
**The Governance of
Homeless Encampments
in Canada**

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IMFG Papers on Municipal Finance and Governance
No. 73 • 2025

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Production editor: Lisa D. Orchard
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No. 73, 2025
ISBN 978-0-7727-1189-2
ISSN 1927-1921

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IMFG is funded by the City of Toronto, the Regional Municipality of York, the Regional Municipality of Halton, the Regional Municipality of Durham, the Regional Municipality of Peel, Avana Capital Corporation, and Maytree.

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Acknowledgements

We acknowledge that this paper was written on the traditional, ancestral, and unceded territories of the x^wməθk^wəyəm (Musqueam), S^kwxwú7mesh (Squamish), and səlilwətał (Tsleil-Waututh) Nations, and the lək^wəŋən (Lekwungen) peoples – today represented by the Esquimalt and Songhees Nations – and within the territory of the WSÁNEĆ Peoples.

Homelessness in Canada cannot be understood apart from colonialism. Forced displacement from lands, the intergenerational harms of residential schools and child welfare policies, and systemic barriers to housing and economic security have and continue to produce disproportionately high rates of housing precarity and homelessness among Indigenous Peoples. We recognize these ongoing injustices and their connection to this paper, and commit to supporting approaches grounded in Indigenous rights, dignity, and self-determination.

We are deeply grateful to colleagues who have provided thoughtful feedback on our work, and to those working every day toward positive change in the areas of poverty and homelessness. We especially recognize those who know homelessness as lived experience; their wisdom and advocacy guide this work. Many thanks to Kiera Schuller, Kohbod Khandan-Barani, Piali Roy, Enid Slack, and Lisa Orchard for their outstanding editing support.

Disclaimer

This paper is not intended to provide legal advice. Legislation and regulation are constantly changing. Discussion of legal documents should be checked against official sources before they are used for professional or other purposes. The paper reflects only the views of the authors.

The Governance of Homeless Encampments in Canada

Alexandra Flynn and Estair Van Wagner

Abstract

This paper examines municipal governance of homeless encampments amid rising levels of homelessness across Canada and a fragmented housing policy framework. We examine the international and domestic laws that apply in this area, as well as court decisions related to municipal bylaws and practices. We then map some municipal approaches across Canada, highlighting bylaw enforcement, temporary shelters, and emergent rights-based practices. Our analysis identifies persistent barriers, such as jurisdictional ambiguity, shelter inaccessibility, and misconceptions about the costs of rights-based models. We suggest that homeless encampments are a human rights crisis, and an opportunity for municipalities to catalyze change by aligning their approaches with human rights principles and investing in the conditions that make housing stability possible.

Keywords: Homelessness, governance, intergovernmental, human rights, bylaws

JEL Codes: H7, I13

1. Introduction

Since the start of the COVID-19 pandemic in 2020, homeless encampments have become increasingly visible in urban centres across Canada (Flynn et al., 2022). These makeshift communities, established in parks, vacant lots, and other public spaces, provide informal shelter for those without secure housing. At their core, encampments are a human rights violation (Farha and Schwan, 2020), underscoring the extent to which Canada's housing policy has been unable to realize the right to adequate housing for all (The Office of the Federal Housing Advocate, 2024). They also leave people deeply vulnerable to municipal bylaws, which limit parks and other spaces for activities such as overnight sleeping (Van Wagner and Flynn, 2024).

Housing is not mentioned in the Canadian Constitution; instead, housing and homelessness are regulated to some degree by federal, provincial, municipal, and Indigenous¹ governments in Canada. While all governments play a role in addressing the problem, there is little coordination. Generally, the federal government provides some funding for affordable housing; the provinces and territories regulate tenancies and building requirements; municipalities regulate zoning and planning through the enactment of bylaws, and may offer services such as drop-in centres, shelters, and affordable housing; and Indigenous governments are involved in the regulation and delivery of housing on reserve lands (Whitzman, 2024).

This paper focuses on the municipal role in governing homeless encampments. Municipalities are at the front lines of regulating and responding to encampments, largely through their jurisdiction over land use. Many municipalities have responded to encampments as threats to public order rather than manifestations of unmet human needs (Van Wagner and Flynn, 2024). Cities rely on their status as property owners to assert the authority to remove unhoused residents and their belongings, often invoking trespass laws and engaging law enforcement to carry out evictions (Van Wagner and Flynn, 2024).

Enforcement actions are typically justified through the language of safety, cleanliness, and the proper use of public space (Flynn et al., 2022). Yet, without adequate housing for people to go to, these measures often exacerbate the harm experienced by encampment residents, many of whom face repeated displacement, loss of personal belongings, and heightened vulnerability to violence, illness, and death (Blomley et al., 2020; *The Corporation of the City of Kingston v Doe*, 2023). Encampment evictions sever access to community supports and force residents into more hidden, isolated, and dangerous conditions.

These responses are also misaligned with Canada's domestic and international human rights obligations. Canada has ratified the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which enshrines the right to adequate housing (United Nations, 1966). In 2019, the federal government enacted the *National Housing Strategy Act* ("NHSA"), declaring housing a fundamental human right (NHSA, 2019). While the NHSA does not create an individual right to housing enforceable in courts, it establishes a rights-based framework at the federal level to domestically implement the right to housing. All orders of government – including municipalities – are obligated to uphold human rights under international law (United Nations Human Rights Council Advisory Committee, 2015).

1 The Canadian Constitution recognizes Aboriginal and treaty rights and, at the same time, grants the federal government authority over Indigenous matters. These two constitutional sections, together with the long history of colonialism in Canada, make the question and promise of Indigenous jurisdiction in housing deeply complex and, therefore, beyond the scope of this paper (see, for example, Walker, R. [2008]).

Courts serve as the main forum to evaluate municipal enforcement of bylaws on a case-by-case basis. In many decisions across the country, including *Victoria v Adams* (2009), *Bamberger v Vancouver* (2022), and *The Regional Municipalities of Waterloo v Persons Unknown and to be Ascertained* (2023), judges have acknowledged the constitutional or procedural implications of municipal actions that displace people from encampments without ensuring access to adequate alternatives. These cases have affirmed that, in the absence of accessible shelter or housing, enforcement of anti-camping bylaws can violate section 7 of the *Canadian Charter of Rights and Freedoms* (“*Charter*”), which guarantees the right to life, liberty, and security of the person. However, the case law is far from clear; other cases, including *Heegsma v Hamilton (City)* (2024), have affirmed municipal decisions to clear encampments.

To better understand municipal governance of homelessness, we first set out the various laws that relate to jurisdiction over homelessness in Canada. Second, we offer examples of actions taken by various local governments. Third, we explain the challenges and opportunities in municipalities adopting a human rights framework to guide their actions.

2. Legal Framework for Housing and Homelessness

2.1 International human rights obligations

Canada’s legal obligations regarding the right to housing are rooted in international human rights law. The most significant international instrument in this area is the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), ratified by Canada in 1976 (United Nations, 1966). Article 11 of the ICESCR recognizes the right of everyone to an adequate standard of living, including adequate housing and the continuous improvement of living conditions. As a signatory, Canada has committed to the “progressive realization” of these rights (Part II, Art. 2[1]), meaning it must take deliberate, concrete, and targeted steps to fulfill them to the maximum of available resources.

According to the United Nations Committee on Economic, Social and Cultural Rights (CESCR), “adequate housing” is not simply a matter of shelter. It encompasses legal security of tenure, availability of services, affordability, habitability, accessibility, location, and cultural adequacy (Hohmann, 2013; United Nations, 1997). The CESCR has also explicitly stated that forced evictions are a violation of human rights.

Although international treaties like the ICESCR are not enforceable in Canadian courts, they play a critical interpretive role in shaping domestic law and policy (McIsaac and Vlachoyannacos, 2021). Canadian courts have recognized the value of international human rights norms in interpreting the Constitution (Amarnath and Harris, 2022). In the landmark encampment case, *Victoria v Adams* (“*Adams*”), the British Columbia Court of Appeal upheld the trial judge’s findings on the interpretive importance of international human rights law (*Victoria v Adams*, 2009, 33-35).

The National Protocol on Homeless Encampments in Canada, developed by former Special Rapporteur on Adequate Housing Leilani Farha, together with Professor Kaitlin Schwan, outlined eight core principles for engaging with encampments in a human rights-compliant manner (Farha and Schwan, 2020). The principles outlined in the Protocol, discussed later in this report, provide municipalities with a concrete framework for shifting from enforcement-based models to rights-based governance.

2.2 Federal recognition: The National Housing Strategy Act

In 2019, the federal government enacted the *National Housing Strategy Act* (“*NHSA*”). The *NHSA* represents the first explicit recognition of housing as a human right in Canadian legislation. It affirms

“the right to adequate housing is a fundamental human right affirmed in international law” (*NHSA*, 2019).

The *NHSA* does not establish a justiciable (i.e. court-enforceable) individual right to housing. Rather, it seeks to hold governments accountable by mandating a National Housing Strategy; establishing the position of a Federal Housing Advocate, housed within the Canadian Human Rights Commission; and creating a National Housing Council tasked with advising the federal government on systemic housing issues. The Federal Housing Advocate has conducted a systemic review of homeless encampments (The Federal Office of the Housing Advocate, 2024), issuing reports and related guidance that aim to steer governments toward a human rights framework.

2.3 Municipal law, human rights, and the role of local governments

Under Canada’s Constitution, municipalities are “creatures of the province,” established and empowered through provincial legislation such as Ontario’s *Municipal Act*, *Local Government Act*, and *City of Toronto Act* (*Toronto (City) v Ontario (Attorney General)*, 2021). Even so, municipalities are governments that must comply with constitutional and international human rights norms (United Nations Human Rights Council Advisory Committee, 2015).

Municipalities regulate access to public space through bylaws that govern parks, sidewalks, and other local infrastructure (Flynn et al., 2022). Nonetheless, courts have emphasized that municipalities, though property owners, are also governments with public law duties. In *Bamberger v Vancouver* (2021), for example, the Court invalidated a trespass notice used to evict encampment residents because the City failed to follow fair procedures or consider the rights and needs of the people affected.

From a human rights perspective, the key question is how municipalities are exercising their authority. For example, in 2025, ten B.C. municipalities passed motions calling for housing to be recognized as a human right, signalling a growing shift toward rights-based municipal governance (BC Poverty Reduction Coalition, 2025). For municipalities to embrace a human rights approach means reframing their role away from strict enforcement of bylaws to rights-based governance practices (Flynn and Van Wagner, 2024).

2.4 Charter rights and the role of the courts

While Canada’s international commitments and federal legislation offer a foundation for recognizing housing as a human right, the most immediate domestic source of enforceable human rights is the *Charter of Rights and Freedoms* (“*Charter*”). The *Charter* does not contain a right to housing; however, courts have interpreted the *Charter* to provide minimum legal protections for unhoused people.

2.4.1 Charter case law

To date, courts have focused on section 7 of the *Charter* in encampment cases, though other sections have been advanced by advocates and legal scholars. Section 7 guarantees the right to life, liberty, and security of the person, while section 15 provides equality protections, and section 12 protects against cruel and unusual treatment or punishment. At the time of this paper’s publication, several cities are facing legal challenges in relation to bylaws and homelessness (Petersen, 2025; Sidaway, 2024; *Roy v Vancouver*, 2025).

Established protections: Section 7 – Life, liberty, and security of the person

The foundational case concerning bylaws and homelessness is *Adams* (2009). The Court held the City of Victoria’s bylaws prohibiting sleeping or erecting shelters in public parks at

night violated section 7 of the *Charter* when no adequate alternative shelter was available. The basis of the decision was that forcing unhoused people to sleep without protection from the elements posed a serious risk to their health and safety. The decision in *Adams* means municipal bylaws that displace people from public spaces at night when no accessible shelter spaces are available can amount to a violation of section 7.

Subsequent cases have built on this reasoning. In *Abbotsford (City) v Shantz* (2015), the B.C. Supreme Court found that by enforcing anti-camping bylaws and displacing people from their encampments, the City of Abbotsford had violated the section 7 rights of homeless residents. More recently, in *The Regional Municipality of Waterloo v Persons Unknown* (2023), the Ontario Superior Court affirmed that encampment residents could not be evicted without an assessment of whether shelter alternatives were truly accessible.

Increasingly, a bylaw's legality turns on the availability of suitable housing for encampment residents at night, with cases focused on what "suitable" and "accessible" mean (*Vancouver Board of Parks and Recreation v Williams*, 2014; *Abbotsford (City) v Shantz*, 2015). In some cases, courts have required that municipalities must ensure there are enough truly accessible shelter spaces that consider the specific needs of unhoused people (*The Regional Municipality of Waterloo v Persons Unknown*, 2023). Courts have held that the housing options must be "sufficiently low barrier and accessible to all of the occupants of the encampments" with consideration for needs including substance use disorders, mental illness, trauma, and physical disabilities, with Indigenous residents struggling additionally with the impacts of residential schools and intergenerational trauma (*Prince George (City) v Stewart*, 2021, para. 96). However, the case law is far from clear, with other cases being decided that municipalities may clear encampments based on similar fact patterns (*Black et al. v City of Toronto*, 2020).

Emerging Charter arguments: Section 15 – Equality

Section 15 of the *Charter* guarantees equality before and under the law and prohibits discrimination on enumerated and analogous grounds such as race, sex, age, and disability. Notably, even facially neutral legal frameworks² and state actions can violate section 15 if they have a "disproportionate impact" on a protected group (*Fraser v Canada (Attorney General)*, 2020). Homelessness is deeply shaped by systemic inequality. Indigenous peoples are vastly overrepresented among unhoused populations in Canada due to the enduring legacy of colonialism, dispossession, and systemic racism (*Prince George (City) v Stewart*, 2021 ("Prince George"); Addo and Buggle, 2023). Similarly, LGBTQ2S+ youth, people with disabilities, women fleeing violence, and racialized communities face higher rates of housing insecurity and unique barriers to accessing shelter (Donaldson et al., 2025; Government of Canada, 2024).

To date, section 15 arguments related to housing and homelessness have not been successful in court (*Tanudjaja v Attorney General (Canada) (Application)*, 2013; *Black et al. v Toronto*, 2020). Legal scholars and advocates continue to argue for its use in challenging municipal practices that disproportionately harm marginalized groups (Jackman, 1993; Jackman and Porter, 2008; Lund, 2024). Thus, section 15 could provide a future constitutional "floor" for addressing the discriminatory effects of shelter policies and encampment evictions on particular populations.

Emerging Charter arguments: Section 12 – Cruel and unusual treatment or punishment

Section 12 of the *Charter* protects people from cruel and unusual treatment or punishment. Traditionally applied in criminal law contexts, advocates in encampment litigation are arguing the enforcement of laws that penalize people for sleeping or sheltering in public spaces when no adequate alternatives exist amounts to cruel and unusual treatment (Lund, 2024). It has not

2 This is a law that does not expressly distinguish between groups; it appears to be neutral. This is distinct from direct discrimination where a law makes a facial distinction between groups based on characteristics like race or sex.

yet been applied by courts in the context of homelessness. However, punitive responses to the increasing visibility of homelessness, including the destruction of their belongings, may lead to section 12 being invoked where state actions disproportionately harm unhoused individuals by punishing them for acts necessary to and for survival (*Roy v Vancouver*, 2025).

2.4.2 Other grounds: Procedural rights

Procedural rights, like notice and access to legal counsel, have been recognized by courts as essential protections for unhoused individuals facing eviction from encampments. Recent judicial decisions emphasize the need for fairness in municipal actions.

In *Bamberger v Vancouver (Board of Parks and Recreation)* (2022), the B.C. Supreme Court found that the City's failure to provide adequate notice and a meaningful opportunity to respond before dismantling a tent city in CRAB Park violated the procedural rights of residents, particularly given the serious consequences of displacement. In *Vandenberg v Vancouver (City)*, the Court decided that homeless individuals from East Hastings Street could not be displaced from encampments due to a lack of procedural fairness (2023).

These decisions signal a growing judicial willingness to scrutinize municipal actions using administrative law. They establish that even where municipalities act under bylaw authority, they must do so in a manner that protects procedural and substantive fairness.

2.4.3 Limits of judicial intervention

Despite these legal developments, courts have not yet recognized a positive right to housing under the Charter. In *Tanudjaja v Canada (Attorney General)*, the Ontario Court of Appeal dismissed a case seeking recognition that the provincial and federal governments' failure to devise and implement a strategy to reduce homelessness and inadequate housing violated their rights to life, to security of the person, and to equality under the Canadian Charter of Rights and Freedoms. The Court stated that the claim raised a constitutional right to housing on the grounds that the claim raised broad policy issues beyond the competence of the courts. The Supreme Court of Canada declined to hear an appeal. Notably, the case was decided prior to the enactment of the *NHSA*.

This judicial reticence reflects the reluctance of Canadian courts to wade into matters of policy and resource allocation (Jackman, 1993; Jackman and Porter, 2008). Court rulings have set floor-level constitutional protections but have not defined what a rights-based housing system would look like.

3. Municipal Approaches to Encampment Regulation

3.1 Bylaw enforcement

Many municipalities across Canada have responded to the presence of homeless encampments by enforcing bylaws that regulate the use of public space (Van Wagner and Flynn, 2024).

3.1.1 Framing encampments as trespass

Municipal bylaws were not designed to address homelessness. Instead, they were crafted to regulate conventional public uses like recreational activities, noise control, park usage hours, and waste disposal. This regulatory approach is rooted in the legal authority and responsibility of municipalities to manage land use and protect public property. When these bylaws are applied to encampments, they transform acts of survival like sleeping, building shelter, and storing belongings into acts of trespass or nuisance.

In Toronto, for example, chapter 608 of the Municipal Code prohibits camping in parks (City of Toronto, 2024b). Other municipalities have amended their bylaws to regulate homeless encampments.

In Vancouver, bylaws allow for overnight sheltering in parks only under strict limitations: structures must be temporary, dismantled each morning, and cannot interfere with public access or safety.

The enforcement of these bylaws is largely carried out by police officers and park rangers (Flynn et al., 2022). In many cases, residents are given limited notice before evictions occur and their personal belongings like tents, medication, identification, and survival gear are seized or destroyed (Flynn et al., 2024, 26). These practices contribute to deeper instability for unhoused people, in part because of the destruction of their personal property (Blomley et al., 2023).

In Ontario, the provincial government enhanced the bylaw enforcement powers of municipalities through the *Safer Municipalities Act, 2024* (Legislative Assembly of Ontario, 2024). Passed in June 2025, the legislation gave municipalities and police greater authority to remove encampments from public spaces. This shift reflects a broader trend toward punitive regulatory approaches to homelessness, relying on property law and enforcement rather than social supports. While framed as a response to public safety concerns, particularly from municipal leaders facing political pressure over visible homelessness, the legislation has drawn widespread criticism from legal experts, housing advocates, and health organizations (Encampment Justice Coalition, 2025). They argue that such measures criminalize poverty and fail to address the structural causes of encampments. At the same time, many mayors support the Province's amendments, given the challenges that municipalities experience from rising levels of homelessness (Phillips, 2025).

3.1.2 The role of police and private enforcement

Police involvement in encampment evictions is a flashpoint for many cities (Flynn et al., 2024; McCartan et al., 2021; The Office of the Federal Housing Advocate, 2025). In Toronto's 2021 encampment evictions, for instance, armed police officers and private security were deployed to dismantle camps in Trinity Bellwoods Park and other public spaces (Addo and Buggle, 2023). The use of force and fencing drew widespread condemnation, including from the City's own ombudsman, who found that the response failed to centre the humanity and rights of encampment residents (Addo and Buggle, 2023).

Similarly, in Halifax, encampment evictions led to clashes between residents, protesters, and police in 2021 (Al-Hakim and MacLean, 2021). The use of pepper spray and riot gear against people defending unhoused individuals revealed the disproportionate nature of enforcement tactics rather than trauma-informed approaches. The increasing role of private security in managing public space has also raised concerns about accountability and transparency. Security guards may also lack proper training in dealing with vulnerable populations. This kind of enforcement further blurs the lines of responsibility and makes it difficult for residents to seek recourse when rights are violated (Addo and Buggle, 2023).

3.1.3 Legal constraints on bylaw enforcement

Courts have constrained municipalities' enforcement of anti-camping bylaws against unhoused individuals. As discussed in Section 2, decisions like *Victoria v Adams*, *Abbotsford v Shantz*, and *Waterloo* have established that enforcement actions that violate section 7 of the *Charter* by endangering life, liberty, or security of the person are unconstitutional if used at night when there are no accessible shelter spaces. Even so, some cities have continued to carry out encampment evictions despite evidence that shelter systems are full or inaccessible (Draaisma, 2021; The Office of the Federal Housing Advocate, 2024).

3.1.4 Daytime sheltering

Daytime sheltering claims are an important and evolving frontier in the legal response to homelessness (*Prince George*, 2021; *Waterloo*, 2023). Even in cases where municipalities specifically regulate encampments in their bylaws, the erection of temporary shelters or tents in public spaces during

the day is prohibited. This means that unhoused people must dismantle their shelters each morning and remain exposed to the elements throughout the day. Emerging jurisprudence suggests that such prohibitions may be constitutionally vulnerable, particularly under section 7 of the *Charter* (*The Corporation of the City of Kingston v Doe*, 2023). Courts are increasingly being called upon to assess the question of daytime sheltering (*Roy v Vancouver*, 2025).

3.2 Coordination with other governments

Municipalities in Canada operate within a broader intergovernmental landscape that significantly shapes their capacity to address homelessness and encampments. While cities are often on the front lines of the crisis managing parks, bylaws, and temporary shelters, they lack the revenue tools to independently fund and implement long-term housing solutions for unhoused people. Intergovernmental coordination is essential to any effective, rights-based response to encampments (The Office of the Federal Housing Advocate, 2025).

Some municipalities have participated in collaborative models with provincial and federal governments in ways that can further a rights-based approach. In British Columbia, for example, the provincial housing agency, BC Housing, entered into memorandums of understanding (MOUs) with municipalities (Flynn et al., 2022). These MOUs outlined shared responsibilities for responding to encampments, including the development of temporary housing and the provision of outreach and health services. In Ontario, some municipalities have collaborated with public health units, Indigenous service providers, and nonprofit housing developers (Ministry of Municipal Affairs, 2019; Pacini, 2018).

These kinds of agreements represent an important step toward intergovernmental approaches. Although often *ad hoc*, by aligning municipal enforcement policies with provincial commitments to housing and health care, governments can create pathways out of encampments rather than simply displacing encampment residents.

Another example takes us to London, Ontario. In 2023 and 2024, the City of London launched a coordinated strategy with a coalition of service providers, health agencies, and people with lived experience to design low-barrier encampment sites with access to health care and other supports (City of London, 2023). The approach involved the creation of “hubs” or service sites where encampment residents can access food, harm reduction, and other kinds of supports. The initiative was reinforced by a city council decision (City of London, 2024).

London’s approach benefited from relatively strong intergovernmental engagement. In 2024, the federal government committed over \$5 million in support of the City’s hub model (Government of Canada, 2024). Municipal and provincial funding has also been earmarked. City staff and service providers have also emphasized the importance of data sharing, joint planning, and transparent reporting. The initiative includes public dashboards to track progress on housing placements and encampments, an uncommon level of transparency in the Canadian context.

Despite being hailed as a success through lowering costs, and with homelessness levels rising less than in other cities, the City remains constrained by long-term funding and support (Newcombe, 2025; The Office of the Federal Housing Advocate, 2025).

3.3 Human rights approaches

The shift toward human rights approaches is driven in part by international frameworks, such as the National Protocol on Homeless Encampments (Farha and Schwan, 2020). In 2025, B.C.’s Human

Rights Commissioner and the Federal Housing Advocate issued a joint letter urging municipalities to adopt rights-compliant homelessness responses (Office of the Human Rights Commissioner, 2025).

3.3.1 Principles of a human rights approach

A human rights approach to encampments rests on several core principles (Farha and Schwan, 2020):

- *Recognition of encampment residents as rights holders:* People living in encampments are rights holders; they are entitled to the same legal protections and participatory rights as all other residents.
- *Meaningful participation and consultation:* Decisions affecting encampment residents should not be made unilaterally. Instead, municipalities must ensure that affected individuals and communities are actively involved in shaping the responses that impact their lives.
- *Non-discrimination and equity:* Encampment residents face intersecting forms of marginalization. A human rights approach requires municipalities to take these structural inequalities into account and to tailor responses accordingly.
- *Prohibition of forced evictions:* Displacement should be an absolute last resort, carried out only when adequate alternative housing is available, and in accordance with procedural safeguards.
- *Access to basic needs and services:* Regardless of housing status, individuals have the right to sanitation, clean water, safety, and health services. Municipalities must ensure that encampments are not sites of deprivation or neglect.
- *Respect for and fulfillment of the Rights of Indigenous Peoples,* who are disproportionately impacted by housing precarity and are overrepresented in homeless populations and encampments.

3.3.2 Municipal implementation: Emerging practices

Some Canadian cities have begun to implement elements of a human rights approach. For example, the City of Toronto introduced the *Toronto Housing Charter: Opportunity for All* (City of Toronto, 2017). Adopted in 2010 and reaffirmed in subsequent council decisions, the Charter declares that “all residents have a right to a safe, secure, affordable home in which they can live in peace and dignity and realize their full potential.”

This commitment is reflected in the City of Toronto Interdivisional Protocol for Encampments in Toronto (IDP), approved in 2024 (City of Toronto, 2024a), which emphasizes respectful, rights-informed engagement with encampment residents. Under the IDP, outreach teams from the City’s Streets to Homes program lead person-centred engagement to connect individuals with shelter, health care, and housing options. Enforcement is framed as a last resort, used only when health or safety risks cannot be mitigated. The IDP also mandates meaningful engagement with Indigenous people and service providers.

To further institutionalize a rights-based approach, the Toronto Ombudsman introduced a Housing Unit in 2023, appointing a Deputy Ombudsman (Housing) to lead systemic investigations into the City’s housing-related policies and practices. In 2023, the Ombudsman issued a report on the City’s 2021 encampment evictions (Addo and Buggle, 2023), which found that Toronto failed to communicate clearly, respect procedural fairness, and uphold the dignity of encampment residents. The Housing Unit has since engaged hundreds of people, launched proactive investigations, and begun crafting a human rights framework to guide its work.

These kinds of efforts can be dismantled over time. For example, the City of Hamilton developed a Bylaw Enforcement Protocol as part of a settlement with encampment residents who had successfully brought an injunction application against the City for encampment evictions. The Protocol included

elements of a rights-based approach, such as providing notice and individualized engagement with residents to determine vulnerability and barriers to housing and services before any evictions, as well as specific size and location limits for encampments that could continue (Van Wagner, 2022). Protocols have been redrafted and repealed since then, with the City's bylaws subject to ongoing litigation (Heegsma, 2025; Moro, 2025; *Poff v Hamilton (City)*, 2021).

3.4 Shelter expansion

In response to the growth of encampments, many municipalities across Canada have prioritized the expansion of emergency shelter capacity as a key strategy. Both legal precedent and the lived experiences of unhoused individuals explain that temporary shelter expansion alone is an insufficient and often ineffective response (Flynn et al., 2022).

Recent court decisions have emphasized that municipalities cannot rely on the mere existence of shelter beds to justify evicting encampments. In *Waterloo (Regional Municipality) v Persons Unknown* (2023), the Ontario Superior Court found that shelters must be accessible to serve as lawful alternatives to outdoor living. In some cases, courts have rejected the notion that shelter spaces were sufficient if they came with restrictive conditions, such as curfews, mandatory sobriety, or prohibitions on pets, partners, and personal belongings. Even in cases where judges have authorized removal of an encampment, enforcement has been constrained by the need for shelter spaces and processes that account for individualized circumstances, including disability and services for drug users (*Matsqui-Abbotsford Impact Society v Abbotsford (City)*, 2024).

These decisions impose a legal obligation on municipalities to ensure that shelter expansion efforts meet the actual needs of specific unhoused populations.

4. Challenges and Opportunities in Moving Forward

The regulation of homeless encampments represents one of the most complex and contested areas of municipal governance in Canada today. Legal decisions, human rights frameworks, and local innovations have brought the crisis of homelessness in full view. Yet, most municipalities remain caught in a reactive cycle – torn between political pressures to clear public spaces and recognition that punitive approaches are expensive and potentially unlawful, and do not solve the problem of homelessness.

This section identifies key challenges that continue to hinder progress and explores emerging opportunities for municipalities to adopt more effective, rights-based approaches to homeless encampments.

4.1 Persistent challenges

4.1.1 Jurisdictional ambiguity

One of the most persistent challenges in addressing homelessness in Canada is the fragmentation of authority. Municipalities may oversee shelter operations and public space regulation, but they rely on provinces for health services and income support, and both provincial and federal governments for affordable housing investments. Effective responses to homelessness and encampments require coordinated action across multiple levels of government and sectors, including housing, health, justice, and social services (The Office of the Federal Housing Advocate, 2025). Siloed mandates, misaligned funding cycles, and inconsistent data sharing make this coordination difficult. This jurisdictional

ambiguity often leads to a cycle of blame-shifting (Culbert and Lazenby, 2025), where municipalities are both overburdened and under-resourced, facing political pressure to act while lacking the tools to implement comprehensive solutions.

The development and passage of Ontario’s *Safer Municipalities Act* in 2025 demonstrates how provincial–municipal coordination in shaping encampment responses can also produce human rights issues. Prompted by a joint letter from over a dozen mayors requesting the use of the *Charter’s* notwithstanding clause to respond to encampments, the provincial government responded with legislation (Sebben, 2024). Premier Doug Ford confirmed his willingness to invoke section 33 of the *Charter* (also called the notwithstanding clause) to shield these actions from judicial scrutiny (Sebben, 2024). This signals political agreement to override constitutional protections, particularly those recognized in case law affirming the rights of unhoused individuals to remain in public spaces when no adequate shelter is available, without clear, long-term investment in the root causes of the crisis.

Municipalities may also be reluctant to sign onto formal agreements if they fear assuming long-term liabilities or being held responsible for provincial failures. The Union of BC Municipalities, for example, opposed legislation that required municipalities to demonstrate “reasonably available shelter space” prior to seeking ejective injunctions, arguing that as shelters fall within provincial jurisdiction, cities could not fulfill the requirement (Union of BC Municipalities, 2025; Warkentin, 2023).

In some cases, municipal and provincial policy frameworks are fundamentally misaligned. For instance, a City may adopt a harm-reduction approach to encampments, emphasizing resident autonomy and health access, while the Province mandates abstinence-based service models or denies funding for housing initiatives that serve people who use drugs (Chandler, 2025). In Alberta, the government withdrew funding from Lethbridge’s supervised consumption site after claiming fiscal mismanagement (Labby, 2020).

4.1.2 Barriers to shelter access

The reality in many cities is that existing shelter systems are overburdened and inaccessible to many unhoused individuals. Common barriers include:

- Eligibility criteria that exclude individuals based on gender, substance use, mental health status, or age.
- Lack of space for couples or families, forcing people to choose between separation and sleeping rough.
- No accommodation for pets, which are often crucial for emotional support and safety.
- Overcrowding and lack of privacy, which can retraumatize individuals with experiences of institutionalization or violence.
- Inflexible rules and surveillance, including strict curfews, security checks, and zero-tolerance policies.

These features make many shelters unsafe or unusable for people with complex needs. For Indigenous people, racialized communities, trans and non-binary individuals, and people with disabilities, shelters can be sites of discrimination, abuse, and systemic exclusion (Van Wagner and Flynn, 2024). As a result, many encampment residents remain outdoors where they have greater control over their environment, community, and autonomy (The Office of the Federal Housing Advocate, 2025).

4.1.3 Enforcement pressure and political incentives

Municipal governments are often under pressure from housed residents and local business associations to clear encampments in the name of concerns such as public safety, use of park space, and tourism (Draaisma, 2021; Moro, 2024). This pressure can drive decision-making that prioritizes these concerns over long-term solutions. Media narratives often reinforce this framing by focusing on disorder, waste, or alleged criminal activity, rather than the systemic causes of homelessness or the lived experiences of encampment residents (Newman, 2025; Sangiuliano, 2024). In this context, bylaw enforcement becomes a form of poverty management.

Municipalities default to temporary shelters as justification for dismantling encampments. As mentioned earlier, while expanding shelter space is a common response to encampments, the adequacy of these shelters is contested (Dej, 2021; Schwan et al., 2021; The Office of the Federal Housing Advocate, 2025). As court decisions such as *Waterloo* and *Abbotsford* have made clear, enforcement against encampments is only lawful if truly accessible alternatives exist. Yet, cities frequently fail to assess shelter suitability from the perspective of residents themselves, treating availability of shelters as sufficient.

4.1.4 Financial misconceptions

One of the key barriers to the adoption of human rights approaches is the persistent belief that they are inefficient, expensive, or permissive. In practice, many punitive encampment strategies are more expensive than rights-based alternatives due to the cost of repeated encampment evictions, legal challenges, and emergency responses (Donaldson et al., 2025; Draaisma, 2021).

In a 2020 study in Alberta, researchers found that every dollar spent on Housing First in Calgary generated between \$1.17 and \$2.84 of cost savings (Jadidzadeh et al., 2020). A 2012 study found that the annual cost of homelessness in Canada in 2007 was \$4.5 to \$6 billion annually (Gaetz, 2012, 3). A 2025 study shows that a “housing-first” approach (providing stable housing before or in lieu of mandating treatment) is more effective than a “treatment-first” model in reducing overdose deaths, improving engagement with addiction services, and lowering health care costs among people experiencing homelessness and opioid use disorders (Hunter, 2025). When stable housing was provided for 1,000 unhoused individuals with opioid addiction, the intervention reduced total overdoses by 11% and fatal overdoses by 9% over five years, with an incremental cost of about US\$26,800 per year gained (Hunter, 2025).

The Dunn House project in Toronto represents Canada’s first initiative blending housing and health care supports. Medical professionals, mental health workers, and social service providers are co-located on site, offering residents wraparound care, harm-reduction services, and regular medical oversight to reduce reliance on acute health systems (Casey, 2025). By situating care in a stable housing environment, Dunn House aims to prevent crisis-driven hospital visits and improve continuity of care for individuals experiencing homelessness and health vulnerabilities. It is also far more cost effective: compared with \$2.1 million in hospital costs over 12 months before residents moved into housing, local hospitals saved \$1.66 million (Casey, 2025).

A related challenge is the absence of clear metrics and accountability. Few municipalities systematically evaluate the outcomes of their encampment policies or collect disaggregated data on who is affected. This limits the ability to measure success, identify discrimination, or make evidence-based adjustments. For example, New York City’s Comptroller has recommended transparent data protocols and independent evaluations to assess whether interventions lead to improved housing outcomes (Office of the New York City Comptroller, 2025). This data has an intergovernmental dimension as well (albeit one not mentioned in the New York City Comptroller report): without integrated case management systems or shared databases, outreach workers, shelter staff, and housing agencies may duplicate efforts or miss opportunities for intervention.

4.2 Opportunities for reform

Despite these persistent challenges, human rights approaches provide an opportunity to shape new approaches to governance.

4.2.1 Local implementation of human rights

A commitment to a human rights framework invites cities to proactively align their policies and practices with human rights norms, regardless of whether such rights are directly enforceable under federal or provincial law.

A commitment to the application of human rights involves:

- Recognizing unhoused residents as rights holders rather than merely service recipients or trespassers.
- Ensuring meaningful participation in decisions that affect them.
- Prohibiting forced evictions unless adequate alternatives exist and procedural protections are observed.
- Integrating equity and non-discrimination into shelter and housing systems, particularly in relation to Indigenous people, people with disabilities, and racialized communities.
- Respecting the jurisdiction of local Indigenous Nations and applicable Indigenous legal orders and protocols about caring for unhoused persons and the provision of services.

This model is not merely aspirational. Cities have adopted language and principles consistent with this framework. While their implementation is partial or uneven, these shifts lay the groundwork for broader changes and for accountability.

4.2.2 Embedding rights in governance structures

To move beyond *ad hoc* reforms, municipalities can institutionalize human rights in their governance structures. This can involve:

- Creating dedicated staff roles or offices for human rights and equity within housing or bylaw departments.
- Establishing independent oversight bodies, such as municipal housing ombudspersons or review panels, to oversee evictions and monitor compliance.
- Conducting human rights impact assessments of proposed bylaws or enforcement actions.
- Embedding lived experience advisory groups in decision-making bodies.
- Using public education campaigns to shift public discourse from fear and disorder toward care and inclusion.
- Advocating for and enabling intergovernmental agreements, strategies, and cost-sharing with provincial and federal governments.

4.2.3 Rethinking municipal roles and investments

A human rights approach urges municipalities to rethink how they allocate resources and structure service delivery. Investments in police-led encampment evictions, private security, and cleanup operations consume significant funds that could be redirected toward shelter improvement and

housing support (Falvo, 2020; Pomeroy, 2007). Municipalities should also reconsider how they engage with community partners like nonprofit shelter operators and Indigenous housing providers.

Cities may also advocate more assertively for sustained and adequate funding from provincial and federal governments. While municipalities can play a leadership role in reforming shelter systems, they cannot bear the full financial burden. Cross-jurisdictional advocacy grounded in the language of rights, equity, and evidence can help ensure that shelter expansion is both principled and properly resourced. Successful models, like the City of London's hub strategy, show what is possible when governments align their efforts.

Municipalities can sustain their advocacy for formal agreements with provincial and federal actors that clarify roles, establish funding commitments, and enable coordinated planning. They can consider pan-Canadian approaches, such as the development of a national encampment strategy that defines minimum standards, clarifies human rights obligations, and provides a consistent policy foundation across jurisdictions.

4.2.4 Investing in transitional and permanent housing

A human rights approach to shelter expansion requires a shift in thinking: shelters must not be treated as an end in themselves, but as temporary, voluntary, and supportive pathways to permanent housing. International standards, including General Comment No. 4 of the United Nations' CESCR (1997), make clear that emergency shelters do not constitute adequate housing.

Supportive housing refers to secure, affordable housing that is paired with on-site or closely connected services such as health care and mental health and addiction supports (Aubry et al., 2014; O'Campo et al., 2022). Unlike emergency shelters, supportive housing is designed to provide long-term stability while addressing the underlying factors that contribute to homelessness. Research has consistently shown that housing alone is often insufficient for people experiencing chronic homelessness, who may also need sustained support to remain housed and thrive.

Cities can make strategic use of municipal land, zoning powers, and planning tools to facilitate affordable housing development. They can also support housing acquisition and conversion, especially of underused motels, hotels, and public buildings. When paired with case management and harm reduction, these strategies can dramatically reduce the need for encampments and promote long-term stability.

4.2.5 Reframing public discourse

Public support is critical to sustaining rights-based approaches. Municipal leaders have a unique role to play in shifting public narratives around encampments from ones rooted in fear and nuisance. Public education campaigns, community engagement processes, and transparent communications can build understanding and reduce stigma.

This shift is especially important in countering opposition from organized property interests or media narratives that equate visible homelessness with lawlessness. Municipal leaders who frame homelessness as a systemic failure rather than individual choice can help create the political space needed to pursue long-term solutions.

4.2.6 Reconciliation and Indigenous rights

Any discussion of housing and municipal law must also foreground Indigenous rights. Indigenous people are disproportionately represented in encampments across Canada due to the ongoing impacts of colonization, land dispossession, residential schools, and intergenerational trauma. The right to housing for Indigenous Peoples must be understood in the context of Indigenous sovereignty and

the duty of governments to uphold the United Nations Declaration on the Rights of Indigenous Peoples (UN General Assembly, 2007) and fulfill the Calls to Action from Canada's Truth and Reconciliation Commission (TRC) and National Inquiry into Missing and Murdered Indigenous Women and Girls (Flynn et al., 2024; National Inquiry, 2019; Truth and Reconciliation Commission, 2015).

Municipalities must work in partnership with Indigenous governments, organizations, and service providers to develop culturally appropriate housing and shelter options. They must also ensure that responses to encampments reflect the Indigenous laws, knowledge systems, and priorities of local Indigenous nations (Drabble and McInnes, 2017; Martin and Walia, 2019).

5. Conclusion

The proliferation of homeless encampments in cities across Canada represents both a housing and governance crisis. Municipal governments are being called upon to respond to a deeply complex issue within a legal, political, and fiscal environment that often constrains their options. Encampments are visible manifestations of systemic failures: the erosion of affordable housing, the inadequacy of emergency shelters, and the lack of coordinated, sustained responses across all levels of government. These intersect with systemic failures in other areas such as health care, mental health and addictions, and social benefits.

This paper has explored how municipalities have responded to encampments, the legal and policy frameworks that shape their authority, and the range of approaches currently in practice. While some cities continue to rely on punitive bylaw enforcement and displacement strategies, others have begun to experiment with rights-based models that emphasize participation, harm reduction, and housing-first principles. The examples in this paper highlight both the challenges and the possibilities of local action, illustrating that while no single model fits all contexts, municipalities are not powerless. They also demonstrate that it takes political will and long-term thinking to turn temporary experiments into lasting change.

A consistent theme across jurisdictions is the tension between short-term responses and long-term solutions. The use of police and bylaw officers to clear encampments may offer immediate visual relief, but it does not resolve the underlying drivers of homelessness and may in fact exacerbate them. In contrast, approaches that prioritize engagement, services, and transitional housing are more likely to build trust and lead to sustainable outcomes, though they require time, investment, and political courage.

The legal landscape continues to evolve, and recent court decisions have largely reinforced the limits of municipal authority to displace encampments in the absence of adequate alternatives. Courts have affirmed that shelter beds must be accessible, appropriate, and voluntary to meet constitutional standards. Contemporary legislation like the *NHSA* makes it clear that housing must be recognized as a human right. Municipalities have a critical role to play in realizing that right, not just through service delivery, but through advocacy, land use planning, partnership-building, and policy leadership.

Yet municipalities cannot do this work alone. They need provincial and federal partners who are willing to invest in housing, health, and income supports. They also need legal and institutional reforms that support collaborative, coordinated governance. A national encampment strategy, grounded in human rights and informed by the experiences of municipalities, could provide the consistency and guidance that are currently lacking. Such a strategy should reflect the lived realities of encampment residents, many of whom are Indigenous, racialized, or disabled.

There is an urgent need to reframe encampments beyond a public nuisance to be managed. Doing so requires shifting away from control-based models of governance toward care-based, rights-affirming approaches that recognize the dignity of homeless residents. Municipalities can lead this shift by

embedding human rights in local law and policy, creating space for resident participation, and investing in the conditions that make housing stability possible.

Encampments must be understood as an urgent human rights crisis and an immediate call to action. They reveal the limits of existing governance models and challenge us to imagine new forms of municipal leadership. The future of housing rights in Canada will be shaped by the everyday decisions of local governments: where and what to build, whom to listen to, and how to respond when people have no place to go.

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