

Toolkit: Implementing a Human Rights Approach for Tent Communities¹

While tent communities, otherwise known as homeless encampments, are not new in Canada, they have become more visible, dense, and a greater source of tension, since the COVID-19 pandemic. On average, mainstream municipal tactics intended to address tent communities have had a hand in perpetuating the vulnerability and trauma of some of the most vulnerable among us; this includes Indigenous Peoples who are overrepresented in the homeless population yet fail to be adequately represented and or included in the creation of solutions to address homelessness. This guide hopes to use human rights as a framework for a new municipal approach to address tent communities - one that is rooted in ensuring dignity, safety, and peace for those living there. This approach is grounded in the understanding that homelessness is inconsistent with the right to life, liberty and security of a person and is a violation of the human right to adequate housing, which is defined as the right to live somewhere in peace, security and with dignity. While the right to housing does not mean that governments provide a brand-new home for everyone immediately, it does mean that all levels of government must take urgent, concrete, and deliberate steps to realize the right to housing. In this regard, priority must be given to vulnerable groups and those in the greatest need of housing, which in this case would be those sheltering outdoors or that have no access to adequate housing.²

Human rights are not merely an obligation for governments but can be practical and instructive in creating effective municipal policies and procedures for tent communities that can, in the best-case scenario, lead to the provision of adequate, affordable housing. Crucially, this approach also recognizes that municipal governments have been on the frontlines of the homelessness crisis often without sufficient resources and support from other orders of government, and unable to address the complexities arising from these communities. This guide, therefore, uses human rights to leverage greater inter-jurisdictional cooperation in this area.

A Rights-Based Protocol for Homeless Encampments

In 2020, Dr. Kaitlin Schwan and the former UN Special Rapporteur on the right to adequate housing, Leilani Farha published A National Protocol for Homeless Encampments in Canada which outlines 8 key principles to guide governments on how to engage with homeless encampments and their residents in a way that aligns with the right to housing. To aid municipal governments in understanding what their human rights obligations are concerning tent communities, this toolkit breaks down each of the 8 principles into tangible actions that can be implemented by local officials. However, it is key to understand that these principles are meant to act as a guide, not an instruction manual; each municipality will have to decipher what these principles mean for their local government and city and how to tangibly implement them.

¹ This guide is a part of a CMHC Solutions Lab on encampments carried out by The Shift, in partnership with BGM Strategy Group. The goals of these project are to 1) develop a model for implementing a rights-based approach to addressing encampments in cities across Canada and, 2) encourage cities to operationalize and implement this approach post-lab.

² United Nations Human Rights Office of the High Commissioner. *Homelessness and Human Rights*. Retrieved from: <https://www.ohchr.org/en/special-procedures/sr-housing/homelessness-and-human-rights>



"NHS 2-65 Transforming Policy Responses to Homeless Encampments in Canada: Implementing a Rights-Based Approach" received funding from Canada Mortgage and Housing Corporation (CMHC) under the NHS Solutions Labs, however, the views expressed are the personal views of the author and CMHC accepts no responsibility for them.

A Guide to Implementing the Protocol Principles

Principles	Concrete Actions to Adhere to Principles
<p>Principle 1: <i>Understand those living in tent communities as rights holders</i></p> <hr/> <p>Any public action as it relates to tent communities should be guided by the understanding that those living in homelessness and tent communities are, first and foremost, rights holders.</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> The recognition of those living in tent communities as rights holders with dignity creates the conditions for trust-building between residents and governments, enabling improved communication and more effective, sustainable solutions If the City makes a shift from viewing unsheltered residents as recipients of charity to rights holders and experts in their own lives, it can help local officials from various municipal departments to shift to a more human-centred and rights-based approach <p>How do we implement this principle?</p> <ol style="list-style-type: none"> Develop policy and legislation that outline the commitment to and recognition of the human right to housing <ol style="list-style-type: none"> Ex: Embed a human rights framework into local housing and homelessness strategies Legislative and policy architecture are key to creating systems change; they help establish a shared set of values that are upheld by municipal actors and in mobilizing the resources necessary to ensure unsheltered residents are treated with dignity and respect and ultimately recognized as rights holders Review, revise and circumvent municipal policies and practices that impact the lives of unsheltered residents by deepening social exclusion, discrimination, economic insecurity, or housing precarity <ol style="list-style-type: none"> Ex: Identification is a precondition for accessing various services and housing, but unsheltered residents often have difficulty getting or keeping their IDs and without proper identification, they are barred from accessing social services which is discriminatory Local governments should limit barriers to accessing services and housing and ensure increased support for those living in homelessness to be able to attain important documents, like IDs, SIN numbers, birth certificates, and or bank cards
<p>Principle 2 <i>Meaningful Engagement & Effective Participation of Tent Community Residents</i></p> <hr/> <p>Residents are entitled to meaningfully participate in the creation and implementation of policies and programs that affect them, which is crucial to respecting their autonomy, dignity, agency, and self-determination.</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> Lived experts provide valuable and unparalleled insights into unsheltered homelessness that can be used to highlight gaps and structural weaknesses in local policies and programs Having a voice ensures that tent community residents have a sense of agency in policy decisions that affect their lives which can help create buy-in from the residents Co-creating solutions with lived experts can produce systems change and improve the local responses to addressing and preventing homelessness <p>How do we implement this principle?</p> <ol style="list-style-type: none"> Ensure equal participation is guaranteed for women and single mothers, LGBTQ+ persons, Indigenous people, people with disabilities, racialized groups, migrants and refugees, seniors, youth, and those living in homelessness as well as any other groups facing discrimination or marginalization Ensure that consultations occur at appropriate and accessible times and locations Ensure that engagement with residents begins early, is ongoing, and proceeds with the understanding that residents are experts in their own lives Provide residents -in an accessible and timely manner- with all the relevant information about their right to housing and all relevant information needed to make decisions in matters that affect them and give them sufficient time to consult Ensure the views expressed by residents are given adequate and due consideration in all decision-making processes and that the feedback shared is adequately documented

<p>Principle 3 <i>Prohibition of Forced Evictions of tent communities</i></p> <hr/> <p>Forced evictions are a gross violation of human rights. Removing a resident's private property without their knowledge and consent is also prohibited.</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • In two Canadian jurisdictions (BC and Ontario) courts have ruled that forced removal contravenes s.7 (life, liberty and security of the person) of Canada's Charter of Rights and Freedom where there are insufficient or inadequate shelter spaces. Adopting a different approach has the potential to avoid future litigation. • Avoid negative public perceptions and press • Avoid further perpetuating trauma and violence for an already extremely vulnerable population • Avoid violent confrontations between law enforcement, residents, and advocates • Protect the well-being of residents by ensuring they can remain in their homes and their community • Potential cost-savings from switching away from a law enforcement/private security approach towards human rights compliant approaches <p>How do we implement this principle?</p> <ol style="list-style-type: none"> 1. Meaningfully engage with unsheltered residents to identify alternative and adequate living arrangements that are acceptable to them <ul style="list-style-type: none"> ○ This needs to be a 2-way dialogue, which requires continual engagement with residents that is respectful, dignified, and trauma-informed ○ Operate on the understanding that residents who have faced significant trauma might feel safer outside; it will take a level of patience and diligence to encourage them to seek shelter indoors 2. Review, revise and circumvent local laws, policies and practices that penalize, criminalize and prohibit practices associated with being homeless (i.e. trespass orders, anti-camping by-laws, loitering and jaywalking laws) 3. Recognize that refusal to accept a housing alternative is not justification for eviction <ul style="list-style-type: none"> ○ As rights holders, residents have the right to reject a housing alternative that they feel is not acceptable to them (i.e. because it removes them from their community, it is unsafe, has the potential to retraumatize them, pets are prohibited etc.)
<p>Principle 4 <i>Explore All Viable Alternatives to Eviction</i></p> <hr/> <p>All viable alternatives to evictions must be explored in consultation with tent community residents</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • Compels governments, communities and relevant stakeholders to think outside the box and be more innovative in the manner they go about engaging with tent communities • Law enforcement and police officers are not forced to address homelessness and potentially violent altercations that can result in harm, criminalization or incarceration of unsheltered residents can be avoided • Ensures residents have agency in decisions that affect their housing <p>How do we implement this principle?</p> <ol style="list-style-type: none"> 1. Work with residents to co-create several solutions in cases where a singular best alternative is not unanimous 2. Provide free and independent legal advice to all residents to assist them in understanding their options, processes, and rights 3. Provide financial and other support to residents so they can fully participate in all discussions and retain outside consultants to help create alternative options to eviction 4. Limit the interaction between unsheltered residents and law enforcement and work towards decriminalizing homelessness
<p>Principle 5 <i>Ensure that Any Relocation is Human Rights Compliant</i></p> <hr/> <p>The right to remain in one's home and community is key to the right to housing; meaningful, robust, and ongoing engagement is required for decisions on relocation</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • In those cases where relocation is the last resort, it is important to ensure that relocation is human rights compliant. In so doing, local governments can ensure that residents stay within their community and continue to have access to the services and supports needed for their well-being <p>How do we implement this principle?</p> <ol style="list-style-type: none"> 1. Work with community members and their representatives, as well as any other support groups, providing them with all of the necessary information, in order to build a plan for relocation. 2. Ensure that any relocation plans have the possibility to be community-led, rather than led by the government. Special efforts should be made to ensure Indigenous communities are leading on alternative plans. This principle must be followed including for last resort options like sanctioned encampments and tiny villages.

	<ol style="list-style-type: none"> 3. Where possible, provide residents with adequate alternative housing (that they find acceptable), with all necessary amenities, when relocation is deemed necessary or preferred by residents 4. Understand that any considerations around relocation must be grounded in the principle that remaining in one's home and community is central to the right to housing and that meaningful and ongoing engagement with residents is required for any decisions regarding relocations 5. Ensure that relocation does not result in the continuation or exacerbation of homelessness or require the fracturing of families or partnerships 6. Ensure that the plans developed through meaningfully engaging with communities can be implemented cooperatively, without police enforcement
<p>Principle 6: <i>Ensure Tent Communities Meet Basic Needs of Residents Consistent with Human Rights</i></p> <hr/> <p>Basic adequacy standards must be ensured while adequate housing options are being negotiated and secured</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • Addressing the conditions of tent communities by providing access to basic needs and services can ensure tent communities are not left in a state of abandonment or are unsanitary, allowing for co-existence with the greater community, providing stability and security for residents which can ease tensions and concerns amongst neighbours and businesses <p>How do we implement this principle?</p> <p>Ensure the provision of the following:</p> <ol style="list-style-type: none"> 1) access to safe and clean drinking water 2) access to hygiene and sanitation facilities 3) resources and support to ensure fire safety 4) waste management systems 5) social supports and services, and guarantee of personal safety of residents 6) facilities and resources to support food safety 7) resources to support harm reduction 8) rodent and pest prevention
<p>Principle 7 <i>Ensure Human Rights-Based Goals & Outcomes, and the Preservation of Dignity for Residents</i></p> <hr/> <p>All governments must bring about positive human rights outcomes in all of their activities and decisions concerning tent communities</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • Ensures that the actions taken to engage with tent communities allow the city to adhere to its human rights obligations and move towards the progressive realization of the right to housing <p>How do we implement this principle?</p> <ol style="list-style-type: none"> 1. Assess the amount of people living in tent communities, as well as in homelessness, and those vulnerable to falling into homelessness, in the community. Alongside this assessment, it is imperative to have a landscape scan of all available housing units and building stock that may be mobilized to meet housing need, this could include not only social housing units and shelter spaces, but also things like short-term rental listings and empty offices. Using this information, establish human rights-based goals to address these numbers. 2. Address on an urgent basis the needs of those who are most vulnerable 3. Move, as a matter of priority, towards the full enjoyment of the right to housing for residents <ul style="list-style-type: none"> ○ This requires recognizing that the safety, security, and well-being of residents, their right to housing and life trump city beautification, development or re-development, and public interest 4. Establish, to the maximum of your resources, the capacity to meet these goals and where further support is needed from other orders of government as well as private stakeholders 5. Refrain from actions or decisions that do not ensure the dignity of unsheltered people, do not lead to the furthering of their human rights or represent a backward step concerning their enjoyment of human rights <ul style="list-style-type: none"> ○ Ex. Evictions, the use of law enforcement, seizing the personal property of the residents, refusing to improve conditions of tent communities or provide residents with access to necessary services and support, criminalizing or penalizing unsheltered residents

<p>Principle 8 Respect, Protect, & Fulfill the Distinct Rights of Indigenous Peoples in All Engagements with Tenet Communities</p> <hr/> <p>Engagement with Indigenous Peoples in tent communities must be guided by the obligation to respect, protect, and fulfil their distinct rights.</p>	<p>What are the benefits?</p> <ul style="list-style-type: none"> • Respecting the distinct rights of Indigenous Peoples with respect to tent communities can help local governments establish better relationships with Indigenous communities and help build trust • Local governments can stride towards honouring their commitment to reconciliation with Indigenous Peoples <p>How do we implement this principle?</p> <ol style="list-style-type: none"> 1. Recognizing the distinct relationship that Indigenous Peoples have to their lands and territories and their right to construct a shelter in ways that are culturally, historically, and spiritually significant 2. Meaningfully consult with Indigenous residents concerning any decisions that affect them, and recognize their right to self-determination and self-governance 3. Refrain from forcefully evicting, displacing, and relocating Indigenous Peoples without free, prior and informed consent 4. Protect women, girls, and gender-diverse people against all forms of violence and discrimination within tent communities in a manner consistent with Indigenous self-determination and self-governance
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