

SCATEH Position Paper on Homeless Encampments

June 2020

The Simcoe County Alliance to End Homelessness (SCATEH) recognizes an individual's basic need for shelter, safety and community. Without an adequate supply of affordable, low-barrier temporary, transitional, and permanent housing, too many people living with very low incomes have no local housing options other than living unsheltered and in encampments. To address this reality, communities (housed and unhoused) and service providers (public, non-profit, faith-based and voluntary) offer resources that aid in survival and address the human rights, health and quality of life issues for those living unsheltered and in encampments.

It is acknowledged that many encampments in Simcoe County originate as a survival response by the community of individuals experiencing homelessness. Due to the limited low-barrier affordable housing and shelter in the area, many people experiencing homelessness spend months or years on waitlists. This lack of affordable housing, permanent supportive housing, transitional housing and emergency shelter space exacerbates the housing crisis and too often forces local constituents without housing to create their own communities in the form of encampments.

SCATEH also recognizes the difficult situation faced by municipal governments when encampments present public health and safety concerns, and constituents who view homelessness as an unwelcome intrusion ask that encampments be removed. In response to those concerns, municipal governments at times pursue forced evictions in a direct violation of international human rights law.

In this context, SCATEH recognizes the legitimate need of municipal governments to address encampments. However, evictions do not solve the multi-faceted issue of homelessness in our communities. SCATEH has also observed that encampment evictions have a number of negative consequences such as the loss of necessities for survival and quality of life—including items that are essential for living unsheltered, documentation and identification, medications, and other valued possessions—and the displacement of homeless individuals resulting in the breakdown of relationships between persons experiencing homelessness and service providers. All of these outcomes result in an intensification of the vulnerability of these individuals.

It is the position of SCATEH that governments adopt a human-rights based approach to interacting with those living in encampments. A National Protocol on Homeless Encampments in Canada (Farha and Schwan, 2020) provides eight principles to guide governments in upholding the human rights of those living in encampments:

Principle 1: Recognize residents of homeless encampments as rights holders

All government action with respect to homeless encampments must be guided by a commitment to upholding the human rights and human dignity of their residents. This means a shift away from criminalizing, penalizing, or obstructing homeless

encampments, to an approach rooted in rights-based participation and accountability.

Principle 2: Meaningful engagement and effective participation of homeless encampment residents

Residents are entitled to meaningful participation in the design and implementation of policies, programs, and practices that affect them. Ensuring meaningful participation is central to respecting residents' autonomy, dignity, agency, and self-determination. Engagement should begin early, be ongoing, and proceed under the principle that residents are experts in their own lives. The views expressed by residents of homeless encampments must be afforded adequate and due consideration in all decision-making processes. The right to participate requires that all residents be provided with information, resources, and opportunities to directly influence decisions that affect them.

Principle 3: Prohibit forced evictions of homeless encampments

International human rights law does not permit governments to destroy peoples' homes, even if those homes are made of improvised materials and established without legal authority. Governments may not remove residents from encampments without meaningfully engaging with them and identifying alternative places to live that are acceptable to them. Any such removal from their homes or from the land which they occupy, without the provision of appropriate forms of legal protection, is defined as a 'forced eviction' and is considered a gross violation of human rights. The removal of residents' private property without their knowledge and consent is also strictly prohibited.

Common reasons used to justify evictions of encampments, such as 'public interest,' 'city beautification,' development or re-development, or at the behest of private actors (e.g., real estate firms), do not justify forced evictions.

Principle 4: Explore all viable alternatives to eviction

Governments must explore all viable alternatives to eviction, ensuring the meaningful and effective participation of residents in discussions regarding the future of the encampment. Meaningful consultation should seek to maximize participation and should be supported by access to free and independent legal advice. Where personal needs differ amongst residents of encampments such that a singular best alternative is not unanimous, governments will have to develop several solutions each of which is consistent with the principles outlined in this Protocol.

Principle 5: Ensure that relocation is human rights compliant

Considerations regarding relocation must be grounded in the principle that the right to remain in one's home and community is central to the right to housing. Meaningful, robust, and ongoing engagement with residents is required for any decisions regarding relocation. Governments must adhere to the right to housing and other human rights standards when relocation is necessary or preferred by residents. In such cases, adequate alternative housing, with all necessary amenities, must be provided to all residents prior to any eviction. Relocation must not result in

the continuation or exacerbation of homelessness, or require the fracturing of families or partnerships.

Principle 6: Ensure encampments meet basic needs of residents consistent with human rights

Canadian governments must ensure, at a minimum, that basic adequacy standards are ensured in homeless encampments while adequate housing options are negotiated and secured. Governments' compliance with international human rights law requires (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, (4) social supports and services, and guarantee of personal safety of residents, (5) facilities and resources that support food safety, (6) resources to support harm reduction, and (7) rodent and pest prevention.

Principle 7: Ensure human rights-based goals and outcomes, and the preservation of dignity for homeless encampment residents

Governments have an obligation to bring about positive human rights outcomes in all of their activities and decisions concerning homeless encampments. This means that Canadian governments must move, on a priority basis, towards the full enjoyment of the right to housing for encampment residents. Any decision that does not lead to the furthering of inhabitants' human rights, that does not ensure their dignity, or that represents a backwards step in terms of their enjoyment of human rights, is contrary to human rights law.

Principle 8: Respect, protect, and fulfill the distinct rights of Indigenous Peoples in all engagements with homeless encampments

Governments' engagement with Indigenous Peoples in homeless encampments must be guided by the obligation to respect, protect, and fulfil their distinct rights. This begins with recognition of the distinct relationship that Indigenous Peoples have to their lands and territories, and their right to construct shelter in ways that are culturally, historically, and spiritually significant. Governments must meaningfully consult with Indigenous encampment residents concerning any decisions that affect them, recognizing their right to self-determination and self-governance. International human rights law strictly forbids the forced eviction, displacement, and relocation of Indigenous Peoples in the absence of free, prior, and informed consent.

Given the disproportionate violence faced by Indigenous women, girls, and gender diverse peoples, governments have an urgent obligation to protect these groups against all forms of violence and discrimination within homeless encampments, in a manner that is consistent with Indigenous self-determination and self-governance.

In light of these principles, SCATEH calls on municipal governments, service providers and the community experiencing homelessness to work together to create a more viable solution to encampments. This includes:

- Provision of self-help resources that can support people living without housing to prevent the build-up of public health and hygiene risks (e.g., trash receptacles and

hygiene resources such as low barrier, safe, and 24-hour accessible public restrooms and showers);

- Public disclosure of the specific health and safety or policy concerns being addressed when evictions are scheduled;
- Advance notice of at least one week prior to a scheduled eviction if self-help resources do not address the documented health and safety concerns;
- Development and continuation of scheduled, coordinated encampment outreach efforts as a partnership between municipal governments, homeless service providers, health services (public health, behavioural health and medical) and individuals with lived experience; and
- Limited frequency of evictions, particularly when sufficient shelter to provide an alternative to encampment living is unavailable.

The Simcoe County Alliance to End Homelessness would like to formally invite the Simcoe County community – public entities, private organizations and residents – to participate in creating and implementing a system that does not criminalize residents fulfilling their basic human needs, but recognizes them as human rights holders and extends a helping hand in recognition of the complexity of their situation.

References:

Farha, L., Schwan, K. (2020). A National Protocol for Homeless Encampments in Canada. <https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>

This position paper is adapted from the [Position Paper on Homeless Encampment Sweeps from the Coalition of Homeless Service Providers of Monterey and San Benito County](#). Used with permission.