

# A Rights-Based Approach to Encampments: What does it mean?

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## Three Key Questions

- *What is the **right to housing** and a **rights-based approach** to homelessness?*
- *How can we apply a rights-based approach to **encampments**?*
- *How has the human rights framework moved forward **advocacy** on encampments in Canadian municipalities?*



# THE UNIVERSAL DECLARATION OF Human Rights

**WHEREAS** recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

**WHEREAS** disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

**WHEREAS** it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

**WHEREAS** it is essential to promote the development of friendly relations between nations,

**WHEREAS** the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the

human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

**WHEREAS** Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

**WHEREAS** a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**NOW THEREFORE** THE GENERAL ASSEMBLY

*Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*

ARTICLE 1 All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

ARTICLE 2 Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

ARTICLE 3 Everyone has the right to life, liberty and security of person.

ARTICLE 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

ARTICLE 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

ARTICLE 6 Everyone has the right to recognition everywhere as a person before the law.

ARTICLE 7 All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

ARTICLE 8 Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

ARTICLE 9 No one shall be subjected to arbitrary arrest, detention or exile.

ARTICLE 10 Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

ARTICLE 11 (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

ARTICLE 12 No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

ARTICLE 13 (1) Everyone has the right to freedom of movement and residence within the borders of each State. (2) Everyone has the right to leave any country, including his own, and to return to his country.

ARTICLE 14 (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

ARTICLE 15 (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

ARTICLE 16 (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. (2) Marriage shall be entered into only with the free and full consent of the intending spouses. (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

ARTICLE 17 (1) Everyone has the right to own property alone as well as in association with others. (2) No one shall be arbitrarily deprived of his property.

ARTICLE 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his or her religion, to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

ARTICLE 20 (1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.

ARTICLE 21 (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. (2) Everyone has the right to equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

ARTICLE 22 Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

ARTICLE 23 (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. (2) Everyone, without any discrimination, has the right to equal pay for equal work. (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family.

an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (4) Everyone has the right to form and to join trade unions for the protection of his interests.

ARTICLE 24 Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

ARTICLE 25 (1) Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

ARTICLE 26 (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. (3) Parents have a prior right to choose the kind of education that shall be given to their children.

ARTICLE 27 (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

ARTICLE 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

ARTICLE 29 (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

ARTICLE 30 Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in an activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein, religion or belief in teaching, practice, worship and observance.

Adopted by the United Nations General Assembly, at its 193rd meeting held in Paris on 10 December 1948.  
Source: U.N. Department of Information.

“All human beings are  
born free and equal in  
dignity and rights.”

– The Universal Declaration of Human Rights

UNITED NATIONS

“The right to housing is not just a rallying cry. It, like human rights more generally, offers **concrete standards that can be implemented and measured** for progress.”

– *UN Special Rapporteur on the Right to Adequate Housing*

## What does it mean to treat homelessness as a human rights issue?

### Obligations under International Human Rights Law

- Homelessness should be treated with the **highest urgency**
- Governments have an immediate obligation to adopt and implement **strategies to eliminate homelessness** which include clear goals and timelines, in consultation with those who are homeless
- **Evictions** should never render an individual homeless
- Every government decision or policy should be consistent with **eliminating homelessness**
- Governments have to engage the **private sector** to ensure that their actions and policies are in accordance with the right to adequate housing



# Applying a Rights-Based approach to Encampments – Lessons from Canada



# A National Protocol for Homeless Encampments in Canada – A Human Rights Approach

A HUMAN RIGHTS APPROACH



## A National Protocol for Homeless Encampments in Canada

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 **UN Special Rapporteur on the Right to Housing**

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**PRINCIPLE 1**  
Recognize  
residents of  
homeless  
encampments as  
rights holders



Dufferin Grove Park Encampment, Toronto, ON (2021)



# Equipping encampment residents with **accessible information** on their right to housing

## HOMELESS ENCAMPMENTS & YOUR HUMAN RIGHTS

*If you are living in an encampment, you have human rights. Governments are obliged to respect your human rights, including your right to housing.*

You have the right to housing under Canadian legislation and international human rights law. These rights are found in:

- ✓ Canada's National Housing Strategy Act - S.C. 2019, c. 29, s. 313
- ✓ The International Covenant on Economic, Social, and Cultural Rights, Article 11.1
- ✓ The United Nations Committee on Economic, Social, and Cultural Rights, General Comments No. 4 and No. 7

In April 2020, the United Nations Special Rapporteur on the Right to Adequate Housing developed *A National Protocol for Homeless Encampments in Canada: A Human Rights Approach*. The Protocol is a guide for Canadian governments to ensure they implement the human rights of people living in encampments, in keeping with international human rights law. This booklet is a summary of the Protocol.

Homeless encampments will never fulfil the right to housing. But insofar as they exist they must be human rights compliant.



Farha, L. & Schwan, K. (2020). *A National Protocol on Homeless Encampments in Canada: A Human Rights Approach*. Geneva, Switzerland: Office of the United Nations Special Rapporteur on the Right to Adequate Housing  
<https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>

## THESE ARE YOUR HUMAN RIGHTS

### 1/ GOVERNMENTS MUST RESPECT YOUR HUMAN RIGHTS AND DIGNITY

If you are living in an encampment, you have human rights. You are claiming your right to housing by living in an encampment. Governments must uphold the human rights of all people, as outlined in Canadian and international law. All governments and anyone exercising government authority are required to treat people living in encampments with dignity and respect, this includes city officials, social workers, or the police. This means that you should not be ticketed, fined, treated as a criminal, or experience discrimination because you live in an encampment.

### 2/ YOUR VOICE AND EXPERTISE MUST BE RESPECTED BY GOVERNMENT AUTHORITIES

You are an expert in your own life, and governments must respect your right to self-determination. You are entitled to shape the programs, policies, and laws that affect you. Governments must provide you sufficient information about any housing, shelter, or services they are offering you, and must meaningfully consider your perspectives in all decision-making processes. They must treat you as a community of rights holders, not beneficiaries of charity. Formal processes should be established in this regard, for example, specific meeting times and times in a place that is convenient to you. Governments must provide you with information, resources, and opportunities to ensure you can participate in any decision-making that affects you (e.g., by providing you with independent legal and other supports).

### 3/ GOVERNMENTS MUST ENSURE YOUR BASIC NEEDS ARE MET

Governments are legally required to ensure that every person, including those living in encampments, have their basic needs met. This means that you have the right to: safe and clean drinking water, access to sanitation facilities (including toilets, hand-washing stations, showers), waste management systems, social and healthcare services, supports to ensure personal safety, and resources for fire safety, food safety, harm reduction, and pest prevention. These basic services must be provided to all encampments and their residents on an urgent basis.

### 4/ FORCED EVICTION IS A VIOLATION OF HUMAN RIGHTS

Under international human rights law, governments cannot remove residents from encampments without meaningfully consulting them, without providing them legal supports, and without providing adequate housing alternatives. International human rights law does not permit governments to destroy peoples' homes, even if those homes are made of tents, tarps, or found materials. The reasons often used to justify removing encampments – such as city beautification, re-development, or 'public interest' – do not justify forced evictions. If government authorities or others have legitimate concerns about the safety of an encampment (e.g., fire), they must consult with residents about these concerns and support residents to resolve the underlying issues.

### 5/ RESPECT THE DISTINCT RIGHTS OF INDIGENOUS PEOPLES

Indigenous Peoples have distinct rights that must be respected and protected by all government authorities. Governments must not forcibly evict, displace, or relocate Indigenous Peoples without their consent, including Indigenous Peoples living in encampments. Governments are obliged, by law, to respect the self-determination of Indigenous encampment residents and must consult with them to ensure their free, prior, and informed consent before taking any action that may affect them. In addition, governments must respect the unique relationships that Indigenous Peoples have to their lands and territories, and their right to construct shelter in ways that are culturally, historically, and spiritually significant.

### 6/ GOVERNMENTS MUST EXPLORE EVERY ALTERNATIVE TO EVICTING AND PROVIDE LONG-TERM HOUSING ALTERNATIVES

Governments are legally required to explore all possible alternatives to eviction before asking encampment residents to leave where they are living. Government authorities cannot force you to go to a shelter or housing outside of your usual neighborhood. Staying where your community is, and where your home is, is part of the right to housing. If relocation is necessary, you must be provided with long-term adequate housing alternatives in close proximity to your original home, supports, and employment. Relocating you to a shelter does not constitute adequate housing.



Understanding &  
advancing rights-holders  
innovation & capacity



## PRINCIPLE 3

Prohibit **forced evictions** of homeless encampments



Lamport Stadium Encampment Eviction, Toronto, ON (2021)

# Coercive tactics to evict encampments



**“Sound emitter” installed under the Maryland Bridge  
Winnipeg, Manitoba (2020)**



# The costs of eviction & property destruction



Vancouver Area Network of Drug Users & Pivot Legal Society present a 'bill' to the City of Vancouver for street sweeps (2021)

# Repositioning Encampment Residents as the Experts on their Human Rights

## DECAMPMENT REPORT CARD

*Based on National Protocol for Homeless Encampments in Canada*

This tool is for tent city residents to grade the government's decampment plan. Assign a grade to each question; then decide on the overall grade at the end. Bullet points are to assist you in grading, but you are welcome to consider other factors. A final "Report Card" will be issued to government actors after answers have been collected. For questions concerning this tool see the bottom of the back page.

### Are the distinct rights of Indigenous peoples being respected?

- |  | A | B | C | D | E | F |
|--|---|---|---|---|---|---|
| <input type="checkbox"/> Officials recognize Indigenous peoples' right to create and organize shelter and housing in ways that incorporate their lived histories, cultures and experiences.                    |   |   |   |   |   |   |
| <input type="checkbox"/> Officials are genuinely working with Indigenous residents to find appropriate, culturally-safe, long-term housing, and do not force people into housing via eviction from encampment. |   |   |   |   |   |   |
| <input type="checkbox"/> Officials consult with Indigenous encampment residents to get informed consent before making any decisions, including eviction.   |   |   |   |   |   |   |
| <input type="checkbox"/> Police are not present when officials engage with Indigenous encampment residents.  |   |   |   |   |   |   |
| <input type="checkbox"/> Officials recognize that Indigenous peoples have high rates of homelessness and poverty.  |   |   |   |   |   |   |

### Is there meaningful engagement with and leadership by encampment residents?

- |  | A | B | C | D | E | F |
|--|---|---|---|---|---|---|
| <input type="checkbox"/> Officials engage in ongoing and meaningful engagement with residents that act as resident leaders.  |   |   |   |   |   |   |
| <input type="checkbox"/> Encampment leaders are empowered to make decisions about actions that affect them, including through resident-led meetings and processes. |   |   |   |   |   |   |

- ☐ Residents are given enough time to consider information provided by government and to give their direction.
- ☐ There is a clear resident-approved process to challenge decisions, propose alternatives, and articulated demands and priorities.
- ☐ Officials ensure resources are available to support full participation in decision-making, including Indigenous cultural supports, literacy supports, translation, mobility supports, PPE, food, and access to information.
- ☐ Residents are provided with independent legal advice, information concerning human rights, and the specific rights of Indigenous peoples.

### Are there prohibitions of forced evictions of encampments?

- |   | A | B | C | D | E | F |
|---|---|---|---|---|---|---|
| <input type="checkbox"/> Officials have declared an end to all forced evictions and ban harassment, intimidation, or threatening of people living outside, which includes ensuring police, fire services, bylaw officers, and other agents of the state only engage and respond using a trauma informed, culturally safe and harm-reduction approach. |   |   |   |   |   |   |
| <input type="checkbox"/> Officials supply access to safe drinking water hygiene sanitation, food, harm reduction supplies, waste management, electricity and heat.  |   |   |   |   |   |   |
| <input type="checkbox"/> Government actors protect and respect belongings and privacy, including personal property and tents.   |   |   |   |   |   |   |

## Strathcona camp residents issue a human rights report card to province and city on decampment process



**FOR IMMEDIATE RELEASE**  
April 29, 2021

*As unhoused people are evicted from Strathcona Park, they look to local and international human rights laws to evaluate government decampment strategy and, based on these laws, issue a significantly low grade of "D"*

Vancouver, BC, Coast Salish Territories – Leading up to the April 30<sup>th</sup> deadline for the decampment of Strathcona Park Tent City, unhoused residents sheltering at the park have issued a low D grade to government actors involved in the eviction.

**READ: Report Card Results**

## Strathcona Park DECAMPMENT REPORT CARD

*Based on the National Protocol for Homeless Encampments in Canada*

### Are Encampment Residents Recognized as Rights Holders?

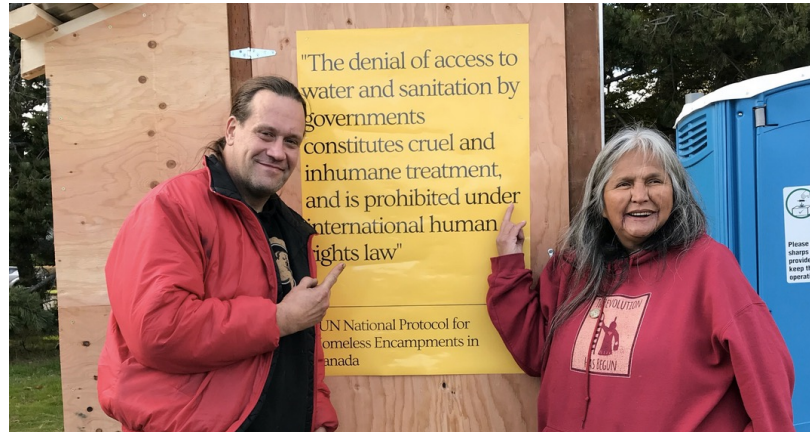
Government officials, police, and by-law officers recognize and uphold the human rights and human dignity of encampment residents.





# PRINCIPLE 6

## Ensure Encampments meet **Basic Needs** of Residents



Beacon Hill Encampment (Victoria, BC, 2021)



# Where do we go from here?

- Adopt a **municipal rights-based policy** regarding encampments, with participation of encampment residents
- Create infrastructure and funding to support **meaningful engagement** with encampment residents
- Support and respect **Indigenous leadership and self-determination** in relation to issues of encampments
- **Review practices, policies, and bylaws** to assess compliance with international human rights law & the *National Housing Strategy Act*



# Thank you!

LEARN MORE AT:



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

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