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LANDMARK COURT RULING DECLARES ENCAMPMENT EVICTIONS UNCONSTITUTIONAL IN CANADA

Ontario Superior Court relies on international human rights law and Leilani Farha's National Protocol on Encampments in historic Charter decision

OTTAWA — Yesterday, the Ontario Superior Court of Justice issued a ruling that should fundamentally change how governments across Canada approach homelessness. In *The Regional Municipality of Waterloo v. Named Respondents and Persons Unknown*, Justice Gibson declared that the forced eviction of encampment residents without genuine housing alternatives violates Sections 7 and 15 of the Canadian Charter of Rights and Freedoms.

The decision arrived on the same day that Ontario Premier Doug Ford published a full-page advertisement in the Toronto Star declaring that "a safer Ontario means parks without encampments." The court's ruling makes clear that this approach is not only ineffective. It is unconstitutional.

The court's own words say it best: "The homeless are not Other. They are Us. They are rights bearers no less entitled than any other Canadian citizens to the full benefit and protection of the Charter."

What Makes This Decision Historic

The court made two landmark findings. Under Section 7, it held that closing the only lawful outdoor sheltering site in a region where shelters can accommodate just 15 percent of the homeless population deprives residents of life, liberty, and security of the person in a manner that is grossly disproportionate to any claimed public benefit. No government justification, including transit infrastructure, can override that. Under Section 15, and for the first time in Ontario's legal history, homelessness was recognized as an analogous ground of discrimination. Homeless people are now constitutionally protected as a group.

The court also applied The Shift's [National Protocol for Homeless Encampments in Canada](#), developed by Leilani Farha during her tenure as UN Special Rapporteur on the Right to Adequate Housing, as a legal standard in a constitutional proceeding. The Protocol's principles, including meaningful engagement with residents, exploring genuine alternatives before any eviction, and ensuring relocation does not exacerbate homelessness, were held to be the criteria against which government conduct must be measured.

Critically, the Waterloo Region's own homelessness plan, which committed it to the human rights approach, was used against it. Governments cannot adopt this framework and then ignore it when it is inconvenient.

The New Constitutional Floor

The court did not order the Region to build housing. But it set a clear constitutional floor: the Region cannot clear the encampment for its transit hub until it has ensured residents

have somewhere real to go. House the people, or don't build the transit. Human-rights-compliant action is the condition for any further relief.

This has national implications. Encampment clearances without genuine housing alternatives are constitutionally suspect. Taxpayer dollars spent on enforcement and displacement are not a solution. They may be funding Charter violations.

The Shift calls on all levels of government to treat this decision as the new legal and moral baseline:

- End encampment evictions without guaranteed, adequate housing alternatives
- Adopt the National Protocol for Homeless Encampments in Canada as the operational standard for any engagement with encampment communities
- Direct public investment toward adequate, affordable housing, the only durable solution to encampments
- Reject enforcement-first approaches that criminalize poverty and displace rather than house

"This is the signal to every municipality in Canada," said Leilani Farha, Global Director of The Shift. "The human rights framework is not optional. Courts are watching."

About The Shift

The Shift is an international human rights organization working at the intersection of housing, finance, and climate change. Led by Global Director Leilani Farha, former UN Special Rapporteur on the Right to Adequate Housing, The Shift works to establish housing as a human right in law, policy, and practice worldwide.

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