplexes there:

PARTICIPANT: [D]emolish the unit, do a bit of facework on the grounds. And we can build a multiplex on Okpik Street. We could do the same thing on Tuktu Street. Demolish a unit and do some groundwork, and then we can build another multiplex on there. And so on. Until we get rid of all the dilapidated units that we continue to go back and repair.

INTERVIEWER: You're just throwing so much money at repairing these old units that are falling apart?

PARTICIPANT: Like opening a window, and taking a hundred dollar bill and just throwing them out the window! Literally! To no comfort to the tenant. And they make great complaints to the housing that, "I called you last week because the plumbing continues to freeze up. I'm calling you again because I'm back in that same situation. I thought we had it fixed. It's freezing up again." We're coming into the colder season and those issues are going to multiply.

The COVID-19 pandemic exacerbated these challenges for local housing organizations in Nunavut. Community members described how during the height of the lockdowns, housing staff couldn't come into the house to deal with certain repair issues, unless it was an emergency, such as heating problems. For urgent requests, staff had to take extra precautions to implement social distancing measures and wear personal protective equipment when entering the housing unit. In some homes requiring repairs, the tenants were infected with COVID-19. There were also issues with getting supplies in by barge due to pandemic-related supply chain issues. Service providers reported that as a result, repairs took more work and time.

As a service provider who has worked in housing in various capacities, Ukuak believes it's important for tenants to understand the constraints faced by local housing organizations in

Nunavut: “I think it’s understanding patience and respecting that there’s minimal amount of people to do the job for so many units that are in such neglect.” This observation from Ukuak points to how there are other elements than simply institutional texts like the *Residential Tenancies Act* that coordinate the actions of local housing organizations, and prevent them from fully activating such texts as prescribed within their work processes. Tracing these elements helps us to uncover these ruling relations.

In the earlier chapter looking at homelessness, emergency shelters and transitional housing, we saw how Inuit had criticized government funding arrangements as hindering Inuit self-determination, revealing how colonialism continues to play a role as a ruling relation. Here too we can see this at play in the context of addressing disrepair issues in public housing units. The Cambridge Bay Housing Association faces numerous challenges in making repairs, from not having enough qualified staff available to perform the work, to not having adequate supplies, such as doors. These issues persist across the territory, as the high costs of goods and services affect the government’s ability to construct and repair public housing units.⁵⁵² The Government of Nunavut spends more of its total revenue on housing than other Canadian jurisdictions at 9% of its \$1.5 billion operations and maintenance budget, spending on average \$23,180 to maintain each public housing unit each year.⁵⁵³ These costs of operation and maintenance of social housing unit are predicted to increase up to 16% of the Government of Nunavut’s total budget.⁵⁵⁴ Only a small fraction of such costs are recovered through rental revenue.⁵⁵⁵

In Mumilaaq Qaqqaq’s report on her tour of housing conditions in the Kitikmeot and Kivalliq regions while she was Member of Parliament for Nunavut, she emphasized that she did

⁵⁵² GN Framework, *supra* note 12 at 20.

⁵⁵³ GN Strategy, *supra* note 2 at 9; NHC Blueprint, *supra* note 2 at 5-6.

⁵⁵⁴ NHC Blueprint, *supra* note 2 at 6.

⁵⁵⁵ NHC Blueprint, *supra* note 2 at 38.

not blame the under-resourced and under-capacity Nunavut Housing Corporation or the Government of Nunavut for the overall lack of maintenance and repair to housing units that she witnessed; instead, she pointed to the federal government:

Money for remediation and new units is the only solution. It is clear that the Nunavut Housing Corporation is underfunded. I want to make it clear, that the issues noted in this report are not the NHC's fault. They are doing what they can with the resources that they have. Neither is this the Government of Nunavut's fault. The fault for Nunavut's housing concerns lies squarely with the Federal Government that needs to do more to support the NHC and every organization in Nunavut, with greater funding, and by listening to local solutions.⁵⁵⁶

As with previous chapters, we see here that the funding structure flowing from the federal government is connected to the experiences of public housing tenants who require repairs in their homes. But even more fundamentally than current funding structures, it is important to consider how Inuit have for millennia constructed their homes according to Inuit Qaujimajatuqangit, in contrast to the way homes are built and maintained in the permanent settlements today. In Bennett and Rowley's book *Uqalurait* documenting interviews with Elders about Inuit Qaujimajatuqangit, Elders described at length how Inuit would construct their dwellings.⁵⁵⁷ Whether sod houses, *igluit*, or tents, Inuit put careful consideration into the location and design of their homes to suit the Arctic environment and changing seasons:

In building an *iglu* the direction of the wind had to be considered. The ventilation hole required constant maintenance. Drafts also had to be considered. The entrance also required constant maintenance. When the entrance was built the lee side of the *iglu* was avoided, otherwise the entrance would get buried. The *iglu* was made to face the sun so the window would be facing the daylight.

- Martha Anguatiaq Ungalaaq, Amitturmiut, IE154⁵⁵⁸

⁵⁵⁶ Qaqqaq, *supra* note 3 at 6 & 10.

⁵⁵⁷ Bennett & Rowley, *supra* note 113, chapter 21 at 227.

⁵⁵⁸ Bennett & Rowley, *supra* note 113 at 233.

Inuit meticulously analyzed what materials needed to be used for different functions, including the type of snow and tools to be used.⁵⁵⁹ Special measures were taken to insulate heat, such as elevating the main living area of a snow house above the outer porch, or placing a low wall of snow blocks (*tajjutaq*) around the outside wall of an iglu.⁵⁶⁰

When the Canadian government enticed Inuit to move into permanent settlements like Cambridge Bay by promising to provide them with housing, the government constructed these homes using pre-fabricated materials and designs shipped from southern Canada, importing standardized houses into the Arctic environment without accounting for the local setting or local knowledge of Inuit Qaujimajatuqangit. I therefore argue that the disrepair issues we see in houses now – particularly the issues resulting from homes that are ill-equipped to deal with the Arctic climate – are the physical manifestations of the blunt one-size-fits-all standardizing effects of ruling relations.

Service providers who have worked in housing reported feeling frustrated about not being able to help people more. Harry Maksagak's shared his previous experience serving as the chair of the local housing organization's board, where he wanted to make a difference. He felt that not everyone understood these efforts, and he saw community members criticizing the local housing organization out of frustration:

[P]eople are assuming that we're not working for the locals, we're not pushing for more housing. So maybe there is some frustration. Maybe there is some confusion. But every time we have an annual general assembly that we try to get the community to come to the place of saying we will work with the Board. Because the Board is always saying, we will work with the community.

But because the frustration rate is so high, that the community is kind of reluctant to say out loud that we want to work with the Board. And we want to support the Board.

Because things go back and forth. And it only takes one individual to say something negative, and everybody jumps on the bandwagon. And next thing you know, we're

⁵⁵⁹ Bennett & Rowley, *supra* note 113 at 232.

⁵⁶⁰ Bennett & Rowley, *supra* note 113 at 235 & 237.

going down the street and they're pointing at us. And they're saying things behind our back that is absolutely not true.

INTERVIEWER: That's got to be tough to deal with?

PARTICIPANT: It is. It is very hard. And not only is it hard, but it's heart-breaking, in the fact that people are talking like that, in an assumption that we're not doing anything for the community. When in fact, we are working very hard to meet the needs and to continue to maintain the dilapidated units... with pity, with empathy. Because we go into units where the heat is gone now. Because the furnace has outlived its mandate, and now the furnace blows up.

[...]

[I]t just adds to the frustration of the Board of Directors, because I served three and a half terms as Chair, and I've had people call me very colourful names because I'm not helping them get a house. They threatened a number of the Board of Directors because they're not making any effort to give them a house. Which is the furthest from the truth. Because we were working very hard in keeping on top of the situation, with the manager, on units that become available.

Eventually, Harry resigned from his position on the board about a year before our conversation, due health problems and his own frustrations at the lack of progress in the housing situation.⁵⁶¹

These elements reveal why disrepair problems persist in the community, as well as the throughout the territory. This persistence of disrepair issues is serious due to its impacts to other aspects of community members' mental and physical health and well-being. As an Inuk community member as well as a scientist pursuing graduate studies in biology, Bryan Vandenbrink points out that mould has cascading effects beyond health, including on one's educational and socio-economic prospects, further disadvantaging Inuit in life:

In terms of public health, you see this. And in my opinion, between like... Let's say you lived in a public housing unit. It's super old. It has all this black mold and other fungi living within the walls. And you're breathing this in. They get stuck in your lungs. You're constantly coughing all the time. Your children are doing the same and getting sick. Versus a non-Inuit employee, who's living in a much newer constructed unit. These are public health... these are differences that are measurable in terms of not just your health, but also how well you do in school, and also how well you do at work. These

⁵⁶¹ It should be noted that the Cambridge Bay Housing Association has had a major staff turnover in the last two years. For some time, including during the height of the pandemic, there was some instability in staffing. It is possible that some of the delays in repairs experienced by participants were partly a result of the Cambridge Bay Housing Association's staffing issues as well as the pandemic. The Cambridge Bay Housing Association now has a new manager, and some community members felt that things were improving.

impact your entire life, from the minute you wake up to the minute you go to bed. Which is huge, in my opinion.

Mould issues are indeed prevalent in Canada's north,⁵⁶² due to factors such as high occupancy rates, inadequate insulation and poor ventilation, all in the context of high use of indoor spaces.⁵⁶³ This impacts indoor air quality which then in turn impacts tenants' health, resulting in problems such as respiratory tract infections.⁵⁶⁴ In particular, Bryan pointed me to the tuberculosis outbreaks in Pangnirtung and Pond Inlet in recent years. He told me that he worries that this creates two classes in Nunavut: Inuit living in old mouldy public housing units causing lifelong respiratory issues, and non-Inuit who typically live in newer constructions without respiratory issues. Bryan says, "Due to housing issues in Nunavut, we are forcing Inuit into acting as a petri dish to breed even more antibiotic/antifungal resistance in mold/fungi, or in the case of TB, helping along the evolution of mycobacteria to target humans." By drawing this link, Bryan identifies how disrepair issues in the home can ultimately contribute to barriers to Inuit well-being and self-determination, perpetuating the disadvantages that Inuit experience after decades of colonialism.

6.6. Conclusions on disrepairs in public housing

Key insights:

- Community members shared their struggles with getting repairs done to their public housing.
- Under the *Residential Tenancies Act*, the law requires that the local housing organization fix repair problems as the landlord within ten days of being told about it by the tenant.
- However, in reality, community members talked about how it took much longer to fix these repair problems, and sometimes the problem with their home continued for many years.
- The law offers ways through the *Residential Tenancies Act* to order the landlord to make the repairs. But community members did not seem to be aware of this option to use the law, nor did some service providers. Some service providers were also reluctant to refer their client to seek legal assistance for fear of making the situation turn adversarial.
- There are questions about whether the law could actually be used to solve repair issues: service providers noted how there are limited workers and supplies available to make repairs. The

⁵⁶² The 2007-2008 International Polar Year Inuit Health Survey found that 20% of the households surveyed in the Inuit Nunangat region (except Nunavik) were affected by mould problems: Minich et al, *supra* note 49 at 524.

⁵⁶³ Northern Housing Policy Recommendations, *supra* note 4 at 8 & 15-16.

⁵⁶⁴ Northern Housing Policy Recommendations, *supra* note 4 at 15-16; Kovesi et al, *supra* note 71 at 273.

COVID-19 pandemic made these issues worse. The older houses are also not designed for the Arctic environment, as they were based on southern Canadian housing designs, unlike the homes Inuit have built for millennia according to Inuit Qaujimajatuqangit, and therefore have more problems. As such it takes more time and work to make repairs in the community, and these are problems that the law will not necessarily solve on its own through an order.

- Instead, to address the underlying issue, there needs to be more resources, in the form of workers, supplies, and funding, and homes should be constructed to suit the local Arctic environment.
- Otherwise, these disrepair issues in public housing will continue to negatively affect the well-being of Inuit in many ways.

In this section, we saw that texts like the *Residential Tenancies Act* set out the responsibilities of landlords, as well as the institutional processes to be followed for dealing with disrepair problems. Yet in looking at the experiences and observations of public housing tenants and service providers from their standpoint, we can see a significant divergence from the prescribed institutional processes. To put it more boldly, we see that these provisions of the *Residential Tenancies Act* do not seem to have a mediating effect as a text as it is not activated in a number of situations, whether by community members, who generally seemed to not be aware of the legal remedies provided, or the service providers, who also either were not aware of them or were reluctant to invoke them at risk of turning the situation adversarial. As such, disrepair problems often persist for well beyond the ten-day deadline, sometimes for years, and may be a low priority if the tenant owes arrears. ‘

However, we heard from lawyers how such situations can turn adversarial even before lawyers get involved, where, like a toothache, a relatively small problem has become much worse. At the same time, we saw that there are limits to the solutions that the law could provide as effective remedies, given that the problem is deeper than a mere reluctance of the landlord to repair. There are other constraints, from a shortage of skilled labour to a shortage of supplies such as replacement doors to – as always - a shortage of housing due in part to inadequate funding. We traced the constraints of local housing organizations to meet their legal obligations

to repair, which are connected to an overall lack of adequate and sustainable government funding to meet housing needs in the territory. We also see how some of the disrepair issues are due to the fact that these houses were built using southern Canadian designs that have not been suited for the Arctic environment, rather than according to Inuit Qaujimajatuqangit guidance which Inuit have used for centuries to build their own homes prior to colonization. As with previous chapters, this further reveals how ruling relation exacerbate the ongoing impacts of colonialism, shaping actualities which a legal order from the Rental Officer may not be able to change. In order to overcome this, and to support Inuit self-determination, it will be important to not only involve Inuit in leading the delivery of housing programs, but also Inuit ideas for housing designs that will work for the Arctic environment.

These aspects of the *Residential Tenancies Act* therefore appear to serve as inactivated texts that has a limited effect in coordinating people's activities in certain contexts. Such inactivated texts might not be included in a classic institutional ethnography because they have not been hooked in and activated by the people involved in the processes as part of their activities. But when using institutional ethnography as a methodology for studying access to justice, these inactivated texts are important to note. This is especially so if there is a persistent discourse broadly amongst legal practitioners and decision-makers believing that such texts *do* play a significant mediating role, and make decisions carrying out their work activities under the assumption of the efficacy of the law. As MacDonald notes, if in fact certain social groups have withdrawn from the mainstream institutions of civil justice and dispute resolution, "it is well worth posing the question whether some relatively radical readjustment of the legal system may

be required in order for it to regain the engagement, participation, and respect of significant segments of the population.”⁵⁶⁵

Smith notes how “[w]hen the institutional words are not practiced or are not yet invented and authorized, what people do may be much like what later becomes institutionally specified, but it does not count in and does not connect and coordinate with what can come next institutionally.”⁵⁶⁶ In this way, this institutional ethnography has made visible what people actually do try to deal with their repair issues, which does not reflect the regulatory text of the *Residential Tenancies Act* relating to repairs, as well as the ruling relations that shape their decisions. We also see how the methodology of institutional ethnography thus demonstrates to those studying access to justice the importance of studying legislation not solely in isolation, but with respect to how they are hooked in (or not hooked in) to people’s lived experiences.

⁵⁶⁵ MacDonald, *supra* note 16 at 107.

⁵⁶⁶ Smith, *Exploring*, *supra* note 343 at 70.

Chapter 7: The institutional discourse of the unacceptable public housing tenant

7.1. Overview of the chapter

In the previous chapters on public housing, we looked at how inactivated portions of texts like the *Residential Tenancies Act* did - and did not – mediate the actions of public housing tenants in Cambridge Bay and the service providers working with them. For this final chapter on public housing, we will focus on institutional discourses mediated through texts to construct ideas about “unacceptable tenants” who incur tenant damages and owe arrears. These are institutional categories that can look very different from the everyday actualities of the tenants’ experiences they are meant to represent.⁵⁶⁷

Smith emphasizes how discourse serves as a regulator of language which plays a key role in the institutional coordination people’s doings.⁵⁶⁸ We now trace how texts such as legislation, policies, and manuals draw distinctions to create institutional categories such as “tenant damages” (versus ordinary wear-and-tear or vandalism) and “unacceptable tenants” (versus acceptable tenants) which serve as ideological codes that imposes a particular method to selectively frame the way people can talk, think, and react about such matters.⁵⁶⁹ Service providers and community members both participate in this discourse, mediated by the institutional texts and the processes prescribed by those texts to deal with unacceptable tenants. We will see how people’s actualities are worked up into institutional accounts that end up masking the complexities of their lives (such as domestic violence, addictions, and

⁵⁶⁷ Smith, *Sociology for People*, *supra* note 7 at 198; Nilsen, *supra* note 335 at 366.

⁵⁶⁸ Smith, *Sociology for People*, *supra* note 7 at 76, 79 and 94.

⁵⁶⁹ Alison I. Griffith, “Constructing Single Parent Families for Schooling: Discovering an Institutional Discourse” in Dorothy Smith, ed, *Institutional Ethnography as Practice* (Maryland: Rowman and Littlefield, 2006), 127 at 127 [“Griffith”], Nilsen, *supra* note 335 at 366.

intergenerational trauma from the impacts of colonialism), in order to be hooked into institutional processes for repairing damages to one's housing without being held liable for the costs of repairs. Although tenants' subjective realities are subsumed by these artificial representations in the process, they face very real consequences that continue to shape their lives, such as owing arrears if they are found to be responsible for the damage and are unable to pay it back. This then puts their entire tenancy at risk, as they face potential eviction.

In explicating how institutional discourses about unacceptable tenants produce this disjuncture between people's experiences and institutional accounts of them, I will uncover important insights about access to justice with respect to the resulting alienation and frustration that people experience from this disjuncture. We also see how on one hand, lawyers can help tenants navigate these processes in advocating for solutions. However, they must first be hooked into the process in order to do so, which may not happen if the tenant does not seek legal assistance. On the other hand, the work of lawyers occurs within the context of this institutional discourse: they can, at best, distinguish their clients from the institutional category of "unacceptable tenants", rather than challenge the constraints of the institutional frames themselves. In this way, the institutional discourse makes invisible the role of colonialism in displacing Inuit Qaujimajatuqangit and in shaping these conditions of the housing crisis in the first place.

7.2. Tenant Damages

7.2.1. Talking about "bad" tenants who damage their homes

We start, as usual, with the experiences of participants and specifically the talk in which they engage when dealing with the housing crisis in Cambridge Bay. Community members expressed frustration and resentment towards neighbours that they perceived to be behaving

irresponsibly with respect to their housing unit, especially when it resulted in damaging housing units in the midst of a housing shortage. One community member noted, for example:

PARTICIPANT: There's a lot of houses in town that's being used for hang-outs. Only for hang-outs.

INTERVIEWER: Like, nobody lives there, or...?

PARTICIPANT: Like people live there, but they got that house just for only hangouts, like for drinking and doing drugs. Even for underaged drinking and... They hide things from the public. There's so much out there that the public don't even know, and it's still happening.

INTERVIEWER: Like bootlegging and stuff?

PARTICIPANT: Bootlegging and...yeah. Selling drugs and people using their house only for drugs. And the houses that have been for hang-outs, they all get damaged. And some of them, it's like eighty thousand damage.

INTERVIEWER: How does that make you feel?

PARTICIPANT: It kind of makes me feel like these people are damaging their house and they've still got their house and they're not being evicted for it.

Here, the community member refers to homes being used as “hang-outs”, which I ask him to unpack further to reveal a specific association with illegal or socially unsavoury activities that he disapproves of. Community members’ concerns indicated a sense of injustice: while they felt like they were responsible tenants who deserved a good home (or could be, if they did not yet have a home of their own), it did not seem fair to them that other irresponsible tenants were known to be damaging their home.

Service providers also expressed frustration about damages to housing units caused by tenants. From her experiences working as a service provider in housing, Ukuak noted:

I could show you pictures, a thousand words, but they're very...disrespectful in their unit. Like there's a lot of damages. They don't clean their fridge on a regular basis, or the stove, or wipe the cupboards, or clean the toilet, or wipe the floor from water. Everything is just left and over the years, there's a lot of mould. A lot of things have come because of it. All of their windows are broken. All the doors are broken inside, etc., etc. It's their lifestyle.

These statements indicate how community members and service providers think and talk about unacceptable tenants who do not care about the state of their home. Ukuak further explains:

[I]f we also had tenants respecting and taking care of their space, we wouldn't have as much to do. We've done 80 doors [...]. Eighty doors. It takes a day, a day and half to do a door. And the cost. And it's all because it's been kicked in because... Because of stupidity... I wouldn't say stupidity, but I wanna say silliness, you know?

INTERVIEWER: I wanted to ask you more about that actually, the tenant damages. What are the kind of things that you see that are preventable...

PARTICIPANT: Windows and doors. And inside, they get angry and punch the wall. Everywhere. You go into some... and everywhere, it's punched. They get angry. And they don't care. And they don't cover it up even, and so they're looking at that all the time. So what does that...? So every time they're looking at that, they're reminding themselves that they lost control. What do you think that's doing to their mental health? It's just an awful cycle.

In this statement, Ukuak mentions tenant damages, a concept within the institutional discourse that we will unpack in this chapter as being connected to the idea of the unacceptable tenant: *Bad tenants cause tenant damages*. Nilsen notes that professional words and concepts can denote institutional discourses that form part of ruling relations,⁵⁷⁰ and so here we must be attentive to such ideas. Smith says that words should be understood as essentially social, coordinating our consciousnesses to organize the same response in the speaker and hearer in transmitting meaning.⁵⁷¹ This practice of words is part of the textual coordination of institutional sequences of action, as Smith explains: "As people become active in a given sequence, they practice the words that organize their work."⁵⁷² We can therefore explore the ruling relations ethnographically by tracing how the institutionally specified concept "tenant damages" moves

⁵⁷⁰ Nilsen, *supra* note 335 at 371.

⁵⁷¹ Smith, *Exploring*, *supra* note 343 at 66.

⁵⁷² Smith, *Exploring*, *supra* note 343 at 67 and 69.

from text to be generalized as visible practices across multiple local sites in the everyday world.⁵⁷³

7.2.2. The institutional discourse of tenant damages

Institutional texts socially organize in part by presenting certain concepts and categories in a politicized manner.⁵⁷⁴ People's work in institutional settings are coordinated and made accountable through the process of "conversations" between the text and the reader to translate - and subsume - the actual into the institutional, as the reader activates the text in inserting the text's message into local settings and sequences of action.⁵⁷⁵ Like Griffith's research on the institutional discourse on single parents, Nilsen's research on the institutional discourse of good mothering found a unified understanding of the term that served as "an ideological code, that is, a replicable schematic understanding that structures the language of texts and textually mediated discourses [...] [to] provide a discursive framework that organizes people's talk and actions and to which people hold themselves accountable."⁵⁷⁶ Similarly, we can unpack this professional phrase, tenant damages, to understand how it forms part of the institutional discourse on unacceptable tenants, a text-mediated frame that suppresses divergent perspectives in establishing a "shared and enforceable common ground, a virtual reality standardized across multiple settings."⁵⁷⁷

First, we look at what is set out in the institutional text that is the *Residential Tenancies Act*:

⁵⁷³ Smith, *Exploring*, *supra* note 343 at 69 and 70; Smith, *Texts*, *supra* note 8 at 177; Grainne P Kearney, Michael K Corman, Gerard J Gormley, Nigel D Hart, Jennifer L Johnston, Dorothy E. Smith, "Institutional ethnography: a sociology of discovery – in conversation with Dorothy Smith" (2018) *Soc Theory Health* 292 at 296, online: <https://doi.org/10.1057/s41285-018-0077-2> ["Kearney et al"]

⁵⁷⁴ Smith, *Sociology for People*, *supra* note 7 at 118.

⁵⁷⁵ Smith, *Texts*, *supra* note 8 at 177; Smith, *Sociology for People*, *supra* note 7 at 118.

⁵⁷⁶ Griffith, *supra* note 569 at 127; Nilsen, *supra* note 335 at 366.

⁵⁷⁷ Smith, *Texts*, *supra* note 8 at 176.

42. (1) A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.
(2) Ordinary wear and tear of rental premises does not constitute damage to the premises.⁵⁷⁸

Here, the legislative text creates a distinction between the type of damage that tenants are responsible for repairing (which we will see has become known as “tenant damages”) and what they are not held responsible for (ordinary “wear and tear”). The *Residential Tenancies Act* also lays out the tenant’s responsibility to maintain the home “in a state of ordinary cleanliness.”⁵⁷⁹ This serves as part of what is known in institutional ethnography as a regulatory frame which organizes policies and other texts to structure institutional courses of action and people’s work locally, by controlling what is to be deemed relevant to build what Smith describes as institutional realities,⁵⁸⁰ institutional accounts of people’s realities that are worked up to present only what is relevant to be hooked into the institutional processes, yet may end up looking very different from those realities that people experience.

These provisions of the *Residential Tenancies Act* are then reproduced in subordinate texts that the Act mediates, such as the Cambridge Bay Housing Association’s Residential Tenancy Agreements:

12. The Tenant agrees that he/she:
- a. Shall be responsible for the ordinary cleanliness of the premises; and
 - b. Shall pay to the landlord within a reasonable time the cost of repairing any damages to the premises caused by the willful or negligent conduct of the Tenant or of any persons who are permitted on the premises by the Tenant; and
 - c. Shall conduct him/herself and require other persons in the premises to conduct themselves in a manner that will not disturb the Landlord’s or other Tenants’ possession or enjoyment of the premises of residential complex; and
 - d. Shall not make any alterations or additions to the premises without the Landlord’s prior written consent; and

⁵⁷⁸ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.42(1) & (2).

⁵⁷⁹ *Residential Tenancies Act*, R.S.N.W.T. 1988, c.R-5, s.45(2).

⁵⁸⁰ Smith, *Sociology for People*, *supra* note 7 at 191 and 227.

e. Shall promptly notify the Landlord of any defects in or damages to the premises and shall pay to the Landlord the cost of repairing damages resulting from the Tenant's failure to give such notice.

13. Tenant Damage Policy: This policy outlines the principles, guidelines and processes for the tenant damage policy of the Cambridge Bay Housing Association found in Schedule "D"⁵⁸¹

The above excerpt sets out how the relevant *Residential Tenancies Act* provisions are to be applied to specific leases in Cambridge Bay. It also refers to the Cambridge Bay Housing Association's Tenant Damage Policy, which is appended to the lease, and tells us more about the institutional discourse on tenant damages. It states as its policy goal "to promote better tenancy on the part of all tenants by decreasing the incidence of tenant-caused damage in social housing units managed by the Association, and thereby reducing the costs associated with tenant damage."⁵⁸² The policy promises benefits for tenants who can "gain an increased sense of responsibility and pride as they exercise greater care for their homes and as the Association is able to concentrate on repair and improvements to their homes."⁵⁸³ This can be linked to the broader institutional discourse about the housing continuum in Nunavut, which sets as an institutional objective people becoming more independent from their reliance on the government (to be further explored in Chapter 9).⁵⁸⁴ Here, the policy refers to s.42(1) of the *Residential Tenancies Act* to define tenants' responsibilities for tenant damages (while omitting the provision on ordinary wear-and-tear). It also refers to the abovementioned clause 12b of the Cambridge Bay Housing Association Residential Tenancy Agreement. We start to glimpse the textual basis of the institutional discourse on acceptable tenants (those who do not inflict tenant damages) within these policy statements, which promote an opportunity for tenants to learn how to care for

⁵⁸¹ Cambridge Bay Housing Association, "CBHA Residential Tenancy Agreement & Schedule C House Rules" (Updated November 3, 2006) (form).

⁵⁸² Cambridge Bay Housing Association, "Schedule D: Tenant Damage Policy" (Amended December 2005).

⁵⁸³ Cambridge Bay Housing Association, "Schedule D: Tenant Damage Policy" (Amended December 2005).

⁵⁸⁴ See for example GN Framework, *supra* note 12 at 49; GN Strategy, *supra* note 2 at 17.

their homes. Of course, it is also a way for the local housing organization to try to mitigate its costs for repairs.

Another institutional text, the Nunavut Housing Corporation's Tenant Relations Officer Manual, explains the distinction between ordinary wear-and-tear and tenant damages, further translating the corresponding provision in the *Residential Tenancies Act*:

General Wear & Tear Damage:

- results from regular use
- is not expensive, if repaired promptly
- can become expensive, if not repaired promptly
- affects the "life expectancy" of the item

Examples include items such as:

- worn out faucet washers
- roofing that needs replacement
- appliances older than 10 years
- minor scuffs and marks on paint

TENANT DAMAGE:

This is damage that is not considered general wear and tear or vandalism and includes items such as:

- damage that happened when the LHO was not notified by the tenant that the unit would be unoccupied for more than 24 hours between October 1 and April 30 or more than 7 days between May 1st and September 30th.
- intentional or non-intentional damage caused by household members or their guests.

Some examples are broken locks on doors, countertops deeply scratched or cut, light fixtures broken, windows broken, large holes in walls, doors torn off hinges etc.⁵⁸⁵

These distinctions as defined by the territorial-level Nunavut Housing Corporation are then integrated into the local Cambridge Bay Housing Association's House Rules:

Exterior Doors and Windows:

Tenants are responsible for the removal of snow and ice buildup around the exterior door and jamb surfaces during the winter months. Scrape off the ice from your door and window jambs regularly please! If you call CBHA maintenance staff and it is apparent that there is snow or ice causing the door not to close, you will be billed for a minimum of one hour overtime rate plus 10 percent administrative fee. If there is damage to the exterior door and/or jamb due to the snow or ice around the door and/or jamb it will be considered Tenant Damage.

⁵⁸⁵ NHC Tenant Relations Manual, *supra* note 38 at 804-805.

[...] Tenants are responsible for the removal of snow and ice buildup around the exterior and interior of the windows or frames during the winter months. [...] If you call the maintenance staff out for a frozen window (other than for a two-story window exterior), and it is apparent that there is snow or ice causing the window not to open or close you will be billed at the minimum one-hour overtime rate plus 15 percent administrative fee. If there is damage to the window, frame or operator due to your trying to open or lose the window because of snow or ice buildup it will be considered Tenant Damage. [...] First check if you can fix it. If not, then call CBHA.⁵⁸⁶

By this point, Tenant Damage has now emerged in capital letters as an institutional category that service providers and tenants are expected to recognize and apply to their work processes. Those who incur tenant damages and do not manage to pay off their arrears are fitted into the institutional category of an unacceptable tenant, as can be seen in the Nunavut Housing Corporation's Tenant Relations Officer Manual for determining whether a person should be provided with housing:

The third stage is the final review to ensure the application meets all eligibility criteria and to determine if the applicant would be an acceptable tenant.

Acceptable or Unacceptable Tenant?

Where it is confirmed that an applicant has met all the eligibility criteria in Stage 1 and Stage 2, the LHO should take into consideration whether or not the applicant would be considered an "acceptable" tenant for the Rental Housing Program. The following criteria may be used as guidelines:

An eligible applicant may be considered "unacceptable" as a tenant if.....

- they have a history of rental arrears or a poor credit rating.
- they have a history of unacceptable upkeep or damage to a housing unit.
- they have a history of affecting other tenants right to "quiet enjoyment".
- they have been convicted of criminal/illegal activities on LHO premises,

Applicants who are considered "unacceptable" as tenants by the management should be referred to the LHO Board of Directors. The Board reviews each case and makes the final decision based on the supporting documentation from the Management's assessment.⁵⁸⁷

This description provides a list of characteristics that indicate an unacceptable tenant, including a "history of unacceptable upkeep or damage" or a history of rental arrears, which can

⁵⁸⁶ Cambridge Bay Housing Association, "CBHA Residential Tenancy Agreement & Schedule C House Rules" (Updated November 3, 2006) (form).

⁵⁸⁷ NHC Tenant Relations Manual, *supra* note 38 at 422.

be a result of tenant damages and will be covered later in this chapter. These authoritative texts impose a specific method for sorting people and their actions to be framed as tenant damages and the unacceptable tenants responsible for them. Like Wilson and Pence's study of domestic violence processes or Rodriguez's study of the work of the Office of Disability Services staff,⁵⁸⁸ this textually-mediated process constructs institutional realities through which tenants are subject to institutional courses of action "not as particular individuals, but as a class of persons."⁵⁸⁹ These institutional accounts of locally-situated tenant are produced according to the details considered relevant by the institution (that there have been damages to their housing unit) while subsuming other aspects of the applicant's experiences (such as how these damages came about), in order to fit the activities of people as into a sequence coordinated with others whose activities "can be referred to and expected to fit to the institutional words that frame and organize the mandated sequence."⁵⁹⁰

Recognizing this process of sorting and filtering helps us to understand that concepts such as unacceptable tenants and tenant damages are part of these constructed artificial institutional realities, selectively capturing certain aspects of people's activities to be framed in a particular manner. We cannot simply take such concepts at face value, as Grahame and Grahame remind us that doing so would be to remain with the standpoint of the ruling discourse which renders invisible the actualities of people but also the mediating role the state plays in.⁵⁹¹ What is considered to be "tenant damages" is not some naturally occurring phenomenon, but is defined and mediated according to the authorized view through institutional texts.

⁵⁸⁸ Wilson & Pence, *supra* note 285, Rodriguez, *supra* note 40 at 386.

⁵⁸⁹ Smith, *Sociology for People*, *supra* note 7 at 116-117.

⁵⁹⁰ Smith, *Exploring*, *supra* note 343 at 74.

⁵⁹¹ Grahame & Grahame, *supra* note 334.

Nor is this definition always straightforward or clearly linked to some kind of obvious moral blameworthiness. Some examples of the tenant damage described in the institutional texts are, in fact, damages caused not simply by intentional behaviours, but are related to the unique environmental context of the Arctic – and, I argue, the use of pre-fabricated southern Canadian housing designs rather than housing designs guided by Inuit Qaujimajatuqangit to adapt to the environment - where a small problem is aggravated to become a more significant issue. For example, the Nunavut Housing Corporation Tenant Relations Officer Manual provides a table under the heading “Regular maintenance vs. Tenant Damage” to illustrate common tenant actions that can result be tenant damages, and how such damages can be prevented.⁵⁹² The manual notes that when windows are forced open in cold weather, the windows can get stuck open, and frost may build up and warp the window frame. It also explains how failure to remove ice around doors can damage the weather stripping, but can be prevented by keeping doors closed to prevent ice build-up. When I first moved to Cambridge Bay, a colleague had to explain this practice to me, because ice build-up in the door was not an issue I had encountered living elsewhere in Canada. When I returned to Cambridge Bay for the knowledge documentation portion of this research, I had forgotten about this practice and inadvertently let snow and ice build-up in the doorframe of my accommodations, until it could no longer close. Although this was eventually fixed, it prompted me to wonder, had this continued, could I be considered a bad tenant? Would other visiting researchers who do this be considered bad tenants? The issues of ice build-up in windows and doors are common mistakes made by professionals who have just moved up to Nunavut, whether into private rentals or staff housing. It occurred to me that the difference between these professionals and unacceptable tenants in public housing might not

⁵⁹² NHC Tenant Relations Manual, *supra* note 38 at 802.

anything relating to the moral character of the tenants (as implied in the discourse about unacceptable tenants), but rather could be attributed to the fact that accidental damage could be mitigated when committed by middle-class professionals living in private rentals or staffing housing because 1) the private rental or staff housing unit is newer than many aging public housing units that are already prone to infrastructure vulnerabilities and 2) the professional may be able to afford to pay the costs for the repairs of the damage, if required.



Figure 8 Snow building up in my door frame, causing the door to jam

Such institutional categorization also masks the role of colonialism and other relations of ruling in shaping the circumstances behind the damages incurred. It does not hold accountable the fact that, for example, the federal government had responded to housing needs decades ago by shipping to the community of Cambridge Bay pre-fabricated houses that were not necessarily designed for the Arctic environment, causing and aggravating some of the damage issues today.⁵⁹³ As noted in the previous chapter, for centuries Inuit have been designing their homes to account for environmental factors like blowing snow and the cold climate.⁵⁹⁴ I also noted in previous chapters how Inuit have criticized the inadequate government funding structure as one of the key underlying elements of the housing crisis in Nunavut as well as an impediment to Inuit

⁵⁹³ Kitikmeot Heritage Society, *supra* note 24 at 27; Northern Housing Policy Recommendations, *supra* note 4 at 16.

⁵⁹⁴ See for example Bennett & Rowley, *supra* note 113 at 233.

self-determination. These institutional actions have contributed to the current housing shortage, which has resulted in people having to be labelled acceptable or unacceptable tenants to help sift out who “deserves” a public housing unit and who does not.

But these nuances of what might affect whether someone is an “unacceptable tenant” or not are not captured in institutional texts or the discourses they mediate. Smith says, “When concepts are detached from the relations in which they make the world of living people observable, they become a means of operating selectively upon it and of sorting it out in ways that preserve the ideal representation.”⁵⁹⁵ In this way, these aspects of people’s experiences are masked in the institutional accounts, which instead construct their activities according to the institutional view, “as if it were an attribute of individual personality”⁵⁹⁶ detached from the context of the ruling relations.

Despite the artificial nature of these institutional accounts of tenant damages, there can be real and significant consequences for tenants who are found to have incurred tenant damages. The Cambridge Bay Housing Association’s Tenant Damage Policy repeats the principle that tenants will be held accountable and liable for the costs of tenant damages, and prescribes the process for dealing with tenant damages.⁵⁹⁷ After a number of warnings, the local housing organization can make an application under the Residential Tenancies Act, likely referring s.42(3) which allows a Rental Officer to make an order requiring the tenant to comply with the tenant’s obligation, prohibiting the tenant from doing further damage, requiring the tenant to compensate the landlord for costs of the damage, and even terminate the tenancy.⁵⁹⁸ Unlike the provisions discussed in the previous chapter, these sections of the *Residential Tenancies Act* are

⁵⁹⁵ Smith, *Conceptual*, *supra* note 7 at 42.

⁵⁹⁶ Smith, *IE as Practice*, *supra* note 20 at 77.

⁵⁹⁷ Cambridge Bay Housing Association, “Schedule D: Tenant Damage Policy” (Amended December 2005).

⁵⁹⁸ *Residential Tenancies Act*, R.S.N.W.T. 1988,c.R-5, s.42(3).

not inactivated texts, as local housing organizations do take action under these provisions.

Lawyer Keith Cruz has noted how he has seen how tenant damages can lead to eviction for his clients:

Eviction happens because of, typically, I would think, it's non-payment of rent, or damage to property that was never rectified. So I've dealt with one where there was fire in the house. I've dealt with all sorts of things, like broken doors. You name it, probably I've dealt with it.

There are other potential consequences as well. As noted in the above tenant damage policy, tenants may be removed from the waiting list, as people are not eligible for housing if “any household member has ‘active’ outstanding arrears with the NHC or any Local Housing Organization in Nunavut.”⁵⁹⁹ This is a particularly serious consequence. Besides being designated as an unacceptable tenant,⁶⁰⁰ tenants who have damaged their units repeatedly or have not maintained their unit in an acceptable condition may not be considered for transfer requests.⁶⁰¹ In the case of Cambridge Bay, applications for new housing or transfers cannot even be accepted until the applicant's accounts are settled.⁶⁰² People who have arrears with any local housing organization in Nunavut are also ineligible for staff housing with the Government of Nunavut⁶⁰³ or for the Nunavut Down Payment Assistance Program to aid them in buying a house,⁶⁰⁴ effectively preventing them from moving to other parts of the housing continuum.

We can see that although the reality of the individual tenant may “disappear” in the institutional representation of their account,⁶⁰⁵ they do not, of course, actually disappear. They

⁵⁹⁹ NHC Tenant Relations Manual, *supra* note 38 at 401.

⁶⁰⁰ NHC Tenant Relations Manual, *supra* note 38 at 423.

⁶⁰¹ NHC Tenant Relations Manual, *supra* note 38 at 604.

⁶⁰² Cambridge Bay Housing Association, “Schedule F: Rent Collection Policy”

⁶⁰³ GN Staff Housing Policy, *supra* note 32 at 8; Government of Nunavut, “GN Staff Housing Procedures Manual” (April 2019) at 6, online: https://www.gov.nu.ca/sites/default/files/documents/2021-11/staff_housing_procedures_manual_0.pdf [“GN Staff Housing Procedures Manual”]; The GN Staff Housing application form explicitly states that a person can be rejected “because of a bad history as a tenant in rental accommodation”.

⁶⁰⁴ Nunavut Housing Corporation, “Nunavut Down Payment Assistance Program: Guide” at 2 online: < https://different-basket-89cd87b086.media.strapiapp.com/NHC_NDAP_Guide_EN_0055ba05556.pdf > [“Nunavut Down Payment Assistance Program”].

⁶⁰⁵ Kearney et al, *supra* note 573 at 302.

continue exist as real living people with real physical bodies with real housing needs occupying a real specified location, all conditions that continue to shape how they experience their interactions with the local housing organization as their landlord carrying out the processes as prescribed by institutional texts. Where aspects of their lived experience cannot be fit neatly into the objectified knowledge of institutional policies and discourse, Rodriguez notes that those aspects can be lost.⁶⁰⁶ But in looking at these aspects that have been lost (the experiences of “unacceptable tenants” who have incurred tenant damages), we can move beyond these institutional discourses to make visible these relations of ruling that coordinate the community in the midst of the housing crisis.⁶⁰⁷ In the next section then, we will now turn to see how people’s experiences are socially organized during this process of distinguishing what is tenant damage and what is ordinary wear-and-tear.

7.2.3. Tracing the coordination of tenants’ experiences through the tenant damages discourse

Smith describes how the categories within institutional discourse are:

waiting to be filled with substance extracted from the actualities of people’s lives and doings. The fillings are not the original actualities shaped perceptually but they are realities constructed in texts to fit the shells of institutional discourse. [...] They constitute realities independent of those who may have been experiencing and acting in the original actuality out of which the textual representation has been constructed.⁶⁰⁸

Tenant damages as an institutional category can then be visualized somewhat like a metaphorical sausage casing to be filled with some rendition of people’s housing experiences. Now that we have examined the institutional discourse on tenant damages as practiced by service providers and tenants as well as the institutional texts that mediates this discourse, we will now

⁶⁰⁶ Rodriguez, *supra* note 40 at 392.

⁶⁰⁷ Smith, *Conceptual*, *supra* note 7 at 56; Smith, *Sociology for People*, *supra* note 7 at 124.

⁶⁰⁸ Smith, *Exploring*, *supra* note 343 at 74.

look at how the sausage is made: that is, how people's actual experiences are molded into the institutional processes to determine whether or not the designation of tenant damages applies.

These ideas about unacceptable tenants causing tenant damages are part of a discourse in which community members participate along with service providers. Although many of the participants I spoke to complained about bad tenants, none of them wanted to identify themselves as such. Indeed, given the serious consequences of being liable for tenant damages, some tenants may be reluctant to report problems that may be characterized as such. From her experiences as a service provider in housing, Ukuak explains:

And some people don't call... A lot of people don't call, because they're afraid to call, because they owe money. They haven't....So they're afraid to call, and they just live in there...

INTERVIEWER: So you see that happening too, where they're just avoiding the reporting on the repairs that need to be fixed?

PARTICIPANT: Yeah. They know that they're going to have to pay for it. And they don't want to, and they just live with it.

As explained by Ukuak, some tenants end up living with the damaged conditions of their rental unit, rather than risk taking on the liability for tenant damages that may have such serious consequences. This may result in the disrepair issue growing into a larger problem as it is neglected, calling to mind lawyer Keith Cruz's earlier quote about the toothache that gets worse when early action is not taken.

They may also be burdened with a sense of helplessness. Some community members described to me how they received bills for tenant damages that they did not understand. Although some service providers felt that the issue could be rooted in tenants not understanding the nature of their responsibilities, including how to keep their house clean and properly maintained, other community members went on at length about the work that they did to maintain their homes, in spite of the state of disrepair in their unit. Other service providers

pointed out that when one is stuck in a state of hopelessness and depression, worrying about the multitude of concerns that confront people living in poverty, they may simply not have the mental headspace to prioritize cleaning.

There are also situations where the tenant damages are in fact a result of a domestic incident, for example where a person is held responsible for damages caused by their partner, or friends or family members of their partner during a fight in the home. A lawyer who has provided services in the Kitikmeot region of Nunavut has noted this as an issue:

But one of the issues with tenant damage claims can be that the damages are not the responsibility, the actual responsibility of the tenant, but are the responsibility of a visitor, or in some cases, a former spouse. And so, those would in fact, if that was the case, those would be litigated, if they could not be resolved. Normally they're resolved. And they have been invariably resolved.

The Residential Tenancies Act holds a tenant liable for damages caused not only by themselves, but also by “persons who are permitted on the premises by the tenant.”⁶⁰⁹ This reflects an assumption from the institutional perspective that leaseholders are able to control the behaviour of those in their household.

However, in reality, this can be complicated by power dynamics (often gendered) within a household, as it was not always evident from my conversations with some of the women participants that they could easily control the situation within their household. One community member, for example, noted a situation where she was left to deal with tenant damages that was incurred by a family member of her former partner, as well as other charges incurred by her former partner:

[He] kicked in the door. So I was stuck with the bill after. He moved out, and after, I left my ex. [...]

INTERVIEWER: Oh, and then you had to... you got stuck with the bill.

⁶⁰⁹ *Residential Tenancies Act*, R.S.N.W.T. 1988,c.R-5, s.42.

PARTICIPANT: Stuck with the bills after leaving my ex and it's supposed to be half and half. [...] And then they were supposed to give half the bill to [him], and nothing was paid, so I paid it. And then the rent kept going higher because my ex kept calling in for lockouts.

INTERVIEWER: What's a... sorry, what's a lock out?

PARTICIPANT: After hours, when you're locked out...

INTERVIEWER: Oh right, when you need service after...

PARTICIPANT: Yes.

Here, she is referring to the local housing organization's "house rule" that tenants incur charges if they get locked out of the home and need to call the local housing organization to be allowed back in. These charges are more six times more expensive (\$120) if they are outside of normal working hours.⁶¹⁰ As a result, she is in part responsible to pay for the charges that have accumulated due to the actions of her former partner and his family:

PARTICIPANT: It was so tough and... I keep telling them, you need to help with this. I'm not the only one that was living here.

INTERVIEWER: So your ex's family racked up this bill, but you're stuck paying for it?

PARTICIPANT: Yeah. So it was so difficult. I'm glad I made all that money gambling, so I paid off, paid it all off.

Even though the community member has taken the steps to end the relationship – and regain control over what happens in her housing unit - there is still work involved in dealing with the aftermath. She might be seen as being included within the institutional category of an unacceptable tenant because she had accumulated housing arrears due to tenant damages. In the domestic violence context, Wilson and Pence found that this process of lifting events from an individual's everyday setting into the justice system through administrative forms, reports, and procedures meant that "virtually no part of the process allowed a woman to tell her story as she experienced it...The use of institutional language, relevancies, processes, and ideological frameworks was so overpowering that women's lived experiences were virtually written out of

⁶¹⁰ Cambridge Bay Housing Association, "CBHA Residential Tenancy Agreement & Schedule C House Rules" (Updated November 3, 2006) (form).

the final story that formed the basis of the state's actions.”⁶¹¹ For the community member, these institutional accounts selectively focus on the fact that the damage was committed by someone in her home while her name was listed on the lease as the tenant responsible for the housing unit. It does not include within its purview that the fact that she may not have had control over the person's actions, or that she has been trying to deal with the issue while also juggling other responsibilities like caring for her child.

We can see here how the institutional discourse around unacceptable tenants “swallows perspective, the local, the particular, and the subjective experience”⁶¹² of the public housing tenants who have incurred tenant damages. The discourse establishes how stories are to be told in a way that alienates tenants from the setting of their lives. A disjunction is therefore created between how public tenants experience their everyday lives and the institutional account of their experience,⁶¹³ like the women's stories of domestic violence that are not heard in the legal system in Wilson and Pence's study.⁶¹⁴ Furthermore, this process of selective framing of damages incurred during domestic incidents conceals the role of colonization (and the resulting loss of Inuit self-determination and culture) as a root cause of domestic violence in Nunavut,⁶¹⁵ focusing instead on isolated moments and individuals.

Local housing organizations in Nunavut are aware of the fact that sometimes damage may be done to a home in situations where it is beyond the control of the tenant to stop it, such as

⁶¹¹ Wilson & Pence, *supra* note 285 at 212 and 215.

⁶¹² Smith, *Sociology for People*, *supra* note 7 at 156.

⁶¹³ Smith, *Conceptual*, *supra* note 7 at 13.

⁶¹⁴ Wilson & Pence, *supra* note 285.

⁶¹⁵ Clairmont, *supra* note 168 at 36-37; Pauktuutit, *Abuse Prevention Services*, *supra* note 274 at 13; Pauktuutit, *Gender-Based Analysis*, *supra* note 112 at 19; Pauktuutit Inuit Women of Canada, *National Strategy to Prevent Abuse in Inuit Communities and Sharing Knowledge, Sharing Wisdom: A Guide to the National Strategy* (Ottawa: Pauktuutit, 2006) at 4, online: <https://www.pauktuutit.ca/wp-content/uploads/InuitStrategy_e.pdf>; Pauktuutit Strategic Plan, *supra* note 178 at 1; Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 38; Preliminary Findings Report, *supra* note 95 at 10.

in the case of family violence and vandalism. Efforts are made to address this in policy as well.

The Nunavut Housing Corporation's Tenant Relations Officer Manual prescribes, for example:

Vandalism Damage

Damage can be considered vandalism damage only:

- a) if the tenant reported it to the police immediately; and
- b) if the person who caused the damage was not a tenant or the guest of a member of the tenant household.

Damage identified as Vandalism is recorded as tenant damage until the LHO receives a copy of the police report. A tenant or the LHO must press charges with the police for damages, otherwise the tenant is held responsible. In some cases, the police may recover repair costs by pressing charges.⁶¹⁶

As can be seen in this text, the onus is on the tenant to prove that the damage is not tenant damage but rather vandalism, a different institutional category. Emphasized here is the need to press charges with the police. Ukuak, who has experience in providing services in housing, also confirms this as well:

If the guy comes in and does something, she has to charge. You have to charge them. If you don't charge them, you're responsible for paying what happens to your unit.

I will note that it is in fact the federal government (through the Crown prosecutor) that ultimately decides whether or not charges will be dropped, not the victim, although often the Crown will take into account the position of the victim as a consideration. Nevertheless, we can see through these texts, and service providers' talk about how they activate the processes outlined in the texts, that in order to avoid incurring charges for tenant damages, the tenant is required to report the incident to the police and obtain a police report.

At this point then, the police are therefore hooked into the process, as they must respond to such calls and process the incidents through their own systems. An RCMP officer in Cambridge Bay explained how this process unfolds from his standpoint:

⁶¹⁶ NHC Tenant Relations Manual, *supra* note 38 at 805-806.

So what normally happens is that if somebody, who is not the homeowner, decides to damage the home, for whatever reason. Normally we get called. And it's a mischief. It's damage to property. We'll come and we'll say, "What happened?"

Whatever story the homeowner wants to tell us is what we have to go with.

"Person Y damaged my house."

Okay.

"Give me the file number so I can call Housing."

INTERVIEWER: Okay. That person says that?

PARTICIPANT: Okay. So we give them a file number. And they say, "Yup, we reported it to the RCMP. Somebody came and damaged my home." But I have no evidence to say that it was that person. I have no surveillance footage to say that it was that person that damaged it. I have nothing to go on but what they say to me. So Housing will only act if it was damaged, not caused by tenant usage.

INTERVIEWER: Do they accept that as, for their purposes, evidence? Like it was reported...

PARTICIPANT: [...] Well, in my personal opinion, for the sheer lack of... Like for the sheer... It would be more of a headache and more administrative work to figure out on their own, what's legitimate and what's not. What's....than it is to say, "Okay, you've got the file number. Let's just go spend fifteen minutes and..."

[...]

And the sheer volume that they have to deal with... It's easier for them to just say, we'll go repair. Rather than...you know, it's our job to investigate it, to figure it out.

The RCMP officer's explanation reveals an important consideration: the police report might only confirm that damage was incurred and that the tenant reported it. Unless other evidence is available, it does not in fact prove that someone else committed the damage to the house against the tenant's will. The local housing organization requires corroborating evidence beyond the word of the tenant alone, in the form of a police report. Yet, as noted by the RCMP officer, the corroborating documentation does not necessarily prove that the damages are not the responsibility of the tenant. But it is still accepted by the local housing organization as such. Here then, another institutional reality is constructed, where the production of a police report is deemed to be evidence that the tenant was not responsible for the damages to their unit, an organizational account that displaces the particulars of the situation.⁶¹⁷ Formulating a statement within the institutional form independently of the standpoint of particular individuals – that is,

⁶¹⁷ Smith, *Sociology for People*, *supra* note 7 at 156.

supplementing the tenant's claim that they did not cause the damage with a police report - therefore allows the statement to be treated as factual.⁶¹⁸

The RCMP officer also notes how this requirement has had further consequences:

There's one time where I went to... because the [person] said, "My window was broken." Which is another common thing here. They won't replace windows unless you can prove that it was done by somebody else. Windows are expensive to get here. I was looking, and there was no glass on the outside. There's no glass on the inside. So, I was, "When did this window break?" "Oh, a long time ago." "How long?" "A year." But she learned from her friends that if she called the RCMP, and she made a report, she'd get her window fixed.

Here, we see that public housing tenants are reporting damages to the police in order to obtain a police report, for the purpose of not being billed for tenant damages, even if the incident had happened so long ago that it would be difficult for the police to ascertain who had incurred the damage. This is because the institutional discourse dictates, as noted earlier, that police reports are required to support claims that damages are the results of vandalism and not tenant damages. In this way, the housing policy on tenant damages does mediate the actions of people who must work to meet the procedural requirements, although not necessarily exactly in the manner prescribed in the institutional texts. Nor is it clear how this achieves the institutional policy objectives of promoting better tenancy by decreasing the incidence of tenant-caused damage and allowing tenants to gain more responsibility and pride.⁶¹⁹

Ukuak is aware of the RCMP's perspectives on the tenant damages policy, but brings in the standpoint of service providers working in housing:

They don't think we should be charging for vandalism. Well, who's going to pay the vandalism? We don't just say, "It's okay if you vandalize...Go ahead and bash up any public housing you want to." Nobody has to pay for it? It doesn't go like that. The tenant has to pay for it. It's their lifestyle. Even though they didn't bring it on, they can choose to charge that person. And then what the cops said to me was, "Well, all this paperwork to

⁶¹⁸ Smith, *Conceptual*, *supra* note 7 at 73.

⁶¹⁹ Cambridge Bay Housing Association, "Schedule D: Tenant Damage Policy" (Amended December 2005).

charge people. And they don't have any money. They're not going to pay it anyways." I said, "That's your side, not ours." As far as we're concerned, the tenant pays.

Ukuak's reference to "your side, not ours" refers to the different standpoints of service providers working in different areas, whether housing or law enforcement. Local housing organization staff recognize the issues with proving vandalism, but nevertheless are governed by their policies and rules, which still require corroborating documentation. They are, after all, operating within the context of scarce resources, part of the government funding arrangement for housing critiqued by Inuit as ongoing colonial practices hindering their self-determination, as noted in earlier chapters. If local housing organizations are not provided with enough funding to cover all repairs costs, then someone else will need to pay for some of it, and there must be a process for ascertaining who should be responsible for paying for what. The institutional discourse on tenant damages plays this filtering function.

We can see how the lives of public housing tenants become entangled in these institutional processes. The territorial-level law and policy as regulating texts state that tenants will have to pay for damages to their rental unit unless they can prove that they were not responsible. This is interpreted locally to mean that tenants will not be held liable for damages if they file a police report. In this way, texts organize what service providers and tenants do and how they do it while constructing institutional accounts that become detached from tenants' lived experiences, where "people's doings are no longer just that but become interpretable as expression of instances of a higher source of organization, independent of particular people."⁶²⁰ Specifically, their situations are sorted into neat institutional categories of "ordinary wear-and-tear" or "vandalism" or "tenant damages", which then in turn determine whether they are seen to

⁶²⁰ Smith, *IE as Practice*, *supra* note 20 at 82.

be “unacceptable tenants”. Other details of their actualities are not reflected in these institutional accounts, such as how the damages may have incurred in the context of family violence rooted in intergenerational trauma from colonization, or the fact that these old houses, based on imported southern Canadian housing designs ill-suited for the Arctic environment rather than Inuit Qaujimajatuqangit housing designs, are already in such a state of vulnerability that relatively small inadvertencies (such as not completely clearing snow from a doorframe) could lead to significant consequences in a way that similar actions in southern Canada may not have. This historicity, including the role of colonialism, are not reflected in the official institutional accounts.

Furthermore, the cost of covering tenant damages may put public housing tenants in rental arrears, because as subsidized housing tenants, they have limited income and may be on social assistance. In the next section, we will look at how these tenant damage issues can lead to the processes around rental arrears that further destabilize one’s tenancy.

7.3 Rental arrears as a lived consequence of institutional categorization

Participants described to me how they had to cope with the consequences of damages caused by other people fighting in their home. The tenant damages debt is added to their already strained financial situation as public housing tenants, as they are already struggling to pay for groceries to feed their family. One community member describes how she dealt with the bill she has accumulated due to what was determined to be tenant damages, while also trying to meet the other needs of her children:

PARTICIPANT: I told him [my partner], whatever, I make money at card games, yeah? I buy all the food that they need. I’ll give my daughter money to order online for their clothing. I’ll go and pay my bills. That’s how... how I stayed afloat. Yeah. With bingo. Not online bingo. Radio bingo. [...]That’s how I [cured] my house bill.

INTERVIEWER: You’re very lucky eh?

PARTICIPANT: It was two grand. So I went to go pay it off. When I got my, um, what do you call it? My taxes, that’s how I paid the rest off.

In this case, the community member explains how she has resorted to relying on gambling and her tax returns to deal with her tenant damages bill. But what would happen if a tenant were unable to pay off their arrears? Institutional texts outline the sequence of actions to be followed for a collections process. The Nunavut Housing Corporation's Collection Policy states as part of its preamble that it must collect rental arrears in a timely and consistent manner "to maximize its limited resources, maintain the quality of its programs and services, and adhere to territorial legislation."⁶²¹ It outlines the following policy approach:

In pursuing the collection of arrears owed to the corporation, NHC will make every attempt to work with clients and tenants to find payment means that are affordable, and reasonably adjusted to each individual's specific circumstances before taking action on collection.

After attempts at reasonable repayment plans have been exhausted, NHC must, in accordance with the GN Financial Administration Manual, vigorously and actively pursue the collection of any and all amounts owing to the Corporation.

As such, the NHC will perform its due diligence by enforcing payment requirements as per signed rental and homeownership agreements.⁶²²

The texts at the territorial level state that informal approaches to resolve the situation are to be attempted first, such as negotiating a payment plan. As a local housing organization, the Cambridge Bay Housing Association's Rent Collection Policy translates the regulating text of the Nunavut Housing Corporation to the local context, outlining that a series of warnings be issued progressively first, and then:

8. If payment has not been received after the third warning, nor payment arrangements made, then the tenant shall receive a fourth and final notice from CBHA asking them to give up the unit within 10 days and advising that CBHA shall be applying to the rental officer for termination of the residential tenancy agreement."

9. Any and all follow-up collection actions based on Rental Orders, such as garnishees and evictions, shall be initiated at the Manager's discretion."

⁶²¹ Nunavut Housing Corporation, "Collection Policy" (January 31, 2014).

⁶²² Nunavut Housing Corporation, "Collection Policy" (January 31, 2014) at 1.

10. The Manager has the authority to require tenants to appear before the Board for non-payment of current rent or arrears. Unreasonable failure to appear shall result in collection by legal action.⁶²³

We can see that there are potential adverse legal consequences to falling into the category of an “unacceptable tenant” who owes rental arrears, where tenants could be hooked into the institutional complex of the legal system and even face eviction under the proceedings of the *Residential Tenancies Act*.

The Nunavut Housing Corporation’s collection policy states that public housing tenants “are contractually obligated to fulfill their payment obligations.”⁶²⁴ The Nunavut Housing Corporation emphasizes that it is tenants’ responsibility for ensuring that costs, “other than basic food and clothing, do not interfere with their ability to pay rent.”⁶²⁵ These reveals an institutional assumption that public housing tenant freely and voluntarily consent to enter into a housing contract. We have seen in previous chapters such as Chapter 4 however, that in actuality this is a rather illusory “choice”, when a person’s alternative option to entering a public housing tenancy agreement is sleeping on someone’s couch or a shelter.⁶²⁶

Institutional texts of the Nunavut Housing Corporation and local housing organizations thus serve the function of “automatically reproduc[ing] organizationally or institutionally standardizes messages” at different times and across local settings of people’s everyday activities.⁶²⁷ Specifically, they reproduce what Smith describes as ideological practices, the

⁶²³ Cambridge Bay Housing Association, “Schedule F: Rent Collection Policy”.

⁶²⁴ Nunavut Housing Corporation, *Collection Policy* (January 31, 2014) at 1. This policy has recently been replaced with a new version dated April 2024 which no longer contains this statement.

⁶²⁵ NHC Tenant Relations Manual, *supra* note 38 at 809.

⁶²⁶ The notion that such a living arrangement being a choice could be linked to broader access to justice discussions about poverty – for example, see Community Legal Education Ontario’s report which ironically noted that the number one social determinant tip for better legal health is “Don’t be poor. If you can, stop. If you can’t, try not to be poor for long.” Community Legal Education Ontario Centre for Research & Innovation, “Don’t smoke, Don’t be poor, Read before signing: Linking health literacy and legal capability” (April 2015) online: <https://cleoconnect.ca/wp-content/uploads/2019/06/FINAL-Dont-smoke-dont-be-poor-2015.pdf>

⁶²⁷ Smith, *Sociology for People*, *supra* note 7 at 101 & 175.

methods of reasoning that confine us to the conceptual level while concealing the presence of the underlying relations between concepts and the actual activities of what people do that are organized.⁶²⁸ Ideology therefore serves as a filter to conceptually sort out people's actualities to be seen as they are represented by texts:⁶²⁹ public housing tenants whose damaged housing units are sorted into the institutional category of "tenant damages" then owe rental arrears, which puts them at risk of being designated an unacceptable tenant, according to the institutional texts such as the Nunavut Housing Corporation's Tenant Relations Officer Manual.⁶³⁰ Meanwhile, the various factors which may have led to their situation are hidden from these institutional accounts, such as family violence rooted in intergenerational trauma from colonization, or the pre-existing fragility of homes in the Arctic environment built according to southern Canadian housing designs. Underlying these concepts is the broader institutional discourse, which sees public housing as part of a housing continuum, from which people should be directed away, away from a dependence on government and towards individual independence.⁶³¹ These ideological practices confine thinkers to the socially-determined boundaries of these concepts, unable to problematize the social structures that organize people's experiences which are treated as facts.⁶³² Like Griffith's study on textually-mediated discourses that socially construct single parents as different, using institutional ethnography we can aim to make transparent these institutional processes that construct these "common sense" notions of unacceptable tenants.⁶³³

⁶²⁸ Smith, *Conceptual*, *supra* note 7 at 44.

⁶²⁹ Smith, *Conceptual*, *supra* note 7 at 42.

⁶³⁰ "An eligible applicant may be considered "unacceptable" as a tenant if.....

- they have a history of rental arrears or a poor credit rating.
- they have a history of unacceptable upkeep or damage to a housing unit." NHC Tenant Relations Manual, *supra* note 38 at 422.

⁶³¹ I explore this institutional discourse on the housing continuum more fully in Chapter 9.

⁶³² Smith, *Conceptual*, *supra* note 7 at 41.

⁶³³ Griffith, *supra* note 569 at 127 & 136.

As an example of how institutional accounts can mask the complex realities of a person's lived experiences, lawyer Keith Cruz tells a story about a public housing tenant who had fallen into arrears due to the interactions between different institutional processes:

So one was actually through this interaction between government players like Income Support. So you have a client living in subsidized housing receiving income support as a primary means of financial livelihood. What happened is that she won a bingo. It was one of those 50/50s. It wasn't a lot of money, and it was about a little over three thousand dollars. But it was deposited into her account, and she spent it. But because Income Support... They don't review your account every day, right? They review it when you apply, and typically you'll apply monthly. They saw that she had some earnings, and basically characterized those winnings in their schedule, it does say very clearly on their schedule that winnings like that, winning from gambling or any kind of game is considered income. It was imputed as income, so that month, she wasn't going to get anything. The problem was the review happened three weeks after she already spent the money. So she was not able to pay her rent, and the landlord moved to evict her.

[...]

Income Support would just straight up pay her rent, because her income declaration is always zero. But because at that point, she is like, based on the account, you have winnings, you have three thousand dollars, we're not going to give you any money this month. But she had spent the money. So now she couldn't pay the rent, and that's how she got caught in that. And so it was, if you look at the file, legally between her and the landlord, the landlord had the power to evict her. It was a very clear breach of the rental agreement of non-payment for rent.

But then there was also that between her and Income Support; it was a completely different issue.

And so it was two proceedings that happened at the same time, administrative ones. I had to stay the proceedings for the housing one, in order to go to the income support tribunal, and then make a decision. But because it's a tribunal, and they have very specific mandate and powers, they basically decided, well, this is our legislation, and your client breached that agreement with us, so we're not going to give her money. So it was on judicial... or I was preparing for judicial review, when the director intervened and used his discretionary power to pay for the rent anyway. So that's got all the proceedings. So that's an example of one of those "non-payment for rent" issues that had a unique flavour to it.

In Keith's story, the eviction proceedings against the client unfolded as a result of the interactions between different institutional processes, mediated by different texts. One involves the income support process, mediated by the Income Assistance Regulations which at the time

deemed lottery, bingo, and bingo winnings to be part of a person's income.⁶³⁴ Because the client's winnings were considered to be part of her financial resources, her income assistance was clawed back to zero, and her rent was not paid, unlike previous months where the Income Support office would normally pay her rent directly. Now that she has fallen into rental arrears, she has been hooked into another institutional process, that of the public housing system. These two processes are separate as laid out in their respective institutional texts; yet it is through their interactions in actuality that the client was tangled up. It is an institutional account of her situation that is taken up in these processes, the fact that she has not paid her rent, detached from the messy complexities of her actual experience: that she had won the money gambling and was likely not aware her winnings would be deemed to be income, thus reducing her income support, and that she will likely not earn this same level of income next month. This is a unique fact scenario, but it must be fitted into institutional realities. These aspects are therefore not reflected or considered in the institutional processes, resulting in her falling into rental arrears and potentially being designated an unacceptable tenant, until her lawyer was able to advocate on her behalf in navigating both processes.

Lawyers saw themselves as being able to play a helpful role where attempts to resolve the arrears issue through payment plans have failed and a local housing organization has brought an application to the Rental Officer against the tenant. One lawyer who has provided legal services in housing in the Kitikmeot region of Nunavut explained, for example:

In my view, we always provide legal assistance in matters of arrears. It's very common for an LHO [local housing organization], for their reasons, to determine that the situation with arrears in the context of the ongoing relationship as to payment is no longer sustainable, and the LHO will bring a Rental Officer application, and we'll provide

⁶³⁴ *Income Assistance Regulations*, R.R.N.W.T. 1990, c.S-16. Note that the inclusion of winnings as income became a topic of heated discussion in the media and was eventually reviewed: NNSL News, "MLA Tony Akaok critical of income support" *Nunavut News* (5 March 2020), online: <https://www.nunavutnews.com/nunavut-news/mla-tony-akoak-critical-of-income-support/>

assistance there to resolve the issue of arrears in some way that is manageable for the client. Some form of payment plan or settlement agreement, in order to avoid the next step, which would be an actual application for termination of lease. So we provide assistance to rationalize all of that. We'll respond to a Rental Officer application, and we'll attend one if necessary, if it hasn't been settled beforehand and provide assistance that way.

As described by the participant, lawyers can potentially help tenants bring the collections process back to the negotiation stage, which is especially useful where the relationship between the local housing organization and the client has turned especially adversarial with a breakdown in communication. For example, I asked lawyer Keith Cruz to explain what he would do to assist a client in arrears:

We try to enter into an agreement with the landlord. That's the only way to amend it, is to acknowledge the breach. Like both sides acknowledge that they're in breach, and then they try to move forward by having an agreement in place, where you know, like, I think that in so many cases, we do have to release some financial records to prove that, okay, the client is not like trying to hoard money. This is the reason why they can't pay rent. But they can pay a minimal amount. And what's important to the local housing authority is that their collection is still ongoing. So even if they are unable to collect the complete amount, at least they're still collecting something. And in that way, you still remain in good standing.

Keith also explained his approach in helping clients who have been served with a notice of eviction due to arrears:

INTERVIEWER: And in those situations, I guess, do you just try to negotiate another payment plan, or what do you usually do?

PARTICIPANT: Yeah. The objective when it comes to housing is to keep them in housing, or get them housing. So whatever is a lawful tactic, we would use it. And so for us, we would try to enter into a negotiated plan again. Sometimes, I mean, sometimes landlords are not agreeable to that, and so we do have to appear before the Residential Tenancies office, but I have so far succeeded all of the cases to get the payment plan in place.

[...]

INTERVIEWER: Generally are you able to prevent evictions from happening, once you're involved? Or once a lawyer is involved?

PARTICIPANT: Yes.

INTERVIEWER: So, it is pretty helpful to have you there then?

PARTICIPANT: Yes.

Keith's account of his success in helping his clients to avoid being evicted suggest that lawyers can play a helpful role in helping tenants with their housing situation. While this could be an important role that lawyers can play in advocating for solutions for tenants, there are a few important access to justice considerations. First, lawyers can only have an impact if they are hooked into the process in the first place. A number of participants I spoke to that were dealing with housing issues, whether disrepairs, tenant damages, or arrears, had not approached lawyers for help, nor even had thought of doing so, despite clearly seeking resources for support. Through my research and my professional experience, I also encountered stories of people receiving what appeared from the description to be eviction notices which they ignored, out of a sense of helplessness and other negative feelings. We also must recall from earlier chapters, Tina Decouto's remarks about Inuit Qaujimajatuqangit considerations to avoid putting Inuit in a position to have to request help, in order to allow them to keep their dignity intact.⁶³⁵ Here, lawyers can only help if they are asked for help.

On a more profound level, even where lawyers can become involved to advocate for their clients in arrears and help them navigate the housing and legal processes, their involvement ultimately reinforces - rather than challenges - the institutional discourses about unacceptable tenants which mask the actualities of people's lived experiences. Negotiating a payment plan does not unpack nor counter ideological codes about unacceptable tenants; service providers are only able to at best distinguish and remove their clients from the scope of these institutional categories. Nilsen notes that people *can* reject ideological cords or opposed them, but in doing so, they still organize their activities in relation to such codes.⁶³⁶ This calls to mind Grahame's

⁶³⁵ DeCouto, *supra* note 171 at 174.

⁶³⁶ Nilsen, *supra* note 335 at 366.

institutional ethnography on a skill and employment training program, where community workers recognized – and were dissatisfied – with the institutional refusal to recognize English as a training skill, despite the vital importance of English language skills for jobs.⁶³⁷ Such workers trying to help their linguistic minority clients gain the skills they needed for to gain employment were nevertheless caught up in this system: “Indeed, they were involved in sustaining, through their practices, the relation between skills and jobs developed in social science discourse and reproduced in job training policy. The mechanisms for accountability within the system provided for the realization of this relation.”⁶³⁸

Furthermore, the intervention of lawyers in arranging payment plans do not necessarily resolve the original source of the arrears, an observation that I had also made from my own experiences as a service provider. During my time providing legal services in Cambridge Bay and elsewhere, I too assisted clients who had accumulated housing arrears to negotiate payment plans with the local housing organization. While I felt as though I was playing a useful role in helping my clients to understand what was going on, and perhaps also in making them feel like they had someone on their side advocating for them, I also thought about what would happen to them in the future. Given my constraints relating to solicitor-client privilege, let us imagine a hypothetical client, a single mother of young children, with a boyfriend who in a fit of rage caused a thousand dollars’ worth of damages to the public housing unit under her name. Even if she decides to break up with him and kicks him out of the home, she may still be liable for the damages he caused, because she had allowed him in, in the first place. As a public housing tenant, she already has to be careful about spending her limited income, in order to make sure she can care for her children’s needs. Even if I successfully negotiate with the local housing

⁶³⁷ Grahame & Grahame, *supra* note 334.

⁶³⁸ Grahame & Grahame, *supra* note 334.

organization on her behalf for a payment plan to pay twenty dollars a month until the bill is paid off, she will feel the pinch of those twenty dollars every month. And for a thousand-dollar bill, she will be paying this debt off for years: what does it do someone if they are in debt for what feels like forever? Does one at some point stop caring about being in debt, or getting into more debt, if there does not seem to be an end in sight? What if her boyfriend had been providing her with some financial assistance? Does she decide to let him back into her life, to help make ends meet? But what if there is another incident and more damage is caused to her rental unit? I have temporarily delayed a process to evict her for her arrears, but I have not solved her underlying problems, including her poverty, her limited to means to take control of her situation, and the possible inevitability that she will be at some point be institutionally designated “an unacceptable tenant”. Nor am I able to address the reasons for her relationship problems, the root of her boyfriend’s violent outbursts. The relation to these roots is not reflected in either the housing or legal processes.

The small amounts of monthly payments themselves will likely not have a significant financial impact on the overall budget of the not-for-profit local housing organizations. The purpose of payment plans is not necessarily about cost recovery, but compelling a performance of institutional compliance from the tenant. What matters is that the local housing organization is able to collect something, even if it is not the complete amount of arrears. One of the underlying principles of the Nunavut Housing Corporation’s Collection policy is that “Action to enforce agreements will be focused on clients and tenants who have not demonstrated a willingness to maintain their obligations.”⁶³⁹ Ukuak explained the converse of this principle at work:

We understand hardships and all that. So we’ve signed up a lot of people on a payment plan. And even if it’s twenty-five dollars a month, we’re not trying to... Even if it takes

⁶³⁹ Nunavut Housing Corporation, *Collection Policy* (April 2024), online: https://www.gov.nu.ca/sites/default/files/fillpdf/11.15._nhc_-_collection_policy_0515.pdf

the rest of your life to pay off your stuff, you're making your payments, you're covering your rent, plus a little bit towards your arrears, we're good. We're in.

We therefore see how the local housing organizations want to see tenants making efforts to pay off their arrears. In this way, the policy is meant to encourage certain performative behaviours that are reflective of “good” tenants, those who prioritize paying for shelter over “paying for non-essential luxury items” which are be defined by the landlord⁶⁴⁰ according to ideological practices.

In this way, we can see that lawyers can help clients from being evicted from their public housing unit due to rental arrears, by negotiating on behalf of their clients to arrange payment plans with landlords. Lawyers can play an important role in facilitating *procedural* access to justice for their clients and supporting their immediate physical needs for housing – if lawyers are hooked into the process in the first place. But the law can only provide limited solutions that ultimately reinforce institutional discourses about “acceptable tenants” and “unacceptable tenants”, institutional categories that do not take into account poverty, trauma, or other impacts of colonization. MacDonald notes that access to justice problems can reflect symptoms of larger issues:

[A] lack of access correlates with many medical, social and economic problems as well. Improving the socio-economic situation of many Canadians by focusing on the issues of social justice and the distribution of social power in Canada today, may be a self-correcting creative approach to everyday problems of access to justice.⁶⁴¹

We can see in this context here that the law is constrained, in this sense, in its ability address the substantive component of access to justice as described by MacDonald,⁶⁴² in terms of producing

⁶⁴⁰ Nunavut Housing Corporation, *Collection Policy* (January 31, 2014) at 2. This policy has recently been replaced with a new version dated April 2024 which no longer contains this statement.

⁶⁴¹ MacDonald, *supra* note 16 at 102.

⁶⁴² MacDonald, *supra* note 16.

holistically just outcomes aligned with Inuit self-determination, as well as the symbolic component, with respect to a system that reflect Inuit values.

7.4. Conclusion on the institutional discourse of the unacceptable tenant

Key Insights:

- When reviewing the laws, policies and guidelines about public housing, we can see that these texts create institutional accounts about “unacceptable tenants” who, for example, owe money or are known to have damaged the home (“tenant damages”).
- Under the law, tenants are not required to pay for what is called “ordinary wear and tear” or acts of vandalism, but they must pay for what is called “tenant damages”, damages that the tenant is responsible for. But is not always clear what is tenant damages and what is not.
- It’s important to understand why damage happens sometimes, such as family violence incidents, where the tenant might not actually have much control.
- The local housing organizations require tenants to get a police report to prove that damages were caused by vandalism and are not tenant damages. However, police cannot always prove who caused the damage, only that the damage happened.
- There can be serious consequences if the tenant does not pay for tenant damages and ends up owing money. It can prevent them from getting housing support in the future, including staff housing or down payment assistance in buying a house.
- Lawyers can help tenants who owe money, such as helping to arrange a payment plan or defending the tenant in legal proceedings.
- However, lawyers can only help if tenants know to ask them for help, and some community members I spoke to were not aware that this was something they could ask lawyers for help with. Lawyers are also limited in challenging the institutional discourses on unacceptable tenants and tenant damages.

In this chapter, we looked at how institutional discourse about “unacceptable tenants” are produced through mediating texts and are incorporated into the work knowledge and practices of service providers and community members in a manner that subsumes the actualities of such tenants. Institutional ethnographies focus on how “social relations based on texts transform the local particularities of people, place and time into standardized, generalized, and especially, translocal forms of coordinating people’s activities.”⁶⁴³ In using institutional ethnography to study how these legal provisions about tenant damages play out in real life for public housing tenants, we also begin to uncover more insights about access to justice issues in housing. In a

⁶⁴³ Smith, *Sociology for People*, *supra* note 7 at 101.

study on the work of service providers at an American community college's Office of Disability Studies in interpreting, implementing, and complying with the *Americans with Disabilities Act*, Rodriguez found the accommodations provided to students under the law didn't always address the complex challenges faced by students, sometimes creating more work for students despite being meant to create equal opportunities for students with disabilities.⁶⁴⁴ Similarly we can trace how these institutionally-determined categories of "unacceptable tenants" who have committed what has been determined to be "tenant damages" and resulting in arrears are fitted from selected aspects of people's complex experiences, encoded as textual realities worked up as factual accounts, and are used to coordinating institutionally mandated sequences of actions⁶⁴⁵ with respect to housing processes. This is because it is those institutional accounts and categories that determine how a tenant's file moves through housing processes. This determination can be detached from people's actualities in a number of ways. For example, local housing organizations require the filing of police reports to corroborate tenants' claims that damages were caused by vandalism, rather than by themselves or those within their responsibility, even though police reports may only confirm the existence of damages, rather than who was responsible. Yet this is a step within the institutionally prescribed sequence of actions that must take place in order for a tenant to avoid being held liable for the costs of repairing the damage. Those who are unable to escape the institutional category of being an unacceptable tenant due to tenant damages and arrears may face complex situations – such as domestic violence – which may not be represented in these institutional accounts. But tenants and service providers alike participate in this institutional discourse. Community members I spoke to expressed disapproval of those that they perceived to be bad tenants, and lawyers as service providers work mainly to

⁶⁴⁴ Rodriguez, *supra* note 40 at 391.

⁶⁴⁵ Smith, *Exploring*, *supra* note 343 at 72 and 76; Smith, *Conceptual*, *supra* note 7 at 75.

distinguish their clients from such institutional designations rather than challenging the ideological practices that drive these processes, if they are even hooked into the housing processes in the first place.

In uncovering these distinctive properties of institutional language in translating the local subjectivities of people's activities and experience into mandated courses of action,⁶⁴⁶ we can also see that tenant damage policy may not always produce the expressed institutional objective of providing with "an increased sense of responsibility and pride as they exercise greater care for their homes."⁶⁴⁷ Instead, tenants may be reluctant to report, and are forced to remain in damaged homes that get worse, along with the work involved in carrying the mental load of living with it and worrying about the consequences of the local housing organization finding out. If they are unable to pay off the tenant damages, they may fall into rental arrears and eventually may face eviction. Lawyers may be able to assist clients to negotiate a payment plan, but only if people are able to ask for legal assistance in the first place. Furthermore, these payment plans do not necessary address the root issues that the client may be struggling, such as poverty, family violence, intergenerational trauma and other impacts of colonialism, highlighting the limitations of the legal practitioners who must work within parameters of the institutional discourses about unacceptable tenants, ultimately reinforcing the ruling relations rather than problematizing them.

Institutional ethnography provides us with a tool in problematizing this, in making visible the relations of ruling that are hidden in the social construction of terminology such as tenant damages or unacceptable clients through textually mediated discursive practices.⁶⁴⁸ To return to our access to justice problematic and to uncover what has been lost, we examined this

⁶⁴⁶ Smith, *Exploring*, *supra* note 343 at 71 and 76; Smith, *Texts*, *supra* note 8 at 177.

⁶⁴⁷ Cambridge Bay Housing Association, "Schedule D: Tenant Damage Policy" (Amended December 2005).

⁶⁴⁸ Griffith, *supra* note 569 at 129.

disjuncture between artificial institutional realities and the actualities of people's lives by uncovering these distinctive properties of institutional language as they apply to people's lives.⁶⁴⁹ In doing so, we traced empirically the local everyday activities that are being fitted to these institutional categories.⁶⁵⁰ We saw that even if tenant damages may be caused due to domestic violence, rooted in intergenerational trauma related to the impacts of colonialism, there is no mechanism making this visible and accountable in the institutional processes, even though such elements might significantly shape people's experiences and behaviours. Nor do these institutional discourses address the under-funding of the public housing system, which has created the scarcity that requires local housing organizations to decide which repairs they should be responsible for, and which ones are the tenant's faults. Instead, the institutional discourse presents this as an individual's problem, a failure of their responsibilities.

It seems to me that as people are subordinated to these conditions of ruling and scarcity of housing, they are prompted to turn on each other, complaining about the bad behaviour of other tenants, rather than working together towards the common good. In discussions during my research, sometimes community members expressed frustration towards the system, but other times they directed this frustration towards each other. I wonder if these feelings of resentment that people feel towards their neighbours whom they deem to be "bad tenants" are fuelled not only by the immediate inconveniences that they experience as a result of the actions of their neighbours, but also as a re-directed frustration that comes with living in a small community under these conditions of ruling that they cannot challenge in the midst of a housing shortage that has been created, in part, by colonialist practices.

⁶⁴⁹ Smith, *Sociology for People*, *supra* note 7 at 187 and Smith, *Exploring*, *supra* note 343 at 171.

⁶⁵⁰ Smith, *Sociology for People*, *supra* note 7 at 198; Nilsen, *supra* note 335 at 366.

In his book *Too Many People*, Willem Rasing posits that the displacement of Inuit customs governing people's behaviour due to the increasing influence of colonization have led to a rise in behaviours amongst Inuit living in the Eastern Arctic that deviate from the values and laws with which they had lived for centuries.⁶⁵¹ Inuit society has historically relied on mutual cooperation and a high level of interdependence. Inuit Qaujimajatuqangit is, in part, about learning how to live together, in harmony with each other and our surrounding environment.⁶⁵² Elders have talked about how Inuit Qaujimajatuqangit can guide people in a community setting to avoid unnecessary quarrels and be kind to each other with a helpful attitude, especially those in need, knowing that one day you might also require help.⁶⁵³ While Inuit Qaujimajatuqangit could help community members and service providers problematize and move beyond institutional categories of acceptable and unacceptable tenants, though its understanding of our standpoint in an interconnected world, they are currently constrained within the processes that institutionalize, which institutional ethnography have identified tend to "subsume the particularities of everyday lived experiences" through its standardizing practices.⁶⁵⁴

Indeed, as part of its principles, the Nunavut Housing Corporation's Collection Policy lists the Inuit Qaujimajatuqangit concepts of *Inuuqatigiitsiarniq*, respecting others, relationships and caring for people.⁶⁵⁵ The Tenant Relations Officer Manual also recommends a respectful approach to the collections process:

⁶⁵¹ Willem Rasing, "Too Many People: Contact, Disorder, Change in an Inuit Society, 1822 – 2015" (Iqaluit: Nunavut Arctic College Media, 2017).

⁶⁵² Karetak & Tester, *supra* note 94 at 6; Akittiq & Karetak, *supra* note 94 at 113; Angalik, *supra* note 116 at 88; Uluadluak, *supra* note 101 at 169; Karetak, *Healing*, *supra* note 104 at 192; Kalluak, *supra* note 99 at 42; Attangalaaq, *supra* note 109 at 108-109.

⁶⁵³ Uluadluak, *supra* note 101 at 162; Angalik, *supra* note 116 at 87; Kalluak, *supra* note 99 at 50; Ayalik, *supra* note 94 at 99; Karetak & Tester, *supra* note 94 at 14 & 15.

⁶⁵⁴ Smith, *Sociology for People*, *supra* note 7 at 113.

⁶⁵⁵ Nunavut Housing Corporation, *Collection Policy* (April 2024) at 4, online: https://www.gov.nu.ca/sites/default/files/fillpdf/11.15._nhc_-_collection_policy_0515.pdf

Tenants must be allowed to maintain their pride and dignity during the collection process. We all need encouragement and sometimes pats on the back to keep us going. This will help tenants reach their goals of paying off arrears or tenant damage.⁶⁵⁶

The Manual also reminds Tenant Relations Officers of the diversity of backgrounds and local experiences of tenants :

All tenants are different. The age, background, education, income, understanding and needs of each tenant will vary. Some tenants may need a great deal of support, direction and understanding. Your approach to each tenant will be different. When you have one-on-one meetings, you will have to decide if counselling is appropriate and the best way to counsel each tenant.⁶⁵⁷

In this way, institutional texts purport to recognize the different needs and situations of public housing tenants in a manner that should accord with Inuit societal values. But the texts themselves are part of institutional processes of standardizations that swallow up these locally situated individuals to construct institutional accounts of their lives and fit them into institutional categories in accordance with ideological practices. Indeed, Tina DeCouto points out that Inuit Qaujimajatuqangit is more than the government's use of the term Inuit Societal Values.⁶⁵⁸ She writes how the standardizing practices used by government institutions have limited the application of Inuit Qaujimajatuqangit in its governance practices:

[W]e have not been provided adequate opportunity to build our own distinct government that will serve the needs and interests of our society, with methods and practices that are familiar, amongst people we can identify with, and in our own language. I often question why Inuit organizations and Nunavut community-based societies must follow western guidelines of conduct such as *Robert's Rules of Order*, which are set out in a manual that provides a standard procedure for conducting meetings for a diverse range of organizations. These rules created by a foreign system do not reflect Inuit ways of being, but we must use them in order to maintain legitimacy and sustainability within our territory because of existing territorial legislation and regulations.⁶⁵⁹

⁶⁵⁶ NHC Tenant Relations Manual, *supra* note 38 at 811.

⁶⁵⁷ NHC Tenant Relations Manual, *supra* note 38 at 1105.

⁶⁵⁸ DeCouto, *supra* note 171 at 160.

⁶⁵⁹ DeCouto, *supra* note 171 at 165-166.

Atuat Akittiq describes this phenomenon at play when recounting her experiences as an Elder sitting on the community justice committee, where the processes and systems for the case have already been planned and arranged without her input, and without being based on Inuit beliefs about healing or justice, and her participation in sharing Inuit laws is minimized as mere token.⁶⁶⁰

We can therefore see how Inuit Qaujimajatuqangit is not adequately reflected in institutional processes relating to tenant damages and rental arrears. In the following chapters, we see how a number of the issues mentioned in these past three chapters on public housing, including disrepair issues and financial constraints, also occur at other sites of the housing continuum. However, as we move on to look at other housing types on the housing continuum, it should be noted that this does not mean that these same issues always affect everyone the same way. As the poorest of the population (albeit the majority of the territorial population), public housing tenants are particularly vulnerable, and their housing-related issues only add to the work they must perform in being poor. Furthermore, even though public housing is the default housing arrangement for the majority of Nunavummiut, public housing itself is a precarious arrangement leaving people vulnerable to the risk of homelessness. If the tenant listed on the lease passes away, all of the other family members living in the household may lose their housing. This is because despite the fact that they may see the housing unit as their home from their standpoint, this is not so, according to the institutional view, as noted by one report: “Parents have no way of passing on the legacy of a ‘family home’...Public housing can never be a family home. It is merely a house associated with those whose names are on the tenancy agreement.”⁶⁶¹

⁶⁶⁰ Akittiq & Karetak, *supra* note 94 at 123-124.

⁶⁶¹ Little Voices *supra* note 2 at 65.

Chapter 8: Staff Housing

8.1. Overview of the chapter

In the previous chapters, we looked at how the experiences of people living in (or waiting to get into) public housing were socially organized. This section looks at staff housing, which is considered to be the next step after public housing in the housing continuum model often presented by the Government of Nunavut.⁶⁶² Staff housing refers to housing provided by employers to certain employees as an employment benefit. Staff housing rent is also often subsidized by employers as an added incentive to attract qualified workers,⁶⁶³ as a mechanism for responding to housing shortages as well as labour shortages in the territory.⁶⁶⁴

Our problematic begins with the local understanding revealed through conversations with participants that staff housing is meant to be for non-Inuit workers hired from outside of the community, and not for locally hired Inuit community members. Given that many of the staff housing units are newer and in better condition than public housing units, this contributes to feelings of resentment, injustice, and claims of racism. We open up from this problematic to trace how this local knowledge has been put together. Although institutional texts on the allocation of staff housing units do not explicitly prioritize non-Inuit over Inuit, we see that staff housing tends to be allocated to non-Inuit from outside of the communities over locally hired Inuit due in part to the fact that there is a labour shortage for certain skilled professions which has thus far required hiring professionals from southern Canada, as staff housing is offered as an employment incentive. I connect these practices to broader challenges with implementing the

⁶⁶² GN Framework, *supra* note 12 at 25; GN Strategy, *supra* note 2 at 14.

⁶⁶³ GN Framework, *supra* note 12 at 33.

⁶⁶⁴ “The GN’s role in staff housing addresses market and infrastructural gaps that limit affordable housing options and that hinder the recruitment and retention of staff. Staffing GN positions is essential for government service delivery to Nunavummiut.” GN Staff Housing Policy, *supra* note 32 at 9.

Nunavut Agreement and supporting Inuit self-determination. This demonstrates how even though laws and policies may set up staff housing allocation processes to be purportedly procedurally fair (as with the allocation of public housing units), they may produce what participants perceive as unfair results, divided along racial lines, in perpetuating colonialism as a ruling relation.

This also demonstrates how institutional ethnography can deepen our understanding of access to justice in Nunavut. While a purely legal doctrinal analysis would look at whether a law creates a distinction through adverse effects, institutional ethnography allows us to move beyond and see *how* such adverse effects are put together through the standardization of work practices and the construction of institutional accounts of people's lived experiences.

We also see how the practice of law itself also involves this process of institutional categorization, even where lawyers are seeking to advocate for their clients. This reveals the limits of the law in providing systemic solutions, as legal practitioners must operate within the parameters of the institutional discourse. But it also helps us to begin to think about what *can* be done, in light of what has been revealed about the ongoing impacts of colonialism on Inuit goals of self-determination.

We also see that despite the privileges of staff housing, those in staff housing are still affected by the housing crisis, including some of the same issues of disrepairs and overcrowding discussed in the public housing chapters. Those living in staff housing also live with the insecurity of tenure: with their housing tied to their employment, they face the threat of losing their home if they lose their job, with very little legal recourse. I believe that this precarity of staff housing is connected to the institutional discourse on staff housing, which is not meant to be a permanent arrangement, but a transitional measure until employees move into the private

market. We see however that staff housing does not, in fact, serve as a temporary arrangement for many workers due to various reasons that prevent them from moving to market housing. As such, even tenant/workers who are fortunate enough to be allocated staff housing units must live with their precarious housing status, as with public housing tenants, subordinated by the institutional discourse that does not reflect their actualities of the housing crisis.

8.2. Local knowledge of staff housing allocation practices in Cambridge Bay

Staff housing is hugely valued in Cambridge Bay because of the housing shortage. Participants talked about how postings for local jobs that came with staff housing would attract many applicants. Furthermore, not having enough housing for staff can hinder an employer's ability to fully carry out its operations. Solomon Bucknor was the director at the time of the interview of the municipal Department of Healthy Living in Cambridge Bay, which runs the men's shelter and the youth shelter. He explained that he could not hire more staff for vacant positions because he cannot offer housing to incoming hires. He noted that he himself would not have been able to take his own job if he hadn't been offered a housing unit. Solomon further explained that the severity of the housing shortage in Cambridge Bay is so profound that even service providers working with housing-insecure clients struggle with housing issues themselves, if their position does not come with staff housing. He noted that some staff members may even end up staying in shelters themselves, which may affect their quality of life and ability to work. We can see here how lack of housing for employees can directly affect efforts to alleviate other aspects of the housing crisis, such as those requiring spaces at emergency shelters.

However, prevalent in the discourse of community members was an understanding that staff housing was reserved for only professionals moving to the community of Cambridge Bay,

usually non-Inuit from southern Canada. Community member and graduate student Bryan

Vandenbrink remarks:

I've been complaining about disparities between how local Inuit are treated versus non-Inuit in terms of access to housing.

So it's one of the things. When you're hired on as a local from within Cambridge Bay, housing is not provided as one of the terms and conditions, which is problematic for a number of reasons. But the key thing is, this is bad from a lot of perspectives. Because even now, I've been living in Guelph here since like last year. So I'm going back and signing a new contract, and it's basically my existence within Cambridge Bay is continuously being used to deny housing. Whereas if I was not from Cambridge Bay, I would have access to housing. So it's kind of a racialized way of dealing with these systemic problems that already exist for Inuit, within the Arctic. Because if you were non-Inuit, and you applied, [...] you'd be guaranteed a housing slot, right on the spot. At least, as far as I'm aware.

One university student experienced this struggle in trying to find housing so she could return to her home community of Cambridge Bay for a summer job:

In the past, just in my most recent past job this summer, I asked for student housing, or housing as a part-time employee. Usually people like that would get housing because they're coming out and in, but they said, "No, you're identified as a local. We can't do that for you." Okay... I had to scramble in the last minute to find housing. So I ended up living with my cousin temporarily, and then moved around a little bit during the summer.

In this situation, the university student was in some ways both local and from out of town. She had grown up in the community of Cambridge Bay but was currently residing in southern Canada to pursue her university studies. Despite her residency status in another province, she was still not offered housing, perhaps due to assumptions that she would be able to stay with family.

For Bryan, his sense of injustice at the disparity between Inuit and non-Inuit in staff housing provision is exacerbated by the racist and condescending attitudes he perceives in some non-Inuit professionals:

Essentially, the way that subsidized housing in the Arctic works, is like, even if you are a federal employee, you've got access to a staff housing unit, you're still living in public

housing. This is subsidized housing in the Arctic. So the irony that you have folks on the Nunatsiaq News comments complaining about how Inuit are freeloaders, and that's the crazy part. Employees who are potentially making six figures or more a year, are complaining about Inuit who are living well under the poverty threshold for living in public housing units, are themselves living in subsidized public housing units. It's just in a different way. So your rent is quite a bit higher, but at the same time, it's kind of tied to your income. If you're someone making \$30,000 a year in Nunavut, that's well below the poverty level. If you compare the number of dollars that they're paying and compare it with their peer, if they were non-Inuit, working for the federal government or the GN, making six figures, like, the amount of rent you're paying is... it's ridiculous basically the same. Like \$1600 a month in rent, when you're making \$120 to a \$130,000 a year, that's nothing. That's like peanuts. That's basically like the public housing unit payments...

Over 70% of Government of Nunavut staff housing in Nunavut is occupied by its highest paid employees in executive, senior/middle management and other professional positions, predominantly non-Inuit.⁶⁶⁵ Bryan points out that the negative stereotypes that some non-Inuit professionals attribute to Inuit based on their dependence on subsidized housing seem particularly unwarranted because both public housing and staff housing are forms of subsidized housing in Nunavut – and he feels that these employees with their large salary do not need such subsidies.

Not everyone expressed this opinion as readily as Bryan, but participants did tend to open up about this perceived injustice when prompted. When recounting her struggles with housing insecurity, J.D. noted that she and her new partner had been allowed to stay for a while in a staff housing unit, not as a matter of policy, but as a temporary reprieve in recognition of their homelessness:

INTERVIEWER: How come you couldn't stay there longer? In the staff unit?

PARTICIPANT: Because [they] hire people from down south. And so they need a place to stay.

INTERVIEWER: So the priority is for out-of-towners?

⁶⁶⁵ Melanie Ritchot, "Top-paid Nunavut government employees occupy majority of staff housing", *Nunatsiaq News*, (8 March 2021), online: <https://nunatsiaq.com/stories/article/top-paid-gn-employees-occupy-majority-of-government-staff-housing/>; Jackie McKay, "Inuit account for only a quarter of Nunavut gov't employees given staff housing: report" *CBC News* (12 March 2021), online: <https://www.cbc.ca/news/canada/north/staff-housing-nunavut-government-1.5946488> ["McKay"].

PARTICIPANT: Yes.

INTERVIEWER: Okay. Do you feel like that's fair?

PARTICIPANT: [*Groaning*] No! That is just the wrongest thing I think for Nunavut. Maybe everywhere else. But for Nunavut, I think that is so wrong. It's because... it kind of makes me think when Cambridge Bay first started as a little tiny town. When residential schools were around at that time. A lot of people... I recall my grandparents being told to move to Cambridge Bay, instead of off the land. So it kind of felt similar, when, you know...

[...*interruption*...]

PARTICIPANT: Oh yes. That's right. Okay. They seem to get more priority over local people that have been here all their lives, you know? And how do they get priority? I understand they have a job. And they need a place. But...

INTERVIEWER: But you needed a place.

PARTICIPANT: Exactly. I needed a place. And probably hundreds of other people that lived here their whole lives. Why are they struggling to get a home? When down south people get a home, just instantly?

J.D. shares how she sees it as unfair that staff housing is reserved for workers that are hired from out of town, given that so many people in the community struggle for housing, including herself, as she had couch-surfed on and off for nearly a decade. In this passage, she links this sense of injustice with the origins of the community of Cambridge Bay, as discussed in earlier chapters, where Inuit like her own grandparents were persuaded to settle in the area through federal government policies. As noted by community members such as Harry Maksagak, part of the Canadian government's promise to Inuit as part of its policies was to provide housing if they moved to the permanent settlements. Decades later, these promises may seem somewhat hollow to some, as community members observe that staff housing seems to be reserved for primarily non-Inuit workers from out of town while many local Inuit remain in public housing units under the conditions described in earlier chapters. These concerns about housing units in communities being prioritized for employees – especially non-Inuit professionals moving to communities from southern Canada – in the context of already over-crowded Inuit communities

have also been reported from other parts of the territory beyond Cambridge Bay in previous reports.⁶⁶⁶

Further adding to this sense of injustice is participants' understanding that the quality of staff housing units is nicer than the public housing units that many Inuit live in. Many staff housing units are newer and in better condition than many public housing units, especially when compared to the older homes built soon after the settlement of Cambridge Bay. This further aggravates the sense of injustice at the differences that participants observed in living condition between Inuit and non-Inuit. Bryan describes how these differences feel like the continuation of ongoing contemporary colonizing practices:

Basically you are guaranteed newer construction, newer construction methods, more advanced technologies present within the home. From everything from... you get the amenities set up, in terms of washers, dryers, fridges, freezers, dishwashers, that kind of thing. It's all newer technology and it's more expensive.

That would never fly in the South here. But in the Arctic, it's considered to be perfectly natural and acceptable. Like I come from the fact that I'm working in Alberta or Vancouver, so I have this outside idea of how things work, which is your employer doesn't have to provide you with shit. Nothing. Literally, you're supposed to deal with it on your own. Find your own housing. Find your own place to rent. Find your own furniture and all these other things. And that's the issue that I see with how staff housing in the Arctic is basically conducted. It's kind of this old boys' network kind of deal. Or this Indian agent kind of comparison back in the 1700s or 1800s to today. Which is super strange.

Here, Bryan is referring to the fact staff housing can come fully furnished for employees moving to Nunavut.⁶⁶⁷ This is in contrast to public housing units, which come unfurnished. From the standpoint of the employer, this is part of the benefit it provides as an attractive incentive for their employee who is often moving from outside of the community. On the other hand, this

⁶⁶⁶ Little Voices *supra* note 2 at 94; Inuit Nunangat Housing Strategy, *supra* note 37 at 7.

⁶⁶⁷ See for reference Nunavut Housing Corporation, "Staff Housing Tenant Information Booklet" at 2, online: https://different-basket-89cd87b086.media.strapiapp.com/Staff_Housing_Welcome_Package_Iqaluit_ENG_24238c83b2.pdf ["NHC Staff Housing Tenant Information Booklet"]

seems unfair from the standpoint of community members, especially those with lower incomes living in public housing units where they must cover their own costs for furnishing their home. The way they see it, employees likely make more money than them with their salaries and surely could afford to furnish their own homes. In the passage above, Bryan explicitly connects this ongoing differential treatment between Inuit and non-Inuit to past colonialist practices involving Indian agents in past centuries.

Although I lived in a private market rental unit when I lived in the community, I have had various opportunities to stay in staff housing in Cambridge Bay for short periods of time over the last several years, and have remarked about how these units were even nicer than my regular home in Ottawa, with brand new appliances including dishwashers and more space than I personally needed.

Adding even further to the discourse in Cambridge Bay about unfairness in staff housing allocation is the presence of unoccupied staff housing units. Community members were upset to see staff housing units vacant in the midst of an acute housing shortage, while so many Inuit must live in overcrowded conditions. For example, one community member remarked:

And they're just building government houses. And lots of government houses in town are not even being used. There's so much that are empty. They could be used for housing.
[...]

INTERVIEWER: But you.. If I hear you, you think there should be more houses for community, the public, right?

PARTICIPANT: Yes, because there's so many people in town that's waiting for public housing. And there's government houses being built when there's [public] housing that needs to be built.

Similarly, another community member noted:

PARTICIPANT: Oh, there is houses available! It's just that the government has to let them go.

INTERVIEWER: Yeah, I've heard there are some empty houses here.

PARTICIPANT: Oh, there's a lot. Oh my God, there's... many houses that I wish that I got to be in before I got a home but.... Government is very... [*Sighs*]

INTERVIEWER: Slow?

PARTICIPANT: It's like they have their claws in there, those units. But I don't understand why government housing gets more priority than actual public housing.

Community member Mia Otokiak also expressed some frustration:

It's just hard to see...the GN... The GN has so many GN units and so many that are empty. So it's just like, I don't know why the GN is going so far out of their way to build so many units, because they don't have that many workers. They don't have the same amount of workers that they have for the houses that they're building. So now there's all these empty houses, with all of these people who are not working for the GN who need housing.

As the former chairperson of the Cambridge Bay Housing Association, Harry Maksagak explained that their efforts to address the unoccupied government staff housing units as well:

We've asked many times for cooperation between the Nunavut Housing Corporation, and Government personnel, and the Association, to sit together and see if they can come up with that agreement, that arrangement, with the units that are vacant. It's costing their government a lot of money, just sitting there empty.

I can only speculate as to why there are unoccupied staff housing units. It could be that there are delays or difficulties in filling a vacant staff position. Some have suggested that the vacant units may not necessarily be staff housing, but could be privately owned by landlords who are waiting to rent them out commercially.⁶⁶⁸ Whatever the reasons are, they are not known to the community members I spoke to. Instead, what they are able to observe from their local standpoints is how Inuit families struggle in overcrowded housing units that require repairs, while new workers, predominantly non-Inuit, move from outside of the community into nice, new, and relatively spacious homes.

⁶⁶⁸ I will examine this trend further in Chapter 9.

These various observations all interact to construct a specific discourse of (in)justice with respect to staff housing in Cambridge Bay: the perception that staff housing is very nice, nicer than public housing, but it is reserved for non-Inuit employees hired from outside the community, not for Inuit employees already living in the community, even if no one is living in a particular staff housing unit at the moment. From an institutional ethnographic perspective, our problematic opens up from this frustration and sense of injustice of community members from being subject to these conditions but not understanding why. We have started to glimpse how people are subordinated to ruling relations that they cannot quite see, but they themselves might describe as the continuing impacts of colonialism. Despite the signing of the Nunavut Agreement and the establishment of the territory of Nunavut as part of Inuit goals of self-determination,⁶⁶⁹ they still experience a pronounced disparity along racial lines that perpetuate structural colonialism. We will now move our inquiry to explicate how this unfolds by examining institutional texts that, on their face, do not divide housing allocation along racial lines, yet nevertheless produce the resulting disparities that community members feel are unfair.

8.3. Tracing the role of institutional texts on staff housing allocation in producing local perceptions of injustice

There is nothing explicitly in the institutional texts from the Government of Nunavut that I've examined that specifically prescribes on its face a prioritization of non-Inuit over Inuit in the provision of staff housing. The Government of Nunavut staff housing policy states as part of its principles that it will “identify its staff housing requirements based on departmental staffing needs” and that it will allocate staff housing “in a transparent and fair process, which is

⁶⁶⁹ Inuit have also taken the position that the housing crisis is a result of colonialism as reported to the Federal Housing Advocate: Trevor Wright, “Poor Inuit housing ‘direct result of colonialism’: federal housing advocate” APTN News (27 November 2023), online: <https://www.aptnnews.ca/national-news/poor-inuit-housing-direct-result-of-colonialism-federal-housing-advocate/>

consistent across all regions of Nunavut.”⁶⁷⁰ According to the eligibility criteria, all indeterminate and term employees are eligible for staff housing, unless they own residential property in the community, have outstanding housing-related arrears, or have had a lease agreement terminated for a Government of Nunavut staff housing unit within the last twelve months.⁶⁷¹

As with public housing, there is a waiting list for staff housing where employees are placed until appropriate accommodations become available.⁶⁷² Institutional texts therefore outline the methodology for allocating the limited staff housing units available, serving again as frame to select which aspects of an employee’s life are to be worked up to fit into institutional accounts. The Allocation Committee, comprised of Assistant Deputy Ministers from territorial government departments,⁶⁷³ allocates housing by prioritizing employment positions according to job categories that divide the housing priority list.⁶⁷⁴ Deputy Ministers can also choose to further prioritize the allocation for certain position beyond the identified categories, for the purpose of maintaining its operations and meeting departmental Inuit employment objectives.⁶⁷⁵

Nothing in the staff housing policy or procedures manual explicitly outlines the prioritization of non-Inuit over Inuit. In fact, as noted, Inuit Employment Plan requirements arising from section 23 of the Nunavut Agreement (further examined later in this section) may in fact create policy space for prioritizing Inuit staff. Yet in actual local practice, participants noted

⁶⁷⁰ GN Staff Housing Policy, *supra* note 32 at 2 and 10.

⁶⁷¹ GN Staff Housing Policy, *supra* note 32 at 8; and GN Staff Housing Procedures Manual, *supra* note 603 at 6.

⁶⁷² GN Staff Housing Policy, *supra* note 32 7 & GN Staff Housing Procedures Manual, *supra* note 603 at 8.

⁶⁷³ GN Staff Housing Policy, *supra* note 32 at 3, 5-6 and GN Staff Housing Procedures Manual, *supra* note 603 at 3. There is also a Government of Nunavut Staff Housing Appeals Committee to appeal decisions of the Allocation Committee, including the application of the policy or manual: GN Staff Housing Policy, *supra* note 32 at APPENDIX I – ALLOCATION COMMITTEE 12.

⁶⁷⁴ GN Staff Housing Policy, *supra* note 32 at 5-6 & APPENDIX I – ALLOCATION COMMITTEE 11; GN Staff Housing Procedures Manual, *supra* note 603 at 7.

⁶⁷⁵ GN Staff Housing Policy, *supra* note 32 at 6; GN Staff Housing Procedures Manual, *supra* note 603 at 7.

that staff housing seems to tend to be allocated to non-Inuit employees. Inuit comprise half of the Government of Nunavut's workforce, yet just over a quarter of employees in Government of Nunavut staff housing are Inuit.⁶⁷⁶ As a lawyer who has served clients across the territory in both housing and employment law, Keith Cruz explained his observations about how this has come about:

And there's also the whole preference for a highly skilled person to now be offered a job and a house. So you see that a lot, for example, not to pick on the Government of Nunavut, but you know when they hire doctors, nurses, professionals like lawyers, they get the job and they get housing. And so there's that sort of preferential treatment and if you look at maybe some of the qualifications that they demand, they're demanding very high educational levels that could be attained more likely by a southerner. Now you have this preferential thing for southerners. And if you look at the Nunavut, Government of Nunavut statistics for their jobs, what you see is that a lot of the administrative positions are taken up by Inuit, but none of them are offered housing. But the non-political leaders, so we're talking about the ADMs, deputy ministers, managers, they have housing, and most of them are not Inuit.

INTERVIEWER: Yeah. They also have a higher income, so they would be the ones that could potentially be the ones that could buy a house, right?

PARTICIPANT: Right. Or rent in the private sector.

These actions are played out in the broader context of Inuit struggles to overcome the socio-economic disparities produced by decades of colonialism, which have impacted Inuit goals for self-determination. Indeed, beyond the housing context, we also see this happening with respect to the implementation of the Nunavut Agreement itself, signed between the Inuit of Nunavut and the Government of Canada. One important provision in the treaty is Article 23, which sets as an objective the increase of Inuit participation in government employment in Nunavut to a representative level.⁶⁷⁷ In providing Inuit with the power to develop and administer government policies in a manner that could be consistent with Inuit values and culture, this provision has been considered to be the one of the most important aspects of the Nunavut

⁶⁷⁶ McKay, *supra* note 665.

⁶⁷⁷ Nunavut Agreement, *supra* note 41 at article 23.2.1.

Agreement.⁶⁷⁸ Yet after years of implementation issues, Nunavut Tunngavik Incorporated (NTI) (representing the Inuit of Nunavut) filed a lawsuit against the Government of Canada for breach of contract, particularly over the failure to meaningfully implement Article 23.⁶⁷⁹ At the time the lawsuit was filed, NTI president Paul Kaludjak stated:

The Government of Canada keeps Inuit dependent and in a state of financial and emotional despair despite promises made when the NLCA was signed in 1993. The Government of Canada is not holding up its end of the bargain. Canada got everything it wanted immediately upon signing the NLCA. Inuit are still waiting for full implementation of the agreement.⁶⁸⁰

This lawsuit was settled nearly a decade later mere days before trial, as the government agreed to take specific steps towards implementation, including through Inuit Employment Plans. But the lawsuit highlights the challenges in having Inuit employment in the government at a level that is representative of the population, which at the time was approximately 85% Inuit, while Inuit employment in the Government of Nunavut was approximately 50%.⁶⁸¹ Hiring qualified workers for specific position requires training and longer-term planning and investment, made difficult by systemic issues reported in Nunavut's education system⁶⁸² – and, as noted throughout this research, the housing crisis - an indication of how the housing crisis in Nunavut is directly tied in multiple ways to the issue of Inuit self-determination. It has been suggested that the actual cost of implementing article 23 was not foreseen at the time of the

⁶⁷⁸ PricewaterhouseCoopers, "The Cost of Not Successfully Implementing Article 23: Representative Employment for Inuit within the Government" (17 February 2003) at 15, online: <<http://www.tunngavik.com/documents/publications/2003-02-17-PricewaterhouseCoopers-The-Cost-of-Not-Successfully-Implementing-Article-23.pdf>>.

⁶⁷⁹ *NTI v Canada (Attorney General)*, (5 December 2006), Iqaluit 0806713CVC (NUCJ) (Statement of Claim) ["NTI Statement of Claim"]; Campbell, *supra* note 4 at 46-47.

⁶⁸⁰ Nunavut Tunngavik Inc, "NTI Launches Lawsuit Against Government of Canada for Breach of Contract" (6 December 2006), Nunavut Tunngavik Inc, online: <<https://www.tunngavik.com/blog/news/nti-launches-lawsuit-against-government-of-canada-for-breach-of-contract/>>.

⁶⁸¹ Department of Finance, "Public Service Annual Report 2013-2014" (November 2014), Government of Nunavut, ISBN#978-1-55325-281-8 at 5, online: <http://www.gov.nu.ca/sites/default/files/public_service_annual_report_2013-14_english.pdf>.

⁶⁸² Andre Legare, "Canada's Experiment with Aboriginal Self-Determination in Nunavut: From Vision to Illusion" (2008) 15:2 International Journal on Minority & Group Rights 335 at 365-366 ["Legare"]; Thomas R Berger, "Nunavut Land Claims Agreement Implementation Contract Negotiations for the Second Planning Period 2003-2013: Conciliator's Final Report" (1 March 2006), online: <https://www.rcaanc-cirnac.gc.ca/eng/1100100030982/1542915160660> ["Berger"]

drafting of the Nunavut Agreement.⁶⁸³ We can therefore see that even within these very efforts to bring about Inuit self-determination through the Nunavut Agreement, the ruling relations serve to perpetuate colonizing practices in actuality. There, the failure to increase Inuit employment in the government to a representative level is due to practices that do not necessarily create these distinctions on their face, but still produce this disparity in effect.

Similarly, we see here that although the staff housing allocation processes are set up in a manner that is purportedly procedurally fair, community members still feel a lack of fairness with respect to the results, where staff housing units are primarily occupied by non-Inuit. These laws and policies could be seen as generally neutral on their face, and yet when enacted in the context of the complex web of socio-economic conditions and colonialist history in Nunavut, there is a specific impact on Inuit. If the priority is to hire employees with certain professional skills, and the local population does not offer the job skills required for a position, then the result is that staff housing tends to be allocated to workers who are not Inuit. This is the practice being observed by participants, contributing to the perception of Inuit as second-class citizens in terms of aspect to quality housing.⁶⁸⁴ Here again, we see the differences between procedural and substantive aspects of access to justice as described by MacDonald.⁶⁸⁵

Such practices could also potentially reinforce stereotypical assumptions about skilled professional workers being non-Inuit, despite the racial neutrality of the texts, which then in turn influences people's perceptions about Inuit and non-Inuit in the workplace, and their behaviour. For example, the Nunavut Housing Corporation's Staff Housing Tenant Information Booklet provides handy information for employees moving into staff housing units in Iqaluit,⁶⁸⁶ but the

⁶⁸³ Berger, *supra* note 682.

⁶⁸⁴ NTI Statement of Claim, *supra* note 679.

⁶⁸⁵ MacDonald, *supra* note 16.

⁶⁸⁶ NHC Staff Housing Tenant Information Booklet, *supra* note 667. I was unable to find a version for Cambridge Bay.

language contained in the text carries the assumption that the reader is moving in from outside of the community, in providing guidance on how long one's personal belongings may take to arrive, and how to arrange for phone line with NorthwestTel.⁶⁸⁷ Such guidance does not apply to Inuit employees who already live in the community.

This offers another opportunity to demonstrate how institutional ethnography can serve as a tool for enhancing our understanding of access to justice in Nunavut, which I will discuss next.

8.4. Understanding the role of systemic barriers and ruling relations: institutional ethnography, access to justice, and Inuit self-determination in the context of staff housing

The problematic presented at the beginning of this chapter relating to local perceptions of injustice in staff housing allocation provides an example of how institutional ethnography as methodology can deepen our understanding of access to justice issues in Nunavut with respect to Inuit goals of self-determination. From a strictly legal doctrinal approach, a lawyer might frame this issue in terms of substantive equality and adverse effects discrimination. This type of inquiry might entail, for example, analyzing whether there is discrimination under the equality rights section 15 of the *Canadian Charter of Rights and Freedoms* by analyzing 1) whether a law creates a distinction based on a prohibited ground of discrimination (such as race), expressly in the text or through its adverse effects, and 2) whether this distinction amounts to discrimination,⁶⁸⁸ relying on case law guiding the interpretation of this right.⁶⁸⁹ Institutional ethnography as a methodology can serve a useful purpose here in revealing the potential effects

⁶⁸⁷ MacDonald, *supra* note 16.

⁶⁸⁷ NHC Staff Housing Tenant Information Booklet, *supra* note 667 at 3 and 4.

⁶⁸⁸ As cited in *Fraser v. Canada (Attorney General)*, 2020 SCC 28 at para 27.

⁶⁸⁹ *Law v. Canada* [1999] 1 S.C.R. 497 at para 80.

of the law by tracing the sequence of events that make up the processes prescribed through institutional texts, to understand how they mediate the lives of people in actuality.

For example, we can apply institutional ethnography's concept of ruling relations to the current problematic. Perhaps the intention was to temporarily hire non-Inuit skilled workers on a transitional basis until the local Inuit population had developed the required skills to allow for more local hiring. But when we import those notions that were meant to be transitory into mediating texts that, by their nature, standardize people's practices, these ideas become more permanent, a self-fulfilling prophecy, engrained within the institution, and people begin to perceive these as practices, such as the idea that the nice staff housing units are generally reserved for non-Inuit employees who are hired from outside of the community. Customs become customary, conventions become *de facto* rules and become accepted by people as simply being "the way things are". In institutional ethnography, the ruling relations are the relations that detach the person from their particularized settings and relationships in their life to be reconstructed in a "universalized mode" that is organized as objectivity in professional discourse.⁶⁹⁰ Institutional ethnography would therefore direct our attention to how the staff housing allocation process only takes up the institutional accounts of an employee applicant's circumstances – such as the classification of job position they hold – which are stripped of other embodied subtexts that is considered institutionally irrelevant, such as race and class. What is selected to form part of these institutional accounts are dictated by regulatory frames such as Nunavut Housing Corporation policies, which provide instructions on how actualities are selectively incorporated into textual realities.⁶⁹¹ The resulting textually-based realities in the form of staff housing allocation applications become part of the bureaucratically-controlled

⁶⁹⁰ Smith, *Sociology for People*, *supra* note 7 at 13 and 69.

⁶⁹¹ Smith, *Sociology for People*, *supra* note 7 at 227.

objectified forms and rational procedures situated in the extralocal apparatuses of ruling that Smith describes, which take on a semblance of neutrality and impersonality.⁶⁹² It is this process of fitting people's realities into institutional accounts – and sorting who gets staff housing according to certain criteria that does not account for certain existing socio-economic inequalities - that contributes to the resulting disparities along racial lines, perpetuating colonialist practices.⁶⁹³

In legal discussions about systemic discrimination, there is increasing recognition that racism, colonialism, and other forms of oppression are not simply about the anomalous presence of “a few bad apples” but are features inherently baked into the very structures. Institutional ethnography can serve to illustrate how these systemic features are built into these processes by “practicing embodiment on the terrain of the disembodied of those relations [that] brought them into view.”⁶⁹⁴

Similarly, the practice of law itself can be seen as a process of fitting clients' actualities into institutional categories as well. From his standpoint as a lawyer, Keith Cruz understands the issues relating to staff housing allocation, but feels that are limitations in what the law can offer as a remedy:

It's something that I wanted to exploit, but it's not something that we could actually address in the legal field because it was lawful. It was lawful for the government to do that. It's a matter of public policy. It wasn't the greatest because it had all these ramifications. On the flip side though, it's like, we also need all these professionals to come up, and there's no way to attract them if you don't offer them housing. So it's really one of those hard issues, because no one is going to be happy in the end.
[...]

⁶⁹² Smith, *Conceptual*, *supra* note 7 at 66; Smith, *Sociology for People*, *supra* note 7 at 227.

⁶⁹³ This is distinguishable from Santos' institutional ethnographic analysis of the practices of the Israeli government, where she highlights how laws explicitly distinguish between people who are Jewish and Palestinians. Here, the law does not draw a racial distinction on its face, but nevertheless has different impacts along racial lines: Madelena Santos, “Relations of Ruling in the Colonial Present: An Intersectional View of the Israeli Imaginary” (2013) *Canadian Journal of Sociology* 38(4) 509.

⁶⁹⁴ Smith, *Sociology for People*, *supra* note 7 at 13.

Like, *you* can write and make an academic paper that sort of critiques and links this out. But as a litigation lawyer, I can't. There is no case. There is no case. You're dead in the water because it's lawful.

To further explore Keith's comments, we can see how when a client brings their problems to a lawyer, the lawyer sifts through the facts of the client's case in order to identify what is institutionally relevant, that is, what is legally actionable. Lawyers as service providers must work within the parameters of the institutional complex, as their work is about applying the law. At best, they may be able to challenge to whether their clients should be identified within a particular institutional category, but they are generally precluded from challenging the process of categorization itself, similar to the insights discussed in Chapter 7 on tenant damages and rental arrears. As a result, there are limits of the law in providing legal solutions for systemic problems. This is in itself a significant insight about access to justice, linked to my original problematic as a lawyer, struggling to help my clients with their housing issues but feeling that my efforts could only address the issues so much.

Furthermore, not only can institutional ethnography as a methodology help us understand these limitations of the law which must operate within institutional confines, but it can help us, especially those of us settlers striving to be allies, understand more concretely the ongoing impacts of colonialism on Inuit goals of self-determination, as can be seen in the examples of staff housing and the litigation over the implementation of the Nunavut Agreement. After all, the field of institutional ethnography has focused on new large scale forms of organizing society, especially on how the ruling relations has "since the late nineteenth century, at least in North America, has been one that progressively expropriates locally developed forms of social organization embedded in particularized relationships, changing relations among women and

men”⁶⁹⁵ and also, one could argue, with Indigenous peoples. It is no coincidence that the time period, within which Dorothy Smith traces the ruling relations in the last two hundred years with the rise of modern Western bureaucracy, is the same historical context where laws and policies have been enacted with purportedly neutral objectives, yet have had long-lasting harmful impacts for Inuit. Institutional ethnography allows us to see how the ruling relations that perpetuate the historical practices of colonialism does so through modern institutional complexes, in mediating texts that organize Inuit across many local sites. This forces us to shift our perceptions of colonization as being tied to traditional images of European men arriving on boats to increase the reach of their respective empires (the practices of the past) to contemporary practices that hinder Inuit self-determination, based in ruling relations embedded within Western bureaucracies of processes, rules and paperwork that have been transplanted to the Inuit context, selecting for community members what parts of their experiences are institutionally relevant and which are not.

It is in this way that institutional ethnography can reveal important insights about access to justice issues in Nunavut. Bond, Bates, and Wiseman note how deficits in access to justice can arise when “aspects of the design and operation of the justice system fail to adequately take into account differentiating and disadvantaging circumstances and social contexts of particular individuals or groups...”⁶⁹⁶ In using institutional ethnography, we can see how the particular circumstances of Inuit have not been accounted for in staff housing and employment policies, which have led to this sense of injustice felt by community members with respect to staff housing allocation. MacDonald argues that these disparities in social power, as well as society’s

⁶⁹⁵ Smith, *Sociology for People*, *supra* note 7 at 16.

⁶⁹⁶ Bond, Bates & Wiseman, *supra* note 81 at 3.

lack of willingness to address them are not mere procedural glitches, but rather the root causes of injustice.⁶⁹⁷

Using institutional ethnography as an approach also helps us to begin thinking about what *can* be done, if not within the strict practices of applying the law, but perhaps in the context of making laws as well as the policies during this era of exploring decolonization. It may be unlikely that bureaucracies will stop engaging in this process of filtering people's actualities all together. But using institutional ethnographies to be alive to what is lost during this process could perhaps inform efforts to make visible some of those aspects of people's actualities that have been lost and as a result have hindered Inuit goals of self-determination. The Government of Nunavut has made changes to its staff housing policy in 2019, including increasing flexibility to job category prioritization in the allocation of staff housing, to allow Deputy Ministers to provide additional ranking of positions "to support strategic direction and Inuit employment goals of their department and the GN as a whole."⁶⁹⁸ While these policies as texts will continue to direct how institutional accounts are constructed in order to be hooked into institutional processes for allocating staff housing, in recognizing the Nunavut Agreement as a text itself, there is an opportunity for this to be done in a manner that may better support Inuit goals of self-determination.

This could offer significant benefits for Inuit in Cambridge Bay. For example, participants pointed out that if more staff housing units were offered to local workers, it might encourage more people living in overcrowded homes to apply to such jobs as an incentive to get out of their situation, while also increasing the pool of job applicants. The Inuit community

⁶⁹⁷ MacDonald, *supra* note 16 at 107.

⁶⁹⁸ GN Staff Housing Policy, *supra* note 32, see appendix "Developing changes to the GN Staff Housing Policy – April 2019 Nunavut Housing Corporation and Department of Finance"

members that I spoke to who *were* living in staff housing expressed a great deal of happiness and relief about their living situation, noting how having housing come with their job can positively impact virtually every aspect of one's life, including mental health. They noted that moving people from public housing into staff housing would open up space within that public housing unit for another family in need. Normalizing staff housing for local Inuit workers too could therefore have a multitude of benefits for the community of Cambridge Bay.

8.5. The social organization of staff housing precarity through the institutional discourse

Although staff housing units are highly coveted for many community members living in Cambridge Bay, staff housing tenants do not necessarily escape the problems faced along other sites of the housing continuum, such as overcrowding, delays in addressing disrepairs, or a general lack of alternative options in the overall context of the housing shortage. For this section, we will examine the precarity of staff housing, where tenant/workers can be evicted within a week of termination of their employment. I take the position that this precarity is socially organized due to the institutional discourse that sees staff housing as a temporary arrangement for workers before they move on to market housing, despite the reality of many workers who do not have such options.

A particularly precarious aspect of staff housing relates to dual nature of the relationship between the worker/tenant and the employer/landlord, as explained by Keith Cruz, a lawyer who has provided legal services across the territory:

Employees would be provided with housing, but when they get terminated, along with said termination of their employment comes termination of their housing. So they lose their housing. So we had cases like that.

[...]

This is something that I actually experienced a lot. I had handled a lot of files regarding this. So as you know, there's not a lot of housing in Nunavut. A way for employers to attract talent is for them to offer housing along with the employment contract. So housing is considered to be a benefit of the contract. But housing is subsistent on the underlying

employment contract. So it's not a stand-alone contract. It subsists with the employment. There are regulations. So the Residential Tenancies Act does have a provision specifically relating to housing itself, staff housing. So what's unique about this situation is that the Residential Tenancies Act is kind of tenant-unfriendly in this particular instance.

Keith is talking about how if a worker's employment is terminated, they will also lose their housing, leaving them at risk of homelessness.⁶⁹⁹ Keith is referring to the following provision in the institutional text of the *Residential Tenancies Act*:

56. (1) Despite any other provision of this Act, where
 (a) a tenant who was provided by his or her employer with rental premises during the employment of the tenant as a benefit of employment has had his or her employment terminated, or
 (b) a landlord has entered into a tenancy agreement in respect of a caretaker's unit, unless otherwise agreed,
the tenancy of the tenant is terminated on the day on which the employment of the tenant is lawfully terminated

(2) The tenant referred to in subsection (1) shall vacate the rental premises or caretakers' unit not later than one week after his or her employment is lawfully terminated

This provides the employer with eviction powers that are much stronger than in a typical tenancy agreement. Keith illustrates the effect of this legal provision on staff housing tenants:

What it says in that section is that if an employer terminates an employee lawfully, the employee has to vacate within seven days of the termination of the employment. And what normally happens in an employment case is that the termination itself is a live issue. So an employer would take the position that there is cause or that they terminated the person and gave them the correct amount of reasonable notice or pay in lieu of notice. But sometimes, we vehemently disagree with the way that the employer has characterized the termination itself. And so the argument that we tend to make is, well, if it's an unlawful termination of employment, then it would be also unlawful for someone to be evicted from their housing.

So we take on those cases with a particular focus on the public policy aspect, because not only a terminated employee suffers the consequences of complete stoppage of their financial means of livelihood, but they also lose their housing. There are cases where it really enhances the power imbalance between an employer and an employee, because someone might tolerate an abusive employer-employee relationship. They might tolerate harassment because they can't lose their employment, because they lose their housing along with it. So it really makes the possibility of an exploitative relationship to happen.

⁶⁹⁹ Little Voices *supra* note 2 at 51.

And that's why it's a double-edged thing, where you do have an employment file that has that housing component.

These eviction processes can move quickly, since the *Residential Tenancies Act* provides only one week for the premises to be vacated. The Government of Nunavut Staff Housing Procedures Manual requires departments to serve an employee clearance form for the Nunavut Housing Corporation within twenty-four hours of the termination of an employee.⁷⁰⁰ Keith expands on a possible legal interpretation of the provision that may be more tenant/worker-friendly, although it has yet to be confirmed by a court:

The provision says lawful termination, then you're out in seven days. But what does lawful mean, in this context? The interpretation, the judicial interpretation of what does lawful termination mean in the context of housing, what does that mean?

And so for us, we took the position that it obviously means that if I am an employer and I allege cause and I actually can't prove cause, or that I didn't give you enough severance, then that's unlawful. And so if you can't evict someone based on unlawful means. So for me, that's the position we took.

Whereas, the employer took the position that it's automatic. If you're terminated, it automatically flows, and it's going to be seven days and you're out. Which is highly punitive, and it does not at all accord with the overall spirit of the legislation trying to assist tenants, and that power imbalance. Unfortunately, like I said, it was never heard before the justice.

Despite the fact that the institutional text prescribes a specific sequence of actions to be followed during a process, Keith's legal analysis suggests that there may be different ways to activate this text, in a manner that subordinates tenants/workers in a less drastic and possibly more just manner. But this suggested alternative does not have the power to coordinate actual sequences of actions until it is institutionally recognized through a court decision.

Staff housing tenants are also vulnerable to housing insecurity after they retire and are no longer considered employees. Amanda Doiron is a community member who was a former employee of the Government of Nunavut before starting her own housing construction business

⁷⁰⁰ GN Staff Housing Procedures Manual, *supra* note 603 at 9.

in Cambridge Bay with her partner, and she explained how staff housing is not sustainable in this respect:

PARTICIPANT: If you're a GN employee, and you make enough money, but you might never have been able to buy a house, because there's never anything in the market that's within your budget: when you retire, you're homeless.

INTERVIEWER: Yeah, that's a good point, eh?

PARTICIPANT: If you're in a GN unit, if you don't look ahead of time and say put me on a Public Housing list now, because I'm retiring in five years, when you retire, you're out of that GN housing. Now let's say, you've got your four kids, some of them in their twenties and thirties with their kids, because they haven't been able to find housing. You know? This becomes a big problem.

The Government of Nunavut actually identifies this subset of individuals as falling within its category of an “at risk” group vulnerable to homelessness.⁷⁰¹ These observations are similar to the closing quotes in the previous chapter on public housing as a precarious form of housing: as with public housing, parents have no way of passing on the legacy of a “family home” if they live in staff housing.

I believe that the precarity of both public housing and staff housing is related to the institutional discourse dictating that such forms of housing are not meant to be the permanent default form of housing. According to the Government of Nunavut, staff housing is meant to be a stepping stone to “provide new employees who move into market communities with a home until they become settled. Then these employees should be encouraged to move into the private sector or discouraged from remaining in staff housing.”⁷⁰² The institutional texts explicitly state that the Government of Nunavut's staff housing program is meant to support the housing market

⁷⁰¹ GN Framework, *supra* note 12 at 27.

⁷⁰² GN Framework, *supra* note 12 at 34; GN Strategy, *supra* note 2 at 13. See also the Nunavut Housing Corporation's staff housing policy which states: “The Government of Nunavut (GN) provides subsidized staff housing to term and indeterminate employees to aid in the recruitment and retention of staff. Employees are responsible for securing their own accommodation: however, housing may be provided when it is necessary to facilitate the delivery of programs and services to Nunavummiut. Given the realities of Nunavut's limited housing market, there may always be a role for the provision of some staff housing in the territory. However, as Nunavut grows, and private housing markets develop, Nunavummiut can become more self-reliant and less dependent on subsidized housing. The staff housing program, including its eligibility criteria and rental rates, is intended to support Nunavut's housing market, and stimulate the emergence of private affordable home rental and homeownership in the territory. “Staff Housing Policy, *supra* note 32. The institutional objective of reducing government reliance for housing in favour of individualist market housing will be further explored in chapter 10 on market housing.

in Nunavut by stimulating the emergence of private affordable rental and homeownership.⁷⁰³

This is likely why those who already own residential property in the community are ineligible for staff housing.⁷⁰⁴ A staff housing tenant information booklet optimistically explains: “Once viable and sustainable markets are established, it will no longer be necessary for the GN to provide subsidized staff rental housing. In order to assist in that transition, the GN will continue to make limited amounts of staff housing available to staff.”⁷⁰⁵ We can see here that this corresponds to the larger institutional view about housing in Nunavut. It envisions the provision of subsidized staff housing as a transitory measure, on the path towards a future with viable and sustainable markets offering affordable private rentals and homeownership, with decreased dependence on government subsidies.⁷⁰⁶ This conception of the housing market bears much resemblance to those of southern Canadian jurisdictions, despite the radically culturally differences from the way Inuit lived prior to colonization, which was not a market-based arrangement. We start to see how the ruling relations continue the impacts of what could be described as structural colonization through the imposition of Canadian (non-Inuit) policies and systems.

As such, I argue that section 56 of the *Residential Tenancies Act* allows a (former) employee to be evicted from their staff housing unit one week after termination of their employment because institutionally, the staff housing unit was meant to be tied to their employment, rather than serving as their “forever home”. Indeed, the precarious legal status associated with staff housing have motivated some community members to buy their own home, as they knew that they could lose their staff housing unit any time if they lost their job. However, with their income, many workers have limited alternative housing opportunities such as a

⁷⁰³ GN Staff Housing Policy, *supra* note 32 at 2; NHC Staff Housing Tenant Information Booklet, *supra* note 667 at 1.

⁷⁰⁴ GN Staff Housing Policy, *supra* note 32 at 8 and GN Staff Housing Procedures Manual, *supra* note 603 at 6.

⁷⁰⁵ NHC Staff Housing Tenant Information Booklet, *supra* note 667 at 1.

⁷⁰⁶ GN Framework, *supra* note 12; GN Strategy, *supra* note 2.

homeownership or private rentals despite their income, simply because there are not enough houses available to buy or rent privately in their communities, as we will see further in the next chapter on market housing.⁷⁰⁷

It may also be economically disadvantageous for workers to move out of staff housing into the potentially more costly arrangements of market housing. The Government of Nunavut has also observed that even though a household with two government pay cheques should be better positioned to move out of staff housing to rent or buy privately, the subsidy⁷⁰⁸ provided to employees in fact serves as “an economic disincentive which works against the establishment of private real estate markets.”⁷⁰⁹ This could, in some cases, be related to the fact that Nunavummiut with salaried incomes support more dependents than workers anywhere else in the country.⁷¹⁰

This means that despite institutional objectives of having staff housing serve as a temporary measure to fill labour gaps until employees are able to find market housing, the reality is that staff housing is the default long-term housing arrangement for many employees (if they are able to get staff housing in the first place).⁷¹¹ The institutional discourse therefore produces a sort of collective cognitive dissonance, the dual consciousness that employees must navigate: although such workers must remain in staff housing for the longer term in contradiction of institutional objectives, they are still coordinated by this ruling discourse that designates such housing as being transitory and are subjected to the precarity of their housing.

⁷⁰⁷ GN Strategy, *supra* note 2 at 13.

⁷⁰⁸ Subsidized rent for staff housing is calculated by a formula, which includes GN Staff Housing Procedures Manual, *supra* note 603 at 11.

⁷⁰⁹ GN Strategy, *supra* note 2 at 13.

⁷¹⁰ GN Strategy, *supra* note 2 at 10 & 13.

⁷¹¹ In the Government of Nunavut made strategic efforts in 2006 to encourage staff to move out of staff housing, with the goal of eliminating staff housing in Iqaluit by 2010, but this was not successful due to insufficient private sector housing options. GN Framework, *supra* note 12 at 26.

8.6 Conclusion on staff housing

Key Insights:

- Community members see staff housing as being only for non-Inuit workers, moving into the community from southern Canada. It is not for Inuit workers who are from Cambridge Bay.
- This does not seem fair to community members, especially since staff housing is often much better quality and often comes furnished with appliances and furniture. This seems especially unfair when thinking about how the government had persuaded Inuit to settle permanently Cambridge Bay by promising to provide them with housing. To some community members, this seems like the continuation of colonialism.
- The laws and policies don't specifically say that staff housing is not for local Inuit, but practices seem to play out this way: The processes for giving out staff housing are supposed to be fair. Staff housing is usually connected to certain types of jobs. These types of jobs tend to be filled by non-Inuit coming from southern Canada.
- Even though the policies were meant to be fair and do not say to treat Inuit differently from non-Inuit, they have produced results that people do not find to be fair and do treat Inuit differently from non-Inuit. This is an example of how colonialism continues to affect Inuit today.
- This is also why laws, policies and programs should be carefully designed to consider their effect on Inuit; it is not enough to focus only on the process. Making it a normal practice to provide staff housing to Inuit workers as well can have far-reaching benefits in supporting the well-being of Inuit communities.
- Through the *Residential Tenancies Act*, the law says that a person who loses their job must move out of their staff housing unit within a week. This means that people living in staff housing are at risk of losing their home very quickly if they lose their job.
- Staff housing is meant to be temporary, giving workers a place to live until they move into housing in the private market. But the reality is, it is not easy to make this transition out of staff housing.

In this chapter on staff housing, we started with the problematic of the perceptions by community members in Cambridge Bay that staff housing is reserved for non-Inuit workers hired from outside of the community. Although the institutional texts do not necessarily explicitly prescribe this distinction along racial lines, the manner in which the processes unfold – and requirements for specific professional skills - has resulted in many staff housing units being allocated to non-Inuit workers. This contributes further to a sense of unfairness and a lack of justice in a context where Inuit have already been harmed for years under colonization. Understanding how laws and policies that do not explicitly distinguish along racial lines, yet still

produce such distinctions in effect demonstrates how institutional ethnography can serve as a useful tool for thinking about access to justice in Nunavut.

Nor are those situated in staff housing immune from the housing issues explored in the section on public housing, such as overcrowding or disrepair. Those in staff housing also face a particular precarity in their living situation, in that they can lose their housing if they lose their job. In this chapter, I have attempted to demonstrate how this precarity is coordinated by institutional discourses about staff housing, which meant to be a somewhat temporary arrangement to support the local housing market and to attract and retain staff, before they move on to other forms of market housing that are less reliant on government subsidies. Yet we see that despite this institutional discourse on staff housing as a transitional “stepping stone”, the reality is that many tenant/workers remain in staff housing, due to economic disincentives to move into more costly forms of market housing. This means that staff housing may not be as transitional in nature as envisioned in the institutional discourse. Indeed, the Government of Nunavut has noted that its staff housing program “does not support this transition currently, leaving many tenants to remain in staff housing for the long term,” due to the limited availability of private-sector alternatives.⁷¹² In the next section, we will examine further these issues with private sector market alternatives, both the form of private rentals and privately owned homes.

⁷¹² GN Framework, *supra* note 12 at 34.

Chapter 9: Market Housing

9.1 Overview of the chapter

This section looks at private market housing in Cambridge Bay. Private homes make up only one fifth of the homes in Nunavut, which includes private rentals and privately-owned homes.⁷¹³ After examining how the institutional discourse idealizes private market housing within the housing continuum, I connect the experiences and perceptions of community members with respect to private market housing in Cambridge Bay.

The private rental market in Nunavut is very small, underdeveloped, expensive, and very different from down south.⁷¹⁴ My research looks at how, due to the scarcity of available private rental units, rent tends to be expensive, especially when it is not subsidized like public housing or staff housing. It is therefore not considered to be an affordable option by many community members. The rental housing shortage also means that landlords can be highly selective about tenants – they do not need to advertise widely and can choose to rent out only to corporate tenants. This makes it more difficult for individuals to gain access to private rentals, even if they can afford it. It is therefore no surprise that over half of Nunavut's population remain in public housing, unable or unwilling to move into private market housing. I discuss how the government has begun to offer subsidies to those renting privately to make this a more affordable option. This means that the government subsidizes even this private market part of the housing continuum.

I also examine how people engage with the institutional discourse on homeownership, looking at what motivates some community members to buy a house and what prevents others.

⁷¹³ GN Strategy, *supra* note 2 at 13.

⁷¹⁴ GN Framework, *supra* note 12 at 37; although I did not have the numbers for Cambridge Bay, Iqaluit has the most expensive rental market in Canada: GN Framework, *supra* note 12 at 34.

Despite the institutional idealization of homeownership, we see how there are significant barriers to buying and maintaining a home in Nunavut. Market affordability is a key issue for homeownership in Nunavut,⁷¹⁵ and in particular, financing. Lower levels of income in the territory make it difficult for many to own a home.⁷¹⁶ Even after one has purchased their home, they must do the work of maintaining their property. Unlike rental arrangements, homeowners are responsible for funding and arranging their own repairs and renovations. The environmental conditions of the Arctic – and the fact that older houses in Cambridge Bay were constructed with designs that were not particularly suited for the Arctic – means that the need for repairs is particularly pronounced.

The Nunavut Housing Corporation offers funding programs to assist with funding for repairs, but some participants found the work required to navigate these processes to be intimidating and difficult to understand. As a result, they must either try to find repair solutions on their own with their limited knowledge, or they simply must live with the state of disrepairs as conditions get worse. I highlight the story of one participant who is so overwhelmed with these issues of maintaining her home that she expresses some regret at buying her home.

We also note that homeowners in Nunavut can sometimes have difficulties accessing legal services for their law-related problems, including for repairs or construction claims. This is because they do not financially qualify for legal aid, and either can't afford private lawyers or cannot retain one because the small number of lawyers licensed to practice in Nunavut means that lawyers who work in the relevant area are often conflicted out from representing the homeowners.

⁷¹⁵ CMHC Northern Housing Report, *supra* note 5 at 17.

⁷¹⁶ Inuit Nunangat Housing Strategy, *supra* note 37 at 6.

Despite the institutional discourse portraying homeownership as the ideal, private homeownership is less utilized and less available to the residents of Cambridge Bay than other types of housing on the housing continuum. Ultimately, homeowners are a minority in Cambridge Bay, like the rest of the territory, due to the shortage of available houses on the market and corresponding high prices that many find unaffordable. As a result of the limited opportunities for homeownership, even those who might be able to afford to move along the continuum must remain in staff housing or public housing.⁷¹⁷ Despite the government's goals to move residents along the housing continuum towards homeownership as a means of reducing reliance on government funding, we find that even here at this end of the housing continuum, the government must still provide subsidies for homeowners. This means that despite the institutional objective to reduce overall dependence on government funding for housing, there is no part of the housing continuum that is not subsidized by the government in some way. Given this, I note that the institutional discourse idealizing private market housing, based on southern Canadian capitalist and individualist models, is but one policy choice amongst many possibilities. This insight opens up the opportunity to explore other possible models and options that may be better suited to the actualities, needs, and aspirations of Nunavummiut, including Inuit goals of self-determination.

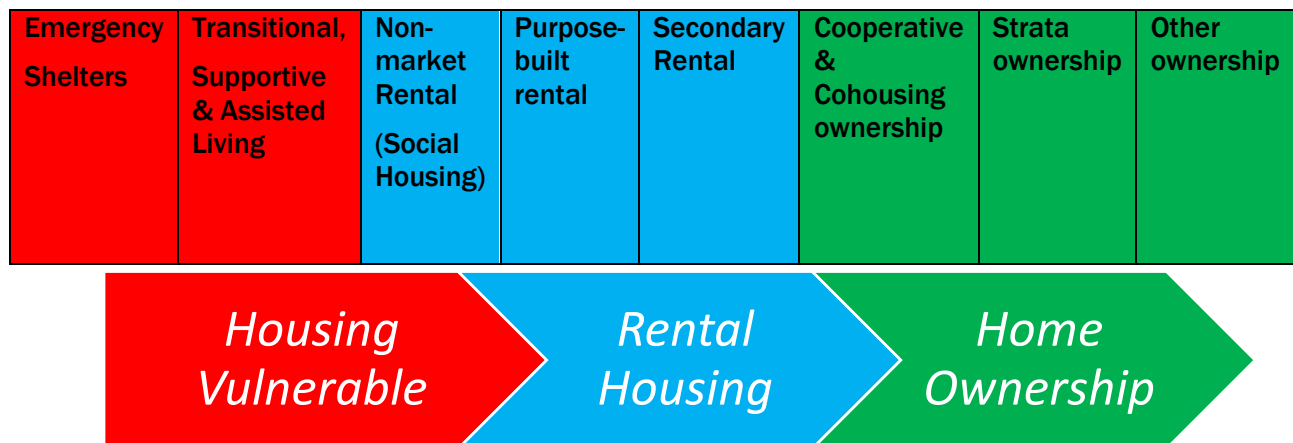
9.2 The institutional discourse on market housing

The housing continuum is itself a social construct. It is a policy choice to divide different kinds of housing into institutional categories according to who owns the property, as opposed to according to other characteristics. For example, the housing continuum presented by the Government of Nunavut in its Framework and Strategy for housing (Figure 7) readily displays

⁷¹⁷ NHC Blueprint, *supra* note 2 at 6.

which category of housing is owned/operated or otherwise subsidized by the government, an aspect that is of interest to the government.⁷¹⁸

An Example of a Complete Housing Continuum



Source: City of North Vancouver

Housing Continuum in Nunavut

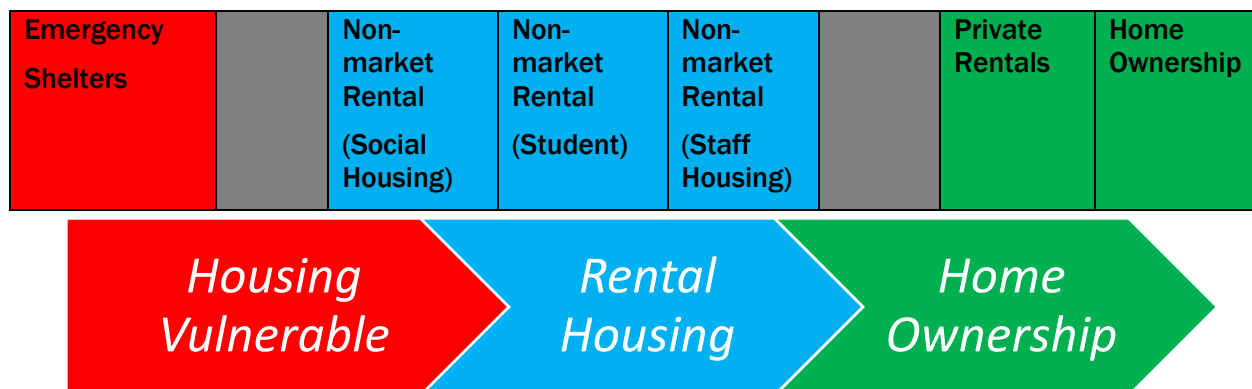


Figure 9: Reproduction of Government of Nunavut's conceptions of a complete housing continuum in contrast to the housing continuum in Nunavut.⁷¹⁹

⁷¹⁸ GN Framework, *supra* note 12 at 25; GN Strategy, *supra* note 2 at 14.

⁷¹⁹ Adapted from Government of Nunavut, Nunavut Housing Corporation, "The Framework for the GN Long-Term Comprehensive Housing and Homelessness Strategy" (2012) at 17, online: <http://blueprintforaction.ca/docs/other/nhc-strategic-framework-en.pdf>; and Government of Nunavut, Nunavut Housing Corporation, "The GN Long-Term Comprehensive Housing and Homelessness Strategy, (2013) at 14, online (pdf): <http://blueprintforaction.ca/docs/other/nhc-homelessness-en.pdf>

Note how housing that is provided by or subsidized by the government is in red and blue, while non-subsidized market housing is in green. Note also how there are arrows pointing towards the right, where market housing is situated, highlighting market housing (specifically homeownership) as the ultimate destination, according to this institutional discourse. The continuum on the top labelled “An Example of a Complete Housing Continuum” reflects the vision of how the territorial government believes housing in Nunavut should look like. It sees it as resembling the housing continuum in other Canadian jurisdictions, and we see that the continuum itself is sourced from the City of North Vancouver, located in southern Canada. In contrast, the bottom continuum labelled “Housing Continuum in Nunavut” reflects the government’s diagnosis of the problem of how housing currently is in the territory, emphasizing the ways it is different from a “complete” continuum like in southern Canada. For the Government of Nunavut, the ideal is a complete continuum that provides a diversity of housing options, as seen in Southern Canadian jurisdictions, which it links to a stronger economy and healthier society.⁷²⁰

But the ideal is more than just having many different housing options: the territorial government clearly wants to see movement within those options in a specific direction away from government dependence towards market housing. Prevalent in its diagnosis of the housing problem is the “inordinate” reliance on government subsidized non-market housing.⁷²¹ An explicit government objective is to improve transition along the housing continuum,⁷²² promoting independence and reducing reliance on government,⁷²³ as “[a] society that is adequately housed can develop healthy and *self-reliant* people, and lower its vulnerability to

⁷²⁰ GN Framework, *supra* note 12 at 13, 24.

⁷²¹ GN Strategy, *supra* note 2 at 13; NHC Blueprint, *supra* note 2 at 6.

⁷²² GN Strategy, *supra* note 2 at 21, Objective 3

⁷²³ GN Framework, *supra* note 12 at 49; GN Strategy, *supra* note 2 at 17

economic and social change” (emphasis added).⁷²⁴ The government’s goal to reduce dependence on government subsidization is likely influenced by the fact that the Government of Nunavut directly subsidizes over 80 percent of homes in Nunavut,⁷²⁵ spending more of its total revenue on housing than any other Canadian government.⁷²⁶ The government’s contributions to public housing comprises nearly a tenth of its overall operations and maintenance budget.⁷²⁷ From its standpoint, then, moving towards the private housing market would relieve financial pressures on the Government of Nunavut.⁷²⁸

This institutional preference in the texts for a move away from subsidized housing is directed specifically towards private housing market, including private rentals but especially towards homeownership:

In most cases, housing policies promote self-reliance: Vulnerable individuals and families move into social housing, then progress to market rentals and eventually home ownership. They move from a state of dependence to one of independence.⁷²⁹

[...] the housing continuum goal, in which public-housing tenants migrate towards higher rents, toward housing that relies less on subsidies, and ultimately into private homeownership.⁷³⁰

The institutional discourse recognizes that there will continue to be a need for subsidized housing, but the goal of the institution is to eventually move people away from public housing and staffing housing, and ultimately into homeownership.

⁷²⁴ GN Framework, *supra* note 12 at 13.

⁷²⁵ GN Strategy, *supra* note 2 at 9; GN Framework, *supra* note 12 at 14.

⁷²⁶ NHC Blueprint, *supra* note 2 at 5.

⁷²⁷ NHC Blueprint, *supra* note 2 at 6.

⁷²⁸ GN Framework, *supra* note 12 at 35.

⁷²⁹ GN Framework, *supra* note 12 at 24.

⁷³⁰ GN Framework, *supra* note 12 at 31.

The more recent Nunavut 3000 Strategy includes a new housing spectrum that further emphasizes the priority of reducing government dependence, with homeless on one end and market homeownership on the other end:

HOUSING SPECTRUM
Homeless
Emergency Shelters
Transitional Housing
Social Housing
Affordable Rental Housing
Affordable Home Ownership
Market Rental Housing
Market Home Ownership

Figure 10: Representation of the housing continuum as presented in the Nunavut Housing Corporation's Nunavut 3000 Public Plan (2000)⁷³¹

Here we see that rentals and homeownership have now been divided between “affordable” and “market”. This arrangement of forms of housing according to amount of reliance on government subsidies means that affordable homeownership is now placed *before* market rental housing. This is again a normative decision, based on the government’s considerations about how much of its funds will be used. This is instead using other criteria for example, considerations of building household wealth, which would place affordable homeownership after market rental housing, because it would result in the homeowner gaining equity, even if attained through subsidies.

According to the Government of Nunavut, the gaps in the housing continuum caused by the lack of an affordable private rental market means that “the financial leap from public housing

⁷³¹ Nunavut 3000 Strategy, *supra* note 12.

to homeownership is simply too great for most.”⁷³² The majority of people remain in public housing, despite institutional objectives to move them away from government dependence. At the same time, public housing also serves as a “catch-all” for the gaps in supportive/transitional housing, and the lack of adequate homelessness shelters. Unless other sites along the housing continuum become more available as options, the Government of Nunavut predicts that public housing will continue to remain the main housing option in Nunavut for decades.⁷³³

I highlight these aspects of the institutional discourse not to suggest that it is unreasonable or illogical to want to have people less dependent on government-subsidized housing. Certainly, Inuit goals of self-determination also aspire for Inuit to be less dependent on the Canadian government, given the history of colonization in Nunavut. However, the specific institutional direction *towards* private market housing as part of a Western capitalist individualist model is not a natural progression but a specific policy choice. According to the Government of Nunavut, the problem underlying the housing crisis in Nunavut is the absence in most communities of a market, which it sees as “the key organizing principle for the southern Canadian economy...Gradually, markets should coincide with rising resource development, public sector growth and infrastructure investment.”⁷³⁴ Part of the government of Nunavut’s diagnosis of the housing crisis is that the current housing continuum does not look like the housing continuum in other Canadian jurisdictions. But this assumes that Nunavut *should* look like other jurisdictions. It precludes the question of what a housing continuum as conceived by an Inuit Qaujjimajatuqangit worldview might look like.

⁷³² GN Framework, *supra* note 12 at 31.

⁷³³ GN Strategy, *supra* note 2 at 11.

⁷³⁴ GN Framework, *supra* note 12 at 20.

Comparing the institutional discourse on housing through institutional texts such as laws and policy statements to the lived experiences of people can uncover important insights on access to justice by revealing disparities between how the institution prescribes processes to unfold and how people actually experience these processes. Examining the institutional discourse on housing – and the underlying political view of how the world works or should work – is also useful to compare to Inuit Qaujimajatuqangit worldviews in order to understand how to support Inuit self-determination. As such, we will move on to look at the lived experiences and observations of people relating to private market housing.

9.3 Lived experiences in private rentals

When I lived in Cambridge Bay, working as a lawyer about a decade ago, I lived in a house privately rented from my landlord, a community member and local businessman. My spouse and I paid approximately \$2,200 per month for our two-bedroom, one-bathroom home that was part of a duplex. This seemed to me like a lot of money to be paying for rent, close to what my friends were paying for their Manhattan apartment at the time, much more than what my friends were paying for their subsidized staff housing units in Cambridge Bay, and more than what I am currently paying in rent even now for my larger house in downtown Ottawa. At the same time, having only two people living in a two-bedroom home seemed luxurious to the point of feeling almost decadent, especially since I knew that so many of my neighbours and colleagues were living in much more crowded households.

Although my rent was higher than those of my friends living in Government of Nunavut staff housing which was subsidized, living in a private rental unit rather than staff housing meant that my housing situation was not tied to my job. When my contract at the local law office came to its end, I decided not to renew it so I could pursue academic opportunities. Instead of being evicted from my home within a week as staff housing tenants would have been under the

Residential Tenancies Act, I was able to and chose to stay a little longer, working freelance contracts and generally enjoying the community I loved.

Although my own personal housing experience in Cambridge Bay was involved private rentals, private rentals are less common in Cambridge Bay than other forms of housing, and so it was not a surprise that I heard fewer stories from participants living in private rental units. Despite the institutional objectives idealizing market housing, the private rental market in Nunavut in general is considered by the government to be underdeveloped.⁷³⁵

As with my own experiences, participants felt that renting privately was expensive. As the women's shelter coordinator at the time of the interview, Teija Nakashook worked with women experiencing homelessness, but knew that private rentals were often not a reasonable option for her clients:

.....
PARTICIPANT: Even today people were asking me where to rent and I have no idea.

INTERVIEWER: There's not a lot of places to rent, eh?

PARTICIPANT: I'm not sure. And even if it there was, the rent is probably \$3500 a month plus utilities, so it's insane.

The high prices are not simply due to the fact that private market rentals are not subsidized, as is the case with public housing or staff housing, but also because of the housing shortage: with such few units available and high demand, the market allows landlords to set rents at market rates that may seem high. There is a need for more affordable rental units in Cambridge Bay, which is a problem faced across the country generally: stakeholders and experts argue that some two million rental units must be built by 2030 to improve the affordability of Canada's housing market.⁷³⁶

⁷³⁵ GN Framework, *supra* note 12 at 35.

⁷³⁶ The National Housing Accord, "A Multi-Sector Approach to Ending Canada's Rental Housing Crisis", online: https://assets.nationbuilder.com/caeh/pages/453/attachments/original/1692060486/2023_National_Housing_Accord.pdf?1692060486 ["National Housing Accord"]

The costs of owning and operating a property in Nunavut are higher as well, which landlords will also pass on to their tenants through higher rent.⁷³⁷ As a result, generally only salaried professionals are able to afford to rent privately. But even some professionals with a salaried income reported how their families had looked at private rentals in the community, but were discouraged at the unaffordable costs, noting as well that moving out of staff housing would mean they would be responsible for the additional work of paying for utilities as well.

Given that rental housing units are in high demand due to the housing shortage, landlords do not have seem to have difficulty in keeping their rental premises occupied. Abey is a long-time resident of Cambridge Bay who rents out rooms in her home that she owns. She explains how she finds tenants:

INTERVIEWER: How do you usually find your tenants then? Is it through friends or...

PARTICIPANT: Yeah, word of mouth. And I told this one... one of the tenants that left last year, she wants to come back. She said [I'm happy that the place is empty] and then another person, my friend, wanted to stay here because... he wanted a job, and the only thing hold him back was having a place to stay. So because ... he came to my friend. I want to help him. So I said to him.... I don't advertise my place.

INTERVIEWER: You probably don't need to advertise, eh? Because there's such a shortage of housing...

PARTICIPANT: Yeah, that's right. [...] I don't advertise my house, because the location is good and somehow, when people come, they like it. They want to stay.

As Abey explains, there is enough demand for renting the rooms in her home that she does not need to advertise her vacant rooms for rent very widely or publicly. Indeed, given the high demand for a limited supply of private rental units, landlords can be highly selective about to whom they will rent out to.

A noteworthy feature of the private rental market in Cambridge Bay is that many of the private rental units in the community are actually in fact a form of staff housing, in that the accommodations are owned by corporate landlords who rent them out to business or government

⁷³⁷ NHC Blueprint, *supra* note 2 at 28.

entities to provide to their employees.⁷³⁸ This was something that my law office in Cambridge Bay had arranged to house some of our staff lawyers as well (although not for myself). The law office rented units owned by a local business, and then rented those units to the staff lawyers. A number of the Government of Nunavut staff housing units in Cambridge Bay are also owned by corporate landlords and leased to the Government of Nunavut.⁷³⁹ Lawyer Keith Cruz explains that landlords in Nunavut often prefer this type of arrangement with corporate tenants:

I'm talking about the private landlords. So someone who owns a place. They favour very highly corporate tenants. Because the corporate tenants tend to, number one, pay on time, and there's also the transferred responsibility where the corporate tenant could be liable for any damage that was committed by the tenant, and that's much easier to obtain relief in remedy of the damages. As opposed to a tenant-tenant. And also it's easier to evict, etc., etc. So I personally know, just through my connections as a lawyer, I was connected to people who were maybe had a little bit more money to invest. Some of these private landlords have confided in me and told me that yeah, we won't rent to any tenant from the street, because it's so much harder. So they've personally probably experienced that hardship. So they prefer corporate clients. The problem though is that once you have corporate tenants, well, now the corporate tenancy, it now ties all the way back to the first topic of our conversation, which is the employment piece. Now they're offering this to their own employees, and typically – and this is the part where there's a difference between I guess a settler versus an Inuk, where an Inuk would not necessarily need a place, and so what happens is that they have a preference for hiring people from the south, so that they can staff them in their housing units.

From this excerpt, we see that a number of the observations made in the previous chapter on staff housing might apply here too, including the local understanding that staff housing is reserved for non-Inuit workers who are hired from outside of the community, exacerbating the socio-economic divide along racial lines, and the legal precarity of living in a housing unit that is tied to one's employment.

⁷³⁸ As the administrative centre for the Kitikmeot region, Cambridge Bay has some of the characteristics of a government town, with a number of federal and territorial offices located in the community. This likely influences the private rental market in Cambridge Bay.

⁷³⁹ GN Framework, *supra* note 12 at 33: GN staff housing is owned or leased by GN.

Landlords' preference for corporate tenants may explain more why it may be difficult for an individual person to secure private rental accommodations "off the street", even if they were able to find one available amidst the housing shortage. When community member Jorgan Aitaok needed to find a place to live, he experienced this difficulty and had to make arrangements for his employer to become involved as a corporate tenant:

INTERVIEWER: And then you had to... You decided you needed your own place, so you had to go find another place, right? How was that process of looking for that?

PARTICIPANT: Oh, it was hard trying to find anything.

INTERVIEWER: There's not a lot of things that are open?

PARTICIPANT: Nope. And with the [*name of corporate landlord*], where I'm renting from, they only rent to corporations or businesses, and they wouldn't rent to any individual. I asked about that, and I had to go through my CEO and CFO and what not. Just so they can... [...]

INTERVIEWER: Okay, so if I understand correctly, your landlord there, they usually only rent out to businesses?

PARTICIPANT: Yeah.

INTERVIEWER: But you managed to get it because I guess you asked for help?

PARTICIPANT: Yeah, I went through my director and through the finance director, or chief financial officer, and chief operating officer. I had to go through that route.

INTERVIEWER: Are they technically... Are they part of this arrangement, technically? Like you're...

PARTICIPANT: They signed their agreement. They take off my rent deductions every two weeks.

INTERVIEWER: Your employer does?

PARTICIPANT: Yeah.

INTERVIEWER: Oh, okay.

PARTICIPANT: Because our office here, we're renting from the corporation as well [...] so they lump everything in there, along with my rental agreement.

INTERVIEWER: Okay, so basically you're technically, renting from your employer, who's renting from them?

PARTICIPANT: Yeah.

Because of landlords' preference to only rent to corporate tenants (as also observed by Keith Cruz), Jorgan has had to bring in his employer to become more involved in his personal life outside of work, in order to secure housing. As noted, this brings in the complexities of the employer-landlord / worker-tenant relationship as explored in the previous staff housing chapter, but without the advantage of lower subsidized rent. Unlike government staff housing, such

arrangements for employers (especially non-governmental employers) are not necessarily subsidized for the tenants. Instead, Jorgan must deal with the market rate:

PARTICIPANT: The rent is like about \$2700 a month.

INTERVIEWER: That's a lot more than public housing then?

PARTICIPANT: It's way, way more expensive. And then I asked my friends that work for the government, and they pay like a thousand dollars less.

INTERVIEWER: The people that are getting staff housing, you mean?

PARTICIPANT: Yeah.

INTERVIEWER: Yeah, there's a big difference between staff housing and private rentals eh?

PARTICIPANT: Yeah. Even I asked the folks over at the [government office] how much they pay for rent, and they said maximum twenty-five hundred. Doesn't matter the unit size. [...] Then here with the [corporate landlord], it's a little bit more expensive, and then I've got to pay power on top of that. [...] And they say, "Oh, it's market price." Market price.

INTERVIEWER: Are you able to make the payments?

PARTICIPANT: Yeah.

INTERVIEWER: Do you feel the pinch in your pocket?

PARTICIPANT: I'm starting to. Yeah.

Confronted with these various constraints, Jorgan thinks about possibly eventually having to move out of the community:

INTERVIEWER: So you mention that it's okay for now. Do you feel like long-term you want to do something else?

PARTICIPANT: Probably find a job in the South. Move away.

INTERVIEWER: Why? Why would you want to move to the South?

PARTICIPANT: Well, there's better access to health care, and rentals, and more access to jobs. It won't be paying as much what I make here, but there's always jobs in the south.

INTERVIEWER: And you said rentals too, right? Because rent is so expensive here?

PARTICIPANT: Yeah.

INTERVIEWER: So I'm hearing that you feel like there's more opportunities down south?

PARTICIPANT: Yeah.

INTERVIEWER: [...] If you had those kinds of opportunities here, like either... I guess jobs or cheaper rent, would you prefer to stay here?

PARTICIPANT: Yeah. I love it up here. I love it up here.

We see here how the unaffordable private rental market in Cambridge Bay may cause the community to lose its community member and worker, Jorgan, who has lived in the community

for much of his life and would like to remain, but worries that he may not be able to afford to stay.

We see a similar story with the university student mentioned earlier in this dissertation, who has been searching for a place to live so she can return Cambridge Bay to work once she has finished with her studies. She explained that she found that the high cost of private rentals nearly outweighed what she would earn at her job:

INTERVIEWER: Because you mentioned that there was a couple of times, a couple of options you looked at for housing just ended up being really pricey. Really expensive. Just would not justify you getting a job, right? Can you tell me a little more about that?

PARTICIPANT: So I don't remember the exact least amount that I came across, but it was definitely a whole paycheck just for rent. And then my other pay has to go towards cost of living, like groceries and all of that. It just didn't make sense for me to rent at that amount. And it just worked out like that. Especially for the long term, if I have to think ahead, and I'm trying to save money to get myself through school. FANS [Financial Assistance for Nunavut Students] pays a certain amount, and the rest comes out of my pocket, and I don't have the option to go to my parents, to get that sort of financial relief.

When compared with public housing rent, which is adjusted according to household income and capped at \$1140 for a one-bedroom unit, \$1466 for a two-bedroom unit, and \$1792 for a 3-bedroom,⁷⁴⁰ private market rental rates seem are drastically high for community members looking at their housing options. In the case of the university student who would like to return to Cambridge Bay after her studies, her attempts to make arrangements to return to the community have been impeded by the housing crisis, since the job opportunities do not always come with staff housing:

Yeah, I mentioned, you've probably seen on Facebook that going back home, especially during the summer, and now that I'm upon graduation, I'm a little stressed about where it is I'm going to be living, because I can't go to my parents' house, because on either side, there's crowded homes. And I'm an adult at this point in my life. I don't necessarily want to be living with my parents anymore. It's really stressful on my part. And part of the agreement I have with FANS, I have to come back to Nunavut to work for two years. But

⁷⁴⁰ Rent Scale Procedures Manual, *supra* note 365 at 39.

I'm not being given a space for me to live to work and to fill that obligation I have with my agreement. So that's something I'm a little stressed about too. If I'm not able to find housing next year when I graduate, am I going to be automatically have to pay back all of my FANS? There's a lot of questions running in my head that I don't know how it's going to end up.

I asked the university student to describe the work that she would have to do to try to secure housing. She explained:

First I'd have to make sure that I've secured a job first, just so that if I had to pay rent, I had it on paper that I'd be getting this much to pay monthly, every two weeks, so I'd be able to pay my rent. But normally I would look for anyone locally: do you have any rooms available? Because I know that's kind of a big thing that's been going on lately, and that's kind of the most reduced amount of rent that I can pay, just paying for a room, as opposed to paying for an entire unit. So that would be my first... put out an ad or whatever, "Looking for a room to rent." That didn't work out.

Then I would contact a lot of the different renting... Ulu is I think one place I looked, Green Row... all these other places I would contact to see what would your monthly rent be? Are you guys able to do this for long-term use? And not all the time I was successful. Then I would go to the Arctic College, try that again. I've tried it in the past, but maybe things would change.

But I've never ever had any success, actually, trying to get a place with any organization. Normally, I ended up just living with family. And a lot of the time that would be in crowded homes, and it's not particularly the best experience. But I mean, it is what I had to do.

[...]

When I tried to do this in the previous summer before that, then the rent was just insane. It just deviated the purpose of me going home to work to make money for my next year's schooling, that I would just be paying it all in rent.

We can see here that seeking rental accommodations has been a challenging time-consuming process for the university student and it also potentially serves as a disincentive for her to return to Cambridge Bay to work, if accommodations costs amount to more than her income from her summer job. The university student explained that the availability of housing is the leading factor in determining which job opportunities she will pursue, whether in Cambridge Bay, elsewhere in Nunavut, or outside of the territory.

We can also trace the relations connecting housing to the local economy. The lack of private rental options means that skilled professionals may be deterred from moving to or

remaining in Cambridge Bay, even if they are Inuit who have spent much of their lives in the community who would otherwise very much like to return or remain home, such as the university student and Jorgan. This potential brain drain further aggravates the already limited skilled labour pool available in the communities,⁷⁴¹ in a territory where less than half of the population have a high school diploma.⁷⁴² The shortage of skilled labour in Nunavut - including in Cambridge Bay – is also a significant element of the housing crisis, as there are limited workers available carry out projects to repair, maintain, and construct housing units across the housing continuum.⁷⁴³ In a sense, a shortage of housing contributes to the shortage of workers, while a shortage of workers contributes to the shortage of housing. All of this serves as hindrances to Inuit goals of self-determination. It also demonstrates why there is such a reliance on government-subsidized housing, such as public housing and staff housing. The high costs and limited available housing options means that many people across Nunavut, even if they have steady employment and some financial security, must remain public housing tenants or stay in staff housing.⁷⁴⁴

In recognition of the barriers imposed by the unaffordability of the private rental market, the Government of Nunavut's Department of Family Services recently announced the Canada-Nunavut Housing Benefit (CHB) Program. This provides funding for applicants in private rental accommodations who are not receiving other housing benefits such as public or staff housing, in the amount of the difference between roughly a quarter of the household income and the market

⁷⁴¹ For example, during her interview, Abey referred to a friend that wanted to move to Cambridge Bay to work a job, but the only thing holding him back was having a place to stay.

⁷⁴² Statistics Canada, "Focus on Geography Series, 2016 Census: Nunavut" (modified 10 April 2019), online: <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-pr-eng.cfm?Lang=Eng&GK=PR&GC=62&TOPIC=10>

⁷⁴³ Auditor General Report, *supra* note 490 at 16 & 17; participants who were homeowners also confirmed that some of the repairs for the homes were delayed because the limited contractors available to work in Cambridge Bay were busy working on other projects.

⁷⁴⁴ GN Framework, *supra* note 12 at 25.

rent “until the household can transition into a more permanent housing option.”⁷⁴⁵ It appears to be meant to be a temporary measure, in providing “temporary financial relief” so “individuals, youth or family can transition through a period of vulnerability or crisis.”⁷⁴⁶ In doing so, we see that this in fact extends the reach of government subsidies to private market housing, despite institutional goals to ultimately reduce the dependence on government subsidies for housing.

We thus see that even though a larger private rental market is a key objective in the institutional discourse,⁷⁴⁷ the reality is that private rentals can be expensive because they are tied to market conditions. Government subsidies are now being offered to address these high costs, even though the institutional discourse prioritizes the reduction of relying on government funding for housing. These same issues are also true for private homeownership, which we will look at next.

9.4 Lived experiences with home ownership

As noted, achieving greater rates of homeownership is a key objective in the institutional discourse, promoted by the government of Nunavut as a means of reducing reliance on government funding and increasing personal wealth “that can be passed down through the generations.”⁷⁴⁸ Yet Nunavut has the lowest homeownership rate in Canada at 19.2% in 2021, a decrease from 21% ten years earlier in 2011.⁷⁴⁹ Along with private rentals, the institutional discourse identifies homeownership as a critical gap in Nunavut’s housing continuum.⁷⁵⁰

According to the Government of Nunavut, development of a private housing market in Nunavut

⁷⁴⁵ Department of Family Services, Government of Nunavut, “Canada-Nunavut Housing Benefit (CHB) Program” 27 January 2023, online: <https://gov.nu.ca/family-services/news/canada-nunavut-housing-benefit-chb-program>

⁷⁴⁶ *Ibid.*

⁷⁴⁷ GN Framework, *supra* note 12 at 36.

⁷⁴⁸ GN Framework, *supra* note 12 at 36.

⁷⁴⁹ Statistics Canada, “Map 1: Homeownership rate declines from 2011 to 2021 in all provinces and territories, except in the Northwest Territories” (modified 21 November 2022), online: <https://www150.statcan.gc.ca/n1/daily-quotidien/220921/mc-b001-eng.htm>

⁷⁵⁰ Nunavut 3000 Strategy, *supra* note 12; I Inuit Nunangat Housing Strategy, *supra* note 37.

has been limited due to the small population of the territory, its isolation from Canadian markets and resulting high costs of goods and services, and reduced economic vibrancy.⁷⁵¹ As a result, increasing affordable homeownership is included in the Inuit Nunangat Housing Strategy as an expected outcome, in order to “reduce reliance on social housing and to promote sustainable economic and housing security.”⁷⁵²

To understand how this institutional discourse shapes people’s actions, I spoke to participants who were homeowners about what motivated them to buy their house. Many of them provided explanations that reflected both the institutional discourse and their own reflections on why it felt like the right decision for them to make. Mia Otokiak is an Inuk woman in her twenties with an office job who grew up in Cambridge Bay, and she owns her own home with her partner. She explained her motivation for buying a home, rather than staying in staff housing:

[My partner] and I talked about it a lot, especially when we were wanting to buy our own house. We didn’t want to rent out. We didn’t want to be paying someone else’s mortgage. We wanted to be paying our own mortgage, for our house. But it also, for me, personally, this goes straight back to growing up. I grew up in such a crowded house...and so, I just grew up, I always said, I want my own house. I want to have my own house and my own roof over my head that’s mine. And now I do.

[...]

Where we were living before, the [staff] housing unit, it was just a literally a one-bedroom apartment, one bedroom, one floor apartment. When we had first moved in there, [my partner] and I, it was a perfect apartment. It was small, it was nice, it was a perfect space for us. Yeah. It was a place of our own, because before that, we had been living with his dad. We never had a place of our own.

So we had this [staff] housing unit, and it was really nice when we first started in there. Even the first year was really nice, but then as the second year went, and we’re buying more things. We’re just getting more stuff, and then the second year, we got our dog. We got Ulu. And it was really... when we first got him, he was a puppy, so it was a perfect size for us at the time. And then as the third year rolled in, that’s when, you know, now we just have too much stuff. Our dog is getting bigger, you know, the apartment was just feeling a lot smaller. And then, so for me, it was... Even as a kid, being in a house, it was seven people all the time. I had dreamed of always wanting my own house. And so here, I

⁷⁵¹ GN Framework, *supra* note 12 at 18 and 20.

⁷⁵² Inuit Nunangat Housing Strategy, *supra* note 37.

am, in my [staff] housing unit, with my boyfriend at the time of three years. We have our dog. It was in my head, like the movies. I just wanted to do the next step. I wanted to.

Mia saw homeownership as the next natural step for her life, fitting her housing needs and goals. Long-time resident and community member Abey also explained to me why she decided to buy her own home:

PARTICIPANT: Well, I... Somebody said I should buy a house, that it's an investment. So I decided to buy at the time. You know, at that time, you have to live for two years to get government assistance. So they gave me \$30,000 towards buying the house.

INTERVIEWER: That's the Nunavut Housing Corporation's Down Payment Assistance Program?

PARTICIPANT: Right, down payment assistance program. So I did... yeah. And I paid... And then I paid my mortgage. If you live in this house for ten years, they'll forgive you.

[...]

So okay, I was on Okpik [Street] before and then when I was there, I had... I shared my house with roommates, government employees, right? [...] The other end was available, but then I was naïve then. I didn't want to owe. I didn't know you had to owe. *[Laughs]* I thought you have-

INTERVIEWER: To own?

PARTICIPANT: To owe.

INTERVIEWER: Oh, money.

PARTICIPANT: I didn't want to owe money. So then my supervisor told me that, if I don't owe, there's no way to assess my credibility. You know, my credit worthy?

For Abey, she was hooked into the institutional discourse about the benefits of homeownership through her supervisor at work. Although she had some hesitations about going into debt for homeownership, her supervisor provided advice about it being a good investment and a way to build up a good credit rating.

Some community members who were worked office jobs mentioned wanting to eventually own a home one day, in order to have an asset and housing security rather than paying rent. One community member I interviewed would like to own a home one day, even though she knows it comes with more responsibilities:

Eventually I'd like to own. I wouldn't mind renting in the first couple of years of my life, just to get into the whole living on my own. As I have been, but I'd have a bit more

things on my plate at that point, because you know, paying for electricity and all this crap... Being more responsible to becoming a homeowner. Because obviously there are differences between renting and owning a home. Especially in the north. Because you pay for utilities at that point. And I think yeah, to my knowledge. But eventually I would love that route. And I think depending on how many little ones pop out of me at one point...

On the other hand, some public housing tenants expressed to me that they had no interest in owning a home one day, as they felt like it involved too many things to worry about. Others had considered homeownership, but felt that the prices of houses in Cambridge Bay were too expensive, and they were concerned that it was not a worthwhile investment. For example, one community member described her feelings about a house for sale that she had seen listed within the community:

PARTICIPANT: Six hundred eighty-nine thousand for a...what was it? Three or four bedroom? It's modernized, it's beautiful but like...

INTERVIEWER: I saw that listing.

PARTICIPANT: Over a half a million dollars?

INTERVIEWER: Who can afford that?

PARTICIPANT: Somebody with the government, obviously? You know what I mean? [...] One day, I want to retire. Seems like the only time most people can get close to owning a home is when they're close to retiring.

INTERVIEWER: Yeah, and that's not like that down south. Down south, a lot of people own when they're younger.

PARTICIPANT: Of course. Why is it that down south one can... get homes and purchase homes very easily and quickly? When in Nunavut, I understand there's a process you have to take to get your own home, but...

INTERVIEWER: But why is it different?

PARTICIPANT: Yeah. Why does it have to be so bloody expensive? I understand they have to ship materials and stuff and to hire contractors. But why does it have to be so much more expensive than say in Alberta or Yellowknife?

The community member is frustrated at how expensive homes are in Cambridge Bay relatively to elsewhere in southern Canada, making homeownership not accessible to many people in the community. Homes in Cambridge Bay are expensive partly due to the shortage of homes on the market. It is estimated by some measures that only households with an income of

more than \$143,000 can afford to own and maintain a half a million-dollar home in Nunavut,⁷⁵³ an income that seems well out of reach for the majority of Nunavut's population living in public housing. Financial institutions may be reluctant to offer mortgages or other affordable services due to the risks involved in the private housing market in Nunavut.⁷⁵⁴ This means that there is also a shortage of land that is developed and available for constructing new buildings, as commercial developers also face challenges in obtaining financing.⁷⁵⁵ Like in other communities, the high costs and limited availability of housing options means that even those who have steady employment and financial security often must continue to be public housing tenants, or remain in staff housing.⁷⁵⁶

Stuart Rostant and Amanda Doiron are long-time residents of Cambridge Bay who also run their own business building homes. They also see the lack of affordability of homeownership as an issue, especially from their standpoint as service providers who build new homes:

AMANDA: I mean, we'll need public housing forever. That's not going to change. GN is going to need GN housing. But a lot of people that do have good jobs and can afford, but they... Sorry, they can't afford, and there is no real sort of supply for those homes.

INTERVIEWER: But they want to own?

AMANDA: Yes.

STUART: Yes. They want to.

AMANDA: They want to afford a \$400,000 mortgage, which I think is a good mediocre mortgage. A \$600,000 mortgage? I mean you're hoping to have an acreage with a pool, and, say, twenty-bedrooms. It's just not realistic to think that, living up here with our cost of living. Because I'm paying 2 to 3 times more of my operational cost, on my food, on my maintenance and all this stuff. So you're telling me as well 30% of my salary should go to housing, but you're not taking into account that my grocery is more. My cost of heat is more. My power is more. My vehicle maintenance is more.

INTERVIEWER: Every time you have to fly to go on vacation, it's more expensive.

AMANDA: That's the thing. That's out of the question. So if we can actually start to help them bring their mortgage to what should be a northern mortgage, to be able to live and sustain ourselves, then we need more incentives. It saves the government maintenance on

⁷⁵³ GN Framework, *supra* note 12 at 33.

⁷⁵⁴ Inuit Nunangat Housing Strategy, *supra* note 37 at 6; Northern Housing Policy Recommendations, *supra* note 4 at 8.

⁷⁵⁵ Northern Housing Policy Recommendations, *supra* note 4 at 8; Inuit Nunangat Housing Strategy, *supra* note 37 at 3.

⁷⁵⁶ GN Framework, *supra* note 12 at 25. Senate Report, *supra* note 43 at 5.

ten homes, if it was... I don't know. I just feel as though the message isn't being sent, that the government is pro-homeownership.

Amanda's comment about whether the government is actually "pro-homeownership" reflects her awareness of the disjuncture between the institutional discourse prioritizing homeownership, and how these practices play out in actuality.

To address the unaffordability of private home ownership, the territorial government also offers subsidies for homeowners, such as its Down Payment Assistance Program, to which Abey had alluded earlier. The *Nunavut Housing Corporation Act*, R.S.N.W.T. 1988, c.N-1, another important regulating text within the intertextual hierarchy, authorizes the Nunavut Housing Corporation to make loans for the purchase of housing accommodations if sufficient money is not available from lending institutions or the federal government, and it is specifically authorized to establish a home ownership assistance grant in the form of a forgivable loan, subject to terms and conditions of the Nunavut Housing Corporation.⁷⁵⁷ In order to be eligible for the Nunavut Down Payment Assistance Program, applicants in Cambridge Bay must make less than \$169,000 per year to qualify, with allowable adjustments for spouses and children,⁷⁵⁸ but at the same time they must be able to prove to the Nunavut Housing Corporation that they can afford to own and operate the home.⁷⁵⁹ As mentioned in previous sections, if a person has rental arrears with a local housing organization in Nunavut or with the Nunavut Housing Corporation, "or have otherwise caused a loss to NHC", they cannot qualify for the program until the arrears are fully paid off.⁷⁶⁰ Effectively this means that the Nunavut Down Payment Assistance Program will

⁷⁵⁷ *Nunavut Housing Corporation Act*, RSNWT (Nu) 1988, c N-1, ss.43(1)(a) and 44, also s. 10. This provision is cited as the enabling legislation in the subordinate texts describing the Nunavut Housing Corporation's programs.

⁷⁵⁸ Nunavut Housing Corporation, *Verification of Income Guidelines for Homeownership Programs* (October 2014), Appendices 1 and 2, online: <https://www.gov.nu.ca/sites/default/files/documents/2024-01/11.14.%20NHC%20-%20Verification%20of%20Income%20Guidelines%2010%2C14.pdf>.

⁷⁵⁹ Nunavut Down Payment Assistance Program, *supra* note 604 at 2.

⁷⁶⁰ However, this can be waived with a payment plan: Nunavut Down Payment Assistance Program, *supra* note 604 at 2.

cover a specifically situated portion of the middle class: those who can make enough money to be in a position to buy a home, but do not make more money than the maximum limit for eligibility.

If approved, the Nunavut Housing Corporation will provide a one-time forgivable loan for the down payment over a ten-year period. The contribution is calculated at 7.5% of the total costs with a maximum of \$30,000.⁷⁶¹ The applicant must also contribute at least 2.5% of the total costs, with this personal contribution increasing proportionately for properties that cost more than \$400,000.⁷⁶²

From Stuart and Amanda's perspective, the \$30,000 provided through the Nunavut Down Payment Assistance Program is too low for the current housing market in Cambridge Bay:

STUART: Another big one - and Amanda and I've spoken about this a lot - is that currently, Nunavut Housing offers \$30,000 for first time homeowners, as a forgivable loan over ten years.

INTERVIEWER: Is that the down payment assistance program?

AMANDA: Yes.

STUART: Yes.

AMANDA: It's not much.

INTERVIEWER: That's not the whole down payment for sure.

STUART: Well, \$30,000 over ten years forgivable loan is great. However, it is just not enough. If you want to incentivize homeownership, nobody's going to go and buy a two-bedroom home or two-and-a-half-bedroom home with a garage at \$690,000, and be able to afford it. It's just unaffordable.

Even if some find the maximum amount to be too low, participants were clear that they could not afford a down payment on their own without the Nunavut Down Payment Assistance Program from the Nunavut Housing Corporation. Mia Otokiak found the support from the Nunavut Housing Corporation to be enormously helpful: "The Nunavut Housing Corp really really helped us as first-time homeowners, they helped us a lot as well."

⁷⁶¹ Note that this limit was very recently increased to \$80,000. Nunavut Down Payment Assistance Program, *supra* note 604 at 3.

⁷⁶² Nunavut Down Payment Assistance Program, *supra* note 604 at 3-4.

Although the government wants to encourage movement along the housing continuum toward homeownership in order to promote independence and reduce reliance on government subsidies for housing, the provision of a forgivable loan and other homeownership programs indicates that the government also subsidizes homeownership to a certain extent as well.⁷⁶³ In other words, despite institutional priorities to reduce dependence on government funding for housing, the territorial government does in fact offer subsidies for all sites of the housing continuum.

Despite the government subsidies for homeowners, participants noted that homeownership could be quite expensive. Community member Jorgan Aitaok who had previously owned a home in Cambridge Bay, before moving into a private rental unit when he and his partner separated. He observed:

INTERVIEWER How did you find the process of owning and buying?

PARTICIPANT: It cost way more than public housing, I can tell you. [*Laughs*]

INTERVIEWER: Yeah?

PARTICIPANT: And especially if you're paying like an accelerated mortgage rate, that's like every two weeks.

Jorgan reflected on the substantial difference between living in public housing and owning one's own home. This may serve as a disincentive for some people to buy a home.⁷⁶⁴ Even if one is able to afford a mortgage, utilities such as heating, water, and electricity – and costs to repair utility problems - are often high for private homeowners who have left subsidized accommodations, along with higher insurance rates due to the perceived risks of maintaining a home in the Arctic.⁷⁶⁵

⁷⁶³ Due to challenges in attracting sufficient investment for the capital required to build new houses and maintain existing units, housing maintenance and construction is also heavily dependent on funding from government: Inuit Nunangat Housing Strategy, *supra* note 37 at 25.

⁷⁶⁴ The high cost of homeownership has been identified as a key obstacle to homeownership across the territory GN Framework, *supra* note 12 at 36.

⁷⁶⁵ Northern Housing Policy Recommendations, *supra* note 4 at 8 and 9; Inuit Nunangat Housing Strategy, *supra* note 37 at 6; Little Voices *supra* note 2 at 66.

It is at this point that we turn to the story of C.A., a community member and an Inuk single mother who has owned her home for nearly two decades. Like Abey, she also decided to buy her home on the advice of a work colleague:

At that time, I was living in a house just over here, and when this came up for sale, my co-worker said, “[C.A.], you’ve got to buy it!” I said, I don’t know how to go about buying a house. And she sat there and said, go to the bank, go to Housing Corp, all these things. So it was like really fast. All of a sudden I was a homeowner.

C.A. describes being told that buying a house is something that one should do, reflecting the institutional discourse prioritizing private homeownership as a goal. But since buying her home, C.A. has struggled with the affordability of maintaining her home:

INTERVIEWER: Are you still worried about your mortgage pay... Have you paid off your mortgage yet?

PARTICIPANT: No.

INTERVIEWER: No, okay. Are you still worried about that?

PARTICIPANT: The RBC was going to take me to court for \$15,000. I think I only had \$15,000 left to pay of my mortgage. And I missed six months of payments and RBC started to take me to court. And I ended up....

INTERVIEWER: What did you do at that point, when you found out?

PARTICIPANT: I saw something... [name of lawyer], I saw something. I messaged [name]. I said, I’m going to lose my house here. And he messaged me back, he said, “what’s happening?” So I gave him all the information. He helped me. He helped settle with RBC so now I pay directly to the firm that RBC has.

INTERVIEWER: Okay. So, you were able to sort out that problem?

PARTICIPANT: I just now have a payment plan in place. But if I’m only casual until a certain time...I’m looking for full-time work to receive that....I need a full-time job that I’ll know I’ll have income every two weeks to pay off this six hundred I’m supposed to pay them every two weeks.

Despite the benefits of owning one’s home as prescribed in the institutional discourse, a person does not escape housing insecurity issues if their mortgage or the maintenance of their home proves to be unaffordable. If they continue to miss mortgage payments, they may be in danger of losing their home through foreclosure processes as the bank seizes the home. When facing a mortgage foreclosure, Nunavummiut may face issues with accessing legal support, as the *Legal Services Act* explicitly prohibits legal aid lawyers from providing legal services for real

property transactions,⁷⁶⁶ although there could potentially be space for helping clients with their issues of debt. As a lawyer who has served clients across Nunavut, Keith Cruz describes how he has seen this happen to homeowners:

I've seen it play out in, for example, debt collection – that is very, very common, where someone is already getting foreclosed. RBC is moving to take their house and now they're coming to us, and I'm like, you know, you could have worked with RBC like ten months ago. You ignored all their requests for payment, or just even a contact to say, like, I acknowledge I have debt, and I'm just having a hard time. So that's I guess another interesting aspect of housing. Yeah, I practiced in it. I handled a few files; it was a foreclosure notice. So it was a matter of, like, talking to RBC and trying to get them to enter into a payment arrangement just so that they don't foreclose on the house.

I asked Julie Smillie, branch manager at the Royal Bank of Canada, how RBC handles these situations, and she provided her response to me over email:

As an organization, we work closely with clients to avoid these unfortunate situations. We recognize that there are situations that occur in life that bring us together with our clients to reimagine how they manage their debt. As well, there are additional solutions from considering fixed vs variable rates, reviewing frequency of payments, or looking at consolidating other debts to help individuals navigate difficult times.

When planning to purchase a home, we need to think beyond the purchase price as there are additional costs with the upkeep of the home over time. It is important that individuals strive to put money aside for the unexpected should situations arise throughout their time as a homeowner. There are many steps taken by different groups within RBC to support and partner with clients before a foreclosure is considered. While I can't speak directly to the volume of clients experiencing this, what I can speak to are the many different steps that can be taken first to help individuals navigate the unexpected.

As service providers, both Keith and Julie refer to strategies to try to resolve the issue of debt that a homeowner may have accumulated, including arranging a payment plan. However, as noted by Julie, the key consideration is in the planning stage of purchasing a home, and ensuring that one can afford the costs associated with maintaining a home.

⁷⁶⁶ *Legal Services Act*, RSNWT 1988, c.L-4, s.45 (4)(d).

However, participants such as C.A. noted that preparing for home maintenance costs may be difficult, especially for unforeseen repair costs. Indeed, the high costs of maintaining a home, including for repairs, has been another identified obstacle in homeownership across Nunavut.⁷⁶⁷ This issue is exacerbated if the home is one of the older homes in Cambridge Bay, requiring additional repairs to deal with the environmental conditions of the Arctic. Indeed, a number of participants who were homeowners reported similar disrepair issues as described in the earlier section on public housing. After all, all of the houses in Cambridge Bay, regardless of their location on the housing continuum, face the same Arctic environmental conditions, and as such, the disrepair issues also appear across the housing continuum to varying degrees. This includes heating problems, relating to the cold climate. While public housing and staff housing tenants rely on their landlord to make repairs, homeowners must take on this work themselves.

The Nunavut Housing Corporation offers programs to help homeowners cover the costs of repairs and renovations, authorized under the *Nunavut Housing Corporation Act* as a regulating text.⁷⁶⁸ Its Home Renovation Program provides a forgivable loan to cover costs of repairs and renovation, while also providing technical assistance. It is the homeowner that is responsible for arranging the contractors to do the repairs, as well as covering the cost of what the Nunavut Housing Corporation does not cover.⁷⁶⁹ There is also an Emergency Repair Program for repairs that are urgently required to deal with imminent threats to the occupants' health and/or safety.⁷⁷⁰

⁷⁶⁷ GN Framework, *supra* note 12 at 36.

⁷⁶⁸ *Nunavut Housing Corporation Act*, RSNWT (Nu) 1988, c N-1, section 43(1)(b), also s.10

⁷⁶⁹ Nunavut Housing Corporation, *Home Renovation Program*, (October 2014), online:

<https://www.gov.nu.ca/sites/default/files/documents/2024-01/11.3.%20NHC%20-%20Home%20Renovation%20Program%2010%2C14.pdf>

⁷⁷⁰ Nunavut Housing Corporation, *Corporation Emergency Repair Program*, online: https://different-basket-89cd87b086.media.strapiapp.com/NHC_ERP_Guide_e5cb55da80.pdf

C.A. described her experience of navigating the institutional processes to access these government funds:

PARTICIPANT: All of a sudden I was a homeowner, and I was like... and then right then and there, I knew the walls... I knew I had to get it renovated. So then I started applying for renovation grants through Housing Corp.

[...]

PARTICIPANT: So I applied for the housing grant. And nothing, nothing, nothing, nothing. I never heard anything from them. And then slowly, throughout the years, my house has become so old that it was almost like a band-aid situation. My sewage tank froze. I got that fixed. My pump for my water broke, so then I had to apply for that. I needed a new furnace, new oil tank, all those are all different, different band-aid situations. And then I kept on asking them, so what's happening with my housing, my home renovation program application? And they finally said, oh? I said I applied how many years ago? Okay. So then we started working on that again. And last year, they said, okay, we're approving you, but you also need to get a scope of work done by contractors, and try and get quotes from several contractors. I had to go out and look for things like that.

Because the homeowners are responsible for securing the contractors to carry out the work, C.A. found the experience to be intimidating to navigate, as she was not familiar with the kind of work that needed to be done:

PARTICIPANT: I don't know what's required! Like I don't know, like that's where they fall apart, was they didn't give me assistance in trying to figure out, okay, is this a good scope of work? They did a walk-through of my house, but that was like, five, six, seven, eight years ago?

INTERVIEWER: The contractors or the Housing Corporation?

PARTICIPANT: No, the Housing Corporation, to figure out okay, so what needed to be done and stuff.

Unfortunately for C.A., estimated costs of renovations seem to extend well beyond what the Nunavut Housing Corporation program offers and what she can afford to supplement:

But the contractor came in and said, "Okay this is what you need done and stuff." But it was going to cost well over what Housing Corporation can give me. And I don't have extra money, to sit there and say, go for it, build it. Or fix it. And he sat there and was like, "Can you re-mortgage?" I'm like, I don't even know what the hell that means. And at that time, I had left [employer], went over to [employer], then my mom died. And then I left [employer] and I was jobless. So I've fallen behind on my mortgage. I'm slowly getting back on my feet, but I'm still trying to get caught up on my mortgage. And then the contractor and sat there and said, "Well, we know we have this scope of work."

We know you've been approved..." but they're scared if they open the walls, they're going to have to do something else.

INTERVIEWER: The contractors are?

PARTICIPANT: The contractors.

INTERVIEWER: Okay. They think it's deeper than that? There might be deeper problems?

PARTICIPANT: Yeah. So I'm like, oh my gosh. So now what? So I'm just sitting here... I thought it would get done, so I sold my stuff that I could sell, and stuff, just to try to empty it out. And I'm still sitting here, a year later.

INTERVIEWER: So the contractors don't want to do the work that you talked about originally, because they think it might be a bigger problem?

PARTICIPANT: Yeah. They're thinking the electrical is going to have to be re-done, the pipes for the house are going to have to be re-done, all these things.

INTERVIEWER: That sounds expensive.

PARTICIPANT: I know. And Housing Corp only, I think, [*name of employee*] said \$65,000 is what they can give me. And the quote for the scope of work was well over \$100,000.

INTERVIEWER: And that's just what they know about, right?

PARTICIPANT: Yes.

INTERVIEWER: So it could be even more, they think?

PARTICIPANT: Yes. They think.

As a result, C.A. hasn't been able get these renovations done, and has instead observed the problems with her home getting worse, bringing to mind Keith Cruz's metaphor from Chapter 6 of the little toothache that gets worse and worse. C.A. continued her story:

So I'm just like, oh my gosh. Now what? I just got my pipes... I had frozen pipes, because of how the skirting is. When we get the north or south wind, or east wind, the skirting behind here, there's an opening underneath, so as soon as it blows, and blows from that side, it's cold, cold, cold. All of a sudden, I'll have no running water in my bathroom. No running water in my kitchen. So I'm like, oh my gosh. So I'm trying to find heaters, so that it can continue, the heat will loosen it up and stuff.

But one day, I think it was just too many days of it being cold, and freezing cold and freezing cold and freezing... that all of a sudden, [*daughter*] ... we could hear something. And then she's like, "I can hear something." So we went running around, all of a sudden you can just see water behind my toilet. Water was just going.

INTERVIEWER: Just dripping...?

PARTICIPANT: Like it was a faucet had gone...?

INTERVIEWER: Oh no. So your toilet was leaking water, but not in the bowl?

PARTICIPANT: It was the pipes in between the wall.

PARTICIPANT: Yes. So then... that was in February.

INTERVIEWER: This February?

PARTICIPANT: Last year, February. And I'm like, oh my gosh, oh my gosh. How the hell am I going to...how the hell are we going to live? So we ended up just shutting

everything down. Turning the furnace off as slow as I could. And then going to stay at my brother's, when he had a house and stuff. So we all just kind of moved into his, the three of us, me and my girls, we just moved into his house. And we took over his top house, and we're like, I don't know how long we're going to be, and how long it's going to take.

And Housing Corporation is like, you need to do this, this, this this. So we're with another emergency thing, another emergency funding. And it took from February until I think it was just before Frolics in May, where I got my pipe fixed. And they just did a band-aid thing in there.

INTERVIEWER: So they didn't really solve the problem? Just temporarily?

PARTICIPANT: They did, but now the pipes are on the outside of the wall.

INTERVIEWER: Won't it still get cold then?

PARTICIPANT: Like, on the inside, like it's just on the outside. And they didn't put any valves for my washing machine. And it's... because I sold my washing machine, we were doing laundry at my brother's.

INTERVIEWER: You sold your laundry machine so you could pay for all the repairs?

PARTICIPANT: Well, thinking we needed to be out of the house, when they do renovations and stuff. I'm like, I'll buy a new one.

INTERVIEWER: That's tough.

PARTICIPANT: It's been... And still no support from Housing Corp. Because I don't know where else to go, what to do and stuff.

C.A. expresses an acute sense of helplessness, feeling overwhelmed with all that she is required to do to maintain the home. She has followed the institutional discourse prioritizing private homeownership, but rather than moving into a state of financial stability, she has found herself struggling to cover the costs of repairing her home and paying for her mortgages. She has resorted to strategies such as selling her laundry machine in a community with no public laundromat, or trying to live with the disrepair issues. She also struggles with navigating the institutional processes for accessing government subsidies to address these issues. She is in contact with the Nunavut Housing Corporation who provides guidance through as process as part of its programming, but struggles to understand the information she is given, both from the Nunavut Housing Corporation and from the contractors.

Other participants, including those with high levels of formal post-secondary education, also reported difficulty in understanding the requirements for navigating the Nunavut Housing

Corporation's funding programs, whether to repair their home or buy a home in the first place. While lawyers can and do serve a role in guiding their clients through these processes of homeownership, such as purchasing a home, some participants reported communication issues with their lawyers themselves. The reality is that there are no real estate lawyers in Cambridge Bay; in fact, there are very few civil litigation lawyers resident in Nunavut, particularly in real estate law, which is an area that legal aid lawyers are prohibited from practicing in under the Legal Services Act.⁷⁷¹ This means that home buyers and homeowners must hire lawyers from outside of the territory – service providers *physically* located at different sites, often from a great distance - to represent their interests in navigating these institutional processes. Other community members described the work that was involved in having to follow up with their lawyers for updates in the process; they also reported communication issues with lawyers and difficulty getting information, including about the documents they were went to sign. Sometimes they sorted out some of their issues without their lawyers because it was easier, relying on advice from friends and family instead.

There are also access to justice issues for homeowners experiencing law-related problems relating to home repairs or construction, as explained by Keith Cruz, from his experience as a lawyer:

For example, the cases that I could think of right now is where the homeowner comes to us and says that either someone, either they contracted for someone to build a house, or repair the house. And either the build or the repairs were faulty. Faulty to the extent where the house is unlivable, or basically non-compliant with the building code in such a way that it tramples on their rights. So for example, there's a massive leak in the roof, or it's too cold in the winter because they didn't properly insulate the walls, and so the wind is just reaching through the walls. So you see stuff like that, where someone is forced to stay in an uninhabitable house, but because they don't have any other choice, they can't go and pay rent and carry the mortgage cost of the house. They get stuck having to live in an inhospitable house.

INTERVIEWER: And in situations like that, is Legal Aid allowed to take on those files?

⁷⁷¹ *Legal Services Act*, RSNWT 1988, c.L-4, s.45(4).

PARTICIPANT: I don't think that... So, when you say allowed, our legislation with respect to the legal eligibility does not prohibit us from actually taking on a construction case, because the statute doesn't actually bar that. However, someone with financial means to own a house typically will fall outside of the financial [imperative], and so we won't be able to take them because of the financial ineligibility.

Keith is describing an interesting intersection between the institutional processes of housing and the legal system. Here, Keith is referring to the following provision in the *Legal Services Act*:

31. (1) A person is not eligible to receive legal services to the extent that, according to the prescribed financial criteria, the person can afford to pay for the services from his or her own resources.

Scope of criteria

(2) The criteria referred to in subsection (1) shall include reference to the assets, liabilities, income, expenses and requirements of the applicant and his or her spouse and dependants.⁷⁷²

The *Legal Services Act* serves as a regulating text that prescribes how legal aid services are provided, to whom and by whom. Certain people are ineligible for legal aid services because the institutional text deems them as being able to afford to pay for a lawyer, based on a set of institutional criteria, even though, as Keith describes, they may actually be struggling financially, being forced to live in an uninhabitable house. There is, in essence, a disjuncture between what is prescribed by the institutional discourse about who should be able to afford a lawyer and the actuality where these homeowners are situated.

Even if they can afford to hire a lawyer, Keith explains how it may be difficult for them to actually find a lawyer who can take their case:

INTERVIEWER: Are they usually able to get a private lawyer, or some assistance elsewhere, that you know of?

PARTICIPANT: So I think this is when the access to justice piece would come and tie in nicely to the discussion about construction and housing in Nunavut. It's that even though these folks have money, they're unable to find counsel in Nunavut. And there's several

⁷⁷² *Legal Services Act*, RSNWT 1988, cL-4, at s.31.

reasons why. The first is that the counsel either is asking for a lot of money, and they can't afford it. They can't afford to do the repair, carry costs, and pay legal counsel. But on the other hand, there's also the fact that a lot of the private bar services the businesses in Nunavut and represent the government. And sometimes in a housing case like this, the government could be implicated very easily. So for example, issuing a building code permit, investigations of a housing [site]... these are all government agents. So in a litigation of a construction file, there will be multiple defendants to the action. So you could sue the designer of the house, the repair person, the people who...the manufacturers, the supplies, the inspectors of building permits. So now I'm seeing seven potential defendants. And what happens is that they all get caught in that litigation. So a lot of the lawyers are actually conflicted out. So we've had clients come to us in desperation because the private bar couldn't serve them. But neither could legal aid.

Keith identifies here an access to justice issue for the middle class, the private homeowners who make too much money to qualify for legal aid, but are still dwarfed by larger entities such as the government and larger businesses who already retain the lawyers that comprise the small community that is the legal bar in Nunavut.

From C.A.'s standpoint, she has all of the responsibilities of owning a home, but no effective control or stability. As a result, C.A. has mixed feelings about her decision to buy a home and to take on the added work of homeownership on top of her already full plate:

PARTICIPANT: Saturday, it was cold. Oh my gosh. I don't know, do I want to do this again for another winter? Do I want to figure out where to get funding for this and that? I need to get my doors replaced but I don't have money to get those doors replaced. Fall time, when it rains, my daughter's window, the seal isn't very good, so it always seems to have water dripping down. I'm like, oh my gosh, what is next.

INTERVIEWER: Oh no. So new problems keep appearing?

PARTICIPANT: Yeah. And it's going to be another band-aid solution. I'm tired of going over to Housing Corp, because they ask for all your papers to be done again. I'm like, okay, let's do the papers again. I don't know how many times I've gone over there and cried. [...]

It's expensive. And where do you go? Who do you go to? And stuff like that. It's been... I'm ready to give up my house.

[...]

I'm just, like, beside myself trying to figure out where else can I go, what else can I do? And then it's hard because I'm only in a casual position, and stuff. So I'm like... [*Sighs*] If I could find a job that can get a house, I think I'd sell my house in a heartbeat, move into staff housing, anything.

Here, C.A. articulates her desire to dispose of her problems by selling her home and move into staff housing, where she would be a tenant and no longer responsible for repairs. From an institutional standpoint, this could be seen as a regressive move along the housing continuum, moving backwards from the institutional objective of financial independence from government subsidies. But for C.A., the responsibilities and the costs of homeownership has at times outweighed the benefits of homeownership:

So if I get staff housing, I'm selling this fucking house. [*Sighs*] Even though I sit here and say this is my kids' home and stuff. But I don't want that... We've struggled for so long. I don't want my kids to see that anymore. So if I ever get staff housing, I'm selling this house. I don't care. Then my kids have money in their pockets. All the years they've given me money for food, for fuel, for power. [Daughter] helps me with all that. And [daughter] helps with that. And that's her money for schooling, if she ever goes to school and stuff.

INTERVIEWER: So if you had the option, you're saying, to get a job that comes with staff housing that has the opportunity to rent, then you'd sell this house and move into... it's rentals, but staff housing?

PARTICIPANT: Yeah, I think so. Then I'm not worrying about fuel. I'm not paying electricity and water. It's all...

INTERVIEWER: And if something goes wrong, they have to deal with it?

PARTICIPANT: Yes! And then I have extra money in my pocket if I want to go on holiday, or buy my kids a vehicle, or something. Like [daughter] just figured out she wants a quad and stuff. And [daughter] wants to go to school, so some money can be put into her schooling fund. And a quad can be bought for [daughter], and I have extra money instead of having to worry about...

INTERVIEWER: Paying for repairs?

PARTICIPANT: Yeah. And I'm 57. Do I want to do this for the next ten years?

INTERVIEWER: Yeah, you want to retire eventually, right?

PARTICIPANT: I want to retire. I want to enjoy traveling. I want to enjoy life. I want to enjoy it. Instead of getting sick, like my hands were, and having to worry, do I have enough fuel for the winter? Do I have all these things have just gotten to the point where I'm like, I don't want to do this anymore. I don't want to do this anymore.

Even if she would have to pay rent rather than accumulating equity, she sees this as being less costly for her, which would allow her to pay for other things for her children. C.A. would face other challenges in the future, such as where she would go after retirement, as she would no longer have access to staff housing. But for her, selling her home and moving into staff

housing would immediately alleviate her of the burden that comes with the work of homeownership.

At the same time, C.A. is familiar with the benefits of homeownership, including accumulating generational wealth, and is torn about giving that up as well. During our conversation, she went back and forth about whether to keep the house, weighing the various considerations:

But then I'm thinking about my kids. This is their home. I can't just...sit there and say... This is their home. What are they going to do if once I'm out of staff housing and stuff like that?

[...]

INTERVIEWER: Your daughters are adults at this point. Are they looking for houses of their own, or do you think they want to stay with you?

PARTICIPANT: They're still young, so I think they'll live with me until they sit there and say... Because I think this is going to be their home, if I ever get it fixed and get back on track. This will be their home.

INTERVIEWER: You'd like to make this their home?

PARTICIPANT: Yeah. We always think of leaving your house to your kids, but not in this state...

INTERVIEWER: Yeah, so you want to fix it up for your daughters?

PARTICIPANT: Yeah.

On one hand, then, C.A. is tired of the challenges of homeownership, of being responsible for repairs that she cannot afford, even with the funding provided by the government, and for which the work required simply adds to her heavy burden as a single working mother. On the other hand, she is familiar with the institutional discourse about the advantages of homeownership, of having something to give to one's children, which is also a strong draw for her. Of course, as she mentioned, she does not want to give the house to her daughters in its current state.

As we have seen so far in this chapter, despite the prevalence of home ownership as an ideal in the Canadian institutional discourse on housing, how this institutional discourse plays out in Cambridge Bay varies, depending on a number of factors. Some participants in subsidized

public or staff housing had no interest in owning their own home, with the work that is involved in buying and maintaining a house. Others wished they could, but felt that the current housing market in Cambridge Bay were not affordable. Due to the lack of affordability, the territorial government offers subsidies to assist with down payments and home repairs. Despite this, we see that some community members struggle to keep their home, as the costs of maintaining it, arranging repairs, and paying the mortgage may prove to be unaffordable and unsustainable. Thus far I have highlighted the disjuncture between the institutional discourse and people's lived experiences. In the final section of this chapter, I will look at how problematizing the institutional discourse on homeownership and the housing continuum in general can open up other ways of understanding and seeing housing in Nunavut.

9.5 Problematizing the institutional discourse on the housing continuum

Key Insights:

- The housing crisis reflects more than simply a shortage of houses: it is important to think about how housing policies can support goals of Inuit self-determination.
- Many of the same issues occur for people living in different types of housing, including overcrowding and repair issues.
- This is because the same factors influence them: not only the Arctic environment, but also, significantly, the impacts of colonialism - especially the result of imposing systems and ideas from elsewhere on Inuit who already had their own way of being.
- The government's current view of housing is based on housing models from southern Canada, prioritizing individualist private housing markets and focusing on having a housing continuum that resembles those of southern Canadian models.
- Housing as a market commodity or a financial investment is only one way to look at housing. There are other ways to look at housing, like as a human right or in terms of relationships. It may be useful to envision what an Inuit-specific housing model might look like, suiting Inuit values and needs, in order to support Inuit self-determination.

At the beginning of this chapter, we examined the institutional discourse idealizing private market housing, to contrast with the challenges people shared from their knowledge and experiences to achieving these institutional goals of homeownership. Texts from the Government of Nunavut present the housing continuum according to categories of housing

constructed based on ownership and reliance on government subsidies, from emergency shelters and transitional housing to private home ownership, and set aspirational visions “where communities are strong and made up of health families and individuals with the skills and resources required to be self-reliant and to contribute to the territory.”⁷⁷³ Its actions to support these goals are tied to identifying and filling gaps in the continuum,⁷⁷⁴ reducing dependence on government subsidization,⁷⁷⁵ and moving people along the housing continuum towards the private market housing.⁷⁷⁶

These market-based housing goals prescribe specific political choices in the strategies outlined by the Government of Nunavut to address the housing crisis. For example, it notes that “to establish a market for housing, most Nunavut communities will need robust, sustained economic development” and points to resource development such as mining as an opportunity for employment and greater personal wealth, through which:

[...] High incomes would allow the government to recoup more of its public housing costs through increased rents. Sustained over a longer period, the higher income could even lead to greater homeownership. An acceleration of mining exploration and development could advance many aspects of Nunavut society, increasing employment and providing income that could create opportunities to improve the housing situation.⁷⁷⁷

We can see here that the government sees mining as one way to address the issues underlying the housing crisis. The government also sees an inverse relationship: through greater rates of homeownership and a larger and more diverse rental market as institutional goals, the

⁷⁷³ NHC Blueprint, *supra* note 2 at 3.

⁷⁷⁴ “An incomplete housing continuum limits movement from a housing-vulnerable state into stable housing. In other jurisdictions, many housing options enable individuals to reasonably transition from one housing type to another. In Nunavut the continuum is incomplete, resulting in public housing acting as a catch-all.” GN Framework, *supra* note 12 at 49.

⁷⁷⁵ “Nunavut’s housing system must promote independence, and reduce reliance on heavy government subsidization across all housing types” GN Framework, *supra* note 12 at 49.

⁷⁷⁶ “...Actions to address prohibitive costs of private home maintenance and repair to facilitate movement along the housing continuum”: NHC Blueprint, *supra* note 2 at 23; “Greater homeownership rates and a larger and more-diverse rental market are important objectives. Population growth demands that new houses be built; and **a move toward the private market would reduce pressures on government finances.**” GN Framework, *supra* note 12 at 35.

⁷⁷⁷ GN Framework, *supra* note 12 at 21.

Government of Nunavut sees a greater diversity of private sector housing options as contributing to economic development opportunities for investment, “creating a store of wealth that can be passed down through the generations.”⁷⁷⁸ These aspirational statements paint a specific picture of what housing security looks like for the territory, through the accumulation of individual wealth generated from a vibrant economy through resource development and other industries.

In presenting this institutional discourse, I am not necessarily critiquing the goals of reducing the dependence of Nunavummiut on government subsidization. Instead, I aim to show that the institutional objectives to move away from government reliance specifically *towards* a Western capitalist individualist model of a housing market is a policy choice, rather than an inevitable natural progression or the only possible outcome. There are other paths that can be taken, and it should not be taken for granted that it is the only or best policy choice for Nunavut. Given the historical context of colonialism in Nunavut, and the ongoing role it has played as a ruling relation as demonstrated throughout these chapters, it is worth asking whether housing in Nunavut *should* look like housing in other jurisdictions, and if not, what would best support Inuit goals of self-determination?

For example, Tester has questioned whether the Canadian housing policy approach of housing as a market commodity requiring state intervention only for market failure makes sense in the Inuit context, challenging the assumption that private homeownership should be the ultimate goal.⁷⁷⁹ While public housing is meant to provide affordable accommodation to households whose gross income below a certain “core need” threshold,⁷⁸⁰ Tester argues against framing Inuit housing as a market commodity and the housing shortage as an economic issue

⁷⁷⁸ GN Framework, *supra* note 12 at 35.

⁷⁷⁹ Tester, *supra* note 4 at 139-140 & 153.

⁷⁸⁰ Auditor General Report, *supra* note 490 at 3.

rooted in one's inability to earn enough to rent or own a home.⁷⁸¹ While western/European culture views home ownership as part of capital accumulation goals of individuals and nuclear families, Inuit cultural values emphasize fostering extended family relations through the sharing of material resources that might otherwise be used towards building equity in a home.⁷⁸² Instead, the housing crisis could be seen as “a failure of the market to provide Inuit with the means to afford shelter and a failure of the Canadian state to meet its moral, ethical, and—it can be argued—legal obligations to its original citizens.”⁷⁸³ Tester argues that rather than pursuing home ownership as an ideal form of housing in Nunavut, Inuit Qaujimajatuqangit-informed Inuit housing policy might consider other forms, such as organizing extended-family housing co-operatives, which would allocate resources and the responsibility of housing allocation to family units.⁷⁸⁴

One lawyer who has practiced in Nunavut also questioned whether homeownership should be the main goal:

There have been attempts by the Government of Nunavut, and there remain attempts by the Government of Nunavut to promote home ownership by the Inuit, here in Nunavut. [...] And those... Well, you'd have to access reports on that, but I would think that that is not necessarily working.

INTERVIEWER: So that homeownership shouldn't necessarily be the ideal or the only ideal to be promoting?

PARTICIPANT: Yes, I would agree with that completely. I would think that some form of a new relationship associated with Housing that involves the possibility of positive interaction, with an interest in maintaining stable and safe housing would be an excellent policy for the Government of Nunavut to take. Because it would have to surrender, in order to that, it would have to surrender the power to, among other things, un-house a

⁷⁸¹ Tester, *supra* note 4 at 138-139

⁷⁸² Tester, *supra* note 4 at 139.

⁷⁸³ Tester, *supra* note 4 at 139.

⁷⁸⁴ Tester, *supra* note 4 at 153-154; Inuit women have also reported that models imported from the south for addressing homelessness have not been successful: Little Voices *supra* note 2 at 69. The Government of Nunavut's *Blueprint for Action on Housing* has now recognized as part of its goal the provision of public housing through multi-family needs-based housing, which may signify a step in this direction: NHC Blueprint, *supra* note 2 at 38. The Northern Housing Forum has done some thinking on holistic approaches to northern housing design and construction that is culturally appropriate: Northern Housing Policy Recommendations, *supra* note 4. CMHC's Northern Housing Report has also noted that the average size of households in Nunavut suggests that “housing in Nunavut needs to be accommodative for large households”: CMHC Northern Housing Report, *supra* note 5 at 16.

family from a place where two generations have grown up, where they would consider it their home, right?

As discussed throughout these chapters, all aspects of the housing continuum are subsidized by the territorial government in some way or another, from public housing to private homeownership. Indeed, given issues discussed in these chapters, including the disrepair issues aggravated by the harsh Arctic environment, limited supplies that must be shipped by barge once a year or by costly flights, and limited labour pool, it is worth questioning whether housing in Nunavut will ever be profitable enough to sustain a mostly self-sufficient market, where demands can drive supply with minimal state intervention.

The conception of housing as an investment or a commodity in a business transaction, from which profit can be derived, is in itself a specific institutional construction promoted in the institutional discourse. There are other ways to view housing, such as, for example, as a human right.⁷⁸⁵ I did not use a human rights-based approach for this research project, as I was mindful of some Indigenous scholars' critiques of the limitations of rights discourse that relies on state recognition of Indigenous self-determination,⁷⁸⁶ and instead I wanted to try an approach less commonly used in the field of law (that is, institutional ethnography), in the hopes that it might provide a fresh new perspective. However, analyzing Nunavut's housing crisis through the lens of a human rights-based approach would be an interesting direction for future research, potentially building on the Federal Housing Advocate's Observational Report on Inuit Housing which uses such a framework.⁷⁸⁷

⁷⁸⁵ There has been greater recognition of housing as a human right in Canadian discussions, including in the *National Housing Strategy Act*, SC 2019 c. 29, s.313. There has also been litigation relating to the homeless people's right to shelter in cases such as *Waterloo v Persons Unknown*, 2023 ONSC 670, *Kingston v Doe*, 2023 ONSC 6662, *Vandenburg v Vancouver (City) Fire and Rescue Services*, 2023 BCSC 2104.

⁷⁸⁶ For example, see Coulthard, *supra* note 330 and Cornthassel, *supra* note 330.

⁷⁸⁷ Federal Housing Advocate's Report, *supra* note 43.

Alternatively, one can choose to focus on the relational aspect of housing, the intangible connections that make it feel like home. For example, what made the process of buying Mia Otokiak's home so special was her personal connection with the house itself: she had bought the home that had belonged to her childhood best friend living next door to her family's home.

So, when this was [the previous homeowners'] house, and they had been living here a long, long time in this house, my parents lived next door. So my actual living childhood house was next door. So [my best friend] and I spent many weekends, many sleepovers, many visits together, here in this house. So in this kitchen, in our house, right now, the kitchen windows look across right to my old bedroom window. [My friend] and I literally bought each other walky-talkies, and she would have one in here in her house, and I would have one in my room. And we would be walky-talky, talking to each other, looking at each other through the windows. It was amazing living... Because you always dream of it, in the movies, living next door to your best friend. Me and [my best friend] lived next door to each other for years. And to think that this is my house now.

In this way, the transfer of the home is not a purely business transaction, but also an extension of the pre-existing relationship between the buyer and seller, in the context of a small community like Cambridge Bay. The previous homeowners could have sold their house to anyone, including for a higher price, given the current housing market. But they were interested in selling the house they had lived in for many years to someone that they cared about, knowing that Mia Otokiak also cared about the home. As such, this interaction is more than a financial transfer of property or wealth, but an act of caring within the context of their relationship, where the previous owners left Post-It note reminders to help them maintain the house. This also emphasizes how, despite the various complaints that some neighbours may have about each other as was examined in Chapter 7 on the discussion of "unacceptable" tenants, the connections that bind people to each other in Cambridge Bay can also help them. It was through Mia's personal connection that she was able to buy her home in a relatively straightforward manner. Multiple community members I spoke to were able to buy their houses through their personal connection,

which is not surprising given the small size of Cambridge Bay's population and the close-knit nature of the community.

Thus far in this institutional ethnography, we have focused primarily on the relations of ruling that subordinate people's experiences as they navigate their housing situation. But in Inuit communities like Cambridge Bay, the personal relationships between people also shape their experiences in positive ways.⁷⁸⁸ Indigenous ethical frameworks can often be based on relationships and context rather than on rules or individuals,⁷⁸⁹ and Inuit Qaujimajatuqangit emphasizes the connections between people and as well as amongst all living things, as stated by Inuit elder Louis Angalik:

Inuit Qaujimajatuqangit is not a pond where the water is stagnated and unusable, but is like a healthy lake which is in a continuous motion. There is always a river that flows into the lake and another river that flows out of the lake. In the same way, Inuit were always well-connected to each other. Inuit lived traditionally without any other way to exist. The ways of being and survival were the only proven ways to survive, co-existing with extended families.⁷⁹⁰

Given the Inuit Qaujimajatuqangit view of people as being relationally interconnected both to each other as well as to the impacts of our actions, Inuit laws prioritize living in a respectful harmonious balance with each other, the land, and all living things.⁷⁹¹ In Chapter 2's literature review section of this dissertation, I discussed Inuit Qaujimajatuqangit approaches to resource allocation, drawing on studies examining at food sharing practices as an example of the important role that sharing resources according to Inuit Qaujimajatuqangit plays in strengthening

⁷⁸⁸ Louis Angalik describes the connection between generations as being like the ropes that connect one's sled to the dogs (*qiturngat*): Angalik, *supra* note 116 at 84.

⁷⁸⁹ Ferrazzi, Christie et al, *supra* note 24.

⁷⁹⁰ Angalik, *supra* note 116 at 83.

⁷⁹¹ Karetak & Tester, *supra* note 94 at 6; Akittiq & Karetak, *supra* note 94 at 113; Angalik, *supra* note 116 at 88; Uluadluak, *supra* note 101 at 169; Karetak, *Healing*, *supra* note 104 at 192; Kalluak, *supra* note 99 at 42; Attangalaaq, *supra* note 109 at 108-109.

community well-being and Inuit cultural identities.⁷⁹² Harder and Wenzel found that social relations facilitate food sharing practices in Inuit communities like Clyde River.⁷⁹³ However, they expressed a concern that these Inuit approaches were not accounted for in the Canadian government's Canadian Community Health Survey, which defines food insecurity as if someone in the household had not eaten the quality or variety of food that he or she wanted, worried about not having enough to eat, or did not have enough to eat in the past year *for lack of money in the household*.⁷⁹⁴ Harder and Wenzel pointed out that this definition does not fit well with the Inuit context:

[I]t assumes a Western economic framework and does not take into account a more nuanced understanding of Inuit economy. As documented, the Inuit economy is not limited to the wage economy, but is based on both food and monetary resources and is driven by a social rationale. Given that money is scarce in Arctic communities, the CCHS framework is a problematic way of looking at food security.⁷⁹⁵

Instead, Harder and Wenzel suggest that a culturally-appropriate study of Arctic food security must account for the societal context in which these economic activities occur – specifically how the allocation of resources is socially structured and organized, and the way social relations affect the availability of food resources to households.⁷⁹⁶

We can see how similar Inuit practices of sharing resources as a relational act of caring as part of working together toward the common good can happen within a community like Cambridge Bay, with respect to housing. We see this relational act in the interactions between Mia and her friend's parents when transferring the family home. We also saw in earlier chapters how Inuit will open up their homes to friends and family who need a place to sleep for the night,

⁷⁹² For example, Harder & Wenzel, *supra* note 189; Newell et al, *supra* note 188; Chan et al, *supra* note 196; Tomaselli et al, *supra* note 196; Ford & Beaumier, *supra* note 197.

⁷⁹³ Harder & Wenzel, *supra* note 189 at 316.

⁷⁹⁴ Harder & Wenzel, *supra* note 189 at 314.

⁷⁹⁵ Harder & Wenzel, *supra* note 189 at 314.

⁷⁹⁶ Harder & Wenzel, *supra* note 189 at 315 & 316.

even if they can only offer a couch in an already crowded home. But these Inuit Qaujimajatuqangit approaches are not reflected in the institutional complex, which constructs the transfer of housing as a financial transaction, rather than a relational act of caring. According to the institutional discourse, housing is a commodity in a competitive capitalist market. This authorized view makes assumptions about how people will use their resources out of individualist self-interest. Similar to Harder and Wenzel's critique of the institutional approach to conceptualizing food security, Lauster and Tester have described how applying non-Inuit standards for measuring residential crowding such as the "person per room" standard often used in the United States or the Canadian National Occupancy Standards does not account for Inuit cultural experiences of the problem of overcrowding, and therefore may not produce policy solutions appropriate for Inuit.⁷⁹⁷ The role of Inuit Qaujimajatuqangit and social relations are not reflected in the ruling discourse. Instead, while community members still try to continue practicing these relational acts of caring with respect to housing to work towards the common good, they are also governed by ruling relations mediated through standardizing texts such as housing-related legislation and policies created from afar that do not account for these localized contexts. Smith explains that text-mediated ruling relations are the forms through which power is generated and held in contemporary society, where the indefinite replicability of identical forms of meaning in printed/electronic texts can be activated in multiple local settings.⁷⁹⁸ In the Inuit context, this exercise of extra-local power on Inuit communities subordinating the governing roles of Inuit Qaujimajatuqangit serves to reinforce the impacts of colonialism. Although many of the institutional texts that I have been quoting state that they are guided by the Inuit societal

⁷⁹⁷ Lauster & Tester, *supra* note 25.

⁷⁹⁸ Smith, *Writing the Social*, *supra* note 270 at 79.

values adopted by the Government of Nunavut,⁷⁹⁹ some thinkers such as Tina Decouto have argued that these are token efforts that turn Inuit Qaujimajatuqangit into a “limited definition of a set of principles, minimizing the critical concepts of Inuit worldview” subsumed in western-style governance systems.⁸⁰⁰ Karetak and Tester argue that this displacement of Inuit Qaujimajatuqangit in favour of a western practices of inequality produce an imbalance that leads to the eventual suffering of all people.⁸⁰¹

Homeownership is often idealized in Canadian conversations because of the perceived precarity of other forms of housing. When you rent, you do not own or have control of your living situation. But both institutional ethnography and Inuit Qaujimajatuqangit present ways to look at the world that suggest that nobody is in fact in total control of their situation and their future, and independent of external influences. Inuit elder Mark Kalluak observed:

Step outdoors to observe the weather because we were told there is an unseen force out there. If we wanted to live a long successful life we must show respect for that unseen force.⁸⁰²

We are all subject to invisible forces that are outside of our control, whether it is social relations as per institutional ethnography, where the policy decisions of a bureaucrat in Iqaluit or Ottawa will shape how community members in Cambridge Bay will navigate their housing needs; or the connections that are not just social but also spiritual or physical as per Inuit Qaujimajatuqangit, manifesting in, for example, the Arctic environment which impact so many aspects of housing, or the ethical duty to care for each other. Both of these frameworks would remind us that even homeowners are subject to relations that extend outside of themselves (as we

⁷⁹⁹ GN Framework, *supra* note 12 at 11; GN Strategy, *supra* note 2 at 5; NHC Blueprint, *supra* note 2 at 2.

⁸⁰⁰ DeCouto, *supra* note 171 at 165.

⁸⁰¹ Karetak & Tester, *supra* note 94 at 13.

⁸⁰² Kalluak, *supra* note 99 at 54.

have seen in this chapter), and that to some extent, some level of precarity is part of our existence as humans.

This is why I ask the question: why should it be assumed that the best fit for Inuit is a housing continuum based on southern Canadian jurisdictions such as that of North Vancouver or Ottawa, given that Canadian cities in the south are also suffering housing crises of their own? Is there space for innovative policy choices about how people can live together in a manner that suits their needs and the culture, with Nunavut its own vision for housing?⁸⁰³

What exactly that might look like could easily fill the scope of an entirely new project. This dissertation is not a policy paper, as I set out to understand what is happening with respect to the housing crisis in Cambridge Bay and how those experiences are put together. Yet we have uncovered some relevant elements that give some hints on where to go. Inuit have called for self-determination in housing, with Inuit playing a direct role in receiving direct funding to build and manage housing in their communities.⁸⁰⁴ There is also space for innovative thinking about how those houses are built, incorporating Inuit Qaujimajatuqangit considerations for how to build a home in harmony with environmental conditions,⁸⁰⁵ and increasing local Inuit labour to do so. This also requires measuring housing needs appropriately in an Inuit-specific context.

Participants talked about different ideas they had about housing in Cambridge Bay. Bryan Vandenbrink wants to explore the idea of living further out on the land, outside of Cambridge Bay:

But I obviously have plans to build my own, because I want to live outside of the community, as opposed to living in it. It's because in the summer, the roads are super dusty and then you have drunk people running around. I'd like to live completely away from that.

⁸⁰³ Indeed, some participants mentioned how different Inuit regions in Canada have different models and approaches, and priorities to housing, highlighting that there are more multiple possible policy pathways.

⁸⁰⁴ Inuit Nunangat Housing Strategy, *supra* note 37 at 14; Senate Report, *supra* note 43 at 6.

⁸⁰⁵ Bennett & Rowley, *supra* note 113.

Bryan would like to build his own specially-designed off-grid home, built from shipping containers, running on alternative renewable energy, making homesteading a more realistic possibility in the Arctic:

Off the grid. In southern Canada, you're typically going to tie yourself back to the grid by installing things like power lines, drilling a well, setting up a septic system. That kind of thing. Adapting all those things for use in the Arctic is something that I'm interested in finding solutions for. Basically, how do you homestead the Arctic, or live remotely in a rural fashion? And that's the thing. Once you get up to the Arctic, as soon as you leave the community, your access to electricity and all these other amenities decline. You're living basically like how you would back, fifty, sixty years ago, where you don't have access to running water. Any water you'd have to carry with you in a jug or a container. And you don't have access to electricity unless you're bringing a generator. So solving all those for living rurally within the Arctic is one of the things that I want to focus on. [...] We have 24-hour daylight in the summer, so installing a bunch of solar panels for power with a wind turbine and a backup generator would work. And you could just live there and commute to work as you would normally.

[...]

In these Arctic communities, diesel is how everyone has access to power. So, they have a much larger version of that in large diesel generators, in every single community in the Arctic. But that [alternative renewable energy] is genius, and adapting off-the-grid systems for use in the Arctic would be a game changer, because you're basically able to take advantage of not just diesel power generation as a backup, but solar for a lot of your summer, mostly summer, but if you tied that with a wind turbine as well, you're basically able to live, I think probably, you'd be able to live on the land all year-round...

In the passage above, Bryan describes wanting to live further out on the land, outside of the community of Cambridge Bay, while relying on alternative renewable energy rather than diesel for power. I note that while in the past, the government induced Inuit to move to permanent settlements as part of colonialist policies, Bryan's dream could represent a way for some Inuit to live in a manner that is more harmonious with the environment.

Stuart Rostant and Amanda Doiron are service providers in Cambridge Bay who build homes. They are working on ways to build homes better suited for the Arctic environment, while also aiming to develop and utilize local labour. One innovative housing design they have are

modular homes that can be expanded and changed as the composition of a household also changes:

AMANDA: The thought is, by standardizing these pods into different layouts, you can connect them together. You can have one bedroom here, and then you can have another bedroom there.

That could be your rental income. It could be your mother. It could be your daughter. Or you could have two pods and your entrance on this side is all bedrooms and this is your living area.

INTERVIEWER: So, people can order up which designs they want?

AMANDA: So, you could be in a A and a C together. There could be a mechanical room. There's also the possibility that you buy this, with your mechanical room, and you have your entrance, and then three years from now, you have a child, and on year five, you go to the bank and say I want to re-finance. I'm adding a pod to my house, which I already own the land, I have my sea can and my quads and everything, and I'm expanding my house by ordering a pod C, because it's going to be added to that, which is going to be more bedrooms and bathrooms.

INTERVIEWER: Oh, it's modular.

A: Yes! Completely.

While Stuart and Amanda are not Inuit, as long-time residents in Cambridge Bay, they recognize that household compositions in the community can change over time and strive to design homes that can reflect some flexibility to support the household.

Other participants talked about how they got their home through a tenants' rent-to-own program that does not seem to be running anymore at this time. Employers also expressed some interest in exploring a rent-to-own program for staff housing. Tester suggests it would be useful to consider how collective ownership of housing units such as co-operatives might address Inuit principles of sharing and collective responsibility.⁸⁰⁶ Whether it is exploring cooperative housing arrangements, rent-to-own programs, homesteading, supportive housing, or modular housing units that can be expanded as families grow, there are many innovative housing ideas that could be explored with Inuit Qaujimajatuqangit considerations.

⁸⁰⁶ Tester, *supra* note 4 at 153-154.

To be clear, homeownership has certainly brought substantial relief and satisfaction to others. Mia Otokiak explains how buying a home has made her feel better:

A hundred percent. I mean, even since before I owned this house. In the process of filling out the papers and getting all that and knowing that it will be my house. And it's not even like... I'm not trying to brag. I'm happy and proud for myself, because I was able to do this huge life-changing buy with my boyfriend at the time. And now it's been two years of my own house, living under my own roof. And it has hugely improved my mental health. A hundred percent.

Yet the stories of frustration from some participants like C.A., as well as the issues expressed by others navigating the private housing market suggests that there may be other ways to aspire to live. It is time to explore different policy options and models, based on the values and priorities of Nunavummiut. As I write this dissertation, the federal government has just announced that it will be allocating \$27 million dollars from the Canada Mortgage and Housing Corporation Accelerator Fund to build houses in Nunavut, where housing agreements to be signed with each community in Nunavut to allow each community to adopt its own housing strategy.⁸⁰⁷ Now is the time to explore innovative ideas about what housing in Cambridge Bay (and the rest of Nunavut) can look like, not necessarily based on models transplanted from southern Canadian jurisdictions, but based on the needs and aspirations of local residents.

⁸⁰⁷ Trevor Wright, "Feds announce \$27M for housing in Nunavut" *APTN News* (8 January 2024), online: <https://www.aptnnews.ca/national-news/federal-government-money-housing-in-nunavut/>

Chapter 10: Conclusion: Reflections on this research

10.1. The need for housing solutions specific to Nunavut to support Inuit self-determination

In the fall of 2022, I happened to sit next to the CEO of the Nunavut Housing Corporation on my flight to Rankin Inlet where I was traveling to help the Law Society of Nunavut deliver legal rights workshops. In talking to him, I learned that he was on his way to make a major announcement about the territorial plans for addressing the housing crisis, called *Igluliuqatigiingniq* Nunavut 3000. Since I was going to be in town, I decided to attend the launch, which was being held at the local trade school. I still remember squatting on the floor at the back of the room, so crowded that the people spilled out into the hall, feeling the excitement in the air, looking up at so many key political Inuit leaders who had shaped Nunavut's history, and listening to the announcements of the Government of Nunavut's plans. *Igluliuqatigiingniq* Nunavut 3000 aims to expand the housing continuum through innovation and partnership with Inuit organizations, industry stakeholders and other levels of government, with the specific goal of building 3000 new housing units in Nunavut by 2030.⁸⁰⁸

This announcement is an exciting step towards addressing the housing crisis in Nunavut. However, as I have tried to demonstrate through this research, the housing crisis is about more than simply a shortage of houses.⁸⁰⁹ It is also about how the housing crisis came up in the first place: where the government induced Inuit to shift from their mobile seasonal lifestyle to permanent settlements across Nunavut, by promising to provide them with housing and other resources. These houses that the government provided, however, were not specially designed to

⁸⁰⁸ Nunavut 3000 Strategy, *supra* note 12.

⁸⁰⁹ There are also concerns that this is still not enough houses. For example, one source estimates the Nunavut will actually need 5358 more houses by 2037, if current rates stay consistent: GN Framework, *supra* note 12 at 42.

suit the Arctic environment like the homes that Inuit had been building for centuries guided by Inuit Qaujimajatuqangit, but instead were designs imported from southern Canada, much like the bureaucratic systems also imposed on Inuit. This is the context in which the housing crisis has unfolded in Nunavut, with many Inuit living in overcrowded houses in subpar condition, while still remembering the promises the government made to their families. This context is not reflected in the institutional discourse or in the institutional features of the systems and processes to which Inuit are subjected.

These contextual elements must be made visible again when addressing the housing crisis and making decisions about, for example, who will get the new units, how that would be decided, what to do about the currently existing older houses, and more generally, how to live in these homes as part as living the good life aligned with Inuit Qaujimajatuqangit. As I summarize in this concluding chapter, there is much further thinking that can be done and that *should* be done to meaningfully address the housing crisis in a manner that supports Inuit goals of self-determination. A summary of the findings can also be found in Appendix 5.

Through this research, as an original contribution to the field of research, I have used institutional ethnography to study Nunavut's housing crisis as it has unfolded in Cambridge Bay. Both Inuit Qaujimajatuqangit and institutional ethnography emphasize the relational nature of the world. Institutional ethnography focuses on the ruling relations: even when we are located in different places and we may not even know each other or meet face-to-face, our activities are connected and are coordinated by ruling relations, which though invisible, do exist beyond ourselves.⁸¹⁰ An Inuit Qaujimajatuqangit worldview also sees human beings as being connected to each other, but also all living beings, which including nature itself and the world around us,

⁸¹⁰ Smith & Griffith, *supra* note 8 at 44; Devault & McCoy, *supra* note 7 at 17.

subject to invisible forces beyond us, adding a physical/environmental/spiritual element to the social focus.⁸¹¹ As such, Inuit have noted that striving for a good life can include trying to holistically understand the context in which one is situated and the connections between things.⁸¹²

These frameworks help produce particular insights about how people's housing experiences in Cambridge Bay are put together. For example, despite the differences between a public housing tenant and a homeowner, it is worth noting that many of the same issues persist across the housing continuum. Overcrowding is a common problem, regardless of who owns the house: with not enough homes available, public housing tenants *and* homeowners must be prepared to allow friends and families in need to couchsurf. All forms of housing also face challenges with respect to getting adequate repairs and maintenance work done in a timely manner, because many of the houses were built according to southern Canadian designs rather than being suited for the Arctic environment; furthermore, the small labour pool and the limited supply of housing materials mean that repair work can be significantly delayed, whether for public housing, staff housing, or privately rented or owned homes. This is not to say, of course, that all residents are affected to the same degree, as we have seen how public housing tenants can be particularly vulnerable given the nature of their socio-economic status. But the same issues manifest in various ways, regardless of where one is situated on the housing continuum presented by the territorial government.

These issues exist across the continuum because it is the same invisible forces that coordinate the everyday experiences of people located at different sites. Through institutional ethnography, I stitched these various locally-situated experiences together in order to see more of

⁸¹¹ Karetak & Tester, *supra* note 94 at 5.

⁸¹² Karetak & Tester, *supra* note 94 at 8; Kalluak, *supra* note 99 at 42.

the broader picture of these large ruling but invisible forces.⁸¹³ It brings into focus the impacts of colonialism in Nunavut, and the results of imposing a foreign system of operating while displacing an entire worldview that has existed for millennia. After all, community members and other previously recorded accounts described how Inuit in the Kitikmeot region had their own way of living until Canadian government policies enticed them to move to the permanent settlement that became the community of Cambridge Bay, under the promise that they would be provided with housing. We also saw how Inuit have critiqued inadequate government support for housing, which flows from the federal government to Inuit indirectly through the territorial government. Service providers in this study also discussed issues relating to a lack of resources. Inuit have advocated instead for direct funding and direct involvement of Inuit in decision-making about housing, in order to support goals of Inuit self-determination to overcome the impacts of colonialist practices.⁸¹⁴

The unique Arctic environment also significantly shapes people's housing experiences across the spectrum. For example, whether one is trying to build and maintain public housing units or a privately owned condo, participants noted how these factors drive costs up and make logistical planning difficult. This is particularly the case for houses in the community that have not been designed for the Arctic environment. This can also be said about housing systems and processes that have not originated from Inuit, but transplanted from southern Canada.

Throughout these chapters we have traced the experiences of community members and service providers across various sites of the housing continuum, as they navigated through housing and law processes that are textually-mediated and modelled on Western bureaucracies, but applied in the context of Inuit communities. Standardizing texts like the *Residential*

⁸¹³ Smith, *Sociology for People*, *supra* note 7 at 1.

⁸¹⁴ Senate Report, *supra* note 43 at 5; Inuit Nunangat Housing Strategy, *supra* note 37 at 25.

Tenancies Act or Nunavut Housing Corporation policies play a prominent coordinating role in setting out the processes that must be followed. These texts are generally in a written medium, stripped of context, drafted by an unknown writer in a different time and place. Smith describes how in the textual mode, “a knower’s only access to the object of knowledge is through its textual presence.”⁸¹⁵ When contrasted with how Inuit have historically gone about their everyday activities, whether building and maintaining a home, sharing resources, solving problems, or otherwise finding ways to live the good life together, where knowledge is primarily shared orally and with a relational focus (who is sharing knowledge to whom? in what context?), we can understand more the disjunctures that have been produced through colonialism. With colonization, texts as found in territorial legislation, regulations, policies, and other directives, displace the primary role that oral tradition played in coordinating the activities of Inuit. While Inuit practices have involved solving problems through face-to-face relationship-based oral communication strategies that allow for flexibility and contextualization, colonialism has imposed new modes of governing society that are constituted externally to specific people and places, to impose through texts a “sameness” that remains fixed despite the actual context, and despite whether it fits the actual context.⁸¹⁶ Outside of the specific context of the colonization of Indigenous peoples, Smith traces how western society historically became increasingly complex producing new, large-scale forms of organizing business and governance.⁸¹⁷ She notes, “instead of people passing on news from mouth to ear and waiting to hear about distant places from travelers, we watch television, news, dramas, games, talk shows, and so on, which no one individual created and the sources of which are many.”⁸¹⁸

⁸¹⁵ Smith, *Conceptual*, *supra* note 7 at 63.

⁸¹⁶ Smith, *Conceptual*, *supra* note 7 at 69; Smith, *Sociology for People*, *supra* note 7 at 13.

⁸¹⁷ Smith, *Sociology for People*, *supra* note 7 at 17.

⁸¹⁸ Smith, *Sociology for People*, *supra* note 7 at 18 & 19.

We can see through this institutional ethnography that this is also what colonialism has imposed on Inuit, displacing Inuit practices and sources of ruling with Western bureaucratic practices. This brings to mind Turner and Bomberry's institutional ethnography on police services for Six Nations victims of sexual violence, where local police officers had to "work in conditions of underfunding and with standardized texts that exclude providing culturally appropriate ways to help community members according to their laws."⁸¹⁹ They noted how officers described having to navigate two worldviews and balance externally imposed laws and methods with Haudenosaunee laws and principles of justice.⁸²⁰

Here, through the stories of participants, we have seen how the housing shortage can have wide-ranging impacts on many other aspects of a person's life, including their ability to care for their family, get an education and earn an income. It also shapes more generally community well-being, ultimately serving as a barrier to Inuit self-determination. Community members like Bryan Vandenbrink worry about how this will impact the future of Inuit:

PARTICIPANT: I believe that more than half of Nunavut is under the age of 18. So like in the next decade, there's going to be pretty much the entirety of... well, half the territory is going to be turning eighteen in the next decade. Five to ten years, somewhere around there. But this idea that there's no plan for where they're going to live, or where they're going to work, or how they're going to be educated. So right now, that's kind of when the planning needs to happen, because if it doesn't happen, then all of a sudden you have to put these extra bodies into homes that basically, if we're not making more public housing units, then where are they going to go? Like they can't all be stuffed into shoeboxes or under stairs, in the case of like Harry Potter. And that's a very serious problem. And that's going to be huge in the future. So there's no planning from the feds or the GN on how that's going to be addressed. Where are these folks going to work? Where are they going to get educated? Where are they going to... what's going to work? So these are very serious problems that aren't being addressed, and that's something that I think needs to happen.

INTERVIEWER: So you're saying that these problems that currently exist are just going to get worse, right?

PARTICIPANT: It's going to get much worse.

⁸¹⁹ Turner & Bomberry, *supra* note 261 at 291.

⁸²⁰ Turner & Bomberry, *supra* note 261 at 291.

As Bryan describes, more people will be seeking housing as years ago by. The already aging homes will continue to get older. Nunavut's population continues to grow, as does the community of Cambridge Bay. Participants spoke about how young people were considering leaving the community due to a lack of prospects of getting their own housing, employment, and childcare. Although the housing crisis is already severe, it will only get worse unless appropriate action is taken.⁸²¹

This further reinforces that solutions should involve housing systems and construction designs specifically suited to the local context of Nunavut and its communities, rather than merely importing and imposing southern Canadian housing designs and ways of operating. Participants talked about the importance of Inuit self-determination and taking a holistic approach to dealing with the housing crisis: empowering Inuit to strengthen not just all types of housing, but also other socio-economic elements that are invariably connected, such as education, for all communities throughout Nunavut. They also emphasized the importance to providing Inuit with direct opportunities in decision-making and funding to do so.

Understanding how ruling relations serve to reinforce the impacts of colonialism rather than advancing Inuit self-determination gives us the opportunity to think consciously about how Inuit Qaujimajatuqangit *can* meaningfully guide approaches to housing in Nunavut. Inuit Qaujimajatuqangit is not simply about the old ways by which Inuit used to live: it is about taking the best of Inuit values, contemporary methods and means of governance and adapting them to the changing context.⁸²² As mentioned, many institutional texts in Nunavut reference the guiding

⁸²¹ Concerns about demand for housing only increasing as Nunavut's population grows have also been reported elsewhere: CMHC Northern Housing Report, *supra* note 5 at 16. Pauktuutit has expressed concerns about how this in turn will increase the exposure of Inuit women and girls to family violence: Study of Gender-based Violence and Shelter Services Needs, *supra* note 6 at 43.

⁸²² Arnakak, *supra* note 97 at 36.

principles of Inuit Societal Values, but it is not always evident how Inuit Qaujimajatuqangit serves an actual coordinating role in many institutional processes. For example, Amautiit Nunavut Inuit Women's Association's recent report on the *Nunavut Human Rights Act* noted how the Nunavut Human Rights Tribunal website discusses how mediation can integrate Inuit Qaujimajatuqangit principles and the Tribunal may assign a member with cultural knowledge to participate in mediation, but that there is no information on how often this happens or if there are any other ways that the Tribunal upholds Inuit culture and values.⁸²³ Tina Decouto points out that Government of Nunavut job postings predominantly list knowledge of Inuit culture as an "asset" while listing government and formal education credentials as requirements, demonstrating how the territorial government places more value on western, English-based post-secondary programs than Inuit values.⁸²⁴ This challenges the notion that Inuit Qaujimajatuqangit can be treated as simply another policy consideration to add and stir into a Western system; Shirley Tagalik argues that "an Inuit view of the world should be respected and preserved, not diluted or transformed."⁸²⁵ Instead, Tina Decouto argues that Inuit must continue to challenge the *status quo* and dominant institutional culture entrenched in government.⁸²⁶ For her, full institutional recognition of Inuit Qaujimajatuqangit requires:

[...] changes to existing legislation regulations, and other policies. Meaningful structure changes to governance systems must also be made by reducing reliance on ad hoc Inuit committees and instead focusing on adequately supporting Inuit with human and financial resources. For example, the Government of Nunavut could build teams with appropriate expertise and ensure control of these teams is maintained by Inuit. The appropriate 'western' expertise would then act in an advisory capacity. This type of system would foster an ethical space of engagement and ensure the dominant culture does not impede Inuit Qaujimajatuqangit.⁸²⁷

⁸²³ Amautiit, *supra* note 466 at 29.

⁸²⁴ DeCouto, *supra* note 171 at 176.

⁸²⁵ Tagalik, *supra* note 94 at 7.

⁸²⁶ DeCouto, *supra* note 171 at 169.

⁸²⁷ DeCouto, *supra* note 171 at 181.

She concludes that when “we have a territorial government which truly works from an Inuit world view that we also guide ourselves by, then *that* will be Nunavut.”⁸²⁸

10.2. Understanding access to justice in the context of housing in Cambridge Bay

Two decades ago, MacDonald noted that is a need to expand our knowledge base, noting that there has been little research on access to justice despite many reports that called for more research and information.⁸²⁹ In doing so, he pointed out that it is also crucial to understand what we are trying to learn and how we go about it:

It is far from clear that collecting raw material about the volume of legislation, regulations and litigation is very helpful....As studies in the 1970's observed, defining – without even attempting to assess how well they are being met – the ‘legal needs of the public’ is itself a difficult (and politically sensitive) task.... If we don't really know the legal needs of the public, and if (what is worse) we don't even know how we might go about conducting a needs assessment, and if (worst of all) we don't have any comparative baselines...how can we possibly make demonstrable affirmations about the problems and its solutions?⁸³⁰

For this research, I aimed to explicate people's experiences of housing to understand access to justice in Nunavut. Institutional ethnography is about understanding how things are put together and how things work,⁸³¹ and as such, I saw it as a useful empirical tool for studying access to justice, in tracing the role of law and justice in helping (or not helping) people to live the good life.

During my analysis, insights about the state of access to justice emerged, not as separate findings or conclusions on their own, but as part of the uncovering of the ruling relations and the organization of people's activities. It served as a reminder that laws – and solutions to access to

⁸²⁸ DeCouto, *supra* note 171 at 164.

⁸²⁹ MacDonald, *supra* note 16 at 102.

⁸³⁰ MacDonald, *supra* note 16 at 103.

⁸³¹ Smith, *IE as Practice*, *supra* note 20 at 1.

justice issues - should not be studied in isolation, but as they interact with people's activities and other subject areas, consistent with the holistic view of access to justice that I discussed in the literature review of this dissertation.

10.2.1. The standardizing role of law and institutional accounts as dehumanization in the context of colonialism

I found that the institutional ethnography concepts of institutional accounts and institutional discourse served as a useful frame for understanding the differences between what the law says and how people experience it. We saw how people's experiences of a given situation are filtered and translated to be worked up into an institutional account of their experience, in order to be fitted into the institutional processes. This filtering was also evident in the quantification of a person's housing needs for a public housing application so that they can be placed on the waiting list in accordance with housing allocation policies and legal principles about procedural fairness that result in people being rated numerically against each other. As a result, qualitative aspects of a person's housing situation often disappear. We also saw this happening when damages to a public housing rental unit had to be sorted into institutional categories of "ordinary wear and tear", "vandalism", or "tenant damages", because legislative provisions of the *Residential Tenancies Act* prescribe that tenants must repair damages that they are deemed to be responsible for. Determining whether something is to be institutionally classified as "tenant damages" is rooted in certain institutional criteria which can be at times somewhat arbitrary, such as whether it was reported to the police, even if the police cannot in fact verify who was responsible for the damage. Even if the damages were caused by someone that the tenant "allowed" in their home, these institutional accounts may mask underlying dynamics, such as family violence. These aspects of a person's actualities do not appear in the

institutional accounts, even though they must deal with the very real consequences (including potential legal consequences of eviction proceedings) of being labeled an “unacceptable tenant” according to the institutional discourse. As a result, these institutional accounts create a disjuncture between what is prescribed and taken up by the institutional discourse (the concepts and schemes that are institutionally inscribed) and how locally-situated people actually experience the world.⁸³² One lawyer who has provided legal services in housing in the Kitikmeot region observed this disjuncture in the local housing organization’s records and tenants’ experiences, which are subsumed by the textual records:

[T]he LHOs do have significant documentation on the history of every relationship, and we’ve made available of ATIP [access to information and privacy requests] to assist in acquiring documentation for clients and the experience of clients as human beings does not always coincide with the documentation that has been created by these housing authorities.

These instances illustrate Smith’s observations about institutional language, which generalizes across particularities of people’s actions which may not be the identical, but are institutionally recognized and treated as the same.⁸³³ This was noted even in comments from the lawyer, who despite not being an institutional ethnographer, observed this process of what he described as “de-personalization”:

If the core collective values of Inuit culture could be recognized, if they weren’t de-personalized and forced to become legal individuals with numbers, and these names, the names that they have – many of them are used against them too, right? And many of them are *Qallanaat* names, and they are used against them. And they get a record against them, right? And their name is now associated with that record, which has altered all of the course of their life, despite it might be some act, however wrong that occurred in their twenties. And so the name comes at – this name, whatever it is, becomes another tool in their view that is used against them, to control them, and to prohibit them from employment opportunities, and numerous other benefits that Canadian society is supposed to promise. And so anyway, that’s what I think.
[emphasis added]

⁸³² Smith, *Conceptual*, *supra* note 7 at 13.

⁸³³ Smith, *Exploring*, *supra* note 343 at 76 & 77.

Although here the lawyer is speaking more broadly beyond housing to include a person's criminal record and other legal histories, we can see how the institutional process of "de-personalization" can have real impacts on Inuit, notably in the context of colonialism, where historically the government assigned Inuit with numbers written on discs, rather than using their Inuit names, which have a special significance tied to their social identity. We see again here how the institutional direction towards the standardization of people's lived experiences could be perceived as dehumanizing, particularly in the context of colonialism.

Furthermore, not having one's reality accurately reflected in the institutional processes can affect whether one sees these processes are being fair. In tracing the processes for allocating public housing and staff housing, we have seen the disjunctions between what institutional discourses portray as fairness (often focused on consistency of procedures) and what community members understand as fairness, which takes into account the substantive result of whether they get a home or not. This invokes previous literature noting how citizens as (potential) users of a process may have different objectives for and definitions of justice than legal professionals, and the multiple dimensions of access to justice as described by MacDonald.⁸³⁴ This means that so long as there are substantive problems of access to justice (in terms of people not being able to access housing), there will also remain a problem of symbolic access to justice, as community members will continue to feel alienated from housing and legal systems as a whole, due to institutional failures to recognize and validate their actual needs and aspirations. Adopting a public-centered understanding of access to justice⁸³⁵ requires taking into account how community members experience these processes as well as what they seek to obtain from them.

⁸³⁴ MacDonald, *supra* note 16.

⁸³⁵ Farrow, *supra* note 81.

Here again, we see the impacts of colonization, where institutional discourses on justice subordinate Inuit perspectives. Western legal systems are based on principles like the rule of law: fairness requires the same rules apply to everyone, a standardization that fits the same formulas, processes, and requirements to everyone. The setting of precedents is another key concept in Western legal systems: if we decided to proceed one way last time, we should decide it the same way this time. Even with attempts to focus on substantive equality rather than formal equality, and repeated jurisprudential emphasis on employing a contextual approach, we see that through these processes, the factual complexities of a person's experience become detached, and what remains is worked up into institutional accounts, hiding the "legally irrelevant" actualities. Notions of fairness, impartiality, and objectivity in the Western legal system are hence rooted in this process of "de-personalization", in stark contrast to Inuit worldviews and practices.

MacDonald argues in support of a multi-dimensional strategy for access to justice because the lack of access to justice itself is a multi-dimensional phenomenon that cannot be solved with a broad brush one-size-fits-all approach.⁸³⁶ This is not "a template of responses that can be automatically plugged in to solve any particular problem" or an easy formula for developing in advance the just solution for any given situation, but rather something more akin to a menu of individualized choices.⁸³⁷ Improving access to justice therefore requires recognizing this very standardizing effect that the ruling relations have in organizing the activities of people across many local sites.

10.2.2. How laws serve as texts that mediate people's activities... or don't

⁸³⁶ MacDonald, *supra* note 16 at 24.

⁸³⁷ MacDonald, *supra* note 16 at 25.

Throughout these chapters, we saw how institutional texts such as the *Residential Tenancies Act* and Nunavut Housing Corporation policies prescribe the conditions and sequences of actions to be followed. However, how these texts mediate the lives of community members and service providers depends on what is “known” about these texts, specifically, how they are activated. At times, we saw that community members’ knowledge diverged in a significant way from the institutional discourse prescribed in the texts, whether it be housing allocation processes or legal remedies under the *Residential Tenancies Act* to effect repairs to one’s home. We observed disjunctures between what the law says and what happens on the ground, revealing important access to justice insights. We see how knowledge is socially organized and discursively constructed.⁸³⁸ If community members do not readily have access to the texts themselves, they rely heavily on service providers to serve as what is known in access to justice literature as “trusted intermediaries” to convey and interpret those texts for them. This makes it all the more important for access to justice research projects to employ a methodology that includes people’s experiences and knowledge of the law and the processes prescribed by these texts, not just examinations of the texts themselves.

Furthermore, this research revealed the significance in not only studying activated texts in an institutional ethnography about access to justice, but also certain inactivated texts. Generally, as a methodology that originated in the field of sociology, institutional ethnographers view laws as important, but only as they are taken up in coordinating what people do: for institutional ethnography researchers, these laws do not exist in an abstract theoretical space or separately from other determinants of ongoing historical processes.⁸³⁹ Institutional ethnography researchers pay attention to laws (as well as rules, regulations, and derived policies) as they are incorporated locally

⁸³⁸ Smith, *Sociology for People*, *supra* note 7 at 27.

⁸³⁹ Smith, *Sociology for People*, *supra* note 7 at 66 & 67.

into people's works, and serve to coordinate their work.⁸⁴⁰ We have seen, however, that there are some texts – such as portions of the *Residential Tenancies Act* providing legal remedies – that do not seem to be activated. Community members do not seem to be aware of their existence nor do service providers appear to apply them; they do not refer their clients to these remedies under the legislation. Such texts therefore do not coordinate the activities of people; yet laws that do not have an effect are important for legal scholars and practitioners to note when discussing access to justice. In this scenario, it is relevant for an institutional ethnography to “trace” the non-effects of an inactivated text, and how it is not taken up in an institutional process and does not mediate people's activities in actuality. If an institutional ethnography is meant to provide a map of an institution, including what texts are involved in the coordination of people's activities across multiple sites and how, it should also be relevant to note what texts are not taken up.

It is also relevant to note why such texts may not be taken up within institutional processes, as I will discuss next.

10.2.3. “Why don't you talk to a lawyer?” Exploring the limits of the law in providing remedies

People's lack of awareness about certain legal remedies within the *Residential Tenancies Act* reveal another access to justice insight. Sometimes people struggling with housing issues are not hooked into institutional processes of the legal system because they do not characterize their issue as a law-related problem. This process, as a civil law matter, is not as “automatic” as a criminal justice issue, where if you are arrested, you cannot avoid going through the criminal justice system. One lawyer that I spoke to felt like Cambridge Bay was one of the least litigious communities in Nunavut with respect to housing and other areas of civil law (an issue worth

⁸⁴⁰ Smith, *Sociology for People*, *supra* note 7 at 66-67.

further research in the future). Some participants that I spoke to had not thought about asking a lawyer for help in getting their landlords to resolve their repair issues. Likewise, some service providers had not thought about recommending that their clients seek legal assistance for their issues.

In some situations, there were limits to how the law could help people with their particular housing need. Keith Cruz, a lawyer who has practiced housing law in Nunavut, remarked:

A lawyer's job could be pretty effective in some, but not in others. So, for example, it's highly effective when it comes to an eviction file, because there are different and multiple ways we can do it. So, for example, one of the things I do is that if someone were to get evicted, I make sure I file an application with the RTO and I don't pick the first date that comes up. So, now they have the extra time. Now they have an extra month, right? If the decision of the RTO is adverse to us, I just file an appeal. Because an appeal stays the proceedings, or the commencement of the enforcement. So, now they're here again. That's how I got the person to stay for three months, as opposed to seven days. So, there are effective ways a lawyer can assist.

When it comes to something like assisting someone to get on the wait list, our visibility into the wait list is so poor, and all we can do is help you with the documentation, and fill it out as best as we can, but you honestly don't even need legal advice for that. That's not legal advice. That's just a regular social service. Lawyers are not at all effective in that aspect of housing.

It is perhaps for this reason that some participants did not see a point in seeking assistance for their problem, such as requiring a home in the middle of a housing shortage. One community member noted:

I don't think I particularly need help. I'm a pretty independent person, and I'm able to find solutions to my own problems. It's just that there's no solution. There's no... I can't do anything about it. I don't think anyone really can, because, you know... I can go to the KIA [Kitikmeot Inuit Association] and be like, I don't have a house, and they'll say, "There's no homes, I can't help you." Okay, I don't really know if there is any solution to that.

This demonstrates again that the legal system may not currently be equipped to deliver justice in terms of the substantive result of access to a home.

The disjunctures that we have observed between what the law prescribes and people's experiences of what happens can again be traced to colonialism, and the imposition of a Western justice system on Inuit. All societies need some kind of shared common understanding about how to live together, including Cambridge Bay, as a community of about 1800 people, with no other community within hundreds of kilometres. Long before the Canadian government extended its reach over Inuit through its colonialist policies and legal systems, Inuit had already established their own system of laws to resolve problems.⁸⁴¹ Inuit Qaujimajatuqangit prescribes legal traditions informed by Inuit worldviews, designed to help Inuit live in respectful relationships with all living things, as well as to each other,⁸⁴² with an expectation being open-hearted, approachable, and able to assist (*tunnganarniq*).⁸⁴³ Through colonizing processes, these teachings as the primary authoritative forms of dispute resolution have been to some extent displaced by institutional texts such as the *Residential Tenancies Act*, which introduce a new set of rules and processes to follow to resolve issues such as damages to one's home. This set of rules does not originate from Inuit Qaujimajatuqangit, but instead bears resemblance to other southern Canadian jurisdictions. Unlike the conversations that would happen between Inuit elders and community members to adapt to their specific situations, Smith observes that texts remain "fixed, pre-determined, and remains unchanged by the history of its reading."⁸⁴⁴ Although texts can be drafted to apply to different settings, she notes that the text's constancy that is essential for its role in standardizing effect across these different local settings.⁸⁴⁵

⁸⁴¹ NTI, *supra* note 110; Attangalaaq, *supra* note 109 at 106.

⁸⁴² Karetak & Tester, *supra* note 94 at 6; Kalluak, *supra* note 99 at 49; NTI, *supra* note 110 at 7; QIA, *supra* note 111 at 12; Oosten & Laugrand, *supra* note 111 at 21; Attangalaaq, *supra* note 109 at 107.

⁸⁴³ Kalluak, *supra* note 99 at 44.

⁸⁴⁴ Smith, *Sociology for People*, *supra* note 7 at 105

⁸⁴⁵ Smith, *Sociology for People*, *supra* note 7 at 208.

It is within this context that lawyers are institutional actors; even when representing the clients, they are limited by what the law offers. They must work within the system and participate in the process of sifting through their client's experiences to pick out only those details that are "legally relevant" (institutionally accountable) to work up an institutional account of their client's life.

Perhaps this is why some community members may be reluctant to pursue legal remedies, even when they are aware that their issue can be hooked into legal processes. A lack of trust in the legal system by Nunavummiut has been reported in previous literature,⁸⁴⁶ suggesting a lack of symbolic access to justice as described by MacDonald.⁸⁴⁷ Some service providers reported being reluctant to refer their clients to lawyers for fear of turning the process adversarial. Some participants also reported problems with their lawyers during the process of buying their house. Lawyers I spoke to themselves noticed that there could be trust issues between Inuit clients and their non-Inuit lawyers, and remarked on a general reluctance of community members to use the law as a tool, rather than only seeing the law that imposes obligations and punishments on them as with the criminal justice system. Inuit elder Aupilaarjuk explained this mistrust of Western law:

When I think of paper, I think you can tear it up and the laws are gone. The *maligait* of Inuit are not on paper. They are inside people's heads and they will not disappear or be torn to pieces. Even if a person dies, the *maligait* will not disappear. It is part of a person. It is what makes a person strong.⁸⁴⁸

As a result, rather than seeking legal assistance, participants reported turning to other service providers rather than legal practitioners for help, including social workers, nurses, and

⁸⁴⁶ Preliminary Findings Report, *supra* note 95.

⁸⁴⁷ MacDonald, *supra* note 16.

⁸⁴⁸ Aupilaarjuk et al, *Inuit Laws*, *supra* note 109 at 20.

even the police. Service providers noted that some people do not ask for help for their housing problem at all, possibly due to feelings of hopelessness.

Amautiit Nunavut Inuit Women's Association's recent report on the Nunavut *Human Rights Act* describes the features of colonialist bureaucracy that it found in Nunavut's human rights processes.⁸⁴⁹ These features include rules and procedures - but also procedural errors and breaches of law - that favour the powerful, such as businesses, institutions, employers, landlords, etc., over the colonized people.⁸⁵⁰ The report notes:

Colonialism requires a power difference between the colonizers and the colonized. In a colonialist structure, rights and privileges are largely for the agents of colonialism – the businesses and institutions that have the money and power, and the people who run them. The people who work in colonialist bureaucracies learn those values; they come to accept the importance of businesses and institutions over individuals, and to see the role of government as serving businesses and institutions. They understand that the law is to be read in that light, that when an authority is implementing legislation and rules, it must do so in a way that defers to businesses and institutions so they can get on with their important work.⁸⁵¹

While these statements were made in the specific factual context of Nunavut's human rights law processes, the ways in which colonialism's values and orientation can be reproduced in institutional features are useful to consider for other areas of access to justice, including for housing. MacDonald also observed that Canada's civil justice system in general favours wealth inequality and certain interests over others, such as social superiors of social inferiors.⁸⁵²

MacDonald argues it is important to question whether it should be presumed that "official institutions are the optimal locus for empowering citizens who have been social excluded" as some socially marginalized groups may want their own institutions to better express their legal needs, rather than simply better access to courts.⁸⁵³ He writes:

⁸⁴⁹ Amautiit, *supra* note 466 at 68

⁸⁵⁰ Amautiit, *supra* note 466 at 68, 69.

⁸⁵¹ Amautiit, *supra* note 466 at 67.

⁸⁵² MacDonald, *supra* note 16 at 28.

⁸⁵³ MacDonald, *supra* note 16 at 24 and 100.

To understand better the justice to which citizens should have greater access, some of the foundations of our legal system bear re-examination. For example, are we satisfied that judicial adjudication is the only, or even optimal, way to solve all social conflict? [...] Moreover, are we convinced that we really want a society in which all social interaction is conceived as a rights claim against another? [...] Again, are we sure that differential access is not directly tied to differential distributions of social power?⁸⁵⁴

MacDonald poses challenging questions about the fundamental nature of the legal system, which I argue not only highlights the limits of current legal processes and potential colonialist features, but also could open up space to Inuit conceptions of justice and what they need and want in order to live a good life.

10.2.4. Solutions for access to justice means more than public legal education

The approach of institutional ethnography also produces different directions for solutions than other conventional approaches for studying access to justice. For example, in earlier chapters, we saw that community members understood processes for housing allocation differently from how such processes are set out in institutional texts, or they did not understand them at all. We also discussed how community members were not aware of possible legal remedies they could pursue under the *Residential Tenancies Act* to address their housing issue. A legal practitioner may then conclude that if people do not understand the law, public legal education may be required to help them. Previous reports have indeed documented concerns about the lack of public understanding about the law among Nunavummiut.⁸⁵⁵ Certainly some community members did express a desire for more information about housing process in response to the alienation they experienced from not understanding what was happening beyond their standpoint. Service providers also suggested it would be useful to make more information

⁸⁵⁴ MacDonald, *supra* note 16 at 86.

⁸⁵⁵ Anderson and Stratton, *supra* note 148; Formative Evaluation, *supra* note 148 at 43-44.

accessible for community members on matters like how public housing works, financial literacy, how to maintain one's house, and the benefits of owning one's own house. Institutional texts like the Nunavut Housing Corporation's Tenant Relations Officer Manual also emphasize the importance of counselling tenants on their responsibilities.⁸⁵⁶

However, institutional ethnography reveals more nuance to this issue. In tracing how knowledge is discursively produced, we see how community members have come to understand things the way that they have, and how their experiences have been coordinated by the ruling relations set into motion by colonialist practices. It problematizes the assumption that public legal education will adequately address the problem. After all, there are limits to the benefits of knowing one's legal rights if there are practical issues with enforcing those rights. I can produce posters to let people know that they can talk to a lawyer about their housing problem, but what if a lawyer cannot actually help them with their particular issue (as with certain waiting list issues), or what if lawyers are not practically accessible (for homeowners seeking to sue contractors in a context where many lawyers in Nunavut would be in a position of conflicted), or are otherwise unable to provide a quality of service satisfactory to their clients?

MacDonald warns about the perils of public legal education programmes, which are often based on the idea that citizens have a right to know about the law – the rules made by legislature and announced by courts – in order to recognize when they have a legal claim and can seek assistance from the state through the legal systems.⁸⁵⁷ However, he notes this can end up enhancing dependency on lawyers and the formal dispute resolution system. Instead, he argues

⁸⁵⁶ NHC Tenant Relations Manual, *supra* note 38 at 108 and 804.

⁸⁵⁷ MacDonald, *supra* note 16 at 97.

there is also a need for the public to also educate legal practitioners about how they understand and live the law as part of efforts to make the system more sensitive and responsive.⁸⁵⁸

Public legal education does not challenge the underlying power imbalances that exist within the institutional complexes nor the root issues that produced the housing crisis in the first place. Public legal education can teach people how to work with the system, but not how to overcome systemic issues within it. Addressing Nunavut's housing issue requires more than simply raising Nunavummiut's awareness about their legal rights in order to encourage them to assert them. In previous literature, public education about housing has been recognized as an important action, and recommendations have been made to develop "toolkit" resources for Nunavummiut who are tenants and homeowners about how to monitor and maintain their housing units and what their rights and responsibilities are.⁸⁵⁹ Lauster and Tester have warned how past similar efforts in the 1960s resulted in educational materials that explained how households should be organized according to southern non-Inuit housing models.⁸⁶⁰ While public legal education can play a role in raising awareness among Nunavummiut about legal rights, the broader question is whether the legal system through which those rights would be enforced suits the needs of Nunavummiut in accordance with their culture and values, particularly if Nunavut's housing system has been imported into the territory based on non-Inuit approaches, as suggested by Tester. It is institutional ethnography's mode of inquiry of moving beyond the local standpoint to understand how it is all put together that brings this critical perspective into view. This suggests that access to justice can be about more than simply reinforcing the existing approach. The solution ultimately lies in addressing the source of the disjunctures.

⁸⁵⁸ MacDonald, *supra* note 16 at 97-98.

⁸⁵⁹ Little Voices *supra* note 2 at 110; NHC Blueprint, *supra* note 2 at 45.

⁸⁶⁰ Lauster & Tester, *supra* note 25 at 527.

10.2.5. Employing a holistic view of housing and the law

Through this research, we have looked at access to justice insights about how the housing experiences of community members in Cambridge Bay have been socially organized. By looking at the institutional features that form disjunctures that subordinate people's lived experiences and perspectives, we have also started to gather some indications about what direction we need to move towards to improve access to justice.

We have seen that housing issues cannot be considered in isolation: instead, we need a holistic, cross-sectoral perspective that considers how the institutional complex of housing intersects with other areas. Indeed, I had wanted to study housing as a specific access to justice issue, not simply because housing has been recognized as a priority for Inuit, but because it is an example of a cross-sectoral issue of not only a legal nature, but also economic, social, and health, as well as others, and therefore is an apt example of the holistic approach that I argue is required when discussing access to justice. Participants spoke to how a person's housing problem would often be connected to a number of other needs, such as health (including addiction recovery), education, and employment.⁸⁶¹ They also may be experiencing compound law-related problems in multiple subject areas. Through his experiences in providing legal services across Nunavut, lawyer Keith Cruz shared his observations on this:

Because it seems to me that we're talking about how housing has touched on even tangentially almost every practice area in Nunavut.

[...]

Housing is tied to so many different things. It was tied sometimes to family. So, in custody and access, it would be tied to family because they're going to ask, for example, they're going to ask the dad who's seeking custody, the court's going to ask, where are you going to house your children? And so we tried to help folks like that in terms of trying to secure housing, or to help them with the application to subsidized housing.

⁸⁶¹ These links haven also been observed in GN Strategy, *supra* note 2 at 12; Legare, *supra* note 682 at 355; Little Voices *supra* note 2 at 120.

Community members referred to the intersections between their housing issues and other legal issues such as family law, in longing for a home of their own so they can have custody of their children. Lawyers also observed how housing often comes up as an issue in their clients' criminal justice files, such as where overcrowded households contribute to strained relationships, leading to domestic assault incidents or property crimes. As noted by Paul Falvo, who has served the Kitikmeot region as a criminal defence lawyer for many years, "It's like the tinder for the fire comes from people that don't have a lot of material resources, don't have a lot of money, crammed together into these small spaces."

Lawyer Keith Cruz explains how a client might need the support of multiple lawyers practicing in different areas:

PARTICIPANT: For example, if a legal aid user is in a family stream, they're dealing with family issues. Now with a family issue, you could have a breakdown in a marriage or a relationship, and then there could be issues about custody and access. Sometimes there are criminal matter components too. So, for example, someone is released on bail, and they're awaiting their trial. Or someone's actually... the charges are dropped. And so what happens is that they temporarily lose custody of their children. Now they're trying to gain custody back. But part of the balancing act that the court will engage in is where will the children live, if, for example, dad is going through criminal justice and is now living in a men's shelter? They can't obtain custody of the children. And so they come to us and ask, so how do we get housing now? And so that's my role as a civil litigation lawyer. I would never touch the criminal portion or the family portion, but in tandem with the family lawyers, what I would do is then try to help them obtain some relief in terms of either putting together an application for housing.

We can see how a service provider might start with only their particular standpoint rooted in a particular subject area when beginning to work with their clients. But they may become aware of other issues confronting their clients. These interconnections amongst various issues further emphasize the need for a holistic cross-sectoral collaborative approach to problem-solving, informed by holistic world view of Inuit Qaujimajatuqangit, in contrast to the siloed

approach that is a common characteristic of western bureaucracy.⁸⁶² It should also be trauma-informed, not focusing only on the institutional account of the client, but to being alive to their particular lived experiences, including experiences of colonialism, which tend to disappear in the institutional processes they are hooked into.

I pursued this PhD to study an issue that I cared deeply about and thought about constantly. I wanted a better understanding of the housing crisis in my favourite community in the world, Cambridge Bay, Nunavut. When I was living and working in the community as a legal aid lawyer representing clients for their housing issues, I could only see what was happening from my particular local standpoint, and I wanted to understand what was happening elsewhere, and why these housing issues happened as they did. I also wanted to understand better other standpoints, such as those community members experiencing the housing issues, to inform the work of lawyers and policymakers such as myself. This was the problematic that I started with for this research project. During my research, I found that participants also sometimes observed the limitations of what they could see from their standpoint. For example, when I asked one community member for their thoughts about addressing the housing crisis, they mused:

Honestly, from the past, what I've heard, there's an outcry. There's no way that no one knows about it, because everyone's talking about it. It's just no one's been taking that initiative and creating those spaces and I don't know if it's a funding thing, or if it's, I don't know, a department thing that no one's kind of fighting for, or trying to fight for someone to take responsibility. But there's definitely something that's blocking us from being able to move away from this.

The community member knows there is a problem, as they have experienced the housing shortage firsthand, but like me, they are not sure exactly how this has all been put together.

⁸⁶² Recommendations for a collaborative, culturally-specific approach have also been made elsewhere: Preliminary Findings Report, *supra* note 95; Little Voices *supra* note 2 at 68.

Institutional ethnography has served here as a useful approach for understanding the access to justice issues in housing in Cambridge Bay. In some respects, the housing crisis in Cambridge Bay is reflective of the broader housing problems happening across the country in Canada. Housing experts suggest that Canada needs to build some two million rental units by 2030 to help make Canada's housing market affordable again.⁸⁶³ In other respects, the unique conditions of the Arctic with its history of colonialism make this national housing crisis play out in a very specific manner in Nunavut, and in Cambridge Bay – a manner that pronounces and exacerbates the existing challenges that residents already face. While the environmental conditions may seem to be a more obvious factor in exacerbating the housing crisis, institutional ethnography allows us to unmask the role of colonialism in the imposition of western bureaucratic systems and market capitalist philosophies over Inuit who already had their own systems and worldview for millennia. This research has opened up questions about what justice actually means – and *should* mean – in a community like Cambridge Bay.⁸⁶⁴ This research has focused specifically on the community of Cambridge Bay, and as such, these findings are community-specific. It would be useful for future researchers to carry out similar studies in other communities in Nunavut, particularly smaller communities, for a more comprehensive understanding of access to justice in Nunavut. While processes such as housing allocation and judicial review may be designed to be fair from an institutional perspective, a conception of access to justice that is centered on Nunavummiut would need to account for what their objectives and perceptions of justice are as well. While what Inuit justice looks like today is still an ongoing work in progress collectively being carried out by others, this institutional

⁸⁶³ National Housing Accord, *supra* note 736

⁸⁶⁴ Smith & Griffith wrote: "In a sense, an institutional ethnography, like all research, is never finished. More can always be said: Smith & Griffith, *supra* note 8 at 16.

ethnography reveals that justice is more than treating everyone the same way, or ensuring certain procedural safeguards are present, but explicitly acknowledging these various connections and relations that bind us, in moving towards goals that support Inuit self-determination and well-being.

By inquiring into the institutional practices and processes that govern the experiences and produce these experiences of subordination, I hope that this institutional ethnography can be used as a tool to support Inuit self-determination by revealing how people are intertwined in these processes and relations of the housing crisis that are bigger than themselves, and opening up possibilities to develop intervention strategies for taking action.⁸⁶⁵ As noted by Campbell, “Knowing more about how our lives are tangled in ruling relations can help reduce the frustration we feel about living and working in societies such as ours where things seem to get decided behind our backs, or at least outside of our control.”⁸⁶⁶

⁸⁶⁵ Turner, *supra* note 293 at 159; Devault & McCoy, *supra* note 7 at 19; Campbell, *supra* note 96 at 91.

⁸⁶⁶ Campbell, *supra* note 96 at 105.

Appendix 1: Nunavut Research Institute Scientific Research License

342

Appendix 2: University of Ottawa Office of Research Ethics and Integrity, Certificate of Ethics Approval

26/08/2022

Université d'Ottawa

Bureau d'éthique et d'intégrité de la recherche

University of Ottawa

Office of Research Ethics and Integrity

CERTIFICAT D'APPROBATION ÉTHIQUE | CERTIFICATE OF ETHICS APPROVAL

Numéro du dossier / Ethics File Number

S-08-22-8294

Titre du projet / Project Title

Access to Safe, Sustainable, &
Healthy Housing in Cambridge
Bay, Nunavut

Type de projet / Project Type

Thèse de doctorat / Doctoral
thesis

Statut du projet / Project Status

Approuvé / Approved

Date d'approbation (jj/mm/aaaa) / Approval Date (dd/mm/yyyy)

26/08/2022

Date d'expiration (jj/mm/aaaa) / Expiry Date (dd/mm/yyyy)

25/08/2023

Équipe de recherche / Research Team

**Chercheur /
Researcher**

Affiliation

Role

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Superviseur / Supervisor

Jackie DAWSON

Département de géographie / Department of Geography

Co-superviseur / Co-supervisor

Conditions spéciales ou commentaires / Special conditions or comments

Université d'Ottawa

Bureau d'éthique et d'intégrité de la recherche

University of Ottawa

Office of Research Ethics and Integrity

Le Comité d'éthique de la recherche (CÉR) de l'Université d'Ottawa, opérant conformément à l'*Énoncé de politique des Trois conseils* (2014) et toutes autres lois et tous règlements applicables, a examiné et approuvé la demande d'éthique du projet de recherche ci-nommé.

L'approbation est valide pour la durée indiquée plus haut et est sujette aux conditions énumérées dans la section intitulée "Conditions Spéciales ou Commentaires". Le formulaire « Renouvellement ou Fermeture de Projet » doit être complété quatre semaines avant la date d'échéance indiquée ci-haut afin de demander un renouvellement de cette approbation éthique ou afin de fermer le dossier.

Toutes modifications apportées au projet doivent être approuvées par le CÉR avant leur mise en place, sauf si le participant doit être retiré en raison d'un danger immédiat ou s'il s'agit d'un changement ayant trait à des éléments administratifs ou logistiques du projet. Les chercheurs doivent aviser le CÉR dans les plus brefs délais de tout changement pouvant augmenter le niveau de risque aux participants ou pouvant affecter considérablement le déroulement du projet, rapporter tout événement imprévu ou indésirable et soumettre toute nouvelle information pouvant nuire à la conduite du projet ou à la sécurité des participants.

The University of Ottawa Research Ethics Board, which operates in accordance with the *Tri-Council Policy Statement* (2014) and other applicable laws and regulations, has examined and approved the ethics application for the above-named research project.

Ethics approval is valid for the period indicated above and is subject to the conditions listed in the section entitled "Special Conditions or Comments". The "Renewal/Project Closure" form must be completed four weeks before the above-referenced expiry date to request a renewal of this ethics approval or closure of the file.

Any changes made to the project must be approved by the REB before being implemented, except when necessary to remove participants from immediate endangerment or when the modification(s) only pertain to administrative or logistical components of the project. Investigators must also promptly alert the REB of any changes that increase the risk to participant(s), any changes that considerably affect the conduct of the project, all unanticipated and harmful events that occur, and new information that may negatively affect the conduct of the project or the safety of the participant(s).

Kim THOMPSON

Responsable d'éthique en recherche / Protocol Officer

Pour/For **Barbara GRAVES** Président(e) du/ Chair of the **Comité d'éthique de la recherche en sciences sociales et humanités / Social Sciences and Humanities Research Ethics Board**

Appendix 3: Question Guide

For community members with lived experiences

Basic information:

- Tell me a little about yourself, including... [*share the below list as prompts, but participants do not have to answer any of the below that they do not feel comfortable sharing*]
 - Age
 - Gender & Pronouns
 - Inuit Beneficiary under Nunavut Agreement?
 - Source(s) of income (formal/waged employment, informal or self-employment, social assistance, etc.)
 - Anything you want to share about your family? (Partner, children)

Housing situation

- [*if former resident of Cambridge Bay*] When did you live in Cambridge Bay, and for how long? What were you doing there?
- Tell me about your housing situation [*in Cambridge Bay*]. For example, [*for former residents of Cambridge Bay, change the questions below to past tense*]
 - Do you rent or do you own? If you are renting, who are you renting from?
 - Who do you live with?
 - How is your living arrangement? Are there things about your housing situation that you enjoy? Are there things about your housing situation that you wish you could change?

[Other possible questions if relevant to participant's responses]

- How has the COVID-19 pandemic affected your living arrangements?
- Do you think your housing arrangement has had an effect on your relationships with the people you live with?
- Who makes the big decisions in your household about things like money or living arrangements?

Solving problems & getting help: If participant describes problems:

- How have you tried to deal with this issue? Who have you asked for help?
- Tell me about your experiences in trying to resolve your situation. What was the process like? Did it help? How did it work out? (How do you wish it could have turned out?)
- Do you know of any support available for people who might be dealing with these problems? Are these supports helpful?

How do you wish things could be?

- If you could live anywhere, or in any kind of house, with whomever you wanted, what kind of housing situation do you wish you could live in? For example:
 - House size, arrangement, and condition
 - Who would you live with? How would it work?

- For these issues that you described: What do you think would ideally be the best way to help people with these problems? What kind of solution would you like to see for these issues? What kind of help or support do you wish could be available?
- What do you think are the reasons for the housing problems in Nunavut? In Cambridge Bay?
- How do you think that the housing system should work in Nunavut? How do you think that the housing problems here should be solved?

For service providers & other professionals

Basic information

- Tell me a little about yourself, including... [*share the below list as prompts, but participants do not have to answer any of the below that they do not feel comfortable sharing*]
 - Place of employment & position:
 - Gender & Pronouns
 - Inuit Beneficiary under Nunavut Agreement?
 - [*if not obvious*] Resident in Cambridge Bay or elsewhere?

Your work and housing

- How long have you been working in your job?
- Tell me about your position. [*Use below prompts only if not obvious*]
 - What are your roles and responsibilities?
 - What is the mandate of your work? [*confirm that they serve Cambridge Bay residents*]

Processes & Texts

- How do you go about doing your work? [*Individualize questions to fit service provider's specific position & duties, where applicable*]
 - Tell me about how the process is supposed to work.
 - How are decisions made for a particular [file / client/ request / situation]?
 - Are there sources you have to consult to guide your work, such as policies or guidelines? What are they? May I see them? How do you use these sources to guide your work?
 - Are there forms involved for these processes? Can I see what a form looks like? How are they filled in, and what happens after they are completed?
- We've talked about how the processes at your work are supposed to work. Have you observed any issues with following these processes [*particularly in Cambridge Bay*]? Have you encountered any issues in providing these services? [*If yes*] Tell me what happened / what has happened / what usually happens in reality?
- Has the COVID-19 pandemic affected how your work is carried out? [*If yes*] How has the pandemic affected the services you provide?

If housing has not explicitly come up yet

- How has housing come up in your work? Tell me about your observations and reflections.
 - Does the housing shortage in the territory affect your work and the services you provide? How?

- [*if relevant*] Are your clients in Cambridge Bay affected by the housing shortage, and how?
 - Has the COVID-19 pandemic affected this?
- Are there any other connections to housing with the work that you do?
- What do you think are the reasons for the housing problems in Nunavut? In Cambridge Bay?

Reflections on the future

- If you could make changes to the work that you do, what would that look like? Are there ways that you think or wish that your work's services could be improved?

How do you think that the issues relating to housing shortage should be solved?

Appendix 4: Knowledge Mobilization Plan

Developed through the University of Ottawa's Knowledge Mobilization Training Scholarship in December 2021.

1. Targeted knowledge users

Knowledge Users	Overview of their context or needs	Level of engagement in research & knowledge mobilization
Legal professionals practicing law in Nunavut	• Mostly non-Inuit settlers • High levels of formal education (>2 post-secondary degrees) • Busy, heavy workloads, limited resources & time • Not uncommon for newly called/junior lawyers to come to Nunavut to start their career; rapid promotions & opportunities to work on complex files earlier than in other jurisdictions • Huge research gaps in my research topic; need for more evidence on unmet legal needs • Civil justice issues such as housing do not receive as much attention	• Research tends to be case-based, sources are usually legislation, jurisprudence & some case commentary, as opposed to academic literature reviews • Continuing professional development requirements offer some motivation/opportunities for non-case-based learning, but within time constraints
Government, policy makers, decision-makers	• ~50% Inuit, 50% non-Inuit settlers; Government of Nunavut has been criticized for failing to realize Inuit goals of self-determination • Minimum education requirements are usually grade 10 • Busy, limited resources, often under-capacity due to staffing issues • Housing issues are not necessarily framed as legal issues; housing policy approaches are arguably grounded on models imported from the Canadian "south"	• Likely varies; likely constrained by limited resources & time • Research tends to be file-specific & applied (such as evaluations)
Members of the public, people who may experience a law-	• ~85% of Nunavut's population is Inuit; experiences of the impacts of colonialism in various forms, including intergenerational trauma, residential	• Despite the disruption of traditional skills & knowledge due to colonialism, a relatively recent revitalization of transferring

related problem in Nunavut	schools, interruption of intergenerational transfer of traditional skills and knowledge • Lower average levels of literacy & formal education: less than half of the adult population have a high school diploma • Keen perceptions of power dynamics – <i>ilira</i> (awed sense of inferiority to a perceived authority) • Oral, narrative forms of communication & knowledge exchange • (hypothesis) Do not characterize many law-related problems as being legal	knowledge & skills based on Inuit Qaujimajatuqangit • Inuit are one of the most researched peoples in the world; historically, their roles have been limited as passive research subjects, but now there is a push for Inuit self-determination in research & a more active role for Inuit; currently there is increasing community engagement in research design & implementation; also increasing Inuit-led research, but capacity must be further supported • Inuit have called for more and better sharing of research results about their homelands to benefit their communities, away from a purely one-way knowledge extractive approach

2. Objectives & strategies:

Overall goal: Maximize impact of my research findings amongst those who can benefit the most from my research

Knowledge Users	KT Goals	KT Strategies
Legal professionals practicing law in Nunavut	• Raise awareness about civil access to justice issues in Nunavut as deeply systemically rooted in Nunavut's colonialist history • Enable and inform future discussions & actions on access to justice	• Appeal to the fact that practitioners likely have recognized there are problems with the legal system • Engage in formats that best suit their busy schedules • Provide relevant information in short, succinct briefing-style formats, with clearly identified key findings and recommendations were possible

Government, policy makers, decision-makers in Nunavut	• Raise awareness of how civil justice is intricately connected to other social issues such as health, housing, education, and the economy • Raise awareness of the discrepancies between current justice & housing systems and Inuit cultural practices • Inform future decisions and policies on justice & housing	• Given their limited time & resources, provide relevant information in short, succinct briefing-style formats, with clearly identified key findings and recommendations were possible • Engagement will need to consider their authority structures
Members of the public, people who may experience a law-related problem in Nunavut	• Raise awareness that their problems (such as housing) may have a legal element with possible legal solutions • Acknowledge problems with current legal & housing systems • Empower with knowledge so they can advocate for the solutions they want	• Prioritize communication & engagement formats that are oral or visual, and where possible, in person and relation-based. • Use of plain language, minimizing legal/academic jargon

3. Planned knowledge mobilization activities

Activity	Intended knowledge users	Timeline	Budget & timeline required
Scoping engagement (generally one-on-one) <i>Scoping engagement has been ongoing with lawyers working in Nunavut, the Law Society of Nunavut, Pauktuutit Inuit Women of Canada, Government of Nunavut, community members in Nunavut, legal professionals working in access to justice in other Canadian jurisdictions, Arctic researchers</i>	• Legal professionals practicing law in Nunavut • Government, policy makers, decision-makers in Nunavut	Ongoing	None
Briefs <i>Short, visually engaging reports that highlight the key messages & findings</i>	• Legal professionals practicing law in Nunavut • Government, policy makers, decision-makers in Nunavut	After data analysis	Possibly graphic design costs

Plain language summaries	Members of the public, people who may experience a law-related problem in Nunavut	After data collection	Possible translation costs
In-person community presentation/ workshops	Members of the public, people who may experience a law-related problem in Nunavut	At the beginning of data collection & after data analysis	Will try to pair with existing work trips to Cambridge Bay
Podcast / audio program for community radio stations <i>Could be as part of the Talking about Justice in Nunavut podcast series I am already running for the Law Society of Nunavut</i>	Members of the public, people who may experience a law-related problem in Nunavut	After data analysis	Audio recording equipment already acquired Translation costs
Continuing professional development presentation & roundtable discussion to/with members of the Law Society of Nunavut	Legal professionals practicing law in Nunavut	After data analysis	None
Opinion Editorials <i>Can do op-eds targeted for lawyers in law publications as well as for the public in relevant news media, similar to op-eds I've published in the past.</i>	Legal professionals practicing law in Nunavut Government, policy makers, decision-makers in Nunavut Members of the public, people who may experience a law-related problem in Nunavut	After data analysis – consider relevant dates (National Housing Day, etc.)	None
Conferences <i>Targeting in particular conferences with significant Inuit participations:</i> • ArcticNet Scientific Meetings • Inuit Studies Conference • Arctic Frontiers • Arctic Circle Assembly <i>Other conferences:</i> • Feminist Legal Studies Queen's International Women's Day Annual Conference	Government, policy makers, decision-makers in Nunavut Members of the public, people who may experience a law-related problem in Nunavut Arctic researchers Legal scholars working on access to justice	After data analysis	Travel costs if in person Registration fees

• uOttawa Graduate Students in Law Association Conference			
Academic journal publications	Academic researchers	After data analysis	
Social Media <i>Sharing results through my personal twitter, LinkedIn, as well as the Law Society of Nunavut's access to justice Facebook Page.</i>	Members of the public, people who may experience a law-related problem in Nunavut	After data analysis	Translation costs

6. Measuring impact of research and knowledge mobilization

KT Activity	Indicators
Scoping engagement	<i>Reach indicators:</i> # of stakeholders engaged # of meetings/engagement sessions <i>Usefulness indicator:</i> Qualitative – feedback as recorded in log notes
Briefs	<i>Reach indicators:</i> # of briefs distributed
In-person community presentation/workshops	<i>Reach indicators:</i> # of participants # of presentation/workshops <i>Usefulness indicator:</i> Qualitative – feedback as recorded in log notes
Podcast / audio program for community radio stations	<i>Reach indicators:</i> # of plays (source: Law Society of Nunavut webpage / anchor.fm) # of radio stations that received audio program
Opinion Editorials	<i>Reach indicators:</i> # of opinion editorials published # of views (if data is accessible)
Conferences	<i>Reach indicators:</i> # of conference presentations # of participants in audience

	<i>Usefulness indicator:</i> Qualitative – feedback as recorded in log notes
Academic journal publications	<i>Reach indicators:</i> # of papers published # of citations
Social Media	<i>Reach indicators:</i> # of post views (Facebook) # of post shares (Facebook) # of post likes (Facebook) # of post comments (Facebook) # of post likes (LinkedIn) # of post comments (LinkedIn) # of tweet likes (Twitter) # of retweets (Twitter) # of replies (Twitter) <i>Usefulness indicator:</i> Qualitative – feedback as recorded comments and responses

Appendix 5: Summary of Key Findings

High-level findings

<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i> <i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>
Homelessness and transitional housing
<u><i>Inuit women experiencing relationship breakdowns:</i></u> Inuit women shared their stories about being kicked out by their partners, and drifting from house to house, looking for a place to stay for the night. They were often worried about their health, safety, and their children’s well-being. Texts like the <i>Residential Tenancies Act</i> set out the terms and conditions for renting, including the lease designating who is the tenant, while texts like <i>Nunavut Housing Corporation’s Rent Scale Procedures Manual</i> designate who remains in possession of the unit in case of family breakdown. Women in abusive relationships may be vulnerable to homelessness if they are not named as the primary tenant in the lease. Police noted there aren’t policies for some of the situations they face with respect to domestic disputes where the couple needs to be separated during a “cool-down” period. Couples may end up staying together even if they want to separate, due to the lack of housing options to move out. The <i>Family Abuse and Intervention Act</i> [FAIA] provides for emergency protection orders, including temporary removal of an abuser from the home. Despite these remedies offered, it can be difficult to enforce FAIA orders, especially in a relatively small community like Cambridge Bay. As a result, some women may choose to find their own solutions (e.g., couchsurfing with friends or family, staying at a shelter when possible, returning to their partner) rather than turning to the law to help them.
<u><i>People navigating the criminal justice system</i></u> Texts like <i>Criminal Code</i> allow offenders to serve their sentence in community rather than in jail as conditional sentencing. However, it may be difficult to find a place for an offender to serve their conditional sentence, especially if the only housing available is with the victim. As such, they may be forced to serve their sentence in jail. Similar issues were reported with respect to bail.
<u><i>Emergency shelters & transitional housing</i></u> According to the institutional discourse, shelters and transitional housing are meant to be temporary stays before people move on to other parts of the housing continuum. However, there are very few emergency shelters and virtually no transitional housing in Nunavut. As a result of limited space and high demand, people are turned away from shelters. Due to the lack of transitional housing and other options, those who stay in shelters may stay there for much longer than prescribed. The lack of resources can be traced to historical indirect funding arrangements, and Inuit have advocated for direct funding for housing and Inuit involvement in leading housing initiatives with Inuit Qaujimajatuqangit values.
Public housing

Perceptions about the role of public housing

Community members' perceptions were that public housing is the default form of housing. The local understanding is that when one becomes an adult, they should apply to get on the waiting list for public housing. However, according to the institutional discourse, public housing is meant to be only for the low-income population, with the goal that some people will eventually move out to other housing forms on the housing continuum (such as staff housing). Statistically, public housing is the main form of housing in Nunavut. Historically, Inuit moved to the area that became the permanent settlement of Cambridge Bay because of promises made by the federal government to provide them with housing. Community members' local knowledge of public housing – including the government's promises to provide them with housing - is not reflected in the institutional discourse on public housing.

The waiting list in the public housing allocation process

While Inuit have historically relied on oral traditions to share knowledge, institutional texts are generally in print, such as the various manuals, forms, and policies that set out how public housing is to be allocated according to a points-rating system. Community members reported being frustrated about not understanding the public housing allocation process. Some participants felt they did not have the time to figure out the requirements for the waiting list, given their other domestic duties. As a result, many rely on secondary sources (Facebook, what friends or service providers tell them) to navigate the waiting list process.

Lawyers discussed challenges in helping clients get public housing, as they aren't always able to identify legal issues that would serve as a basis for challenging an allocation decision. Often the actual key issue is that there aren't enough houses to meet local needs, due in part to funding structures for housing.

Disrepair issues in public housing units

Community members described their efforts in trying to get the local housing organization to address the disrepair issues in their public housing units. Institutional texts set out that it is the landlord's responsibility to make repairs within 10 days of being notified, as well as the processes for doing so. Despite requests for repairs, many issues persist or are not adequately addressed. Relevant portions of the *Residential Tenancies Act* providing remedies for disrepair issues do not seem to be activated and do not seem to corroborate the experiences of tenants: community members did not seem to use or be aware of these legal remedies offered, and did not report seeking legal assistance. Service providers reported they generally had not referred their clients with disrepair issues to seek legal assistance; some had not thought of this option, while others were wary of turning the situation adversarial, given the importance of maintaining harmonious relationships in the community. It is also unclear whether a legal order could solve the challenges hindering landlords from effecting these repairs.

Many of the disrepair issues are related to the fact that houses were built based on designs from southern Canada and were not specifically suited for the Arctic environment, unlike the homes that Inuit have built for millennia in accordance with Inuit Qaujimajatuqangit. Local housing organizations also face resource constraints (in terms of labour and supply) in making repairs, which are more costly and logistically complicated in the Arctic.

Tenant damages and "unacceptable tenants"

Institutional texts set out institutional categories of tenant damages (for which tenants are liable) and ordinary wear and tear (for which tenants are not liable), as well as vandalism, for which

tenants are also not liable so long as the damage has been reported to the police. These texts also construct the institutional categories of acceptable tenants (who should be allocated public housing) and unacceptable tenants (who have a history of tenant damages, owe rental arrears, etc. and should not be allocated public housing). Community members and service providers participate in the institutional discourse about unacceptable tenants who cause tenant damages, in sharing their frustration about tenants who do not take care of their public housing units. Due to the institutional requirement that damage must be reported to the police to be classified as vandalism rather than tenant damages, tenants report damages to the police, even when police cannot prove who caused the damage. If unpaid, tenant damages can lead to serious outcomes (eviction, ineligibility for other housing programs). Due to these potential serious consequences, some tenants do not report the damages and instead must live with the problem.

These institutional terms “tenant damages” and “unacceptable tenants” can mask the messy complexities in which damages can occur (for example, family violence). The institutional discourse also masks the historical role of the government in importing prefabricated homes based on southern Canadian designs not adequately suited for withstanding the Arctic environment. It also masks the role of the funding structures that Inuit have critiqued as inadequate which contribute to the housing shortage, resulting in the “need” to label people as acceptable or unacceptable tenants to sift out who “deserves” access to the scarce resource that is public housing.

Lawyers shared stories about how clients can inadvertently fall into rental arrears due to interactions between different institutional processes (income support and housing). Lawyers explained their work in helping clients with rental arrears by arranging payment plans in order to prevent eviction.

Staff housing

Staff housing allocation

Staff housing is coveted, but is seen by community members as being designated for non-Inuit workers from out of town, rather than local Inuit, raising feelings of injustice. This seems particularly unfair given the high income of many employees occupying staff housing, and the fact that staff housing units are often of much better quality than public housing. While institutional texts do not specify the preference of non-Inuit over Inuit, the use of job categories as a methodology for staff housing allocation has resulted in staff housing being given to professions dominated by non-Inuit (nurses, lawyers, etc.). The resulting local sense of injustice is connected to the historical context of Nunavut, colonialism, and efforts towards Inuit self-determination.

The *NTI v Canada* lawsuit demonstrates the challenges of implementing Article 23 due to the complex socio-economic context and systemic issues in the territory, and can be seen as an indication of how the housing crisis is linked to broader issues of Inuit self-determination.

The precarity of staff housing

Section 56 of the *Residential Tenancies Act* states that a tenant in staff housing whose employment has been lawfully terminated must vacate the unit within one week. This makes staff housing very precarious for its tenants: a worker can lose their house quickly if they lose their jobs, leaving them at risk of homelessness. The precarity of staff housing is related to the institutional discourse that staff housing is not meant to be a permanent form of housing but a transitory measure until workers move on to private market housing. But in the context of the housing crisis, it is challenging to move out of staff housing due to costs and lack of availability. As such, although workers may have to remain in staff housing for the longer term, they are still subjected to the precarity of their housing.

Market housing
<u>Private rentals</u> Participants felt that renting privately is often not an affordable option. There are not many private rentals available, and in fact, many of the private rental units in Cambridge Bay are actually a form of staff housing, where corporate landlords rent out units to businesses or government entities to provide to their employees. Due to the difficulty of finding affordable units to rent privately, some participants were concerned about their ability to stay in Cambridge Bay, which could result in a shrinking of the local Inuit skilled labour pool. In a sense then, the shortage of housing contributes to the shortage of workers, while a shortage of workers (to build homes) contributes to the shortage of housing.
<u>Privately owned homes</u> Participants shared various stories about why they decided to buy a home. Some did so because they were told it was a strategic thing to do. Other participants felt that privately-owned homes were too expensive. One participant shared her struggles with keeping up with the work and costs of maintaining and repairing her privately-owned home, expressing feelings mixed with regret about buying her home in the first place. She considered moving into staff housing, even if it is less secure.
<u>The institutional discourse idealizing private market housing</u> The government's conceptualization of the housing continuum categorizes various forms of housing according to whether they are owned/operated/subsidized by the government. This institutional discourse idealizes private market housing, and in particular, private homeownership as the ultimate policy goal. This view of housing is based on housing models from southern Canada, prioritizing individualist private housing markets and focusing on having a housing continuum that resembles those of southern Canadian models. We have seen, however, that the territorial government provides subsidies for all parts of the housing continuum, including for private rentals and privately owned homes. Housing as a market commodity or a financial investment is only one way to look at housing. There are other ways to look at housing, like as a human right or in terms of relationships. It may therefore be useful to envision what an Inuit-specific housing model might look like, suiting Inuit values and needs, in order to support Inuit self-determination.
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>
Using institutional ethnography informed by Inuit Qaujimajatuqangit guidance produces particular insights about access to justice in Nunavut that may not be revealed in the same way using other legal research methodologies. Institutional ethnography's approach of examining people's experiences and how those experiences are put together enables us to move past the text of a law itself to see how these laws impact people's work and lives. Inuit Qaujimajatuqangit reminds us how there can be ways of operating (which Inuit have used) that can be very different from the Western capitalist / bureaucratic systems imposed through colonialism, whether in the context of law, housing, or research itself. This approach of tracing the various ways in which people's experiences are shaped demonstrates just how broadly in scope and holistically access to justice can be conceptualized. Certainly, institutional ethnography can help uncover findings about access to justice in the

narrower sense of access to legal services. For example, in Chapter 9 on market housing, we learned about the various difficulties homeowners experience in accessing lawyers: there are few civil litigation lawyers practicing in these areas who are residents of Nunavut; those lawyers and non-resident lawyers may be conflicted about serving homeowners if they already provide legal services for the other side; and legal aid lawyers are statutorily barred from providing services in real estate law if homeowners cannot afford private lawyers.

But more than this, institutional ethnography allows us to look beyond the identification of the difficulties that people experience to trace how these experiences are put together – the underlying factors affecting access to justice that also demonstrate **the impacts of the law**.

Through this institutional ethnography, we saw how texts such as the *Residential Tenancies Act* and housing policies can shape the experiences of community members and service providers, sometimes with serious potential consequences (such as eviction) or in rather unexpected ways (such as the requirement to report vandalism to the police in order to avoid being billed for tenant damages, even if the police cannot prove who incurred the damage). We have also seen how some texts, such as certain legal remedies for tenants requiring repairs in the *Residential Tenancies Act*, do *not* regulate people's activities. These laws as inactivated texts are an important insight when studying access to justice.

Institutional ethnography also reveals **what other hidden elements shape the experiences and actions of community members and service providers**, if not the text of the law. This includes, for example, the government's historical promise to providing housing for Inuit if they settled into permanent settlements, the import of houses based on southern housing designs ill-suited for the Arctic environment, and resource constraints relating to the historical indirect funding structure for housing. These are all aspects of colonialism that continue to impact Inuit lives today. Other elements can also include Inuit Qaujimajatuqangit practices of sharing resources and working together to solve problems, which may influence how people deal with the housing crisis by, for example, allowing housing-insecure friends and family to couchsurf even if the household is already crowded. None of these are reflected in the institutional accounts and discourses, but are made visible again through institutional ethnography.

This research has also showed how institutional ethnography can produce unique insights on the social organization of knowledge, and, consequently, the role of public legal education. Legal practitioners using a conventional approach might view the difference between what the law says and what people understand on topics such as the role of public housing or tenants' legal rights to repairs as signifying a need to correct public understanding of the law. However, institutional ethnography traces how people's knowledge and experiences have been put together and socially organized, linking in important context such as the history of colonialism in Nunavut, context that is too often made invisible in the institutional discourse. This could prompt us to ask whether the solution is simply a matter of "correcting" people's knowledge to align with the institutional discourse, or to address the underlying context.

Finally, this institutional ethnography has demonstrated concretely how **access to justice can mean more than procedural fairness**, by bringing to the forefront community members' perceptions of unfairness in the results the allocation of public and staff housing, even though the allocation processes may have been designed to be fair. This highlights the importance of focusing not only on procedural access to justice, but also substantive and symbolic access to justice.

By centering the experiences of community members, including Inuit voices, institutional ethnography reveals how laws and policies actually affect people navigating the housing crisis, in contrast to the institutional discourse and accounts of their experiences. This reinforces the importance of experiential data in access to justice research.

Research Question: *What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?*

Given the methodology of using institutional ethnography informed by Inuit Qaujimajatuqangit to research access to justice, insights about the state of access to justice emerged throughout this research not as separate findings, but embedded as part of the disjunctures between what the law says and how people experience it.

- **The standardizing practices in housing and law through the working up of people's experiences into institutional accounts and institutional categories serve as "dehumanizing" processes,** in the sense that community members' lived experiences and local knowledge are not reflected in the institutional discourse. Community members and service providers must then navigate these disjunctures.
- **Whether laws and policies as texts coordinate the activities of people in the way that law- and policymakers intended depends on the texts being activated.** Some participants expressed difficulties in understanding and navigating housing systems. Trusted intermediaries such as service providers play a crucial role in this activation by, for example, orally explaining the requirements for applying for public housing to community members.
 - Some texts do not seem to be activated at all: community members do not seem to make use of certain legal remedies for tenants requiring repairs in the *Residential Tenancies Act*, and some women may choose to find their own solutions (such as couchsurfing with friends, staying at a shelter, or returning to an abusive partner) rather than turning to the law to help them, due to reported enforcement issues with protection orders.
 - Lawyers can play an important role in helping tenants, but they are only able to intervene if tenants are aware that lawyers can help them: some participants were not aware they could seek legal assistance. Furthermore, even when lawyers can help, they can only work within the confines of the system rather than directly challenging the institutional discourse or addressing systemic issues underlying the housing crisis.
- **The law itself is constrained in its ability to provide remedies for community members.** In some situations, the law cannot provide an effective remedy for a housing issue, such as where repairs have been delayed due to factors outside of the landlord's control.
- **All of the above insights point to the need for a holistic approach to access to justice and the housing crisis, with the objective of supporting Inuit self-determination.**

Findings arranged comparatively by research question

Homelessness and transitional housing

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
Inuit women during relationship breakdowns		
	<i>Experiences reported:</i>	

<i>Residential Tenancies Act</i>: sets out terms and conditions for renting, including the lease designating who is the tenant <i>Nunavut Housing Corporation's Rent Scale Procedures Manual</i>: sets out who remains in possession of the unit in case of family breakdown <i>Family Abuse and Intervention Act</i> [FAIA]: allows for emergency protection orders, including temporary removal of abuser from home	Inuit women shared their stories of being kicked out by their partners, and drifting from house to house, looking for a place to stay for the night. They were often worried about their health, safety, and their children's well-being. Police noted there aren't policies for some of the situations they face with respect to domestic disputes where the couple needs to be separated during a "cool-down" period. <i>Textual coordination of experiences</i>: Women in abusive relationships may be vulnerable to homelessness if they are not named as the primary tenant in the lease Couples may end up staying together even if they want to separate, due to the lack of housing options to move out. It can be difficult to enforce FAIA orders, especially in a relatively small community like Cambridge Bay.	National-level policies sometimes may not adequately address local needs Because of issues with enforcing emergency protection orders under FAIA, some women may choose to find their own solutions (couchsurfing with friends or family, staying at a shelter when possible, returning to their partner, etc.) rather than turning to the law to help them.
Offenders in the criminal justice system		
<i>Criminal Code</i>, s.742.1: allows offender to serve sentence in community rather than jail (conditional sentencing)	It may be difficult to find a place for an offender to serve their conditional sentence, especially if the only housing available is with the victim. As such, they may be forced to serve their sentence in jail.	Although the law offers certain options, non-legal factors such as the housing shortage and lower levels of income can determine whether a person must serve their sentence in jail rather than in the community
Emergency shelters and transitional housing		
Shelters and transitional housing are meant to be for temporary stays, before people	Lack of resources: there are very few emergency shelters and virtually no transitional housing in Nunavut.	

move on to other parts of the housing continuum (<i>Framework for the Government of Nunavut's Long-Term Comprehensive Housing and Homelessness Strategy; GN's Blueprint for Action on Housing Nunavut Housing Corporation, The Blueprint for Action on Housing</i>)	As a result of limited space and high demand, people are turned away from shelters. Due to lack of transitional housing and other options, those who stay in shelters may stay there for much longer than prescribed. Lack of resources can be traced to historical indirect funding arrangements: Inuit advocate for direct housing funding to Inuit & Inuit involvement in leading housing initiatives with Inuit Qaujimajatuqangit values	
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
Institutional ethnography's approach of tracing relations reveals how Inuit Qaujimajatuqangit values of sharing resources and working together to problem-solve do shape how people deal with the housing crisis (allowing insecure friends and families to couchsurf even if household is already crowded; bringing in people from other communities to stay in the community's shelters), even it is not reflected or recognized in the institutional discourse.		

Waiting to get into public housing

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
Perceptions of public housing		
<i>Texts & institutional discourse:</i> Public housing is meant to be only for the low-income population, with some eventually moving out to other housing forms on the housing continuum (such as staff housing) (<i>Framework for the Government of Nunavut's Long-Term Comprehensive Housing and Homelessness Strategy; GN's Blueprint for Action on Housing Nunavut Housing Corporation, The Blueprint for Action on Housing; Nunavut Housing</i>)	Community members' perceptions were that public housing is the default form of housing. The local understanding is that when one becomes an adult, they should apply to get on the waiting list for public housing. Statistically, public housing is the main form of housing in Nunavut. Historically, Inuit moved to the area that became the permanent settlement of Cambridge Bay because of promises made by the federal government to provide them with housing.	Community members' local knowledge of public housing is not reflected in the institutional discourse on public housing. Community members and service providers must navigate these disjunctures in their work.

<i>Corporation Rent Scale Procedures Manual)</i> <i>Residential Tenancies Act, s.2:</i> specifies that the landlord-tenant relationship does not create interest in land for the tenant <i>Nunavut Housing Corporation Tenant Relations Manual:</i> sets out the landlord-tenant relationship, with local housing organizations as agents of the NHC	While by law, public housing units are properties legally owned by the landlord, community members see their public housing units as their home.	
The waiting list in the public housing allocation process		
Nunavut Housing Corporation <i>Tenant Relations Officer Manual</i>, Cambridge Bay Housing Association's Application Point Rating Form: set out how public housing is allocated according to a points-rating system	Community members reported frustration in not understanding the public housing allocation process. While Inuit have historically relied on oral traditions to share knowledge, institutional texts are generally in print. Some felt they did not have the time to figure out the requirements for the waiting list, given their other domestic duties. As a result, many rely on secondary sources (Facebook, what friends or service providers tell them) to navigate the waiting list process. While institutional texts establish how processes are to be implemented fairly, community members still questioned the fairness of the public housing allocation process, especially if they still have not been allocated public housing. Lawyers discussed challenges in helping clients get public housing, as they aren't always able to identify legal issues that would serve as a basis for challenging an allocation decision. Often the actual key issue is that there aren't enough houses to meet local needs, due in part to funding structures for housing.	Trusted intermediaries play an important role in understanding the requirements to get public housing. However, lawyers can be limited in their ability to help clients get public housing if they are not able to identify a legal issue to allow them to intervene. There are issues of procedural access to justice (in not understanding the waiting list process), there are also issues of substantive access to justice. Institutional texts focus on procedural fairness, while community members are interested in results – getting a home. These disparities in notions of fairness may contribute to issues of symbolic access to justice, as community members may not have confidence in the systems to help them, particularly if the systems operate differently from how Inuit have historically approached resource allocation according to Inuit Qaujimajatuqangit.

Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
While legal practitioners using a conventional legal approach might see the difference between what the law says and what people understand as a need to correct public understanding of the law, institutional ethnography's approach traces how people's knowledge and experiences have been put together, revealing important context (including historical colonialist practices in Nunavut). This approach also helps us understand how the community's knowledge about the waiting list is put together, often relying on service providers and other trusted intermediaries to translate for them the institutional texts that outline the rules and requirements. This all contextualizes what has been de-contextualized in institutional discourse, particularly relating to the impacts of colonialism on Inuit self-determination. Using institutional ethnography to understand community members' perceptions of unfairness in the waiting list process – despite the procedural fairness measures built into the process through institutional texts – help us understand why it is important to examine not only procedural access to justice, but also substantive and symbolic access to justice.		

Disrepair in public housing units

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
Cambridge Bay Housing Association tenancy agreement (sample): confirms landlord's duty to maintain the unit Cambridge Bay Housing Association Note to File – records disrepair issues that tenants have reported, as well as what follow-up is required <i>Residential Tenancies Act:</i> establishes that it is the landlord's responsibility to make repair the rental unit within 10 days of being notified. It also sets out the process for enforcing this duty through an application to the Residential Tenancies Officer for an order.	Community members described their efforts in trying to get the local housing organization to address the disrepair issues in their public housing units. Despite requests for repairs, many issues persist or are not adequately addressed. Relevant portions of the RTA do not seem to be activated and do not seem to coordinate the experiences of tenants: community members did not seem to use or be aware of these legal remedies offered, and did not report seeking legal assistance. Service providers reported they generally had not referred their clients with disrepair issues to seek legal assistance; some had not thought of this option, but others were wary of turning the situation	. The inactivated portions of the RTA suggest there may be issues of symbolic access to justice – a lack of confidence in the system.

	adversarial, given the importance of maintaining harmonious relationships in the community. It is also unclear that a legal order could solve the challenges hindering landlords from effecting these repairs. Many of the disrepair issues are related to the fact that houses were built based on designs from Canada and were not specifically suited for the Arctic environment, unlike the homes that Inuit have built for millennia in accordance with Inuit Qaujimajatuqangit. Local housing organizations also face resource constraints (in terms of labour and supply) in making repairs, which are more costly and logistically complicated in the Arctic.	
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
When studying access to justice, it is also important for an institutional ethnography to look at how certain texts do <i>not</i> coordinate and regulate people's activities as "inactivated" texts", such as the portions of the Residential Tenancies Act, as it provides insights on what is actually happening, with implications for lawmakers and legal practitioners if laws are not being used. Institutional ethnography helps reveal other elements (including resource constraints, the colonialist history of Nunavut in importing southern housing designs ill-suited for the Arctic environment, etc.) besides texts that coordinate the actions of community members and local housing organizations.		

The institutional discourse of the unacceptable public housing tenant

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
The construction of unacceptable tenants and tenant damages in the institutional discourse:		

<i>Residential Tenancies Act:</i> establishes that it is the tenant's responsibility to repair damages that they cause. "Ordinary wear and tear" does not constitute damages. Nunavut Housing Corporation, <i>Tenant Relations Officer Manual</i>: Describes distinctions among ordinary wear-and-tear, tenant damages and vandalism. In order to be considered vandalism, damage must be reported to the police. Sets out how to determine whether someone is an acceptable or unacceptable tenant when allocating public housing units, including whether they have a history of tenant damages. Cambridge Bay Housing Association, <i>Residential Tenancy Agreement</i> (sample): incorporates the provisions of the RTA and appends the Tenant Damages policy <i>Cambridge Bay Housing Association's Tenant Damage Policy</i> – refers to the RTA and tenancy agreement, explains policy and processes for tenant damages. Cambridge Bay Housing Association, <i>House Rules</i>: integrates territorial guidance on tenant damages into local context, explaining tenant's responsibilities to avoid Tenant Damage. Nunavut Housing Corporation, <i>Collection Policy</i>: states that rental arrears must be collected in a timely and consistent	Community members and service providers participate in the institutional discourse about unacceptable tenants who cause tenant damages, in sharing their frustration about tenants who do not take care of their public housing units. These institutional terms "tenant damages" and "unacceptable tenants" can mask the messy complexities in which damages can occur (for example, family violence). Due to the institutional requirement that damage must be reported to the police to be classified as vandalism rather than tenant damages, tenants report damages to the police, even when police cannot prove who caused the damage. The institutional discourse also masks the historical role of the government in importing prefabricated homes based on southern Canadian designs not suited for withstanding the Arctic environment. It also masks the role of the funding structures that Inuit have critiqued as inadequate which contribute to the housing shortage, resulting in the "need" to label people as acceptable or unacceptable tenants to sift out who "deserves" access to the scarce resource that is public housing. If unpaid, tenant damages can lead to serious outcomes (eviction, ineligibility for other housing programs). Due to these potential serious consequences, some tenants do not report the damages and instead must live with the problem. Lawyers shared stories about how clients can inadvertently fall into	Lawyers can play an important role in helping tenants avoid being evicted for rental arrears incurred due to tenant damages.

manner, describes policy approach for collections Cambridge Bay Housing Association, <i>Rent Collection Policy</i>: translates the territorial text to the local, outlining the process to be followed for collecting payment	rental arrears due to interactions between different institutional processes (income support and housing). Lawyers explained their work in helping clients with rental arrears by arranging payment plans in order to prevent eviction	However, they can only do this if tenants are aware that lawyers can help them; some participants struggling with these issues were not aware they could seek legal assistance. Furthermore, even when lawyers can help, they can only work within the confines of the system – for example, arranging payment plans for rental arrears to avoid having their client institutionally categorized as unacceptable tenants incurring tenant damages – rather than challenging the institutional discourse itself or the root sources of the tenant damages (family violence, addiction, intergenerational trauma, poverty, colonialism, etc.).
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
Institutional ethnography helps us understand and problematize the institutional discourse mediated in texts like the <i>Residential Tenancies Act</i> which shape the experiences of service providers and community members – sometimes in rather unexpected manner, with potentially very serious outcomes.		

Staff Housing

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
Staff housing allocation		
Government of Nunavut, <i>Staff Housing Policy</i> & Government of Nunavut, <i>Staff Housing Procedures Manual</i> : outlines how staff housing units are to be allocated according to, <i>inter alia</i> , job categories.	Staff housing is highly coveted, but is seen by community members as being designated for non-Inuit workers from out of town, rather than local Inuit, raising feelings of injustice. This seems particularly unfair given the high income of many employees occupying staff housing, and the fact that staff housing units	

Nunavut Housing Corporation, <i>Staff Housing Tenant Information Booklet</i>: provides information to employees moving into staff housing, using language the presumes the worker is moving from outside of the community, with guidance that does not apply to Inuit employees already living in the community. Nunavut Agreement, Article 23: sets an objective the increase of Inuit participation in government employment in Nunavut to a representative manner.	are often of much better quality than public housing. While institutional texts do not specify the preference of non-Inuit over Inuit, the use of job categories as a methodology for staff housing allocation has resulted in staff housing being given to professions dominated by non-Inuit (nurses, lawyers, etc.), rooted in the historical context of Nunavut, colonialism, and efforts towards Inuit self-determination. The <i>NTI v Canada</i> lawsuit demonstrates the challenges of implementing Article 23 due to the complex socio-economic context and systemic issues in the territory; can be seen as an indication of how the housing crisis is linked to broader issues of Inuit self-determination.	This demonstrates how laws and policies can be neutral on their face and set processes to be purportedly procedurally fair, but they may still produce differentiating adverse results for Inuit. This is another example of the difference between procedural and substantive access to justice. Lawyers are limited in their ability to challenge these systemic issues.
The precarity of staff housing		
<i>Residential Tenancies Act</i>, s.56: Outlines that a tenant in staff housing whose employment has been lawfully terminated must vacate the unit within one week. Government of Nunavut, <i>Staff Housing Procedures Manual</i>, operationalizes the RTA by requiring employers serve an employee clearance form within twenty-four hours of the termination of an employee. Institutional discourse: Staff housing is meant to be an interim transitory measure to provide new employees with a home until they can move into private market housing (Nunavut Housing Corporation, <i>The Framework for the GN Long-Term Comprehensive Housing and</i>	The RTA provision makes staff housing very precarious for its tenants: a worker can lose their house quickly if they lose their jobs, leaving them at risk of homelessness. . The precarity of staff housing is related to the institutional discourse that staff housing is not meant to be a permanent form of housing but a transitory measure until workers move on to private market housing. But in the context of the housing crisis, it is challenging to move out of staff housing due to costs and lack of availability. As such, although	Lawyers have suggested alternative interpretations of the RTA provision (unlawful termination should prevent eviction), but until this is confirmed in court (institutionally recognized), this alternative interpretation cannot be enforced.

<i>Homelessness Strategy;</i> Nunavut Housing Corporation, <i>The GN Long-Term Comprehensive Housing and Homelessness Strategy;</i> Nunavut Housing Corporation, <i>Staff Housing Policy;</i> Government of Nunavut, <i>Staff Housing Procedures Manual;</i> Government of Nunavut, <i>Staff Housing Tenant Information Booklet)</i>	workers may have to remain in staff housing for the longer term, they are still subjected to the precarity of their housing.	
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
A strictly legal doctrinal approach might frame the issue in terms of substantive equality and adverse effects discrimination under human rights law. Institutional ethnography can help reveal the adverse effects of the law in tracing how these processes actually impact people. Institutional ethnography reveals the standardizing effects of the ruling relations; taking what might have been a temporary measure to hire non-Inuit skilled workers on a transitional basis until the local Inuit population increased the capacity for more local hiring, and entrenching these temporary practices into the institutional structure. Institutional ethnography demonstrates how the fitting of people's realities into institutional accounts (who should get staff housing according to criteria that does not account for existing socio-economic inequalities) can contribute to resulting disparities along racial lines. Institutional ethnography thus helps reveal the ongoing impacts of colonialism on Inuit.		

Market Housing

<i>How do institutional texts prescribe that the processes relating to these housing experiences should play out?</i>	<i>What are the housing experiences of community members and service providers in Cambridge Bay, and what are the factors and forces that shape these experiences?</i>	<i>What insights do disjunctures between lived experiences and institutional prescriptions reveal about access to justice in Nunavut?</i>
Institutional discourse: The government's conceptualization of the housing continuum categorizes different forms of housing according to whether they are owned/operated/subsidized by the government, idealizing market housing and in particular private homeownership as the ultimate policy goal (<i>The GN Long-Term Comprehensive Housing and Homelessness Strategy; Framework for the</i>	<i>Private rentals:</i> Participants felt that renting privately is often not an affordable option. There are not many private rentals available. Many of the private rental units in Cambridge Bay are actually a form of staff housing, where corporate landlords rent out units to businesses or government entities to provide to their employees. Due to the difficulty of finding affordable units to rent privately, some participants were concerned about their ability to stay in	.

<i>Government of Nunavut's Long-Term Comprehensive Housing and Homelessness Strategy; GN's Blueprint for Action on Housing Nunavut Housing Corporation, The Blueprint for Action on Housing; Nunavut 3000 Strategy)</i> Nunavut Housing Corporation, <i>Rental Scale Procedures Manual</i>: sets out the rental rates for public housing, which are drastically lower than private rental market rates. <i>Nunavut Housing Corporation Act</i>, ss.43 & 44: sets the authority for NHC's housing programs <i>Legal Services Act</i>, ss.31, 45 – sets out eligibility for legal aid; prohibits legal aid services for real property transactions Nunavut Housing Corporation, <i>Verification of Income Guidelines for Homeownership Programs</i>; Nunavut Housing Corporation, <i>Home Renovation Program</i>; Nunavut Housing Corporation, <i>Emergency Repair Program</i>: provides guidelines for subsidies for homeowners	Cambridge Bay, which could result in a shrinking of the local Inuit skilled labour pool. In a sense then, the shortage of housing contributes to the shortage of workers, while a shortage of workers (to build homes) contributes to the shortage of housing. <i>Privately-owned homes:</i> Participants shared various stories about why they decided to buy a home. Some did so because they were told it was a strategic thing to do. Other participants felt that privately-owned homes were too expensive. One participant shared her struggles with keeping up with the work and costs of maintaining and repairing her privately-owned home, expressing feelings mixed with regret about buying her home in the first place. She considered moving into staff housing, even if it is less secure. Some participants reported communication issues with their lawyers when dealing with legal issues relating their home. Currently, the government offers subsidy programs for private rentals and privately-owned homes, which means that the government subsidizes all parts of the housing continuum, despite its goal to reduce reliance on government subsidization.	Some participants expressed difficulties in understanding and navigating the various systems for maintaining their home. Homeowners experience multiple obstacles to accessing lawyers (<i>Legal Services Act</i> prohibits legal aid services for real property transactions, even if they cannot afford to hire a private lawyer; there are very few civil litigation lawyers providing real estate law services resident in Nunavut; lawyers may be conflicted out because they already serve the contractors, etc.) As a result, homeowners may deal with issues on their own, with advice from friends and family, without the help of lawyers.

Department of Family Services, “Canada-Nunavut Housing Benefit (CHB) Program” -offers subsidies for private rentals Inuit Nunangat Housing Strategy – sets out goals and priorities as co-developed by Government of Canada and Inuit Tapiriit Kanatami		
Methodological research objective: <i>To investigate the use of institutional ethnography, informed by Inuit Qaujimajatuqangit guidance, as an approach for understanding access to justice in Nunavut</i>		
By centering the experiences of community members, including Inuit voices, institutional ethnography reveals how laws and policies actually affect people seeking or living in private market housing, in contrast to the institutional discourse idealizing private market housing, and in particular the practical difficulties homeowners experience in accessing legal assistance.		

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