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Upholding dignity and human rights: the Federal Housing Advocate's review of homeless encampments

Interim report

Office of the Federal Housing Advocate, Canadian Human Rights Commission

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NOTE OF GRATITUDE

As Canada's first Federal Housing Advocate, my role is to drive change on key systemic housing issues and to hold government decision makers to account for their human rights obligations related to housing and homelessness. The right to adequate housing means that all people are equally entitled to live in dignity in a safe and secure home without discrimination or harassment. Recognizing housing as a human right means that government "duty bearers" at all levels have legal obligations to protect this right for everyone, and especially for people whose right to housing is being violated.

In the past months, I have had the privilege of meeting with and hearing from people who have experienced encampments across the country. First and foremost, this report is designed to place them at the centre of efforts to address homelessness. I want to thank them for sharing their stories and insights. I also want to recognize and commend their courage and resilience in the face of systemic failures to uphold their human rights. As you read this Interim Review and think about potential solutions, I urge you to focus on the urgent need to ensure everyone in Canada has a safe and secure home where they can live in dignity.

I live and work much of the time in un-ceded Anishinabe Algonquin territory and have appreciated the opportunity to visit the territories of First Nations, Inuit and Métis peoples to learn more about the challenges of Indigenous Peoples related to encampments. My discussions across the country have highlighted the direct links between homelessness, encampments and the colonial dispossession of land.

My Interim Report would not have been possible without the work of national and local advocates who are working tirelessly to support people in encampments. This report has also been enriched through discussions with duty bearers from all levels of government. I thank all those who met with me or provided information for my review and I was encouraged to learn more about how human rights principles are informing responses in a number of places.

I encourage all interested readers to share any feedback with me so I can ensure my final report and recommendations will have an impact and result in the changes that are urgently needed.

Change depends on all of us working at all levels, starting in our own communities.

Sincerely,

Marie-Josée Houle, Federal Housing Advocate

INTRODUCTION

The Federal Housing Advocate launched a systemic review on February 23, 2023 to examine the human rights issues facing encampment residents in Canada. This review, pursuant to subsection 13.1(1) of the National Housing Strategy Act (the NHTSA), is informed by research on homeless encampments that was commissioned by the Office of the Federal Housing Advocate (OFHA) and released in December 2022. This research confirmed that encampments are a human rights crisis and a violation of Indigenous Peoples' rights, which are unfolding in communities across Canada.¹

The challenges related to homelessness have been growing for many years and were exacerbated by the COVID-19 pandemic. The demands on shelters and social services are exceeding capacity, and homeless encampments have grown across the country. Punitive responses to encampments have also become widespread. This approach – including ticketing, arrest, forced eviction, and the destruction of tents and personal property – fails to address the underlying conditions that have led to the growth of encampments in the first place: chiefly, a lack of affordable, accessible housing. Further, it does not respect the human rights of encampment residents to live in dignity and have access to safe and secure housing.

This Interim Report provides an overview of what the Advocate has heard and learned to date about encampments in Canada and proposed human rights-based solutions. The report is intended to provide the foundation for a deeper reflection on these issues over the coming months. These discussions will in turn inform the findings and recommendations that will be included in the Advocate's final report (expected in early 2024). In preparation of the final report, the Advocate will continue to engage with rights holders, local and national advocates, as well as government human rights duty-bearers at all levels.

In this report, the term "homeless encampments" refers to temporary outdoor accommodations for individuals and groups of unhoused and unsheltered individuals that have been established – often without permission – on public property or privately-owned land.² The growth in number and size of such encampments is the consequence of a severe lack of adequate housing that meets people's varying needs, particularly accessible and affordable housing. The Advocate also recognizes the need for Indigenous understandings of encampments to be respected given that encampments occur on Indigenous land and Indigenous people are overrepresented in encampments.

RATIONALE FOR THE REVIEW

This report is an important step in the first systemic review undertaken by the Advocate under the National Housing Strategy Act (NHTSA). Guided by the human rights principles that form the foundation of the NHTSA, the review has been designed to create space for meaningful engagement and amplify the voices of encampment residents as rights-holders.³ People who are unhoused bring an essential perspective and unique understanding of the systems that deny them their rights. Thus, they “must be recognized as central agents of the social transformation necessary for the realization of the right to adequate housing.”⁴

The review is taking place at a time when formal recognition of the right to adequate housing is still new and accountability mechanisms like the Federal Housing Advocate are still being established. As such, the review is an important opportunity to raise awareness about the human rights obligations of all levels of government while identifying the gaps in implementation and proposing human rights-based solutions related to encampments.

Since the Review was launched on February 23, 2023, the Advocate has engaged in a number of events across the country to hear directly from encampment residents and local community advocates in Montreal, Saskatoon, Winnipeg, Vancouver, Toronto, and Calgary. Recognizing the significant over-representation of Indigenous individuals living in encampments, the Advocate also took part in a number of targeted engagements with Indigenous Peoples and their representative organizations.⁵ The Advocate met with national and local Indigenous organizations and advocates during her visits to Montreal, Saskatoon, and Winnipeg as well as during her August 2022 visit to British Columbia.⁶

In April 2023, the Advocate launched an online portal to invite individual and organizational submissions to inform this review. Recognizing that many people living in encampments would face challenges accessing this tool, she partnered with the Shift and local organizations in Victoria, Vancouver, Hamilton, Peel, Ottawa, Gatineau, Montreal, Moncton, and Halifax to support encampment residents in sharing their experiences and proposals for solutions. With the help of these local partners and others, 313 people with lived experience in encampments made submissions. In addition, 53 advocates, organizations and municipalities shared their perspectives and observations.

Finally, the Advocate is seeking to engage with all levels of government regarding their human rights obligations with respect to housing and encampments.

The Advocate’s engagement with the Federation of Canadian Municipalities (FCM), the FCM’s Big City Mayors’ Caucus, and the Association of Municipalities of Ontario (AMO) facilitated input from municipalities across the country. As well as receiving written responses, the Advocate met with a number of municipal leaders and officials working on effective responses to the human rights challenges posed by encampments.

In a number of instances, when municipalities were taking actions that appeared to contravene the human rights of encampment residents, the Advocate sent letters of concern to mayors, and municipal councils, the relevant provincial authorities, and provided comment in the media.⁷

Throughout the process, the Advocate and her staff also met regularly with federal officials to keep them informed about the process of the review and to learn more about federal efforts to develop a response.

The Advocate has engaged with provincial human rights commissions in Ontario, British Columbia, and Quebec. In April, she also met with provincial and territorial senior officials of the intergovernmental Forum on Housing, informing them of the review and asking for their input in next steps.

As an Interim Report, this document could not capture all relevant experiences. Rather, it is intended to provide the foundation for further reflection and engagement to identify human rights-based solutions. The Advocate's final report (expected in early 2024) will present her findings as well as concrete recommendations to increase dignity, security, and protection for the human rights of people who are unhoused and living in encampments, as well as upholding the rights of Indigenous Peoples. The Advocate looks forward to continuing her engagement in the coming months in preparation of this final report.

The right to adequate housing

The human right to adequate housing is an obligation affirmed in international human rights law, including in treaties that Canada has signed and ratified as well as in human rights declarations and other applicable international norms and standards.⁸ With the National Housing Strategy Act (NHSA) enacted in 2019, the human right to adequate housing is now enshrined in Canadian law.⁹ Recognizing housing as a human right means that governments at all levels have legal obligations to respect, protect, fulfill, and promote this right for everyone, without discrimination. These obligations are heightened in respect to those most vulnerable to violations of their human rights.

The right to adequate housing means that housing must be secure, provide availability of basic services, affordable, habitable, accessible, in a suitable location and culturally adequate.¹⁰

All people should have equitable access to adequate housing, without discrimination based on gender, race, disability, faith, place of birth, age, sexual orientation, or other grounds.

Being unhoused means not having stable, safe, and adequate housing, nor the means or ability to obtain it. Then United Nations Special Rapporteur on the right to adequate housing, Leilani Farha, explains:

Homelessness is a profound assault on dignity, social inclusion and the right to life. It is a prima facie violation of the right to housing and violates a number of other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person and freedom from cruel, degrading and inhuman treatment.¹¹

Homelessness also negatively impacts other rights. For example, the right to family life and family unity are undermined when women who are unhoused have their children taken away from them. Governments should avoid punitive measures and focus, rather, on providing a solution.¹²

A State must make every effort and use all available resources to satisfy the obligation to eliminate homelessness. This standard means eliminating homelessness in the shortest possible period of time.¹³

Under international human rights law, states have specific human rights obligations to:

- Adopt and implement plans to eliminate homelessness as quickly as possible in consultation with people who are unhoused. Such plans must include clear, time-bound goals, as well as setting out who is responsible for what across all levels of government.
- Measure and monitor the extent of homelessness using data disaggregated by gender, race, and other relevant characteristics;
- Eliminate forced evictions;
- Stop the criminalization of people who are unhoused;
- Combat discrimination, stigma, and negative stereotyping of people, including by prohibiting discrimination based on socio-economic status, including homelessness;
- Ensure access to justice for rights violations, including government failures to take adequate measures to address homelessness; and
- Regulate non-state actors so that they respect the rights of people who are unhoused and undertake actions consistent with the imperative to eliminate homelessness.¹⁴

Finally, the United Nations Human Rights Committee underscores that States should take particular measures to uphold the right to life, including actions related to housing:

The duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include [...] extensive substance abuse, widespread hunger and malnutrition and extreme poverty and homelessness. The measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services [...] and social housing programmes.¹⁵

Recognizing the right to housing in Canadian courts

There have been several developments toward recognizing the right to housing in Canada.

In the 2009 Adams decision, involving an encampment in Victoria, B.C., the Court ruled that, in the context of a shortage of adequate shelter for unhoused persons, bylaws imposing an absolute prohibition on the erection of temporary overnight shelter violated section 7 of the Canadian Charter of Rights and Freedoms.¹⁶ This decision was the first to establish a link between the Charter – in this case section 7 rights to life, liberty, and security of the person – and the right of encampment residents to shelter in public spaces. The decision also affirmed that the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights are relevant factors when courts consider section 7.¹⁷

Subsequently, many encampment cases have arisen, but the precedent set in Adams has not yet borne out a more robust and meaningful recognition of the rights of encampment residents, either under section 7, or under section 15 protections of equal treatment under the law. In fact, most encampment cases have been decided at the injunction stage, before Charter claims are even addressed.

In those rare cases that involve analysis of Charter rights, judges tend to opt for the narrowest and least systemic legal remedies. We often see some variation on the reasoning first defined in Adams.

For example, in a recent court case in Ontario that dealt with encampments in the city of Waterloo (Waterloo v. Persons Unknown and to be Ascertained, 2023), the decision concluded: “The essence of the British Columbia decisions is the establishment of a constitutional right to shelter oneself when the number of homeless persons exceed the number of available and accessible indoor shelter spaces within a given jurisdiction.”¹⁸

This current trend in legal recognition requires no positive government action. It simply requires governments to refrain from specific, harmful activity, namely: forcibly displacing people where there are no accessible shelter beds, as opposed to taking concrete steps to ensure access to shelter or housing. This is a far cry from full recognition of the right to housing under international law.

The right to housing and the human rights of Indigenous Peoples

Governments have particular human rights obligations related to housing when it comes to upholding the rights of Indigenous individuals and the collective rights of Indigenous Peoples.

First and foremost, governments need to address the impact of colonialism and related systemic housing inequality and dispossession experienced by Indigenous Peoples.¹⁹ Indigenous homelessness, in its many forms, including encampments, is directly tied to Canada’s ongoing legacy of colonial policy and practice. As Jesse Thistle, a Métis-Cree scholar on Indigenous homelessness, writes:

Racism and discrimination aimed at Indigenous peoples are firmly entrenched in Canadian society, producing impenetrable systemic and societal barriers, such as a lack of affordable and appropriate housing, insufficient and culturally inappropriate health and education services, irrelevant and inadequate employment opportunities, and a crumbling infrastructure in First Nations, Inuit, and Métis communities. The fiduciary abandonment of Indigenous communities by the state, which has greatly contributed to Indigenous homelessness, is manifested by chronic underfunding by the federal, provincial and territorial governments of Canada.²⁰

Ensuring Indigenous individuals have access to adequate, culturally appropriate housing, consistent with the right to housing, is one key step toward addressing this appalling human rights record. It is also key to addressing the ongoing crisis of missing and murdered Indigenous women, girls, and gender-diverse people. The National Inquiry into Missing and Murdered Indigenous Women and Girls has called on all governments in Canada to “ensure that Indigenous women, girls, and 2SLGBTQIA people have access to housing that is safe, appropriate to geographic and cultural needs, and available wherever they reside, whether in urban, rural, remote, or Indigenous communities.”²¹

Further, for Indigenous individuals, the right to housing can only be realized in tandem with the collective rights of Indigenous Peoples, including those contained in the United Nations Declaration on the Rights of Indigenous Peoples.²²

In this light, the right to adequate housing for Indigenous Peoples must be understood within the context of their rights to self-determination and self-government. The right to self-determination includes Indigenous Peoples’ right to free, prior, and informed consent. This requires federal, provincial, territorial, and municipal governments to work in consultation and cooperation with Indigenous Peoples to seek their agreement before taking measures that potentially impact the rights of Indigenous Peoples.²³

The right to self-determination and self-government also means that enjoyment of the right to adequate housing of Indigenous Peoples is inextricably linked to maintaining their unique relationship to their traditional territories and corresponding rights.²⁴ The right to housing for Indigenous Peoples should also be seen as connected to rights to practice ceremonies, harvesting, and other Indigenous economic, cultural, and spiritual traditions and practices.

Métis, Inuit and First Nations governments also have a collective right to design and implement their own housing policies and programs, including access to adequate financial resources to implement the right to housing.²⁵

For all individuals, forced evictions are a gross violation of the right to adequate housing. For Indigenous Peoples, the prohibition of forced eviction must be understood in the context of closely interconnected collective rights. Specifically, Article 10 of the UN Declaration states that Indigenous Peoples shall not be forcibly removed from their lands or territories.²⁶

A human rights-based approach to encampments

Everyone has a right to live in security, peace, and dignity, including people living in encampments.

People living in encampments face some of the most vulnerable circumstances of any member of Canadian society. Many are dealing with the combined effects of unaffordable housing, the health crisis brought on by the pandemic, and a severe economic downturn. They have often faced discrimination linked to the historical legacy and ongoing realities of colonialism, racism, sexism, ableism, and other forms of systemic marginalization. In other words, they have experienced a history of human rights violations and are at heightened risk of further violations.

Residents of encampments frequently experience harassment and violence from police, bylaw officers, and the public. While the Advocate heard that many unhoused people find that living in encampments is safer than alternatives such as shelters or living alone on the street, the conditions are still precarious. Many described losing their possessions, including government-issued identification, during enforcement actions. Most do not have access to basic services like clean water or heat. Some have suffered physical harm or have died as a result of exposure, fire, overdose, and other threats to life and safety. These conditions are an assault on their human dignity and amount to violations of the human right to housing.

Paradoxically, encampments are also a site of strong human rights claims. As articulated by former United Nations Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan:

While encampments arise as a result of governments failing to effectively implement the right to housing, they can also be an expression of individuals and communities claiming their legitimate place within cities, finding homes within communities of people without housing, asserting claims to lands and territories, and refusing to be made invisible. They are a form of grassroots human rights practice critical to a democracy such as Canada's. For Indigenous peoples, the occupation of lands and traditional territories vis-à-vis encampments may also be an assertion of land rights, claimed in conjunction with the right to housing.²⁷

Living in an encampment does not change the scope of rights protections or government obligations. The prohibition on forced eviction, for example, applies “regardless of ownership or tenure status of those affected.” Encampment residents who face forced evictions must receive adequate compensation, reparation, and access to housing.²⁸

Furthermore, encampment residents have the right to remain where their community is whenever possible. Relocation should occur only when strictly necessary and after all other options have been explored through meaningful consultation with encampment residents.²⁹

Governments must also ensure encampment residents' basic needs are met, such as having access to safe drinking water and sanitation,³⁰ and government services and programs must be accessible without discrimination.³¹

Finally, encampment residents have a right to redress for any human rights violation they face, including access to justice to enforce their rights.³²

Designing and delivering solutions for encampments using a human rights-based approach also requires the application of the following key principles³³:

- **Participation** – People should be involved in decisions that affect their rights.
- **Accountability** – There should be monitoring of how people’s rights are being affected, as well as remedies when things go wrong.
- **Non-Discrimination and Equality** – All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realizing their rights should be prioritized.
- **Empowerment** – Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
- **Legality** – Approaches should be grounded in the legal rights that are set out in domestic and international laws.

Existing human rights guidance

Two months into the pandemic, former United Nations Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan published “A National Protocol on Homeless Encampments in Canada,” advocating for cities to adopt a human rights-based approach to encampments. The Protocol provides governments with a framework on how to use a rights-based approach when dealing with encampments based on eight principles, which are, in brief:

1. Recognize residents of homeless encampments as rights holders;
2. Meaningful engagement and effective participation of encampment residents;
3. Prohibition of forced evictions of encampments;
4. Explore all viable alternatives to eviction;
5. Ensure that any relocation is human rights compliant;
6. Ensure encampments meet the basic needs of residents consistent with human rights;
7. Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents; and
8. Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with encampments.³⁴

The research commissioned by the Advocate’s Office on encampments also recommended a rights-based transformation of government responses at all levels to encampments through the immediate adoption of the following five recommendations:

1. **De-Centre policing and law enforcement:** A rights-based approach to encampments requires all governments, including municipalities and the federal government, to end their practices of using trespass orders, bylaws, and policing to evict unhoused people from encampments.

2. **Municipal and interjurisdictional responsibilities:** In adopting a rights-based approach to encampments, federal and provincial governments have an obligation to provide funding and services that offset the disproportionate impact faced by municipalities in addressing the housing crisis and the existence of encampments. This includes short-term options, such as investments in modular housing and suitable shelter spaces, and longer-term investments in social and affordable housing.
3. **Ensure the meaningful participation of encampment residents:** A rights-based approach requires meaningful and inclusive participation of people living in homelessness in the design and implementation of policies, programs, and practices that affect them.
4. **Recognize the distinct rights of Indigenous Peoples:** Governments should meaningfully engage all relevant Indigenous stakeholders and nations, as identified by Indigenous Peoples themselves, in the development of policy approaches to encampments.
5. **Address the conditions within encampments and provision of basic services:** A rights-based approach requires access to basic services, such as clean water, sanitation facilities, electricity, and heat.³⁵

WHAT WE HEARD ABOUT THE HOMELESSNESS CRISIS

This section, and the one that follows, summarizes what the Advocate has heard so far over the course of public engagement about conditions contributing to the increase in encampments across the country. It reflects input from 313 people who have lived in encampments who made a submission through the Advocate’s online platform, and 53 submissions from frontline workers, city officials and staff, advocates, and community members.³⁶ It also includes perspectives expressed at six roundtable engagements,³⁷ a series of engagements held by The Shift,³⁸ input received from Indigenous Peoples and representative organizations, as well as municipal government representatives.

Barriers to secure housing

The federal government has authorized an over \$80 billion suite of loans and program funding as part of the National Housing Strategy (2017-2027) designed to respond to the housing and homelessness crisis. Yet, the Auditor General’s 2022 report on Chronic Homelessness found that the government is unable to determine if its efforts to prevent and reduce chronic homelessness were leading to improved outcomes.³⁹

The Advocate heard how the growth of encampments reflects an underlying lack of access to adequate, affordable housing, and how the supply of supportive housing is not able to meet current levels of demand. One roundtable participant expressed frustration at backlash to encampments, noting, “There is no housing to offer people.” In particular, the Advocate heard the deep fear and exhaustion from advocates and individuals on the front lines of the housing

crisis in Canada who feel like they are “fighting a losing battle” as the right to housing becomes more and more out of reach for many.

The Advocate also heard how discrimination prevents some groups from enjoying their right to housing. In particular, people with disabilities face an extreme shortage of adequate, affordable, and accessible housing that supports a life of dignity. One participant remarked, “The only way we get accessible housing is if someone dies or goes to long-term care.”⁴⁰ Racism also impacts access to housing. For example, one participant shared their experience of facing rejection by landlords as a Black person with dreadlocks.

Participants described the severe lack of supportive housing that meets the particular needs of people with active and severe addictions. Alongside a limited supply of detox and rehab programs, participants shared that there are not enough housing options for people leaving those programs. This shortage is especially alarming given incidents shared about drug use leading to eviction, likely into homelessness.

People also face discrimination because of their low income, being unhoused, or both. The Advocate heard about the stigma that unhoused people experienced that was related to their social identity and appearance. Participants also underscored how landlords requiring employment references, judicial or credit checks, or demonstrations of consistent recent access to housing disproportionately screen against marginalized people, particularly unhoused people. Further, the Advocate was concerned to hear of an increasing trend of landlords not accepting tenants who rely on social assistance.

Some people seeking housing shared that the only housing options offered were uninhabitable. Participants described seeing violations of adequate housing standards so deplorable due to rodents, bedbugs, and lack of running water, that they would rather live outside.

Participants also explained how lack of secure tenancy can lead to homelessness, particularly for women and gender diverse people. In some cases, it is not possible for romantic partners to be added to a lease. In others, couples will hide their relationship and cohabitation because their combined income may render them ineligible for housing or social assistance. The Advocate heard how this situation can lead to one person in the couple being made homeless when the relationship ends because they are not named on the lease and therefore have no tenancy protections.

Participants further warned that, in some provinces, public and supportive housing programs can be a pathway to homelessness, instead of a conduit to stable housing. The Advocate heard that in British Columbia for example, highly restrictive, but illegal “program agreements” have led to housing providers imposing extremely restrictive rules on residents and evicting people for even minor breaches.

Once someone is unhoused, the Advocate heard how it becomes increasingly difficult to access housing. Quick turnaround times and extensive bureaucratic hurdles increase the difficulty of making a transition away from street living, even with assistance. One participant recalled having two days to get paperwork together to enter public housing and not being able to make the deadline. Frontline workers also reported difficulties in helping unhoused people navigate

through the systems in place, for example, applications for programs, income tax paperwork, unemployment insurance, or arranging for a rent allowance. These challenges are growing as more and more of these systems are going online.

Even when successful in navigating the system, many face extensive waitlists for the current inadequate supply of affordable and social housing. One roundtable participant expressed particular frustration at ten-year waitlists for rent-geared-to-income housing.

Inadequate emergency shelters

The Advocate heard that there is a clear link between the levels of capacity, adequacy, and dignity within shelter systems, and the emergence of encampments.

A frontline worker described the lack of shelter space as “a crisis,” noting that lack of space in winter means people are forced to remain outside, exposed to the elements. Some get frostbite, in some cases resulting in amputated fingers and toes. Some people have died from exposure. “We had to drop people off at emergency rooms to keep them alive,” they said.⁴¹ Another participant described how some unhoused mothers have resorted to letting their kids sleep in stores or other indoor places they can go unnoticed, due to overfilled shelters.

Many also deplored the fact that shelters cannot maintain dignified living conditions. “Shelters are dead spaces,” one roundtable participant said, noting that conditions like theft, crowding, violence, and the threat of catching illnesses encourage people to opt to live in encampments.⁴² Numerous participants expressed frustration at the lack of privacy in shelters, and fear that their belongings will be stolen due to a lack of secure storage spaces. A participant shared that shelters for her are a location of trauma where she does not feel safe and where she has no privacy and no autonomy. In fact, numerous participants compared shelters to prison-like conditions. As one submission noted, this can be a source of trauma for those with experience being incarcerated. For many trying to avoid a relapse into addiction, a shelter can also be triggering, as poor mental health is exacerbated by living in a dorm with no privacy.

Emergency shelters often have rules that restrict autonomy, freedom of movement, privacy, and access to friends and family. They may also set expectations that are difficult to meet for people who have been living on the street. For example, shelters may require sobriety, impose disruptive bed checks, prevent couples from staying or sleeping together (segregation by gender), restrict the quantity of belongings residents can bring, or not provide space for pets. Such limits can have serious consequences. For example, separating families and couples deprives people of a key source of safety and support. Gender-specific shelters may also prevent same-gender couples from sleeping together.

People who suffer from addictions are also particularly affected by shelter restrictions. The Pan Canadian Women’s and Housing and Homelessness Survey demonstrates that people who use drugs were banned from shelters at a rate three times greater than those who did not use drugs.⁴³

Some also expressed the difficulty of maintaining employment while living in the shelter system. Shelters can require residents to be present at certain times for head counts, or to depart at a particular time of day, often early in the morning. One participant, for instance, described losing

her place in a shelter where she was volunteering because the shelter required her to be present for several bed counts, and she slept at a friend's house for one night. Since her eviction, she lost all her belongings and personal identification, and has been sleeping on the streets.

The Advocate also heard how shelters can be so unsafe, people will choose to live outside. Many of the participants said they face serious safety issues such as violence, gender-based violence and systematic discrimination and racism. Some participants reported allegations of theft and sexual assault involving shelter staff.

For women and gender diverse people in particular, staying in shelters can expose them to violence, including sexual assault. Some noted that women, trans women, and gender diverse people are more likely to avoid shelters – out of fear of violence, sexual exploitation, and child apprehension – and therefore have more difficulty accessing services. Many lamented the lack of emergency resources, including warming centers, specifically for women and LGBTQIA2S+ people.

Participants also shed light on the lack of safe places for women, gender diverse people, and others fleeing violence. Data shows that the vast majority of shelter beds in Canada are designated for men or are co-ed (68 percent), with only 13 percent dedicated specifically for women.⁴⁴ Some roundtable participants remarked that shelters designed for women fleeing violence can also be restrictive in who is granted access, creating barriers for people who aren't experiencing the "right kind" of abuse. Unhoused women fleeing a violent relationship may not be considered eligible to stay at a shelter because they don't fit specific criteria – for example their assault took place beyond a certain timeframe. Such restrictions, it was noted, can lead to people either staying in abusive living situations, or living outside in encampments. One assessment estimates that approximately 699 women and 236 accompanying children are turned away from domestic violence shelters every day across Canada.⁴⁵

Indigenous Peoples and the homelessness crisis

The Advocate heard how the rights of Indigenous Peoples are particularly impacted by the housing and homelessness crisis across Canada, and how unhoused Indigenous individuals face distinct harms.

Indigenous representative organizations and municipal government representatives all recognized that Indigenous Peoples are overrepresented among the population of unhoused people throughout Canada. Data corroborates this pattern. For example, the most recent Point in Time counts of homelessness in communities receiving federal funding through the Reaching Home program show that 35 percent of unhoused respondents identify as Indigenous compared to the 5 percent of the overall population that identified as Indigenous in the 2021 census.⁴⁶

Participants attribute this systemic disparity, in part, to the longstanding lack of equitable federal investment in housing and related infrastructure in Indigenous communities. They also highlighted the need for follow through on the findings of the Truth and Reconciliation Commission as well as the National Inquiry into Missing and Murdered Indigenous Women and Girls. They also called for greater recognition of the direct links between Indigenous

homelessness and the dispossession of Indigenous lands as well as the discriminatory and disproportionate apprehension of Indigenous children. As Indigenous housing scholar Alan Hanna stated in his report commissioned by the Advocate, the history of colonialism in housing policy is shameful. He also underscores that acknowledging this history is critical to understanding the present day access to housing challenges and right to housing violations regularly inflicted on Indigenous communities throughout Canada.⁴⁷

The full scale of housing needs for Indigenous people is uncertain, however, because of the prevalence of hidden Indigenous homelessness. Rather than living unsheltered, it is common for unhoused Indigenous individuals to live in overcrowded family homes, couch surf, or live out of cars, particularly in Northern, rural, and remote locations. Nevertheless, Indigenous communities are also seeing a rise in seasonal encampments, or incidents of unsheltered homelessness that can have lethal consequences, particularly in Northern climates.

Participants warned that a lack of resources and supports for Indigenous individuals living away from their communities in urban centres increases the risks of homelessness and other negative outcomes. Missing or inadequate essential supports include: a lack of transition services for those moving from reserves to cities, a lack of culturally appropriate housing, and few Indigenous housing providers. With increasing rents in urban areas, some seek to return to their home communities, but will face long waitlists for housing.

Indigenous individuals, meanwhile, often avoid mainstream shelter services due to fear of separation from key supports and personal possessions. The Ontario Federation of Indigenous Friendship Centres' submission shared:

For many Indigenous people, they would rather stay with their partners or pets in encampments than be separated from them in the shelter system. To restrict encampments and force residents into shelters, it would be essential that those shelters be safe and accommodating places that treat residents with dignity, not strip them of their possessions and loved ones.

Unhoused Indigenous people also face a lack of culturally appropriate services and care. The Ontario Federation of Indigenous Friendship Centres shared that mainstream services do not provide the supports and culturally safe services Indigenous people facing homelessness or housing precarity need.

Significantly, participants lamented the way jurisdictional confusion leads to barriers for funding Indigenous housing and homelessness programs. Federal Reaching Home funds, for example, are not available on-reserve. A representative of an Indigenous organization observed that third party, non-Indigenous entities are receiving funding to provide services to urban Indigenous people, but are not delivering culturally appropriate care and services. For urban Indigenous communities, some participants pointed to the failure of the federal government to take responsibility for necessary service provision. It was reported that, meanwhile, Indigenous governments are not resourced to support Indigenous people living in urban centres away from their home communities, and sometimes not jurisdictionally empowered to provide said support.

Positively, the Advocate did hear about some collaboration between Indigenous and non-Indigenous governments to bridge jurisdictional barriers. For example, the Newfoundland and Labrador Housing Corporation, a provincial crown corporation, will lease building space and allow the Nunatsiavut Government to operate housing and homelessness programs in Goose Bay, which is a hub for Inuit who have left Nunatsiavut, some due to lack of housing in their homeland.

Inadequate program funding for community services

The Advocate heard how frontline housing and homelessness services are underfunded, operating over capacity, and facing high rates of staff turnover and burnout.

Another remarked on the inability to recruit new employees, noting that first year university students are being hired for roles they aren't equipped to perform. Similarly, some noted the difficulty in retaining skilled workers when government agencies can offer higher pay and more stability.

At the root of the issue, participants remarked, is the reliance on project-based and short-term funding, particularly through the federal Reaching Home program, as opposed to sustained, perennial operational funding. By the time someone is hired and trained, one roundtable participant noted, the funding for the position is gone, which leads to instability for staff, and precludes being able to build trust with clients, many of whom have complex needs. The result, some noted, is that vulnerable and neglected people are being underserved, and not receiving the qualified, trauma-informed care to which they are entitled.

Further, limited funding results in “unproductive competition” between organizations as they fight for the same funding opportunities. This competition can lead groups to underestimate their real financial needs when submitting applications, which makes it difficult to maintain projects, even if they are successful in meeting needs.

The need for human rights-based action and more accountability

Participants described the need for a paradigm shift in government approaches to housing and homelessness. There is a need for people-centred approaches based on genuine effort and cross-jurisdictional collaboration.

Participants on the frontlines of the struggle for housing justice spoke to a long history of facing off against government denial and disregard. As one roundtable participant shared:

Everything we got in this city we had to fight for it, get arrested, get lawyers, get tickets: 24-7 women drop-ins, tent city, warming centres – these are all fought for by the community, not provided by the city. We have been beaten by police for the kind of activism we have done.⁴⁸

Participants noted that many municipalities and provinces continue to invest money and resources in hostile approaches to encampments (including hostile architecture), supporting harassment and surveillance of residents as opposed to genuine outreach. Some reported a lack of communication or meaningful engagement with encampment residents and organizations, as

well as denial by government of the seriousness of the housing crisis. “The government needs to understand that they created these issues of inequity and they are complicit in maintaining them,” one participant stated.⁴⁹

Participants also noted that work to address housing and homelessness issues has been stymied by lack of clear lines of responsibility, both across government ministries and between various levels of government. As a result, no one takes responsibility for financing and implementing appropriate solutions. “Everyone keeps acting like it’s not their responsibility and trying to pass the issue on to another government entity. They need to just come together and resolve this issue,” a participant emphasized.⁵⁰

The Advocate heard that many of the people in government responsible for delivering homelessness services and programs (at all levels) don’t understand the realities of people living on the street. People expressed concerns that responsibilities are not well defined and that the agencies often avoid responsibility by suggesting it is up to another department or level of government to address the problem.

The Advocate also heard from municipalities who reported that in attempting to take a human rights-based approach to housing and homelessness, they came up against limitations, particularly the need for cross-jurisdictional collaboration with provincial and federal governments. When the Advocate asked municipalities for solutions they would like to see put in place, the responses mostly centred around funding for non-market, supportive and affordable housing as well as the need for coordination of health and housing policies and funding streams. However, implementing these measures, they added, requires additional support from provincial and federal governments who bear the key responsibility for such investments. Some noted that municipalities can work with third-party partners to facilitate the building of supportive housing as a stop-gap in the absence of adequate funding, but such partnerships cannot bridge all funding gaps and program shortfalls, particularly when it comes to the need for supports to keep people housed. As Calgary Mayor Jyoti Gondek expressed in a letter to the Advocate, “As cities work towards more sustainable housing solutions, additional investments to enhance existing mental health and addiction service providers, [...] and more mobile services to provide supports to people where they are at would help alleviate the homelessness crisis.”

The disproportionate levels of Indigenous homelessness in municipalities across the country was also a key concern mayors shared with the Advocate. For example, in Edmonton, approximately 60 percent of people experiencing homelessness identify as Indigenous.⁵¹ There is frustration at the lack of support from the federal government for urban Indigenous programming given their fiduciary duty to Indigenous Peoples.

Some municipalities also noted that the poisoned drug crisis⁵² has added another layer of urgency and complication to addressing homelessness. Municipalities identified the need for a coordinated approach to the intersecting and compounding harms of increasing homelessness and poisoned drug supply, with greater support from provincial and federal governments.

WHAT WE HEARD ABOUT ENCAMPMENTS

Encampment evictions and clearances

The Advocate heard repeatedly about widespread experiences of encampment evictions and clearances.

More than 150 references were made in individual online submissions regarding people living in encampments facing routine seizure and disposal of their property – including personal identification, tents, photo albums, money, and clothing – and being displaced without the provision of adequate alternative housing. Similar experiences were also recounted during the Advocate’s in-person engagements. Some described seizure and displacement as daily occurrences.

Roundtable participants also described how some municipalities misuse health and safety regulations as justification to clear encampments. For example, one participant shared how a fire department was sent to an encampment under the pretense of a “wellness check,” but instead tore down tents and decamped people. Another shared that in Calgary, health concerns about mold in tents were used to justify dismantling an encampment. “But why would you not just use the resources to get them new tents rather than paying for a sweep?” they asked.⁵³ The Advocate was also very concerned to hear about new “safe street bylaws” being enacted in some municipalities, empowering by-law officers and police to remove items they deem to be abandoned.⁵⁴

Many participants with lived experience recounted facing violence, harassment, bullying, and constant threats of incarceration and fines from by-law officers and police, especially when being evicted and cleared out from temporary encampments.⁵⁵ The few participants who reported facing no particular issues with evictions and clearances were very disciplined in packing up their tents and all of their belongings before morning sweeps by law enforcement.

The Advocate also heard about incidents of excessive force used to clear encampment residents, such as during the 2021 eviction of an encampment at Lamport Stadium Park in Toronto.⁵⁶ “People could have died, it’s just luck that nobody did,” one roundtable participant reflected, noting that there were serious injuries among encampment residents, including someone who sustained a broken bone. Toronto’s Ombudsman investigated the Lamport encampment clearing, among others, and found that the city “[c]hose to clear encampments quickly, instead of focusing on the needs of the people living in them.”⁵⁷ In doing so, the Ombudsman concluded, “the city caused undue confusion and harm.”⁵⁸

Even where excessive force is not deployed, clearing an encampment is an inherently violent act. Participants described how destruction of encampments deprives residents of essential personal property needed for survival. One roundtable participant reflected, “slashing a tent is like slashing a throat.”⁵⁹

The Advocate also heard how encampment clearances not only destroy homes, but also communities. As another roundtable participant expressed, “my community is my family.”⁶⁰

Participants warned that evicting encampments takes stability and community away from people, leading to health crises, greater violence, and even loss of life.

Reliance on policing and law-enforcement based approaches to encampments and homelessness adds to this trauma. Outreach workers and organizations mentioned how the police invoke a trauma response in many people who are or have been experiencing homelessness. The Toronto Alliance to End Homelessness sums up:

Security approaches do not work in addressing homelessness, or in stopping people from setting up encampments. It traumatizes already vulnerable and marginalized people and increases their vulnerability to becoming chronically homeless, forcing people into often even more precarious places.

For unhoused Indigenous people, the trauma of encampment clearings is often added to previous traumas, including the trauma of forced removal from traditional lands, or the forced removal of children from their communities into residential schools, the 60s Scoop and the child welfare system. Indigenous representative organizations and frontline workers expressed that police involvement in the housing crisis is a continuation of colonial state violence and is deeply inappropriate.

Violence and stigma increase isolation and risk of harm

The Advocate heard how government approaches to encampments stigmatize their residents, and how this relates to broader public sentiment regarding encampments. As one individual submission noted, “There is no empathy from the government, thus no empathy from the public.”⁶¹

Roundtable and online submission participants reflected on the many ways people who are unhoused are criminalized for living in poverty. For example, Winnipeg police issue hundred plus dollar fines for trespassing or loitering outside shut down businesses. Participants also described how many cities have bylaws that do not permit encampments or allow anyone to erect a tent in city parks.⁶² In other municipalities, tents are only allowed between 7 p.m. and 7 a.m., making it difficult to establish any stability. Some described how municipalities will pursue legal action against groups, such as churches, that have worked to support encampments because they violate such bylaws. Often, such suits or other government-led actions against encampments are encouraged by public complaints and backlash against encampments, participants noted. In one extreme example, the Advocate learned of efforts by the Barrie city council to introduce a bylaw that would penalize individuals distributing essential supplies to unhoused people, such as providing tents or food supplies without a permit. Anyone found violating the bylaw could face fines up to \$100,000.⁶³

Participants also noted widespread discrimination against people who are unhoused. There were 60 references in online submissions about unhoused people being constantly judged, discriminated against, and harassed on the street or in local stores by members of the general public, by police or other authorities. Examples of behavior ranged from outright physical violence and intimidation, to being kicked out and falsely accused of stealing in stores and restaurants.

Some roundtable participants reflected on the lack of understanding of the systemic reasons why people end up unhoused, or why some may choose to live in an encampment in the midst of very limited options. Some highlighted facing stigma tied to drug use and mental health challenges, because of public assumptions that all people who live in encampments struggle with these issues. “Outsiders don’t know us. We get stereotypes of being criminals and drug users,” one participant said.⁶⁴ “Things would be different if people knew and understood the full situation,” another suggested.⁶⁵

The Canadian Drug Policy Coalition warned that criminalizing drug possession, in addition to being ineffective in reducing the use and availability of drugs, only serves to increase stigma and harm for drug users and their families: “The harms also go beyond the individual and affect families and communities who face stigma, social isolation, negative health outcomes, and financial burdens because of the criminalization of their loved one.”

Online submissions also reported a growing hatred toward encampment residents on social media. A community member from Timmins, Ontario shared their concerns:

The discrimination and violence toward people experiencing homelessness has continued in 2023 with a group of community members, supported by local municipal councilors, calling for the criminalization of and violence toward people experiencing homelessness. A public town hall, hosted by the city council on June 15, 2023, was a culmination in calls for violence toward people experiencing homelessness and toward people who use drugs.⁶⁶

They described a Facebook page, created to advocate against the safe injection site in Timmins, which has become a focus for posts and comments targeting unhoused people and other marginalized community members, including frequent calls for violence.

The Advocate heard how this pervasive environment of criminalization, stigma, and hate leads to increased isolation for those most in need of supports. Encampment clearings are just one piece contributing to increased insecurity for people who are unhoused. One roundtable participant described the situation as a “very sadistic game of whack-a-mole,” as people who are unhoused are chased out of location after location, as shelters close, encampments are cleared, and they face increasing public backlash and lack of access to public spaces like malls or coffee shops. Current policy is not focused on housing people, they reflected, but rather on making them “invisible.”⁶⁷ Similarly, a staff person of an Indigenous representative organization said, “The only purpose of bylaw enforcement is to displace them from public space.”⁶⁸

People who opt to live hidden away to avoid being harassed are also deprived of access to community support and services critical for their physical and mental well-being. Frontline service workers emphasized that people are being forced by police to move, making it more difficult to maintain contact and more likely for people to fall through the cracks. This phenomenon uniquely impacts particular groups. Black, Indigenous, and racialized people who face elevated levels of police surveillance and violence, for example, are especially impacted.

Safety and security risks in encampments alongside peer support

Participants shared stories about incidents in encampments such as robberies, physical assaults, harassment, sexual violence, sex trafficking, attacks by encampment dogs, racism, organized crime, and death. Many also spoke about the danger of their living conditions, such as the threat of encampment fires or exposure during harsh winter months. The Elizabeth Fry Society of Simcoe Muskoka noted that people living in encampments are constantly displaced, without shelter or reliable access to food and water, potentially going several days without sleep – all circumstances that increase stress and feed the rise of incidences of violence and exacerbate challenging mental health issues.

While encampments can be sites with risks of violence and harm, many participants saw greater danger in being alone on the streets or in certain temporary housing situations, such as shelters and single room occupancy units. Many expressed that they see encampments as a place that provides community, support, and safety for most of the people living there. Encampment residents establish a care network outside of traditional systems, they share resources, and rely on each other to survive. At CRAB Park in Vancouver, for example, someone will welcome new residents, provide an orientation, and go over guidelines – such as no stealing, no fighting, no police. The roundtable participant who shared this experience added, “Residents know each other better than people who live in a high-rise.”⁶⁹

An employee at an organization working with encampments in Kingston, Ontario shared their observations of peer support in encampments: “People look out for each other in encampments. This doesn’t mean that conflict or challenges don’t happen. Of course, they do like in any communal living situation. [...] People may watch over each other’s belongings, pets, etc. Or also support each other if facing a physical threat. I have seen people break up disagreements and fights among other people in a respectful way. I have also seen people protecting a woman fleeing an abusive partner, by taking turns staying with her or near her tent.”⁷⁰

The result is that people can develop a deep sense of safety, community, and freedom in encampments. One participant explained, “I was homeless for eight years. Without the support of my peers, I would not be alive today, the encampment community gave me a sense of belonging. We would listen and take care of one another.”⁷¹

Some participants expressed the difficulty of leaving behind the encampment community once they obtained housing. One participant shared that after being housed they kept living outside with their peers because they did not want to sleep alone. Another participant invited their “street family” to move into their new place and ended up losing their housing as a result. These challenges and the draw of encampment living are exacerbated by the tendency for people to be relocated far from their communities and familiar services when they finally access housing through social services.

One service provider working in and around encampments did warn about potential dangers from growing encampment size:

[T]he larger the encampment, the more dangerous it became for those living there. While there may be additional safety and community within a smaller group of tents/people living together, there is a tipping point at which the volume of people results in significant risk, danger, and criminal activity.⁷²

Another participant noted that the same level of safety and community isn't achieved with externally managed encampments: "They [nonprofit staff] go home and sleep in a bed at night. They can't run it – need people who live there to run it."⁷³

Gendered experiences in encampments

Gender shapes the pathways into, and experiences of, encampments. Roundtables indicated that some women and gender-diverse people reside in encampments because there are no gender-specific shelters in their community, shelters are full, or because they experience gender-based barriers to accessing shelters or housing. Roundtables also revealed that women, transwomen, and gender-diverse people commonly experience harassment or violence within large mainstream homeless shelters, particularly co-ed and congregate shelters, meaning that many are forced to choose between living in situations of violence, hidden homelessness, or residing unsheltered or in encampments.

Women and gender-diverse people report nuanced and complex experiences in encampments of both heightened safety and heightened risk as well as isolation and community. While some women and gender-diverse people report safety concerns related to residing outdoors and in encampments (e.g., vulnerability to physical violence), some women and gender-diverse people report that residing in an encampment is a *safer* option amongst the other options available to them (e.g., accessing a shelter, returning to an abusive relationship). Previous reports suggest that encampments can buffer women from exposure to violence, harassment, or abuse that they might otherwise experience when residing outdoors alone, or within situations of hidden homelessness.⁷⁴ In some cases, encampment evictions eroded the security systems, safety measures, and mutual aid systems women and gender-diverse people had adopted for themselves and their communities within encampments.⁷⁵

In other cases, roundtables revealed unique safety risks for women and gender-diverse people, including sexual and physical violence. For example, a trans woman shared her experience: "Living in the camps was hell. I was beaten, robbed. I got judged for being a trans woman. It was hard to find a place."⁷⁶ Experiences of violence, exploitation, or coercion within encampments is a particular concern for young girls and gender-diverse people, those with disabilities, and persons experiencing multiple forms of marginalization. While gender-based violence occurs in encampments and is a violation of human rights in all settings, roundtables revealed that gender-based violence is common across all forms of homelessness. This suggests that housing precarity, rather than the context of encampments themselves, is correlated with gender-based violence.

While the conditions of encampments often fail to meet the basic needs of women and gender-diverse people, they are also circumstances in which women and gender-diverse people may have greater agency, autonomy, and dignity to determine the circumstances of their lives. For some women and gender-diverse people, residing in encampments provides an alternative to

shelters or systems that evicted them and have been involved in profound harm to them, including the violence of having their children apprehended due to their housing status or poverty. Nonetheless, women and gender-diverse people residing in encampments also experience unique barriers to maintaining their sexual and reproductive health, including barriers to accessing prenatal and postnatal care. These complex experiences illustrate the ways in which the choice to reside in encampments are inherently tied to the inequities, violence, and underinvestment within other systems.

Unmet basic needs of encampment residents

The Advocate was concerned to hear that the basic needs of encampment residents are not being met, and, in fact, many municipalities are creating further obstacles to unhoused people in accessing water, sanitation, and essential infrastructure.

In the 366 online submissions, there were 119 references to lack of basic services in and around encampments. Roundtable participants also spoke about lack of basic services, such as water and sanitation, in and around encampments. Numerous participants spoke about having no place to shower, use the bathroom, access clean water, or store their belongings. In addition, participants spoke of the lack of access to safe food, clothing, garbage removal, tents or tarps to protect themselves from the elements, blankets, first aid supplies, needle disposal, cooking equipment, places to do laundry, fire extinguishers, and electricity.

Participants shared that some camps do have amenities, but such camps are rare. One online submission said that encampment residents should be “treated as refugees of poverty and the community, government and agencies should swarm to [provide] all that is needed – food, access to garbage service, access to cooking facilities and bathrooms, hygiene facilities and access to support.”⁷⁷ Another roundtable participant noted that what help has been provided has come from the local community, not the city. Individuals have dropped off gear and water, for example.

Even where basic amenities exist, participants reported incidents of municipalities purposefully cutting off service to encampment residents. For instance, one roundtable participant spoke about a city turning off electricity to an encampment, leaving residents without power for almost 6 weeks. They said that by denying services, and making living conditions worse, the municipalities are trying to force encampment residents to leave.

Lack of access to basic needs such as sanitation, food, and shelter, coupled with persistent sources of stress and trauma – from living under constant threat of eviction, to facing hostility, stigma, and discrimination from the public, law enforcement, or city staff – cause serious physical and mental health consequences for encampment residents. These can include worsening mental health and post-traumatic stress disorder, chronic physical conditions such as back injuries, as well as injuries from exposure, such as frostbite (including losing digits and even limbs) in winter, and heat exhaustion in summer.

Absence of services and supports

Participants also highlighted the need for greater access to social, mental and physical health, and legal services in and around encampments.

There were 35 references in online submissions made regarding the lack of assistance and services for encampment residents. A lived experience participant said: “I feel some folks have lost their ability to get the help they need. The help we need is not there. People need more than advice or help towards goals. They need everything.”⁷⁸

Sometimes services are available, but they are not accessible. For example, a roundtable participant spoke about the increased use of “By-Name Lists,” which require individuals to be on a prepared list to have access to any services. These are ideally real-time, up-to-date lists of people known to be experiencing homelessness. In some areas, these lists exclude newcomers and people hesitant to be identified.

In cases where people living in encampments have been displaced and pushed into isolated locations, services can be geographically too far away to reach, especially if someone is carrying their belongings with them. In some instances, the services themselves are moving further away from people who require them. A roundtable participant warned of the impact of defunding city housing services and community-based supports.

Several submissions also shed light on the fact that there is a lack of clarity among encampment residents on where help can be found. As one participant who has been living in and out of encampments shared: “Encampment residents usually do not know what resources are available to find housing or shelter. I was one of those people.”⁷⁹

Service providers also recounted extreme difficulty in navigating the often complex and cumbersome web of programs and policies. One roundtable participant explained: “There’s this revolving door – not enough services, insane amount of barriers. One service isn’t able to connect you with the next because there’s so many barriers. The service providers themselves can’t even navigate the barriers that exist.”⁸⁰

Participants lamented that supports rolled out at the height of the Covid-19 pandemic have been withdrawn, even though the need remains. In particular, some noted the success of Covid-era service centres with services housed under one roof alongside shelter space. For encampment residents, the lack of access to care for physical and mental health was a point of major concern. Participants described lack of access to care for serious physical injuries including frostbite and major wounds. Unaddressed trauma and mental illness, meanwhile, was mentioned 77 times in submissions.

Participants also underscored the serious lack of appropriate services to address addictions and related health impacts. For some people, addictions are tied to the reason they are unhoused, for others, substance use is a response to living unhoused. “People can’t afford to live, it is crushing them,” one roundtable participant explained. “Using substances is a response.”⁸¹ The

Canadian Drug Policy Coalition emphasized how many existing policies and laws in Canada intentionally or unintentionally create and even increase risks and harms related to drug use.

Some participants emphasized that encampments can be a safer environment for people struggling with substance use, thanks to community care. As one roundtable participant with experience of homelessness said: “People mutually support each other in encampments, nobody ODs.”⁸² By contrast, participants spoke about people overdosing in supportive housing where it can take days before staff find them. Others mentioned how a lot more overdoses happen in shelters compared to encampments. An employee in Kingston observed that if encampment residents are using in their tent, they are not far for someone to run and get help if they experience a drug poisoning, overdose, or other health need. The worker also mentioned that they have “seen people run a communal medic tent where people could use with peers, or get support if someone overdosed, or needed first aid help. Encampment communities have their own integrity and rules that they encourage each other to abide by.”⁸³

Nonetheless, community care is no substitute for properly resourced addictions and harm reduction programming. Participants described a lack of access to specialized or knowledgeable care or treatment, clean needle distribution programs, safe consumption sites, and naloxone. Participants also described the increased health consequences, including Hepatitis C and HIV, due to unclean needle use.

Participants also noted the scarcity of culturally appropriate resources for unhoused Indigenous people. An Elder, for example, reflected on the lack of Indigenous crisis workers able to provide culturally appropriate assistance to encampment residents. Another roundtable participant described an incident of non-Indigenous city staff opposing an Indigenous-led, sacred fire at an encampment, despite its crucial role in wellness and traditional healing.

PROMISING MUNICIPAL PRACTICES

During the Advocate’s engagement, she heard from municipalities that are working to develop more humane and human rights-centred responses to homelessness and encampments. The following are some of the promising municipal practices shared with the Advocate.

The Saskatoon fire department’s people first approach

Saskatoon, like other Canadian cities, faces significant homelessness driven by intersecting factors. Colonialism,⁸⁴ lack of access to affordable housing, lack of addictions and mental health supports, and inadequate income assistance are primary contributors.

The Saskatoon Fire Department (SFD) became directly involved with people who are precariously housed and living in encampments at the end of 2021. Chief Morgan Hackl and Deputy Chief Yvonne Raymer said that the fire department uses the same approach that they would when supporting and rehousing people who have survived a house fire.

The SFD created the Inadequate Housing Team to connect people living in encampments with housing and social services. This team is staffed by two fire inspectors who are rotated from

regular inspection duties every few months. The team has two primary goals: 1) ensure public fire safety; and 2) reduce the number of encampments by connecting people directly to shelters and services. Their work varies widely from day to day, but most of their time is spent talking to unhoused people, giving out water on extremely hot days, offering to connect people to housing and financial assistance services, cleaning up used needles, and supervising the cleanup of inactive encampment sites.

The inspectors know the risk of fire and fatalities for residents and the dangers present for emergency medical services staff when fuel sources such as propane are used in encampments. At the same time, the team understands that fire risk cannot be managed without providing adequate shelter.

While the team has a mandate to enforce bylaws prohibiting public homeless encampments, the team approaches encampment residents first with offers to help them access social assistance and enforce bylaws only when these services are refused. Chief Hackl and Deputy Chief Raymer told the Advocate that the vast majority (around 80 percent) of encampment residents accept shelters or hotels and will make an appointment to connect with a housing worker. They do acknowledge that shelters are not adequate or safe for everyone. If a person refuses shelter or housing, SFD will work with social service organizations to create a plan with a timeline for that individual to access other housing options.

Housing as healthcare in London, Ontario

The homeless crisis in London has grown rapidly. With a low vacancy rate, unaffordable rents, and inadequate shelter allowances provided by Ontario Works (Ontario's social welfare program), the number of people experiencing homelessness in London, Ontario has increased dramatically since the Covid-19 pandemic. There is also an acute need for access to deeply affordable supportive housing units for people with complex housing needs, and fully funded health supports.

Recognizing the severity of the unmet needs, the City of London has worked on a “whole of community system response” that contextualizes homelessness within broader health and social service needs.⁸⁵ The system response brought together more than 200 people representing nearly 70 local organizations to help the growing numbers of people facing homelessness, addiction, and mental health challenges, with the ultimate goal of transitioning them into stable housing.⁸⁶ “Because in London, Ontario, we believe that housing is healthcare and that it is a fundamental human right,” the city's plan affirms.⁸⁷

To address the immediate crisis, the city is working to develop short-term supports addressing the ongoing and emerging concerns facing individuals who are living unsheltered. By leveraging the strengths of many existing providers and resources, the city hopes to coordinate the delivery of social services, health care supports, and basic needs provisions through mobile service depots.⁸⁸ Mayor Josh Morgan explained to CBC:

We call them depots, but really these are 90-minute drop-ins at specific locations where people can get access to basic needs, food, water, garbage

collection, some conversation with support workers, and then that group moves on to the next spot and does the same thing in another location.⁸⁹

Using a mobile service, London is working to bring services directly to where individuals are and ensure access for encampment residents.

At the same time, it is working to develop a community-informed, long-term strategy and to build more highly supportive housing.

Supporting encampment residents in Halifax, Nova Scotia

The Halifax Regional Municipality is in the midst of an affordable housing and homelessness crisis. Between 2018 and 2022, the number of people who are unhoused has more than doubled. At the same time, the number of people forced to shelter outside, many in municipal parks, has increased by 500 percent.⁹⁰ Among those who are experiencing homelessness are a disproportionate number of people who identify as Black or Indigenous. There are also disproportionate numbers of people who have a disability or mental health condition.⁹¹

The municipality does not condone or support the installation of infrastructure associated with encampments, but has taken the approach of allowing occupants of homeless encampments to remain until adequate housing has been identified and offered, or until the health and safety of the occupants or public are at risk.

While the province has overall responsibility for initiatives to address homelessness in Nova Scotia, the Halifax Regional Municipality acknowledges it also has an important role to play in addressing this human rights issue. Accordingly, the municipality has developed and led several initiatives to support those who are experiencing homelessness, including: creating four designated outdoor sheltering locations in municipal parks, building modular units to house people experiencing homelessness, and funding community service providers and street outreach workers who provide crisis support and help access services.

The municipality also created a lived experience committee to advise staff on solutions.

Respecting charter rights in Kitchener-Waterloo, Ontario

In January 2023, the Ontario Superior Court of Justice found that a municipal by-law prohibiting certain activities on municipal lands in Waterloo violated section 7 (right to life, liberty, and security of the person) of the Canadian Charter of Rights and Freedoms due to a lack of available and truly accessible shelter spaces that meet the needs of people experiencing homelessness.⁹²

The Region of Waterloo decided not to appeal the decision, and to instead “focus on supporting those experiencing homelessness in the community.” The Regional Council approved a \$163 million investment in housing and homelessness to advance the region’s Interim Housing Strategy and increase shelter capacity.⁹³ The region’s creation of an outdoor, tiny homes shelter on region-owned property to provide a greater range of accessible options for individuals experiencing homelessness is a key part of this strategy.⁹⁴

While the Region of Waterloo is the lead for housing and shelter locally, Kitchener recognizes that municipalities have a role to play as well. In Kitchener, increased homelessness has led to

highly visible encampments in public places, including Victoria Park, a city-owned property. The municipality notes that while “those camping in Victoria Park are violating some bylaws, we have been taking a compassionate approach to addressing this encampment.”⁹⁵

Kitchener is working to support residents in relocating to better shelter or housing. This work involves engaging residents and identifying alternative places to live, addressing their basic needs for housing, improving their current housing, and connecting residents with the necessary social and health support services.⁹⁶

In the meantime, the municipality also tries to mitigate risks for encampment residents. To this end:

By-law and other City staff visit Roos Island daily to check on residents, help connect them with shelter options and other services, check for fire risks and provide safer heating options. Staff also facilitate daily garbage removal and cleanup of litter, sharp objects and abandoned or damaged tents. Staff and contracted security regularly patrol Victoria Park to address any safety or security issues raised by park users or Roos Island residents.⁹⁷

A collaborative, housing first approach at Dufferin Grove Park in Toronto

In August 2021, 22 tents were erected in Dufferin Grove Park in Toronto, with approximately 15 individuals staying on site, including youth, adults, and Black and Indigenous individuals. In the wake of public criticism regarding encampment clearings in 2021, the city worked with community partners to undertake a new approach.

Toronto and its community partners adopted a Housing First approach, working to find permanent housing as quickly as possible, without imposing any conditions or barriers such as mandatory drug rehabilitation treatment or abstinence. At the same time, the city notes, “The Housing First approach includes providing individualized, person-centered supports that are strengths-based, trauma informed, grounded in a harm reduction philosophy and promote self-sufficiency.”⁹⁸

Community partners were involved at the advisory and operational level in determining the overall approach to encampments. This collaboration resulted in numerous positive outcomes including relationship building with encampment residents, connecting individuals to health and social supports, and ultimately transitioning 90 individuals to safer indoor spaces.⁹⁹

Importantly, the collaboration also resulted in a reflection report outlining the successes and learnings from this initiative. This report will guide the City of Toronto’s future approaches to addressing homeless encampments.¹⁰⁰

DEFINING POTENTIAL SOLUTIONS

Solutions are urgently needed

Governments at all levels in Canada have a duty to uphold international human rights standards as well as Charter rights for everyone in Canada, and especially for people who are experiencing greater disadvantages and marginalization. The conversations the Advocate has had and the submissions she has received in recent months have reinforced her concerns about the human rights of people experiencing homelessness and living in encampments.

It is imperative that we change the conversation about encampments and recognize that encampments are a symptom of systemic failures and not the fault of individuals.

The current surge in encampments across the country reflects a lack of government action and inadequate allocation of resources for essential programs and services over the course of many years. By operating in bureaucratic silos and isolated jurisdictional territories, all governments are also failing in their duty to protect life. An all of government approach including all jurisdictions working together is the only way forward to successfully address the interconnected issues such as the poisoned drug supply, the opioid crisis, extreme poverty, colonialism, racism and encampments.

Today, the fundamental right of encampment residents to exist as equal members of society, and to live a life with dignity is at stake in Canada. The failures to provide access to basic services and meet the essential needs of encampments residents are not only a breach of the human rights to housing and to the highest attainable standard of physical and mental health, but they may also amount to cruel and inhumane treatment.

All governments must act to eliminate forced evictions of encampment residents, to stop the criminalization of people who are unhoused, to combat discrimination, stigma, and negative stereotyping of people who are unhoused, and to ensure access to legal remedies for rights violations related to housing.

In their efforts to address homelessness and improve access to housing, many governments are not upholding the rights of encampment residents to participate in decisions that affect them.

The rights of Indigenous people, women and gender-diverse peoples, older people, and people with disabilities are also being negatively affected.

Governments are often failing to uphold Indigenous Peoples' right to self-determination, including their right to design and implement their own housing policies and programs, and to access adequate financial resources to implement them. This has a further negative impact on access to culturally appropriate housing.

Ultimately, the Advocate is concerned about duties to respect, protect, and fulfill obligations related to:

- The right to life and dignity protected by the International Covenant on Civil and Political Rights (ICCPR) and the Canadian Charter of Rights and Freedoms;

- The rights of Indigenous Peoples as protected in the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act;
- The right to equality protected in the ICCPR, the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the Charter, and federal and provincial human rights codes; and
- The right to adequate housing as protected in the ICESCR and recognized in the National Housing Strategy Act.

It is encouraging that some municipal governments are taking steps to adopt plans and programs consistent with human rights to address encampments and eliminate homelessness as quickly as possible. They are also pioneering new ways to put the human rights obligations around meaningful engagement into practice. However, much more is needed on a nationwide scale.

We must also recognize and commend the resilience and courage of encampment residents, local advocates and organizations that are finding ways to build community and solidarity as well as provide people who are unhoused with the basics needed to survive.

What we heard about solutions

There is an urgent need to design and implement solutions using a human rights-based approach to uphold the human rights and dignity of encampment residents, while simultaneously addressing the systemic failures in Canada's housing and related systems that are driving the growth of encampments and homelessness in general.

The Advocate recognizes that solutions ultimately require housing that is adequate as per the United Nations definition, but which is in very short supply right now. While medium- to longer-term solutions to provide housing adapted to the needs of unhoused individuals are sought, there are actions needed immediately to protect the human rights of people in encampments to live in dignity, security and be free from discrimination.

Many potential solutions were shared with the Advocate by encampment residents and organizations that support them in their struggle to exist outside of the provision of adequate housing and shelter. In considering these solutions, it is critical to remember that the complexity of the issues requires holistic whole-of-government approaches. A robust policy debate is needed to fulfill these human rights.

The Advocate recognizes that municipalities are the first line of response to encampments, but are often not empowered and generally not adequately resourced to meet the complex housing and public health crises growing in their communities.

The following section provides details on potential solutions shared with the Advocate during her engagement so far. They are being shared here to be used as an important building block for the recommendations the Advocate will provide in her final report.

ENSURE HUMAN RIGHTS-BASED ACTION AND GREATER ACCOUNTABILITY

Participants made clear that a new approach to housing and homelessness is needed – one based on meaningful action, collaboration across all levels of government, and accountability. For too long, governments have dragged their feet on addressing homelessness, in direct opposition to their human rights obligation to eliminate homelessness as quickly as possible. The Advocate heard how in some places, local oversight mechanisms like an ombudsman and lessons learned reports can influence change. At the same time, encampment residents told the Advocate how their access to remedies or restitution for ongoing violations of their rights is often out of reach due to barriers in accessing existing legal recourse for harms, or because no avenue currently exists to address violations of their rights.

Participants outlined the following actions that governments at all levels should take in order to meet their obligations to progressively realize the right to housing and uphold encampment residents' rights:

- Strengthen collaboration on housing priorities, taking an all-of-government approach, bridging across levels of government and between different departments, especially housing and health.
- Take steps, including strengthening legislation, to reinforce implementation of, and accountability for, advancing and protecting the human rights of people experiencing homelessness.
- Enact policy in line with the National Protocol for Homeless Encampments in Canada, including a clear stance against the displacement of people who are unhoused and inadequately housed.
- Ensure greater transparency when governments form partnerships with community-based organizations so that organizations and people experiencing homelessness understand the respective roles and responsibilities. These roles and responsibilities must be known by the organizations and people who live on the street.
- Ensure more significant government participation in community tables, especially when looking for solutions.
- Set up accessible and effective complaint mechanisms so that people experiencing homelessness can assert their rights. This also includes setting up accessible and effective complaint mechanisms for shelters and housing providers, to enable them to adopt a human rights-based approach to continuous improvement.
- Include “social condition” as a status protected against discrimination under human rights codes where it is not already included.

MEANINGFULLY ENGAGE WITH ENCAMPMENT RESIDENTS

Encampment residents are entitled to directly influence decisions and policies that affect them and have essential insight to provide. Participants suggested the following steps to improve meaningful engagement with encampment residents:

- Facilitate the involvement of encampment residents in all relevant policy decisions and allow residents to be involved in any decisions regarding matters that will affect them.
- Establish community advisory panels to allow people experiencing homelessness to provide meaningful input into new bylaws.
- Municipal officials and service providers should establish lines of communication and cooperation with the informal peer leadership that generally exists in encampments.
- Allow and encourage respected encampment residents to act as community leaders or managers, responsible for areas such as safety and cleanliness, and provide them with training to assist them in this role.
- Make paid jobs inside encampments available to residents, including leadership roles on outreach and support teams.

TREAT ENCAMPMENTS RESIDENTS WITH DIGNITY AND RESPECT

Participants underscored how governments are not doing enough to uphold their obligations to address hate and stigma, which increase encampment residents' isolation and exposure to risk of harm. Suggestions for governments included:

- Uphold the prohibition on forced evictions by ensuring that there is no removal of encampments, including individual tents and habitations, except where strictly necessary to ensure the safety and security of the residents.
- Establish designated sites where people are allowed to camp.
- Review and revise existing bylaws and other regulations to ensure they recognize the need to protect, rather than punish, encampment residents.
- Prohibit law enforcement from removing the personal possessions of residents and require them to immediately return those that they are holding.
- Require law enforcement to receive human rights training to better understand the rights of encampment residents, including Indigenous residents.
- Create public education programs to encourage understanding of unhoused people's experiences and grow compassion, including by fostering a two-way dialogue and respect between people living on the street and others who share the space with them.
- Decriminalize drug possession for personal use, as well as the sharing or selling of drugs for subsistence, to support personal drug use costs, or to provide a safe supply.
- Establish memorials to remember people experiencing homelessness who have died or gone missing.

UPHOLD THE RIGHTS OF INDIGENOUS PEOPLES

Participants underscored the need to recognize the direct links between colonial practices, the dispossession of land, and encampments. They also highlighted the failure of governments to act on implementing existing recommendations, particularly from the Truth and Reconciliation Commission and the National Inquiry into Missing and Murdered Indigenous Women and Girls.

They identified the critical need to ensure solutions were in line with the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act, and that they should be designed for Indigenous people by Indigenous people. Suggestions for governments included:

- Take urgent and sustained action to implement the Calls to Action of the Truth and Reconciliation Commission as well as the Calls for Justice from the National Inquiry into Missing and Murdered Indigenous Women and Girls.
- Ensure dedicated funding for Indigenous housing and homelessness programs and Indigenous service providers.
- Support Indigenous governments to provide self-determined, culturally appropriate housing and supports, including through the transfer of care and control of housing and homelessness programs and related funds to relevant Indigenous governments and their representative organizations.
- Support the role of cultural workers and elders in the process of finding solutions and supporting individuals experiencing homelessness.
- Ensure Indigenous individuals have access to traditional medicines, including by designating a sacred fire site in encampments.
- Put in place programs to protect the security of Indigenous women and 2SLGBTQIA+ individuals.

PROVIDE FOR ENCAMPMENT RESIDENTS' BASIC NEEDS

Participants made clear that access to basic needs must be a priority for government action to ensure the health and wellbeing of encampment residents, as well as their right to live with dignity. Suggestions for governments included:

- Allow encampments to be established in areas with access to basic needs and services and stop moving them to spaces that lack access.
- Ensure equitable and accessible toilets, showers, and potable running water are continually available in or near all encampments, with any necessary infrastructure provided, including drainage.
- Improve waste collection services in encampments, and design waste collection policies around those utilised for housed residents.
- Ensure the enjoyment of the right to food for all by facilitating increased access through service providers, providing community gardens, and improving access to social assistance payments for food.
- Build capacity (including funding) for municipalities to meet the basic survival needs of encampment residents. Municipal officials such as fire services, police, paramedics, parks and recreation and outreach workers should be focused on supporting, not punishing, encampment residents.

UPHOLD ENCAMPMENT RESIDENTS' RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

Participants called on governments to provide targeted psycho-social, health, and wellness supports for encampment residents to address the full scope of their physical and mental health needs. Participants highlighted the need for harm reduction programming to address the addictions and opioid crisis. Suggestions for governments included:

- Promote outreach services, including by city officials such as community safety officers, and provide them with the training and resources they require.
- Facilitate the establishment of 24/7 drop-in support centres and community hubs that allow access to multiple different types of supports.
- Ensure access to pharma and dental care for encampment residents.
- Increase the availability of harm-reduction services and supports for encampment residents and ensure a continuum of care for people suffering from addictions.
- Implement policies with particular regard for the health and well-being of protected communities, including older persons and Indigenous individuals, women, youth and 2SLGBTQIA+ individuals.
- Provide recurrent, stable funding for homelessness programs to allow resources adapted to the needs of people living on the street to be made permanent.
- Redirect funding away from harmful drug and bylaw enforcement towards outreach services aimed at promoting education, health, and well-being.
- Improve access to services and supports by:
 - Improving access to transportation, including through free tickets for encampment residents;
 - Providing free Wi-Fi in encampments; and
 - And allowing encampment residents greater access to recreation and community centres.

IMPROVE ENCAMPMENT SAFETY AND SECURITY FOR ALL RESIDENTS

Governments have an obligation to ensure encampment residents can live free from violence. The Advocate heard that this has not been the experience for most encampment residents to date. Participants noted that encampment residents face threats to their safety and right to life. Exposure to violence and danger is greater for some, including women, gender-diverse people, and people with disabilities. They called for action to protect the safety and security of all encampment residents. Participants highlighted the needs for improved security and support for encampment community building to ensure safety and maintain the wellbeing of encampment residents. Suggestions for governments included:

- Support security for encampment residents by providing properly trained security services – who are not police – to patrol to deter threats while not harassing residents, particularly at night.
- Prevent law enforcement actors from harassing encampment residents and service providers and hold them accountable for human rights violations.

- Implement policies aimed at ensuring the security of particular groups, including women, gender diverse individuals and people with disabilities.
- Improve the security of personal spaces, including toilets and showers by ensuring these have locks, and provide storage facilities for residents' personal possessions.
- Support programs to train and support people experiencing homelessness so that they are better equipped to prevent and intervene in harmful situations (e.g., suicide intervention training).
- Improve encampment fire safety by providing fire extinguishers in encampments.

PRIORITIZE LONG-TERM RIGHT TO ADEQUATE HOUSING SOLUTIONS

Participants called for government action to provide permanent housing solutions that uphold the right to housing for all, without discrimination. Participants underscored the need for security of tenure, affordability, habitability, and accessibility, while guaranteeing the ability of people to live in dignity. Suggestions for governments included:

- Undertake housing needs assessments to gain a better understanding of the housing landscape and inform effective housing policies and programs with the central goal of making sure housing is accessible for everyone.
- Implement a Housing First model as a critical first step, in order to provide housing with support for those who are chronically homeless.
- Increase the availability of affordable housing by increasing investment in social housing, constructing more rent-geared-to-income homes, and redeveloping existing real estate assets into housing for low-income people.
- Strengthen the regulation of landlords and housing providers to ensure they meet human rights and other standards.
- Increase supports for people exiting out of homelessness to allow them to adapt and successfully maintain their housing.
- Ensure appropriate plans are made so that people being released from incarceration and youth transitioning from care have immediate access to accommodation and supports to help them readjust to independent living.
- Support greater protections for security of tenure as well as funding for legal aid and housing loss prevention programs.
- Establish programs to support mothers reuniting with their children by covering initial housing costs (security deposit, the first month's rent, the utilities hook-up fees) and providing access to employment, education, and wellbeing supports.
- Federal and provincial governments should ensure more flexible and predictable funding for supportive housing.
- Introduce policies to prevent discrimination against people who receive social security, have a poor credit rating or have a gap in their housing history.
- Implement universal basic income.
- Make access to social assistance and emergency grants easier and more equitable.
- Bring all forms of housing under the residential tenancy legislation and confer fulsome tenants' rights on all, regardless of tenure.

IMPROVE EMERGENCY SHELTER CONDITIONS AND ACCESS

Participants emphasized that while permanent housing should be the ultimate goal, immediate improvements to emergency shelter services are also needed. Suggestions for governments included:

- Encourage and facilitate the establishment of shelters designed to accommodate and be accessible for people with specific needs (e.g., for women and gender-diverse people, couples, families, 2SLGBTQQA+ people, Indigenous individuals).
- Improve access to temporary accommodation (including cabins and tiny homes) by increasing security, reinforcing respect for dignity and autonomy, and reducing barriers and deterrents.
- Remove any existing policies related to the apprehension of children from parents who are required to use any form of shelter or temporary accommodation.
- End discrimination against substance use and take a harm reduction approach, including the provision “wet and dry” shelters.

CONCLUSIONS AND NEXT STEPS

This Interim Report provides an overview of what the Advocate has heard and learned to date about encampments in Canada and proposed human rights-based solutions. It draws attention to the seriousness of the issues and urgent need for human rights-based responses.

The report is intended to provide the foundation for a deeper reflection and engagement with rights holders, advocates, Indigenous governments and representative organizations as well as provincial, territorial, municipal and federal governments. These discussions will provide an opportunity to fill in any gaps and in turn inform the findings and recommendations that will be included in the Advocate's final report, expected in early 2024.

ENDNOTES

¹ "Homeless encampments in Canada: A human rights crisis," Office of the Federal Housing Advocate, December 8, 2022, <https://www.housingchrc.ca/en/homeless-encampments-in-canada-a-human-rights-crisis> (accessed August 1, 2023).

² Terminology related to encampments can be a source of diverging interpretations and conflicted meaning. One organization's submission expressed a concern that, "[t]he term encampment is a false descriptor leaving the impression that a person's domicile in a tent is temporary and chosen on the basis of a pleasure or sport and as a means to separate and devalue segments of the population" In her Interim Report, the Advocate has chosen to use the term "homeless encampment" as the language most commonly in use for now. She recognizes, however, that the term may not reflect everyone's reality or experience and that it differs from terms commonly used internationally, such as informal settlements.

³ The Advocate's engagement on encampments is also informed by the National Protocol for Homeless Encampments in Canada: A Human Rights-Based Approach. Written by Leilani Farha and Kaitlin Schwan and published by the Shift, April 30, 2020.

⁴ Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/31/54, UN Human Rights Council (2015), para 17.

⁵ The Advocate is also undertaking engagement with First Nations, Inuit, and Métis governments and representative organizations to inform the release of future, distinctions-based reports on the right to housing for First Nations, Inuit, and Métis peoples.

⁶ For more information on the Advocate's findings from her visit to British Columbia, see Federal Housing Advocate's Observational Report British Columbia (August 23 to September 2, 2022), <https://www.housingchrc.ca/en/publications/federal-housing-advocates-observational-report>

⁷ See letters of concern regarding encampments in Montreal, Kingston, Prince George, Vancouver, and Barrie, included in the Annex.

⁸ *Universal Declaration of Human Rights*, 10 December 1948, UN Doc. A/810, art. 25; *International Covenant on Economic, Social and Cultural Rights*, 16 December 16 1966, UN Doc. A/6316, 993 UNTS 3 (entered into force January 3, 1976; accession by Canada 19 May 1976), art. 11(1) [ICESCR]; *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, 660 UNTS 195 (entered into force 4 Jan. 1969, accession by Canada 14 Oct. 1970), art. 5(e)(iii) [ICERD]; *Convention on the Elimination of All Forms of Discrimination against Women*, 21 December 1965, 1249 UNTS 14 (entered into force 3 Sept. 1981; accession by Canada 10 Dec. 1981), art. 14(2) [CEDAW]; *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3 (entered into force 2 September, 1990, accession by Canada 13 Dec. 1991), art. 27(1) [CRC]; *Convention on the Rights of Persons with Disabilities*, 13 Dec. 2006, (entered into force 3 May 2008, accession by Canada 11 March 2010), arts. 9 and 28 [CRPD]. See also article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, article 8 (1) of the Declaration on the Right to Development, and the ILO

Recommendation Concerning Workers' Housing, 1961 (No. 115)). Further, *UN Committee on Economic, Social and Cultural Rights* (CESCR), General Comment No. 4, The Right to Adequate Housing, U.N. Doc. E/1992/23 (1991).

⁹ See, National Housing Strategy Act, S.C. 2019, c. 29, s. 313 [NHSA].

¹⁰ "The Right to Adequate Housing, Fact Sheet 21," Office of the UN High Commissioner for Human Rights and UN Habitat, 2014, https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf (accessed August 1, 2023).

¹¹ Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing: Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/43/43, UN Human Rights Council (2019), para. 30 [*Guidelines for the Implementation of the Right to Adequate Housing*].

¹² The right to family is recognized in article 16(3) of the *Universal Declaration of Human Rights*, article 23(1) of the *ICCPR*, and article 10(1) of the *ICESCR*. The UN Committee on Economic, Social, and Cultural Rights (CESCR) expressed concern that women in Canada "continue to be forced to relinquish their children into foster care because of inadequate housing," and that "low-income families, single-mother-led families and Aboriginal and African Canadian families, are overrepresented in families whose children are relinquished to foster care." Concluding Observations of the Committee on Economic, Social, and Cultural Rights: Canada, UN Doc. E/C.12/CAN/CO/4E/C.12/CAN/CO/5 (2006), para. 24.

¹³ Committee on Economic, Social, and Cultural Rights, General Comment No. 3 on the nature of States parties' obligations, UN Doc. E/1991/23 (1990), paras. 10 and 12.

¹⁴ Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 32; Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/31/54, UN Human Rights Council (2015), paras. 49, 73, and 90; Committee on Economic, Social, and Cultural Rights, General Comment No. 20 on non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20 (2009), para. 35, and Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 61.

¹⁵ Human Rights Committee, General Comment No. 36 on the right to life, UN Doc. CCPR/C/GC/35 (2018), para. 26.

¹⁶ *Victoria (City) v Adams*, 2009 BCCA 563 at paras. 132 and 195.

¹⁷ *Victoria (City) v Adams*, 2009 BCCA 563 at paras. 32-35.

¹⁸ *The Regional Municipality of Waterloo v. Persons Unknown and to be Ascertained*, 2023 ONSC 670 at para 82.

¹⁹ Leilani Farha, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, UN Doc. A/HRC/37/53, UN Human Rights Council (2018), para. 38.

²⁰ Jesse A. Thistle, *Definition of Indigenous Homelessness in Canada*, Canadian Observatory on Homelessness (2017), <https://www.homelesshub.ca/sites/default/files/attachments/COHIndigenousHomelessness-summary.pdf> (accessed August 30, 2023).

²¹ Call to Justice 4.6.

²² *United Nations Declaration on the Rights of Indigenous Peoples*, 2 October 2007, UN Doc. A/RES/61/295 (Canada signaled its full support in May 2016). https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

²³ Special Rapporteur on adequate housing Leilani Farha, *Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context* (Index: A/74/183), UN General Assembly, 2019, para. 54.

²⁴ *United Nations Declaration on the Rights of Indigenous Peoples*, art. 25; and *Indigenous and Tribal Peoples Convention*, 1989 (No. 169) of the International Labour Organization, art. 13.

²⁵ Special Rapporteur on adequate housing Leilani Farha, *Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context*, UN Doc. A/74/183, UN General Assembly (2019), para. 64.

²⁶ See also, Inter-American Court of Human Rights, *Moiwana Community v. Suriname*, judgement of 15 June 2015, para. 186, www.corteidh.or.cr/docs/casos/articulos/seriec_124_ing.pdf (accessed August 30, 2023).

²⁷ Special Rapporteur on the right to adequate housing Leilani Farha and Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada* (2020), para. 39.

²⁸ Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 38.

²⁹ Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, para. 42(b).

³⁰ The Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, The Independent Expert on the question of human rights and extreme poverty, Magdalena Sepúlveda, and The Special Rapporteur on the right to adequate housing, Raquel Rolnik, "Water and

Sanitation: A human right for all, even slum-dwellers and the homeless,” Office of the High Commissioner for Human Rights (2011), <https://www.ohchr.org/en/statements/2011/03/water-and-sanitation-human-right-all-even-slum-dwellers-and-homeless?LangID=E&NewsID=10875> (accessed August 2, 2023).

³¹ Leilani Farha, *Guidelines for the Implementation of the Right to Adequate Housing*, paras. 42 and 48(b).

³² Committee on Economic, Social, and Cultural Rights, General Comment No. 9: The domestic application of the Covenant: The domestic application of the Covenant, UN Doc. E/C.12/1998/24 (1998), paras. 2-3.

³³ *A human rights based approach: an introduction*, Scottish Human Rights Commission, https://www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf (accessed August 30, 2023).

³⁴ Special Rapporteur on the right to adequate housing Leilani Farha and Kaitlin Schwan, *A National Protocol for Homeless Encampments in Canada* (2020).

³⁵ Alexandre Flynn et al., *Overview of Encampments Across Canada: A Right to Housing Approach*, The Office of the Federal Housing Advocate (2022).

³⁶ The Advocate received submissions from most provinces and territories, but the majority came from British Columbia (130), Ontario (121), Quebec (44), New Brunswick (19) and Alberta (11). The Advocate is still waiting for submissions from partner organizations in Vancouver and Halifax. These will be reflected only in the Advocate’s final report.

³⁷ Conducted in Saskatoon, Saskatchewan, Winnipeg, Manitoba, Vancouver, British Columbia, Toronto, Ontario, Calgary, Alberta, and Montreal, Quebec.

³⁸ The cities that took part in the project were Victoria, British Columbia, Montreal, Quebec, Hamilton, Ontario, and Moncton, New Brunswick.

³⁹ *Report 5 – Chronic Homelessness*, Office of the Auditor General of Canada (2022), https://www.oag-bvg.gc.ca/internet/english/parl_oag_202211_05_e_44151.html (accessed August 31, 2023).

⁴⁰ Encampments Roundtable – Toronto – June 1, 2023.

⁴¹ Encampments Roundtable – Winnipeg – April 18, 2023.

⁴² Encampments Roundtable – Toronto – June 1, 2023.

⁴³ Kaitlin Schwan et al., *Pan Canadian Women’s and Housing and Homelessness Survey*, Canadian Observatory on Homelessness (2021) <https://womenshomelessness.ca/wp-content/uploads/EN-Pan-Canadian-Womens-Housing-Homelessness-Survey-FINAL-28-Sept-2021.pdf> (accessed August 30, 2023).

⁴⁴ Kaitlin Schwan et al., *A Rights-Based, GBA+ Analysis of the National Housing Strategy*, Canadian Human Rights Commission (2021), p. 11, <https://womenshomelessness.ca/wp-content/uploads/EN-Rights-Based-GBA-Analysis-of-NHS-28-Sept-2021.pdf> (accessed August 30, 2023).

⁴⁵ Kaitlin Schwan et al., *The Crisis Ends with Us: Request for a Review into the Systemic Denial of the Equal Right to Housing of Women and Gender-Diverse People in Canada*, Women’s National Housing & Homelessness Network (2022), <https://womenshomelessness.ca/wp-content/uploads/WNHNN-Claim-15-June-2022.pdf> (accessed August 31, 2023).

⁴⁶ “Everyone Counts 2020-2022: Preliminary Highlights Report,” Infrastructure Canada (2023), <https://www.infrastructure.gc.ca/homelessness-sans-abri/reports-rapports/pit-counts-dp-2020-2022-highlights-eng.html-h2.5.4> (accessed August 31, 2023).

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- ⁶⁶ Submission 2075 – Timmins – June 19, 2023.
- ⁶⁷ Encampments Roundtable – Toronto – June 1, 2023.
- ⁶⁸ Encampments Roundtable – Toronto – June 1, 2023.
- ⁶⁹ Encampments Roundtable – Vancouver – May 10, 2023.
- ⁷⁰ Submission 2082 – Kingston – June 20, 2023.
- ⁷¹ Submission 2127 – Mississauga – June 27, 2023.
- ⁷² Submission 1473 – Courtenay – June April 19, 2023.
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