

Court File No. CV-21-00077187-0000

ONTARIO SUPERIOR COURT OF JUSTICE

B E T W E E N:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD, CASSANDRA JORDAN, JULIA LAUZON, AMMY LEWIS,
ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,
SHERRI OGDEN, JAHMAL PIERRE, and LINSLEY GREAVES**

Applicants

-and-

CITY OF HAMILTON

Respondent

APPLICANTS' APPLICATION RECORD

VOLUME 5 – TABS 83-88

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ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD, ET AL.**

Applicants

-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF LEILANI FARHA

SWORN JUNE 15, 2022

1. I, Leilani Farha, of the City of Ottawa, in the Province of Ontario, AFFIRM AND SAY:

2. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.

Professional Background and Expertise

3. I am a lawyer by training. I am a Canadian citizen. I have worked for the past 20 years both internationally and domestically in Canada on the implementation of the right to adequate housing for the most marginalized groups. I attach as **Exhibit “A”** to this affidavit a copy of my CV.

4. I am currently the Global Director of The Shift, an international movement to secure the right to housing. Launched in 2017 with the United Nations Office of the High Commissioner for Human Rights and United Cities and Local Government, The Shift works with multi-level stakeholders around the world to advance the right to housing, including in several municipalities in Canada.

5. I previously served as United Nations Special Rapporteur on Adequate Housing (sometimes referred to as the United Nations Special Rapporteur on the Right to Housing), from May 2014 until April 2020. Prior to and during my appointment as United Nations Special Rapporteur, I served as Executive Director of Canada Without Poverty in Ottawa, Ontario and before that, the Centre for Equality Rights in Accommodation, in Toronto, Ontario. Since 2021, I have been a Commissioner at the International Commission of Jurists, in Geneva, Switzerland.

6. In my capacity as UN Special Rapporteur, I contributed to global human rights standards on the right to housing, including through thematic reports to the UN General Assembly and the UN Human Rights Council on homelessness, the financialization of housing, informal settlements, rights-based housing strategies, and the first United Nations Guidelines for the implementation of the right to housing. Within the United Nations human rights system, I helped spearhead the first resolution regarding women and the right to adequate housing. I have appeared before various

United Nations human rights mechanisms to address economic, social and cultural rights issues; and I was a member of the Advisory Group on Forced Evictions for UN-Habitat.

7. I have researched and published widely on issues related to housing rights, including on forced evictions, securing land rights for indigenous peoples, and housing indigenous peoples in cities. As a central dimension in all my activities, I have worked extensively on women's economic, social and cultural rights, playing a pivotal role in raising awareness about the gender dimensions of these rights. I was also a founding member of the ESCR-Net – an international network of organizations committed to economic, social and cultural rights.

International human rights law and evictions

8. In this affidavit, I describe international rights law and standards governing evictions, including evictions from encampments. I refer to the following documents:

- a. United Nations Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, December 13, 1991, E/1992/23 (“**General Comment 4**”). I attach *General Comment 4* as **Exhibit “B”** to this affidavit.
- b. United Nations Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions*, May 20, 1997, E/1998/2 (“**General Comment 7**”). I attach *General Comment 7* as **Exhibit “C”** to this affidavit.

- c. United Nations Human Rights Council, *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*, September 19, 2018, A/73/310/Rev.1. I am the author of this document (“***Informal Settlements Report***”). I attach the *Informal Settlements Report* as **Exhibit “D”** to this affidavit.
 - d. United Nations Human Rights Council, *Access to justice for the right to housing*, January 15, 2019, A/HRC/40/61. I am the author of this document. I attach the *Access to justice for the right to housing* as **Exhibit “E”** to this affidavit.
 - e. United Nations Human Rights Council, *Guidelines for the Implementation of the Right to Adequate Housing*, January 25, 2019, A/HRC/43/43. I am the author of this document (“***Right to Housing Guidelines***”). I attach the *Right to Housing Guidelines* as **Exhibit “F”** to this affidavit.
 - f. UN Special Rapporteur on the Right to Housing, *A National Protocol for Homeless Encampments in Canada* (April 30, 2020). I am the co-author of this document with Dr. Kaitlin Schwan (“***Encampments National Protocol***”). I attach the *Encampments National Protocol* as **Exhibit “G”** to this affidavit.
9. To assist the Court, I have extracted below the portions of Exhibits “B” through “G” which I believe to be most relevant to the eviction of individuals from encampments.
10. In addition, in this affidavit I set out The Shift’s positions on the legality of the City of Hamilton’s policies on encampments under international human rights law.

General Comment 4 (Exhibit “B”)

11. *General Comment 4* addresses the right to adequate housing guaranteed by Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, *United Nations, Treaty Series*, vol. 993 (“*ICESCR*”). I attach the *ICESCR* as **Exhibit “H”** to this affidavit. Article 11(1) provides in relevant part:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

12. Paragraph 7 of *General Comment 4* states in part:

In the Committee’s view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised.

13. Paragraph 8 of *General Comment 4* states in part:

(a) *Legal security of tenure*. Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of

tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups ...

14. Paragraph 18 of *General Comment 4* states in part:

... the Committee considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

General Comment 7 (**Exhibit “C”**)

15. *General Comment 7* addresses the legality of forced evictions under Article 11(1) of the *ICESCR*.

16. Paragraph 3 of *General Comment 7* states in part:

The term "forced evictions" as used throughout this general comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.

17. Paragraph 13 of *General Comment 7* states in part:

States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.

18. Paragraph 15 of *General Comment 7* states:

Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

19. Paragraph 16 of *General Comment 7* states:

Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

Informal Settlements Report (Exhibit “D”)

20. The *Informal Settlements Report* sets out international legal obligations that arise from the right to adequate housing under Article 11(1) of the *ICESCR* in relation to informal settlements.

21. Paragraph 7 of the *Informal Settlements Report* defines informal settlements to include “constantly displaced homeless encampments in the most affluent countries”.

22. Paragraph 26 of the *Informal Settlements Report* states: “The right to remain in one’s home and community is central to the right to housing.”

23. Paragraph 27 of the *Informal Settlements Report* states in part:

In situ upgrading allows residents to retain their connections to their locality, protects social cohesion and can help to avoid disrupting livelihoods. Relocation, in contrast, has many possible negative consequences and often results in a poorer quality of life. It has particularly negative repercussions for people with disabilities, the elderly, and children and young people.

24. Paragraph 28 of the *Informal Settlements Report* states in part: “The right to in situ upgrading must be recognized in law and communities should be provided with representation to seek enforcement of this right.”

25. Paragraph 29 of the *Informal Settlements Report* states:

States should immediately cease and desist from seeking to justify evictions of residents of informal settlements under domestic legal procedures. Courts should refuse to authorize such evictions in any but the most exceptional circumstances, and only when residents have been fully engaged in the process, when alternative housing of comparable or better quality is being provided and when all other requirements of international human rights have been honoured. Applications to evict are almost always indicative of flawed processes and lack of meaningful engagement with communities.

26. Paragraph 32 of the *Informal Settlements Report* states:

Where the government proposes relocation, the burden of proof is on the State to show why in situ upgrading is unfeasible. Authorities must publish and disseminate their reasoning to the community and allow it to be reviewed by a body capable of reversing the decision to relocate, providing a full hearing to residents.

27. Paragraph 32 of the *Informal Settlements Report* states in part:

In any instance of relocation, whether temporary or permanent, or from public or private land, ... relocation sites should be located in the vicinity of the original site,

have access to all necessary amenities (particularly water, sanitation and electricity) and maintain access to livelihoods.

Access to justice for the right to housing (Exhibit “E”)

17. *Access to justice for the right to housing* sets out the obligations on states under international human rights law to provide legal mechanisms to enforce the right to housing under Article 11(1) of the *ICESCR*.

18. Paragraph 36 of *Access to justice for the right to housing* states in part:

Access to justice must ensure that eviction is only carried out as a last resort, in accordance with all legal requirements and with prior genuine consultation with those affected, that all viable alternatives to the eviction are explored, and that no one will be rendered homeless as a result of the eviction. Courts must require all appropriate measures to be taken to ensure, where possible, that adequate alternative land and housing are available.

Right to Housing Guidelines (Exhibit “F”)

19. The *Right to Housing Guidelines* sets out a series of guidelines based on, and to ensure compliance with, international legal obligations that arise from the right to adequate housing under Article 11(1) of the *ICESCR*.

20. Guideline No. 6 (on page 8 of the *Right to Housing Guidelines*) is “Prohibit forced evictions and prevent evictions whenever possible”. Paragraphs 34 through 38 explain the legal basis for Guideline No. 6 in international human rights law:

[34] Forced evictions are defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection that are compliant with international human rights law. Forced evictions have long been recognized as a gross violation of human rights.

[35] In order for any eviction to comply with international human rights law, a number of criteria must be met, including meaningful engagement with those affected, exploration of all viable alternatives, relocation to adequate housing agreed upon by the affected households so that no one is rendered homeless, access to justice to ensure procedural fairness, and compliance with all human rights. Where these criteria are not met, evictions are deemed to have been forced and to constitute a violation of the right to housing.

[36] Forced evictions are widespread and devastating in their consequences. They are frequently carried out to make way for large-scale development projects, natural resource extraction and agribusiness projects, to clear informal settlements or homeless encampments, to replace existing lower-cost housing with luxury housing or commercial developments or ostensibly for public order, safety and city beautification. In some contexts, they involve brutal violence, including gender-based violence and deaths. Evictions have also become a more frequent response to rent or mortgage arrears in the context of rising housing costs, and in many cases national law governing such evictions is not compliant with international human rights.

[37] States must prohibit forced evictions and ensure that any evictions under domestic law are fully compliant with international law. Meaningful engagement with communities

should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without the need for eviction procedures or police enforcement.

[38] Implementation measures:

(a) Forced evictions as defined under international human rights law must be prohibited in all circumstances, regardless of ownership or tenure status of those affected. Victims of forced evictions must receive adequate compensation, reparation and access to housing or productive land as appropriate.

(b) National laws governing evictions must be compliant with human rights norms, including the principle of respect for human dignity and the general principles of reasonableness, proportionality and due process, and should equally apply to those living in homeless encampments. Access to justice must be ensured throughout the process and not just when eviction is imminent. All feasible alternatives to eviction must be explored, in consultation with affected persons. If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by the community, adequate alternative housing of similar size, quality and cost must be provided in close proximity to the original place of residence and source of livelihood. Evictions must not render people homeless. Access to justice must be ensured throughout the process and not just when eviction is imminent;

(c) In instances of mortgage foreclosure or rent arrears, evictions should only occur as a last resort and after a full exploration of alternative means to resolve

outstanding debt, such as through emergency housing benefits, debt rescheduling or, if required, relocation to more affordable housing units meeting adequacy standards;

(d) States should implement programmes to prevent evictions through measures such as rent stabilization and controls, rental assistance, land reform and other initiatives to promote land and tenure security in urban and rural settings. Preventive measures should also be adopted to eliminate the underlying causes of eviction and displacement, such as speculation in land, real estate and housing. No relocation of indigenous peoples is permitted without their free, prior and informed consent.

Encampments National Protocol (Exhibit “G”)

21. The *Encampments National Protocol* sets out a series of Principles. Paragraph 37 of the *Encampments National Protocol* sets out the legal basis of the Principles in international human rights law:

It is critical that all levels of government in Canada employ an integrated human rights-based approach when engaging with encampments. The Principles outlined here aim to support the right to housing for all encampment residents as part of Canada’s commitment to the right to housing under international human rights treaties and domestic law.

22. The Principles in the *Encampments National Protocol* are based on the international legal obligations set out, *inter alia*, in *General Comment 4*, *General Comment 7*, *Informal Settlements*

Report, Access to justice for the right to housing, Right to Housing Guidelines, and Encampments National Protocol.

23. Principle 3 (on page 19 of the *Encampments National Protocol*) is “Prohibition of forced evictions of encampments”. Paragraphs 45 through 49 explain the legal basis for Principle 3 in international human rights law:

[45] Under international human rights law, forced evictions constitute a gross violation of human rights and are prohibited in all circumstances, including in the context of encampments.

[46] Forced evictions are defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection ... in conformity with the provisions of the International Covenants on Human Rights.”

[47] Forced evictions are impermissible irrespective of the tenure status of those affected. This means that the forced eviction of encampments is prohibited if appropriate forms of protection are not provided – including all of the requirements described in this Protocol. It may also be considered a forced eviction when governments’ and those acting on their behalf harass, intimidate, or threaten encampment residents, causing residents to vacate the property.

[48] 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. Evictions (as opposed to “forced evictions”) may be justified in rare circumstances, but they may only be carried out after exploring all viable alternatives with residents, in accordance with law and consistent with the right to housing, as described in this Protocol.

[49] Governments must repeal any laws or policies that sanction forced evictions and must refrain from adopting any such laws, including for example anti-camping laws, move-along laws, laws prohibiting tents being erected overnight, laws prohibiting personal belongings on the street, and other laws that penalize and punish people experiencing homelessness and residing in encampments.

24. A box (on page 20 of the *Encampments National Protocol*) entitled “Principle 3 in Action: Forced Eviction & Harassment of Homeless Encampment Residents” states:

In cities around the world, people experiencing homelessness are frequently subject to discriminatory treatment, harassment, and extreme forms of violence because of their housing status. People residing in homeless encampments are exposed to similar or worse treatment, particularly when faced with pressure to relocate or disperse.

In some cases, local laws, policies, or practices can provide the mechanisms for this harassment. For example, in British Columbia local authorities enforced a bylaw prohibiting overnight shelters in parks by using tactics that included spreading chicken manure and fish fertilizer on a homeless encampment. Residents and allies of the homeless encampment subsequently filed a human rights complaint with regard to these practices (*Abbotsford (City) v. Shantz*), and the BC Supreme Court found that certain

bylaws violated encampment residents' constitutional rights to life, liberty and security of the person.

Under international human rights law, such activities are strictly prohibited and constitute instances of forced eviction, even if they align with local laws or policies. Given this, it is critical that Canadian governments review local and national policies and laws to ensure they do not violate the prohibition against the forced eviction of homeless encampments.

25. Principle 4 (on page 20 of the *Encampments National Protocol*) is “Explore all viable alternatives to eviction”. Paragraphs 50 through 53 explain the legal basis for Principle 4 in international human rights law:

[50] Government authorities must explore all viable alternatives to eviction, in consultation with encampment residents. This means ensuring their meaningful and effective participation in discussions regarding the future of the encampment.

[51] Free and independent legal advice should be made available to all residents to help them understand the options, processes, and their rights. Consultations should be conducted at times and locations that are appropriate and accessible for residents to ensure their participation is maximised. Financial and other support should be available to residents so that they can fully participate in all discussions regarding the future of the encampment and so that residents can retain outside consultants (e.g., environmental engineers, architects) where needed to assist them in developing alternative options to eviction.

[52] Discussions regarding viable alternatives to eviction must include meaningfully [sic] engagement with Indigenous Peoples and be grounded in principles of self-determination, free, prior and informed consent. In urban contexts, for example, urban Indigenous organisations should be engaged early in the planning process to establish service delivery roles and to ensure the availability of culturally appropriate services.

[53] 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.

26. Principle 5 (on page 21 of the *Encampments National Protocol*) is “Ensure that any relocation is human rights compliant”. Paragraphs 54 through 59 explain the legal basis for Principle 5 in international human rights law:

[54] Homeless encampments are not a solution to homelessness, nor are they a form of adequate housing. Governments have an urgent, positive obligation to ensure encampment residents have access to long-term, adequate housing that meets their needs, accompanied by necessary supports. Rather than eviction, governments must engage with homeless encampments with a view to ensuring residents are able to access such housing.

[55] Despite this obligation, many governments respond to encampments by simply moving residents from one bad site to another through the use of law enforcement, physical barriers, or other means, and without meaningfully engaging residents. This in no way addresses the underlying violations of the right to housing experienced by residents of encampments, is often costly, and can contribute to increased

marginalization. If relocation is deemed necessary and/or desired by encampment residents, it is critical that it is conducted in a human rights compliant manner.

[56] As a starting point, meaningful, robust, and ongoing engagement with residents (as defined in Principle 2) is required for the development of any relocation of homeless encampments or of their residents. Meaningful engagement with communities should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without police enforcement. 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.” If relocation is consistent with the human rights of residents, it will almost always be achievable without the use of force.

[57] If government authorities propose the relocation of residents of homeless encampments, and the residents desire to remain in situ, the burden of proof is on the government to demonstrate why in situ upgrading is unfeasible.

[58] If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by encampment residents, adequate alternative housing must be provided in close proximity to the original place of residence and source of livelihood. If governments have failed to provide residents with housing options that they find acceptable, residents must be permitted to remain or be provided with a satisfactory alternative location, while adequate permanent housing options are negotiated and put in place.

[59] If, in the exceptional case there is no viable alternative to eviction by authorities, eviction must be compliant with all aspects of international human rights law. Compliance with international human rights law requires:

i. Prohibition against the removal of residents' private property without their knowledge and consent. The removal of residents' private property by governments and those acting on their behalf, including the police, without their knowledge and consent, in [*sic*] strictly prohibited. Such actions are contrary to the rights of residents and may contribute to the deepening of residents' marginalization, exclusion, and homelessness. Governments and police must also seek to actively prevent the removal of homeless residents' private property by private actors or any other form of harassment.

ii. Adherence to the right to housing and other human rights standards when relocation is necessary or preferred. Adequate alternative housing, with all necessary amenities (particularly water, sanitation and electricity), must be in place for all residents prior to their eviction. Alternative housing arrangements should be in close proximity to the original place of residence and to services, community support, and livelihood. It is critical that all encampment residents be allowed to participate in decisions regarding relocation, including the timing and site of relocation. A full hearing of the residents' concerns with the proposed relocation should be held, and alternatives explored.

iii. Relocation must not result in the continuation or exacerbation of homelessness, or require the fracturing of families or partnerships. Relocation

must not result in the continuation or deepening of homelessness for residents. Relocation must not require the separation of families or partners, as defined by rights-holders themselves, including chosen family and other kinship networks. Governments should engage encampments with a view to keeping the community intact, if this is desired by the residents. Governments should also ensure that relevant housing policies are supportive of the ways in which rights-holders define their own families, partnerships, communities and extended Indigenous kinship structures, and accommodate these whenever possible in public or social housing.

iv. Access to justice to ensure procedural fairness and compliance with all human rights. Access to justice must be ensured at all stages of government engagement with encampment residents, not just when eviction is imminent. Access to justice and legal protection must meet international human rights law standards, including the provision of due process, access to legal aid, access to fair and impartial legal advice, and the ability to file complaints in a relevant forums (including Indigenous forums) that are geographically proximate.

27. Paragraphs 18 through 22 of the *Encampments National Protocol* state:

[18] The fact that encampments violate the right to housing does not in any way absolve governments of their obligations to uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol seek to support governments and other stakeholders to ensure that their engagements with encampments are rights-based and recognize residents as rights holders, with a view to realizing the right to

adequate housing for these groups while respecting their dignity, autonomy, individual circumstances, and personal choices.

[19] International human rights law does not permit government to use force to destroy peoples' homes, even if they are made of canvas or improvised from available materials and constructed without legal authority or title. States may not remove residents from encampments without meaningfully engaging them to identify 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, and access to, appropriate forms of legal or other protection, consistent with international human rights law is defined as a 'forced eviction' and is considered a gross violation of human rights.

[20] Unfortunately, such forced evictions or sweeps have become common in Canada. Evictions have contravened international law by being carried out without meaningful consultation with communities and without measures to ensure that those affected have access to alternative housing. They have been justified on the basis that the residents are there illegally, are at risk to themselves, are on land that is slated for development, or are obstructing the enjoyment of the community by others. Declining conditions at encampments and public health and safety concerns are also frequently the grounds on which local governments and provinces seek injunctions for removal. The impact of municipalities' failure to proactively provide resources and services to mitigate or improve those conditions and concerns is most often ignored. Some communities have engaged bylaw officers or local police to tear down encampments at first sight.

[21] None of these reasons, however, justify forced evictions under international law. Forced evictions often have harmful or disastrous consequences for encampment residents. Victims may face life-threatening situations that compromise their health and security, or result in the loss of access to food, social supports, social and medical services, and other resources.

[22] Few governments have recognized encampments as a response to violations of fundamental human rights and a response to the isolation and indignity of homelessness. They have failed to treat those living in such encampments as legally entitled to the protection of their homes and their dignity.

The Shift Positions on City of Hamilton Encampment Policies

20. On August 27, 2021, The Shift issued a statement, “Homeless Encampments in Hamilton (ON) and Risk of Evictions”. I am one of the authors of this statement and agree with its contents. I attach this statement as **Exhibit “I”** to this affidavit.

21. The statement was issued in response to the City of Hamilton’s announcement that effective August 30, 2021 it would revoke the Bylaw Enforcement Protocol agreed to by the City and encampments residents, advocates, and community partners. The following passage appears in the statement (on page 1):

Should the City revoke the Protocol, evict encampments, and fail to ensure access to adequate housing for encampment residents, the City of Hamilton will be in breach of their human rights obligations as outlined by the UN Special Rapporteur on the Right to

Adequate Housing in A National Protocol on Homeless Encampments in Canada – A Human Rights Approach (2020).

22. The following passages also appear in the statement (on page 2):

The City of Hamilton – like all governments in Canada – has an obligation to urgently address encampments in a human rights compliant manner and to ensure that all those living in encampments are recognized as rights holders, on a path towards secure, permanent housing. In order to be consistent with international human rights law and federal government housing policy under the National Housing Strategy Act, the City of Hamilton must:

- Abstain from evicting encampments in the absence of consent from encampment residents and without providing adequate, alternative housing, with necessary supports, to encampment residents.
- Ensure any plans, policies, decisions, and actions made by the City in relation to encampments are only made following meaningful consultation with encampment residents, ensuring these residents opportunities to meaningfully influence the policies that affect them.
- Recognize that relying on temporary accommodation such as shelters and hotels to accommodate people evicted from encampments is wholly inconsistent with the human right to adequate housing. Shelters and hotels do not provide the long-term, secure housing that people who have experienced homelessness have a right to.

- Urgently take continual steps toward providing adequate, affordable, and secure housing for those living in homelessness, using all means and resources available.
- Adopt a policy approach to encampments that aligns with the obligations outlined in A National Protocol on Homeless Encampments in Canada – A Human Rights Approach.

23. I have reviewed the City of Hamilton's "Six Step Encampment Response" provided in Encampment Response Update dated September 9, 2021, by Edward John Manager of Housing Services. I attach this document as **Exhibit "J"** to this affidavit. I am of the opinion that this process and the response to encampments by the City of Hamilton, does not adhere to or align with the *National Encampments Protocol*.

Sworn remotely by Leilani Farha at the City of Ottawa in the Province of Ontario, before me on June 15, 2022 via "zoom" videoconference in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Stephanie Cox

Commissioner for Taking Affidavits
Stephanie Cox, LSO# 65464F

Leilani Farha

Leilani Farha

THIS IS EXHIBIT "A" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022



STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc

LEILANI FARHA

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 +1.613.302.7769
 leilani@maketheshift.org

HIGHLIGHTS

- International Commission of Jurists, Commissioner (2021 – Present)
- Council on Urban Initiatives (2021 – Present)
- Open Society Foundation – Fellow (June 2020 – June 2022).
- Co-Host of PUSHBACK Talks – podcast about cities, housing, homelessness, finance and human rights. Listeners in over 135 countries.
- Canadian Housing and Renewal [Leadership Award](#), (September 2020).
- UN Special Rapporteur on adequate housing (May 2014 – April 2020).
- World Premiere of award-winning documentary film PUSH, CPH:Dox Festival, Copenhagen, Denmark. (March 2019, lead character).
- Jack Layton Award for Progressive Leadership (March 2019).
- Honorary Doctorate, Mount Saint Vincent University, Halifax, Nova Scotia (November 2015).

EDUCATION AND QUALIFICATIONS

2015	Honorary Doctor of Humane Letters (DHumL) Mount Saint Vincent University, Halifax, Nova Scotia.
1997	Admitted to the Bar of Ontario, in good standing
1991 - 95	Bachelor of Law (LLB), University of Toronto Master of Social Work (MSW), University of Toronto
1986 - 90	Bachelor of Arts, English Literature (B.A.), Honours University of Toronto, Victoria College

WORK EXPERIENCE

2020 – Present	The Shift – established in partnership with the UN Office of the High Commissioner for Human Rights
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and **United Cities and Local Governments**, incubated
by the **Canadian Urban Institute**
Global Director

2014 – 2020

***UN Special Rapporteur on the right to adequate
housing and to non-discrimination in that context***

2012 – 2020

Canada Without Poverty
Executive Director

2002 – 2012

Centre for Equality Rights in Accommodation
Executive Director

2000 – 2002

Centre for Equality Rights in Accommodation
Staff Lawyer

1997 – 2001

**Centre on Housing Rights and Evictions (COHRE),
Women’s Programme Coordinator/Legal Officer**

SELECTED RECENT SPEECHES + PRESENTATIONS

Architekturmuseum Der Tum (The Architecture Museum). Keynote, “Who is next: Homelessness, Architecture, and Cities, (Virtual: February 3, 2022).

London School of Economics and Political Science. Guest Lecturer. Executive Master’s in Cities “Housing Challenges”, (Virtual: October 5, 2021).

Homelessness Services Association of British Columbia. Keynote, Annual General Meeting. (Virtual September 16, 2021).

International Conference on Canadian, Chinese, and African Sustainable Urbanization (ICCCASU-4). Keynote, “What a Wonderful World it Could Be!”, (Virtual: July 28, 2021).

American Civil Liberties Union, Southern California. Panelist, “Upfront Series: Dignity for All: Solutions to Houselessness”, (Virtual: July 28, 2021).

Spanish Parliament. Expert witness, “Obligations of States and Application of International Human Rights Law”, (Virtual: June 17, 2021).

Government of Canada, House of Commons Standing Committee on Finance. Expert witness on financialization, (Virtual: May 4, 2021).

McGill University, Max Bell School of Public Policy. Guest Lecturer. (Virtual: April 22, 2021).

University of Miami, School of Law. Panelist, “International Law & COVID-19 Symposium”, (Virtual: April 12, 2021).

UN-Habitat NY, Panelist, “Addressing Systemic Poverty and Inequality”, (Virtual: December 8th, 2020).

Harvard Graduate School of Design, Panelist, “Is Housing a Universal Human Right?” with Benjamin Applebaum Sr. Editor of the NY Times, Prof. Richard Sennett and Michael Lehrer, Architect (Virtual: December 3rd, 2020).

Future Cities Canada, #UnexpectedSolutions – Creating Resilient Cities, Together, “The Right to

Housing - A Conversation with Evan Siddall” (Virtual: November 23rd, 2020).

Innovative Approaches to Affordable Housing in Waterloo Region, Do More Good Dialogue Kitchener-Waterloo, Guest Speaker (Virtual: November 4th, 2020).

OECD, Keynote Address, Roundtable on Housing Policy Responses to the Covid-19 Crisis (Virtual: May 14th, 2020).

United Cities and Local Government, Live Learning Experience, [The Right to Housing and COVID-19](#), (March 25th, 2020).

“Corporate Capture of Housing and Human Rights” *Chet Mitchell Lecture, Carleton University*, (Ottawa: January 28th, 2019).

“Housing for All”, Keynote Address, *International Conference on Housing for All*. (Vienna: December 7th, 2019).

“A place to call home or a place to accumulate wealth? Inequality and exclusion in housing markets”, Panelist, CMHC National Housing Conference (Ottawa: 2018).

“[The Human Right to Housing](#)”, Keynote Address, Canadian Alliance to End Homelessness, The National Conference on Ending Homelessness 2018 (November 8th, 2018).

“[Making the Shift - From Hot Markets to Homelessness and the Right to Housing](#)”, Visiting Lectureship in Human Rights, University of Alberta (Edmonton: November 2017).

“The right to housing and micro-finance” Keynote Address, *8e Prix Europeen de la Microfinance*, (Luxembourg: November 29th, 2017).

SELECTED OPINION PIECES

“[Here’s How Rocketing Rents and Unaffordable House Prices can be Fixed](#)”, The Guardian (2 June 2022).

“[Profit Mongers Should Have No Home in Canada’s Housing Market](#)” co-authored with Julieta Perucca, The Globe and Mail (16 June 2021).

“[The Landlord and Tenant Board is in crisis](#)” co-authored with Alissa Brierley, NOW Magazine (15 December, 2020).

“[Homelessness is rising but is neither inevitable nor unstoppable](#)” co-authored with Juha Kaakinen, The Guardian (10 December 2020)

“[States have to ensure adequate housing amid the pandemic](#)”, Al-Jazeera Opinion, (August 19, 2020).

“[How can billions of people ‘stay home’ to beat Covid-19 without a safe place to live](#)”, The Guardian (April 29, 2020).

[When Governments sell out to developers, housing is no longer a human right](#), The Guardian (February 29, 2020).

[The case for a human rights response to homelessness](#), co-authored with Haseena Manek, NOW Magazine, (February 11, 2020).

[“How corporates capture housing and colonize cities”](#) *Place – Thomson Reuters*, (January 22nd, 2018).

[“Grenfell Tower is a terrible betrayal of human rights”](#) *The Guardian*, (June 21st, 2017).

[“Housing is a human right, not a commodity”](#) *The Globe and Mail*, (March 30, 2017).

[“Homeless people are not cockroaches or vermin – they are human and have rights”](#) *The Guardian* (December 21st, 2015).

SPECIAL RAPPORTEUR SELECTED THEMATIC REPORTS

2020

Guidelines for the Implementation of the Right to Housing
A National Protocol for Homeless Encampments in Canada

2019

The Right to Housing of Indigenous Peoples
The Right to Housing and Access to Justice

2018

Upgrading Informal Settlements and Encampments
Human Rights Based Housing Strategies

2017

The Financialization of Housing and Human Rights
The Right to Housing of Persons With Disabilities

2016

Homelessness and the Right to Housing

2015

The International Human Rights Obligations of Sub-National Governments

RECENT SELECTED PUBLICATIONS

“Homelessness, Housing and Human Rights Accountability” in *Displacement City* (University of Toronto Press, forthcoming).

[The Shift Directives – From Financialized to Human Rights Based Housing](#), with Sam Freeman (June 2022).

“Hanging by a Thread – Confronting Urban Homelessness with Human Rights” in *Who’s Next? Homelessness, Architecture, and Cities*, Munich (2022).

NOT LONDON – Focus on the Forgotten, Anthony Dawton, Photographs, Foreword (2021).

The Human Right to Housing in the Age of Financialization in [Research Handbook on Human Rights and Poverty](#), co-authored with Kaitlin Schwan, ed. Martha Davis and Morton Kjaerum (June 2021).

[Model Emergency Housing Legislation](#): Protecting the Right to Housing during Covid-19, co-authored with Open Society et al. (December 2020).

[*The Frontline Defence: Housing and Human Rights in the time of COVID-19*](#), in [*Vulnerable: The Law, Policy and Ethics of Covid-19*](#), eds. Coleen Flood, Jane Philpott et. al (2020).

Housing Shock: The Irish Housing Crisis and How to Solve It, Rory Hearne, Foreword (2020).

[*A National Protocol for Homeless Encampments in Canada*](#). Co-authored with Kaitlin Schwan (April 2020).

[*Guidance Notes on Covid-19 and the right to housing*](#): Prohibition on evictions; Protecting rent and mortgage payers; Protecting residents of Informal Settlements; Protection for those living in homelessness; and Financialization (March/April 2020).

Homelessness in 2030, Juha Kaakinen et al. (2019), Foreword.

SELECTED STRATEGIC LITIGATION

Intervenor Application, High Court of the Northern Territory, Australia in the Santa Theresa Case involving Indigenous peoples and the “habitability” of housing (forthcoming).

Amicus Curiae brief submitted to the Constitutional Court of Hungary in Case [No. III/01628/2018](#), initiated by Kaposvár District Court (Kaposvári Járásbíróság) regarding the constitutionality of amendments to section 178/B of the Act II of 2012 on Misdemeanors, in relation to persons residing in public spaces as habitual dwelling. (Submission: December 2018).

Canada Without Poverty vs. Canada – Charter of Rights and Freedoms, Freedom of Expression challenge to income tax act provisions governing charities. (Decision: July 2018).

Amicus Curiae brief submitted to the Constitutional Court of the Republic of Guatemala, Ref. File No. 2698-2017 regarding the [Community of Laguna Larga](#).

[*MDB et al. v. Spain*](#) - Third Party Intervention to the Committee on Economic, Social and Cultural Rights with respect to Communication 5/2015. (Decision: January 2017).

SELECTED HUMAN RIGHTS RESEARCH MISSIONS

2015 - 2020

Countries: Cabo Verde, Chile, Egypt, France, India, New Zealand, Nigeria, Portugal, Serbia and Kosovo, South Korea,

Cities: Barcelona, Berlin, Detroit, Dublin, Jakarta, Lausanne, London, Los Angeles, Manila, Mexico City, Oakland, San Diego, San Francisco, Toronto, Vancouver, Vienna.

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Stephanie Cox

STEPHANIE COX
LSO NO. 65464F
Commissioner for Taking Affidavits, etc



**CESCR General Comment No. 4: The Right to Adequate Housing
(Art. 11 (1) of the Covenant)**

*Adopted at the Sixth Session of the Committee on Economic,
Social and Cultural Rights, on 13 December 1991
(Contained in Document E/1992/23)*

1. Pursuant to article 11 (1) of the Covenant, States parties “recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.
2. The Committee has been able to accumulate a large amount of information pertaining to this right. Since 1979, the Committee and its predecessors have examined 75 reports dealing with the right to adequate housing. The Committee has also devoted a day of general discussion to the issue at each of its third (see E/1989/22, para. 312) and fourth sessions (E/1990/23, paras. 281-285). In addition, the Committee has taken careful note of information generated by the International Year of Shelter for the Homeless (1987) including the Global Strategy for Shelter to the Year 2000 adopted by the General Assembly in its resolution 42/191 of 11 December 1987.¹ The Committee has also reviewed relevant reports and other documentation of the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities.²
3. Although a wide variety of international instruments address the different dimensions of the right to adequate housing³ article 11 (1) of the Covenant is the most comprehensive and perhaps the most important of the relevant provisions.
4. Despite the fact that the international community has frequently reaffirmed the importance of full respect for the right to adequate housing, there remains a disturbingly large gap between the standards set in article 11 (1) of the Covenant and

¹ *Official Records of the General Assembly, Forty-third Session, Supplement No. 8, addendum (A/43/8/Add.1).*

² Commission on Human Rights resolutions 1986/36 and 1987/22; reports by Mr. Danilo Türk, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1990/19, paras. 108-120; E/CN.4/Sub.2/1991/17, paras. 137-139); see also Sub-Commission resolution 1991/26.

³ See, for example, article 25 (1) of the Universal Declaration of Human Rights, article 5 (e) (iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 (2) of the Convention on the Elimination of All Forms of Discrimination against Women, article 27 (3) of the Convention on the Rights of the Child, article 10 of the Declaration on Social Progress and Development, section III (8) of the Vancouver Declaration on Human Settlements, 1976 (*Report of Habitat: United Nations Conference on Human Settlements* (United Nations publication, Sales No. E.76.IV.7 and corrigendum, chap. I), article 8 (1) of the Declaration on the Right to Development and the ILO Recommendation Concerning Workers' Housing, 1961 (No. 115)).



the situation prevailing in many parts of the world. While the problems are often particularly acute in some developing countries which confront major resource and other constraints, the Committee observes that significant problems of homelessness and inadequate housing also exist in some of the most economically developed societies. The United Nations estimates that there are over 100 million persons homeless worldwide and over 1 billion inadequately housed.⁴ There is no indication that this number is decreasing. It seems clear that no State party is free of significant problems of one kind or another in relation to the right to housing.

5. In some instances, the reports of States parties examined by the Committee have acknowledged and described difficulties in ensuring the right to adequate housing. For the most part, however, the information provided has been insufficient to enable the Committee to obtain an adequate picture of the situation prevailing in the State concerned. This general comment thus aims to identify some of the principal issues which the Committee considers to be important in relation to this right.

6. The right to adequate housing applies to everyone. While the reference to “himself and his family” reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of “family” must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination.

7. In the Committee’s view, the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity. This is appropriate for at least two reasons. In the first place, the right to housing is integrally linked to other human rights and to the fundamental principles upon which the Covenant is premised. This “the inherent dignity of the human person” from which the rights in the Covenant are said to derive requires that the term “housing” be interpreted so as to take account of a variety of other considerations, most importantly that the right to housing should be ensured to all persons irrespective of income or access to economic resources. Secondly, the reference in article 11 (1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: “Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost”.

8. Thus the concept of adequacy is particularly significant in relation to the right to housing since it serves to underline a number of factors which must be taken into

⁴ See note 1.



account in determining whether particular forms of shelter can be considered to constitute “adequate housing” for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, the Committee believes that it is nevertheless possible to identify certain aspects of the right that must be taken into account for this purpose in any particular context. They include the following:

(a) *Legal security of tenure.* Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

(b) *Availability of services, materials, facilities and infrastructure.* An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

(c) *Affordability.* Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

(d) *Habitability.* Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the *Health Principles of Housing*⁵ prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

⁵ Geneva, World Health Organization, 1990.



(e) *Accessibility.* Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

(f) *Location.* Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

(g) *Cultural adequacy.* The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured.

9. As noted above, the right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable international instruments. Reference has already been made in this regard to the concept of human dignity and the principle of non-discrimination. In addition, the full enjoyment of other rights - such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence and the right to participate in public decision-making - is indispensable if the right to adequate housing is to be realized and maintained by all groups in society. Similarly, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home or correspondence constitutes a very important dimension in defining the right to adequate housing.

10. Regardless of the state of development of any country, there are certain steps which must be taken immediately. As recognized in the Global Strategy for Shelter and in other international analyses, many of the measures required to promote the right to housing would only require the abstention by the Government from certain practices and a commitment to facilitating "self-help" by affected groups. To the extent that any such steps are considered to be beyond the maximum resources available to a State party, it is appropriate that a request be made as soon as possible



for international cooperation in accordance with articles 11 (1), 22 and 23 of the Covenant, and that the Committee be informed thereof.

11. States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others. The Committee is aware that external factors can affect the right to a continuous improvement of living conditions, and that in many States parties overall living conditions declined during the 1980s. However, as noted by the Committee in its general comment No. 2 (1990) (E/1990/23, annex III), despite externally caused problems, the obligations under the Covenant continue to apply and are perhaps even more pertinent during times of economic contraction. It would thus appear to the Committee that a general decline in living and housing conditions, directly attributable to policy and legislative decisions by States parties, and in the absence of accompanying compensatory measures, would be inconsistent with the obligations under the Covenant.

12. While the most appropriate means of achieving the full realization of the right to adequate housing will inevitably vary significantly from one State party to another, the Covenant clearly requires that each State party take whatever steps are necessary for that purpose. This will almost invariably require the adoption of a national housing strategy which, as stated in paragraph 32 of the Global Strategy for Shelter, “defines the objectives for the development of shelter conditions, identifies the resources available to meet these goals and the most cost-effective way of using them and sets out the responsibilities and time frame for the implementation of the necessary measures”. Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives. Furthermore, steps should be taken to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant.

13. Effective monitoring of the situation with respect to housing is another obligation of immediate effect. For a State party to satisfy its obligations under article 11 (1) it must demonstrate, inter alia, that it has taken whatever steps are necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction. In this regard, the revised general guidelines regarding the form and contents of reports adopted by the Committee (E/C.12/1991/1) emphasize the need to “provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing”. They include, in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in “illegal” settlements, those subject to forced evictions and low-income groups.

14. Measures designed to satisfy a State party’s obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate. While in some States public financing of housing might most



usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of Governments to fully satisfy housing deficits with publicly built housing. The promotion by States parties of “enabling strategies”, combined with a full commitment to obligations under the right to adequate housing, should thus be encouraged. In essence, the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right for every individual in the shortest possible time in accordance with the maximum of available resources.

15. Many of the measures that will be required will involve resource allocations and policy initiatives of a general kind. Nevertheless, the role of formal legislative and administrative measures should not be underestimated in this context. The Global Strategy for Shelter (paras. 6-67) has drawn attention to the types of measures that might be taken in this regard and to their importance.

16. In some States, the right to adequate housing is constitutionally entrenched. In such cases the Committee is particularly interested in learning of the legal and practical significance of such an approach. Details of specific cases and of other ways in which entrenchment has proved helpful should thus be provided.

17. The Committee views many component elements of the right to adequate housing as being at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.

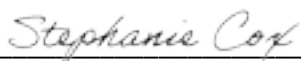
18. In this regard, the Committee considers that instances of forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.

19. Finally, article 11 (1) concludes with the obligation of States parties to recognize “the essential importance of international cooperation based on free consent”. Traditionally, less than 5 per cent of all international assistance has been directed towards housing or human settlements, and often the manner by which such funding is provided does little to address the housing needs of disadvantaged groups. States parties, both recipients and providers, should ensure that a substantial proportion of financing is devoted to creating conditions leading to a higher number of persons being adequately housed. International financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing. States parties should,



when contemplating international financial cooperation, seek to indicate areas relevant to the right to adequate housing where external financing would have the most effect. Such requests should take full account of the needs and views of the affected groups.

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AFFIRMED REMOTELY BEFORE ME AT THE
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IN ACCORDANCE WITH O.REG.431/20,
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THIS 15TH DAY OF JUNE, 2022



STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc



OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS



The right to adequate housing (Art.11.1): forced evictions : .
20/05/97.
CESCR General comment 7. (General Comments)

Convention Abbreviation: CESCR

GENERAL COMMENT 7

The right to adequate housing (art. 11.1 of the Covenant):
forced evictions

(Sixteenth session, 1997)*

1. In its General Comment No. 4 (1991), the Committee observed that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. It concluded that forced evictions are prima facie incompatible with the requirements of the Covenant. Having considered a significant number of reports of forced evictions in recent years, including instances in which it has determined that the obligations of States parties were being violated, the Committee is now in a position to seek to provide further clarification as to the implications of such practices in terms of the obligations contained in the Covenant.

2. The international community has long recognized that the issue of forced evictions is a serious one. In 1976, the United Nations Conference on Human Settlements noted that special attention should be paid to "undertaking major clearance operations should take place only when conservation and rehabilitation are not feasible and relocation measures are made". ^{1/} In 1988, in the Global Strategy for Shelter to the Year 2000, adopted by the General Assembly in its resolution 43/181, the "fundamental obligation [of Governments] to protect and improve houses and neighbourhoods, rather than damage or destroy them" was recognized. ^{2/} Agenda 21 stated that "people should be protected by law against unfair eviction from their homes or land". ^{3/} In the Habitat Agenda Governments committed themselves to "protecting all people from, and providing legal protection and redress for, forced evictions that are contrary to the law, taking human rights into consideration; [and] when evictions are unavoidable, ensuring, as appropriate, that alternative suitable solutions are provided". ^{4/} The Commission on Human Rights has also indicated that "forced evictions are a gross violation of human rights". ^{5/} However, although these statements are important, they leave open one of the most critical issues, namely that of determining the circumstances under which forced evictions are permissible and of

spelling out the types of protection required to ensure respect for the relevant provisions of the Covenant.

3. The use of the term "forced evictions" is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to "forced evictions" is a tautology, while others have criticized the expression "illegal evictions" on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term "unfair evictions" is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to "forced evictions", primarily since all suggested alternatives also suffer from many such defects. The term "forced evictions" as used throughout this general comment is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.

4. The practice of forced evictions is widespread and affects persons in both developed and developing countries. Owing to the interrelationship and interdependency which exist among all human rights, forced evictions frequently violate other human rights. Thus, while manifestly breaching the rights enshrined in the Covenant, the practice of forced evictions may also result in violations of civil and political rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions.

5. Although the practice of forced evictions might appear to occur primarily in heavily populated urban areas, it also takes place in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements. In all of these contexts, the right to adequate housing and not to be subjected to forced eviction may be violated through a wide range of acts or omissions attributable to States parties. Even in situations where it may be necessary to impose limitations on such a right, full compliance with article 4 of the Covenant is required so that any limitations imposed must be "determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society".

6. Many instances of forced eviction are associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence.

7. Other instances of forced eviction occur in the name of development. Evictions may be carried out in connection with conflict over land rights, development and infrastructure projects, such as the construction of dams or other large-scale energy projects, with land acquisition measures associated with urban renewal, housing

renovation, city beautification programmes, the clearing of land for agricultural purposes, unbridled speculation in land, or the holding of major sporting events like the Olympic Games.

8. In essence, the obligations of States parties to the Covenant in relation to forced evictions are based on article 11.1, read in conjunction with other relevant provisions. In particular, article 2.1 obliges States to use "all appropriate means" to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by article 17.1 of the International Covenant on Civil and Political Rights which complements the right not to be forcefully evicted without adequate protection. That provision recognizes, *inter alia*, the right to be protected against "arbitrary or unlawful interference" with one's home. It is to be noted that the State's obligation to ensure respect for that right is not qualified by considerations relating to its available resources.

9. Article 2.1 of the Covenant requires States parties to use "all appropriate means", including the adoption of legislative measures, to promote all the rights protected under the Covenant. Although the Committee has indicated in its General Comment No. 3 (1990) that such measures may not be indispensable in relation to all rights, it is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it. Moreover, in view of the increasing trend in some States towards the Government greatly reducing its responsibilities in the housing sector, States parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies. States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant.

10. Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. Women in all groups are especially vulnerable given the extent of statutory and other forms of discrimination which often apply in relation to property rights (including home ownership) or rights of access to property or accommodation, and their particular vulnerability to acts of violence and sexual abuse when they are rendered homeless. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.

11. Whereas some evictions may be justifiable, such as in the case of persistent non-payment of rent or of damage to rented property without any reasonable cause, it is incumbent upon the relevant authorities to ensure that they are carried out in a manner warranted by a law which is compatible with the Covenant and that all the legal recourses and remedies are available to those affected.

12. Forced eviction and house demolition as a punitive measure are also inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction.

13. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2.3 of the International Covenant on Civil and Political Rights, which requires States parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted".

14. In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality. In this regard it is especially pertinent to recall General Comment 16 of the Human Rights Committee, relating to article 17 of the International Covenant on Civil and Political Rights, which states that interference with a person's home can only take place "in cases envisaged by the law". The Committee observed that the law "should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances". The Committee also indicated that "relevant legislation must specify in detail the precise circumstances in which such interferences may be permitted".

15. Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

17. The Committee is aware that various development projects financed by international agencies within the territories of State parties have resulted in forced evictions. In this regard, the Committee recalls its General Comment No. 2 (1990) which states, *inter alia*, that "international agencies should scrupulously avoid involvement in projects which, for example ... promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. Every effort should be made, at each phase of a development project, to ensure that the rights contained in the Covenant are duly taken into account".^{6/}

18. Some institutions, such as the World Bank and the Organisation for Economic Cooperation and Development (OECD) have adopted guidelines on relocation and/or resettlement with a view to limiting the scale of and human suffering associated with forced evictions. Such practices often accompany large-scale development projects, such as dam-building and other major energy projects. Full respect for such guidelines, insofar as they reflect the obligations contained in the Covenant, is essential on the part of both the agencies themselves and States parties to the Covenant. The Committee recalls in this respect the statement in the Vienna Declaration and Programme of Action to the effect that "while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights" (Part I, para. 10).

19. In accordance with the guidelines for reporting adopted by the Committee, State parties are requested to provide various types of information pertaining directly to the practice of forced evictions. This includes information relating to (a) the "number of persons evicted within the last five years and the number of persons currently lacking legal protection against arbitrary eviction or any other kind of eviction", (b) "legislation concerning the rights of tenants to security of tenure, to protection from eviction" and (c) "legislation prohibiting any form of eviction".^{7/}

20. Information is also sought as to "measures taken during, *inter alia*, urban renewal programmes, redevelopment projects, site upgrading, preparation for international events (Olympics and other sporting competitions, exhibitions, conferences, etc.) 'beautiful city' campaigns, etc. which guarantee protection from eviction or guarantee rehousing based on mutual consent, by any persons living on or near to affected sites".^{8/} However, few States parties have included the requisite information in their reports to the Committee. The Committee therefore wishes to emphasize the importance it attaches to the receipt of such information.

21. Some States parties have indicated that information of this nature is not available. The Committee recalls that effective monitoring of the right to adequate housing, either by the Government concerned or by the Committee, is not possible in the absence of the collection of appropriate data and would request all States parties to

ensure that the necessary data is collected and is reflected in the reports submitted by them under the Covenant.

Notes

* Contained in document E/1998/22, annex IV.

1/ Report of Habitat: United Nations Conference on Human Settlements, Vancouver, 31 May - 11 June 1976 (A/CONF.70/15), chap. II, recommendation B.8, para. C (ii).

2/ Report of the Commission on Human Settlements on the work of its eleventh session, Addendum (A/43/8/Add.1), para. 13.

3/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, Vol. I (A/CONF.151/26/Rev.1(vol.I), annex II, Agenda 21, chap. 7.9 (b).

4/ Report of the United Nations Conference on Settlements (Habitat II) (A/CONF.165/14), annex II, The Habitat Agenda, para. 40 (n).

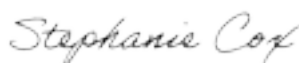
5/ Commission on Human Rights resolution 1993/77, para. 1.

6/ E/1990/23, annex III, paras. 6 and 8 (d).

7/ E/C.12/1999/8, annex IV.

8/ Ibid.

THIS IS EXHIBIT "D" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

A handwritten signature in cursive script that reads "Stephanie Cox". The signature is written in dark ink and is positioned above a horizontal line.

STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc



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Item 74 (b) of the provisional agenda*

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

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

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the 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, Leilani Farha, submitted pursuant to Human Rights Council resolutions 15/8 and 34/9.

* A/73/150.



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

Summary

In the present report, the Special Rapporteur examines the issue of the right to housing for residents of informal settlements and the commitment made by States to upgrade such settlements by 2030. Nearly one quarter of the world's urban population lives in informal settlements or encampments, most in developing countries but increasingly also in the most affluent. Living conditions are shocking and intolerable. Residents often live without water and sanitation, and are in constant fear of eviction.

Past approaches have been premised on the idea of eliminating "slums", often resorting to evictions and relocating residents to remote locations on the outskirts of cities. The present report proposes a very different, rights-based approach that builds upon informal settlement communities and their inherent capacities. It understands informality as resulting from systemic exclusion and advances a set of recommendations for supporting and enabling residents to become full participants in upgrading. The recommendations have their basis in international human rights obligations, particularly those flowing from the right to housing, and cover a number of areas, including the right to participation, access to justice, international cooperation and development assistance, environmental concerns, and business and human rights.

The report reaches some simple but urgent conclusions: the scope and severity of the living conditions in informal settlements make this one of the most pervasive violations of human rights globally. The world has come to accept the unacceptable. It is a human rights imperative that informal settlements be upgraded to meet basic standards of human dignity. Recognizing this, and mobilizing all actors within a shared human rights paradigm, can make the 2030 upgrading agenda achievable.

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I. The right to housing and informal settlements

A. The Sustainable Development Goals imperative: upgrade informal settlements by 2030

1. Nearly one quarter of the world's urban population, 883 million people, live in informal settlements; 520 million of these people are in Asia. In sub-Saharan Africa, over half of city dwellers live in informal settlements; in Latin America and the Caribbean the estimate is 21 per cent.¹ Conditions in these settlements are often inhumane. Many residents live in overcrowded, insecure dwellings, without water and sanitation, fearful of eviction and subject to preventable life-threatening illnesses.

2. States have committed to taking action. Goal 11 of the 2030 Agenda for Sustainable Development commits States to “upgrade slums” by 2030. This is attached to the broader commitment to ensure access for all to “adequate, safe and affordable housing” by 2030.

3. This is a tall order, to say the least. The aim of the present report is to provide concrete guidance on how to draw on human rights-based approaches that have proven successful, building on the capacities of residents of informal settlements to direct and manage upgrading processes. Rather than criminalizing residents of informal settlements, the proposed approach recognizes and supports them as rights claimants. The report provides a set of recommendations developed with input from residents of informal settlements, experts and responses to a questionnaire from governments, non-governmental organizations, national human rights institutions and international financial institutions, as well as through information gathered by the Special Rapporteur during country visits. They are grounded in applicable international human rights standards.²

B. Informal settlements or “slums”?

4. While Agenda 2030 refers to “slums”, the Special Rapporteur prefers the term “informal settlements” as one that is more in keeping with a human rights-based approach to housing. The term “slum” is often considered pejorative and stigmatizing and has generally led to bad policy: “slums” are often viewed as a problem requiring “clearance”, rather than as communities to be supported.³ Households reported by governments as having been “upgraded” have often been warehoused in housing blocks devoid of dignity, culture or community, or displaced to outlying urban wastelands with no access to work, social ties, transportation or services.

5. The present report proposes a radically different approach centred on the right to housing. It understands that informality is created and exacerbated by the imposition of a particular system of laws, private markets, planning and resource allocation that neglects and violates the fundamental rights of those who have no choice but to rely on informal settlements. Colonizing systems of land and property

¹ United Nations, *The Sustainable Development Goals Report 2018* (New York, 2018) p. 24; and report of the Secretary-General on progress towards the Sustainable Development Goals (E/2018/64, statistical annex, p. 83).

² Officials and development actors involved in upgrading of informal settlements should also be aware of and apply the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I) and the guiding principles on security of tenure for the urban poor (A/HRC/25/54), and fully comply with them in their planning and project implementation.

³ For a discussion of terminology, see United Nations Conference on Housing and Sustainable Urban Development (Habitat III), issue paper No. 22, “Informal settlements” (31 May 2015).

have been imposed on indigenous peoples' relationships to land and housing. In developing countries, large segments of the population are deemed illegal when housing themselves in the best manner they can and live under constant threat of forced removal from their homes. In affluent countries, the law not only prevents the construction of rudimentary shelter by those who are homeless, it criminalizes them, sometimes even for eating and sleeping.

6. Informality is a response to exclusionary formal systems. Those who migrate to cities for work or who are displaced from other neighbourhoods must create, through informal settlements, a subsidiary housing system to meet urgent needs that the formal housing system has failed to meet. Land at the margins of cities is often first settled informally, with informal businesses arising to respond to needs for water, sanitation, electricity, transportation, food, clothing and other necessities. These settlements provide necessary housing for the labourers and service providers on whom cities rely, yet they are criminalized, denied services, face widespread discrimination and are forced to pay exorbitant prices for basic necessities or go without.

7. Informal settlements range from constantly displaced homeless encampments in the most affluent countries,⁴ to massive communities in the global South, such as Orangi Town, in Karachi, Pakistan, with an estimated 2.4 million inhabitants.⁵ Modalities include squats in abandoned buildings, improvised homes in containers, tents or boats or shacks made of whatever materials can be scavenged. Elsewhere, long established informal communities may consist of durable housing of bricks and mortar. Unregulated and often exploitative informal rental markets constitute a growing component of informal housing.

8. Residents of informal settlements affirm humanity in the most inhumane circumstances. The Special Rapporteur has visited many informal settlements in the global North and South. She has found the severity of the living conditions and the failure of States to respond to them profoundly disturbing.

9. In a large informal settlement in Mumbai, India, the Rapporteur saw a rodent infestation caused by a lack of waste removal. She met children playing on garbage heaps as if they were trampolines in a Roma settlement in Belgrade. She visited residents in overcrowded shacks in Mexico City stretching alongside a functioning railway line. She experienced complete darkness — during the daytime — in the homes of persons of African descent who had no access to electricity living just outside of Lisbon. She saw children with disabilities languishing alone in the back of homes in settlements in Cabo Verde. She visited migrants in Santiago living in damp abandoned buildings with live electrical wires exposed. She has sat with people in homeless encampments under highway bypasses and on pavements in California and in Delhi, India, with no access to toilets or showers and constantly fearing being “cleaned” off the streets. In Buenos Aires, she toured an unrecognized settlement to which police and ambulances refuse services. In Seoul she met with residents living amid rubble, in half-demolished homes on the site of violent forced evictions — surrounded by skyscrapers. In Indonesia and the Philippines, she visited informal communities in flood prone areas, fearful of being evicted and forced to move away from their homes and communities.

10. And yet, despite these disastrous outcomes of imposed informality, residents express a strong sense of community and home. Streets are named, houses numbered, residents' associations formed, community centres and schools built, social

⁴ See National Law Center on Homelessness and Poverty, “Tent city, USA: the growth of America’s homeless encampments and how communities are responding” (2017).

⁵ Tabrez Uz Zaman, H.D. Goswami and Yamin Hassan, “The impact of growth and development of slums on the health status and health awareness of slum dwellers”, *International Journal of Medical Research and Health Sciences*, vol. 7, No. 3 (2018), p. 56.

programmes instituted and shops and services established. In fact, for all their informality, these settlements are critical components of the economies of most major cities and are a main provider of housing in the global South and economies in transition.

C. Understanding informal settlements as both rights violations and as rights claims

11. From a human rights perspective, informal settlements have a dual nature. On the one hand, they are systemic human rights violations, the effects of State actions, inaction and policies that deprive millions of their fundamental human rights.

12. A State is in violation of international human rights law if any significant portion of the population is deprived of access to basic shelter or housing. States are obliged to adopt “enabling strategies” to implement the right to housing for residents of informal settlements within the shortest possible time, by all appropriate means, using the maximum of available resources.⁶ It is obvious that most States are in clear non-compliance with this obligation. Indeed, the scope and severity of the living conditions in informal settlements make them one of the most pervasive violations of the human rights of dignity, security, health and life worldwide. It is critical that they be recognized as such.

13. On the other hand, informal settlements are often an incredible accomplishment, a profound expression of individuals, families and communities claiming their place and their right to housing. They are “habitats made by people”, who are creating homes, culture and community life in the most adverse circumstances.⁷ The act of claiming places in cities and constructing homes challenges spatial exclusion, the appropriation of land and property by the wealthy for no purpose but speculation, the colonization of indigenous territories and attempts by authorities to render entire communities invisible by not recognizing them. In response, informal settlements are a statement: “we are here” and “we will not disappear”. They are a form of grass-roots human rights practice led by those excluded from housing, women, those who experience the effects of economic inequality, people with disabilities, migrants, and those facing racial and ethnic discrimination. It is within this dual recognition of informality as rights violating and rights claiming that a rights-based approach must be grounded.

14. A human rights-based approach to informal settlement upgrading, based on the right to remain in situ where possible, and to be adequately housed nearby when relocation is necessary or preferred, is an essential component of a broader commitment to bringing human rights to cities, and to the new urban agenda of sustainable inclusive development. An integrated human rights approach, as proposed in the present report, focuses on securing adequate housing, in all of its dimensions, as a response to structural conditions and societal dynamics that deprive residents of the right to housing, with a view to enabling communities to define, for themselves, what constitutes a home that provides dignity and security.

15. The following recommendations for rights-based upgrading have been fashioned to assist in the implementation of the 2030 Agenda for Sustainable Development and the New Urban Agenda by harnessing the potential of a human

⁶ Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990) on the nature of States parties’ obligations, para. 10, and general comment No. 4 (1991) on the right to adequate housing, para. 14.

⁷ Lorena Zárate, “They are not ‘informal settlements’ — they are habitats made by people”, The Nature of Cities, 26 April 2016.

rights-based approach. They demand a significant shift in the relationship between governments and informal communities from one in which governments criminalize, penalize and obstruct the process of claiming the right to housing within informal settlements, to one in which this process is community led and enabled through new approaches to ownership, tenure, inclusive planning, innovative legislative and programmatic initiatives, and rights-based participation and accountability. The recommendations should inform the actions of all levels of government, development agencies, non-governmental organizations and private actors involved in upgrading of informal settlements.

II. Recommendations for rights-based upgrading of informal settlements

A. Core principles of rights-based upgrading

1. Require that upgrading programmes comply with the right to adequate housing

16. The overriding objective for informal settlement upgrading should be the full enjoyment of the right to adequate housing. Upgrading policies, programmes and strategies should incorporate each of the principles for human rights-based housing strategies described in the report of the Special Rapporteur to the Human Rights Council contained in document [A/HRC/37/53](#).

17. Effective and accessible procedures must be established to ensure that residents can hold governments and other actors accountable for all aspects of the right to housing, including the positive obligations to apply the “maximum” of “available resources” and “all appropriate means” to address the conditions in which people in informal settlements live.⁸

18. Decision-making at all levels of government, as well as within development agencies and international financial institutions, must be held accountable to this standard.

19. Residents of informal settlements must be provided with information about the right to housing. It is helpful if declarations or principles based on the right to housing are adopted and applied to all aspects of upgrading. An agreement concerning urbanization of informal settlements adopted by the Asociación Civil por la Igualdad y la Justicia affirms 10 key upgrading principles based on the right to housing and offers a good example.⁹

20. The Kenya National Commission on Human Rights was engaged through a court order to oversee the allocation of upgraded units to the residents of Kibera Soweto East. The Commission reports that it has adopted the values and principles of a human rights-based approach, rooted in constitutional provisions requiring that state organs and persons respect the rule of law, participation of the people, human dignity, human rights, equity, social justice, non-discrimination, integrity, transparency and accountability.¹⁰

⁸ International Covenant on Economic, Social and Cultural Rights, art. 2, para. 1; and Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 14.

⁹ “Acuerdo por la urbanización de las villas”, available at <http://acuerdoporlaurbanizacion.org/wp-content/uploads/2016/10/AcuerdoxlaUrbanizacion-1.pdf> (Spanish only).

¹⁰ Submission of the Kenya National Commission on Human Rights for the present report.

2. Address all of the components of the right to housing in an integrated fashion, recognizing the links between housing and other social rights

21. As an end goal, upgrading schemes must fulfil all aspects of the right to adequate housing under international human rights law. This includes living without discrimination, in security, peace and dignity, in housing with secure tenure, that is affordable, habitable, culturally adequate, in a decent location, accessible, and where services are available.¹¹ These requirements should be refined by communities and households themselves to address different contexts.

22. Programmes to address particular components of the right to adequate housing, such as securing formal title or providing access to water or sanitation infrastructure, should not be implemented in isolation from, or at the expense of, other adequacy dimensions. For example, fees charged for sanitation or water may compromise the ability to remain in housing. Creating secure formal title may give rise to speculation and erode affordability, leading to the displacement of the poorest residents. Upgrading must begin by surveying and accurately identifying the housing, social, economic, health, educational and other needs of residents. A holistic approach, addressing this wide range of needs, should be adopted in all upgrading strategies.

3. Recognize the links between adequate housing and access to livelihood in the informal economy and support community economic development

23. The struggle for a livelihood dominates everyday life for residents of informal settlements. Unregulated markets and lack of rule of law can lead to exploitation and further economic hardship. Many must pay significant amounts to private operators for transportation from the settlement to work or school. Residents are often denied access to water and sanitation by unaffordable fees and access to essential services may be ruled by cartels. Ensuring access to water and toilets and other necessities, regardless of residents' ability to pay, is an immediate priority in upgrading.

24. It must also be recognized that many residents rely on informal economic activity carried out from home to survive, whether they be hairstylists, shop or cafe owners, mechanics, or recyclers. Informal residents must be able to ensure that the location and design of upgraded housing supports their means of livelihood.

25. In Delhi, India, the Kathputli Colony, made up of street performers (musicians, puppeteers, magicians and others) relied on spaces within their informal settlement to perform, but were relocated to apartment blocks. They had unsuccessfully challenged the relocation in court, asking for an assurance that the project would be executed in such a manner that sufficient space would be made available for them to undertake the unique character of their vocation and display their skills for earning a livelihood.¹²

4. Recognize the right to remain in situ

26. The right to remain in one's home and community is central to the right to housing.

27. In situ upgrading allows residents to retain their connections to their locality, protects social cohesion and can help to avoid disrupting livelihoods.¹³ Relocation, in contrast, has many possible negative consequences and often results in a poorer

¹¹ Committee on Economic, Social and Cultural Rights, general comment No. 4.

¹² High Court of Delhi, Bhule Bisre Kalakar Co-Operative Industrial Production Society Ltd. and Others v. Union of India and Others, W.P.(C) 1290/2014 and CM APPL. 3834/2014, 30 March 2014, para. 5. Available at www.kathputlicolonydda.com/pdfs/Judgement-dated-20.03.2014.pdf.

¹³ See guiding principles on security of tenure.

quality of life. It has particularly negative repercussions for people with disabilities, the elderly, and children and young people. As Youth for Unity and Voluntary Action has demonstrated in India in its collaboration with Leher on the #UprootedChildhoods campaign, the effects of displacement and relocation on children include disrupted schooling and social networks and often the loss of safe spaces to play.¹⁴

28. The right to in situ upgrading must be recognized in law and communities should be provided with representation to seek enforcement of this right. Barrio Rodrigo Bueno in Buenos Aires, visited by the Special Rapporteur in 2016, has been successful in this respect. Situated in the midst of commercial and luxury residential developments, the community successfully contested applications for eviction and won the right to in situ upgrading.¹⁵ Legislation has recently been enacted which provides for the upgrading of the community with ongoing communication with and collaboration of residents.¹⁶

5. Rely on meaningful engagement and cease the use of eviction procedures

29. States should immediately cease and desist from seeking to justify evictions of residents of informal settlements under domestic legal procedures. Courts should refuse to authorize such evictions in any but the most exceptional circumstances, and only when residents have been fully engaged in the process, when alternative housing of comparable or better quality is being provided and when all other requirements of international human rights have been honoured. Applications to evict are almost always indicative of flawed processes and lack of meaningful engagement with communities.

30. The approach taken by the South African courts moves in the right direction and should be applied by other courts. In the *Melani* case, the Slovo Park informal settlement challenged the decision of the City of Johannesburg not to apply for in situ upgrading and instead to relocate the community to an alternative location 11 km away.¹⁷ The court held that the Government's upgrading policy, as required by the constitutional right to housing, envisages "a holistic development approach with minimum disruption or distortion of existing fragile community networks and support structures and encourages engagement between local authorities and residents living within informal settlements".¹⁸ Relocation must be "the exception and not the rule" and any relocation must be to a location "as close as possible to the existing settlement".¹⁹ On this basis, the City was ordered to reverse the decision to relocate the community and apply for funding for in situ upgrading.²⁰

¹⁴ See <http://leher.org/campaigns/uprootedchildhoods/>.

¹⁵ See the work of the Centro de Estudios Legales y Sociales at www.cels.org.ar/web/2015/04/amicus-por-el-barrio-rodrigo-bueno/.

¹⁶ Argentina, *Rodrigo Bueno urbanization law*, No. 5798 (23 March 2017), available at <http://www2.cedom.gob.ar/es/legislacion/normas/leyes/ley5798.html>. Proposals to designate the community land as public so as to avoid inflationary pressures were not, however, incorporated into the legislation (see Asociación Civil por la Igualdad y la Justicia, supplementary document concerning land management policies for redevelopment of informal settlements, available at www.acuerdoporlaurbanizacion.org/#complementario (Spanish only)).

¹⁷ High Court of South Africa, *Mohau Melani and Others v. City of Johannesburg and Others*, Case No. 02752/2014, 22 March 2016.

¹⁸ *Ibid.*, para. 34.

¹⁹ *Ibid.*, para. 35.

²⁰ *Ibid.*, Order, paras. 1 and 2.

6. Where relocation is necessary or preferred, ensure compliance with the right to housing and all other human rights standards

31. Sometimes upgrading requires relocation and resettlement because of hazardous or dangerous conditions that cannot be mitigated, or relocation may be chosen by communities for other reasons. In these cases, all affected groups and households must be allowed to participate in the decisions regarding relocation, including the geographic site, the timing of relocation and the allocation and design of the new housing.

32. Where the government proposes relocation, the burden of proof is on the State to show why in situ upgrading is unfeasible. Authorities must publish and disseminate their reasoning to the community and allow it to be reviewed by a body capable of reversing the decision to relocate, providing a full hearing to residents.

33. Where most residents of a community prefer relocation but some do not consent, those residents, where possible, should be allowed to remain. Where temporary relocation is required for in situ upgrading, this must be time-limited and meet adequacy and all human rights standards.

34. In any instance of relocation, whether temporary or permanent, or from public or private land,²¹ States must comply with the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I). These require, in particular, that relocation sites should be located in the vicinity of the original site, have access to all necessary amenities (particularly water, sanitation and electricity) and maintain access to livelihoods. Authorities must provide full and adequate real and personal compensation for any costs.²² Relocation sites must provide land and housing to residents that are of equal or better size and quality as that which they left (ibid.).

35. In Dakar, informal settlement dwellers had to be relocated to make way for a new road. Residents identified as their central needs access to basic infrastructure, preventing flooding and obtaining secure tenure. All of these needs were met. The cost of land in the resettlement site was adjusted based on household means, with the most vulnerable obtaining title without cost. Business owners were compensated for loss of revenue, homeowners were offered cash compensation or a free house and renters were given six months' free rent.²³

7. Prohibit any forced eviction and recognize a wide range of tenure systems

36. The right to a secure home is a universal right under international human rights law. Lack of security of tenure can never justify forced evictions of those residing in informal settlements. Security of tenure under domestic law should not, therefore, be restricted to those with formal title or contractual rights to their land or housing. As noted by the previous Special Rapporteur in the guiding principles on security of tenure (A/HRC/25/54, para. 5), security of tenure should be understood broadly as "a set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one's home in security, peace and dignity". In order to protect the security of home in all circumstances, States must promote, protect and strengthen a variety of tenure forms.

²¹ See, for example, Constitutional Court of South Africa, *City of Johannesburg Metropolitan Municipality v. Blue Moonlight Properties 39 (Pty) Ltd and Another*, Case No. CCT 37/11, 1 December 2011, para. 95.

²² See submission of Afghanistan Independent Human Rights Commission for the present report.

²³ Pierre Graftieaux, "Moving people to help people move", *Transportation Research Procedia*, Vol. 27 (2017).

Tenure arrangements of the most vulnerable and marginalized should be accorded priority (ibid.).

37. Communities should be supported in collecting and documenting understandings of informal tenure status through enumerations and tenure registration, with a view to ensuring long-term security. Administrative processes aimed at facilitating the regularization of informal settlements must be affordable, accessible, timely and not overly complex.

38. Namibia has informed the Special Rapporteur that the Flexible Land Tenure Act of 2012 provided for more planning, servicing and ownership of land in informal settlements in order to create alternative forms of land title that are simpler and cheaper to administer than existing forms of land title; to provide security of title for persons who live in informal settlements or who are provided with low income housing; and to empower the persons concerned economically by means of these rights.²⁴

8. Revise laws to recognize informal settlements and adopt inclusionary planning and zoning

39. Planning and zoning should never be used to justify unwarranted demolition of informal settlements, to deny access to services or to prevent relocation to proximate lands. In Lagos, Nigeria, the Urban and Regional Planning and Development Law of 2010 retroactively granted powers to authorities to seal up and demolish structures that contravened Lagos planning laws, resulting in the demolition of the informal settlement of Makoko, which housed approximately 85,000 people.²⁵

40. Planning and zoning often serve to benefit more affluent communities, investors and development interests at the expense of those in need of housing. Planning must prioritize the allocation of appropriate land, services and zoning for residential housing close to services, employment and transportation and extend services and transportation to areas where informal settlements are located. In Medellín, Colombia, inclusionary planning included urban escalators and cable cars connecting informal neighbourhoods to central nodes of the city, leading to revitalization and successful upgrading.²⁶

41. No urban development proposals should be approved if they fail to include housing for those already living in the area being developed. Any development must provide existing residents with housing that fully meets their needs, in terms of affordability, design and adequacy.

9. Provide access to serviced land and economical building materials

42. Where it is not possible to provide new arrivals to cities with built housing, land should be set aside or acquired for housing those in need, with water and sanitation facilities and temporary shelter available while houses are built on allocated plots. Tax incentives should be implemented to encourage private owners to make vacant land available for housing.

43. Economical materials should be provided for self-construction of homes. Innovations Housing, a non-governmental organization working in East Africa, has

²⁴ Submission of Namibia for the present report.

²⁵ Akinola E Akintayo, "Planning law versus the right of the poor to adequate housing: a progressive assessment of the Lagos state of Nigeria's Urban and Regional Planning and Development Law of 2010", *African Human Rights Law Journal*, vol. 14, No. 2 (2014).

²⁶ Luisa Sotomayor, "Medellin: the new celebrity?" *Spatial Planning in Latin America*, 26 August 2013.

supported social enterprises to develop economical building materials such as “soil bricks”.²⁷

10. Combat and prohibit discrimination and harassment against informal settlement residents and cease punitive denials of access to basic services

44. People living in informal settlements face widespread discrimination and harassment on the basis of their housing status. This includes harassment of residents, bullying of children in schools, denial of access to credit, basic services, social programmes, public transportation, health care and education, and arrest and incarceration of community leaders. Residents are also frequently denied social support and employment for lack of a formal address.

45. In Canada, local authorities used tactics that included spreading chicken manure and fish fertilizer on an encampment, to enforce a by-law prohibiting overnight shelters in parks. Residents mobilized and the by-law was subsequently found by a court to violate constitutional rights to life, liberty and security of the person of residents of the encampment.²⁸

46. Attempting to discourage residents from remaining in informal settlements or encampments by denying access to water, sanitation and health services and other basic necessities, as has been witnessed by the Special Rapporteur in San Francisco and Oakland, California, United States of America,²⁹ constitutes cruel and inhuman treatment and is a violation of multiple human rights, including the rights to life, housing, health and water and sanitation. Such punitive policies must be prohibited in law and immediately ceased.³⁰ Following expressions of concern from the Human Rights Committee, the United States federal Government introduced funding incentives for municipalities to rescind by-laws that criminalize homelessness.³¹ More robust measures, however, are required.

47. States must adopt measures to ensure that discrimination, harassment or criminalization on the basis of tenure or housing status is prohibited in all areas and human rights institutions should address this form of discrimination.³²

11. Recognize diverse household circumstances and address needs of marginalized groups

48. Upgrading programmes must ensure that the unique needs and different experiences of women, persons with disabilities, migrants, non-citizens, the elderly, children and other marginalized groups are recognized and addressed.

49. The unique needs of women and girls, including vulnerability to violence and sexual assault, discussed below, must always be a priority. Consideration must also be given to practical needs related to menstruation and societal perceptions of privacy and expectations of modesty. A woman in the Mukuru settlement in Nairobi explained: “During my monthly period I can’t urinate in the tin so I have to wait until

²⁷ See Innovations Housing website (<http://innovationshousing.com/projects/africa.htm>).

²⁸ Supreme Court of British Columbia, *Abbotsford (City) v. Shantz*, 2015 BCSC 1909, 21 October 2015.

²⁹ Darwin Bond Graham, “United Nations expert describes Oakland and California’s homeless crisis as ‘cruel’”, *East Bay Express*, 21 January 2018.

³⁰ See concluding observations of the Human Rights Committee on the fourth periodic report of the United States of America (CCPR/C/USA/CO/4, para. 19) and <https://wraphome.org/what/homeless-bill-of-rights/california-right-to-rest-act/>.

³¹ National Law Center on Homelessness and Poverty, “The cost of criminalizing homelessness just went up by \$1.9 billion”, press release, 18 September 2015, available at www.nlchp.org/press_releases/2015.09.18_HUD_NOFA_criminalization.

³² Guiding principles on security of tenure (A/HRC/25/54, para. 5), paras. 10 and 50–59.

morning. Because sometimes some drops of blood can remain in the tin and everyone uses the tin so it's embarrassing".³³

50. For persons with mobility impairments, toilets are difficult to reach when offered on a communal basis and are rarely accessible, leaving persons with disabilities to manage within their homes.³⁴

51. Upgrading programmes must be culturally sensitive. This requires attention to spatial planning, colour, size of units, facilities and diverse religious customs. Upgrading indigenous settlements must ensure that indigenous people themselves are actively involved in developing their housing, drawing on their knowledge and practices.³⁵ While visiting Mexico City, the Special Rapporteur was struck by the contrast between government designed housing lacking in cultural influence and an urban upgrading project designed by indigenous residents which incorporated indigenous art, a sweat lodge, a gathering space and social enterprises.³⁶

12. Ensure adequate budgeting and resource allocation with the input and oversight of residents

52. Ensuring adequate budgetary allocations to address housing needs in informal settlements is a central human rights obligation of States. To date, the international community, domestic courts and human rights bodies have failed to adequately hold States accountable to the obligation under international human rights law to apply the maximum of available resources to upgrading informal settlements. States must ensure that public expenditure is sufficient to meet commitments in the 2030 Agenda while also adopting taxation measures, to discourage investors from leaving land and property vacant for speculative purposes and to address growing disparities in wealth and income.

53. Governments frequently subsidize housing, infrastructure and commercial projects in formal areas that primarily benefit wealthy and middle-class populations, while denying subsidies to the residents of informal settlements. States must review budgetary measures to ensure that subsidies are directed to those most in need.

54. Budgeting and resource allocation for upgrading must be subject to transparency, accountability and effective oversight by affected residents.

55. In the Saeng Mook Da settlement in Thailand, the government informs community leaders when funding for construction and upgrading work is available. Community members then convene and make collective decisions regarding allocations with particular attention to those without sufficient means as beneficiaries. A community committee reviews all decisions on allocation of funds.³⁷

13. Ensure a non-discriminatory human rights-based approach to credit and microfinance

56. Upgrading programmes too often rely on financing of home ownership through mortgage subsidies, even though 60 to 80 per cent of those in need of housing cannot

³³ Extract from story prepared by Edith Kalela of the Muungano wa Wanavijiji/Akiba Mashinani Trust, on file with the authors; see further Inga T. Winkler and Virginia Roaf, "Taking the bloody linen out of the closet: menstrual hygiene as a priority for achieving gender equality", *Cardozo Journal of Law and Gender*, vol. 21, No. 1 (2015).

³⁴ See submission of Kenya for the present report.

³⁵ See United Nations Declaration on the Rights of Indigenous Peoples, arts. 23 and 24.

³⁶ See the work of the Habitat International Coalition (www.hic-gs.org/).

³⁷ Nausica Castanas and others, "Leave no one behind: community driven urban development in Thailand", working paper (London, International Institute for Environment and Development, December 2016).

qualify for them.³⁸ In sub-Saharan Africa, only about 3 per cent of households have access to mortgages from the formal financial system.³⁹

57. Microfinance may be a preferred option, as it can be tailored to incremental building of housing and upgrading, is not secured through a lien on one's home and does not require land title.

58. In Tajikistan, a microfinance scheme implemented by the local Habitat for Humanity in coordination with domestic microfinance firms assisted more than 112,000 people to improve their living conditions through microfinance loans.⁴⁰

59. Although microfinance is targeted at poorer individuals and households, selection is usually based on perceived credit risk rather than need. Interest rates tend to be higher than in mainstream financial institutions. Monitoring of the microfinance sector, with participation by affected communities, must be undertaken to ensure accountability and accessibility for those most in need.

60. Measures should also be taken to prevent banks and other financial institutions from unreasonably refusing to offer credit to informal settlement residents. Assessing credit worthiness on alternative bases so as not to exclude informal households is a human rights obligation and good business practice.

61. Credit provision, however, is too often advanced as the sole strategy to ensure access to housing. Such initiatives should be regarded as additional to, and not in lieu of, direct government investment in upgrading.⁴¹

14. Integrate the skills and labour capital of residents into upgrading programmes

62. Upgrading programmes require the employment of large numbers of people in numerous skilled and manual roles. Upgrading projects should employ local residents and pay fair remuneration. The input and expertise of community members should be drawn upon with respect to land and materials acquisition, building design, construction and other areas.

63. In Hanna Nasif, in the United Republic of Tanzania, community members who wished to participate were trained in construction and other areas. The skills gained through the programme increased their employability and income.⁴²

15. Address inflationary effects of upgrading and combat speculation

64. In situ upgrading of settlements can attract middle-income households and drive up housing prices, which in turn leads to displacement of residents from their upgraded communities.

65. Following an upgrading programme in Dar es Salaam, United Republic of Tanzania, landlords increased rents per room by an average of 160 per cent.⁴³ In

³⁸ United Nations Conference on Housing and Sustainable Urban Development (Habitat III), issue paper No. 20, "Housing" (31 May 2015).

³⁹ Liam Clegg, "The World Bank and the globalisation of housing finance: mortgaging development" (London, Bretton Woods Project, July 2018).

⁴⁰ See www.habitat.org/where-we-build/tajikistan.

⁴¹ Ananya Roy, *Poverty Capital: Microfinance and the Making of Development* (Routledge, 2010).

⁴² Anna Anael, Stephen Mukiibi and Nicholas Makoba, "The impacts of informal settlement upgrading on housing affordability: the experience of Hanna Nassif in Dar es Salaam, Tanzania" *Africa Habitat Review*, vol. 10, No. 10 (November 2016).

⁴³ Rasmus Precht, "Informal settlement upgrading and low-income rental housing: impact and untapped potentials of a community-based upgrading project in Dar es Salaam, Tanzania" (2005). Available at <http://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1269364699096/6892630-1269364758309/precht.pdf>.

Kibera, Kenya, studies have found that former residents have been unable to afford to purchase or pay monthly rents for new upgraded properties.⁴⁴

66. Measures such as subsidies to assist with rental payments or purchase prices and caps on rental and sale prices must be put in place to ensure that housing in upgraded settlements remains affordable to residents and that speculation and profit-making from upgrading is curbed. Other measures could also include designating land on which upgrading occurs as a public asset, placing restrictions on who can purchase or rent upgraded housing and imposing time limits on when it can be sold.

16. Upgrade refugee and humanitarian relief camps to ensure the right to housing

67. Housing provided through humanitarian relief is often considered to be temporary when in fact the camps have become longer-term homes, akin to informal settlements. Residents live in temporary structures that are inadequate for longer-term occupancy and are often denied access to essential services such as electricity and sewerage.⁴⁵ The Zaatari refugee camp, housing close to 80,000 people, has been described as Jordan's fourth largest city, and yet residents, who are unlikely to be able to return to their homes of origin, continue to live in tents and caravans without access to basic services.⁴⁶

68. Humanitarian relief provided on a long-term basis must be made fully compliant with the right to adequate housing and when relief camps become de facto informal settlements, they must be upgraded to meet standards applicable to longer-term housing.

17. Address and prevent corruption

69. With lack of governance structures, rule of law and oversight mechanisms, corruption among developers, the construction industry and public officials is a common challenge in upgrading schemes. The precarious legal status of many residents, combined with their general vulnerability, means that corruption often goes unchallenged. Corruption increases costs, discourages international assistance and damages the integrity of participation processes.

70. During the slum upgrading programme (KENSUP) in Soweto East in Nairobi, Kenya, 31 per cent of residents believed corruption would mean they would not benefit from the project.⁴⁷

71. Measures must be put in place to prevent corruption at all stages of upgrading, from land acquisition, to tendering of contracts, to the allocation of upgraded housing units. Rigorous independent oversight of all aspects of the upgrading process, including all public-private partnerships, should be put in place and, where appropriate, communities should be afforded oversight and decision-making authority over resource allocation and anti-corruption measures.

⁴⁴ Bernardine Mutanu and Faith Nyamai, "Upgraded slum houses 'too expensive'", *Daily Nation*, Nairobi, 28 August 2013.

⁴⁵ See, for example, "15 minutes to leave: denial of the right to adequate housing in post-quake Haiti" (London, Amnesty International, 2015)

⁴⁶ Office of the United Nations High Commissioner for Refugees, Zaatari Refugee Camp February Factsheet. Available at <https://reliefweb.int/sites/reliefweb.int/files/resources/2018.02.04FACTSHEET-ZaatariRefugeeCampFEB2018.pdf>.

⁴⁷ Rosa Flores Fernandez and Bernard Calas, "The Kibera Soweto East Project in Nairobi, Kenya", Institut français de recherche en Afrique, Nairobi (2011).

B. Right to participation and inclusion

18. Recognize and implement participation of residents as a right at all stages of the upgrading process

72. Fundamental to all relocation strategies is the right of residents to participate. This is both a legal requirement and an operational necessity. Failure to involve residents in relocation planning and implementation means the residents' understandings of challenges and their vital input on how to address them will be lost. Residents' full participation in upgrading programmes builds local capacity for governance, promotes resourcefulness, efficiency, adaptation to local conditions and local ownership and ensures the achievement of sustainable results.⁴⁸

73. The right to participation should be protected in law through constitutional or legislative provisions, as in the Constitution of Kenya.⁴⁹ The right to participate must be ensured from the earliest stage of designing and planning through to implementation, monitoring and evaluation.⁵⁰

74. The right to participate should be implemented in a clear and precise manner, and must ensure engagement with actual residents, and not just owners or informal landlords. Where appropriate, a formal, binding community engagement agreement should be negotiated with residents establishing when and how the community will be engaged at each stage of the process.

75. The Makhaza community in South Africa was able to rely on a formal agreement reached with the City of Cape Town to successfully reverse the City's decision to refuse to provide enclosures for privacy in newly installed communal toilets.⁵¹

19. Establish community-based processes for democratic decision-making

76. Participation in upgrading requires democratic processes through which the community can make collective decisions. These processes should facilitate community meetings, the appointment of spokespersons and effective sharing of information.

77. The "people's process" implemented in Kabul ensures community leadership and control over the upgrading process with an organizational structure that engages different levels of government. At the community level, local residents elect community development councils responsible for the selection, design, implementation and maintenance of the projects. At the municipal level, the City trains staff to work alongside residents in implementing and completing upgrading.⁵²

78. Participation in upgrading should include engagement with existing community structures and organizations where these are considered by the community to be legitimate and representative.⁵³

⁴⁸ South Africa, Development Action Group, Department of Human Settlements and Housing Development Agency, "Participatory action planning for informal settlement upgrading" (2015); and National Upgrading Support Programme, "NUSP resource kit, part 3: building partnerships".

⁴⁹ Constitution of Kenya, art. 10(2)(a).

⁵⁰ United Nations, guiding principles on extreme poverty and human rights, foundational principles, para. 38.

⁵¹ South Africa, Western Cape High Court, *Beja and Others v. Premier of the Western Cape and Others*, Case No. 21332/10, 29 April 2011.

⁵² Haroon Nazire and others, "Effects of informal settlement upgrading in Kabul City, Afghanistan: a case study of Afshar area", *Current Urban Studies*, vol. 4, No. 4 (28 December 2016).

⁵³ Promoting Legal Empowerment in Informal Settlements: Recommendations and Lessons Learned, International Development Research Centre, Africa-Latin America Partners Workshop, Quito, Ecuador, 26 and 27 March 2018.

20. Ensure access to information and provide resources for community advocates

79. In order to exercise their right to participate, residents must be provided with accessible information regarding the upgrading process, including relevant laws and information about their rights. Advocates, chosen by the community, should be provided with necessary resources so they can advise communities on what is at stake and assist in ensuring effective community oversight.⁵⁴ Professionals should be provided with training in community engagement and accountability. Resources and disbursements for expenses should be provided to support the participation of residents.⁵⁵ Remuneration should also be available to residents, chosen by the community, who play particular leadership roles.

21. Document the unique profile of each community, linking upgrading to historical struggles for rights

80. Residents of informal settlements should be supported in documenting the history of their settlement. Planners and development partners need to consider informal settlements not only as geographically but also as historically defined communities, considering how and why the site was chosen, what claims have been made by residents and other parties, and how the right to housing is understood by those who live there.⁵⁶

81. Demographic information should be gathered to build a complete picture of the community and the needs of residents, including detailed maps of the settlement, numbers of households and individuals, tenure status (including informal renters), means of livelihood, housing expenditure, service provision status and local governance structures.⁵⁷

82. The Shack Dwellers Federation of Namibia has gone door-to-door to profile the location and history of settlements and their access to services, demographics and organization structures.⁵⁸ United Cities and Local Governments, Slum Dwellers International and the Cities Alliance have launched a global campaign, called “Know Your City” whereby city residents themselves collect citywide information regarding informal settlements. To date it has profiled 7,714 settlements in 224 cities.⁵⁹

22. Ensure full inclusion of women in all aspects of upgrading programmes

83. Although women often assume leadership roles within informal communities in relation to housing and social needs, they are frequently excluded from formal engagement with governments and developers. And yet, it is their ability to share their specific experiences and insights that makes their participation vital to successful upgrading. Women and girls must be supported in assuming key leadership roles and equal participation.

84. In the Caracas Slum Upgrading Project, women were offered training on such issues as rights, leadership and domestic violence and took an active role in

⁵⁴ Ruth McLeod, “Building effective relationships with the urban poor and government”, Comic Relief Literature Review, People Living in Urban Slums International Grants Programme (June 2011).

⁵⁵ “Acuerdo por la urbanización de las villas” (see footnote 9).

⁵⁶ Promoting Legal Empowerment in Informal Settlements.

⁵⁷ National Upgrading Support Programme, “NUSP resource kit, part 1: understanding your informal settlement”.

⁵⁸ See <https://sdfn.weebly.com/background.html>.

⁵⁹ See <http://knowyourcity.info/explore-our-data/>.

consultations, construction work and supervising projects, including in paid roles as project staff.⁶⁰

C. Monitoring and access to justice

23. Establish an independent participatory body to monitor progress and hear complaints

85. Proper monitoring of progress and ensuring accountability with regard to goals and timelines is a critical component of rights compliant upgrading. A delegated body or individual, such as an upgrading ombudsperson or community oversight panel should be established to ensure independent, fair and impartial assessment of progress.

86. Complaints procedures should be established to hear directly from residents about problems, ensure respect for their rights and implement rights-based dispute resolution procedures.

87. Monitoring bodies must have access to relevant information and data, disaggregated based on group demographics. They should have resources and capacities to conduct community surveys, monitor activities, meet with residents, staff and managers, and convene public hearings. Reports, recommendations or decisions should be published publicly in accessible formats. All levels of government should be required to respond promptly to recommendations or concerns of monitoring bodies.

24. Guarantee access to justice for human rights claims through community-based adjudication

88. In order to ensure that upgrading plans are implemented in a rights-compliant manner, residents need to be aware of their rights and have avenues through which they are able to claim and enforce them. In many settlements, alternative modalities of justice, including traditional and indigenous practices and community-based mechanisms, are more accessible than formal courts — often operating directly within the communities they serve and adjudicated by local people who hold the trust of residents. Certain issues such as unit allocation or accommodation of disability may be more effectively adjudicated through local procedures.

89. It is essential that informal justice processes are in place to review project design, implementation and outcomes and ensure that all actors — public and private — are held accountable to standards of rights-compliant decision-making.

90. Community-based adjudication of land and housing issues has been used effectively in informal settlements in Ghana and other countries.⁶¹ In Thailand, respected monks have played a role in adjudicating disputes. Justice and Empowerment Initiatives in Nigeria trains and provides resources to community-based paralegals to work directly in their own informal settlements, teaching other residents about their legal rights, assisting in the preparation of legal claims and establishing mediation and negotiation to resolve disputes.⁶²

⁶⁰ United Nations Human Settlements Programme, *State of Women in Cities 2012–2013: Gender and the Prosperity of Cities*.

⁶¹ Anthony Arko-Adjei, *Adapting land administration to the institutional framework of customary tenure: the case of peri-urban Ghana* (Amsterdam, Delft University Press, 2011).

⁶² Moyosore Arewa, Janelle Deniset and Nicole Gladstone, “Final Capstone report: global experience promoting access to justice, voice and livelihoods in informal urban settlements” (International Development Research Centre, 2017).

25. Take necessary measures to ensure that the judicial system protects the rights of informal settlements

91. Major initiatives are required in all countries to enhance the capacity and commitment of courts, tribunals, human rights institutions, ombudspersons and other bodies to protect and enforce the right to housing of informal settlement residents. Judges, tribunal members and administrative decision-makers should be trained in the right to housing under international and comparative human rights law as it applies to upgrading of informal settlements.

92. Courts and tribunals must rigorously apply the prohibition of forced eviction and uphold the requirement of meaningful engagement with residents. They must hold governments accountable to all components of the obligation to progressively realize the right to housing in informal settlements. They should encourage and hear systemic claims related to, among other things: inadequate budgetary allocations; failure to comply with timelines or to meet agreed upon goals; inadequate engagement or collaboration with communities; and failure to consider the needs of marginalized groups within settlements. Courts and tribunals should be authorized to remain seized of matters and to require regular reports on progress and outcomes until the desired outcome is reached. Alternatively, courts may consider delegating oversight to an independent body such as an ombudsperson or a human rights institution with respect to the implementation of remedial orders.

93. States must make concerted efforts to address barriers to access to justice experienced by informal settlement residents. Measures should include: (a) enabling courts to convene public hearings in locations close to residents so as to reach remote communities;⁶³ (b) training judges, law clerks and lawyers to work more effectively with informal residents; (c) allocating special funds to law schools to offer courses on legal advocacy in informal settlements; (d) supporting legal advocacy organizations to work with residents; (e) ensuring legal aid is available; (f) establishing procedures for amicus and public interest litigation to address systemic issues; (g) ensuring that national human rights institutions have a mandate and resources to work with residents of informal settlements in claiming and enforcing their right to housing; and (h) providing for early intervention, interim orders and injunctive relief to address urgent circumstances, particularly when forced evictions may occur.

94. In the Philippines, the Alternative Law Group represents a large network of organizations working at the community level to identify barriers in the justice system faced by residents of informal settlements. The Group advocates for systemic change to the justice system by working with law schools, the Supreme Court, the Department of Justice, the Commission on Human Rights, the police and the legal and judicial community.⁶⁴

D. Informal settlements and the environment**26. Assess and respond to environmental risks posed to informal settlements**

95. People are frequently driven to live in informal settlements by environmental factors such as natural disasters, climate change and environmental degradation, but the settlements to which they migrate also place them at increased environmental

⁶³ Jane Weru, Waikwa Wanyoike and Adrian di Giovanni, "Confronting complexity: using action-research to build voice, accountability, and justice in Nairobi's Makuru informal settlements" in J. Wouters and others (eds.), *Improving Delivery in Development: The Role of Voice, Social Contract, and Accountability* (World Bank Legal Review, Vol. 6, 2015).

⁶⁴ See <http://www.alternativelawgroups.ph/index.php/about-us/partnerships-and-linkages>.

risks. Land that is vulnerable to flooding, storm surges, mudslides, earthquakes or other natural disasters, or contaminated with industrial waste, is more likely to be vacant and its use is less likely to be contested by development interests.⁶⁵ Without adequate economic, material and technical resources, residents of informal settlements are unable to construct homes that are capable of withstanding harsh weather conditions and disasters.⁶⁶ When natural disasters strike, death tolls are vastly higher in informal settlements than they are in formal areas and the health consequences of environmental degradation and pollutants in informal settlements are severe.⁶⁷

96. It is essential that the full scope of all the environmental risks faced by informal settlements be assessed, drawing on the knowledge of inhabitants or experts hired on their behalf, since they are more familiar with the environment in which they live and have often adopted risk management practices.⁶⁸

97. Where settlements exist in areas at risk from natural disasters, States should designate these areas for immediate and effective disaster risk management measures, tailoring approaches to suit the specific needs of the community.⁶⁹ States should not, however, use risk management as an excuse for unnecessary displacement. Where relocation and resettlement to a nearby site is necessary for the protection and safety of residents, this should be accomplished through collaboration and agreement, as described above.

98. The Bang Bua settlement in Thailand was prone to flooding from a canal. Officials coordinated with residents to prevent construction in the worst affected areas, improve the structural safety of buildings and provide increased access to the community in times of high water. In 2011 the defences proved able to withstand the widespread flooding following Typhoon Nock-ten and Bang Bua was the least affected settlement in Bangkok.⁷⁰

E. International cooperation and development assistance

27. Ensure that all upgrading projects supported by international financial institutions and development cooperation agencies adhere to human rights standards

99. International financial institutions and development banks, such as the World Bank and the Asian Infrastructure Investment Bank, play a significant financial and policy role in housing improvement schemes for residents of informal settlements. These actors have gradually shifted away from a slum clearance approach to one that generally supports in situ solutions and participation of affected communities in the design and implementation of urban renewal projects. They do not, however, sufficiently reference the right to adequate housing and its application to upgrading projects.

⁶⁵ Matthew Abunyawah, Thayaparan Gajendran and Kim Maund, "Profiling informal settlements for disaster risks", 7th International Conference on Building Resilience, 2017.

⁶⁶ Submission of Socio-Economic Rights Institute of South Africa for the present report.

⁶⁷ See United Nations Office for Disaster Risk Reduction, *Global Assessment Report on Disaster Risk Reduction*, chap. 4 (United Nations, Geneva, 2009).

⁶⁸ David Satterthwaite and others, "Responding to climate change in cities and in their informal settlements and economies", International Institute for Environment and Development, March 2018.

⁶⁹ Abunyawaha and others, "Profiling informal settlements for disaster risks".

⁷⁰ Asian Disaster Preparedness Center, *Integrating Disaster Risk Management into Urban Management* (Bangkok, Disaster Risk Management Practitioners Handbook Series, 2013).

100. International financial institutions have in recent years also moved away from direct assistance to the poorest households and instead supported mortgage financing for homeownership. This approach has been shown to deny benefits to the residents of informal settlements who most need assistance.⁷¹

101. The Special Rapporteur continues to hear that residents are not meaningfully engaged in upgrading and that safeguards provided by international financial institutions and development banks are ignored in favour of weak domestic processes. Complaint mechanisms rarely require or ensure compliance with the right to housing, vary in terms of accessibility and independence and have generally produced disappointing results as far as ensuring effective remedies for complainants.⁷²

102. Many development cooperation agencies have failed to adopt human rights compliant safeguards and approaches and few explicitly reference the right to housing. The result has been that resettlement and compensation schemes are often insufficient or not adhered to by implementing partners.⁷³

103. Development agencies should only fund and implement informal settlement improvement projects if they are undertaken in strict compliance with international human rights law and principles, as elucidated in these recommendations. Funding to governments must be made contingent on compliance with these human rights standards and procedures should be in place ensure immediate responses from governments when human rights are threatened.

104. International financial institutions and development agencies should review programmes to ensure that a focus on mortgage financing does not deny benefits to those most in need. A robust and timely complaints mechanism for any upgrading project must be accessible to all residents for a review of any decision taken that may be contrary to their human rights.

F. Violence and crime

28. Recognize informal settlement residents engaged in claiming the right to housing as human rights defenders

105. It is unfortunately common for police, security forces and other hired personnel to use force and violence, including with weapons, when informal settlement residents resist forced eviction or are otherwise claiming their right to housing through protest.⁷⁴

106. Those who resist forced eviction and claim their right to housing must be treated as human rights defenders by government authorities and security forces and the international community should respond accordingly when their rights are violated. If police or security personnel are required to use force for other reasons, the principles of necessity and proportionality need to be respected and they must conduct their operations in line with human rights standards, respecting and protecting the

⁷¹ Clegg, “The World Bank and the globalisation of housing finance”.

⁷² C. Daniel and others (eds.) *Glass Half Full? The State of Accountability in Development Finance* (Amsterdam, Centre for Research on Multinational Corporations, January 2016). Available at www.glass-half-full.org.

⁷³ See World Bank/Organization for Economic Cooperation and Development, *Integrating Human Rights into Development: Donor Approaches, Experiences, and Challenges*, 2nd ed. (Washington, D.C., 2013).

⁷⁴ Nation Nyoka and Dennis Webster, “Metro police fire rubber bullets at residents in Ekurhuleni’s Good Hope settlement”, *Daily Maverick*, 18 May 2018; Amnesty International, “‘Just move them’: forced evictions in Port Harcourt, Nigeria”, 28 October 2010; Dom Phillips and Júlio Carvalho, “Police operation in Rio favela leaves at least eight people dead”, *The Guardian*, 25 March 2018.

rights of informal settlement residents and their property.⁷⁵ Where excessive force is used against informal settlement residents, the situation must be referred to an independent and impartial panel for investigation and remedy.⁷⁶

29. Investigate and prevent violence against women and girls

107. Women and girls living in informal settlements are at much greater risk of experiencing gender-based violence than the general female population.⁷⁷ Toilets, water and other services are often located at some distance from homes, and insecure houses and lack of electricity and resultant dark walkways put women and girls at increased risk of violence and sexual assault.⁷⁸ Extreme poverty, destitution, overcrowding and long-term unemployment are contributing factors to violence against women. Women rarely have access to emergency shelters for protection from domestic violence in informal settlements.

108. Women should be involved in identifying and immediately implementing priority measures to address violence and to ensure that all upgrading addresses their safety and security risks.

109. Procedures must also be implemented to provide support for women reporting violence and sexual assault, so as to ensure their safety, including the provision of emergency shelters.

30. Ensure adequate protection of informal settlement inhabitants from hate-based crime

110. People living in informal settlements are often subjected to terrible acts of violence on the basis of their perceived membership in a particular racial, social, cultural or religious group. Hate-based attacks have led to the destruction of homes and property, physical injuries and death.⁷⁹ Police and security forces often fail to adequately protect residents and may serve to perpetuate hatred as a result of their own discriminatory stereotypes.⁸⁰

111. Police and security forces must receive human rights training and education to address discriminatory stereotypes and authorities must work in conjunction with residents to implement effective responses to hate-based crime.

G. Business and human rights

31. Redirect private investment in housing and real estate to support upgrading and create affordable housing

112. It is clear that the Sustainable Development Goals cannot be met by Governments alone and that private investment will play a significant role. It has been

⁷⁵ Guidelines on development-based evictions, paras. 47–51.

⁷⁶ See Stuart Casey-Maslen, *Use of Force in Law Enforcement and the Right to Life: the Role of the Human Rights Committee*, Academy In-brief No. 6 (Academy of International Humanitarian Law and Human Rights, Geneva, November 2016).

⁷⁷ Elizabeth Swart, “Gender-based violence in a Kenyan slum: creating local, woman-centered interventions”, vol. 38, No. 4, *Journal of Social Service Research* (April 2012).

⁷⁸ Submission of Socio-Economic Rights Institute of South Africa for the present report.

⁷⁹ Office of the United Nations High Commissioner for Human Rights, “Ukraine: Act now to stop systematic persecution of Roma minority in ‘alarming’ attacks, say UN experts”, 28 July 2018; “Ukraine’s Roma under attack in wave of hate crimes, *The Express Tribune*, 1 July 2018; submission of Associazione 21 Luglio Onlus for the present report.

⁸⁰ Report of the “Dialogue on human rights and policing”, hosted by the African Policing Civilian Oversight Forum in cooperation with the South African Human Rights Commission, 28 and 29 April 2016.

estimated that to build all of the needed housing over the next decade would cost up to \$16 trillion in spending on land and construction, of which only \$3 trillion would be expected to come from public funding.⁸¹

113. In her previous report on the financialization of housing, the Special Rapporteur noted that current financial regimes and investment patterns in housing have created unaccountable markets that fail to address housing need, increasingly driving lower income households in cities into homelessness and informality (A/HRC/34/51, paras. 3 and 29). She has called for a radical shift to redesign housing markets and investment centred on the recognition of housing as a human right and a social good rather than a commodity.⁸²

114. It is essential, therefore, that private investment be better directed to meeting the needs of the quarter of the population of cities living in informal settlements. This means adopting a new commitment to human rights responsibilities within the residential housing and construction sectors. The Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, requiring that investors avoid any activity that results in displacement of communities or the destruction of habitat, must be applied to ensure that a reasonable component of any private development and investment in land or housing is directed towards the housing needs in informal settlements. A global initiative, led by States and international financial institutions, is required to provide reliable mechanisms for capital investment in upgrading, directed by communities themselves.

III. The way forward

115. **The numbers of people living in informal settlements, the resources required for upgrading and the level of deprivation of rights experienced among the residents make the goal of upgrading all settlements by 2030 daunting. The tables of indicators and statistics compiled for monitoring progress towards 2030 are somewhat overwhelming. But more is required than a commitment to improved numbers and statistical trends.**

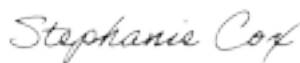
116. **The recommendations above are oriented around two key themes that are the pillars of human rights-based approaches to upgrading. First, that upgrading must build on, rather than undermine, the capacities of communities to claim and realize their rights, with adequate support and resources from States, international organizations and redirected private sector investment. And second, that the obligation to address the systemic violations of the right to housing in informal settlements must be recognized as a human rights imperative of States around the world for which there must be accountability.**

117. **Underlying these two key themes is one simple truth — something that is clear to the Special Rapporteur every time she visits residents living in appalling conditions in informal settlements in the midst of or on the margins of thriving cities where commercial and luxury residential developments abound. That truth is that by any measure — moral, political or legal — it is unacceptable for people to be forced to live this way. Refusing to accept the unacceptable is where we must begin. All actors must mobilize within a shared human rights paradigm around the imperative of upgrading all informal settlements by 2030.**

⁸¹ Jonathan Woetzel and others, “A blueprint for addressing the global affordable housing challenge” (McKinsey Global Institute, October 2014).

⁸² See <http://www.unhousingrapp.org/the-shift/>.

THIS IS EXHIBIT "E" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

A handwritten signature in cursive script that reads "Stephanie Cox". The signature is written in dark ink and is positioned above a horizontal line.

STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc



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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Access to justice for the right to 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*

Summary

In her report, prepared pursuant to Human Rights Council resolution 34/9, the Special Rapporteur examines the critical issue of access to justice for the right to housing. She suggests that the global housing crisis is rooted in a crisis in access to justice because without access to justice, housing is not properly recognized, understood or addressed as a human right. Millions who live in homelessness or unacceptable living conditions have no place where they can claim their right to housing when States have failed to progressively realize the right, imposed forced evictions, or criminalized those who live in homelessness or in informal housing. She argues that the outdated division of the right to housing into justiciable and non-justiciable components, negative and positive rights, must be firmly rejected. Ten key normative principles are identified which States must satisfy to ensure that all components of the right to housing are subject to effective remedies. The Special Rapporteur outlines how compliance with the obligation to progressively realize the right to housing is adjudicated; how forced evictions and criminalization must be prevented through access to justice and participation in decision-making; how national human rights institutions and informal justice systems should complement the role of courts; and how private actors are required to ensure access to justice for the realization of the right to housing.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.



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I. Introduction: the housing crisis as a crisis in access to justice

1. An estimated 1.8 billion people lack adequate housing. Twenty-five per cent of the world's urban population live in informal settlements. Homelessness and forced evictions are on the rise in virtually every country. In the United States of America, over 2 million households are evicted from their homes every year – 4 per minute.¹ These numbers reflect the global crisis in access to adequate housing, but they also reveal a global crisis in access to justice for the right to housing. When the capacity exists to eliminate widespread homelessness and inadequate housing, the only explanation for their persistence at current levels is that States and other actors have failed to recognize housing as a human right. The denial of access to justice is the embodiment of that failure. The right to access to justice is “fundamental to the very notion of human rights”.² To be a rights holder, and for housing to be treated as a fundamental human right, one must be able to claim rights, to give voice and context to the deprivation of dignity and rights experienced.

2. Violations of the right to housing are as much failures in the administration of justice as they are failures of housing programmes. If those living in inadequate housing and in homelessness have no access to justice, they are deprived of agency to bring violations to light, to address root causes or ensure appropriate responses. They are unable to challenge the policy choices and decisions that created the conditions in which they live.

3. Housing is the aspect of peoples' lives that is most likely to engage the need for access to justice. Yet access to justice for the right to housing is commonly ignored. In a survey of 45 countries by the World Justice Project, the most common issues identified by respondents in which access to justice was needed were overwhelmingly related to housing.³ When the same project assesses States' performance in providing access to justice for fundamental human rights, however, the right to housing is not among the human rights considered.⁴ In the 2030 Agenda for Sustainable Development, the targets and indicators for access to justice under Goal 16 do not consider any aspect of access to justice for the right to housing. The Guiding Principles on Business and Human Rights have been applied to the responsibilities of businesses to ensure access to effective remedies, but residential housing – the world's largest business – has been almost entirely ignored.

4. Ensuring access to justice for the right to housing must therefore challenge dominant notions of what access to justice entails. The inquiry must begin by asking what kind of justice is needed for the right to housing to be vindicated. The procedural and practical barriers facing potential rights claimants seeking access to courts and tribunals must be addressed, and so too must substantive barriers stemming from inadequate protection of the right to housing afforded by existing laws and by the prevailing interpretation and application of those laws within courts. Courts and tribunals are more often experienced by those who are living in informal settlements or homelessness as places where evictions are ordered or criminalizing sanctions imposed, rather than as venues where the right to housing can be claimed.

5. There have, however, been historic advances in access to justice for the right to housing in recent years that provide the foundations for a new and transformative approach. At the international level, the right to housing has been the subject of precedent-setting adjudication by the Committee on Economic, Social and Cultural Rights. At the national level, the right to housing has been at the centre of emerging socioeconomic rights jurisprudence. And at the local level, advocacy for meaningful accountability for the right

¹ See <https://evictionlab.org/national-estimates/>. These estimates represent only rental evictions ordered by courts and mortgage foreclosures.

² A/HRC/25/31, para. 2; see also A/63/275 paras. 48–67.

³ World Justice Project, *Global Insights on Access to Justice: Findings from the World Justice Project General Population Poll in 45 Countries* (Washington, D.C., 2018). The dominance of housing issues is clear if issues of housing title and access to water and sanitation are combined in the responses.

⁴ See <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2017%E2%80%932018/factors-rule-law/fundamental-rights-factor>.

to housing has become a central focus of social movements and city declarations of human rights.⁵

6. The Special Rapporteur has found that in all countries, the right to housing is understood by rights holders essentially as it is defined under international human rights law: “the right to live somewhere in security, peace and dignity”.⁶ The question that follows, and is invariably put to the Special Rapporteur, is: “Where do we go to claim our right to housing?” The first and most important step to realizing the right to housing is for States to answer that question, to ensure that the right to housing is afforded fair hearings and effective remedies, “by all appropriate means”, through courts, tribunals, rights-based strategies, human rights institutions, and community-based and informal justice systems.⁷

II. Access to justice for the right to housing: the normative framework

A. The right to housing made whole

7. Article 8 of the Universal Declaration of Human Rights affirms that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him [or her] by the constitution or by law. This applies to all rights in the Universal Declaration without distinction, including the right to housing under article 25.

8. The division of the rights in the Universal Declaration of Human Rights into two separate covenants and the provision of an optional complaints procedure only for civil and political rights when the two covenants were first adopted led to debates and confusion regarding the obligation to ensure access to justice and effective remedies for economic, social and cultural rights. This differential treatment of the two categories of rights translated into restrictions on access to justice for the right to housing. Usually, only those components of the right to housing that conform with a civil and political rights model of protection from State interference, such as freedom from cruel and inhuman treatment or from interference with privacy and home, were provided with access to justice.

9. As the Secretary-General noted in a 2013 report, the initial confusion regarding access to justice for economic, social and cultural rights has “since been largely overcome”. In the last two decades, “the United Nations human rights system has consistently recognized the right to an effective remedy for violations of economic, social and cultural rights”.⁸ These advances, with significant support from civil society, culminated in the adoption by the General Assembly, by resolution 63/117, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, heralded as “human rights made whole” by the United Nations High Commissioner for Human Rights and putting an end to the differential treatment of the two categories of rights.⁹

10. These historic advances at the international level grew out of national- and regional-level struggles for the right to housing, led by human rights defenders. Behind the famous case names are women such as Olga Tellis in India, Irene Grootboom in South Africa and Felisa Alicia Saavedra in Argentina and street children such as Villagran Milagra in

⁵ See information on the new global movement The Shift, available at www.unhousingrapp.org/the-shift.

⁶ Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para. 7.

⁷ The Special Rapporteur thanks States, national human rights institutes and civil society organizations for their submissions for the present report. They are available at www.ohchr.org/EN/Issues/Housing/Pages/AccessToJustice.aspx. The Special Rapporteur also thanks Bruce Porter for his assistance in preparing the report.

⁸ A/HRC/25/31, para. 2.

⁹ Louise Arbour, “Human rights made whole”, Project Syndicate, 26 June 2008.

Guatemala, whose experiences brought to light the inherent connection between the right to housing and central human rights values linked to the right to a dignified life.¹⁰

11. A growing number of States included the right to housing as a justiciable right in their constitutions, and in jurisdictions that did not recognize the right to housing explicitly courts began to provide effective remedies for the right to housing by recognizing its indivisibility with the right to life.¹¹ Ensuring access to justice for the right to housing is less a question of the specific constitutional protections in place and more a question of whether courts and Governments are willing to recognize that the right to housing is central to the core human rights values that courts must safeguard and to which Governments must be held accountable.

B. Key principles of access to justice for the right to housing

12. The central question, “Where do I go to claim my right to housing?”, must be answered in the context of a State’s particular legal order. States are permitted to determine how best, but not whether, to ensure access to justice for various components of the right to housing. International human rights law imposes a number of overarching obligations on Governments and courts with respect to access to justice for the right to housing, based on the following 10 key principles.

Principle 1 – Access to justice must be ensured by all appropriate means and address the needs of diverse groups.

13. States must ensure access to justice for the right to housing by all appropriate means, including legislation, to the maximum of available resources, and without discrimination.¹² Access to justice for the right to housing must be conceived inclusively, addressing the diverse circumstances of different groups. It relies on a wide range of approaches, venues and institutions, including rights-based housing strategies, courts, landlord-tenant tribunals, human rights institutions and informal and customary justice systems.

Principle 2 – States must implement the right to housing within the domestic legal system so as to provide at least the same level of protection as is afforded under international human rights law.

14. Access to justice must be ensured for all components and dimensions of the right to housing that are guaranteed under international human rights law, ensuring accountability for the State’s obligations to respect, protect and fulfil the right to housing. Access to justice must be provided not only for a right to physical shelter, but to a safe and secure home in which to live in security, peace and dignity. Effective remedies must be available to ensure legal security of tenure, affordability, habitability, availability of services, accessibility, location and cultural adequacy.¹³

Principle 3 – Individuals and groups, households and communities must have standing to advance claims and to participate throughout legal processes and the implementation of remedies.

15. Violations of the right to housing may affect both individuals and groups. Entire communities are often affected by development plans or evictions. Access to justice must therefore extend to both individuals and groups. Support should be available for them to participate in all stages of rights claims and in the implementation of remedies. Groups with

¹⁰ Supreme Court of India, *Olga Tellis and Others v. Bombay Municipal Council*, Judgment of 10 July 1985; Constitutional Court of South Africa, *Government of the Republic of South Africa and Others v. Grootboom and Others*, Judgment of 4 October 2000; and Supreme Court of the City of Buenos Aires, *Comisión Municipal de la Vivienda v. Saavedra, Felisa Alicia y otros*, Judgment of 7 October 2002.

¹¹ See A/71/310.

¹² Committee on Economic, Social and Cultural Rights, *Ben Djazia and Bellili v. Spain* (E/C.12/61/D/5/2015) para. 13.4.

¹³ General comment No. 4, para. 8.

interest and expertise in systemic issues being addressed should be provided with amicus or public interest standing in hearings and be permitted to participate in the implementation of remedies.

Principle 4 – Denying access to justice cannot be justified on the basis that the right to housing is not considered justiciable within the State’s domestic legal order.

16. Denying access to justice for the right to housing places the State in non-compliance with its obligations to ensure effective remedies for all fundamental human rights. This cannot be justified on the basis that the right to housing or any of its components is not considered justiciable within the domestic legal order, as this would be contrary to article 27 of the Vienna Convention on the Law of Treaties.¹⁴ Domestic courts must therefore reject any submissions that a claim to the right to housing should not be heard by courts if no alternative independent body is available to hear the claim. Governments should desist from making these arguments before courts or international human rights bodies.

Principle 5 – Access to justice must apply to both negative and positive State obligations, including obligations to progressively realize the right to housing.

17. There must be access to justice for positive rights claims engaging resource allocation, such as for rental assistance or “housing first” programmes, as well as negative rights claims challenging State action resulting in deprivation of the right to housing, such as forced eviction or home demolition. Any distinction between the two categories of rights with respect to access to justice “is incompatible with the principle that the two sets of human rights are indivisible and interdependent”. Moreover, it would “drastically curtail the capacity of the courts to protect the rights of the most vulnerable and disadvantaged groups in society”.¹⁵

Principle 6 – States may delegate components of access to justice for the right to housing to administrative bodies, but judicial remedies must be available when needed.

18. The right to an effective remedy does not always require a judicial remedy. Administrative and other forms of remedies that ensure compliance with the right to housing may be adequate as long as they are “accessible, affordable, timely and effective”.¹⁶ Many States rely on administrative tribunals for remedies for protections of tenants’ rights, health and safety or land title. Alternative forms of remedy, however, should generally be reinforced and complemented by judicial remedies. Whenever the right to housing “cannot be made fully effective without some role for the judiciary, judicial remedies are necessary”.¹⁷

Principle 7 – Courts must interpret and apply domestic law in accordance with the State’s obligations to respect, protect and fulfil the right to housing.

19. The role played by courts and administrative decision makers is one of the most important factors determining State compliance with the right to housing. Courts are not simply neutral arbiters of rights claims; they are also the guardians of rights.¹⁸ Jointly with other branches of Government, they are bound by the State’s obligations to respect, protect and fulfil the right to housing.¹⁹ The judiciary must, therefore, exercise its authority to interpret and apply domestic law in a manner that promotes the realization of the right to housing and ensures effective remedies for this right.²⁰ “Neglect by the courts of this

¹⁴ “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”

¹⁵ Committee on Economic, Social and Cultural Rights, general comment No. 9 (1998) on the domestic application of the Covenant, para. 10.

¹⁶ Ibid., para. 9.

¹⁷ Ibid.

¹⁸ See Human Rights Council resolutions 29/6 and 31/2.

¹⁹ Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 4.

²⁰ General comment No. 9, para. 15.

responsibility is incompatible with the principle of the rule of law, which must always be taken to include respect for international human rights obligations.”²¹ When courts approve evictions without ensuring alternative accommodation or fail to provide remedies for violations of the right to life caused by homelessness, they violate international human rights and the rule of law and, in so doing, place the State in non-compliance with its international human rights obligations.

Principle 8 – States must promote decision-making that is consistent with the right to housing.

20. Governments and courts must ensure that all exercises of statutory authority, administrative decisions and policies accord with a State’s obligations to ensure the right to housing. In litigation, Governments should promote and adopt interpretations of domestic law that are consistent with the obligation to ensure effective remedies, including when defending against alleged violations.²² Decision makers with discretionary authority should exercise that authority consistently with the right to housing, for example by dismissing an eviction application which may result in homelessness or an application for zoning approval for a development which fails to further the realization of the right to housing.

Principle 9 – Remedies must address both individual and systemic violations.

21. Individual remedies should include, where appropriate, compensation and reparation for any violation of the right to housing, including the right to return to a home after an illegal eviction. Remedies must also address the structural causes and policies that gave rise to the violation and ensure non-repetition. Where appropriate, Governments should be required to adopt or amend legislation, allocate necessary resources or regulate private actors in the housing market to address structural causes of violations of the right to housing.

Principle 10 – Remedies must be implemented by Governments and enforced by courts with participation by rights holders.

22. Remedies ordered by courts with respect to the right to housing, whether to prevent threatened evictions or to implement effective housing strategies to address systemic violations, are too often ignored by Governments. It is fundamental to the rule of law that Governments respect the decisions of courts and human rights bodies by implementing required remedies. Where Governments or others require time to implement structural remedies, such as developing programmes to address the housing needs of particular groups, remedies should provide for independent supervision by the court or another authority, enforceable timelines, monitoring and reporting, and provision for participation and consultation with those affected.

III. Access to justice for the progressive realization of the right to housing

A. The standard of reasonableness

23. The majority of violations of the right to housing derive from the failure of States to progressively realize the right to housing by adopting appropriate measures to address the unacceptable circumstances in which people are living. Whether it is a failure to implement participatory upgrading plans in informal settlements or to implement plans to reduce and eliminate homelessness within a reasonable time, States’ failures to take positive measures to ensure the realization of the right to housing must be addressed as human rights violations affecting individuals and communities. Those affected must have access to justice to hold States accountable to the obligations described in article 2 (1) of the

²¹ Ibid., para. 14.

²² E/C.12/CAN/CO/4-E/C.12/CAN/CO/5, paras. 11 (b) and 36.

International Covenant on Economic, Social and Cultural Rights: to take steps “to the maximum of its available resources, with a view to achieving progressively the full realization of the [right to housing] by all appropriate means, including particularly the adoption of legislative measures”.

24. The adoption of the Optional Protocol resolved two critical issues that were debated during the drafting process. The adopted text established that claims submitted by individuals who have been affected by States’ failures to progressively realize Covenant rights are justiciable.²³ And it also established that while there may be a range of policies or approaches through which States may comply with article 2 (1), the means chosen must comply with a standard of “reasonableness”.²⁴

25. The Committee on Economic, Social and Cultural Rights has identified a number of factors to consider in assessing reasonableness. Measures must be deliberate, concrete and targeted towards the fulfilment of the right; implemented within a reasonable time frame; allocate resources in accordance with international human rights standards; address the precarious situation of disadvantaged and marginalized individuals or groups; and ensure that decision-making is transparent and participatory.²⁵

26. The assessment of reasonableness relies on hearing from rights holders. It is a contextual analysis that takes as its starting point the dignity interests brought to light through access to justice. The text of article 8 (4) of the Optional Protocol drew directly from the decision of the Constitutional Court of South Africa in the *Grootboom* case, in which the reasonableness of housing policies was assessed in the context of the circumstances of Irene Grootboom and others living with their children under plastic sheets on a sports field, without water or sanitation. The Court emphasized that progressive realization is not simply about statistical progress. Adequate housing is recognized as a fundamental human right “because we value human beings ... [E]veryone must be treated with care and concern. If the measures, though statistically successful, fail to respond to the needs of those most desperate, they may not pass the test.”²⁶

27. The standard for access to justice for the right to housing under international law, therefore, requires an assessment of measures taken to realize the right to housing, in the context of both the capacity of the State and of lived realities brought forward through the claiming of rights. It is a standard that accords flexibility as to the precise policy measures chosen but is firmly grounded in the obligation to fully realize the right to housing in the shortest possible time. Sandra Liebenberg explains that applying the reasonableness standard does not mean simply deferring to Government to make policy choices, but rather provides a critical space for rights claimants to participate in designing and implementing strategies and programmes.²⁷

28. Access to justice must also be ensured when States reduce the enjoyment of the right to housing through retrogressive measures.²⁸ Courts and other adjudicative bodies must require the State to prove that any such measures are fully justified on the basis of very strict criteria, and taking into account the maximum available resources and any alternatives available. Measures must be necessary and proportionate, remain in place only insofar as they are necessary, not result in discrimination and ensure that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected, and that the

²³ Catarina de Albuquerque and Malcolm Langford, “The origins of the Optional Protocol” in *The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights: A Commentary*, Malcom Langford and others, eds. (Cape Town, Pretoria University Law Press, 2016).

²⁴ Article 8 (4) of the Optional Protocol.

²⁵ General comment No. 3 (1990) on the nature of States parties’ obligations, para. 2.

²⁶ *Government of the Republic of South Africa and Others v. Grootboom and Others*, para. 44.

²⁷ Sandra Liebenberg, “Participatory justice in social rights adjudication”, *Human Rights Law Review*, vol. 18, Issue 4 (December 2018), pp. 623–649.

²⁸ See Aoife Nolan, Nicholas J. Lusiani and Christian Courtis, “Two steps forward, no steps back? Evolving criteria on the prohibition of retrogression in economic and social rights”, in *Economic and Social Rights After the Global Financial Crisis*, Aoife Nolan, ed. (Cambridge University Press, 2014), pp. 128–129.

affected groups have been afforded genuine participation. All legal protections of the right to housing, and access to justice to ensure compliance, must remain in place.²⁹

29. The critical link between individual claims and progressive realization of the right to housing has been elucidated in the jurisprudence of the Committee on Economic, Social and Cultural Rights under the Optional Protocol. In the case of *Ben Djazia and Bellili v. Spain*, the Committee assessed measures taken by the State party in light of the circumstances of a family who became homeless after an eviction. The reasonableness standard was formulated as requiring the State to make “all possible effort, using all available resources, to realize, as a matter of urgency, the right to housing of persons who, like the authors, are in a situation of dire need”.³⁰ This necessitated attention to both individual circumstances and structural factors.³¹ As remedy, the State party was required to engage in genuine consultation with the family to ensure that they were afforded adequate accommodation and to develop a comprehensive plan with the necessary resources, indicators, time frames and evaluation criteria for the progressive realization of the right to housing for low-income persons.³²

B. Application in domestic law

30. The right to housing should be implemented in domestic law so as to include obligations of progressive realization. The 2010 Constitution of Kenya provides a helpful model, requiring the State to take “legislative, policy and other measures” for progressive realization of the right to housing, and setting out principles for the assessment of whether resource allocation and policy choices are in line with article 8 (4) of the Optional Protocol.³³

31. In many Latin American countries, the *amparo* procedure can provide remedies for the right to housing, including for violations linked to progressive realization.³⁴ For example, in a case brought by a woman and her son living in homelessness, a court in Argentina required the Government to implement a plan to eliminate homelessness, with a timetable for the implementation, the participation of those affected and the allocation of the maximum available resource.³⁵

32. Indian courts have recognized that a constitutional obligation of progressive realization of the right to housing may be inferred from the guarantee of the right to life.³⁶ This interpretive approach is consistent with the Human Rights Committee’s recently adopted general comment on the right to life, which recognized that the right to life requires “appropriate measures” to address “general conditions in society [such as] homelessness” in order to ensure the conditions necessary for a dignified life.³⁷

²⁹ E/C.12/2016/1, para. 4.

³⁰ E/C.12/61/D/5/2015, para. 17.5.

³¹ *Ibid.*, para. 17.2.

³² *Ibid.*, para. 21 (d).

³³ Constitution of Kenya, art. 21 (2); see, however, Court of Appeal, *Kenya Airports Authority v. Mitu-Bell Welfare Society and others*, civil appeal No. 218, Judgment of 11 April 2013, in which the Court invokes the “political questions” doctrine to limit the protection of the right to alternative housing for an evicted community.

³⁴ Supreme Court of Argentina, *Q.C., S.Y. c. Gobierno de la Ciudad de Buenos Aires*, petition for *amparo*, Judgment of 24 April 2012; Constitutional Court of Ecuador, case No. 1207-10-EP, Judgment of 17 April 2012; and Colombian Constitutional Court, decision No. T-025/04, 17 June 2004.

³⁵ Cámara de Apelaciones en lo Contencioso Administrativo y Tributario de la Ciudad Autónoma de Buenos Aires, *Ramallo, Beatriz y otros c. Gobierno de la Ciudad de Buenos Aires*, Judgment of 12 March 2002.

³⁶ Supreme Court of India, *People’s Union for Civil Liberties v. Union of India and Others*, No. 196 of 2001, Judgment of 30 November 2001; and Bombay High Court, *Shivaji Krishna Zunjare v. State of Maharashtra and Others*, Judgment of 23 July 2004, para. 6.

³⁷ General comment No. 36 (2018) on the right to life, para. 26.

33. The Revised European Social Charter has provided an important context for advancing claims related to the progressive realization of the right to housing. Article 31 of the Revised Charter requires States to undertake positive measures to promote access to adequate housing in order to prevent and reduce homelessness and to ensure affordable housing for low-income households. In *FEANTSA v. France* the European Committee on Social Rights clarified the obligation on States to “take steps within a reasonable time, with measurable progress and making maximum use of available resources”.³⁸ More recent cases have addressed the right to housing of the Traveller and Roma communities, families and unaccompanied children.³⁹

34. Despite the emerging regional and domestic jurisprudence, the extent to which claimants are securing access to justice for the progressive realization of the right to housing remains extremely limited. Ensuring access to justice in this context is an immediate and urgent obligation. All States must adopt housing strategies that include claiming mechanisms for accountability to the obligations of eliminating homelessness and realizing the right to adequate housing for all in the shortest possible time.⁴⁰ As noted in the Special Rapporteur’s previous report, these legal obligations should be aligned with the commitments made in the 2030 Agenda for Sustainable Development to ensure adequate housing for all by 2030.⁴¹

IV. Access to justice in the context of evictions and displacement

A. Affirming the rule of law and halting forced evictions

35. The definition of forced evictions under international human rights law centres on the denial of access to justice, and access to justice is critical for their prevention. Forced evictions are defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the home and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”.⁴² This definition also applies to any removal of homeless people from where they are living. Forced evictions constitute a gross violation of international human rights and must be strictly prohibited in domestic law, properly enforced by courts. Court orders must be fully respected and implemented by State authorities.⁴³

36. Access to justice must ensure that eviction is only carried out as a last resort, in accordance with all legal requirements and with prior genuine consultation with those affected, that all viable alternatives to the eviction are explored, and that no one will be rendered homeless as a result of the eviction. Courts must require all appropriate measures to be taken to ensure, where possible, that adequate alternative land and housing are available.⁴⁴ Victims of forced evictions must receive fair and just compensation for any losses, both personal and real, including the loss of other property or goods.⁴⁵ Where

³⁸ European Committee on Social Rights, *European Federation of National Organisations Working with the Homeless (FEANTSA) v. France* (complaint No. 39/2006), Merits, decision of 5 December 2007, para. 58.

³⁹ European Committee on Social Rights, *European Roma and Travelers v. Czech Republic* (complaint No. 104/2014), Merits, decision of 17 May 2016; *International Federation for Human Rights (FIDH) v. Ireland* (complaint No. 110/2014), Merits, decision of 12 May 2017; and *European Committee for Home Based Priority Action for the Child and the Family v. France* (complaint No. 114/2015), Merits, decision of 24 January 2018.

⁴⁰ See general comment No. 4. See also OL CAN 2/2018, available from the communications database of special procedures (www.ohchr.org/en/hrbodies/sp/pages/communicationsreportssp.aspx).

⁴¹ See A/HRC/37/53.

⁴² Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on forced evictions, para. 4.

⁴³ Commission on Human Rights resolutions 1993/77 and 2004/28.

⁴⁴ See general comment No. 7; and E/C.12/61/D/5/2015, paras. 13.4 and 15.1–15.2.

⁴⁵ General comment No. 7, para. 13.

possible, they must be granted a right of return with any destroyed housing reconstructed or replaced with adequate housing.⁴⁶

37. Forced evictions and violations of these clear legal standards are rampant worldwide. Usually there is no access to courts. At other times, courts order evictions in violation of international human rights law and in some circumstances, authorities act in blatant defiance of court injunctions. The Housing and Land Rights Network documented the demolition of over 53,000 homes in forced evictions in 2017 in India. Court orders were responsible for 17 per cent of them.⁴⁷ In recent communications the Special Rapporteur has been informed that tens of thousands of migrants on the outskirts of Beijing⁴⁸ and 26,000 households in Italy⁴⁹ were evicted in 2017 with no provision of alternative housing. Recent changes to legislation in Hungary require the forced eviction of homeless people from where they are residing, with mandatory incarceration after two warnings.⁵⁰ Some 30,000 residents of the Otodo Gbame community were forcibly evicted from their ancestral fishing settlement in Nigeria and their homes demolished in violation of a court injunction.⁵¹ In Kenya, authorities similarly ignored a court order and forcibly evicted the Sengwer indigenous people from the Embobut, burning 1,800 homes to the ground.⁵²

B. Reconceiving justice in the context of evictions, displacement and relocation

38. Access to justice in the context of displacement cannot be restricted to responding to threatened evictions or to seeking remedies after irreparable damage has been done to peoples' lives and communities. Applications to evict communities are usually symptoms of States' failures to meaningfully engage with communities to develop alternatives that respect their rights and that can be implemented cooperatively, without the use of force. Access to justice must be reconceived both in legislation and in practice to ensure rights-compliant decision-making from the earliest stages of any relocation or development plan. Engagement must go beyond mere consultation and ensure rights-based negotiation, with recourse to courts where necessary to ensure human rights compliance.⁵³ A facilitator from a human rights institution or ombudsperson's office may be appointed to oversee this process.

39. Human rights impact assessments must be conducted prior to the approval of any development plan.⁵⁴ These assessments must provide for hearings and meaningful engagement through which residents can affirm and secure their right to housing. Commitments made by international financial institutions and development banks to integrating human rights in development should similarly require rights-based engagement with affected communities and ensure access to justice through complaints procedures.⁵⁵

40. Access to justice must also be provided to address the underlying causes of displacement and evictions. Where increased numbers of households are unable to afford rent or mortgage payments, courts should require Governments to provide financial assistance and to adopt other measures to allow people to remain in their homes. Effective

⁴⁶ A/73/310/Rev.1, para. 34. See also A/HRC/4/18, annex I; and High Court of Kenya at Embu, *Ibrahim Sangor Osman v. Minister of State for Provincial Administration and Internal Security*, Judgment of 16 November 2011.

⁴⁷ Housing and Land Rights Network, *Forced Evictions in India in 2017: An Alarming National Crisis*, fact sheet, February 2018.

⁴⁸ JAL CHN 8/2018.

⁴⁹ JAL ITA 3/2018.

⁵⁰ See www.ohchr.org/Documents/Issues/Housing/AmicusConstitutionalCourtHungary_1.pdf.

⁵¹ UA NGA 4/2016.

⁵² See submission by Amnesty International for the present report, pp. 6–7.

⁵³ Lucy Williams, "The right to housing in South Africa: an evolving jurisprudence", *Columbia Human Rights Law Review*, vol. 45, No. 3 (Spring 2014), pp. 827–834.

⁵⁴ See A/HRC/4/18, annex I, paras. 28–36.

⁵⁵ C. Daniel and others, eds., *Glass Half Full? The State of Accountability in Development Finance* (Amsterdam, Centre for Research on Multinational Corporations, 2016).

mechanisms must also be in place to ensure hearings of challenges to development plans that would result in displacement of lower-income communities.

V. Access to justice to end criminalization and discrimination based on housing status

41. Laws and their interpretation and application by courts frequently perpetuate systemic discrimination and stigmatization against those who are homeless or living in informal settlements.⁵⁶ Rather than being treated as rights holders entitled to remedies for serious violations of the right to housing, these groups are treated as violators of laws and “encroachers” on the land.

42. In keeping with international human rights law, access to justice must be reconceived to focus on protecting and ensuring the right to housing for those who are homeless and inadequately housed and must not be used to criminalize them. The Human Rights Council has called upon States to take all measures necessary to eliminate legislation that criminalizes homelessness and to ensure an effective remedy and the right to access to justice.⁵⁷ United Nations treaty bodies have established that discrimination on the grounds of socioeconomic status, including homelessness, is a prohibited ground under international human rights law and must be recognized within domestic justice systems.⁵⁸ The Committee on the Elimination of Racial Discrimination has recognized the criminalization of homelessness as intersectional discrimination, linked to systemic racism and colonization of indigenous peoples.⁵⁹

43. The Human Rights Committee has found that the criminalization of homelessness may violate the right to freedom from cruel, inhuman or degrading treatment, the right to liberty and security of the person and protection from arbitrary arrest or detention.⁶⁰ Domestic courts have reached similar findings. Courts in the United States have invoked constitutional protection from cruel and unusual punishment to strike down local ordinances that ban sleeping in public spaces and prohibited vehicles serving as homes from being towed away for parking infractions.⁶¹ Canadian courts have struck down city bylaws preventing homeless people from sheltering themselves overnight in parks under makeshift homes of tarps or cardboard boxes as violating the right to life, liberty and security of the person.⁶²

44. Ensuring access to justice to challenge forced eviction and criminalization in these cases is important, but it is alarming that courts have not gone further to recognize the need for positive measures for access to adequate housing. Ensuring only a right to live in a cardboard box or under plastic in the most affluent countries in the world does not remotely satisfy the standard of reasonable measures required under international human rights law. Courts must interpret the rights relied upon in these cases – to life, security of the person and equality or freedom from cruel and inhuman treatment – consistently with States’ obligations to take positive measures to address homelessness itself as an egregious violation of human rights.⁶³ Initiatives like the Homeless Bill of Rights in Europe and the Housing Not Handcuffs movement in the United States advocate strongly against

⁵⁶ See A/HRC/31/54 and A/73/310/Rev.1.

⁵⁷ Resolution 31/9. See also A/HRC/13/20.

⁵⁸ Human Rights Committee, *Whelan v. Ireland* (CCPR/C/119/D/2425/2014); and general comment No. 36, para. 26.

⁵⁹ See, for example, CERD/C/USA/CO/7-9.

⁶⁰ CCPR/C/USA/CO/4.

⁶¹ United States Court of Appeals for the Ninth Circuit, *Martin and others v. City of Boise*, Opinion of 4 September 2018; and Superior Court of Washington for King County, *Seattle v. Steven Gregory Long*, ruling of 2 March 2018.

⁶² Supreme Court of British Columbia, *Abbotsford (City) v. Shantz*, Judgment of 21 October 2015.

⁶³ For an analysis of cases in the United States in this light, see Eric Tars and others, “Can I get some remedy? Criminalization of homelessness and the obligation to provide an effective remedy”, *Columbia Human Rights Law Review*, vol. 45, Issue 3, pp. 738–771.

criminalization while properly emphasizing that “the most important right a homeless person has is to exit homelessness”.⁶⁴

VI. Ensuring equality in access to justice

45. Victims of violations of the right to adequate housing are among the most marginalized groups in society. They face a range of barriers to accessing justice, including challenges related to literacy, education, poverty, discrimination, access to legal representation and ability to navigate complex legal and administrative systems.⁶⁵ Where legal aid is available, it is often unavailable for housing cases and rarely available to advance substantive claims to the right to housing. Lengthy delays in cases being heard and decided means that access to justice may be too late to be effective for those in the most dire circumstances. Linguistic, cultural and religious barriers are particularly acute for indigenous peoples, ethnic minorities and migrants.⁶⁶ States must take all reasonable measures to overcome these barriers and ensure the widest possible enjoyment of access to justice for the right to housing. Mobile courts can provide access to justice in remote areas and legal assistance should be provided through community outreach, combined with community legal education about the right to housing and how to claim it. The right of access to justice for the right to housing requires distinctive approaches for different groups.

46. **Access to justice for indigenous peoples** must be implemented in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.⁶⁷ The Declaration affirms that indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to housing and other programmes through their own institutions where possible. No relocation or development affecting indigenous communities may occur without their free, prior and informed consent.⁶⁸ States must establish, in conjunction with indigenous peoples, “a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources” (art. 27). The Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization similarly guarantees free and informed consultations, and due regard to indigenous custom where compatible with international human rights. Thus, indigenous peoples have the right to the adjudication of their claims to the right to land and housing in a manner which respects their own laws and traditions.

47. Indigenous justice systems should be fully supported by States so that they may develop distinctive approaches to ensuring the right to housing. Particular efforts are required to ensure that the rights of urban indigenous peoples living outside of traditional territories, often in homelessness or inadequate housing, are equally protected. A number of States have incorporated these international norms into domestic law, either through legislation or through judicial interpretations.⁶⁹ Article 57 of the Constitution of Ecuador is exemplary in this regard, though its implementation has been lacking.

48. Some indigenous claims to the right to land and housing that have been denied within national systems have been addressed within regional systems. Considering the eviction of the Ogiek community from ancestral lands in the Mau Forest of Kenya, the African Court on Human and Peoples’ Rights drew on the United Nations Declaration to recognize the obligations of the State to take positive measures to support the rights of

⁶⁴ See www.housingrightswatch.org/sites/default/files/Template%20Homeless%20Bill%20of%20Rights%20EN_0.pdf; see also <http://housingnohandcuffs.org>.

⁶⁵ A/67/278, paras. 5–6; see also submission by Défenseur des droits, France, for the present report.

⁶⁶ Julinda Beqiraj and Lawrence McNamara, *International Access to Justice: Barriers and Solutions* (International Bar Association, 2014).

⁶⁷ For an elaboration of access to justice for indigenous peoples based on the Declaration, see A/HRC/27/65.

⁶⁸ Articles 10, 11, 19, 28 and 32.

⁶⁹ Inter-American Court of Human Rights, *Kichwa Indigenous People of Sarayaku v. Ecuador*, Judgment of 27 June 2012, para. 164.

indigenous peoples to development and culture and to remain on their traditional territories.⁷⁰ The Inter-American Court of Human Rights has affirmed that the distinctive relationship with land, property and housing among indigenous peoples must be incorporated into the interpretation and application of the right to property under the American Convention on Human Rights and has developed extensive jurisprudence on the rights of indigenous peoples.⁷¹ In the recent case of *Kaliña and Lokono Peoples v. Suriname*, the Court found that the laws of Suriname failed to provide legal remedies for the protection of the collective land rights of indigenous peoples, depriving the Kaliña and Lokono peoples of land and access to a river that was essential to both their cultural life and their survival.⁷² The Court ordered the adoption of legislative and other measures to recognize the rights of all indigenous and tribal peoples subject to State jurisdiction.

49. **Women** experience multiple systemic barriers to access to justice. As noted by the Committee on the Elimination of Discrimination against Women, obstacles include “gender stereotyping, discriminatory laws, intersecting or compounded discrimination, procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women”.⁷³ Access to justice for the right to housing for women – as described in thematic reports of previous mandate holders – means women must be able to challenge systemic discrimination with respect to land, housing and property⁷⁴ in a range of areas, including inheritance, marriage, divorce, succession and title registration.

50. Where access to justice in housing and land relies on customary laws and traditional practices, women must have recourse to formal justice systems to challenge systemic discrimination.⁷⁵ On the other hand, when customary ownership and tenure arrangements are replaced by formal title, property rights, financing and new tenure arrangements, women also face systemic discrimination within formal justice systems. Women are often denied equal access to title, rental agreements or credit to finance housing.⁷⁶ Concerted efforts are required to provide spaces and support for women to make substantive equality claims in all areas related to housing and through which women-led transformative remedies can be designed and implemented. Support should be provided for legal empowerment strategies and community-based human rights education for women.⁷⁷

51. **Access to justice for persons with disabilities** requires States to take positive measures in accordance with article 13 of the Convention on the Rights of Persons with Disabilities to ensure effective participation in all stages of legal processes. Justice systems must recognize both the barriers faced in developing and taking forward disability-related claims and the distinctive nature of the right to housing claims advanced. Adjudication of such claims must operate within the “disability human rights paradigm” affirmed in the Convention and described in the Special Rapporteur’s report on the right to housing of

⁷⁰ African Court on Human and Peoples’ Rights, *African Commission on Human and Peoples’ Rights v. Republic of Kenya* (application No. 006/2012), Judgment of 26 May 2017, para. 126.

⁷¹ For a summary, see Inter-American Court of Human Rights, *Kaliña and Lokono Peoples v. Suriname*, Judgment of 25 November 2015, paras. 129–132.

⁷² *Ibid.*, paras. 152–160.

⁷³ General Recommendation No. 33 (2015) on women’s access to justice, para. 3; see also Committee on Economic, Social and Cultural Rights, general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, paras. 21 and 38.

⁷⁴ See E/CN.4/2006/118 and A/HRC/19/53.

⁷⁵ See International Network for Economic, Social and Cultural Rights Women and ESCR Working Group, “Mapping study on women’s rights related to land, housing and natural resources”, July 2016.

⁷⁶ Ben Cousins and Espen Sjaastad, “Formalisation of land rights in the South: an overview” in *Land Use Policy*, vol. 26, No. 1 (January 2009).

⁷⁷ United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and others, *A Practitioners’ Toolkit on Women’s Access to Justice Programming: Introduction* (United Nations, 2018). See, for example, the mobile courts initiative in the Democratic Republic of the Congo, available at <http://www.southernafricalitigationcentre.org/wp-content/uploads/2017/08/Case-Study-DRC-Mobile-Gender-Courts.pdf>; and the women’s initiative in Bangladesh, available at www.angoc.org/wp-content/uploads/2016/01/Women-issue-brief1.pdf.

persons with disabilities, focused on dignity, substantive equality, accessibility and participation and ensuring the right to live independently in the community.⁷⁸

52. **Children's access to justice** for the right to housing must be founded on the principle of the best interests of the child and require the legal empowerment of children through access to information and support, provided in an age-appropriate manner, and ensure effective means to claim their rights.⁷⁹ Special measures must be taken to provide access to justice for children in street situations. According to the Committee on the Rights of the Child, this includes, "access to individual complaints mechanisms, by children themselves and/or represented by adults, and to judicial and non-judicial redress mechanisms at the local and national levels, including independent human rights institutions".⁸⁰

53. **Access to justice for racial and ethnic minorities** must address the intersection of systemic racism and violations of the right to housing. The International Convention on the Elimination of All Forms of Racial Discrimination prohibits discrimination in housing based on race, colour, or national or ethnic origin and ensures equality in the enjoyment of the right to housing. Discrimination and evictions facing Roma communities in Europe and the disproportionate number of African Americans among the homeless in the United States are examples of grossly unequal enjoyment of the right to housing that require enhanced access to justice for structural remedies. Remedies must include positive measures to address systemic inequality in housing conditions as well as preventing racial discrimination in access to land, mortgages, rental housing and services. Discrimination on the grounds of race and ethnicity intersecting with other grounds, including socioeconomic status and gender, must be recognized.

54. **Access to justice for migrants** must ensure effective remedies for widespread systemic discrimination in access to shelters and public and private housing.⁸¹ Migrants must be empowered to challenge laws that exclude them from accessing social housing or that forbid private landlords from renting to them. Where migrants themselves are not in a position to advance claims on their own behalf, claims should be heard from representative organizations. Migrants must have access to legal assistance without requiring disclosure of their immigration status to public authorities and, where necessary, access to complaints procedures that preserve anonymity. Violations of the right to housing of migrants cannot be justified as measures to discourage irregular migration.

VII. Access to justice beyond courts

A. National human rights institutions

55. National human rights institutions have a clear responsibility and a critical role to play in promoting and ensuring access to justice for the right to housing. To qualify as such under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), human rights commissions, ombudspersons or public defenders are required to identify and address areas of State non-compliance with obligations to ensure access to justice for violations of all human rights. They should therefore examine legislative and administrative provisions relating to the right to housing to ensure compliance with the normative framework for access to justice as described above. While many national human rights institutions have failed to devote equal resources to economic, social and cultural rights, and to the right to housing in particular,

⁷⁸ A/72/128, paras. 1–7 and 17–19.

⁷⁹ A/HRC/25/35.

⁸⁰ General comment No. 21 (2017) on children in street situations, para. 22.

⁸¹ Committee on the Elimination of Racial Discrimination, General Recommendation No. 30 (2004) on discrimination against non-citizens.

most have authority to address human rights in housing and are well positioned to play a critical role in this regard.⁸²

56. National human rights institutions should monitor the progressive realization of the right to housing, hold hearings to ensure that the circumstances of marginalized groups are fully addressed and recommend appropriate remedial actions or policy responses by Governments or private actors.⁸³ In their engagement with the Sustainable Development Goals, they should ensure access to justice and accountability for progressive realization, including goals and timelines consistent with target 11.1 to ensure access to safe, secure and affordable housing for all by 2030.

57. National human rights institutions should provide public legal education and assistance to rights claimants to access justice for the right to housing through all available mechanisms. They may assist rights holders to bring cases to courts or tribunals by initiating claims jointly with rights holders, by participating as third parties or amicus, by providing necessary evidence on systemic issues or by supervising the implementation of remedies. The Defensoría del Pueblo in Colombia has conducted site visits in order to hear directly from communities, forwarded information about systemic violations of the right to housing to municipal or national authorities and followed up with strategic litigation on the right to housing when necessary.⁸⁴ The Scottish Human Rights Commission is playing a leading role in developing models for ensuring effective remedies for the right to housing and other socioeconomic rights.⁸⁵

B. Business and human rights and the right to a remedy

58. With widespread deregulation and privatization of housing and unprecedented investment by private equity firms, pension funds and other financial actors in housing markets, ensuring access to justice to hold private actors accountable to the right to housing is more important than ever. This is an obligation of States, not something that can be left up to private actors to implement on a voluntary basis. Whatever role is accorded private actors and investors in the housing system, States cannot contract out of their obligations to provide access to justice for the right to housing. They must adopt “legislative, administrative, educational and other appropriate measures” requiring that the actions of private actors be consistent with, and do not undermine, the realization of the right to housing.⁸⁶

59. States must ensure access to effective remedies not simply when private actors create “harms” or “human rights abuses” as they are traditionally understood, but also to ensure the progressive realization of the right to housing “by all appropriate means”. Access to justice must be available not only when corporations have actively deprived people of the right to housing through evictions, land grabbing or other “abuses”, but also when their actions undermine the realization of the right to housing, such as when private equity and asset management firms purchase affordable housing to replace it with luxury developments. Whether local, national or transnational, businesses involved in developing, renting, selling, managing or investing in housing, as well as those providing credit for housing, must be held accountable through access to justice for those affected by their actions.

⁸² Committee on Economic, Social and Cultural Rights, general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights; see also submissions for the present report by Azerbaijan, Colombia, France, Georgia, Germany, Guatemala, Nicaragua, the South African Human Rights Commission, the Ombudsman Institution of Turkey and Housing and Land Rights Network.

⁸³ See submission by the South African Human Rights Commission for the present report, p. 8.

⁸⁴ See submission by the Defensoría del Pueblo of Colombia for the present report.

⁸⁵ Katie Boyle, *Models of Incorporation and Justiciability for Economic, Social and Cultural Rights* (Edinburgh, Scottish Human Rights Commission, 2018).

⁸⁶ Committee on Economic, Social and Cultural Rights, general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, para. 14.

60. A wide range of options are available to States to ensure such accountability. In some constitutions, the right to housing applies directly to private actors, allowing access to effective remedies where actions of landlords, banks and financial actors undermine this right.⁸⁷ In others, where constitutional obligations are restricted to Governments, constitutional litigation may require Governments to impose necessary regulations. Privatization should also be subject to judicial review when it is contrary to the progressive realization of the right to housing.⁸⁸

61. The barriers facing claimants seeking to hold corporate actors accountable, however, are often insurmountable. Complex corporate structures and veils are prevalent among investors in housing and are difficult to pierce. There is no “equality of arms” between low-income communities and massive private equity firms. The Special Rapporteur has heard directly from tenants in multiple countries dealing with the same transnational private equity firms acting as remote landlords. All have common complaints but nowhere to go for hearings.

62. Where private investors have been provided with development assistance, access to justice may be provided by way of complaints procedures through the relevant international financial institutions. The Compliance Advisor/Ombudsman for private sector lending through the World Bank has investigated several complaints related to housing, including when an investor failed to consider the rights of current residents in a development project.⁸⁹ By and large, however, international financial institutions have failed to implement meaningful accountability or access to justice for the right to housing.⁹⁰

63. Under the “third pillar” of the United Nations Guiding Principles on Business and Human Rights – the responsibility to ensure access to effective remedies – it is proposed that effective remedies be put in place for human rights violations through a combination of judicial and non-judicial mechanisms, all of which must comply with standards of independence, fairness, transparency and legitimacy.⁹¹ Stakeholders should be able to raise concerns related to accountability to human rights and “remediation of adverse human rights impacts”. Mechanisms must be developed collaboratively and must be trusted by stakeholder groups and must be procedurally fair, provide adequate assistance to enable full participation, and include clear time frames and monitoring of remedies. They must ensure access to information, independent advice and expertise, and facilitate engagement and dialogue. Most importantly, they must ensure that outcomes and remedies accord with the right to housing and other internationally recognized human rights.

64. If such mechanisms are properly focused on ensuring compliance with the right to housing, they may play an important role in ensuring access to justice in the context of private housing development and management. However, it is important that human rights obligations of States not be confused with corporate responsibility: it is the obligation of States to regulate private actors and to ensure access to justice when the actions of private actors result in a violation of the right to housing. Compliance with the right to housing cannot rely on voluntary commitments or mediated settlements. Where necessary, States should impose obligations on private actors to facilitate access to justice. Just as housing developers may be required to adopt measures to protect the environment or to accommodate disability, they may also be required, through legislation, to provide for independent adjudication of human rights complaints, legal assistance for residents, and independent monitoring and oversight of implementation of remedies.

⁸⁷ See Aoife Nolan, “Holding non-state actors to account for constitutional economic and social rights violations: experiences and lessons from South Africa and Ireland”, *International Journal of Constitutional Law*, vol. 12, Issue 1 (January 2014), pp. 61–93.

⁸⁸ See https://www.eldiario.es/madrid/Ana-Botella-Gobierno-condenados-millones-venta-vivienda-fondos-buitre_0_851114898.html.

⁸⁹ See Compliance Advisor Ombudsman, *Belarus/Strominvest II-01/Minsk*, case filed on 24 March 2016; see also *South Africa/Lonmin-02/Marikana*, case filed on 16 June 2015; and *Guinea/Nedbank-01/Kintinian*, case filed on 27 April 2017.

⁹⁰ A/73/310/Rev.1, paras. 101–102.

⁹¹ Principles 25–31.

C. Informal and customary justice

65. As housing issues are usually resolved outside of courts, often at the local level, it is important to ensure that informal and customary justice systems also provide access to justice for the right to housing. Such systems may include customary or religious courts, local or administrative authorities, community-based paralegals, tenants' unions or collaborative dispute resolution procedures. Compared to formal courts, informal justice systems can be culturally and socially less threatening, more timely and more cost-effective, and they can enjoy greater social legitimacy and trust among rights claimants. They can also be more participatory, with stakeholder representation on adjudicative bodies, and can integrate rights-empowerment strategies and human rights education at the local level. They often have distinctive competencies to address local housing issues such as informal tenancies and land use. When properly guided by human rights norms, with particular attention to gender equality, informal justice systems are capable of "delivering accessible justice to individuals and communities where the formal justice system does not have the capacity or geographical reach".⁹²

66. In many states in the Global South, customary tenure covers the vast majority of land transactions. In such circumstances, States should integrate informal processes through which housing issues are resolved at the community level with formal justice systems that are capable of ensuring compliance with international or constitutional human rights law. This combined approach is likely to achieve better results in terms of human rights.

67. The Special Rapporteur, during her missions, has experienced first-hand the benefits of informal justice systems for the right to housing. In the Republic of Korea, for example, the municipal government of Seoul has established a committee against human rights violations to enable communities and individuals to raise human rights complaints before a diverse panel of experts that includes city officials, human rights lawyers, people with lived experience and social workers. The committee investigates and makes recommendations on human rights violations at the city level. It works in tandem with a city ombudsperson who, once a violation has been established, can make an official complaint and trigger formal proceedings.⁹³

68. In Spain, a country with a staggering number of evictions each month due to mortgage and rental arrears, a grass-roots movement called Plataforma de Afectados por la Hipoteca (PAH) works with tenants to delay evictions and ensure access to alternative housing. Since 2013, the organization has stopped at least 4,065 evictions; almost all of the residents have been rehoused.⁹⁴

VIII. Conclusion and the way forward

69. **Access to justice for the right to housing is inseparable from the right itself. All States, therefore, must have an answer to the question so often put to the Special Rapporteur: "Where can I go to claim the right to housing?"**

70. **States cannot hold themselves up as leaders in human rights while leaving increasing numbers of residents to live and die on their streets, with no means to hold their Governments accountable and with no access to effective remedies. The time for excuses, justifications and looking the other way when access to justice is denied for the right to housing has long passed. Rights must have remedies, and Governments must be held accountable to rights holders.**

71. **Rampant evictions of those living in informal settlements, disregard of court orders and the rule of law and criminalization of those who are homeless suggest one**

⁹² *Informal Justice Systems: Charting a Course for Human-Rights Based Engagement* (New York, United Nations Development Programme, United Nations Children's Fund and UN-Women), p. 11.

⁹³ Introduction to the human rights governance handbook issued by the municipality of Seoul, given to the Special Rapporteur during her visit.

⁹⁴ See <https://afectadosporlahipoteca.com/asesoria-y-recursos/asesoria-colectiva/>.

thing: those whose right to housing has been violated have not been recognized and treated as equal members of the human family. As long as States deny access to justice for the right to housing, they perpetuate a hierarchy of human rights, exposing the discriminatory position that some rights (and thus some rights holders) matter more than others.

72. Access to justice is not about demanding a State-provided house. It is about recognizing the inherent dignity of, and equal and inalienable rights for, those whose right to housing has been violated. It is about providing a human rights space in which the claim to a right to live in dignity and security is clearly heard, valued and responded to.

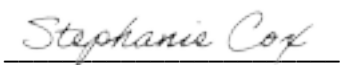
73. There is growing worldwide support for creating spaces where the right to housing can be claimed. Social movements, city mayors, and an increasing number of Governments, human rights institutions and courts are recommitting to the right to housing and to empowering rights holders to claim their rights and hold all levels of government, transnational corporations and other financial actors accountable.

74. Access to justice for the right to housing can be provided in all States. It just takes a commitment to do so. In States that have accorded constitutional recognition of the right to housing, courts must breathe life into these provisions so that all components of the right to housing can be claimed, adjudicated and ensured effective remedies. Where States lack explicit constitutional recognition of the right to housing, access to justice can be achieved through the recognition of its interdependence and indivisibility with the right to life and other rights.

75. A wide range of actors must abandon the marginalization of the right to housing and its claimants from mainstream human rights practice. National human rights institutions, judicial councils, legal communities and international human rights organizations should be at the forefront of collaborative initiatives to ensure access to justice for the right to housing. It is, however, ultimately the State's responsibility to provide all necessary supports and institutional mechanisms in this regard.

76. Achieving access to justice for the right to housing remains a work in progress. It is built from the ground up. It begins with individuals, groups and communities recognizing their circumstances as a violation of the right to housing and articulating a human rights claim. Claimants must be supported by their communities, legal advocates, human rights organizations and others to advance the claim. They must be provided a space in which the claim can be heard and adjudicated. And finally, they must be assured of effective remedies, fully implemented.

THIS IS EXHIBIT "F" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

A handwritten signature in cursive script, reading "Stephanie Cox", is written over a horizontal line.

STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc



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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

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

Summary

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, Leilani Farha, submits the present report pursuant to Human Rights Council resolutions 15/8 and 34/9. The report contains Guidelines for the Implementation of the Right to Adequate Housing, focusing on the key requirements of effective rights-based responses to emerging challenges.

The current global crisis in housing is unlike any previous crisis. It is linked to growing socioeconomic inequality, large-scale financialization of housing and land and unsustainable housing systems that treat housing as a commodity. In the Special Rapporteur's experience, States are not always aware of how human rights obligations apply in the context of housing and, more importantly, of how those obligations can be translated into concrete actions to address the crisis.

The Guidelines provide States with a set of implementation measures in key areas of concern, including homelessness and the unaffordability of housing, migration, evictions, climate change, the upgrading of informal settlements, inequality and the regulation of businesses. All of the implementation measures are informed by the urgent need to reclaim housing as a fundamental human right. Implementation of the Guidelines will substantially alter how States treat housing, creating a new landscape where housing can be secured as a human right for all.



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I. Introduction

1. This is the final 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, Leilani Farha. Based on her experiences during her mandate and responding to global housing conditions, the Special Rapporteur is presenting the Guidelines for the Implementation of the Right to Adequate Housing.¹

2. More than 1.8 billion people worldwide lack adequate housing, and the number of people living in informal settlements has now surpassed 1 billion.² It is estimated that 15 million people are forcibly evicted every year and that approximately 150 million people are homeless.³

3. Private developers and investors are dominating housing systems in an unprecedented fashion, often divorcing housing from its social function by treating it as a commodity for speculation. The land on which informal settlements are located and affordable housing have become prime targets for private equity firms and pension funds looking for undervalued assets in which to park, grow and leverage capital, making housing and land increasingly unaffordable.

4. The present global housing crisis is not like any previous crisis of its kind. It is not caused by a decline in resources or an economic downturn but rather by economic growth, expansion and growing inequality. Housing has become a key driver of growing socioeconomic inequality, increasing wealth for those who own housing and driving those who do not into greater debt and poverty.

5. This situation raises unique challenges for the implementation of the right to housing. Tinkering around the edges of an unsustainable model of economic development will not work. The right to housing must be implemented in a manner that changes the way housing is currently conceived, valued, produced and regulated.

6. There is reason to believe change is possible. Both civil society and governments are increasingly recognizing the housing crisis as a human rights crisis requiring a human rights response. Neighbourhoods and communities around the world are organizing against detrimental development, “touristification” and speculation and are gaining the support of a growing number of local governments in affirming their right to adequate housing.

7. There remains, however, a lack of clarity among many in government and in civil society about what it actually means to implement the right to housing in a comprehensive and effective manner so as to meet these unprecedented challenges.

8. Fortunately, there is a well-established framework in international human rights law from which States and rights holders can draw. The content of the right to adequate housing has been the subject of extensive commentary and jurisprudence within the international human rights system and has been a central focus of human rights advocacy globally.⁴

9. The Guidelines set out below build on the normative standards that have emerged from this jurisprudence, as well as from the recommendations and experiences of the

¹ The Special Rapporteur thanks all the researchers and students who assisted in this and other reports, including Stefania Errico, Sam Freeman and Julieta Perucca. A special thanks is extended to Bruce Porter for his extensive work on the present report and throughout the duration of the mandate. Sincere thanks also go to the staff of the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights (OHCHR), in particular Juana Sotomayor, Gunnar Theissen, Madoka Saji, Jon Izagirre and Natacha Foucard, for their support for the mandate.

² See <https://unstats.un.org/sdgs/report/2019/goal-11>.

³ See <https://fe.witness.org> and <https://yaleglobal.yale.edu/content/cities-grow-so-do-numbers-homeless>.

⁴ See, e.g., the Committee on Economic, Social and Cultural Rights’ general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions. See also the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I), the guiding principles on security of tenure for the urban poor (A/HRC/25/54) and the Views of the Committee in *Ben Djazia and Bellili v. Spain* (E/C.12/61/D/5/2015) and *I.D.G. v. Spain* (E/C.12/55/D/2/2014).

Special Rapporteur. They have been developed in consultation with States and other stakeholders throughout the length of the mandate.⁵ They do not attempt to cover all State obligations related to the right to housing. Rather, they describe the key elements needed for the effective implementation of the right to housing as it has been elaborated under international human rights law.

II. Guidelines for the Implementation of the Right to Adequate Housing

Preamble

10. The present Guidelines focus on the obligations of States as the primary duty bearers under international human rights law. The term “State” refers to all public authorities and all levels and branches of government, from the local to the national, including legislative, judicial and quasi-judicial bodies. “States’ obligations” are understood to include all aspects of the relationship of States with businesses, financial institutions, investors and other private actors that play important roles in the realization of the right to housing. In the present Guidelines, the “right to housing” refers to “the right to adequate housing” as guaranteed under international human rights law.

11. The present Guidelines shall not be interpreted as limiting, altering or otherwise prejudicing any rights recognized under international human rights or humanitarian law and should, where applicable, be read together with other human rights standards and guidelines related to displacement, evictions, security of tenure, public participation, business and human rights and with the jurisprudence and comments of United Nations human rights treaty-monitoring bodies and special procedures. The Guidelines themselves should be read as interrelated and interdependent.

Guideline No. 1. Guarantee the right to housing as a fundamental human right linked to dignity and the right to life

12. The right to adequate housing has been recognized as a fundamental human right because it is integral to core human rights values such as dignity, equality, inclusion, well-being, security of the person and public participation.

13. Every year, millions of lives are lost and many more damaged by homelessness and inadequate housing. Yet these massive violations of human rights, in particular of the rights to housing and the right to life, as well as other rights, such as the rights to health, physical integrity, privacy and water and sanitation, are rarely addressed as such by Governments, human rights institutions or justice systems.⁶

14. States often misunderstand the right to housing as merely a commitment to housing programmes, a matter of socioeconomic policy insulated from human rights values and imperatives and without meaningful accountability or access to justice.⁷

15. As clarified by the Committee on Economic, Social and Cultural Rights, the right to adequate housing should not be interpreted narrowly, as a right to mere physical shelter or to housing conceived as a commodity. Rather, the right to housing must be understood in relation to the inherent dignity of the human person.

⁵ In addition, consultations on an earlier draft of the guidelines were held in Geneva, Kampala and Durban with representatives of States, civil society and local governments. Written comments received are available from www.ohchr.org/EN/Issues/Housing/Pages/GuidelinesImplementation.aspx.

⁶ A/71/310, para. 31.

⁷ A/69/274, para.18, and A/71/310, para. 5.

16. Implementation measures:

(a) States, including their judiciaries, must ensure that the right to adequate housing is recognized and enforceable as a fundamental human right through applicable constitutional and legislative provisions or through interpretations of interdependent rights such as the right to life. It should be integrated into policy and programme design and included in the training of lawyers and judges;⁸

(b) The right to housing should be defined as the right to live in a home in peace, security and dignity, and include security of tenure, availability of services, affordability, habitability, accessibility, appropriate location and cultural adequacy;⁹

(c) Courts should adopt interpretations of domestic law that are consistent with the right to housing when exercising judicial review and Governments should promote such interpretations, including in pleadings in court cases;¹⁰

(d) The right to housing must be recognized and affirmed as indivisible and interdependent with other rights, including the rights to life, security of the person and equality, and these rights should be interpreted to the greatest extent possible in such a way as to facilitate the full protection of the right to housing.¹¹

Guideline No. 2. Take immediate steps to ensure the progressive realization of the right to adequate housing in compliance with the standard of reasonableness

17. Although violations of the right to housing, such as forced evictions, are often caused by State action, many of the most egregious violations derive from failures of States to take positive measures to address the unacceptable housing conditions in which so many people are compelled to live.

18. States have an obligation to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the right to adequate housing, by all appropriate means, including particularly the adoption of legislative measures.¹² The Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights clarifies that compliance with that obligation should be assessed based on the reasonableness of the steps taken.¹³

19. Implementation measures:

(a) States must recognize the progressive realization of the right to housing as a legal obligation under domestic law, employing the reasonableness standard developed by the Committee on Economic, Social and Cultural Rights, which means that States have an obligation to fulfil the right to housing for all as swiftly and efficiently as possible;¹⁴

(b) Measures taken must be deliberate, concrete and targeted towards the fulfilment of the right to housing within a reasonable time frame. States must allocate sufficient resources and prioritize the needs of disadvantaged and marginalized individuals or groups living in precarious housing conditions and ensure transparent and participatory decision-making;¹⁵

⁸ A/71/310, para. 73.

⁹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 8.

¹⁰ Ibid., general comment No. 9 (1998) on the domestic application of the Covenant, paras. 14–15; E/C.12/1993/5, paras. 21–24.

¹¹ Committee on Economic, Social and Cultural Rights, general comment No. 9, para. 15.

¹² International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

¹³ Optional Protocol to the Covenant, art. 8.4. See also *Ben Djazia and Bellili v. Spain*, para. 15.1.

¹⁴ *Ben Djazia and Bellili v. Spain*, para. 15.3.

¹⁵ Committee on Economic, Social and Cultural Rights, general comments No. 3 (1990) on the nature of States parties' obligations and No. 4. See also the Committee's statement on an evaluation of the obligation to take steps to the "maximum of available resources" under an optional protocol to the Covenant (E/C.12/2007/1, para. 3) and *Ben Djazia and Bellili v. Spain*, paras. 15.3 and 21 (c).

(c) Measures taken must be reasonable and proportionate in relation to the interests at stake and the circumstances of rights holders;¹⁶

(d) States must be able to demonstrate that they have utilized the maximum of available resources and all appropriate means to uphold the rights of the person or group concerned;

(e) States must ensure that all relevant authorities and decision makers, including the courts, are familiar with the reasonableness standard and are able to apply it to hold public institutions accountable to the right to housing.

Guideline No. 3. Ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions

20. The right to meaningful and effective participation is a core element of the right to housing and critical to dignity, the exercise of agency, autonomy and self-determination.

21. Those in need of housing or related social benefits should be treated as rights holders and as experts in what is required for a dignified life, not recipients of charity. They are entitled to participate actively, freely and meaningfully in the design and implementation of programmes and policies affecting them.¹⁷

22. Housing programmes, however, tend to be developed and implemented through inefficient top-down decision-making that reinforces patterns of social exclusion and creates housing that is ill-suited to peoples' needs, commonly in remote locations and often left abandoned.

23. Rights-based participation supported by all levels of government transforms residents into active citizens and engaged community members, making housing programmes more affordable and effective and creating vibrant, more sustainable communities.

24. Implementation measures:

(a) The right to free and meaningful participation in housing policies must be guaranteed in law and include the provision of necessary institutional and other supports;

(b) Affected individuals must be able to influence the outcome of decision-making processes based on knowledge of their rights and have access to relevant information and sufficient time to consult; socioeconomic, linguistic, literacy and other barriers to participation must be addressed;¹⁸

(c) Participation in the design, construction and administration of housing should reflect the diversity of communities and ensure that the needs of all residents are represented. Equal participation must be ensured for women, informal and homeless residents, persons with disabilities and other groups experiencing discrimination or marginalization;¹⁹

(d) Indigenous peoples have the right to be actively involved in developing and determining housing programmes that affect them. States must consult with indigenous peoples to obtain their free, prior and informed consent before adopting or implementing administrative and legislative measures that may affect them.²⁰

¹⁶ See *Ben Djazia and Bellili v. Spain*, paras. 15.3 and 15.5.

¹⁷ Ibid. See also the Committee on the Rights of the Child's general comment No. 21 (2017) on children in street situations.

¹⁸ Committee on Economic, Social and Cultural Rights' general comment No. 4, para. 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 39).

¹⁹ Committee on Economic, Social and Cultural Rights, general comment No. 21 (2009) on the right of everyone to take part in cultural life, in particular paras. 16 ff.

²⁰ Declaration on the Rights of Indigenous Peoples, in particular arts. 10, 19 and 23.

Guideline No. 4. Implement comprehensive strategies for the realization of the right to housing

25. The major structural issues giving rise to homelessness, informality and other systemic violations of the right to housing are multidimensional, involving many different areas of policy and programmes and requiring comprehensive plans to effect meaningful change over time.

26. The Committee on Economic, Social and Cultural Rights has emphasized that the obligation to progressively realize the right to housing will almost invariably require the adoption of a national housing strategy.²¹ Strategies should be developed in consultation with affected groups, include clearly defined goals, identify the resources to be allocated and clarify responsibilities and a time frame for implementation.²²

27. Most States have not implemented effective strategies to realize the right to housing. Where timelines and goals for outcomes have been identified, often there has been insufficient commitment to meeting them and no meaningful accountability.

28. Implementation measures:

(a) Housing strategies must identify the State's obligations to be realized progressively, based on clear goals and timelines for achieving specific outcomes and the right to adequate housing for all in the shortest possible time;

(b) Strategies should provide coherence and coordination in all relevant policy areas, particularly urban planning, land regulation, taxation and finance, social benefits and services;

(c) States should establish specific strategies to address obstacles to the right to housing such as discrimination, financialization, speculation, predatory lending, land-grabbing, conflict, forced evictions, environmental degradation and vulnerability to disasters. Strategies adopted should be responsive to persistent and emerging challenges in urban and rural areas, such as spatial injustice and climate change;

(d) States should provide for independent monitoring of progress in meeting goals and timelines, establish procedures through which affected communities can identify systemic issues affecting the realization of the right to housing and ensure effective responses.²³

Guideline No. 5. Eliminate homelessness in the shortest possible time and stop the criminalization of persons living in homelessness

29. Homelessness is experienced in a number of ways: living on streets or sidewalks, or in makeshift encampments in rural or urban areas, doubling or tripling up with others, or living in overcrowded improvised shelter, unprotected from the elements or without access to water, sanitation or electricity.

30. 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.²⁴

31. Homeless persons and persons living in informal housing are frequently subject to criminalization, harassment and discriminatory treatment because of their housing status. They are denied access to sanitation facilities, rounded up and driven from communities and subjected to extreme forms of violence.

²¹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 12.

²² *Ibid.*

²³ See also A/HRC/37/53.

²⁴ A/HRC/31/54, para. 4.

32. The Committee on Economic, Social and Cultural Rights and the Human Rights Committee have recognized distinctions based on socioeconomic status, including homelessness, as a form of discrimination that must be prohibited in domestic law.²⁵ States have an immediate obligation to respond urgently to the needs of persons who are currently homeless as well as to implement plans to prevent and eliminate systemic homelessness as swiftly as possible.

33. Implementation measures:

(a) States should provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health.²⁶ States should take special measures to protect the rights of children in street situations;²⁷

(b) Individuals and families should be provided access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. “Housing first” approaches that centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community;

(c) States should prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living;

(d) States should provide, within their justice system, alternative procedures for dealing with minor offences of homeless people to help them break the cycle of criminalization, incarceration and homelessness and secure the right to housing. Police should be trained to interact with homeless persons in a manner that respects and promotes their dignity and rights.

Guideline No. 6. Prohibit forced evictions and prevent evictions whenever possible

34. Forced evictions are defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection that are compliant with international human rights law.²⁸ Forced evictions have long been recognized as a gross violation of human rights.

35. In order for any eviction to comply with international human rights law, a number of criteria must be met, including meaningful engagement with those affected, exploration of all viable alternatives, relocation to adequate housing agreed upon by the affected households so that no one is rendered homeless, access to justice to ensure procedural fairness, and compliance with all human rights. Where these criteria are not met, evictions are deemed to have been forced and to constitute a violation of the right to housing.

36. Forced evictions are widespread and devastating in their consequences. They are frequently carried out to make way for large-scale development projects, natural resource extraction and agribusiness projects, to clear informal settlements or homeless

²⁵ Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 35, and Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 61.

²⁶ A/HRC/31/54. For indigenous peoples’ experience of homelessness, see A/74/183.

²⁷ See in particular the Committee on the Rights of the Child’s general comment No. 21.

²⁸ Committee on Economic, Social and Cultural Rights, general comment No. 7, para. 3.

encampments, to replace existing lower-cost housing with luxury housing or commercial developments or ostensibly for public order, safety and city beautification. In some contexts, they involve brutal violence, including gender-based violence and deaths. Evictions have also become a more frequent response to rent or mortgage arrears in the context of rising housing costs, and in many cases national law governing such evictions is not compliant with international human rights.

37. States must prohibit forced evictions and ensure that any evictions under domestic law are fully compliant with international law. Meaningful engagement with communities should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without the need for eviction procedures or police enforcement.²⁹

38. Implementation measures:

(a) Forced evictions as defined under international human rights law must be prohibited in all circumstances, regardless of ownership or tenure status of those affected. Victims of forced evictions must receive adequate compensation, reparation and access to housing or productive land as appropriate;³⁰

(b) National laws governing evictions must be compliant with human rights norms, including the principle of respect for human dignity and the general principles of reasonableness, proportionality and due process, and should equally apply to those living in homeless encampments. Access to justice must be ensured throughout the process and not just when eviction is imminent. All feasible alternatives to eviction must be explored, in consultation with affected persons. If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by the community, adequate alternative housing of similar size, quality and cost must be provided in close proximity to the original place of residence and source of livelihood.³¹ Evictions must not render people homeless.³² Access to justice must be ensured throughout the process and not just when eviction is imminent;

(c) In instances of mortgage foreclosure or rent arrears, evictions should only occur as a last resort and after a full exploration of alternative means to resolve outstanding debt, such as through emergency housing benefits, debt rescheduling or, if required, relocation to more affordable housing units meeting adequacy standards;

(d) States should implement programmes to prevent evictions through measures such as rent stabilization and controls, rental assistance, land reform and other initiatives to promote land and tenure security in urban and rural settings. Preventive measures should also be adopted to eliminate the underlying causes of eviction and displacement, such as speculation in land, real estate and housing. No relocation of indigenous peoples is permitted without their free, prior and informed consent.³³

Guideline No. 7. Upgrade informal settlements incorporating a human rights-based approach

39. Nearly one quarter of the world's urban population live in informal settlements, which means they are often denied basic services and compelled to live in disaster-prone areas and on the worst lands, often subject to forced eviction.³⁴ Grossly inadequate housing in informal settlements is one of the most pervasive violations of the human right to

²⁹ A/HRC/40/61, para. 38.

³⁰ See the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, paras. 23–27) and the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, arts. 17 and 24.

³¹ Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 60).

³² Committee on Economic, Social and Cultural Rights, general comment No. 7, paras. 10 and 13.

³³ United Nations Declaration on the Rights of Indigenous Peoples, art. 10.

³⁴ See also A/73/310/Rev.1.

housing worldwide.³⁵ At the same time, informal settlements are significant accomplishments by residents who have created vibrant, self-sufficient communities in the most adverse circumstances.

40. Residents of informal settlements often face discrimination and stigmatization, and are frequently treated as violators of laws and “encroachers” rather than being recognized as rights holders who require support to improve their housing status.³⁶ Upgrading schemes too often result in the relocation of residents to alternative housing that is inadequate, distant from their original homes, isolated from employment opportunities or community life and without access to adequate transportation.

41. Under the 2030 Agenda for Sustainable Development, States have committed themselves to ensuring access for all to adequate, safe and affordable housing and to upgrading informal settlements (target 11.1 of the Sustainable Development Goals).³⁷ To meet this goal, States should engage with residents of informal settlements to build on their capacities, improve conditions and keep communities intact.

42. Implementation measures:

(a) Efforts to upgrade housing should be community-led, inclusive, enabling and provide for rights-based participation and accountability in terms of design and implementation. Upgrading efforts should ensure that residents have continued access to their livelihoods and support the economic development of the community, integrating residents’ skills and labour whenever possible.³⁸ Measures must be in place to ensure that upgraded housing remains affordable;

(b) States should uphold the right to remain in situ whenever possible and desired by residents. Relocation should only occur if agreed to by residents and after all other options have been explored through meaningful consultation with and the participation of residents;³⁹

(c) Governments should be held accountable, through human rights institutions and courts, for upgrading informal settlements in conformity with international human rights standards. Upgrading plans should also be reviewed and overseen by an independent authority able to receive complaints and hold hearings and information sessions within the community. Residents must be able to challenge any decision, to present alternative proposals and to articulate their demands and development priorities;⁴⁰

(d) In order to provide alternatives to informal settlements, serviced land should be set aside for the social production of housing with legal security of tenure. If the State is unable to provide built housing or if the residents prefer, building materials and technical support should be made available for self-construction.

Guideline No. 8. Address discrimination and ensure equality

43. Discrimination, exclusion and inequality are at the heart of almost all violations of the right to housing. Housing systems have intensified social, economic, political and spatial inequalities.

44. Refugees, asylum seekers, migrants, especially those who are undocumented, internally displaced persons, stateless persons, persons with disabilities, children and youth, indigenous peoples, women, lesbian, gay, bisexual, transgender and intersex persons, older persons and members of racial, ethnic and religious minorities are disproportionately represented among those living in homelessness, in informal accommodation and

³⁵ Ibid., para. 12.

³⁶ Ibid., para. 44, and A/HRC/40/61, para. 41.

³⁷ See also the New Urban Agenda.

³⁸ A/73/310/Rev.1, paras. 72 ff. See also *Ben Djazia and Bellili v. Spain*, para. 15.1.

³⁹ Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 38).

⁴⁰ Ibid., paras. 37–38.

inadequate housing, and are often relegated to the most marginal and unsafe areas.⁴¹ These groups often experience intersectional discrimination as a result of their housing status.⁴²

45. Discriminatory exclusion from housing greatly exacerbates and reinforces socioeconomic inequality for members of these groups, depriving them of access to employment or productive land and forcing them to pay higher costs for services. In many States, the ability to buy and own housing or land has become the dominant factor in perpetuating inequality.

46. While many States have adopted equality or non-discrimination legislation that applies to housing, generally the laws have yet to be applied effectively to address entrenched systemic discrimination in housing or to require significant reform in housing and land policies that exacerbate inequality.

47. The Committee on Economic, Social and Cultural Rights has emphasized that guarantees of equality and non-discrimination should be interpreted, to the greatest extent possible, in ways that facilitate the full protection of the right to adequate housing.⁴³

48. Implementation measures:

(a) States must prohibit all forms of discrimination in housing by public or private actors and guarantee not only formal but also substantive equality, which requires taking positive measures to address housing disadvantages and ensure equal enjoyment of the right to housing;⁴⁴

(b) The right to equality requires that housing and related social programmes be non-discriminatory in their effect. It also requires that such programmes be adequate to alleviate the effects of discrimination against marginalized groups and address their unique circumstances.⁴⁵ Courts, tribunals and human rights bodies should provide both individual and programmatic remedies to discrimination, including measures to address the structural causes of inequality in housing;

(c) The right to equality in housing should be rigorously applied to eliminate any adverse effect on disadvantaged groups. Development or redevelopment plans should include housing for disadvantaged groups and provide for the right of return if relocation is required and for meaningful engagement throughout the process;

(d) States should incorporate into their laws, policies and administrative practices distinctive standards and approaches to equality that have been developed by and for particular groups. For example:

(i) States must ensure children's right to adequate housing, inter alia by applying the principle of the best interests of the child and, where appropriate, including children in relevant decision-making. Where a lack of housing threatens the ability of parents to remain with their children, appropriate housing and related support must be provided to avoid family separation.⁴⁶ Particular attention should also be given to young adults exiting child welfare institutions to ensure they have access to affordable and adequate housing and to prevent homelessness;

(ii) States must ensure the right to housing of indigenous peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. This means guaranteeing the right of indigenous peoples to be actively involved in developing and determining housing and other social and economic programmes and, as far as possible, to administer such programmes through their own

⁴¹ A/70/270, para. 38.

⁴² A/69/274, para. 46.

⁴³ E/C.12/2019/1, para. 9.

⁴⁴ Committee on Economic, Social and Cultural Rights, general comment No. 20, para. 37.

⁴⁵ Committee on the Elimination of Racial Discrimination, general recommendations No. 27 and No. 34.

⁴⁶ See, e.g., Convention on the Rights of the Child, art. 27, and Committee on the Rights of the Child, general comment No. 21.

institutions.⁴⁷ States must also fully comply with relevant domestic treaties and agreements concluded with indigenous peoples;⁴⁸

(iii) States must recognize that the right to adequate housing has a particular meaning for persons with disabilities and that the Convention on the Rights of Persons with Disabilities imposes distinct obligations on them, such as the rights to reasonable accommodation, living independently and being included in the community. The disproportionate number of persons with disabilities living in homelessness constitutes a violation of the substantive right to equality and must be addressed as such;

(iv) States must recognize that housing systems are often based on and reinforce racial segregation and inequality. As guaranteed in the International Convention on the Elimination of All Forms of Racial Discrimination, the right to equality should be interpreted substantively to include the equal enjoyment of the right to adequate housing without discrimination on grounds of race, colour or national or ethnic origin and requires positive measures to address ongoing legacies of colonization, apartheid, occupation and racism;⁴⁹

(v) States must recognize lesbian, gay, bisexual, transgender and intersex persons as belonging to groups that often suffer stigmatization, discrimination and criminalization with respect to housing and experience widespread homelessness. They must be included in legal protections from discrimination in housing and protected from being forcibly evicted from their homes.

Guideline No. 9. Ensure gender equality in housing and land

49. As a result of discrimination and inequality in housing, many women and girls live in insecure, undignified and unsafe conditions, at increased risk of homelessness and violence.⁵⁰ Women often lack security of tenure and equal rights to land and property as a result of inheritance laws, customs and traditions that discriminate directly or indirectly against them. Their access to housing, land and property, including through access to credit, is frequently dependent on a relationship with a male family member and is often jeopardized upon the dissolution of their marriage or the death of their spouse.

50. Inadequate housing has particularly adverse impacts for women and girls. For example, harassment, physical attacks, rape and even death are not uncommon when women and girls have to walk to fetch safe drinking water or access sanitation facilities. Lack of access to latrines and to privacy affects women and girls adversely, particularly during menstruation. Evictions too have a disproportionate impact on women, who are often on the front lines defending their homes and dealing with the aftermath of eviction.

51. Domestic violence is one of the leading causes of women's homelessness. It is often the case that the woman experiencing violence, rather than the male perpetrator, must leave the home. Because women avoid living on the streets, particularly if they are caring for children, they are more likely to be found among the "hidden homeless" and denied the benefit of programmes directed at persons in more visible forms of homelessness. The lack of alternative housing options for women experiencing violence in the home places their security and lives at risk.⁵¹

52. The right to housing must be recognized as a central component of women's right to substantive equality, which requires that laws, policies and practices be altered so that they

⁴⁷ United Nations Declaration on the Rights of Indigenous Peoples, art. 23. See also A/74/183.

⁴⁸ United Nations Declaration on the Rights of Indigenous Peoples, art. 37.

⁴⁹ Art. 5 (e) (iii).

⁵⁰ A/HRC/19/53, para. 3. See also OHCHR, *Women and the Right to Adequate Housing* (New York, 2012), A/74/183, paras. 45–47, A/HRC/31/54, paras. 34 ff. and A/73/310/Rev.1, paras. 83 ff.

⁵¹ OHCHR, *Women and the Right to Adequate Housing*, p. 76. See also A/71/310, para. 24, and A/HRC/35/30, para. 73.

do not maintain, but rather alleviate, the systemic disadvantages that women experience.⁵² Women must be empowered to articulate and claim the right to housing in a manner that addresses their experience of housing disadvantage in all of its dimensions.

53. Implementation measures:

(a) The independent right of women to security of tenure, irrespective of their family or relationship status, should be recognized in national housing laws, policies and programmes.⁵³ In that regard, States should amend or repeal, as appropriate, provisions in family, inheritance and other relevant laws that restrict women's access to housing and land title. Customary law provisions that discriminate against women and contravene international human rights norms should not be recognized or applied;⁵⁴

(b) Women should be guaranteed equal access to credit, mortgages, home ownership and rental housing, including through subsidies, to ensure that their lower incomes do not exclude them from housing.⁵⁵ Women's economic activities, which often take place in the home, must be supported and protected, particularly during upgrading efforts or relocation;

(c) In situations of household violence, legislation should ensure that, regardless of whether a woman has title, formal ownership or tenancy rights, she is able to remain in her own home where appropriate and have the perpetrator removed.⁵⁶ States should provide immediate access to emergency shelters and prompt access to front-line crisis services. Long-term housing programmes, including those for the allocation of permanent public or social housing, should prioritize women and families escaping violence;⁵⁷

(d) Women should have a guaranteed right to participate in all aspects of housing-related policymaking, including housing design and construction, community development and planning, and transportation and infrastructure. This applies as well to women living in informal housing or in camps.

Guideline No. 10. Ensure the right to adequate housing for migrants and internally displaced persons⁵⁸

54. In recent years migrants have become particularly vulnerable to violations of the right to housing. Migrants in transit have been compelled to live in very precarious conditions, such as in informal camps, in forests, fields, abandoned houses, train stations or other public spaces, with no sanitary facilities, limited access to safe food and water sources, and often exposed to forced evictions. Once settled, migrants often live in grossly inadequate housing conditions in geographically segregated areas with poor access to

⁵² *S.C. and G.P. v. Italy* (E/C.12/65/D/22/2017), para. 8.2.

⁵³ See the Committee on Economic, Social and Cultural Rights' general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, para. 28, the Convention on the Elimination of All Forms of Discrimination against Women, arts. 2 (f), 15 and 16, the Committee on the Elimination of Discrimination against Women's general recommendations No. 21 (1994) on equality in marriage and family relations, No. 29 (2013) on the economic consequences of marriage, family relations and their dissolution and No. 34 (2016) on the rights of rural women, the Human Rights Committee's general comment No. 28 (2000) on the equality of rights between men and women, para. 19, and A/HRC/19/53, para. 68.

⁵⁴ See the Committee on the Elimination of Discrimination against Women's general recommendations No. 21, paras. 28 and 33, and No. 34, paras. 58 and 77.

⁵⁵ Convention on the Elimination of All Forms of Discrimination against Women, art. 13.

⁵⁶ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, art. 52. See also A/HRC/19/53, para. 36, and A/HRC/35/30.

⁵⁷ Committee on the Elimination of Discrimination against Women, general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, paras. 24 ff. See also A/HRC/35/30.

⁵⁸ The term "migrant" is used here without prejudice to the protection regimes that exist under international law for specific legal categories of non-nationals, including refugees, asylum seekers, stateless persons, trafficked persons and migrant workers.

services and facilities, with no security of tenure, facing discrimination, poverty and economic marginalization.⁵⁹

55. Around the world, camps for refugees and internally displaced persons are often overcrowded and provide inadequate shelter and services. Sometimes they provide no basic services at all. Often, they act as an inappropriate substitute for long-term housing.

56. Migrant workers are often housed by employers in substandard conditions, for example in transport containers or makeshift accommodation devoid of basic facilities.⁶⁰ Domestic workers residing in households have been forced to sleep in kitchens or on bathroom floors, deprived of privacy and vulnerable to abuse and violence.

57. Such conditions are made worse by anti-migrant rhetoric that is increasingly translated into laws and policies. Access to homeless shelters is sometimes restricted to nationals or to documented migrants; in some jurisdictions, it is a criminal offence to rent accommodation to undocumented migrants.

58. Implementation measures:

(a) States must ensure the equal enjoyment of the right to housing without discrimination for all internally displaced persons and all migrants, regardless of documentation, in conformity with international human rights and humanitarian law.⁶¹ States must ensure coordination between migration, internal displacement and housing programmes to ensure the right to adequate housing in all contexts. Reception and other centres for migrants must meet standards of dignity, adequacy and protection of the family and other requirements of international human rights law and international humanitarian law.⁶² Migrant children should never be separated from their parents or guardians, and families that have been separated by displacement should be reunited as quickly as possible;⁶³

(b) Any differential treatment in qualifying for different types of housing based on immigration status must be reasonable and proportional, and not compromise the protection of the right to housing for all people within the State's territory or jurisdiction.⁶⁴ There should be no discrimination on the basis of immigration status in access to emergency shelters and States should ensure that housing providers are neither permitted nor required to convey information to authorities that would discourage undocumented migrants from seeking shelter for themselves and their families. Housing providers, civil society organizations and individuals should not be penalized for assisting migrants to secure shelter or housing.⁶⁵ Access to longer-term housing must be provided, where needed, as soon as possible;

(c) Effective protective mechanisms must be in place for migrants to secure effective remedies for violations of the right to housing and non-discrimination. Specific protective measures and remedies are required for migrant workers living in housing

⁵⁹ E/C.12/2017/1, A/HRC/14/30, paras. 14 ff., and OHCHR, *The Economic, Social and Cultural Rights of Migrants in an Irregular Situation*.

⁶⁰ See, e.g., A/HRC/14/30, para. 49, and A/HRC/40/61/Add.1, para. 81.

⁶¹ See the Committee on Economic, Social and Cultural Rights' general comment No. 20, the Committee on the Elimination of Racial Discrimination's general recommendation No. 30 (2004) on discrimination against non-citizens, para. 32, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 43 (1) (d). See also the Global Compact for Safe, Orderly and Regular Migration, objective 15, and the global compact on refugees (A/73/12 (Part II), paras. 78–79).

⁶² See, e.g., OHCHR and the Global Migration Group, *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations* (Geneva), principle 11.

⁶³ See the Guiding Principles on Internal Displacement, principle 17 ff.

⁶⁴ Committee on the Elimination of Racial Discrimination, general recommendation No. 30, para. 32.

⁶⁵ *Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations*, principle 13, para. 4.

provided by employers suffering grossly inadequate conditions or abuse, allowing them to be relocated to adequate accommodation and to re-employment without prejudice;⁶⁶

(d) Refugees and internally displaced persons who have been unlawfully or arbitrarily deprived of their former homes, lands, properties or places of habitual residence must be ensured a right to return consistent with the principles on housing and property restitution for refugees and displaced persons.⁶⁷

Guideline No. 11. Ensure the capacity and accountability of local and regional governments for the realization of the right to adequate housing

59. Local and regional governments have been assigned crucial responsibilities related to the right to adequate housing in most States. These may include: producing and managing social housing and infrastructure, land-use planning, upgrading informal settlements and regulating investor-driven markets. Local governments can therefore play an essential role in the realization of the right to housing. They are closest to affected communities and better able to ensure participatory decision-making and to develop innovative solutions adapted to local circumstances.

60. However, local and regional governments are often inattentive to or unaware of their obligations with respect to the right to adequate housing under international human rights law. They are often allocated responsibilities without a commensurate allocation of resources, knowledge, capacity and accountability mechanisms for the realization of the right to housing.⁶⁸

61. In fact, forced evictions, discriminatory denials of services to informal settlements, homeless “sweeps” and the loss of affordable housing through speculation and financialization, are frequently perpetrated or facilitated by local governments.

62. The allocation of responsibilities for implementing the right to housing within a State is a matter of internal decision-making but must be consistent with the State’s obligation to realize the right to housing. It must be clear which government can be held accountable, and how, and there must be coordination among national, regional and local authorities for the realization of the right to housing.⁶⁹

63. Implementation measures:

(a) The obligations of local and regional governments to implement the right to housing within clearly delineated areas of responsibilities must be established in legislation.⁷⁰ Housing policies and programmes at all levels of government should be coordinated through national-level leadership and oversight as well as by intergovernmental bodies with an explicit mandate to promote and ensure compliance with the right to housing.⁷¹ Provision should be made for promptly resolving questions of jurisdiction on the basis of the principle that human rights should never be compromised by jurisdictional disputes;

(b) Local and regional governments should implement human rights-based housing strategies, as described in guideline No. 4 above, consistent with those implemented at the national level and establish their own monitoring and accountability

⁶⁶ See the Domestic Workers Recommendation, 2011 (No. 201), para. 7, of the International Labour Organization.

⁶⁷ E/CN.4/Sub.2/2005/17, annex. See also the Guiding Principles on Internal Displacement, A/64/255, para. 55, the *Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations*, principle 8, the Global Compact for Safe, Orderly and Regular Migration, objective 13, and the global compact on refugees, para. 60.

⁶⁸ A/HRC/28/62, para. 5, and A/HRC/42/22.

⁶⁹ Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 12.

⁷⁰ A/HRC/27/59, para. 31.

⁷¹ A/HRC/37/53, para. 51.

mechanisms. States must ensure that local or regional housing strategies are adequately resourced and that local governments have the capacity to implement them;

(c) The right to housing should be incorporated into relevant municipal laws, plans and programmes. Local governments should consider adopting human rights charters that protect the right to housing and provide access to justice or establish an ombuds office to address housing rights complaints and monitor the implementation of the right to housing;

(d) Indigenous governments have the right to develop and determine housing programmes that are consistent with international human rights law through their institutions of self-governance and in conformity with the United Nations Declaration on the Rights of Indigenous Peoples.⁷² States must ensure they have adequate resources to implement the right to housing.⁷³

Guideline No. 12. Ensure the regulation of businesses in a manner consistent with State obligations and address the financialization of housing

64. The private sector plays a significant role in most housing systems and in the realization of the right to housing. Investors, businesses and individuals develop, build, sell and rent housing. Financial institutions provide access to credit. Private households purchase, build or improve their own housing, and may rent it to others. The particular role played by various private actors in housing systems varies, but the State must ensure that all aspects of their involvement are consistent with States' obligations to realize the right to housing for all.

65. The role of private investment in housing has changed in recent years. Housing has become the commodity of choice for corporate financial institutions, a security for financial instruments that are traded remotely on global markets.⁷⁴ Institutional investors buy massive amounts of affordable and social housing (sometimes entire neighbourhoods), displacing lower-income families and communities. Wealthy individuals and corporations use residential real estate to park capital, avoid taxes or hide ill-gotten gains. This has resulted in inflated land and housing costs and, often, in significant proportions of housing stock being left vacant.⁷⁵ In rural areas, large-scale land acquisitions and speculation over farmland by private investors are displacing residents.⁷⁶

66. States have facilitated and encouraged the change in the role of the private sector in housing. They have provided tax breaks to real estate speculators, tax advantages for homeowners and "golden visas" to foreign investors. They have deregulated rental markets and encouraged development that primarily produces housing for the wealthy. Through legislative measures, policies and programmes, many States have treated housing as a commodity for trading and speculation, rather than as a social good and a human right.

67. A change in direction is urgently needed, and a new relationship between governments and the investors currently dominating the housing landscape must be forged. The Committee on Economic, Social and Cultural Rights has clarified that States violate their obligations with respect to the right to housing by failing to regulate the real estate market and the financial actors operating on that market so as to ensure access to affordable and adequate housing for all.⁷⁷

68. The obligations that States must impose on businesses directly involved in the development or ownership of housing are different in kind from those that apply to other

⁷² Arts. 4 and 23.

⁷³ United Nations Declaration on the Rights of Indigenous Peoples, art. 4. See also A/73/176, para. 5.

⁷⁴ A/HRC/34/51.

⁷⁵ Housing Europe, *The State of Housing in the EU 2019* (Brussels, September 2019).

⁷⁶ A/HRC/13/33/Add.2.

⁷⁷ General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, para. 18.

businesses that are not involved in providing for a good that is also a human right. States must regulate businesses in a manner that is consistent with all dimensions of States' obligations, including to fulfil the right to adequate housing. Ensuring that businesses refrain from activities that have a negative impact on human rights in housing through common approaches to due diligence is necessary but often not be sufficient. States may need to ensure, for example, not only that developers do not displace residents from affordable housing, but also that they produce needed affordable housing, that housing is not left vacant and that some of the profits from housing or other economic activities are redirected to ensure the availability of adequate housing for low-income households.⁷⁸

69. Implementation measures:

(a) States must regulate business in order to prevent investments having any negative impacts on the right to housing, including by:

- (i) Preventing any privatization of public or social housing that would reduce the capacity of the State to ensure the right to adequate housing;
- (ii) Maintaining a rental regulatory framework that preserves security of tenure and affordable housing for tenants, including through rent caps, controls or rent freezes where needed;
- (iii) Requiring full and public disclosure of all investments in residential housing to help prevent corruption, money-laundering, tax evasion and tax avoidance;
- (iv) Establishing independent monitoring bodies to oversee developments, business plans or private investor activity that may have a significant impact on the right to housing;
- (v) Imposing taxes on residential real estate and land speculation to curb the short-term resale of properties and on residential real estate left vacant;
- (vi) Removing preferential tax breaks on homeowners and on real estate investment trusts;
- (vii) Removing incentives for foreign residential real estate investment such as preferential visa and citizenship awards;

(b) States must regulate business to comply with States' obligation to realize the right to housing by all appropriate means, including by:

- (i) Adopting planning and development approval criteria to ensure that any proposed housing development responds to the actual needs of residents, including affordable housing for low-income households and employment opportunities;
- (ii) Adjusting taxation measures to incentivize affordable housing and discourage speculation or ownership of housing or land left vacant;
- (iii) Enabling innovative financing models for affordable housing or upgrading projects;
- (iv) Requiring the negotiation of binding, human rights-compliant social benefits agreements with local authorities, residents and civil society organizations before any development is approved;
- (v) Requiring pension funds and other investors to facilitate independent human rights impact assessments prior to investments being approved to ensure investments do not contribute to violations of the right to housing;

(c) States should support the important role that households play in producing and upgrading their own housing (through the social production of housing) by ensuring access to land, including through collective or cooperative ownership, commons and other alternative forms of tenure and affordable and sustainable materials;

⁷⁸ Ibid.

(d) All laws and policies related to rent and mortgage arrears and foreclosures should be reviewed to ensure consistency with the right to adequate housing, including the obligation to prevent any eviction resulting in homelessness.⁷⁹ States should require banks and other lenders to remove barriers to access to credit for women, young families, residents of informal settlements and others in need of housing finance.

Guideline No. 13. Ensure that the right to housing informs and is responsive to climate change and address the effects of the climate crisis on the right to housing

70. Natural disasters and the climate crisis have enormous impacts on the enjoyment of the right to housing, with exponential increases in these effects anticipated in decades to come. Climate-fuelled disasters were the primary driver of internal displacement during the past decade, forcing an estimated 20 million people a year from their homes.⁸⁰ Those living in homelessness or lacking access to resilient or secure housing are the most adversely affected, as they often live in areas that are vulnerable to floods, hurricanes and cyclones, storm surges, mudslides, earthquakes and tsunamis. Moreover, States taking disaster risk management measures often fail to consider their effects on vulnerable communities and their right to housing.

71. The manner in which the right to housing is to be realized also has implications for climate change. It has been estimated that the building and construction sector accounts for 39 per cent of global energy-related carbon dioxide emissions, most of which is concentrated in middle- and high-income countries.⁸¹ It is in low-income countries, however, that the greatest amount of construction will be required if target 11.1 of the Sustainable Development Goals are to be achieved. States individually and the international community as a whole must respond urgently to the climate crisis while also ensuring access to sustainable housing, prioritizing those most in need.

72. Implementation measures:

(a) The right to adequate housing should be integrated into strategies for the adaptation to and mitigation of climate change, as well as in planning, preparing and implementing strategies for addressing climate change displacement.⁸² States should ensure that these strategies do not undermine or impede the realization of the right to adequate housing;

(b) In situations where communities are particularly vulnerable to the effects of climate change and climate change-related disasters, such as those living on or near waterways and shorelines, priority should be given to adaptation measures to preserve existing communities. In that regard, States must consult with residents to identify the measures needed for their protection. Such measures may include ensuring that communities are able to retain technical experts, installing protective infrastructure, moving some households to safer sites within the community and ensuring that adequate resources are available for the implementation of such measures;⁸³

(c) While making every effort to mitigate climate change, States should conduct thorough analyses of anticipated climate displacement, determine likely time frames and identify communities at risk and possible relocation sites. Where relocation is deemed necessary or chosen by the community, it should be implemented in a manner consistent with the basic principles and guidelines on development-based evictions and displacement and with guidelines No. 6 and No. 7 above;

⁷⁹ Committee on Economic, Social and Cultural Rights, general comment No. 7, para. 16.

⁸⁰ Oxfam, "Forced from home: climate-fuelled displacement", Oxfam Media Briefing (2 December 2019).

⁸¹ United Nations Environment Programme and International Energy Agency, *Towards a Zero-emission, Efficient and Resilient Buildings and Construction Sector: Global Status Report 2017* (2017), p. 6.

⁸² A/HRC/16/42.

⁸³ A/64/255, para. 74.

(d) States must work with affected communities to develop and promote environmentally sound housing construction and maintenance to address the effects of climate change while ensuring the right to housing. The particular vulnerability of indigenous peoples to climate change must be recognized and all necessary support should be provided to enable indigenous peoples to develop their own responses. Forests and conservation areas must be protected in a manner that fully respects the rights of indigenous peoples to their lands and resources and to their traditional and environmentally sustainable practices in housing.

Guideline No. 14. Engage in international cooperation to ensure the realization of the right to adequate housing

73. The current human rights crisis in housing is global in nature and cannot be effectively addressed without international cooperation and assistance. Many actors involved in housing operate at the transnational level and deal with complex corporate structures that pose considerable obstacles to accountability. Regulating global capital flows and preventing the parking of resources into residential real estate to avoid taxation and for money-laundering purposes all require international cooperation.

74. International financial institutions and development banks have applied approaches that are detrimental to the realization of the right to housing. For example, they have imposed deregulation, the liberalization of housing markets and austerity measures, including the selling of social housing, and required mortgage finance programmes that do not assist the lowest-income households.⁸⁴

75. Articles 2 (1) and 11 of the International Covenant on Economic, Social and Cultural Rights refer to international cooperation and assistance as means to achieve the full realization of the right to housing, recognizing its essential importance. Moreover, States parties to the Covenant are obliged to ensure the realization of the right to housing by all appropriate means, which includes international cooperation.⁸⁵

76. Implementation measures:

(a) States should recognize international cooperation as a firm legal obligation where it is necessary for the realization of the right to housing. This includes controlling global capital flows into residential real estate markets and preventing and combating transborder tax evasion and avoidance, which significantly limits the resources of States to realize the right to adequate housing;⁸⁶

(b) States should avoid conduct that would create a foreseeable risk of impairing the enjoyment of the right to housing in other States, should adopt legislation to prevent violations of the right to housing abroad by corporations or other investors that are domiciled in their territory and/or jurisdiction and should ensure access to justice for such violations within domestic courts;⁸⁷

(c) States should assess the impact on the right to adequate housing of trade and investment agreements prior to entering into them, and should include in such agreements a provision explicitly referring to their human rights obligations in respect of housing. Existing agreements should be interpreted in ways that do not impair States' ability to realize the right to housing;⁸⁸

(d) The role of international financial institutions and of development, humanitarian and other international organizations should be aligned with the promotion of the realization of the right to housing. Development banks and financial institutions should establish safeguard policies covering all aspects of the right to adequate housing.

⁸⁴ A/HRC/37/53, para. 134, and A/73/310/Rev.1, paras. 99 ff.

⁸⁵ See also the Declaration on the Right to Development, art. 3.

⁸⁶ Committee on Economic, Social and Cultural Rights, general comment No. 24, para. 37.

⁸⁷ Ibid., para. 26.

⁸⁸ Guiding principles on human rights impact assessments of trade and investment agreements.

Independent complaints mechanisms must be available where activities or projects of international or regional financial institutions or development banks fail to support the realization of the right to housing of those most in need.

Guideline No. 15. Ensure effective monitoring and accountability mechanisms

77. Independent monitoring of the implementation of the right to housing is a central component of the obligation to progressively realize the right.⁸⁹ States tend to misunderstand the obligation to monitor progress as being merely a matter of collecting and disseminating data about housing programs, homelessness, expenditures and aggregate demographics. Evidence considered is often restricted to statistical information, without qualitative evidence based on experiences of rights holders. In many countries disaggregated data based on gender, race, disability, age, family status and income are not collected due to either the lack of technical capacity or absence of legislation allowing it. Monitoring is often conducted by governments themselves, rather than by independent institutions.

78. As noted by the Committee on Economic, Social and Cultural Rights, human rights institutions (or similar bodies mandated to focus specifically on the right to housing) can play an important role in identifying appropriate goals and benchmarks, providing research, monitoring compliance and examining complaints.⁹⁰ If States are to take seriously their commitment under target 11.1 of the Sustainable Development Goals, they must institute rigorous independent monitoring of progress, based on realistic goals and timelines and with the means to hold Governments and others accountable.

79. Implementation measures:

(a) Independent monitoring bodies should be mandated and properly resourced to monitor the realization of the right to housing in a transparent and participatory manner. They should have the capacity to hear complaints from concerned people or groups, undertake visits, conduct investigations, commission surveys and convene public hearings to gather information. Public authorities should be required to provide a response to reports from monitoring bodies and to take follow-up action within a reasonable period of time. Parliamentary hearings should be utilized to provide periodic public review of progress and effective government responses;

(b) Monitoring progress on the implementation of the right to housing should be focused on assessing compliance with the obligation to progressively realize the right. It should include the collection of qualitative and quantitative data related to dignity and the experience of rights holders with respect to all aspects of the right to housing, including security of tenure, availability of services, affordability, habitability, accessibility, location, cultural adequacy, homelessness and evictions. Statistical and qualitative information with appropriate safeguards should also be collected on the housing circumstances of groups facing systemic discrimination, on structural barriers to housing and on the outcomes of measures taken to address such barriers. Major trends and emerging challenges should also be identified;

(c) Progress should be assessed in relation to capacity and available resources, and whether Governments have made reasonable efforts to meet established targets and timelines in accordance with housing strategies and the Sustainable Development Goals;

(d) Monitoring should extend to all sectors of housing systems, including private business enterprises and real estate markets.⁹¹

⁸⁹ International Covenant on Economic, Social and Cultural Rights, art. 16, and Committee on Economic, Social and Cultural Rights, general comments No. 3, para. 11, and No. 4, para. 13.

⁹⁰ Committee on Economic, Social and Cultural Rights, general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

⁹¹ Guiding Principles on Business and Human Rights, principle No. 5.

Guideline No. 16. Ensure access to justice for all aspects of the right to housing

80. The provision of legal remedies for the violation of the right to housing is a core component of States' obligation to ensure the realization of this right.⁹² As stated by the Committee on Economic, Social and Cultural Rights, many component elements of the right to adequate housing are closely bound up with the provision of domestic legal remedies to ensure the effective enjoyment of the right.⁹³ Yet courts and tribunals are often experienced by those who are living in informal settlements or homelessness as places where evictions are ordered or criminalizing sanctions imposed, rather than as venues where the right to housing can be claimed.⁹⁴

81. As noted by the Special Rapporteur in her report on access to justice, violations of the right to housing are as much failures in the administration of justice to ensure meaningful accountability and access to effective remedies as they are failures of housing programmes.⁹⁵

82. States have an immediate obligation to ensure access to justice for those whose right to housing has been violated, including through failures to adopt reasonable measures for its progressive realization.⁹⁶ In discharging their obligation, States should follow the 10 key principles identified by the Special Rapporteur.⁹⁷

83. Implementation measures:

(a) Access to justice for the right to housing should be ensured by all appropriate means, through courts, administrative tribunals, human rights institutions and informal or customary community-based justice systems. Hearings and other procedures should be timely, accessible, procedurally fair, enable full participation of affected individuals and groups and ensure effective remedies within a reasonable time frame. Where effective remedies rely on administrative or quasi-judicial procedures, recourse to courts should also be available;⁹⁸

(b) Access to justice should be ensured for all components and dimensions of the right to housing that are guaranteed under international human rights law, covering not just the right to a physical shelter, but to a home in which to live in security, peace and dignity; not just protection from eviction or other State action, but also from State neglect and inaction and failure to take reasonable measures to progressively realize the right to housing. States should revoke legal provisions suggesting that the right to adequate housing is not justiciable under domestic law and should desist from making this argument before courts. Where the right to housing is not enshrined in national or constitutional law, access to effective judicial remedies can and should be ensured by recognizing the interdependence and indivisibility of the right to housing with other rights, such as the rights to life, health and non-discrimination;

(c) Individuals and organizations representing them should have access to legal aid or other necessary assistance to enable them to participate in legal processes. Institutions, equality promotion bodies and civil society organizations should have legal standing to pursue claims to the right to housing on behalf of individuals and groups. Remedies should address both individual and systemic violations of the right to housing;

(d) States should ensure access to justice for violations of the right to housing by transnational corporations, including by establishing parent company or group liability

⁹² Committee on Economic, Social and Cultural Rights, general comments No. 3, para. 5, and No. 4, para. 17.

⁹³ *I.D.G. v. Spain*, para. 11.1.

⁹⁴ *Ibid.*, para. 4.

⁹⁵ A/HRC/40/61, para. 2.

⁹⁶ Committee on Economic, Social and Cultural Rights, general comments No. 3 and No. 9 (1998) on the domestic application of the Covenant. See also *I.D.G. v. Spain*, para. 11.3.

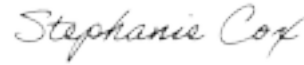
⁹⁷ A/HRC/40/61.

⁹⁸ Committee on Economic, Social and Cultural Rights, general comment No. 9.

regimes, enabling human rights-related class actions and public interest litigation, facilitating access to relevant information and the collection of evidence abroad and enacting domestic legislation that holds investors and corporations domiciled in the State accountable for actions affecting the right to housing in other countries.⁹⁹

⁹⁹ See the Committee's general comment No. 24, para. 44.

THIS IS EXHIBIT "G" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

A handwritten signature in cursive script that reads "Stephanie Cox".

STEPHANIE COX
LSO NO. 65464F
Commissioner for Taking Affidavits, etc



A National Protocol for Homeless Encampments in Canada

Leilani Farha

UN Special Rapporteur on the right to adequate housing

Kaitlin Schwan

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EXECUTIVE SUMMARY

A National Protocol for Homeless Encampments in Canada: A Human Rights Approach

Homeless encampments threaten many human rights, including most directly the right to housing. People living in encampments face profound challenges with respect to their health, security, and wellbeing, and encampment conditions typically fall far below international human rights standards. Residents are frequently subject to criminalization, harassment, violence, and discriminatory treatment. Encampments are thus instances of both human rights *violations* of those who are forced to rely on them for their homes, as well as human rights *claims*, advanced in response to violations of the right to housing.

Ultimately, encampments are a reflection of Canadian governments' failure to successfully implement the right to adequate housing.

As encampments increasingly emerge across Canada, there is an urgent need for governments to interact with them in a manner that upholds human rights. This Protocol, developed by the UN Special Rapporteur on the Right to Housing and her lead researcher, Kaitlin Schwan, with the input of many experts, outlines eight Principles to guide governments and other stakeholders in adopting a rights-based response to encampments. While encampments are not a solution to homelessness, it is critical that governments uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol are based in international human rights law, and the recognition that encampment residents are rights holders and experts in their own lives. The Protocol is intended to assist governments in realizing the right to adequate housing for this group.

PRINCIPLES

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.¹

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."² 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

¹ A/HRC/43/43, para 36.

² A/73/310/Rev.1, para 26.

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 affects 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.

A National Protocol for Homeless Encampments in Canada: A Human Rights Approach

I. Introduction

1 In the face of escalating homelessness and housing affordability crises, many cities across Canada have seen a rise in homeless encampments. In various Canadian communities, people experiencing homelessness have turned to living in s, vehicles, or other forms of rudimentary or informal shelter as a means to survive.³ While they vary in size and structure, the term '*encampment*' is used to refer to any area wherein an individual or a group of people live in homelessness together, often in tents or other temporary structures (also referred to as *homeless camps*, *tent cities*, *homeless settlements* or *informal settlements*).

2 Homeless encampments in Canada must be understood in relation to the global housing crisis and the deepening of housing unaffordability across the country. Encampments must also be understood in the context of historical and ongoing structural racism and colonization in Canada, whereby Indigenous peoples have been systemically discriminated against and dispossessed of their lands, properties, and legal systems. Other groups have also endured systemic and historical disadvantage that has created barriers to accessing housing and shelters, including 2SLGBTQ+, Black and other racialized communities, people living with disabilities, and people who are criminalized. While encampments are often framed and discussed as matters of individual poverty or deficiency, they are the result of structural conditions and the failure of governments to implement the right to housing or to engage with reconciliation and decolonization materially and in good faith.

3 Homeless encampments threaten many human rights, including most specifically the right to housing. In international human rights law, homelessness - which includes those residing in encampments - is a *prima facie* violation of the right to adequate housing.⁴ This means that governments have a positive obligation to implement an urgent housing-focused response, ensuring that residents have access to adequate housing in the shortest possible time and, in the interim, that their human rights are fully respected.

4 Government responses to homeless encampments often fail to employ a rights-based approach. Residents of encampments are frequently the victims of abuse, harassment, violence, and forced evictions or 'sweeps.' In many cases, the issues

³ Encampments have arisen in cities across the country, including: Abbotsford, Vancouver, Victoria, Edmonton, Toronto, Ottawa, Gatineau, Peterborough, Winnipeg, Montreal, Nanaimo, Calgary, Saskatoon, Fredericton, Moncton, Oshawa, Halifax, and Maple Ridge.

⁴ A/HRC/31/54, para. 4.

associated with encampments are within the jurisdiction and responsibility of municipal authorities, including through bylaws specific to policing, fire and safety, sanitation, and social services. This has led to a pattern whereby municipal governments deploy bylaws, local police, and zoning policies that displace people in encampments, in turn compromising the physical and psychological health of people who have no place else to go and who rely on encampments to survive, absent accessible alternatives.⁵

5 Provincial, territorial, and federal governments have historically left engagement with encampments to city officials, who receive little (if any) guidance and support. Municipal authorities are often unaware of their legal obligations under international human rights law, including with respect to the duty to ensure the dignity and security of encampment residents.⁶ Further, accountability mechanisms with respect to the right to housing remain weak in Canada, meaning that people living in encampments have limited avenues through which to claim this right.

6 Ensuring a human rights-based response to homeless encampments should be a key concern for every Canadian city, and all governments should employ a human rights-based framework to guide their engagement with encampment residents.

II. Purpose of the National Protocol on Homeless Encampments

7 The purpose of this document is to provide all levels of government with an understanding of their human rights obligations with respect to homeless encampments, highlighting what is and is not permissible under international human rights law. This Protocol outlines 8 broad human rights-based Principles that must guide state⁷ action in response to homeless encampments of all kinds.

8 This Protocol does not attempt to foresee every possible context or challenge that may arise within encampments. Governments and relevant stakeholders must apply human rights principles as described in the Protocol to each case as it arises, endeavouring at all times to recognize and respect the inherent rights, dignity, and inclusion of encampment residents.

9 This Protocol has been developed by the UN Special Rapporteur on the right to housing in consultation with a range of experts from across Canada, including those

⁵ *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1>

⁶ A/HRC/43/43, para 7.

⁷ 'State' refers to all levels and branches of government and anyone exercising government authority.

with lived expertise of homelessness, urban Indigenous leaders, community advocates, researchers, lawyers, and experts in human rights law.⁸

III. Encampments in Canada in the context of the Human Right to Adequate Housing

10 Under international human rights law, everyone has the right to adequate housing as an element of the right to an adequate standard of living.⁹ This requires States to ensure that housing is accessible, affordable, habitable, in a suitable location, culturally adequate, offers security of tenure, and is proximate to essential services such as health care and education.¹⁰ The right to adequate housing includes the right to be protected from: arbitrary or unlawful interference with an individual's privacy, family, and home; any forced eviction (regardless of legal title or tenure status); and from discrimination of any kind.¹¹

11 Homelessness constitutes a prima facie violation of the right to housing. It is a profound assault on a person's dignity, security, and social inclusion. Homelessness violates not only the right to housing, but often, depending on circumstances, violates a number of other human rights, including: non-discrimination; health; water and sanitation; freedom from cruel, degrading, and inhuman treatment; and the rights to life, liberty, and security of the person.¹²

12 Encampments constitute a form of homelessness, and thus are a reflection of the violation of residents' right to adequate housing. People living in encampments typically face a range of human rights violations and profound challenges with respect to their health, security, and wellbeing. Encampment conditions typically fall far below international human rights standards on a variety of fronts, often lacking even the most

⁸ This Protocol was prepared by: Leilani Farha and Kaitlin Schwan with the assistance of Bruce Porter, Vanessa Poirier, and Sam Freeman. Reviewers include, among others: Margaret Pfoh (Aboriginal Housing Management Association), Cathy Crowe (Shelter and Housing Justice Network), Greg Cook (Sanctuary Toronto), Tim Richter (Canadian Alliance to End Homelessness), Anna Cooper (Pivot Legal Society), Caitlin Shane (Pivot Legal Society), Emily Paradis (University of Toronto), Emma Stromberg (Ontario Federation of Indigenous Friendship Centres), and Erin Dej (Wilfred Laurier University).

⁹ United Nations Committee on Economic, Social and Cultural Rights Committee's General Comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions.

¹⁰ United Nations Committee on Economic, Social and Cultural Rights Committee's General Comment No. 4 (1991) on the right to adequate housing. At the domestic level, adequate housing and core housing need is defined in relation to three housing standards: adequacy, affordability, and suitability. The Canadian Mortgage and Housing Corporation [defines](#) these housing standards in the following ways: "(1) [Adequate](#) housing are reported by their residents as not requiring any major repairs; (2) [Affordable](#) dwellings cost less than 30% of total before-tax household income; and (3) [Suitable](#) housing has enough bedrooms for the size and make-up of resident households, according to National Occupancy Standard (NOS) requirements."

¹¹ A/HRC/43/43.

¹² A/HRC/31/54; A/HRC/40/61, para 43.

basic services like toilets.¹³ Residents of encampments are also frequently subject to criminalization, harassment, violence, and discriminatory treatment.¹⁴

13 In the face of poverty and deep marginalization, people without homes face many untenable choices. For example, they may be forced to choose between ‘sleeping rough’ on their own (putting themselves at risk of violence and criminalization), entering an emergency homeless shelter (which may be inaccessible or inappropriate for their needs, or in which their autonomy, dignity, self-reliance, and/or independence may be undermined), or residing in a homeless encampment (in which they may lack access to basic services and face threats to their health). These choices are further narrowed for those living in communities that lack any emergency shelters, or where existing shelters are at (or over) capacity.

14 For people without access to adequate housing, the availability, accessibility, appropriateness, and adequacy of shelters plays a significant role in determining whether or not a person chooses to reside in a homeless encampment. In some cities, emergency shelters operate at 95-100% capacity,¹⁵ necessitating that some individuals sleep rough or reside in an encampment. Existing shelters may also not be low-barrier, wheelchair accessible, trans-inclusive, or safe for people experiencing complex trauma or other challenges. Homeless persons with mental health challenges, drug or alcohol dependencies, or pets may find themselves barred from shelters. Under such conditions, some individuals may prefer, or feel they have little choice but to, reside in an encampment. Encampments thus may become a necessity or the best option available for some of those the most marginalized people in Canadian society.

15 For Indigenous peoples, a desire to avoid state surveillance and a mistrust of institutional settings, including shelters, may be a factor in turning to or living in an encampment. Negative or harmful interactions with colonial institutions, such as residential schools, the child welfare system, corrections, hospitals, asylums or sanatoriums, and shelters, may be intergenerational in nature and highly traumatic. For these reasons and others, Indigenous peoples are overrepresented in homeless populations across Canada, and further to this, are more likely to be part of “outdoor” or “unsheltered” populations – including homeless encampments.¹⁶

¹³ See Cooper, A. (2020). *Why People Without Housing Still Need Heat*. Pivot Legal Society. Available from: http://www.pivotlegal.org/why_people_without_housing_still_need_heat

¹⁴ A/HRC/43/43, para 31; see also *Homelessness, Victimization and Crime: Knowledge and Actionable Recommendations*. Available from: <https://www.publicsafety.gc.ca/lbrr/archives/cnmcs-plcng/cn35305-eng.pdf>

¹⁵ Employment and Social Development Canada. (2018). *Shelter Capacity Report 2018*. Ottawa. Available from <https://www.canada.ca/en/employment-social-development/programs/homelessness/publications-bulletins/shelter-capacity-2018.html>

¹⁶ See Ontario Federation of Indigenous Friendship Centres. (2020). *Indigenous Homelessness in the 20 Largest Cities in Canada*. Submission to the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities, Canada.

16 Regardless of the reasons why a person resides in a homeless encampment, homeless encampments *do not* constitute adequate housing, and do not discharge governments of their positive obligation to ensure the realization of the right to adequate housing for all people. Under international human rights law, “States have an obligation to take steps to the maximum of their available resources with a view to achieving progressively the full realization of the right to adequate housing, by all appropriate means, including particularly the adoption of legislative measures.”¹⁷ As part of these obligations, States must prioritize marginalized individuals or groups living in precarious housing conditions - including residents of homeless encampments.¹⁸

17 Governments have an urgent, positive obligation to provide or otherwise ensure access to adequate housing - for residents of encampments as they do for all people experiencing homelessness. Governments must act to immediately pursue deliberate, concrete, and targeted efforts to end homelessness by ensuring access to adequate housing. In the interim, governments must ensure the availability of sufficient shelter spaces - accessible and appropriate for diverse needs - where dignity, autonomy, and self-determination are upheld.

18 The fact that encampments violate the right to housing does not in any way absolve governments of their obligations to uphold the basic human rights and dignity of encampment residents while they wait for adequate, affordable housing solutions that meet their needs. The Principles outlined in this Protocol seek to support governments and other stakeholders to ensure that their engagements with encampments are rights-based and recognize residents as rights holders, with a view to realizing the right to adequate housing for these groups while respecting their dignity, autonomy, individual circumstances, and personal choices.

19 International human rights law does not permit government to use force to destroy peoples’ homes, even if they are made of canvas or improvised from available materials and constructed without legal authority or title. States may not remove residents from encampments without meaningfully engaging them to identify 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, and access to, appropriate forms of legal or other protection, consistent with international human rights law is defined as a ‘forced eviction’ and is considered a gross violation of human rights.

20 Unfortunately, such forced evictions or sweeps have become common in Canada. Evictions have contravened international law by being carried out without meaningful consultation with communities and without measures to ensure that those affected have access to alternative housing. They have been justified on the basis that the

¹⁷ International Covenant on Economic, Social and Cultural Rights, art. 2 (1).

¹⁸ A/HRC/43/4.

residents are there illegally, are at risk to themselves, are on land that is slated for development, or are obstructing the enjoyment of the community by others. Declining conditions at encampments and public health and safety concerns are also frequently the grounds on which local governments and provinces seek injunctions for removal. The impact of municipalities' failure to proactively provide resources and services to mitigate or improve those conditions and concerns is most often ignored. Some communities have engaged bylaw officers or local police to tear down encampments at first sight.¹⁹

21 None of these reasons, however, justify forced evictions under international law. Forced evictions often have harmful or disastrous consequences for encampment residents.²⁰ Victims may face life-threatening situations that compromise their health and security, or result in the loss of access to food, social supports, social and medical services, and other resources.²¹

22 Few governments have recognized encampments as a response to violations of fundamental human rights and a response to the isolation and indignity of homelessness. They have failed to treat those living in such encampments as legally entitled to the protection of their homes and their dignity.

IV. Relevant Authority

23 Canadian governments' responsibilities and relevant authority to ensure the right to adequate housing, including for people residing in encampments, is found in: (1) international human rights treaties, (2) the *National Right to Housing Act*, (3) the *Canadian Charter of Rights and Freedoms* and human rights legislation, and (4) the UN *2030 Agenda for Sustainable Development (The Sustainable Development Goals)*.

1. International Human Rights Treaties

24 Canada has ratified multiple international human rights treaties that articulate the right to adequate housing. In 1976, Canada ratified the *International Covenant on Economic, Social and Cultural Rights*, which contains the chief articulation of the right to housing under Article 11.1 "the right of everyone to an adequate standard of living for [themselves] and [their] family, including adequate food, clothing and housing, and to

¹⁹ Ball, V. (2019). *Encampment residents fear eviction*. The Expositor. Available from: <https://www.brantfordexpositor.ca/news/local-news/encampment-residents-fear-eviction>

²⁰ A/HRC/43/43, para 36.

²¹ UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: <https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>; Collinson, R. & Reed, D. (2018). *The Effects of Eviction on Low-Income Households*. Available from: https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf

the continuous improvement of living conditions.”²² The right to housing and the prohibition against forced evictions has been interpreted in General Comments No. 4 and 7²³ by the UN Committee on Economic, Social and Cultural Rights. In addition, Canada has ratified other treaties that codify the right to adequate housing, including:

- *Convention on the Rights of Persons with Disabilities*
- *Convention on the Rights of the Child*
- *Convention on the Elimination of Racial Discrimination*
- *Convention on the Elimination of Discrimination against Women*

25 Human rights ratified by Canada “extend to all parts of federal States without any limitations or exceptions,” thus federal, provincial/territorial, and municipal governments are equally bound by these obligations.²⁴ In interpreting the right to adequate housing, the Committee on Economic, Social and Cultural Rights has emphasized that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.”²⁵

26 Canada has also formally recognized the *UN Declaration on the Rights of Indigenous Peoples*, which also codifies the right to adequate housing and affirms that Indigenous Peoples have the right to be actively involved in developing and determining housing programmes and policies that affect them.²⁶ Further, Indigenous Peoples’ right to land and self-determination is indivisible from the right to housing under international human rights law, meaning that they “shall not be forcibly removed from their lands or territories and that no relocation shall take place without their free, prior and informed consent.”²⁷ All encampments are located on the traditional territories of Indigenous nations, including in cities, towns, and rural areas. On these territories, Indigenous Peoples’ right to land and self-determination is in effect, whether or not those lands are subject to land claims or treaty.

1. Canadian Housing Policy and Legislation

27 The right to housing has also recently been recognized in Canadian legislation. In June 2019, the *National Housing Strategy Act* (the *Act*) received royal assent in Canada. The *Act* affirms Canada’s recognition of the right to housing as a fundamental human

²² ICESCR, Article 11, masculine pronouns corrected.

²³ General Comment 4 (1991), UN Doc. E/1992/23; General Comment 7 (1997), UN Doc. E/1998/22.

²⁴ A/69/274.

²⁵ General Comment 4 (1991), para 7.

²⁶ A/74/183.

²⁷ A/74/183.

right and commits to further its progressive realization as defined under the *International Covenant on Economic, Social and Cultural Rights*.

28 The Preamble and Section 4 of the *Act* underscore the interdependence of the right to housing with other fundamental rights, such as the right to life and an adequate standard of health and socio-economic wellbeing. Specifically, Section 4 states:

It is declared to be the housing policy of the Government of Canada to:

- (a) recognize that the right to adequate housing is a fundamental human right affirmed in international law;
- (b) recognize that housing is essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities;
- (c) support improved housing outcomes for the people of Canada; and
- (d) further the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights.

2. The Canadian Charter and Provincial/Territorial Human Rights Legislation

29 The government of Canada's international human rights obligations must be considered by courts in Canada when determining the rights of residents of encampments under domestic law,²⁸ particularly the *Canadian Charter of Rights and Freedoms*.²⁹ The Supreme Court has recognized that the right to "life, liberty and security of the person" in section 7 of the *Charter* may be interpreted to include the right to housing under international law.³⁰ Canada has told the UN that it accepts that section 7 at least ensures access to basic necessities of life and personal security.³¹

²⁸ It should be noted that a human rights-based approach under domestic law should entail mindfulness about core human rights and equality principles, such as substantive equality and non-discrimination, which recognizes that state interventions be particularly attuned to the specific needs of particular groups, including those impacted by systemic and historical disadvantage. In this regard, a 'one size fits all' approach may not fully capture the distinct needs of groups residing within encampments.

²⁹ *R. v. Hape*, [2007] 2 S.C.R. 292, 2007 SCC 26, para 56: "In interpreting the scope of application of the Charter, the courts should seek to ensure compliance with Canada's binding obligations under international law where the express words are capable of supporting such a construction."

³⁰ *Irwin Toy Ltd. v. Quebec (Attorney General)*, [1989] 1 S.C.R. 927; See Martha Jackman and Bruce Porter, "[Social and Economic Rights](#)", in Peter Oliver, Patrick Maklem & Nathalie DesRosiers, eds, *The Oxford Handbook of the Canadian Constitution* (New York: Oxford University Press, 2017), 843-861.

³¹ Canada's commitments are described in *Victoria (City) v. Adams*, 2008 BCSC 1363 (CanLII), paras 98-99. Online, <http://canlii.ca/t/215hs>

30 In Canada, courts have considered the human rights implications of encampments, and have emphasized that Section 7 life and security of the person interests are engaged where state action poses significant harm to the health and wellbeing of persons enduring homelessness and housing insecurity. For example, Canadian courts have recognized that the daily displacement of people experiencing homelessness causes physical and psychological harm. The Court accepted in the case of *Abbotsford (City) v. Shantz*, that "the result of repeated displacement often leads to the migration of homeless individuals towards more remote, isolated locations as a means to avoid detection. This not only makes supporting people more challenging, but also results in adverse health and safety risks." The court recognized that these health and safety risks include "impaired sleep and serious psychological pain and stress."³²

31 In the case of *Victoria v. Adams*,³³ residents of an encampment challenged a bylaw that prevented them from constructing temporary shelter in a park, on the basis of which city officials had secured an injunction to evict them. The British Columbia Supreme Court agreed that while the *Charter* does not explicitly recognize the right to housing, international law is a persuasive source for *Charter* interpretation and found that the bylaw violated the residents' right to security of the person. The BC Court of Appeal upheld the decision of the BC Supreme Court and other decisions in British Columbia have followed.³⁴ In *British Columbia v. Adamson* 2016,³⁵ for example, the court found that in the absence of alternative shelter or housing for all people experiencing homelessness, encampment residents must not be evicted from their encampment. In *Abbotsford v. Shantz* 2015³⁶ the Court found that denying encampment residents space to erect temporary shelters on public property was "grossly disproportionate to any benefit that the City might derive from furthering its objectives and breaches the s. 7 *Charter* rights of the City's homeless."³⁷

32 The right to equality is also protected under the Canadian Charter as well as under federal, provincial, and territorial human rights legislation. Not all levels of government interpret or administer human rights codes in the same manner, with each province and territory administering its own human rights codes.³⁸ Regardless of jurisdiction, the UN Committee on Economic, Social and Cultural Rights has stated that the right to

³² *Abbotsford (City) v. Shantz*, 2015 BCSC 1909, paras 213 and 219.

³³ *Victoria (City) v. Adams*, 2008 BCSC 1363 (CanLII), paras 85-100. Online, <http://canlii.ca/t/215hs>

³⁴ Key examples of case law includes: *Victoria v. Adams* 2008/ 2009, *Abbotsford v. Shantz* 2015, *BC v. Adamson* 2016, and *Vancouver (City) v. Wallstam* 2017.

³⁵ *British Columbia v. Adamson* (2016 BCSC 1245). Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc1245/2016bcsc1245.html?resultIndex=1>

³⁶ *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1>

³⁷ *Abbotsford (City) v. Shantz* (2016 BCSC 2437), para 224. Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1>

³⁸ For an overview of provincial and territorial human rights codes, see: <https://ccdi.ca/media/1414/20171102-publications-overview-of-hr-codes-by-province-final-en.pdf>

equality should be interpreted to provide the widest possible protection of the right to housing and has urged Canadian courts and governments to adopt such interpretations.³⁹

33 While it is clear that the *Charter* provides some protection from forced evictions and sweeps of encampment residents, the extent to which it requires governments to address the crisis of homelessness that has led to reliance on encampments remains unresolved. The Supreme Court of Canada has yet to agree to hear an appeal in a case that would clarify the obligations of governments to address homelessness as a human rights violation. The Supreme Court has, however, been clear that the *Charter* should, where possible, be interpreted to provide protection of rights that are guaranteed under international human rights law ratified by Canada.

34 Governments should not use uncertainty about what courts might rule as an excuse for violating the human rights of those who are homeless. Canadian governments have an obligation, under international human rights law, to promote and adopt interpretations of domestic law consistent with the right to adequate housing. The UN Committee on Economic, Social and Cultural Rights has expressed concern that governments in Canada continue to argue in court against interpretations of the *Canadian Charter* that would protect the rights of homeless persons and residents of homeless encampments.

35 Therefore, it is critically important that, as part of a Protocol based on respect for human rights, municipal, provincial/territorial, and federal governments instruct their lawyers not to undermine international human rights or oppose reasonable interpretations of the *Charter* based on international human rights. They should never seek to undermine the equal rights of residents of homeless encampments to a dignified life, to liberty, and security of the person.

3. UN 2030 Agenda for Sustainable Development

36 In September 2015, member states of the United Nations, including Canada, adopted the *2030 Agenda for Sustainable Development (2030 Agenda)*. Target 11.1 of the SDGs specifically identifies that by 2030, all States must “ensure access for all to adequate, safe and affordable housing and basic services and to upgrade informal settlements.” This means governments must take steps to eliminate homelessness and make cities inclusive, safe, resilient and sustainable. Upgrading informal settlements

³⁹ CESCR, General Comment No. 9, para 15; E/C.12/1993/5, paras 4, 5, and 30.

includes the upgrading of homeless encampments.⁴⁰ States have affirmed that a rights-based approach to the SDG's is critical if they are to be achieved.⁴¹

V. Key Principles

37 It is critical that all levels of government in Canada employ an integrated human rights-based approach when engaging with encampments. The Principles outlined here aim to support the right to housing for all encampment residents as part of Canada's commitment to the right to housing under international human rights treaties and domestic law.

PRINCIPLE 1: Recognize residents of homeless encampments as rights holders

38 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. For many governments and those exercising governmental authority, this will mean a shift away from criminalizing, penalizing, or obstructing encampments, to an approach rooted in rights-based participation and accountability.⁴²

39 This will mean understanding encampments as instances of both human rights *violations* of those who are forced to rely on them for their homes, as well as human rights *claims* advanced in response to violations of the right to housing. 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.⁴³ 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.

40 In recognition of encampments as rights violations and rights claims, governments must rectify the policy failures that underpin the emergence of homeless encampments, while simultaneously recognizing residents as rights holders who are advancing a legitimate human rights claim. Their efforts to claim their rights to home

⁴⁰ A/73/310/Rev.1.

⁴¹ The *National Housing Strategy* of Canada mirrors many of the commitments made in the *2030 Agenda*. However, the *Strategy* only commits Canada to reducing chronic homelessness by 50%, despite the *2030 Agenda's* imperative to eliminate homelessness and provide access to adequate housing for all.

⁴² A/73/310/Rev.1, para 15.

⁴³ A/73/310/Rev.1.

and community must be supported, not thwarted, criminalized, or dismissed as illegitimate or gratuitous protest.⁴⁴

PRINCIPLE 2: Meaningful engagement and effective participation of encampment residents

41 Ensuring encampment residents are able to participate in decisions that directly affect them is “critical to dignity, the exercise of agency, autonomy and self-determination.”⁴⁵ As rights holders, encampment residents are entitled to “participate actively, freely and meaningfully in the design and implementation of programmes and policies affecting them.”⁴⁶ Meaningful engagement must be grounded in recognition of the inherent dignity of encampment residents and their human rights, with the views expressed by residents of homeless encampments being afforded adequate and due consideration in all decision-making processes.

42 Governments and other actors must engage encampment residents in the early stages of discussion without using the threat of eviction procedures or police enforcement to coerce, intimidate, or harass.⁴⁷ Engagement should proceed under the principle that residents are experts in their own lives and what is required for a dignified life.⁴⁸ Indigenous residents of encampments should also be engaged in decision-making processes in a manner that is culturally-safe and trauma informed.

43 In the context of homeless encampments, the right to participate requires that all residents be provided with information, resources, and opportunities to directly influence decisions that affect them. All meetings with government officials or their representatives regarding the encampment should be documented and made available to encampment residents upon request.

44 Participation processes must comply with all human rights principles, including non-discrimination. Compliance with international human rights law requires:

- i. **Provision of necessary institutional, financial, and other resources to support residents’ right to participate**
In order to participate in decisions that affect them, encampment residents should be provided with financial and institutional resources (e.g., wifi/internet access, meeting spaces) that support their active participation in decision-making. Such supports should include, but are not

⁴⁴ A/73/310/Rev.1.

⁴⁵ A/HRC/43/43, para 20.

⁴⁶ Ibid. See also the Committee on the Rights of the Child’s General Comment No. 21 (2017) on children in street situations.

⁴⁷ A/HRC/40/61, para 38.

⁴⁸ A/HRC/43/43, para 21.

limited to: legal advice, social service supports, Indigenous cultural supports, literacy supports, translation, mobility supports, and transportation costs to attend consultations or meetings.⁴⁹ These resources should support democratic processes within the encampment, including community meetings, the appointment of community leaders, and the sharing of information.⁵⁰ Residents must be granted a reasonable and sufficient amount of time to consult on decisions that affect them.

ii. **Provision of relevant information about the right to housing**

Encampment residents must be provided with information about their right to housing, including information about procedures through which they can hold governments and other actors accountable, as well as specific information about the rights of Indigenous Peoples.⁵¹

iii. **Provision of relevant information concerning decisions that affect residents, ensuring sufficient time to consult**

Encampment residents must be provided with all relevant information in order to make decisions in matters that affect them.⁵²

iv. **Establishment of community engagement agreement between homeless encampment residents, government actors, and other stakeholders**

In order to facilitate respectful, cooperative, and non-coercive communication between residents, government, and other stakeholders, government may seek to collaborate with residents to create a formal community engagement agreement (when appropriate and requested by residents).⁵³ This agreement should outline when and how encampment residents will be engaged,⁵⁴ and should be ongoing and responsive to the needs of the encampment residents.⁵⁵ It should allow the residents of homeless encampments to play an active role in all aspects of relevant proposals and policy, from commencement to conclusion. Residents should be able to challenge any decision made by government or other actors, to propose alternatives, and to articulate their own demands and priorities. Third party mediators should be available to protect against power imbalances that may lead to breakdown in negotiations or create

⁴⁹ Committee on Economic, Social and Cultural Rights' General Comment No. 4, para. 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 39).

⁵⁰ A/73/310/Rev.1.

⁵¹ A/73/310/Rev.1, para 19.

⁵² A/73/310/Rev.1.

⁵³ A/73/310/Rev.1.

⁵⁴ A/73/310/Rev.1.

⁵⁵ United Nations. *Guiding Principles on Extreme Poverty and Human Rights*, foundational principles, para 38.

unfair results.⁵⁶ Relevant government authorities and professionals should also be provided with “training in community engagement and accountability.”⁵⁷

v. **Provision of equitable opportunities for the meaningful participation of all encampment residents**

As a matter of human rights law, particular efforts must be taken to ensure equitable participation by women, persons with disabilities, Indigenous Peoples, migrants, and other groups who experience discrimination or marginalization.⁵⁸ Where possible, members of these groups should be afforded central roles in the process.⁵⁹

Principle 2 in Action – The “People’s Process” in Kabul, Afghanistan

The upgrading of informal settlements was identified as a key goal in the *2030 Agenda for Sustainable Development*, committing States to “upgrade slums” by 2030 (target 11.1). As identified by the UN Special Rapporteur on the right to adequate housing, “Participation in upgrading requires democratic processes through which the community can make collective decisions.” Under international human rights law, the democratic processes required to upgrade slums mirrors encampment residents’ right to participate in plans to resolve their housing needs. As such, democratic processes implemented to upgrade informal settlements in cities around the world can provide helpful examples for Canadian homeless encampments.

One such example is the “people’s process” in Kabul, Afghanistan. This process delineates community leadership and control over the upgrading process, and includes an organizational structure that enables the community to engage different levels of government. As part of this process, “local residents elect community development councils responsible for the selection, design, implementation and maintenance of the projects.” City staff are trained to work alongside informal settlement residents to implement and complete upgrading.

⁵⁶ A/HRC/43/4, para 42.

⁵⁷ A/73/310/Rev.1, para 20.

⁵⁸ A/HRC/43/4.

⁵⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 21 (2009) on the right of everyone to take part in cultural life, in particular para 16.

PRINCIPLE 3: Prohibition of forced evictions of encampments

45 Under international human rights law, forced evictions constitute a gross violation of human rights and are prohibited in all circumstances, including in the context of encampments.⁶⁰

46 Forced evictions are defined as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection ... in conformity with the provisions of the International Covenants on Human Rights.”⁶¹

47 Forced evictions are impermissible irrespective of the tenure status of those affected. This means that the forced eviction of encampments is prohibited if appropriate forms of protection are not provided – including all of the requirements described in this Protocol.⁶² It may also be considered a forced eviction when governments’ and those acting on their behalf harass, intimidate, or threaten encampment residents, causing residents to vacate the property.⁶³

48 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.⁶⁴ Evictions (as opposed to “forced evictions”) may be justified in rare circumstances, but they may only be carried out after exploring all viable alternatives with residents, in accordance with law and consistent with the right to housing, as described in this Protocol.

49 Governments must repeal any laws or policies that sanction forced evictions and must refrain from adopting any such laws, including for example anti-camping laws, move-along laws, laws prohibiting tents being erected overnight, laws prohibiting personal belongings on the street, and other laws that penalize and punish people experiencing homelessness and residing in encampments.⁶⁵

⁶⁰ A/HRC/43/43, para 34; CESCR General Comment No.7.

⁶¹ CESCR General Comment No.7.

⁶² A/HRC/43/43, para 34; also see: “Security of tenure under domestic law should not, consequently, be restricted to those with formal title or contractual rights to their land or housing. The UN guiding principles on security of tenure (A/HRC/25/54, para. 5), states that security of tenure should be understood broadly as “a set of relationships with respect to housing and land, established through statutory or customary law or informal or hybrid arrangements, that enables one to live in one’s home in security, peace and dignity.”

⁶³ UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: <https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>

⁶⁴ A/HRC/43/43, para 36.

⁶⁵ See, for example, Ontario’s *Safe Street’s Act* (1999).

Principle 3 in Action: Forced Eviction & Harassment of Homeless Encampment Residents

In cities around the world, people experiencing homelessness are frequently subject to discriminatory treatment, harassment, and extreme forms of violence because of their housing status. People residing in homeless encampments are exposed to similar or worse treatment, particularly when faced with pressure to relocate or disperse.

In some cases, local laws, policies, or practices can provide the mechanisms for this harassment. For example, in British Columbia local authorities enforced a bylaw prohibiting overnight shelters in parks by using tactics that included spreading chicken manure and fish fertilizer on a homeless encampment. Residents and allies of the homeless encampment subsequently filed a human rights complaint with regard to these practices (*Abbotsford (City) v. Shantz*), and the BC Supreme Court found that certain bylaws violated encampment residents' constitutional rights to life, liberty and security of the person.

Under international human rights law, such activities are strictly prohibited and constitute instances of forced eviction, even if they align with local laws or policies. Given this, it is critical that Canadian governments review local and national policies and laws to ensure they do not violate the prohibition against the forced eviction of homeless encampments.

PRINCIPLE 4: Explore all viable alternatives to eviction

50 Government authorities must explore all viable alternatives to eviction, in consultation with encampment residents.⁶⁶ This means ensuring their meaningful and effective participation in discussions regarding the future of the encampment.

51 Free and independent legal advice should be made available to all residents to help them understand the options, processes, and their rights. Consultations should be conducted at times and locations that are appropriate and accessible for residents to ensure their participation is maximised. Financial and other support should be available to residents so that they can fully participate in all discussions regarding the future of the encampment and so that residents can retain outside consultants (e.g., environmental engineers, architects) where needed to assist them in developing alternative options to eviction.

52 Discussions regarding viable alternatives to eviction must include meaningfully engagement with Indigenous Peoples and be grounded in principles of self-determination, free, prior and informed consent. In urban contexts, for example, urban Indigenous organisations should be engaged early in the planning process to establish service delivery roles and to ensure the availability of culturally appropriate services.

⁶⁶ A/HRC/43/4.

53 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 any relocation is human rights compliant

54 Homeless encampments are not a solution to homelessness, nor are they a form of adequate housing. Governments have an urgent, positive obligation to ensure encampment residents have access to long-term, adequate housing that meets their needs, accompanied by necessary supports. Rather than eviction, governments must engage with homeless encampments with a view to ensuring residents are able to access such housing.

55 Despite this obligation, many governments respond to encampments by simply moving residents from one bad site to another through the use of law enforcement, physical barriers, or other means, and without meaningfully engaging residents. This in no way addresses the underlying violations of the right to housing experienced by residents of encampments, is often costly, and can contribute to increased marginalization. If relocation is deemed necessary and/or desired by encampment residents, it is critical that it is conducted in a human rights compliant manner.

56 As a starting point, meaningful, robust, and ongoing engagement with residents (as defined in Principle 2) is required for the development of any relocation of homeless encampments or of their residents. Meaningful engagement with communities should ensure the development of plans that respect the rights of residents and can be implemented cooperatively, without police enforcement.⁶⁷ 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.”⁶⁸ If relocation is consistent with the human rights of residents, it will almost always be achievable without the use of force.

57 If government authorities propose the relocation of residents of homeless encampments, and the residents desire to remain in situ, the burden of proof is on the government to demonstrate why in situ upgrading is unfeasible.⁶⁹

58 If, after meaningful engagement with those affected, relocation is deemed necessary and/or desired by encampment residents, adequate alternative housing must be provided in close proximity to the original place of residence and source of livelihood.⁷⁰ If governments have failed to provide residents with housing options that

⁶⁷ A/HRC/40/61, para 38.

⁶⁸ A/73/310/Rev.1, para 26.

⁶⁹ A/73/310/Rev.1, para 32.

⁷⁰ A/HRC/4/18, annex I, para. 60.

they find acceptable, residents must be permitted to remain or be provided with a satisfactory alternative location, while adequate permanent housing options are negotiated and put in place.

59 If, in the exceptional case there is no viable alternative to eviction by authorities, eviction must be compliant with all aspects of international human rights law.⁷¹ Compliance with international human rights law requires:

i. **Prohibition against the removal of residents' private property without their knowledge and consent**

The removal of residents' private property by governments and those acting on their behalf, including the police, without their knowledge and consent, is strictly prohibited.⁷² Such actions are contrary to the rights of residents and may contribute to the deepening of residents' marginalization, exclusion, and homelessness.⁷³ Governments and police must also seek to actively prevent the removal of homeless residents' private property by private actors or any other form of harassment.

ii. **Adherence to the right to housing and other human rights standards when relocation is necessary or preferred**

Adequate alternative housing, with all necessary amenities (particularly water, sanitation and electricity), must be in place for all residents prior to their eviction.⁷⁴ Alternative housing arrangements should be in close proximity to the original place of residence and to services, community support, and livelihood.⁷⁵ It is critical that all encampment residents be allowed to participate in decisions regarding relocation, including the timing and site of relocation.⁷⁶ A full hearing of the residents' concerns with the proposed relocation should be held, and alternatives explored.

⁷² A/HRC/4/18, *Basic Guidelines on Development Based Evictions*, see para 50: "States and their agents must take steps to ensure that no one is subject to direct or indiscriminate attacks or other acts of violence, especially against women and children, or arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. Property and possessions left behind involuntarily should be protected against destruction and arbitrary and illegal appropriation, occupation or use."

⁷³ National Law Centre on Homelessness & Poverty. (2017). *Violations of the Right to Privacy for Persons Experiencing Homelessness in the United States*. Available from: <https://nlchp.org/wp-content/uploads/2018/10/Special-Rapporteur-Right-to-Privacy.pdf>. See para 7: "For them, whatever shelter they are able to construct, whether legally or illegally, is their home, and their right to privacy should inhere to that home the same as it would for any regularly housed person. To deny them that right is to further marginalize and dehumanize this already highly marginalized and dehumanized population."

⁷⁴ A/73/310/Rev.1, para 34.

⁷⁵ Basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para. 60) and A/HRC/4/18, annex I, para. 60.

⁷⁶ A/73/310/Rev.1, para 31.

iii. **Relocation must not result in the continuation or exacerbation of homelessness, or require the fracturing of families or partnerships**

Relocation must not result in the continuation or deepening of homelessness for residents.⁷⁷ Relocation must not require the separation of families or partners, as defined by rights-holders themselves, including chosen family and other kinship networks.⁷⁸ Governments should engage encampments with a view to keeping the community intact, if this is desired by the residents.⁷⁹ Governments should also ensure that relevant housing policies are supportive of the ways in which rights-holders define their own families, partnerships, communities and extended Indigenous kinship structures, and accommodate these whenever possible in public or social housing.

iv. **Access to justice to ensure procedural fairness and compliance with all human rights**

Access to justice must be ensured at all stages of government engagement with encampment residents, not just when eviction is imminent.⁸⁰ Access to justice and legal protection must meet international human rights law standards,⁸¹ including the provision of due process, access to legal aid, access to fair and impartial legal advice, and the ability to file complaints in a relevant forums (including Indigenous forums) that are geographically proximate.⁸²

⁷⁷ A/73/310/Rev.1.

⁷⁸ UN Office of the High Commissioner. (2014). *Forced Evictions: Fact Sheet No. 25/Rev.1*. Available from: <https://www.ohchr.org/Documents/Publications/FS25.Rev.1.pdf>. See para 52: “States should also ensure that members of the same extended family or community are not separated as a result of evictions.”; also, UNHR Summary Conclusions on the Family Unit, Available at <https://www.unhcr.org/protection/globalconsult/3c3d556b4/summary-conclusions-family-unity.html>, see para 8: “International human rights law has not explicitly defined ‘family’ although there is an emerging body of international jurisprudence on this issue which serves as a useful guide to interpretation. The question of the existence or non-existence of a family is essentially a question of fact, which must be determined on a case-by-case basis, requiring a flexible approach which takes account of cultural variations, and economic and emotional dependency factors. For the purposes of family reunification, ‘family’ includes, at the very minimum, members of the nuclear family (spouses and minor children).”

⁷⁹ A/HRC/43/43, para 42.

⁸⁰ A/HRC/43/43.

⁸¹ Committee on Economic, Social and Cultural Rights, General Comment No. 7, para 3.

⁸² It should be noted that broad and inclusive participatory-based processes can potentially foster access to justice for equity-seeking groups, and such processes should be responsive to the unique barriers to justice these groups face.

Principle 5 in Action - *Melani v. City of Johannesburg*

Globally, there are many compelling examples of courts upholding the rights of informal settlements or homeless encampments right to remain in place (“in situ”) in their community. One such example is *Melani v. City of Johannesburg* in South Africa. In this case, the Slovo Park informal settlement challenged the City of Johannesburg’s decision to relocate the community to an alternative location 11 km away. The court held that the Government’s upgrading policy, as required by the constitutional right to housing, envisages “a holistic development approach with minimum disruption or distortion of existing fragile community networks and support structures and encourages engagement between local authorities and residents living within informal settlements.” The Court concluded that relocation must be “the exception and not the rule” and any relocation must be to a location “as close as possible to the existing settlement.” The Court ordered the City of Johannesburg to reverse the decision to relocate the community, and mandated the city to apply for funding for in situ upgrading.

The South African approach is an example of how some national courts are making the shift to adopt a human rights-based approach to encampments. This is a shift that moves in the right direction and should be applied by all courts in Canada.

PRINCIPLE 6: Ensure encampments meet basic needs of residents consistent with human rights⁸³

60 Much of the stigma attached to residents of encampments is a result of governments failing to ensure access to basic services, including access to clean water, sanitation facilities, electricity, and heat, as well as support services.⁸⁴ These conditions violate a range of human rights, including rights to housing, health, physical integrity, privacy, and water and sanitation.⁸⁵ In these conditions, residents face profound threats to dignity, safety, security, health, and wellbeing.⁸⁶ The denial of access to water and sanitation by governments constitutes cruel and inhumane treatment, and is prohibited under international human rights law.⁸⁷

⁸³ Details regarding securing basic needs consistent with human rights can be found in Schedule B.

⁸⁴ A/73/310/Rev.1.

⁸⁵ A/HRC/43/4.

⁸⁶ UN Water. *Human Rights to Water and Sanitation*. Available from: <https://www.unwater.org/water-facts/human-rights/>

⁸⁷ A/73/310/Rev.1, para 46: “Attempting to discourage residents from remaining in informal settlements or encampments by denying access to water, sanitation and health services and other basic necessities, as has been witnessed by the Special Rapporteur in San Francisco and Oakland, California, United States of

61 Canadian governments must ensure, at a minimum, that rudimentary adequacy standards are ensured in homeless encampments on an urgent and priority basis, while adequate housing options are negotiated and secured. Government's compliance with international human rights law requires:

i. **Access to safe and clean drinking water**

Water and sanitation are critical to health for all people. Through *Resolution 64/292*, the United Nations explicitly recognized the right to safe and clean drinking water and sanitation as a "human right that is essential for the full enjoyment of life and all human rights."⁸⁸ The *Resolution* calls upon States and international organizations "to provide safe, clean, accessible and affordable drinking water and sanitation for all." This obligation extends to those residing in homeless encampments.⁸⁹

ii. **Access to hygiene and sanitation facilities**

Homeless encampments must be provided with sufficient resources and supports to ensure access to hygiene and sanitation facilities – toilets, showers, hand-washing stations, for example – within the encampment, or within very close proximity. Using existing facilities that remain open to the general public will not be appropriate. Facilities should ensure the hygiene and dignity of all residents irrespective of needs or identity. Peer-led hygiene and sanitation facilities have worked well in some contexts.

iii. **Resources and support to ensure fire safety**

General safety precautions should be implemented in an encampment environment to ensure residents are safe from fire and chemical exposure. Fire Departments should assist residents in developing a harm reduction approach to fire safety.

iv. **Waste management systems**

The lack of waste management systems in encampments has serious health and safety implications. Encampments necessarily create garbage during the course of daily activities. Garbage piles can become combustible fire hazards and can increase the risk of exposure to chemical waste. Human and animal biological waste also poses a particular danger. Without sanitary facilities, accumulated fecal waste can contaminate the

America, 29 constitutes cruel and inhuman treatment and is a violation of multiple human rights, including the rights to life, housing, health and water and sanitation."

⁸⁸ A/RES/64/292, para 2. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

⁸⁹ A/RES/64/292, para 3. Available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

ground and transmit diseases.⁹⁰ The improper disposal of needles can also transmit diseases through puncture wounds or re-use of needles. It is the responsibility of governments to ensure that homeless encampments have sufficient resources for the establishment of waste management systems.

v. **Social Supports and Services**

Residents of homeless encampments should be ensured access to health, mental health, addiction, and broader social services in a manner equitable to other community residents and consistent with human rights. All supports should be culturally appropriate and anti-oppressive. Governments should consult encampment residents on how best to provide access to these services, including through approaches such as outreach and/or on-site service provision. The provision of social services should not be linked to data gathering of any kind.

vi. **Guarantee Personal Safety of Residents**

Although research indicates that unsheltered people in Canada are disproportionately targets of violence, rather than perpetrators,⁹¹ interpersonal violence and exploitation can occur within encampments. Interpersonal violence is often exacerbated when people do not have their basic needs met,⁹² thus the provision of meaningful resources and supports will likely help ameliorate issues of safety.

It is the State's duty to protect the safety of all residents, particularly those who may be particularly vulnerable to abuse, harm, trafficking, or exploitation. Responses to violence must be guided by principles of transformative justice, rather than reproduce punitive outcomes and must be based in community-developed safety protocols. Governments must recognize that engaging police or other state authorities as a response to violence in encampments may put people at increased risk of harm, including due to risks of being criminalized or incarcerated.

vii. **Facilities and resources that support food safety**

Consuming contaminated food or water can cause a variety of foodborne

⁹⁰ CalRecycle. *Homeless Encampment Reference Guide*. Available at:

<https://www.calrecycle.ca.gov/illegalDump/homelessCamp#SolidWaste>

⁹¹ Sylvia, N., Hermer, J., Paradis, E., & Kellen, A. (2009). "More Sinned Against than Sinning? Homeless People as Victims of Crime and Harassment." In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (Eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 7.2. Toronto: Cities Centre, University of Toronto.

www.homelesshub.ca/FindingHome

⁹² Slabbert, I. (2017). Domestic violence and poverty: Some women's experiences. *Research on social work practice*, 27(2), 223-230.

illnesses. Encampments are often more susceptible to foodborne illnesses due to a lack of storage, cooling appliances, improperly cooked foods, and limited or no access to clean water. Diseases can spread quickly in an encampment setting.

One of the best ways to prevent the spread of illness is to for governments to provide resources that enable the encampment to implement food safety measurements such as refrigeration facilities, which are also important for storing medicines.

viii. **Resources to support harm reduction**

Governments must provide encampments with the resources to implement effective harm reduction measures. Appropriate professionals should support residents to establish emergency protocols for responding to overdoses and other health emergencies.

ix. **Rodent and pest prevention**

The presence of rodents and pests can pose a significant threat to the health of residents. Appropriate prevention and treatment options should be available for pest management that are safe for use in human environments. Encampment residents should be provided with the resources to prevent and address the presence of rodents and pests.

62 In implementing these standards, it must be recognized that residents of encampments are experts with respect to their living spaces — they often know what resources are needed and how best to mobilize them. As a matter of human rights, residents must be engaged in planning and carrying out any measures developed to improve access to basic services. Practices, systems, and agreements residents have already put in place should be respected by government officials and should inform any further improvements.

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

63 As a matter of international human rights law, the rights and dignity of residents must be at the heart of all government engagement with homeless encampments.⁹³ Dignity is an inherent human rights value that is reflected in the *Universal Declaration of Human Rights*. As such, Canadian governments have an obligation to bring about positive human rights outcomes in all of their activities and decisions concerning homeless encampments.

⁹³ ICESCR.

64 Where Canadian governments at any level make decisions with regards to encampments, it is essential that they do so taking into account the full spectrum of human rights of residents and ensure that their enjoyment of those rights is enhanced by all decisions. Any decision that does not lead to the furthering of human rights, fails to ensure their dignity, or represents a backwards step in terms of their enjoyment of human rights, is contrary to human rights law.

65 More broadly, the Canadian government has an obligation to the progressive realization of the right to housing, alongside all other human rights.⁹⁴ A central component of that obligation is to address on an urgent basis the needs of those in the greatest need. This means that Canadian governments must move, as a matter of priority, towards the full enjoyment of the right to housing for encampment residents.⁹⁵ When governments fail to bring about positive human rights outcomes for encampment residents, they fail their obligation to progressively realize the right to housing.⁹⁶

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

66 Indigenous Peoples in Canada experience some of the most severe and egregious forms of housing need, and are dramatically overrepresented in homeless populations across the country, including specifically amongst those who are sleeping rough.⁹⁷ Under these conditions, many Indigenous Peoples experience profound violations of the right to housing and the right to self-determination, as well as violations of the right to freely pursue their economic, social, and cultural development.⁹⁸

67 For Indigenous Peoples in Canada, encampments and political occupation may occur simultaneously as a means of survival and a means of asserting rights to lands and

⁹⁴ ICESCR, in General Comment No.3 on the nature of states parties' obligations under Art 2(1) of the ICESCR.

⁹⁵ ICESCR, Article 2(1).

⁹⁶ Further, if governments failed to ensure human rights outcomes were obtained for encampment residents, and residents suffered some detriment to their enjoyment of their rights (e.g., loss of dignity or ended up street homeless without any shelter at all), this might be classed as retrogression and a breach of obligations.

⁹⁷ See ESDC (Employment and Social Development Canada). (2019). *Everyone counts highlights: Preliminary results from the second nationally coordinated point-in-time count of homelessness in Canadian communities*. Retrieved from <https://www.canada.ca/en/employment-social-development/programs/homelessness/reports/highlights-2018-point-in-time-count.html#3.5>. Similarly, the [2018 Toronto Street Needs Assessment](#) documented that 16% of those enumerated were Indigenous, and 38% of those sleeping rough were Indigenous. See also Patrick, C. (2014). *Aboriginal Homelessness in Canada: A Literature Review*. Toronto: Canadian Homelessness Research Network Press. Retrieved from <https://www.homelesshub.ca/sites/default/files/AboriginalLiteratureReview.pdf>.

⁹⁸ Article 3 of the *Declaration* and article 1 of the *Covenant*.

territories within cities and elsewhere. Whatever the impetus, any government engagement with Indigenous Peoples in encampments must be guided by the obligation to respect, protect, and fulfil their distinct rights. These rights are outlined in the United Nations Declaration on the Rights of Indigenous Peoples, as well as many other international human rights treaties.

68 Under international human rights laws, the enjoyment of the right to housing for Indigenous Peoples is “deeply interconnected with their distinct relationship to their right to lands, territories and resources, their cultural integrity and their ability to determine and develop their own priorities and strategies for development.”⁹⁹ Recognition of the indivisible nature of Indigenous Peoples’ human rights, and the obligation to uphold these rights, must shape all government engagement with Indigenous encampment residents, as well as the Indigenous Peoples who own or occupy the land or territories upon which the encampment is located.

69 Compliance with international human rights law requires:

i. **Recognition of the distinct relationship that Indigenous Peoples have to their lands and territories**

In order to ensure adequate housing for Indigenous Peoples, States, Indigenous authorities, and other actors must recognize the distinct spiritual and cultural relationships that Indigenous Peoples have with their lands and territories.¹⁰⁰ This recognition includes protection for Indigenous residents of encampments, who have the right to utilize their lands and territories in line with their own economic, social, political, spiritual, cultural, and traditional practices (as defined and assessed by the Peoples themselves).¹⁰¹

Under international human rights law, governments “should respect those housing structures which an Indigenous community deems to be adequate in the light of their own culture and traditions.”¹⁰² In the context of encampments, governments must respect Indigenous Peoples’ right to construct shelter and housing in ways that incorporate their lived histories, cultures, and experiences.¹⁰³

ii. **Guarantee of self-determination, free, prior and informed consent and**

⁹⁹ A/74/183, particularly para 6: “The right to adequate housing can be enjoyed by Indigenous Peoples only if its articulation under article 11 (1) of the International Covenant on Economic, Social and Cultural Rights is understood as interdependent with and indivisible from the rights and legal principles set out in the United Nations Declaration on the Rights of Indigenous Peoples.”

¹⁰⁰ A/74/183.

¹⁰¹ A/74/183.

¹⁰² A/74/183, para 62.

¹⁰³ A/74/183.

meaningful consultation of Indigenous Peoples

Governments must ensure the participation of Indigenous Peoples in all decision-making processes that affect them.¹⁰⁴ Governments must consult with Indigenous encampment residents in order to obtain their free, prior, and informed consent before taking any action that may affect them.¹⁰⁵

Engagement with Indigenous communities should involve genuine dialogue and should be guided by “mutual respect, good faith and the sincere desire to reach agreement.”¹⁰⁶ This consultation process must engage representatives chosen by Indigenous Peoples themselves, in accordance with their own procedures and practices.¹⁰⁷ As outlined in Principle 2, governments must provide Indigenous residents with necessary institutional, financial, and other resources in order to support their right to participate.¹⁰⁸ Indigenous women and girls must be consulted on a priority basis.¹⁰⁹

iii. Prohibition against the forced eviction, displacement, and relocation of Indigenous Peoples

Indigenous Peoples’ access to and control over their lands, territories and resources constitute a fundamental element of the realization of their right to adequate housing.¹¹⁰ As such, international human rights law strictly prohibits the relocation of Indigenous Peoples in the absence of free, prior, and informed consent.¹¹¹

iv. Protection and guarantees against all forms of violence and discrimination for Indigenous women, girls, and gender diverse peoples

Indigenous women, girls, gender diverse, and Two-Spirit peoples experience particular forms of violence – including sexual violence and

¹⁰⁴ United Nations Declaration on the Rights of Indigenous Peoples.

¹⁰⁵ United Nations Declaration on the Rights of Indigenous Peoples, in particular arts. 10, 19, and 23.

¹⁰⁶ A/74/183, para 56.

¹⁰⁷ United Nations Declaration on the Rights of Indigenous Peoples, art. 18. See also Indigenous and Tribal Peoples Convention, 1989 (No. 169), art. 6(1)(b); American Declaration on the Rights of Indigenous Peoples, arts. XXI (2) and XXIII (1); and A/HRC/18/42, annex (Expert Mechanism advice No. 2 (2011)). See also Human Rights Committee, General Comment No. 23 (1994) on the rights of minorities, para 7.

¹⁰⁸ Committee on Economic, Social and Cultural Rights’ General Comment No. 4, para 12, and the basic principles and guidelines on development-based evictions and displacement (A/HRC/4/18, annex I, para 39).

¹⁰⁹ A/74/183, para 59.

¹¹⁰ A/74/183, para 51. See also A/HRC/7/16, paras 45–48; The United Nations Declaration of the Rights of Indigenous Art. 26.2: “Indigenous Peoples have the right to own, use, develop, and control the lands, territories and resources that they possess by reason of traditional occupation or use, as well as those which they have otherwise acquired.”

¹¹¹ United Nations Declaration on the Rights of Indigenous Peoples, Art. 10: “Indigenous Peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the Indigenous Peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

homicide – in relation to the intersection of their indigeneity, gender identity, socioeconomic and cultural status, and their housing status.¹¹² Canadian law recognizes the concept of multiple and intersecting forms of discrimination, and under international human rights law all Indigenous women, girls, and those who are gender diverse or Two-Spirited “must enjoy full protection and guarantees against all forms of violence and discrimination, whether inside or outside their communities.”¹¹³

It is incumbent upon governments to provide Indigenous women and girls protection and guarantee against all forms of violence and discrimination within encampments, including from state authorities, in a manner that is consistent with Indigenous self-determination and self-governance.

¹¹² A/74/183, para 59.

¹¹³ A/74/183, para. 59.

SCHEDULE A: Select Case Law on Homeless Encampments in Canada

Victoria (City) v. Adams, [2009 BCCA 563](#)¹¹⁴

The City of Victoria made an application for an injunction to remove a "tent city" at Cridge Park. The City relied on its *Streets and Traffic Bylaw* and *Parks Regulation Bylaw*, which prohibits loitering and taking up an overnight temporary residence in public places. On appeal, the Court of Appeal established that the Victoria City bylaws violated section 7 of the *Canadian Charter* "in that they deprive homeless people of life, liberty and security of the person in a manner not in accordance with the principles of fundamental justice," and the provisions were not saved by section 1 of the *Charter* (para. 42). The Court of Appeal confirmed that the bylaw was overbroad "because it is in effect at all times, in all public places in the City."¹¹⁵

Abbotsford (City) v. Shantz, 2015¹¹⁶

The City of Abbotsford applied for an interim injunction requiring the defendants to remove themselves and their encampment from a city park. The Court concluded that the bylaws were "grossly disproportionate" because:

"the effect of denying the City's homeless access to public spaces without permits and not permitting them to erect temporary shelters without permits is grossly disproportionate to any benefit that the City might derive from furthering its objectives and breaches the s. 7 *Charter* rights of the City's homeless."¹¹⁷

The Court concluded that allowing the City's homeless to set up their shelters overnight and taking them down during the day would "reasonably balance the needs of the homeless and the rights of other residents of the City."¹¹⁸

¹¹⁴ *Victoria(City) v. Adams* (2009, BCCA 563). Online, <https://www.canlii.org/en/bc/bcca/doc/2009/2009bccca563/2009bccca563.html?resultIndex=1>

¹¹⁵ The Court of Appeal stated at para. 116 that: "The prohibition on shelter contained in the Bylaws is overbroad because it is in effect at all times, in all public places in the City. There are a number of less restrictive alternatives that would further the City's concerns regarding the preservation of urban parks. The City could require the overhead protection to be taken down every morning, as well as prohibit sleeping in sensitive park regions." This case is perhaps one of the most notable successes in homeless litigation in Canada.

¹¹⁶ *Abbotsford (City) v. Shantz* (2016 BCSC 2437). Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc2437/2016bcsc2437.html?resultIndex=1>

¹¹⁷ Para 224

¹¹⁸ The Court stated, "The evidence shows, however, that there is a legitimate need for people to shelter and rest during the day and no indoor shelter in which to do so. A minimally impairing response to balancing that need with the interests of other users of developed parks would be to allow overnight shelters to be erected in public spaces between 7:00 p.m. and 9:00 a.m. the following day." [para 276]

British Columbia v. Adamson, [2016 BCSC 584](#) [Adamson #1] and [2016 BCSC 1245](#) [Adamson #2]¹¹⁹

The Province of BC applied for an interlocutory injunction to restrain the defendant encampment residents from trespassing on the Victoria courthouse green space. On the first application, the court concluded that the balance of convenience did not favour the granting of the injunction, stating

“the balance of convenience is overwhelmingly in favour of the defendants, who simply have nowhere to move to, if the injunction were to issue, other than shelters that are incapable of meeting the needs of some of them, or will result in their constant disruption and a perpetuation of a relentless series of daily moves to the streets, doorways, and parks of the City of Victoria.”¹²⁰

Following this, a second injunction was filed based on new evidence of the encampment deterioration conditions, as well as supporting evidence that the Province would make housing available to encampment residents. The court made an order requiring the encampment to be cleared, but granting residents to stay until alternate housing options were made available to them.¹²¹

Vancouver (City) v. Wallstam, [2017 BCSC 937](#)¹²²

The City of Vancouver applied for an interlocutory injunction requiring encampment residents to vacate and remove all tents and other structures from a vacant city lot. The Court relied on the injunction test set out in *RJR-MacDonald*.¹²³ The court noted that:

“The test requires that the *applicant* prove it will suffer irreparable harm if the injunction is not granted...When I asked counsel what harm the *City* would suffer if the injunction was not granted, he answered that not granting the injunction would mean that a ‘vital social housing project won't go ahead’ and that interferes with the public good. He also points out the timeline for development of the project requires the injunction urgently ... While everyone can agree that more social housing is an important goal, I must balance that general concern against the position of the occupants that the tent city, as it currently exists, is now providing shelter and safe living space for the occupants.”¹²⁴

¹¹⁹ *British Columbia v. Adamson* (2016 BCSC 1245). Online, <https://www.canlii.org/en/bc/bcsc/doc/2016/2016bcsc1245/2016bcsc1245.html?resultIndex=1>

¹²⁰ Para 183.

¹²¹ Paras 85-86,

¹²² *Vancouver (City) v. Wallstam* 2017 BCSC 937 at para 60. Online, <https://www.canlii.org/en/bc/bcsc/doc/2017/2017bcsc937/2017bcsc937.html?resultIndex=1>

¹²³ In *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311

¹²⁴ Para 46-47.

The court concluded that the City failed to meet the *RJR-MacDonald* test and dismissed the City's application, but without prejudice to bring it forward again on a more complete factual record.¹²⁵

¹²⁵ Para 64.

SCHEDULE B: An Elaboration on Principle 6

Ensure encampments meet basic needs of residents consistent with human rights

Canadian governments must ensure, at a minimum, that rudimentary adequacy standards are ensured in homeless encampments on an urgent and priority basis, while adequate housing options are negotiated and secured. Government's compliance with international human rights law requires:

i. Access to safe and clean drinking water

Water and sanitation are critical to health for all people. Through *Resolution 64/292*, the United Nations explicitly recognized the right to safe and clean drinking water and sanitation as a "human right that is essential for the full enjoyment of life and all human rights."¹²⁶ The *Resolution* calls upon States and international organizations "to provide safe, clean, accessible and affordable drinking water and sanitation for all." This obligation extends to those residing in homeless encampments.¹²⁷

To ensure access to safe and clean drinking water, governments should provide homeless encampments with resources for:

- On site/close-proximity clean and safe drinking/potable water, ensuring a sufficient number of access points for water relative to the number of residents
- Dishwashing Station(s) with clean water, sufficient in number for the number of residents

ii. Access to hygiene and sanitation facilities

Homeless encampments must be provided with sufficient resources and supports to ensure access to hygiene and sanitation facilities – toilets, showers, hand-washing stations, for example – within the encampment, or within very close proximity. Using existing facilities that remain open to the general public will not be appropriate. Facilities should ensure the hygiene and dignity of all residents irrespective of needs or identity. Peer-led hygiene and sanitation facilities have worked well in some contexts.

Hygiene and sanitation facilities should include:

- Washing stations, including showers with privacy and safety for women and gender diverse peoples, stocked with soap, water, paper towels

¹²⁶ A/RES/64/292, para 2. Available at:

https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

¹²⁷ A/RES/64/292, para 3. Available at:

https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/64/292.

- Adequate numbers of toilets based on the encampment population which must be accessible for residents with disabilities. Every toilet station must also have a hand-washing station
- Access to cleaning and bathing supplies
- Access to free laundry facilities
- Free feminine hygiene products
- Access to clean bedding

iii. **Resources and support to ensure fire safety**

General safety precautions should be implemented in an encampment environment to ensure residents are safe from fire and chemical exposure. Fire Departments should assist residents in developing a harm reduction approach to fire safety. Residents should be provided with resources to support best safety practices, including:

- Fire-safety approved sources of heat (e.g., safe metal vessels for heat)
- Warming tents
- In-tent heat sources
- Fire-proof tents
- Fire evacuation plan
- Signage indicating evacuation plans
- Accessible information on fire safety tips and how to handle and store flammable materials (e.g., gasoline, butane, propane)
- Fire extinguishers appropriately spaced and training for residents on how to operate them
- Electricity/charging stations for phones and laptops
- On-site ashtrays or cigarette disposal posts

iv. **Waste management systems**

The lack of waste management systems in homeless encampments has serious health and safety implications. Encampments necessarily create garbage during the course of daily activities, including during food preparation or shelter building. Unwanted materials can pile up quickly when there is no waste system in place to remove garbage from the area. Garbage piles can become combustible fire hazards and can increase the risk of exposure to chemical waste.

Human and animal biological waste also poses a particular danger. Without sanitary facilities, accumulated fecal waste can contaminate the ground and transmit diseases.¹²⁸ The improper disposal of needles can also transmit diseases through puncture wounds or re-use of needles.

¹²⁸ CalRecycle. *Homeless Encampment Reference Guide*. Online at <https://www.calrecycle.ca.gov/illegaldump/homelesscamp#SolidWaste>

It is the responsibility of governments to ensure that homeless encampments have sufficient resources for the establishment of waste management systems, which should include:

- Weekly garbage and recycling (more frequent if needed)
- Regular service for waste water and portable toilets
- Independent waste bins for flammable/hazardous waste (e.g., fuel, motor oil, batteries, light bulbs)
- Large rodent-proof waste bins with tight fitting lids
- Garbage bags, cleaning supplies, hand soap, hand sanitizer
- Waste water holding tanks (if there are no sewers near encampment)

v. **Social Supports and Services**

Residents of homeless encampments should be ensured access to health, mental health, addiction, and broader social services in a manner equitable to other community residents and consistent with human rights. All supports should be culturally appropriate and anti-oppressive. Governments should consult encampment residents on how best to provide access to these services, including through approaches such as outreach and/or on-site service provision. The provision of social services should not be linked to data gathering of any kind.

i. **Guarantee Personal Safety of Residents**

Although research indicates that unsheltered people in Canada are disproportionately targets of violence, rather than perpetrators,¹²⁹ interpersonal violence and exploitation can occur within encampments. Interpersonal violence is often exacerbated when people do not have their basic needs met,¹³⁰ thus the provision of meaningful resources and supports will likely help ameliorate issues of safety.

It is the State's duty to protect the safety of all residents, particularly those who may be particularly vulnerable to abuse, harm, trafficking, or exploitation. Responses to violence must be guided by principles of transformative justice, rather than reproduce punitive outcomes and must be based in community-developed safety protocols. Governments must recognize that engaging police or other state authorities as a response to violence in encampments may put people at increased risk of harm, including due to risks of being criminalized or incarcerated.

¹²⁹ Sylvia, N., Hermer, J., Paradis, E., & Kellen, A. (2009). "More Sinned Against than Sinning? Homeless People as Victims of Crime and Harassment." In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (Eds.), *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 7.2. Toronto: Cities Centre, University of Toronto.

www.homelesshub.ca/FindingHome

¹³⁰ Slabbert, I. (2017). Domestic violence and poverty: Some women's experiences. *Research on social work practice*, 27(2), 223-230.

Any approach to addressing interpersonal safety within encampments must:

- Center on the most vulnerable members of the encampment, namely: BIPOC, women, trans-people and other LGBTQ2S+ persons, persons with disabilities, and other groups who experience discrimination or marginalization.
- Provide resources and supports to allow for Indigenous and other non-colonial approaches to conflict resolution.
- Provide safe, confidential, accessible, and non-coercive mechanisms through which individuals experiencing violence can report these experiences and receive trauma-informed supports and services, ensuring that these individuals are able to access alternative safe housing (as desired).

vi. **Facilities and resources that support food safety**

Consuming contaminated food or water can cause a variety of foodborne illnesses. Encampments are often more susceptible to foodborne illnesses due to a lack of storage, cooling appliances, improperly cooked foods, and limited or no access to clean water. Diseases can spread quickly in an encampment setting.

One of the best ways to prevent the spread of illness is to for governments to provide resources that enable the encampment to implement food safety measurements. This includes:

- Rodent-proof storage containers, with lids that can be sealed
- Shelving units to ensure food is stored off the ground
- Soap and sanitizer to clean food preparation surfaces
- Cooling appliance(s) to prevent spoilage
- Cooking appliance(s) to ensure food is thoroughly cooked

vii. **Resources to support harm reduction**

Governments must provide homeless encampments with the resources to implement effective harm reduction measures within homeless encampments. Appropriate professionals should support residents to establish emergency protocols for responding to overdoses and other health emergencies. Encampment residents should be provided with:

- Overdose prevention training (e.g., CPR training)
- Overdose prevention supplies (e.g., Naloxone)
- Overdose Prevention Sites, where possible
- Puncture-proof containers for needle disposal
- Harm reduction outreach supports
- Regular servicing of puncture-proof containers by a certified waste-management company

- Information about available emergency services in the event of overdoses or other health-related crises

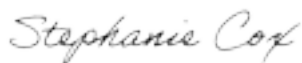
viii. **Rodent and pest prevention**

The presence of rodents and pests can pose a significant threat to the health of residents. Appropriate prevention and treatment options should be available for pest management that are safe for use in human environments (e.g., diatomaceous earth). Encampment residents should be provided with the resources to prevent and address the presence of rodents and pests, including:

- Resources and information on rodent and pest prevention
- A bait-station to detract rodents from sleeping tents, regularly serviced and monitored
- Cleaning materials and gloves to dispose of rodents

In implementing these standards, it must be recognized that residents of encampments are the experts of their living spaces — they often know what resources are needed and how best to mobilize them. As a matter of human rights, encampment residents must be engaged in planning and carrying out any measures developed to improve access to basic services for the encampment. Practices, systems, and agreements residents already have in place should be recognized by government officials and should inform any further improvements.

THIS IS EXHIBIT "H" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

A handwritten signature in cursive script that reads "Stephanie Cox". The signature is written in dark ink and is positioned above a horizontal line.

STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc

International Covenant on Economic, Social and Cultural Rights

**Adopted and opened for signature, ratification and accession by General Assembly
resolution 2200A (XXI)
of 16 December 1966**

entry into force 3 January 1976, in accordance with article 27

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

PART I**Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II**Article 2**

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions; (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State. 3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture. 3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2.

(a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts thereof, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts thereof, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V**Article 26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

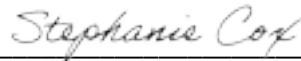
(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

THIS IS EXHIBIT "I" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

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STEPHANIE COX

LSO NO. 65464F

Commissioner for Taking Affidavits, etc

HOMELESS ENCAMPMENTS IN HAMILTON (ON) & RISK OF EVICTIONS

The Shift is concerned as protections for residents of homeless encampments are rolled back in the City of Hamilton, threatening the human rights of encampment residents. The City has announced its intent to revoke its Bylaw Enforcement Protocol¹ relating to homeless encampments as of 30th August 2021, leaving hundreds of people at immediate risk of eviction from their homes within encampments. This Protocol – arrived at in an agreement between the City and encampment residents, advocates, and community partners – provided protections against such an eviction, particularly for those with high acuity needs. Such a revocation, in absence of ensuring access to adequate housing for encampment residents, is inconsistent with human rights, and will likely result in deepening marginalization, trauma, health inequities, and safety risks for these community members.

The decision to now end the Protocol has seemingly been made without meaningful consultation with encampment residents and community advocates and fails to recognise the continuing housing and shelter crisis in Hamilton. Access to adequate, affordable housing continues to be out of reach for many people in Hamilton, including those residing in encampments. Shelters and hotels have confirmed that there is not enough space available to accommodate the minimum 135 people who may, from 30th August 2021, be evicted from homeless encampments across the city. Furthermore, many shelters remain inaccessible or unsafe for some people experiencing homelessness, particularly in the midst of the global pandemic.

Should the City revoke the Protocol, evict encampments, and fail to ensure access to adequate housing for encampment residents, the City of Hamilton will be in breach of their human rights obligations as outlined by the UN Special Rapporteur on the Right to Adequate Housing in [A National Protocol on Homeless Encampments in Canada – A Human Rights Approach \(2020\)](#).

Homelessness is itself a prima facie violation of the human right to housing, which has been codified in federal legislation through the National Housing Strategy Act of 21 June 2019. Under human rights law, evicting residents from encampments without their consent and without providing adequate alternative housing constitutes a forced eviction and is a gross violation of the right to housing. Such an eviction is never permissible under any circumstances.

¹ The Bylaw Enforcement Protocol arose from an agreement, in the Fall of 2020, between the City and encampment residents, advocates, and community partners. Taking into account the lack of adequate housing options in Hamilton, the Protocol required the City to assess the individual needs of all people living in homeless encampments and draw up personalised housing plans for them, seeking to enact a people-centred approach. Under the Protocol, those who were regarded as having high acuity needs would only be required to leave their encampment shelter if there was no suitable alternative accommodation available for them to move into. Those with lower acuity could remain in their encampments for 14 days, before being forced to leave.

THE SHIFT

#RIGHT2HOUSING

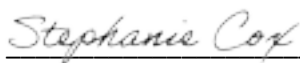
The City of Hamilton – like all governments in Canada – has an obligation to urgently address encampments in a human rights compliant manner and to ensure that all those living in encampments are recognized as rights holders, on a path towards secure, permanent housing. In order to be consistent with international human rights law and federal government housing policy under the National Housing Strategy Act, the City of Hamilton must:

- Abstain from evicting encampments in the absence of consent from encampment residents and without providing adequate,² alternative housing, with necessary supports, to encampment residents.
- Ensure any plans, policies, decisions, and actions made by the City in relation to encampments are only made following meaningful consultation with encampment residents, ensuring these residents opportunities to meaningfully influence the policies that affect them.
- Recognize that relying on temporary accommodation such as shelters and hotels to accommodate people evicted from encampments is wholly inconsistent with the human right to adequate housing. Shelters and hotels do not provide the long-term, secure housing that people who have experienced homelessness have a right to.
- Urgently take continual steps toward providing adequate, affordable, and secure housing for those living in homelessness, using all means and resources available.
- Adopt a policy approach to encampments that aligns with the obligations outlined in [A National Protocol on Homeless Encampments in Canada – A Human Rights Approach](#).

The lives and rights of human beings are at stake. It is imperative that the City of Hamilton take immediate action to recognise its obligations under international human rights law and take concerted measures to ensure its compliance with these. If it remains on its current trajectory, the City will breach the right to adequate housing of hundreds of people and exacerbate an already acute housing crisis.

² Adequate housing is defined as housing which provides residents with dignity, safety, and security. To be regarded as adequate housing must be affordable, habitable, be located near to infrastructure and employment and education opportunities, be sensitive to cultural needs, contain necessary services such as water, sanitation and heating, be accessible, and provide its inhabitants with security of tenure.

THIS IS EXHIBIT "J" TO THE
AFFIDAVIT OF LEILANI FARHA
AFFIRMED REMOTELY BEFORE ME AT THE
CITY OF OTTAWA DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG.431/20,
ADMINISTERNG OATH OR DECLARATION REMOTELY
THIS 15TH DAY OF JUNE, 2022

Handwritten signature of Stephanie Cox in cursive script.

STEPHANIE COX
LSO NO. 65464F
Commissioner for Taking Affidavits, etc

INFORMATION REPORT

TO:	Chair and Members Emergency and Community Services Committee
COMMITTEE DATE:	September 9, 2021
SUBJECT/REPORT NO:	Encampment Response Update (PED21188/HSC20038(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Monica Ciriello (905) 546-2424 Ext. 5809 Edward John (905) 546-2424 Ext. 4860
SUBMITTED BY: SIGNATURE:	Jason Thorne General Manager Planning and Economic Development Department
SUBMITTED BY: SIGNATURE:	Grace Mater General Manger Healthy and Safe Communities Department

COUNCIL DIRECTION

At its August 9, 2021 meeting, Council approved the repealing of the By-law Enforcement Protocol that permitted some individuals to camp in public spaces for up to 14 days. Further to that decision and the three-week winddown associated with it, as of August 30, 2021, the City returned to pre-protocol enforcement of City by-laws that prohibit camping on City property, including park areas.

INFORMATION

The COVID-19 pandemic highlighted and exacerbated ongoing systemic challenges and inequities across Canada as it relates to housing and homelessness. This has been demonstrated by the rise in, and visibility of, unsheltered homelessness and encampments throughout many Canadian cities. Person-centred strategies and approaches are required to address urgent issues associated with supporting residents

experiencing homelessness and living in encampments, while supporting long-term adequate housing solutions and broader community needs.

Encampment Process

With the repealing of the By-law Enforcement Protocol, staff will proceed with the following Encampment Process:

Step one

Complaints are received by Municipal Law Enforcement (MLE) regarding structures/tents in parks, road allowance and private property.

Step two

MLE attends, determines if there is a violation of a City By-law including the Parks Bylaw, seeks voluntary compliance and notifies Housing Outreach.

Step three

Housing Focused Street Outreach attends site and carries out the following:

- Work from Housing Focused Street Outreach framework and within the context of Hamilton's Homeless Coordinated Access System
- Support individuals, families and groups, in order to promote connection to shelter, housing and the achievement of their optimal health and well-being
- Collaborative development of housing and service plans
- Assist individuals with obtaining necessary documents needed to obtain housing, including the completion of supportive and subsidized housing applications
- Collaborate and co-ordinate services with appropriate community and health agencies
- Crisis intervention
- Provide a summary of these actions (omitting any privileged and confidential information) in the form of an encampment assessment checklist to MLE pursuant to their request

Step four

MLE re-attends and issues a verbal trespass notice and notifies Hamilton Police Service (HPS).

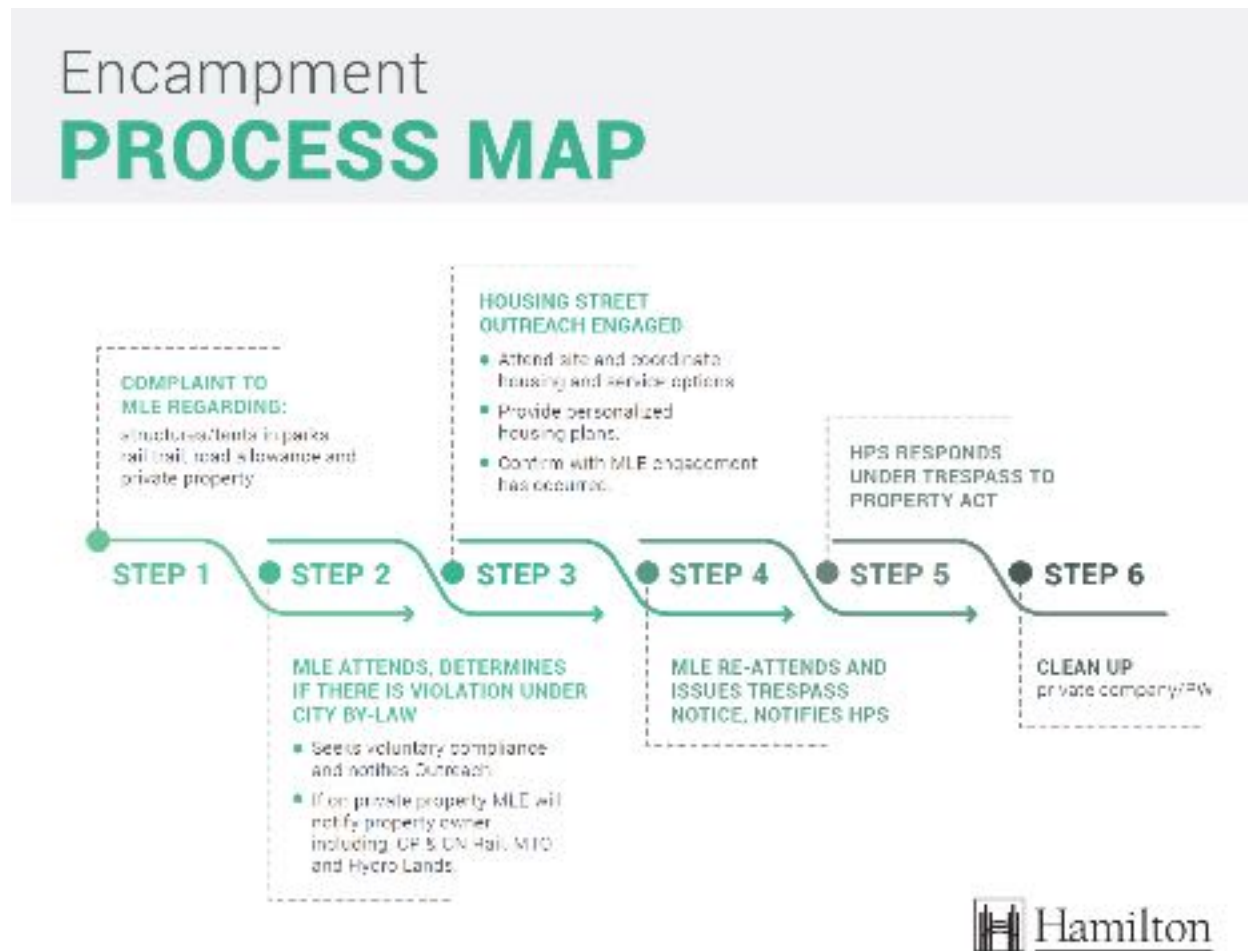
Step five

Hamilton Police Service responds under the *Trespass to Property Act*, R.S.O. 1990, c. T.21

Step six

Park and Waste Divisions are contacted to coordinate a clean up.

Table 1



Encampment Response

The City of Hamilton's Licensing and Bylaw Services Division will be the first point of contact for complaints regarding structures and tents in parks, road allowances and private property. MLE Officers will attend to determine if there is a City Bylaw, including the Parks By-law 01-291 violation, which prohibits camping on City property, including park areas. MLE Officers will be responding to complaints proactively Monday to Friday and reactively on weekends along with other COVID-19 By-law and Provincial Regulation priorities. MLE Officers will attend, provide education and seek voluntary compliance under the City Bylaw, ticketing those who are unsheltered will not be a course of action. If determined to be private property, MLE Officers will notify the property owner, including CP & CN Rail and MTO. If voluntary compliance is not achieved, MLE Officers will reach out to the Street Outreach team within the Housing Services Division and the Social Navigator Program.

The Housing Focused Street Outreach team will, if not already, attend the site and engage with those individuals currently unsheltered. Outreach will endeavor to provide an update summary of the site including identifying potential opportunities for connection to services and housing for those individuals, assess their needs and update MLE of the actions that have occurred.

MLE Officers will re-attend the location and, a verbal trespass notice would be issued to those contravening the bylaw. MLE will contact the Hamilton Police Service as the *Trespass to Property Act*, R.S.O. 1990, c. T.21 is a Provincial Act enforced by HPS. The City will continue to collaborate with HPS and the Social Navigator with regard to the service pathway. The last step will be to contact the Public Works Department (Parks, Streets, Waste Management) to coordinate a clean up.

Following the Council decision to repeal the By-law Enforcement Protocol, the City of Hamilton's Housing Services Division remains focused on supporting individuals experiencing homelessness in securing safe and affordable housing, by continuing to take an individualized approach to connect them to available supports.

Housing Services' Housing Focused Street Outreach Team connects with unsheltered individuals, regardless of their circumstances, to assess their immediate needs and housing preferences. The team completes common consent and intake forms for individuals not yet on the City's By-Name List (BNL), supports with benefit applications, unit viewings, harm reduction supplies, connections and referrals. As part of the City's homeless-servicing system, Outreach uses a shared system-wide database to stay connected to residents in encampments and outside of encampments in areas such as alleys, vacant lands, etc. Outreach services are provided to unsheltered residents across the geographic area of Hamilton Monday to Friday from 8:00 a.m. to 8:00 p.m. and Saturday and Sunday from 8:00 a.m. to 4:00 p.m. On a daily basis, the team undertakes progressive engagement to offer shelter or other available (and appropriate) space, works with individuals to find safe and supportive housing options, and works to address any barriers including a referral to our health partners.

During the COVID-19 pandemic, emergency shelter capacity has been expanded; however, occupancy pressures exist, particularly for women. Challenges remain in the access to available beds and in a number of instances capacity is not available. For example, length of stay in shelters has increased significantly during the pandemic and, with factors such as unaffordable costs of rent, housing availability has not kept pace with demand. Longer stays impact shelter bed turnover frequency, thus reducing the capacity of shelters to serve a higher volume of individuals. Outbreak status, availability of appropriate supports, staff turnover, shortages and burnout further impact the responsiveness of the system. When a move from encampment to emergency shelter occurs, the City of Hamilton recognizes that this remains a temporary measure of accommodation until safe, secure and adequate housing is secured.

For individuals for whom emergency shelters are not an option, Housing Services' Outreach Team supports connection to health partners, works to address issues related to service restrictions, and continues progressive engagement towards accepting housing assistance. The City of Hamilton funds numerous agencies to assist in the housing of homeless individuals through funding streams such as the Federal Reaching Home program. City staff monitor, advise and assist these agencies in meeting predetermined targets through the homeless-serving sector's coordinated access system. From January 2020 to present, approximately 440 individuals and families have been housed by agencies funded by the City. Of the approximately 440 households housed, this includes people who have been unsheltered at one point during that time period. Since March 2020, more than 70 individuals were housed directly from encampments.

Outreach staff engage with every individual from a rights-based approach, ensuring dignity and confidentiality is maintained. On an ongoing basis, both Housing Services and agency staff work from a person-centred approach to engage with individuals in order to refer and make connections to appropriate support and resources. Referrals may include Intensive Case Management, Rapid Rehousing, Transitional or permanent supportive housing programs, in addition to housing affordability benefits, depending on individuals' needs, preferences and available resources. Increased engagement for the direct purpose of assessing effectiveness of approaches and appropriateness of available resources will continue to inform potential changes or adaptations to service and supports over time.

Coming Together to End Homelessness: Hamilton's Systems Planning Framework outlines a strategic local approach to preventing and ending homelessness, which must account for the systemic over-representation of Indigenous persons experiencing homelessness. The City is committed to ongoing coordination with Hamilton's Urban Indigenous Community to ensure that approaches to service coordination and provision are culturally appropriate, safe and built on principles of relationship, trust and informed consent. This includes ongoing discussion to achieve equitable access to resources including, for example, housing affordability benefits as they become available to support unsheltered individuals who identify as Indigenous. Through ongoing dialogue with the Indigenous community, the City aims to ensure appropriate referrals are consistently made from mainstream supports to Indigenous agencies, including at intake by City outreach staff.

The City continues to commit to permanent housing solutions by implementing increased prioritization of those in encampments for permanent housing and intensive case management support programs while continuing multi-sectoral discussions to enhance permanent housing with supports options. From September to December 2021, Housing Services Division, together with partner agencies, will undertake a

housing campaign to maximize resources and collaboration to house 250 households experiencing homelessness.

Health and Safety Concerns

Due to the vulnerability and transience of encampment populations, health and safety concerns are present for both residents and City staff. COVID-19 exposure, verbal and sometimes physical aggressions have been noted at various sites. MLE Officers are not trained in outreach or mental health engagement techniques and therefore cannot offer support to address health and safety for encampment residents. This fact extends to include staff themselves, who navigate a challenging array of health and safety concerns when carrying out their duties. For example, Waste management staff have received numerous negative comments, which may be perceived as threats from residents, activists, advocates and the general public. Staff have been videotaped with postings on social media platforms such as Twitter and Facebook. Staff have been called repeatedly at all hours on their cell phone. In one instance a staff member was assaulted during clean up, resulting in injuries to the worker and charges being laid by Hamilton Police Service. As a result, the injured employee has yet to return to work.

There is a steady increase of incidents involving the Hamilton Fire Department and the Hamilton Police Service. Where emergency service response is needed, the City will respond swiftly with staff health and safety supports. Healthy and Safe Communities Department staff are better able to flag resident health and safety concerns to the appropriate support services for timely resolution.

The professional skillset required of Housing Service's Outreach staff facilitates mitigation of challenging behaviours, circumstances and establishment of positive rapport. Staff have been trained in non-violent crisis intervention, work only in pairs and are in constant communication with each other.

Budgetary Implications

Costs vary site to site; while staff time is not itemized by site, typical contractor costs for waste management average \$15 K. Across all encampments, average monthly security costs have been approximately \$23 K from October 2020 to July 2021.

Licensing and By-law Services

Council may direct Licensing and Bylaw Services (LBS) to enforce 7 days a week, inclusive of evenings and weekends. To oversee and coordinate the MLE officer response for encampments 7 days a week LBS requires 1 temporary FTE By-law Clerk at a cost of \$26, 162 and 1 temporary FTE MLE Officer at a cost of \$30, 795 from the date of Council approval to December 31, 2021. These staff will assist in the collection of

weekly stats on complaints received, locations of encampments, determine priority locations in collaboration with others on the Encampment Response Team, provide status updates as to the step each encampment site is in throughout the City. MLE Officers will be attending encampment sites in pairs, and one additional temporary FTE MLE Officer will allow for a timely proactive and reactive response to each encampment site 7 days a week. The Bylaw Clerk will provide administrative support to the MLE Officers and will ensure all tracking, scheduling, monitoring, entering areas of concern, preparation of orders, and dispatch to this team 7 days a week. The total cost would be \$56, 958.

Emergency Services Responses

The Hamilton Fire Department has attended to an increasing number of incidents involving encampments and individuals experiencing homelessness over the last three years (54 incidents in 2019, 82 incidents in 2020, and 101 incidents to date in 2021). The majority of incidents in 2021 to date have involved burning (controlled) and property fires/explosion.

Hamilton Paramedic Service responded to 55 encampment related calls in four parks from October 1, 2020 to August 31, 2021. There has been a steady increase in paramedic service response to encampments in City parks in 2021, ranging from two in January to 15 in August.

The Hamilton Police Service indicated there were 502 events from October 1, 2020 to August 31, 2021 related to six known encampment locations, but not necessarily due to the presence of an encampment. These incidents include events related to trespassing, assist (ambulance & fire), and other events requiring police service response (i.e. assault, harassment, protests, etc.)

Government Outreach

There remains an ongoing need to align provincial health and housing and homelessness investments to enable service managers to provide permanent housing with supports for high acuity chronically homeless individuals living in shelters and encampments. Strategic investment and partnership between Ontario Health West and City of Hamilton can demonstrably reduce chronic homelessness in Hamilton and the reliance on emergency hospital resources for those with the most complex, co-occurring needs.

Staff are actively pursuing funding opportunities from higher levels of government to address these needs. Specifically, the Ministry of Health (Ontario), Associate Minister of Mental Health and Addictions and the Ministry of Municipal Affairs and Housing (Ontario) in addition to the equivalent Ministries federally such as Health, Housing,

Infrastructure and Communities, and Families, Children and Social Development. Staff have proposed a pilot project to the Government of Ontario in order to address the needs of high-acuity individuals in Hamilton, this pilot outlines the resources required to take immediate action.

The proposed pilot would include 40 new units of supportive housing to address the needs of higher acuity individuals and continuing existing outreach activities will address needs in a new and improved way. The total funding necessary to undertake this development is \$2,440,000. The request for on-going provincial operational funding is \$1,940,000.

Staff have been using forums like the Association of Municipalities of Ontario (AMO), Federation of Canadian Municipalities (FCM) and Ontario Big City Mayors, of which Hamilton is a member, to further advocacy and align objectives in voicing our concerns about the lack of funding from higher levels of government to address these immediate needs. AMO, FCM and Ontario Big City Mayors are focused on improving supports for mental health. Ontario Big City Mayors has provided recommendations to support and complement the Province's Road to Wellness plan which seeks to improve mental health and addictions services across Ontario. The proposed recommendations and desire to collaborate demonstrate the need for municipalities to work with other levels of government and local service providers to ensure residents can access the help they need, where and when they need it.

APPENDICES AND SCHEDULES ATTACHED

None

Court File No. CV-21-00077817-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN
ARNOLD, ET AL.**

Applicants

-and-

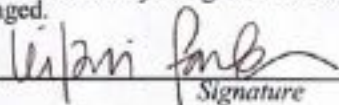
CITY OF HAMILTON

Respondent

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Leilani Farha. I live in Ottawa, in the Province of Ontario.
2. I have been engaged by or on behalf of the Hamilton Community Legal Clinic to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - (a) to provide opinion evidence that is fair, objective and non-partisan;
 - (b) to provide opinion evidence that is related only to matters that are within my area of expertise;
and
 - (c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date June 15, 2022



Signature

<div>1 Court File No. CV-21-77187</div> <div>2 ONTARIO</div> <div>3 SUPERIOR COURT OF JUSTICE</div> <div>4 B E T W E E N:</div> <div>5</div> <div>6 KRISTEN HEEGSMAN, DARRIN MARCHAND, GORD SMYTH,</div> <div>7 MARIO MUSCATO, SHAWN ARNOLD, BRADLEY CALDWELL,</div> <div>8 CHRISTINE DELOREY, GLEN GNATUK, TAYLOR GOGO-HORNER,</div> <div>9 CASSANDRA JORDAN, JULIA LAUZON, AMY LEWIS,</div> <div>10 ASHLEY MACDONALD, COREY MONAHAN, MISTY MARSHALL,</div> <div>11 SHERRI OGDEN, JAHMAL PIERRE, LINSLEY GREAVES and</div> <div>12 PATRICK WARD</div> <div>13 Applicants</div> <div>14 - and -</div> <div>15</div> <div>16 CITY OF HAMILTON</div> <div>17 Respondent</div> <div>18</div> <div>19</div> <div>20 --- This is the Cross-Examination of LEILANI FARHA</div> <div>21 on her Affidavit sworn June 15, 2022, herein, taken</div> <div>22 via videoconference hosted by Nimigan Mihailovich</div> <div>23 Reporting Inc. on the 27th day of August 2024.</div> <div>24</div> <div>25</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div> <div>1.905.522.1653 info@nmreporting.ca</div>	<div>3</div> <div>1 TABLE OF CONTENTS</div> <div>2 INDEX OF EXAMINATIONS:</div> <div>3 LEILANI FAHRA; Affirmed</div> <div>4 CROSS-EXAMINATION BY MR. DIACUR.....5</div> <div>5</div> <div>6 The following list of undertakings, advisements and</div> <div>7 refusals is meant as a guide only for the</div> <div>8 assistance of counsel and for no other purpose.</div> <div>9</div> <div>10 INDEX OF UNDERTAKINGS</div> <div>11 The questions/requests undertaken are noted by U/T</div> <div>12 and appear on the following page/line numbers:</div> <div>13 10:24</div> <div>14</div> <div>15 INDEX OF ADVISEMENTS</div> <div>16 The questions/requests taken under advisement are</div> <div>17 noted by U/A and appear on the following page/line</div> <div>18 numbers: None noted</div> <div>19</div> <div>20 INDEX OF REFUSALS</div> <div>21 The questions/requests refused are noted by R/F and</div> <div>22 appear on the following page/line numbers: 34:15</div> <div>23</div> <div>24</div> <div>25</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div> <div>1.905.522.1653 info@nmreporting.ca</div>
<div>2</div> <div>1 APPEARANCES:</div> <div>2</div> <div>3 Sujit Choudhry For the Applicants</div> <div>4</div> <div>5 Jordan Diacur For the Respondent</div> <div>6</div> <div>7</div> <div>8 IN ATTENDANCE:</div> <div>9</div> <div>10 Curtis Sell - CLCYR</div> <div>11 Liz Marr</div> <div>12 Michelle Sutherland - CLCYR</div> <div>13 Sharon Crowe - HCLC</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div> <div>1.905.522.1653 info@nmreporting.ca</div>	<div>4</div> <div>1 TABLE OF CONTENTS (Continued)</div> <div>2 INDEX OF EXHIBITS.</div> <div>3 EXHIBIT NO./DESCRIPTION PAGE NO.</div> <div>4 NO. 1 (for identification): NOW 16</div> <div>5 Magazine article - the case for a</div> <div>6 human rights response to homelessness</div> <div>7 encampments</div> <div>8 NO. 2: Main web page from The Shift 38</div> <div>9 website</div> <div>10 NO. 3: Subpage from The Shift 43</div> <div>11 "Homeless Encampments"</div> <div>12</div> <div>13</div> <div>14</div> <div>15</div> <div>16</div> <div>17</div> <div>18</div> <div>19</div> <div>20</div> <div>21</div> <div>22</div> <div>23</div> <div>24</div> <div>25</div> <div>NIMIGAN MIHAILOVICH REPORTING INC.</div> <div>1.905.522.1653 info@nmreporting.ca</div>

<div>5</div> <p>1 ---Upon Commencing at 1:30 p.m.</p> <p>2 LEILANI FARHA; Affirmed.</p> <p>3 CROSS-EXAMINATION BY MR. DIACUR:</p> <p>4 1 Q. So, ma'am, where are you</p> <p>5 participating from today?</p> <p>6 A. I am participating from Ottawa,</p> <p>7 the un-ceded territory of the Anishinabe.</p> <p>8 2 Q. I see you're in a living space,</p> <p>9 are you alone?</p> <p>10 A. Yes, I am. It's my home</p> <p>11 office.</p> <p>12 3 Q. Understood. I just wanted to</p> <p>13 make sure.</p> <p>14 A. Yeah.</p> <p>15 4 Q. And you understand that you are</p> <p>16 to receive no assistance in giving your answers</p> <p>17 today?</p> <p>18 A. Yes, I do understand that.</p> <p>19 5 Q. But you can certainly refer to</p> <p>20 your affidavit, which is dated June 15th, 2022,</p> <p>21 but aren't to refer to any other documents unless</p> <p>22 you state on the record what you're referring to</p> <p>23 and we can make it an exhibit. You'd also need to</p> <p>24 explain how it informs your evidence and opinion,</p> <p>25 understood?</p> <p>NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<div>7</div> <p>1 12 Q. Understood, yes, I'm familiar</p> <p>2 with that. Other than that, no experience as a</p> <p>3 witness previously?</p> <p>4 A. Correct.</p> <p>5 13 Q. And your affidavit sworn June</p> <p>6 15th, 2022, do you have a copy of that?</p> <p>7 A. Yes, I do.</p> <p>8 14 Q. I'm also going to share my</p> <p>9 screen. I'll put a copy of it up on the screen.</p> <p>10 So as we go through it I'll put the pieces of it</p> <p>11 that I'm referring to on the screen. You're</p> <p>12 perfectly free to refer to the electronic version</p> <p>13 or to the hard copy.</p> <p>14 A. One second, it's saying that I</p> <p>15 am unable to --</p> <p>16 15 Q. You can't see --</p> <p>17 A. I can't see, no, because it was</p> <p>18 outside -- sorry, there was a pop up and it's</p> <p>19 disappeared now. It said it was outside the</p> <p>20 parameters of my viewing, so I'm just trying to --</p> <p>21 MR. DIACUR: I'll stop sharing.</p> <p>22 MR. CHOUDHRY: Can we go off the</p> <p>23 record for a second.</p> <p>24 MR. DIACUR: Sure.</p> <p>25 -- OFF RECORD --</p> <p>NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<div>6</div> <p>1 A. Yes, I do understand that.</p> <p>2 6 Q. And you've just been affirmed</p> <p>3 to tell the truth?</p> <p>4 A. Yes, I have.</p> <p>5 7 Q. Okay. So, ma'am, what do you</p> <p>6 understand your role to be in this litigation?</p> <p>7 A. I understand that I am to</p> <p>8 provide expert testimony on international human</p> <p>9 rights law as it pertains to encampments in</p> <p>10 particular.</p> <p>11 8 Q. So to provide opinion evidence</p> <p>12 that is fair, objective and nonpartisan?</p> <p>13 A. Yes, sorry, indeed.</p> <p>14 9 Q. To provide opinion evidence</p> <p>15 that's related only to matters that are within</p> <p>16 your area of expertise?</p> <p>17 A. Absolutely.</p> <p>18 10 Q. Have you ever been qualified to</p> <p>19 give evidence as an expert witness in a court in</p> <p>20 Ontario before?</p> <p>21 A. Not as an expert witness.</p> <p>22 11 Q. But you have given fact</p> <p>23 evidence before?</p> <p>24 A. I was the principal affiant in</p> <p>25 a Charter case related to charity laws in Canada.</p> <p>NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<div>8</div> <p>1 MR. DIACUR: Just off the record we</p> <p>2 had a conversation about technical matters in</p> <p>3 terms of sharing screen and documents. It looks</p> <p>4 like the witness can now see the shared screen, so</p> <p>5 I'm content to proceed on that basis. Counsel, is</p> <p>6 that all right?</p> <p>7 MR. CHOUDHRY: Yes, it's fine with</p> <p>8 me. And, Ms. Farha, if at any point you have a</p> <p>9 problem, put your hand up, please, even if, you</p> <p>10 know, the question is still being posed because</p> <p>11 you're not going to be able to do much if you</p> <p>12 can't see what's being referenced, okay? So just</p> <p>13 give us the feedback, okay?</p> <p>14 THE DEPONENT: Yes, I'll make you</p> <p>15 aware.</p> <p>16 BY MR. DIACUR:</p> <p>17 16 Q. Thank you. I'm more than happy</p> <p>18 to see what we can do to accommodate any technical</p> <p>19 issues.</p> <p>20 MR. CHOUDHRY: Yes.</p> <p>21 BY MR. DIACUR:</p> <p>22 17 Q. So the affidavit sworn June</p> <p>23 15th, 2022 is on the screen. I would like to</p> <p>24 start with paragraph 3 of that affidavit. So it</p> <p>25 comes under a subheading Professional Background</p> <p>NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">9</p> <p>1 and Expertise, and the paragraph begins: "I am a</p> <p>2 lawyer by training". Do you see that?</p> <p>3 A. Yes, I can see it.</p> <p>4 18 Q. Okay. And you also say in this</p> <p>5 paragraph that you have worked on the</p> <p>6 implementation of the right to adequate housing.</p> <p>7 That phrase, "implementation of the right to</p> <p>8 adequate housing", what does that mean?</p> <p>9 A. To me the implementation of the</p> <p>10 right to housing means working with governments,</p> <p>11 in particular, so that they understand what the</p> <p>12 international human right to housing actually</p> <p>13 means and what their obligations are in that</p> <p>14 regard.</p> <p>15 19 Q. Okay. And what has been done</p> <p>16 to implement that?</p> <p>17 A. Oh, you want -- would you like</p> <p>18 me to cover my 20 years of experience or...?</p> <p>19 20 Q. Well, I do have your CV, so I</p> <p>20 suppose the question is ultimately, does the CV</p> <p>21 capture all of the work that you have done to</p> <p>22 implement what you refer to as the right to</p> <p>23 adequate housing?</p> <p>24 A. Well, we would have to go</p> <p>25 through the CV item by item to determine which</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">11</p> <p>1 MR. DIACUR: Okay.</p> <p>2 BY MR. DIACUR: A5590</p> <p>3 23 Q. So paragraph 4 of your</p> <p>4 affidavit indicates that you're the Global</p> <p>5 Director of The Shift, an international movement</p> <p>6 to secure the right to housing. Do you remain the</p> <p>7 Global Director of The Shift today?</p> <p>8 A. I am the Global Director of The</p> <p>9 Shift. We now refer to it as an organization and</p> <p>10 not an international movement.</p> <p>11 24 Q. Understood. But it still</p> <p>12 exists and that still is your job title?</p> <p>13 A. Correct.</p> <p>14 25 Q. And you indicate in this</p> <p>15 paragraph that you've worked with several</p> <p>16 municipalities in Canada. What municipalities are</p> <p>17 those?</p> <p>18 A. So going from the west across</p> <p>19 the country, we worked with Victoria, Vancouver to</p> <p>20 some degree, Edmonton, Saskatoon to some degree -</p> <p>21 I'm just getting my geography right here -</p> <p>22 Toronto, Kitchener, sort of the Kitchener-Waterloo</p> <p>23 Region, Halifax, and we have had some contact with</p> <p>24 a Peel Region, if I recall. Those are the main</p> <p>25 ones.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">10</p> <p>1 items go to that particular aspect of my work</p> <p>2 life. So, you know, I'm happy to do that, if</p> <p>3 that's what you wanted to do.</p> <p>4 21 Q. Well, the follow-up question</p> <p>5 was always going to be, does the CV capture</p> <p>6 everything that you have done in this regard, or</p> <p>7 is there anything outside the four corners of the</p> <p>8 CV that you would like to add?</p> <p>9 A. Well, the CV would only be</p> <p>10 relevant up to a certain date, the date at which</p> <p>11 point it was submitted. Obviously I continued to</p> <p>12 work since that date. So, no, it wouldn't be up</p> <p>13 to date.</p> <p>14 I do have a more current CV that I</p> <p>15 could provide you with. I can't imagine that a CV</p> <p>16 could cover every aspect of the work I've done on</p> <p>17 implementation because it's a documentation of</p> <p>18 very particular things, obviously.</p> <p>19 22 Q. Understood. So that is where</p> <p>20 I'm going with this.</p> <p>21 So, counsel, I would ask for an</p> <p>22 undertaking that the current version of Ms.</p> <p>23 Farha's CV be provided.</p> <p>24 U/T MR. CHOUDHRY: Yes, we'll get that to</p> <p>25 you.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">12</p> <p>1 26 Q. Have you ever worked with the</p> <p>2 City of Hamilton, Ontario?</p> <p>3 A. Worked with? No, I wouldn't</p> <p>4 say that I've worked with the City of Hamilton.</p> <p>5 27 Q. And so The Shift has not</p> <p>6 either?</p> <p>7 A. No, correct. The Shift has not</p> <p>8 worked with the City of Hamilton.</p> <p>9 28 Q. Have you ever been to the City</p> <p>10 of Hamilton?</p> <p>11 A. In my capacity as Global</p> <p>12 Director of The Shift or during my tenure as</p> <p>13 Global Director of The Shift, no, I have not.</p> <p>14 29 Q. Have you ever been to the City</p> <p>15 of Hamilton at all?</p> <p>16 A. Yes, I believe I was there for</p> <p>17 a homelessness conference many years ago. The</p> <p>18 Canadian Alliance to End Homelessness held a</p> <p>19 global, not global, sorry, a national conference</p> <p>20 there, and I think I went to that.</p> <p>21 30 Q. Okay.</p> <p>22 A. Sorry, that's right, that's</p> <p>23 right. I think I've been to Hamilton one other</p> <p>24 time when I was the Executive Director of Canada</p> <p>25 Without Poverty, but, I'm sorry, I can't remember</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca A1306</p>

<p style="text-align: right;">13</p> <p>1 the date of that. It would have pre-dated the</p> <p>2 conference I mentioned.</p> <p>3 31 Q. Okay. Thank you, I appreciate</p> <p>4 that.</p> <p>5 So if I scroll down to paragraph 7</p> <p>6 of your affidavit you indicate that you've</p> <p>7 researched and published widely on issues relating</p> <p>8 to housing rights. You have provided in your CV a</p> <p>9 list of publications. There's one in particular</p> <p>10 in that list provided in your CV that I would like</p> <p>11 to take you to and I have a few questions for you</p> <p>12 about it.</p> <p>13 Again, I'm going to stop sharing</p> <p>14 your affidavit and start sharing that document so</p> <p>15 you'll be able to see it, at least that's the</p> <p>16 hope. I'm going to put it up on the screen now.</p> <p>17 It will take a moment to pop up.</p> <p>18 So can you see this document? At</p> <p>19 the top it says: "The case for a human rights</p> <p>20 response to homelessness encampments - NOW</p> <p>21 Toronto".</p> <p>22 A. Yes.</p> <p>23 32 Q. And there's a date February</p> <p>24 11th, 2020; is that right?</p> <p>25 A. Yes. Was that co-authored with</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">15</p> <p>1 actual publication of it, but you recall it being</p> <p>2 prepared?</p> <p>3 A. That's correct.</p> <p>4 37 Q. Okay. All right.</p> <p>5 Then, counsel, I would like to mark</p> <p>6 this document Exhibit "A" for identification given</p> <p>7 that the witness has identified she hasn't seen</p> <p>8 this publication before but recalls writing it. I</p> <p>9 have a couple of questions for you about the</p> <p>10 content.</p> <p>11 MR. CHOUDHRY: Mr. Diacur, this is a</p> <p>12 small thing, but we've been numbering some of the</p> <p>13 exhibits in the crosses because the exhibits to</p> <p>14 the affidavits are lettered, that helps to keep</p> <p>15 things -- it's up to you, but just a suggestion.</p> <p>16 MR. DIACUR: It's my normal</p> <p>17 practice, and I don't have a problem with doing</p> <p>18 that if that's the choice. But my normal practice</p> <p>19 is where an exhibit is identified by a witness and</p> <p>20 it's going into the record for that purpose I</p> <p>21 would give it a number. If it's being marked for</p> <p>22 identification only, a letter. But I'm happy to</p> <p>23 mark this as Exhibit 1 and it will just be</p> <p>24 indicated it's for identification. I have no</p> <p>25 problem with that.</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">14</p> <p>1 someone?</p> <p>2 33 Q. Yes, that is actually my next</p> <p>3 question. So there is, at the end, a statement of</p> <p>4 who this was written with. So it states:</p> <p>5 "Leilani Farha is the UN Special</p> <p>6 Rapporteur on the Right to Housing. Haseena Manek</p> <p>7 is director of communications for The Shift."</p> <p>8 So in terms of its co-authorship,</p> <p>9 Haseena Manek co-wrote this with you; is that</p> <p>10 right?</p> <p>11 A. Yes, that's correct.</p> <p>12 34 Q. And I'll scroll back up to the</p> <p>13 top. It is the case that this was something that</p> <p>14 was co-written by you and published in February of</p> <p>15 2020; is that right?</p> <p>16 A. It appears so, in NOW magazine.</p> <p>17 35 Q. Yes. Well, that's the</p> <p>18 reference to the NOW Magazine publication and</p> <p>19 that's what's referenced in your CV. So I just</p> <p>20 want to confirm that this is the article that's</p> <p>21 mentioned?</p> <p>22 A. To be honest, I have not seen</p> <p>23 the article. But I'm assuming based on what I'm</p> <p>24 seeing before me that this is the article.</p> <p>25 36 Q. So you're not familiar with the</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">16</p> <p>1 MR. CHOUDHRY: Okay.</p> <p>2 <u>EXHIBIT NO. 1 (for identification):</u></p> <p>3 NOW Magazine article - the case for a human rights</p> <p>4 response to homelessness encampments</p> <p>5 BY MR. DIACUR:</p> <p>6 38 Q. If I scroll down through this</p> <p>7 article, it's just at the top of the second page,</p> <p>8 there's a pair of sentences here. So it starts:</p> <p>9 "What's happening in Toronto is</p> <p>10 mirrored across the country, with tent cities</p> <p>11 dotting the Canadian landscape in Edmonton,</p> <p>12 Winnipeg, London, Peterborough, North Bay and</p> <p>13 Fredericton."</p> <p>14 The second sentence:</p> <p>15 "Regardless of where they spring up,</p> <p>16 the experience is disturbingly similar –</p> <p>17 deplorable conditions and, eventually, evictions."</p> <p>18</p> <p>19 A. Eviction.</p> <p>20 39 Q. Eviction, that's the word used,</p> <p>21 yes. So you co-wrote that, correct? It is</p> <p>22 correct you wrote it?</p> <p>23 A. Yeah, we would have looked up</p> <p>24 each of those cities to -- and so would the</p> <p>25 editors at NOW Magazine to make sure that it was a</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p>17</p> <p>1 factual statement for the media.</p> <p>2 40 Q. I understand that in terms of</p> <p>3 the list of cities affected. And specifically in</p> <p>4 terms of:</p> <p>5 "...the experience is disturbingly</p> <p>6 similar - deplorable conditions and, eventually,</p> <p>7 eviction."</p> <p>8 That remains correct?</p> <p>9 A. It was correct at the time of</p> <p>10 writing.</p> <p>11 41 Q. Does it remain correct?</p> <p>12 A. Does what remain correct?</p> <p>13 42 Q. Specifically this statement</p> <p>14 that the experience is disturbingly similar</p> <p>15 wherever they spring up. They are deplorable</p> <p>16 conditions and, eventually, eviction.</p> <p>17 A. I would say that that's not</p> <p>18 actually always the case. For example, I was</p> <p>19 visiting an encampment in Berkley, California</p> <p>20 where the conditions were incredible. There were,</p> <p>21 for example, proper water and sanitation</p> <p>22 provisions made. There was a tent that had been</p> <p>23 set up for --</p> <p>24 43 Q. I don't mean to cut you off,</p> <p>25 but we're not talking about the United States,</p> <p>NIMIGAN MIHAIOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<p>19</p> <p>1 You're familiar with the caselaw that has A5592</p> <p>2 developed in Canada on the subject of encampments,</p> <p>3 is that true, as a lawyer?</p> <p>4 A. I know of, I know of the line</p> <p>5 of cases, yes. I don't know how familiar I am</p> <p>6 with them. I'm not sure I've read them all, for</p> <p>7 example.</p> <p>8 45 Q. As a lawyer are you aware of</p> <p>9 what's being asserted by governments in those</p> <p>10 cases where encampments are erected and then</p> <p>11 challenged?</p> <p>12 A. Only the cases that I've read.</p> <p>13 I read the Kitchener-Waterloo case, for example.</p> <p>14 But my expertise is on international human rights</p> <p>15 law, so I don't always read every case that comes</p> <p>16 out of the various jurisdictions. I run a global</p> <p>17 organization, so I can't read every case. So I</p> <p>18 can't say that I'm really familiar what all</p> <p>19 governments are arguing in these various cases</p> <p>20 across Canada.</p> <p>21 46 Q. Is it fair to say that the</p> <p>22 response of government in terms of asserting</p> <p>23 property rights or enforcement, by-laws, or for</p> <p>24 example where encampments are established in</p> <p>25 public parks, the obligation on the part of the</p> <p>NIMIGAN MIHAIOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>
<p>18</p> <p>1 correct, we're talking about the country being the</p> <p>2 Canadian landscape.</p> <p>3 A. The point, actually, that I was</p> <p>4 making is that it's possible that there is an</p> <p>5 encampment out there, I haven't been to every</p> <p>6 encampment in Canada, it is possible to have an</p> <p>7 encampment that doesn't have deplorable</p> <p>8 conditions. So I can't say that every encampment</p> <p>9 in Canada has deplorable conditions, no, I cannot</p> <p>10 say that.</p> <p>11 I can say at the time of writing</p> <p>12 Winnipeg, London, Peterborough, North Bay and</p> <p>13 Fredericton most likely did. We would have</p> <p>14 researched that. I can say that I visited some in</p> <p>15 Canada that have had deplorable conditions. But I</p> <p>16 cannot say that every encampment has deplorable</p> <p>17 conditions.</p> <p>18 44 Q. Thank you, that's helpful.</p> <p>19 And also here on page 2 there is a</p> <p>20 statement that I'll scroll down to. You indicate</p> <p>21 that:</p> <p>22 "What's mystifying is the response</p> <p>23 to encampments by all levels of government."</p> <p>24 And so the next question I want to</p> <p>25 ask you is specifically about that statement.</p> <p>NIMIGAN MIHAIOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<p>20</p> <p>1 municipality to ensure all members of the public</p> <p>2 are able to use the park are being asserted in</p> <p>3 these cases?</p> <p>4 A. I'm sorry, I don't know what</p> <p>5 your question is. You asked me about this</p> <p>6 sentence: "What's mystifying is the response to</p> <p>7 encampments by all levels of government", and the</p> <p>8 next paragraph explains what I meant. I'm an</p> <p>9 international human rights lawyer and it mystifies</p> <p>10 me that governments wouldn't rely on international</p> <p>11 human rights law in addressing encampments, like</p> <p>12 they're obliged to do. That's what mystifies me.</p> <p>13 47 Q. Thank you, that's also helpful.</p> <p>14 If we go to the bottom of page 2 and over on to</p> <p>15 page 3, you state:</p> <p>16 "Governments need to recognize that</p> <p>17 tent encampments are of their own making. It's</p> <p>18 time to develop a national protocol on tent</p> <p>19 encampments based on human rights.</p> <p>20 What does that mean? Here are the</p> <p>21 fundamentals:"</p> <p>22 That's what I mean in terms of going</p> <p>23 over on to the third page, there's then a set of</p> <p>24 subheadings in bold and these are the fundamentals</p> <p>25 that you're referencing, as I understand it: is A1308</p> <p>NIMIGAN MIHAIOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>

<p>21</p> <p>1 that right?</p> <p>2 A. Yes. It said fundamentals</p> <p>3 colon and then it went on to the next page and</p> <p>4 there are those highlighted things.</p> <p>5 48 Q. One of the first, actually, the</p> <p>6 first thing on the list is under the subheading "A</p> <p>7 ban on forced evictions". It goes on to say:</p> <p>8 "Forced eviction, the permanent or</p> <p>9 temporary removal of a person from their lands or</p> <p>10 home – whether an apartment, a house, a tent or a</p> <p>11 car – constitutes a gross violation of</p> <p>12 international human rights law, particularly when</p> <p>13 shelters are at capacity. Laws permitting forced</p> <p>14 evictions should be repealed. And all viable</p> <p>15 alternatives to eviction must be explored in</p> <p>16 consultation with residents."</p> <p>17 So if I understand that, encamped</p> <p>18 individuals are rights holders in your opinion?</p> <p>19 A. That's not what that's saying.</p> <p>20 So was that your interpretation of a ban on forced</p> <p>21 evictions?</p> <p>22 49 Q. Well, I'm trying to determine</p> <p>23 what this means. So it's a gross violation of</p> <p>24 international human rights law to evict anyone</p> <p>25 from, for example, a tent, particularly --</p> <p>NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p>23</p> <p>1 holder. Every human being, so, yes, encampment</p> <p>2 residents would be considered human rights</p> <p>3 holders.</p> <p>4 52 Q. The statement that I just read</p> <p>5 under this subheading "A ban on forced evictions",</p> <p>6 doesn't make a distinction between private and</p> <p>7 public properties. Are encampments on private</p> <p>8 property required to be permitted in your opinion?</p> <p>9 A. Sorry, can you repeat the</p> <p>10 question? Are encampments on private property?</p> <p>11 53 Q. Yes. So the statement that I</p> <p>12 just read doesn't make a distinction between</p> <p>13 private and public property. Are encampments on</p> <p>14 private property required to be permitted, in your</p> <p>15 opinion?</p> <p>16 A. That's a much more complicated</p> <p>17 question than are they -- what the legal</p> <p>18 regulations are on public property. So on private</p> <p>19 property you have -- it will depend.</p> <p>20 The residents, let's say the</p> <p>21 homeless residents, might have been there for a</p> <p>22 day or two, and that's quite a different situation</p> <p>23 than if they'd been there on an abandoned piece of</p> <p>24 private property for ten years. So it's a more</p> <p>25 complicated process and thought piece in terms of</p> <p>NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p>22</p> <p>1 A. To forcibly, to forcibly evict.</p> <p>2 This is about forced evictions, involuntary.</p> <p>3 50 Q. Well, my understanding is that</p> <p>4 eviction is, by nature, forced. Nobody is evicted</p> <p>5 voluntarily.</p> <p>6 A. Well, in international human</p> <p>7 rights law we use the term "forced evictions" to</p> <p>8 mean something very particular, which is the</p> <p>9 involuntary removal of a person from their homes</p> <p>10 or lands. And the reason that this is important</p> <p>11 in terms of encampments is it could be that</p> <p>12 governments could meaningfully engage people</p> <p>13 living in encampments, and the encampment</p> <p>14 residents could agree to leave based on that</p> <p>15 meaningful engagement. And that might be</p> <p>16 perceived by some as an eviction of sorts, but it</p> <p>17 wouldn't be a forced eviction. International law</p> <p>18 deals with forced evictions, and that's what that</p> <p>19 paragraph, "A ban on forced evictions" is</p> <p>20 referring to, the gross violation of international</p> <p>21 human rights law.</p> <p>22 51 Q. Just so I understand, it is, in</p> <p>23 your opinion, the case that encamped individuals</p> <p>24 are rights holders?</p> <p>25 A. Everyone is a human rights</p> <p>NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p>24</p> <p>1 what should happen.</p> <p>2 But human rights are considered</p> <p>3 absolutely fundamental. The idea of forcibly</p> <p>4 evicting people from where they are living is,</p> <p>5 under international human rights law, a gross</p> <p>6 violation. That language, we don't use that</p> <p>7 language in international law very often, this</p> <p>8 gross violation language. It means it has to be</p> <p>9 taken with the utmost seriousness because of the</p> <p>10 human dignity interest at stake because human life</p> <p>11 is at stake if you remove someone from where they</p> <p>12 are living.</p> <p>13 So to talk about this in the private</p> <p>14 property area requires a lot of nuancing and</p> <p>15 discussion around what are the facts on the</p> <p>16 ground, you know. An abandoned piece of property</p> <p>17 is very different than my backyard, for example,</p> <p>18 right? And so that's the best answer I can give</p> <p>19 you.</p> <p>20 54 Q. But there are certain</p> <p>21 circumstances where, in your opinion, an</p> <p>22 encampment would be required to remain on a</p> <p>23 private property?</p> <p>24 A. Under international human</p> <p>25 rights law we would expect the process to be run</p> <p>NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<div>25</div> <p>1 through, as is contained in my affidavit. And I</p> <p>2 think it's run through in my affidavit in a number</p> <p>3 of places, what's required. But it normally</p> <p>4 begins with meaningful engagement, so discussing</p> <p>5 what's going on with the people who are on the</p> <p>6 property. Asking them what their needs are.</p> <p>7 Trying to figure out what their needs are, et</p> <p>8 cetera. And then there's a long process from</p> <p>9 there.</p> <p>10 So I would expect, regardless of the</p> <p>11 nature of the property, that that human rights</p> <p>12 process be implemented. It's based on</p> <p>13 international law.</p> <p>14 55 Q. I think I may be able to assist</p> <p>15 in terms of examining that issue. So I understand</p> <p>16 you did, in fact, prepare a national protocol for</p> <p>17 homeless encampments in Canada, as you referenced</p> <p>18 in this document; is that right?</p> <p>19 A. That's correct.</p> <p>20 56 Q. And that it's attached to your</p> <p>21 affidavit, so I'm going to put that up on the</p> <p>22 screen.</p> <p>23 A. Sure.</p> <p>24 57 Q. Jump back to that now. This is</p> <p>25 Exhibit "G" to your affidavit, which I'll have to</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<div>27</div> <p>1 and discussion.</p> <p>2 There were a lot of people involved.</p> <p>3 There were frontline workers, I think City</p> <p>4 officials were very engaged in this because it was</p> <p>5 through City resources that they ended up being</p> <p>6 rehoused. That's the kind of thing that has to</p> <p>7 happen.</p> <p>8 So it's not a sort of simple, well,</p> <p>9 it's private property therefore, you know, private</p> <p>10 property rights trump human rights. That's not</p> <p>11 how this stuff goes. We're talking about human</p> <p>12 lives and human rights is very much about</p> <p>13 preserving human life, preserving human dignity</p> <p>14 and the process for getting there.</p> <p>15 58 Q. I understand that private</p> <p>16 property owners can take steps to assist others.</p> <p>17 What I'm trying to get at is your opinion on this</p> <p>18 subject.</p> <p>19 So Ms. Schwan is listed as a</p> <p>20 co-author of "A National Protocol for Encampments</p> <p>21 in Canada. You're aware that she's also a witness</p> <p>22 in this matter?</p> <p>23 A. Yes, I am aware of that.</p> <p>24 59 Q. What is the nature of your</p> <p>25 relationship with Ms. Schwan?</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>
<div>26</div> <p>1 scroll to or flip through to, so just give me one</p> <p>2 moment.</p> <p>3 So Exhibit "G" to your affidavit you</p> <p>4 have what's called "A Human Rights Approach A</p> <p>5 National Protocol for Homeless Encampments in</p> <p>6 Canada", and the authors are listed as Leilani</p> <p>7 Farha and Kaitlin Schwan. Can you see that okay?</p> <p>8 A. I can see it perfectly.</p> <p>9 If I might, and I don't mean to</p> <p>10 interrupt, Mr. Diacur, but on the private property</p> <p>11 issue, I don't know your vintage so I don't know</p> <p>12 if you will remember and I don't know if you</p> <p>13 followed whatever went on in Toronto in the</p> <p>14 nineties. If I recall, and this is before I</p> <p>15 became an expert on these issues, there were</p> <p>16 homeless people living on a parking lot or the</p> <p>17 property of a Home Depot and it was understood, in</p> <p>18 fact even by -- I think it was a Home Depot,</p> <p>19 something like that, one of those kinds of</p> <p>20 do-it-yourself kind of stores. It was understood</p> <p>21 by the owner of that store that they couldn't just</p> <p>22 evict the folks that were living there. They</p> <p>23 engaged in a really meaningful process and they</p> <p>24 ended up housing all of the people who were living</p> <p>25 there. That's the kind of process and negotiation</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<div>28</div> <p>1 A. I would say I was a mentor of</p> <p>2 Ms. Schwan's. Maybe I still play that role, to</p> <p>3 some degree. She, of course, has moved to the</p> <p>4 United States and is practicing social medicine or</p> <p>5 something, research or in a social medicine</p> <p>6 practice of some sort. We maintain contact,</p> <p>7 collegial contact.</p> <p>8 60 Q. Have you spoken with Ms. Schwan</p> <p>9 about your evidence or her evidence?</p> <p>10 A. No, I have not.</p> <p>11 61 Q. So if I go to, actually I can</p> <p>12 jump directly to the page, but it's in the same</p> <p>13 document, A National Protocol for Homeless</p> <p>14 Encampments in Canada, it is principle number 3</p> <p>15 under the heading, "Prohibition of forced</p> <p>16 evictions of encampments".</p> <p>17 A. Sorry, if you just give me a</p> <p>18 moment, I would like to look at hard copy, sorry,</p> <p>19 old school. Yeah, I'm there.</p> <p>20 62 Q. So there are a number of</p> <p>21 principles listed in this document, we're at the</p> <p>22 third principle. At paragraph 47 the first</p> <p>23 sentence is:</p> <p>24 "Forced evictions are impermissible</p> <p>25 irrespective of the tenure status of those</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">29</p> <p>1 affected."</p> <p>2 So in terms of "tenure status",</p> <p>3 you're referring to their status in terms of</p> <p>4 tenure on the property they are encamping on; is</p> <p>5 that right?</p> <p>6 A. Yes, that's correct.</p> <p>7 63 Q. Tenure is a property lot</p> <p>8 concept and that's what you're referencing?</p> <p>9 A. Well, we're referencing whether</p> <p>10 someone has title to the land, for example,</p> <p>11 whether someone is in a lease arrangement. There</p> <p>12 can be all manner of, yeah.</p> <p>13 64 Q. No, understood. But you're</p> <p>14 saying irrespective of that --</p> <p>15 A. Yes.</p> <p>16 65 Q. -- forced evictions are</p> <p>17 impermissible?</p> <p>18 A. Forced evictions, yes.</p> <p>19 66 Q. I just want to understand, as a</p> <p>20 lawyer your opinion is that an individual can</p> <p>21 unilaterally claim a right to private property,</p> <p>22 correct?</p> <p>23 A. Well, those are two different</p> <p>24 things. So what you're saying is that someone can</p> <p>25 unilaterally claim a right to a piece of property.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">31</p> <p>1 you agree with that?</p> <p>2 A. Sorry, I'm here to talk about A5595</p> <p>3 international human rights law. I don't know of</p> <p>4 that principle in international human rights law,</p> <p>5 so I can't agree with that.</p> <p>6 69 Q. You're here as a lawyer who is</p> <p>7 giving opinion --</p> <p>8 MR. CHOUDHRY: Actually, Mr. Diacur,</p> <p>9 if I may, sir, on this topic, this came up with</p> <p>10 another witness from the City side, also a lawyer,</p> <p>11 and we determined that the scope of her evidence</p> <p>12 was limited to her role as a City official. And I</p> <p>13 think, --</p> <p>14 MR. DIACUR: As you know, it is</p> <p>15 quite different, counsel, when it's a lawyer who's</p> <p>16 being --</p> <p>17 MR. CHOUDHRY: Mr. Diacur, could you</p> <p>18 please not interrupt me, I would like to finish my</p> <p>19 sentence, sir.</p> <p>20 So the situation, as you know expert</p> <p>21 evidence on legal questions of Canadian law is not</p> <p>22 admissible in Canadian courts. Expert evidence on</p> <p>23 foreign law, international human rights law is.</p> <p>24 And so --</p> <p>25 MR. DIACUR: I do not --</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">30</p> <p>1 What this says is that a person cannot be forcibly</p> <p>2 evicted from where they're living regardless of</p> <p>3 whether they have title. Those are two</p> <p>4 different -- I would distinguish those claims.</p> <p>5 67 Q. On what basis can we</p> <p>6 distinguish between a person saying that they have</p> <p>7 a right to private property unilaterally and --</p> <p>8 A. That's not what they're saying.</p> <p>9 They're saying -- no, they're saying that they</p> <p>10 have a human right to housing, to dignity, to</p> <p>11 life, to survival, which is true under</p> <p>12 international law they do. That's what they're</p> <p>13 claim is.</p> <p>14 Someone else might look at that, the</p> <p>15 property owner might say, well, you're trying to</p> <p>16 claim my property. But that is not the claim that</p> <p>17 people living in homelessness are making, at least</p> <p>18 not in my expert opinion and expertise. I met</p> <p>19 with hundreds of people living in homelessness and</p> <p>20 living in encampments and what they say is that</p> <p>21 they just want the right to survive, to dignity,</p> <p>22 to life itself, to a home.</p> <p>23 68 Q. As a lawyer you would agree</p> <p>24 that one of the incidents of property is the</p> <p>25 ability to exclude others from that property; do</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">32</p> <p>1 MR. CHOUDHRY: -- Ms. Farha's</p> <p>2 affidavit --</p> <p>3 MR. DIACUR: That's not the case and</p> <p>4 I object to that being --</p> <p>5 MR. CHOUDHRY: Excuse me, sir.</p> <p>6 MR. DIACUR: -- [overtalk] as a</p> <p>7 fact.</p> <p>8 MR. CHOUDHRY: So, Mr. Diacur, I</p> <p>9 think when you're posing questions to this witness</p> <p>10 it should be in relation to her, what she is</p> <p>11 qualified to give expert evidence on in principle</p> <p>12 in the Canadian court, which is either</p> <p>13 international law or foreign law. There is</p> <p>14 evidence on Canadian law it's not admissible in</p> <p>15 the Canadian court in their expert report to give</p> <p>16 that kind of evidence.</p> <p>17 MR. DIACUR: The situation with the</p> <p>18 City witness, who is also a lawyer, is quite</p> <p>19 different. She's a fact witness in the case.</p> <p>20 This witness is being put forward as an expert and</p> <p>21 capable of giving opinion evidence. So I would</p> <p>22 disagree with the presentation of the idea that</p> <p>23 there's a similarity between the two situations.</p> <p>24 One is being put forward as an expert capable of</p> <p>25 giving opinion and the other is not, that's the</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca A1311</p>

<p style="text-align: right;">33</p> <p>1 fundamental difference.</p> <p>2 I also disagree that it is</p> <p>3 permission to provide expert evidence on foreign</p> <p>4 law or on international law as a matter of course.</p> <p>5 That's a dispute we'll have in the fullness of</p> <p>6 time. It is a question that this witness can</p> <p>7 answer.</p> <p>8 BY MR. DIACUR:</p> <p>9 70 Q. As a lawyer, one of the</p> <p>10 incidents of property is the ability to exclude</p> <p>11 others, yes or no?</p> <p>12 MR. CHOUDHRY: Mr. Diacur, I'll have</p> <p>13 to ask you to be more precise in the questions.</p> <p>14 As a matter of international law you can pose the</p> <p>15 question. But if there's any questions about law</p> <p>16 generally, I'm going to instruct the witness to</p> <p>17 refuse to answer the question. You can ask the</p> <p>18 question about international law.</p> <p>19 MR. DIACUR: The question isn't</p> <p>20 based on international law, it's based on the</p> <p>21 common law. If there's a refusal, then I'll</p> <p>22 accept the refusal and we can deal with it.</p> <p>23 MR. CHOUDHRY: So I'm just going to</p> <p>24 clarify, by the common law you mean the Canadian</p> <p>25 common law, correct?</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">35</p> <p>1 72 Q. You agree that you are an A5596</p> <p>2 advocate for allowing encampments to continue</p> <p>3 wherever they spring up, as you put it, and</p> <p>4 against what you refer to as forced evictions?</p> <p>5 A. No, I don't think I could agree</p> <p>6 with that. For example, an encampment could</p> <p>7 spring up in an area that is known to be very</p> <p>8 extremely dangerous, for example. I've seen an</p> <p>9 encampment in Chile that was on a fault line.</p> <p>10 Chile is known as an earthquake country and the</p> <p>11 encampment was on a fault line. So that would</p> <p>12 obviously -- I couldn't advocate under</p> <p>13 international law that that encampment remain</p> <p>14 there.</p> <p>15 I would advocate, however, that the</p> <p>16 encampment not be forcibly evicted. So those are</p> <p>17 two very distinct positions, just to be clear.</p> <p>18 And then it depends on what you mean</p> <p>19 by advocate. Maybe you can tell me what you mean</p> <p>20 by advocate.</p> <p>21 73 Q. We can divide the question up.</p> <p>22 I understand you're disagreeing with the first</p> <p>23 part of the question. You'd agree that you are an</p> <p>24 advocate against what you call forced evictions?</p> <p>25 A. I am an international human</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">34</p> <p>1 MR. DIACUR: Well, the common law of</p> <p>2 all common law nations.</p> <p>3 MR. CHOUDHRY: There is no such</p> <p>4 thing, Mr. Diacur. At any rate, if you think so,</p> <p>5 that's fine. I want you to be specific, when you</p> <p>6 refer to legal concepts or legal rights, please</p> <p>7 refer to the source.</p> <p>8 MR. DIACUR: No, I'm not going to</p> <p>9 adapt my questions so that they are satisfactory</p> <p>10 to opposing counsel. Either answer the question</p> <p>11 or refuse.</p> <p>12 MR. CHOUDHRY: Well, Mr. Diacur --</p> <p>13 MR. DIACUR: Let me know if there's</p> <p>14 a refusal or not.</p> <p>15 R/F MR. CHOUDHRY: There's a refusal on</p> <p>16 that, yes, because you've posed about common law,</p> <p>17 that's a domestic law question, we refuse to answer</p> <p>18 questions on domestic law.</p> <p>19 BY MR. DIACUR:</p> <p>20 71 Q. You would agree that you are an</p> <p>21 advocate for allowing encampments to continue</p> <p>22 wherever they spring up, as you put it, and</p> <p>23 against what you call forced evictions?</p> <p>24 A. I'm sorry, can you repeat that</p> <p>25 question?</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">36</p> <p>1 rights lawyer and I use international human rights</p> <p>2 law to dispute forced evictions.</p> <p>3 74 Q. You advocate against them?</p> <p>4 A. As I said, I'm an international</p> <p>5 human rights lawyer and I would dispute a forced</p> <p>6 eviction except in the most exceptional</p> <p>7 circumstances where if it's on a fault line,</p> <p>8 obviously, as the example I gave. I still would</p> <p>9 not advocate for a forced eviction because that is</p> <p>10 a gross violation of international law. So I</p> <p>11 could never advocate for a forced eviction.</p> <p>12 75 Q. So I'm going to stop sharing</p> <p>13 this document for a moment. There's another</p> <p>14 document I would like to show you, just a part of</p> <p>15 the web page for The Shift.</p> <p>16 So this, I'll go up to the top, it's</p> <p>17 a pdf, but a printout of the web page The Shift</p> <p>18 and it does say at the top, "The Shift is a</p> <p>19 worldwide movement to reclaim and realize the</p> <p>20 fundamental human right to housing", which was</p> <p>21 referenced earlier. And it references</p> <p>22 make-the-shift.org, is that the URL for The Shift</p> <p>23 website?</p> <p>24 A. I guess so, yeah.</p> <p>25 76 Q. Okay. If I scroll down, this A1312</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p>37</p> <p>1 is from the main page, it indicates global</p> <p>2 homelessness and action and there's further URL</p> <p>3 references.</p> <p>4 If I scroll down further there's an</p> <p>5 advertisement for what's called PUSH BACK TALKS,</p> <p>6 which I understand is a podcast from the</p> <p>7 subheading underneath it, and it references, "The</p> <p>8 Filmmaker & The Advocate". You're the advocate</p> <p>9 that's referenced and pictured in that</p> <p>10 advertisement?</p> <p>11 A. Yes, I am.</p> <p>12 77 Q. And the filmmaker is the other</p> <p>13 individual that's Fredrik Gertten?</p> <p>14 A. Yes, it is. Yes, he is.</p> <p>15 78 Q. So when you refer to yourself</p> <p>16 as "the advocate", what are you advocating for?</p> <p>17 A. The implementation of</p> <p>18 international human rights law by all orders of</p> <p>19 government.</p> <p>20 79 Q. And in terms of homeless</p> <p>21 encampments, what do you advocate against?</p> <p>22 A. Well, I advocate toward the</p> <p>23 implementation of the human right to housing for</p> <p>24 people living in encampments.</p> <p>25 80 Q. And against forced evictions?</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<p>39</p> <p>1 resources to help ensure the rights of encampment</p> <p>2 residents are upheld. Download them and use them</p> <p>3 in your community!"</p> <p>4 Is that accurate, that is something</p> <p>5 that The Shift has done?</p> <p>6 A. The Shift, absolutely, provides</p> <p>7 international human rights standards and</p> <p>8 information to encampment residents so that they</p> <p>9 can know what international human rights law does</p> <p>10 and doesn't say. There's a lot of myths around</p> <p>11 what the right to housing means and it's ambit and</p> <p>12 we like people to actually know what the law</p> <p>13 really does say, the international human rights</p> <p>14 law, what it actually does say.</p> <p>15 So we try to -- in all of our work</p> <p>16 we are advising and providing our international</p> <p>17 human rights law expertise to a variety of</p> <p>18 stakeholders. It's particularly important that we</p> <p>19 do so in an evenhanded way. That we reach as many</p> <p>20 stakeholders as we can. So we are constantly</p> <p>21 talking with some national governments, national</p> <p>22 government, all with -- as well as we have engaged</p> <p>23 with residents of encampments to ensure that they</p> <p>24 understand and know what international human</p> <p>25 rights law says. That's the value add of The</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>
<p>38</p> <p>1 A. Well, I would argue with a</p> <p>2 government, no matter what level of government,</p> <p>3 because in some cases it's provincial government</p> <p>4 that has jurisdiction in this country. I would</p> <p>5 argue for the implementation of international</p> <p>6 human rights law which says that forced evictions</p> <p>7 are a gross violation and strictly prohibited,</p> <p>8 especially where they result in homelessness.</p> <p>9 81 Q. So I'm going to stop sharing</p> <p>10 that. There's one other part of The Shift's web</p> <p>11 page that I would like to share with you and ask</p> <p>12 you a couple of questions about. Just for the</p> <p>13 record that previous document I would intend to</p> <p>14 mark it as Exhibit 2 as identified by this witness</p> <p>15 from the main web page of The Shift website.</p> <p>16 EXHIBIT NO. 2: Main web page from</p> <p>17 The Shift website</p> <p>18 BY MR. DIACUR:</p> <p>19 82 Q. This is, again, from the</p> <p>20 make-the-shift website and it's a subpage entitled</p> <p>21 Homelessness Encampments; do you see that?</p> <p>22 A. I can, yes.</p> <p>23 83 Q. Under that heading Homeless</p> <p>24 Encampments there's a paragraph that says:</p> <p>25 "The Shift has developed several</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>	<p>40</p> <p>1 Shift. That's the role we tend to play.</p> <p>2 84 Q. And these resources include</p> <p>3 things like handouts?</p> <p>4 A. I think there have been some</p> <p>5 handouts. We're not in a position -- we don't</p> <p>6 hand anything out at the moment.</p> <p>7 85 Q. I understand. It says that,</p> <p>8 download them and use them. What's encouraged is</p> <p>9 the use of these in communities?</p> <p>10 A. If they're offered, yes.</p> <p>11 86 Q. Have you participated in the</p> <p>12 creation of these resources?</p> <p>13 A. It would depend on the</p> <p>14 resource, you would have to take me to each one.</p> <p>15 87 Q. The resources that are</p> <p>16 referenced in this paragraph?</p> <p>17 A. Well, I'm not sure which ones</p> <p>18 are there for download at the moment. For</p> <p>19 example, the protocol I co-authored with Dr.</p> <p>20 Schwan. I have co-authored a municipal guidance</p> <p>21 on homeless encampments, which is also on the</p> <p>22 website. I'm not sure if it's located there. I</p> <p>23 don't maintain our website, so I'm not exactly</p> <p>24 sure. I think at some point there was a one-pager</p> <p>25 on the right to housing, maybe, for encampment</p> <p>NIMIGAN MIHAILOVICH REPORTING INC.</p> <p>1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">41</p> <p>1 residents. That might be there, I'm not sure.</p> <p>2 88 Q. Let's go with that, the</p> <p>3 one-pager. Did you participate in the creation of</p> <p>4 it?</p> <p>5 A. It depends. I have to see it</p> <p>6 to be able to answer that question. So if you</p> <p>7 would like to take me there, I'm happy to look at</p> <p>8 it.</p> <p>9 89 Q. The document that you just</p> <p>10 referenced --</p> <p>11 A. I said -- we have produced more</p> <p>12 than one one-pager. It depends on whether it's</p> <p>13 about homelessness encampments. It depends on</p> <p>14 whether it's the one I'm thinking of, so you'd</p> <p>15 have to take me to it. I'm happy for you to do so</p> <p>16 and I'm --</p> <p>17 90 Q. The one-pager that you were</p> <p>18 just referencing, the one-pager that you just</p> <p>19 referenced, what was it about?</p> <p>20 A. The one-pager that I recall --</p> <p>21 I actually can't even recall what's on it. I</p> <p>22 would have to see it to remember. I'm sorry, we</p> <p>23 produce a lot of things. This would have been way</p> <p>24 back in 2021, I think, which for me is a lifetime</p> <p>25 ago. So I would have to look at the document and</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">43</p> <p>1 subpage of The Shift, I would intend to mark as</p> <p>2 the third exhibit to this examination. A5598</p> <p>3 EXHIBIT NO. 3: Subpage from The</p> <p>4 Shift "Homeless Encampments"</p> <p>5 BY MR. DIACUR:</p> <p>6 94 Q. Back to paragraph 8 of your</p> <p>7 affidavit.</p> <p>8 A. Sorry, did you say 8?</p> <p>9 95 Q. Yes.</p> <p>10 A. Yes, I'm there.</p> <p>11 96 Q. I'll just scroll through it and</p> <p>12 then share my screen again.</p> <p>13 Under the subheading, International</p> <p>14 human rights law and evictions, paragraph 8, can</p> <p>15 you see that?</p> <p>16 A. I can.</p> <p>17 97 Q. And you list a number of</p> <p>18 documents in this paragraph, there's several</p> <p>19 subparagraphs all lettered. For example, letter</p> <p>20 a. is the United Nations Committee on Economic,</p> <p>21 Social and Cultural Rights, General Comment No. 4:</p> <p>22 The Right to Adequate Housing (Art. 11 (1) of the</p> <p>23 Covenant), and it's December 13, 1991. You</p> <p>24 attached a copy of General Comment No. 4 as</p> <p>25 Exhibit "B" to your affidavit. There are, again,</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">42</p> <p>1 then I would be more than willing to tell you</p> <p>2 whether I reviewed it.</p> <p>3 Generally speaking, if a document is</p> <p>4 made public I have reviewed it or at least laid</p> <p>5 eyes on it at some point. That much I can tell</p> <p>6 you. But you would have to take me to the</p> <p>7 specific document that you would like me to</p> <p>8 indicate whether I had a hand in drafting it.</p> <p>9 91 Q. In terms of encouraging the</p> <p>10 download and use of resources created by The</p> <p>11 Shift, that is part of The Shift's purpose,</p> <p>12 advocating for the use of such things?</p> <p>13 A. I'm sorry, what's the question?</p> <p>14 92 Q. In terms of the statement here,</p> <p>15 "Download them and use these resources in your</p> <p>16 community!", that is part of The Shift's purpose,</p> <p>17 advocating for such things?</p> <p>18 A. We are offering resources to</p> <p>19 people living in encampments so that they can</p> <p>20 understand what their rights are under</p> <p>21 international human rights law.</p> <p>22 93 Q. I'd like to go back to your</p> <p>23 affidavit now. So I'm going to stop sharing and</p> <p>24 I'll put the affidavit back up.</p> <p>25 Just before I leave that, that</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">44</p> <p>1 a number of other documents all listed at</p> <p>2 paragraph 8.</p> <p>3 My question for you is, some of</p> <p>4 these documents that are listed and attached to</p> <p>5 your affidavit, you wrote them but not all of</p> <p>6 them, correct?</p> <p>7 A. Let me look at the one. That's</p> <p>8 correct, I wrote some but not all.</p> <p>9 98 Q. And some of the documents, as</p> <p>10 we've just seen, are committee commentary on a UN</p> <p>11 Covenant, correct?</p> <p>12 A. Yes, A and B, Exhibit, sorry,</p> <p>13 Exhibit "B" and Exhibit "C", I'm sorry, yes.</p> <p>14 99 Q. That's all I was going to do,</p> <p>15 is clarify that. Thank you for that.</p> <p>16 And as we see in paragraph a. it</p> <p>17 references commentary on a particular article of</p> <p>18 that UN Covenant?</p> <p>19 A. The article that contains the</p> <p>20 right to adequate housing, correct?</p> <p>21 100 Q. And that would be the</p> <p>22 International Covenant on Economic, Social and</p> <p>23 Cultural Rights?</p> <p>24 A. Yes.</p> <p>25 101 Q. And a copy of that is attached</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">45</p> <p>1 as Exhibit "H" to your affidavit; is that correct?</p> <p>2 A. I believe so. "H", yes, that's</p> <p>3 correct.</p> <p>4 Q. And the committee that's</p> <p>5 referenced there, that's the, as you say, the</p> <p>6 CESCR, Committee on Economic, Social and Cultural</p> <p>7 Rights. That committee is not comprised of UN</p> <p>8 member states or diplomats appointed by UN member</p> <p>9 states, but nominated individuals who are</p> <p>10 considered knowledgeable on human rights concepts;</p> <p>11 is that right?</p> <p>12 A. Independent experts, yes. It's</p> <p>13 made up of independent experts.</p> <p>14 Q. And those individuals can work</p> <p>15 together and release comments?</p> <p>16 A. Yeah, they work together and</p> <p>17 they draft general comments. The interpretations</p> <p>18 of the I CESCR.</p> <p>19 Q. Those comments reflect the</p> <p>20 opinions of the committee members; is that right?</p> <p>21 A. Yeah, they're considered</p> <p>22 quasi-judicial in terms of their import.</p> <p>23 Q. Have you ever been a member of</p> <p>24 that committee?</p> <p>25 A. I have not.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">47</p> <p>1 something like that, there's a process.</p> <p>2 Q. That's what happened, you went</p> <p>3 through that process and were appointed?</p> <p>4 A. That's correct.</p> <p>5 Q. I have a question for you about</p> <p>6 the International Covenant on Economic, Social and</p> <p>7 Cultural Rights and, again, that's Exhibit "H" to</p> <p>8 your affidavit. I'm going to jump to a specific</p> <p>9 page, it's simpler than scrolling through. My</p> <p>10 question has to do with Article 25 of the</p> <p>11 Covenant. Do you see that on the screen?</p> <p>12 A. Yes.</p> <p>13 Q. So Article 25 of International</p> <p>14 Covenant on Economic, Social and Cultural Rights</p> <p>15 states that:</p> <p>16 "Nothing in the present Covenant</p> <p>17 shall be interpreted as impairing the inherent</p> <p>18 right of all peoples to enjoy and utilize fully</p> <p>19 and freely their natural wealth and resources."</p> <p>20 That's correct?</p> <p>21 A. Correct.</p> <p>22 Q. The International Covenant on</p> <p>23 Economic, Social and Cultural Rights explicitly</p> <p>24 states that the right of all people is to make</p> <p>25 decisions about how to allocate their wealth and</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">46</p> <p>1 Q. And you say quasi-judicial, the</p> <p>2 commentary of the committee members doesn't carry</p> <p>3 any force of law; is that right?</p> <p>4 A. Oh, I wouldn't say that. I</p> <p>5 don't know what you mean by force of law. They</p> <p>6 are interpretations and they are the only</p> <p>7 interpretations that those committees do. That's</p> <p>8 not quite true, actually, I take that back because</p> <p>9 they review state parties and they'll use their</p> <p>10 interpretation of the Covenant, which is their</p> <p>11 job, to review state parties.</p> <p>12 So what I would say is they are</p> <p>13 interpretations of the Covenant. And in this case</p> <p>14 General Comment 4 is an interpretation of Article</p> <p>15 11, part of Article 11 (1).</p> <p>16 Q. Were you appointed as a UN</p> <p>17 special rapporteur by that committee?</p> <p>18 A. No, I was not.</p> <p>19 Q. Are you appointed special</p> <p>20 rapporteur by the General Assembly? How does it</p> <p>21 work?</p> <p>22 A. The US Human Rights Council</p> <p>23 appoints special rapporteurs through a lesser part</p> <p>24 of what's the special procedures. So the -- I</p> <p>25 forget how many member states there are, 48 or</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">48</p> <p>1 resources is not impaired by any other rights that</p> <p>2 it references, correct?</p> <p>3 A. Well, that's not how I would</p> <p>4 read that article. Is that your interpretation?</p> <p>5 I'm not sure where you're getting that from.</p> <p>6 Q. I'm asking you a question. The</p> <p>7 International Covenant on Economic, Social and</p> <p>8 Cultural Rights explicitly stipulates that the</p> <p>9 right of all peoples to make decisions about how</p> <p>10 to allocate their wealth and resources is in no</p> <p>11 way impaired by any other rights that it</p> <p>12 references; isn't that right?</p> <p>13 A. No, I wouldn't put it that way.</p> <p>14 It's not uncommon in international human rights</p> <p>15 law to have competing rights. So you can have,</p> <p>16 you know, Article 25 sitting side by side with</p> <p>17 Article 11 (1). I mean, as international lawyers</p> <p>18 what we do is try to figure out how to reconcile</p> <p>19 these two things. It's not an uncommon situation.</p> <p>20 You can have, for example, a person</p> <p>21 with a disability may have certain rights under</p> <p>22 international law that could conflict with someone</p> <p>23 else's rights. I mean, this is a common thing.</p> <p>24 So as international human rights lawyer, we</p> <p>25 grapple with this.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: center;">49</p> <p>1 I would note Article 25 has not been</p> <p>2 the subject of a general comment. And so there is</p> <p>3 no guidance in terms of the ambit of this, what it</p> <p>4 means, et cetera. Whereas, there have been</p> <p>5 general comments on Article 11 (1), in particular</p> <p>6 on right to housing, General Comment 4 and General</p> <p>7 Comment 7. So we have a very fulsome</p> <p>8 understanding of what Article 11 (1) requires.</p> <p>9 114 Q. That's exactly what I'm getting</p> <p>10 at. There's no comment on Article 25 in your</p> <p>11 affidavit, correct?</p> <p>12 A. No, that would be correct.</p> <p>13 Can I ask a question? Could I see</p> <p>14 the earlier part of, like this is part -- it's</p> <p>15 right at the end of part 4. I would like to see</p> <p>16 the beginning of part. Actually, if you could</p> <p>17 give me the page number, I'd be happy to pull it</p> <p>18 up on my own pdf. I would like a moment just to</p> <p>19 review this.</p> <p>20 115 Q. I can just scroll there.</p> <p>21 A. Just give me the page number on</p> <p>22 the pdf.</p> <p>23 116 Q. This is a compilation of all</p> <p>24 the affidavits, so the page number is not going to</p> <p>25 assist you.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">51</p> <p>1 MR. CHOUDHRY: Let her -- A5600</p> <p>2 MR. DIACUR: The answer was, yes,</p> <p>3 there's nothing in her affidavit about Article 25.</p> <p>4 MR. CHOUDHRY: But, counsel, to be</p> <p>5 fair, I think when you take the witness to an</p> <p>6 exhibit in their affidavit, any witness, I think</p> <p>7 they're entitled to review the exhibit before they</p> <p>8 answer.</p> <p>9 MR. DIACUR: The question is, in the</p> <p>10 affidavit there's no reference to article 25.</p> <p>11 That's what I asked.</p> <p>12 MR. CHOUDHRY: She's asked -- but</p> <p>13 you took her to Article 25 itself, and she wants</p> <p>14 to answer the question about Article 25 by</p> <p>15 reference to the Covenant. Just give her a moment</p> <p>16 to look at the Covenant, sure.</p> <p>17 THE DEPONENT: Is it harming</p> <p>18 anything? I'm sorry, I'm just --</p> <p>19 BY MR. DIACUR:</p> <p>20 119 Q. The purpose of this examination</p> <p>21 is for you to answer my questions. If it informs</p> <p>22 your answer to my question --</p> <p>23 A. It was a question.</p> <p>24 120 Q. -- in order to review the</p> <p>25 entire document, this is a waste of time.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: center;">50</p> <p>1 A. Can I ask my counsel if he can</p> <p>2 point me to --</p> <p>3 MR. CHOUDHRY: It's Exhibit "H" to</p> <p>4 your affidavit.</p> <p>5 THE DEPONENT: I'll scroll down. If</p> <p>6 you give me minute, I'd like to do that. The</p> <p>7 Covenant is not something I read on a daily basis,</p> <p>8 so I would like to go back.</p> <p>9 BY MR. DIACUR:</p> <p>10 117 Q. I just want to be clear, this</p> <p>11 is informing your answer to my last question?</p> <p>12 A. Yes. Sorry, I'm using an old</p> <p>13 computer and the search function doesn't work.</p> <p>14 118 Q. To be clear, the last question</p> <p>15 was that there's no reference to Article 25 in</p> <p>16 your affidavit.</p> <p>17 A. The question before that. I</p> <p>18 would just like -- I don't think it's -- am I not</p> <p>19 allowed to --</p> <p>20 MR. CHOUDHRY: Counsel, I think she</p> <p>21 just wants to look at the Covenant before she</p> <p>22 finishes answering your question. Why don't we</p> <p>23 give her a moment to do that.</p> <p>24 MR. DIACUR: I'm not following your</p> <p>25 reasoning. The purpose is to answer the question.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">52</p> <p>1 A. I'm sorry, Mr. Diacur, you</p> <p>2 asked me two questions back to back and I would</p> <p>3 just like to look at the document as a whole to</p> <p>4 try to make sure I answered your first question</p> <p>5 about this Covenant and Article 25 correctly. I</p> <p>6 haven't looked at the Covenant in some time. It's</p> <p>7 not something that I'm constantly reading in my</p> <p>8 work and I would just like to look at it.</p> <p>9 I'm sorry it's taking me so long to</p> <p>10 scroll to it. The protocol is quite long, so I'm</p> <p>11 trying -- here we go. I'm on "H" now, and if you</p> <p>12 don't mind I would just like to read where we're</p> <p>13 at in the document just so I can make sure that I</p> <p>14 answer you to the best of my ability.</p> <p>15 Right, so you see, the way the</p> <p>16 Covenant is structured is that you have operative</p> <p>17 paragraphs and then you have procedural</p> <p>18 paragraphs. So the operative paragraphs are the</p> <p>19 rights, the human rights, and so those take you up</p> <p>20 to up to Article 15.</p> <p>21 Then you'll see Part IV is like</p> <p>22 procedural, so say: "Parties to the present</p> <p>23 Covenant [this is page 6] undertake to submit in</p> <p>24 conformity with this part of the Covenant</p> <p>25 reports." Right?</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca A1316</p>

<p style="text-align: center;">53</p> <p>1 And this is precisely why I wanted</p> <p>2 to look at this document because I thought this</p> <p>3 was the case, but I just wanted to make sure.</p> <p>4 Then you get to -- so, again, you'll see Article</p> <p>5 19, it's procedural The Economic and Social</p> <p>6 Council may transmit to the Commission on Human</p> <p>7 Rights, this is old because the Commission doesn't</p> <p>8 exist anymore, for studies, blah, blah, blah.</p> <p>9 And then you have Article 25</p> <p>10 "Nothing in the present Covenant". 24, "shall be</p> <p>11 interpreted as impairing the provisions of the</p> <p>12 Charter". These are not considered rights within</p> <p>13 the Covenant in the same way that those first,</p> <p>14 those first 15 Articles are.</p> <p>15 So it comes at a different place in</p> <p>16 the structure. We could probably look at a</p> <p>17 history of the Covenant and how it was structured</p> <p>18 and fashioned. But that would be why the</p> <p>19 Committee on Economic, Social and Cultural Rights</p> <p>20 has not issued a General Comment on Article 25.</p> <p>21 They only issue, or they tend to only issue</p> <p>22 General Comments on the substantive rights</p> <p>23 contained in the Covenant, of which Article 25 is</p> <p>24 not.</p> <p>25 So I think that is helpful. I</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">55</p> <p>1 by anything in Covenant, correct? A5601</p> <p>2 A. Right. Including, then, for an</p> <p>3 encampment resident whose only natural wealth</p> <p>4 might be a few photos, their identify pictures,</p> <p>5 their sleeping bag, et cetera, so nothing should</p> <p>6 impair their rights to use those as well, correct?</p> <p>7 You know, this is an interpretive -- this is open</p> <p>8 for interpretation. As I said, as an</p> <p>9 international lawyer I rely on the committee and</p> <p>10 its interpretations of the Covenant. They have</p> <p>11 not issued an interpretation of Article 25. I</p> <p>12 guess that's all I can say here.</p> <p>13 123 Q. Well, it seems like a pretty</p> <p>14 important caveat to anything the Covenant says</p> <p>15 about housing rights; isn't that right?</p> <p>16 A. Well, it has never, in my</p> <p>17 experience as an international human rights</p> <p>18 lawyer, it has never been used by the committee to</p> <p>19 curtail the right to Article 11 (1), and the right</p> <p>20 to housing is where my expertise lies, within</p> <p>21 Article 11 (1). So it has not been used, to my</p> <p>22 knowledge, to infringe, curtail the right to</p> <p>23 housing as it is defined and understood under</p> <p>24 international human rights law.</p> <p>25 124 Q. If people made a decision not</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: center;">54</p> <p>1 appreciate your patience with me in allowing me to</p> <p>2 look at the structure of the Covenant one more</p> <p>3 time.</p> <p>4 121 Q. You'd agree that Article 25</p> <p>5 conflicts with Article 11 in the sense that</p> <p>6 Article 11 cannot be interpreted in the same way</p> <p>7 with Article 25 as without Article 25?</p> <p>8 A. I would argue that there isn't</p> <p>9 a conflict because Articles 1 through 15 are</p> <p>10 substantive rights, and Article 25, I don't know</p> <p>11 what they would call that, I have to admit I don't</p> <p>12 know what -- there must be a name for this. We</p> <p>13 normally would have a name for it, but I don't</p> <p>14 know what that is. Maybe we could look that up,</p> <p>15 but I don't know. But it's not a substantive</p> <p>16 right. It's not considered one of the rights</p> <p>17 enumerated in the Covenant on Economic, Social and</p> <p>18 Cultural Rights.</p> <p>19 122 Q. I would agree with that, it's</p> <p>20 not enumerating, you're right, it's an interpreted</p> <p>21 clause. It says that nothing in the present</p> <p>22 Covenant shall be interpreted as meaning something</p> <p>23 or as impairing something. The right of all</p> <p>24 peoples to enjoy and utilize fully and freely</p> <p>25 their natural wealth and resources is not impaired</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">56</p> <p>1 to abide by Article 11 for reasons relating to the</p> <p>2 natural wealth and resources of that people,</p> <p>3 international human rights law would have nothing</p> <p>4 to say about that, it wouldn't be offside</p> <p>5 international human rights law at all, would it?</p> <p>6 A. I think international human</p> <p>7 rights law would have a lot to say. The life and</p> <p>8 death matter at hand when you're dealing with</p> <p>9 people living in homeless encampments and the</p> <p>10 sanctity of the right to life, it is a</p> <p>11 foundational right found in the Covenant on civil</p> <p>12 and political rights, found in the convention on</p> <p>13 the rights of persons with disabilities, for</p> <p>14 example, it is absolutely core and fundamental, as</p> <p>15 is the right to live in peace, security and</p> <p>16 dignity.</p> <p>17 The right to housing is viewed as,</p> <p>18 how do you say, like a parallel right with the</p> <p>19 right to life. So I think international law would</p> <p>20 have a lot to say about impairing the right to</p> <p>21 housing for homeless encampments residents trying</p> <p>22 to use Article 25 which is not an enumerated</p> <p>23 right.</p> <p>24 Let's remember what international</p> <p>25 human rights law is about. It's an attempt to</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: center;">57</p> <p>1 protect the most vulnerable, the people who are</p> <p>2 most likely to be on the receiving end of</p> <p>3 violations. Those are people who come from a</p> <p>4 whole diverse range of groups that are enumerated</p> <p>5 in the Covenant and have been enumerated by the</p> <p>6 Committee on Economic, Social and Cultural Rights</p> <p>7 and include people living in homelessness.</p> <p>8 125 Q. You referenced a number of</p> <p>9 other international human rights, I don't know if</p> <p>10 they're Covenants, --</p> <p>11 A. Two.</p> <p>12 126 Q. -- but certainly other</p> <p>13 provisions in other areas of international law.</p> <p>14 You're not relying on anything in those areas in</p> <p>15 your affidavit, correct?</p> <p>16 A. Well, in my affidavit we refer</p> <p>17 to a number of reports that I've written. But the</p> <p>18 international legal treaties that I reference, the</p> <p>19 Covenant on Civil and Political Rights, as well as</p> <p>20 the Convention on the Rights of Persons With</p> <p>21 Disabilities would be referenced in those</p> <p>22 documents. So if we're relying on documents that</p> <p>23 I've written and documents that the Committee has</p> <p>24 produced, some of those would be referenced in</p> <p>25 those documents -- sorry, the two treaties I</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">59</p> <p>1 131 Q. And your commentary doesn't</p> <p>2 carry any force of law, correct? A5602</p> <p>3 A. Well, a special rapporteur is</p> <p>4 expected to enunciate on standards. And so while</p> <p>5 we can't invent law and create law, that already</p> <p>6 exists, the Covenant exists, it is our role to</p> <p>7 breathe life into the existing law. So we are</p> <p>8 expected to develop standards, that's one of our</p> <p>9 roles as special rapporteur.</p> <p>10 Sorry, let me, if I can just</p> <p>11 clarify. So, for example, the report at Exhibit</p> <p>12 "D" on informal settlements, that report is an</p> <p>13 enunciation of what is required under Article 11</p> <p>14 in the very specific context of informal</p> <p>15 settlements.</p> <p>16 132 Q. Your commentary doesn't carry</p> <p>17 any force of law, correct?</p> <p>18 A. Well, again, I don't know what</p> <p>19 that means, force of law.</p> <p>20 133 Q. Is it binding upon you and</p> <p>21 member states?</p> <p>22 A. Well, international human</p> <p>23 rights law is binding on --</p> <p>24 134 Q. Is your commentary binding upon</p> <p>25 the UN member states?</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: center;">58</p> <p>1 referenced would definitely be referenced in</p> <p>2 those -- in the exhibits.</p> <p>3 127 Q. But in terms of what you've</p> <p>4 referred to as the international human right to</p> <p>5 housing, you're referring to Article 11 and the</p> <p>6 international Covenant on Economic, Social and</p> <p>7 Cultural Rights, correct?</p> <p>8 A. 11 (1), yes.</p> <p>9 128 Q. Okay. I would like to return</p> <p>10 to some paragraphs in your affidavit now. I'm</p> <p>11 going to do that by going through the index again.</p> <p>12 We come to paragraph 20 in your</p> <p>13 affidavit. This is under the subheading Informal</p> <p>14 Settlements Report and Exhibit "D" to your</p> <p>15 affidavit.</p> <p>16 A. Yes.</p> <p>17 129 Q. You provide here a number of</p> <p>18 excerpts from a report that you wrote and</p> <p>19 delivered to the UN; is that correct?</p> <p>20 A. That's correct.</p> <p>21 130 Q. And this is your commentary for</p> <p>22 the consideration of the UN General Assembly,</p> <p>23 correct?</p> <p>24 A. Was it the General Assembly?</p> <p>25 Yes, it was.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: center;">60</p> <p>1 A. Well, as I said, international</p> <p>2 human rights law is binding on states. And in</p> <p>3 order for --</p> <p>4 135 Q. That's not an answer to my</p> <p>5 question.</p> <p>6 A. I'm trying to answer your</p> <p>7 question.</p> <p>8 136 Q. I've given you three attempts</p> <p>9 to answer it. It's a very simple question.</p> <p>10 Your --</p> <p>11 A. It might be simple to you, but</p> <p>12 as an international human rights lawyer --</p> <p>13 137 Q. Does it carry any force of law?</p> <p>14 A. -- it's not simple. You may</p> <p>15 think it's simple, with due respect, but I am an</p> <p>16 expert in international human rights law.</p> <p>17 138 Q. I understand that. You're not</p> <p>18 answering my question. Does your commentary bind</p> <p>19 anyone for any purpose anywhere?</p> <p>20 A. Oh my God, bind anyone for any</p> <p>21 purpose anywhere? All I can say to you is</p> <p>22 international human rights law is binding on</p> <p>23 states. The Covenant on Economic, Social and</p> <p>24 Cultural Rights is binding --</p> <p>25 139 Q. I take that as a refusal. A1318</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>


<p style="text-align: right;">61</p> <p>1 That's four times.</p> <p>2 A. It's not a refusal, I would</p> <p>3 like to finish answering.</p> <p>4 140 Q. I'm not going to let you just</p> <p>5 say the same thing again.</p> <p>6 A. No, I was about to say</p> <p>7 something --</p> <p>8 141 Q. I'm not talking about</p> <p>9 international human rights law, I'm talking about</p> <p>10 your commentary.</p> <p>11 A. I was about to say something</p> <p>12 different.</p> <p>13 142 Q. Let me finish my question.</p> <p>14 A. How are states supposed to know</p> <p>15 what their obligations are if they can't resort to</p> <p>16 things like General Comments 4 and 7, things like</p> <p>17 reports by special rapporteurs who are experts,</p> <p>18 how are they -- how are states supposed to know</p> <p>19 what their obligations are? So all I'm saying is</p> <p>20 that what is binding is the Covenant and in order</p> <p>21 for a state to understand --</p> <p>22 143 Q. Not your commentary?</p> <p>23 A. -- what their obligations are</p> <p>24 it has to resort to reports and General Comments.</p> <p>25 MR. CHOUDHRY: Mr. Diacur, I think,</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">63</p> <p>1 subject, access to justice for the right to</p> <p>2 housing, this is commentary that you're providing</p> <p>3 to the UN General Assembly?</p> <p>4 A. Sorry, let me just make sure.</p> <p>5 No, that was --</p> <p>6 MR. CHOUDHRY: Mr. Diacur, if I can</p> <p>7 interject, I think the paragraph numbering got</p> <p>8 thrown off in this affidavit and I apologize for</p> <p>9 that.</p> <p>10 MR. DIACUR: It's no problem, I just</p> <p>11 wanted it clear on the record what paragraph we're</p> <p>12 talking about.</p> <p>13 MR. CHOUDHRY: Because there's two</p> <p>14 paragraphs 17, I think that's the problem.</p> <p>15 MR. DIACUR: I agree. We're on</p> <p>16 page, we're talking about that paragraph 17, just</p> <p>17 for the record.</p> <p>18 MR. CHOUDHRY: Yes, that's a typo on</p> <p>19 our part, Ms. Farha. It's the second paragraph 17</p> <p>20 that Mr. Diacur is referring to.</p> <p>21 THE DEPONENT: Yes, I think I</p> <p>22 understand. Where it says Exhibit "E", I see it</p> <p>23 on the screen. Access to justice for the right to</p> <p>24 housing.</p> <p>25 So, Mr. Diacur, just so you know,</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">62</p> <p>1 sir, just if I may, I think this has reached an</p> <p>2 impasse. I think she's given the answer she can</p> <p>3 give you.</p> <p>4 MR. DIACUR: No, I think she -- it's</p> <p>5 the Covenant that's binding not her commentary,</p> <p>6 but she won't say that. She's refusing to</p> <p>7 actually say that. She wants to say something</p> <p>8 else entirely that isn't an answer to my question,</p> <p>9 so I'm happy to move on.</p> <p>10 MR. CHOUDHRY: Okay, thank you, Mr.</p> <p>11 Diacur.</p> <p>12 BY MR. DIACUR:</p> <p>13 144 Q. If you go to page 10 of your</p> <p>14 affidavit, you'll see that the numbering in your</p> <p>15 affidavit restarts or jumps back down to paragraph</p> <p>16 17. You see it goes from 27 to paragraph 17. So</p> <p>17 just for the record I want to ensure we're being</p> <p>18 consistent. On page 10 the numbering is at, the</p> <p>19 paragraph numbering is at 17 under the heading</p> <p>20 Access to justice for the right to housing.</p> <p>21 A. Oh, I see, yes.</p> <p>22 145 Q. And it points to Exhibit "E" in</p> <p>23 your affidavit.</p> <p>24 A. Yes.</p> <p>25 146 Q. And, again, Exhibit "E" on this</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">64</p> <p>1 when you're a UN rapporteur you report to two</p> <p>2 different bodies within the UN. So you report to</p> <p>3 the Human Rights Council, which is a distinct and</p> <p>4 separate body from the General Assembly. This</p> <p>5 report at Exhibit "E" on Access to justice for the</p> <p>6 right to housing was presented to the Human Rights</p> <p>7 Council. The council, I think, does deposit the</p> <p>8 report with the General Assembly, but it gets</p> <p>9 presented, it's hard to explain, but it gets</p> <p>10 presented to council, just to be very clear.</p> <p>11 BY MR. DIACUR:</p> <p>12 147 Q. I've jumped down to Exhibit "E"</p> <p>13 just to clarify. It does say on the heading</p> <p>14 United Nations General Assembly, and then</p> <p>15 underneath that Human Rights Council. So that's</p> <p>16 the distinction you're drawing, is that it's</p> <p>17 provided to the Human Rights Council, which is</p> <p>18 part of the United Nations General Assembly or</p> <p>19 related to?</p> <p>20 A. No, they're separate bodies.</p> <p>21 But, in any event --</p> <p>22 148 Q. Well, it's on the heading of</p> <p>23 the UN General Assembly.</p> <p>24 A. Yeah, that's fine for your</p> <p>25 purposes, I suppose.</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">65</p> <p>1 149 Q. And the commentary in this</p> <p>2 document, again, does not bind any UN member</p> <p>3 states, the Covenant is what's binding?</p> <p>4 A. I think we will reach a similar</p> <p>5 impasse, so I would refer you to my previous</p> <p>6 answer to your question about the binding or lack</p> <p>7 of binding nature of special rapporteur reports.</p> <p>8 150 Q. I believe ultimately what you</p> <p>9 said is the Covenant is binding and then there's</p> <p>10 commentary provided, is that still true?</p> <p>11 A. That's not what I said. I</p> <p>12 think that would be a mischaracterization of what</p> <p>13 I said.</p> <p>14 151 Q. I need to have this explained.</p> <p>15 A. Would you like me to reiterate</p> <p>16 what I said?</p> <p>17 152 Q. Well, I need an answer to that</p> <p>18 question.</p> <p>19 A. Well, I'm trying to answer, but</p> <p>20 you don't like my answer.</p> <p>21 MR. CHOUDHRY: Ms. Farha, I'm sorry,</p> <p>22 I think everyone's talking over everybody, I would</p> <p>23 like you to wait for Mr. Diacur to finish</p> <p>24 speaking, please, and then Mr. Diacur will do the</p> <p>25 same. Let's at least have that, okay?</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">67</p> <p>1 Rights.</p> <p>2 155 Q. You've used the phrase "breathe</p> <p>3 life into" a number of times, what does that mean?</p> <p>4 A. Provide states with the</p> <p>5 guidance they need to meet their international</p> <p>6 human rights obligations, standards and guidance.</p> <p>7 156 Q. I'm going to jump back to page</p> <p>8 10 of your affidavit. Still on page 10, we're at</p> <p>9 paragraphs 19 and 20 of your affidavit. This is</p> <p>10 under the subheading Right to Housing Guidelines</p> <p>11 and it points to Exhibit "F" to your affidavit.</p> <p>12 A. Yes.</p> <p>13 157 Q. I understand that the report,</p> <p>14 its full title is "Guidelines for the</p> <p>15 Implementation of the Right to Adequate Housing".</p> <p>16 Again, this is commentary that was provided to</p> <p>17 either the UN General Assembly or the Human Rights</p> <p>18 Council; is that right?</p> <p>19 A. That's correct, to the Human</p> <p>20 Rights Council.</p> <p>21 158 Q. In the sense that these are</p> <p>22 guidelines, you would agree that they don't carry</p> <p>23 any force of law and they're not binding upon</p> <p>24 anyone anywhere.</p> <p>25 A. These guidelines were produced</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">66</p> <p>1 THE DEPONENT: Yes.</p> <p>2 BY MR. DIACUR:</p> <p>3 153 Q. This document, Exhibit "E" to</p> <p>4 your affidavit, is it binding on any United</p> <p>5 Nations member state or anybody anywhere?</p> <p>6 A. Exhibit "E" is a report on</p> <p>7 access to justice for the right to housing. It is</p> <p>8 an interpretation of what is required under</p> <p>9 international human rights law, Article 11 (1) and</p> <p>10 the right to adequate housing, which is binding.</p> <p>11 It provides states with the guidance they need to</p> <p>12 understand what their binding obligations are</p> <p>13 under international human rights law.</p> <p>14 154 Q. So I believe that that answer</p> <p>15 may come across as ambiguous. So what is binding?</p> <p>16 It is the Covenant that is being discussed in this</p> <p>17 document or this document?</p> <p>18 A. As I said, states are bound by</p> <p>19 Article 11 (1) of the Covenant on Economical,</p> <p>20 Social and Cultural Rights if they have ratified</p> <p>21 that instrument. And to breathe life into what</p> <p>22 that means, what their obligations are, there are</p> <p>23 reports available to them, such as this one,</p> <p>24 Exhibit "E", as was General Comments generated by</p> <p>25 the Committee on Economic, Social and Cultural</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">68</p> <p>1 to assist states in meeting their international</p> <p>2 human rights obligations under Article 11 (1) and</p> <p>3 the right to housing.</p> <p>4 159 Q. Do they carry any force of law?</p> <p>5 Are they binding upon anyone anywhere, the</p> <p>6 guidelines that you've created here?</p> <p>7 A. Well, they do because they're</p> <p>8 an interpretation of their international human</p> <p>9 rights obligations, so that's my answer.</p> <p>10 160 Q. Okay. Starting on page 13 of</p> <p>11 your affidavit, which I'll scroll through now,</p> <p>12 again, there's an issue with the paragraph</p> <p>13 numbering. As you saw we were at the second</p> <p>14 version of paragraphs 19 and 20, page 13, we're</p> <p>15 back to -- from the new paragraphs, new paragraph</p> <p>16 numbering, we are going to jump back down to the</p> <p>17 new paragraph numbering.</p> <p>18 On page 13, right here, we have</p> <p>19 under Encampments National Protocol a number of</p> <p>20 paragraphs from 21 to 27, in fact, and the new</p> <p>21 numbering started on page 10. There's an extended</p> <p>22 set of extracts from the document we looked at</p> <p>23 earlier entitled "A Human Rights Approach A</p> <p>24 National Protocol for Homeless Encampments in</p> <p>25 Canada". As we saw, that was written by you and</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">69</p> <p>1 Kaitlin Schwan. It was written or published in</p> <p>2 April of 2020; is that right?</p> <p>3 A. Yes, that's correct.</p> <p>4 161 Q. And by whom was that document</p> <p>5 commissioned?</p> <p>6 A. No one. It was not</p> <p>7 commissioned.</p> <p>8 162 Q. Was it delivered to anybody?</p> <p>9 A. No, it was not.</p> <p>10 163 Q. How was it published?</p> <p>11 A. It was put on The Shift</p> <p>12 website. That was the beginning of COVID, so that</p> <p>13 was the extent to which we could do anything with</p> <p>14 it.</p> <p>15 164 Q. We saw in the document that</p> <p>16 you're identified as UN special rapporteur on the</p> <p>17 right to housing, but this wasn't prepared in your</p> <p>18 role as UN special rapporteur or for the UN; is</p> <p>19 that right?</p> <p>20 A. That's correct. It's not</p> <p>21 considered one of my thematic reports.</p> <p>22 165 Q. And it effectively is a set of</p> <p>23 comments and suggestions for a protocol that could</p> <p>24 be implemented nationally in Canada?</p> <p>25 A. Based on international human</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">71</p> <p>1 paragraph, under The Shift Positions on City of</p> <p>2 Hamilton Encampment Policies subheading, through</p> <p>3 paragraph 23 which is on page, the last page of</p> <p>4 your affidavit, page 24, you provide your position</p> <p>5 on what The Shift's outlook is on certain things,</p> <p>6 including the City of Hamilton encampment</p> <p>7 policies; is that correct?</p> <p>8 A. In paragraph 23 it says I have</p> <p>9 reviewed, yes.</p> <p>10 171 Q. Okay. So paragraph 23 is your</p> <p>11 own review and opinion. But before that we have</p> <p>12 The Shift's position; is that correct?</p> <p>13 A. Where? Sorry, I just want to</p> <p>14 make sure.</p> <p>15 172 Q. Let's say paragraph 20, it says</p> <p>16 The Shift issued a statement stating certain</p> <p>17 things.</p> <p>18 A. That was issued by The Shift,</p> <p>19 that's correct, yes. But in paragraph 23 I</p> <p>20 reviewed, personally, the six step encampment</p> <p>21 response. I didn't do that with my staff. I</p> <p>22 didn't have a staff meeting about it. I reviewed</p> <p>23 it, yes.</p> <p>24 173 Q. That's helpful clarification,</p> <p>25 given that that was the subheading, The Shift's</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">70</p> <p>1 rights law.</p> <p>2 166 Q. To your knowledge, has it been</p> <p>3 adopted by any level of government in Canada?</p> <p>4 A. Adopted in whole? Is that the</p> <p>5 question or parts of it adopted or...?</p> <p>6 167 Q. Well, let's start with the</p> <p>7 first. Has this entire document been implemented</p> <p>8 or adopted by any government in Canada?</p> <p>9 A. Not to my knowledge.</p> <p>10 168 Q. To the extent that governments</p> <p>11 have implemented any of it, do you have any</p> <p>12 knowledge that they were doing it because of your</p> <p>13 suggestions and commentary?</p> <p>14 A. I mean, one hopes when you</p> <p>15 produce something of this nature, practical</p> <p>16 standards, that it that has an impact. But it's</p> <p>17 difficult for me to know what impact it has had.</p> <p>18 169 Q. Let's scroll down to page 22 of</p> <p>19 your affidavit. As I said, there's a paragraph</p> <p>20 numbering that I'll put on the record. So you can</p> <p>21 see here we're on page 22 of your affidavit, and</p> <p>22 the paragraph numbering on this page is paragraph</p> <p>23 20 and 21. Can you see that all right?</p> <p>24 A. I can, thank you.</p> <p>25 170 Q. And, actually, from that new</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">72</p> <p>1 position, so I understand now 23 is separate.</p> <p>2 So in terms of Exhibit "I" to your</p> <p>3 affidavit, which is The Shift's statement entitled</p> <p>4 "Homeless Encampments in Hamilton and Risk of</p> <p>5 Evictions", where did the information in that</p> <p>6 statement come from?</p> <p>7 A. I believe we were contacted and</p> <p>8 provided with the -- contacted by people in</p> <p>9 Hamilton and they provided us with the</p> <p>10 information.</p> <p>11 174 Q. And do you recall who you were</p> <p>12 contacted by?</p> <p>13 A. I think it was a Legal Aid</p> <p>14 clinic.</p> <p>15 175 Q. So the content of that</p> <p>16 statement is based on what you were told by the</p> <p>17 Legal Aid clinic?</p> <p>18 A. Yes.</p> <p>19 176 Q. Let's just jump down to Exhibit</p> <p>20 "I".</p> <p>21 A. Just to be clear, the</p> <p>22 information may also have come from other sources</p> <p>23 as well. I was not part of the fact finding for</p> <p>24 this two-page statement. So I do know that we</p> <p>25 received information from the legal clinic, but I</p> <p style="text-align: center;">NIMIGAN MIHAIOVICH REPORTING INC.</p> <p style="text-align: center;">1.905.522.1653 info@nmreporting.ca</p>

<p style="text-align: right;">73</p> <p>1 don't know where else we might have received</p> <p>2 information. I just want to be very clear.</p> <p>3 177 Q. Well, that is the question,</p> <p>4 where the information came from. If there may be</p> <p>5 other sources and you're just not familiar with</p> <p>6 them, then I understand the answer.</p> <p>7 A. That's correct.</p> <p>8 178 Q. Just in particular on the</p> <p>9 screen now, it's at the second paragraph of The</p> <p>10 Shift's statement, it says:</p> <p>11 "The decision to now end the</p> <p>12 Protocol has seemingly been made without</p> <p>13 meaningful consultation with encampment residents</p> <p>14 and community advocates and fails to recognise the</p> <p>15 continuing housing and shelter crisis in</p> <p>16 Hamilton."</p> <p>17 That, in particular, was information</p> <p>18 provided to you by the law clinic?</p> <p>19 A. I guess so. I'm sorry, I'd</p> <p>20 have to look at what the law clinic, if there's</p> <p>21 records of that, but I would assume so. The</p> <p>22 meaningful consultation piece.</p> <p>23 179 Q. I would like to jump back -</p> <p>24 we're nearly done - to paragraph 23 of your</p> <p>25 affidavit, so that's the last paragraph of your</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">75</p> <p>1 protocol comply with your commentary? A5606</p> <p>2 A. The current encampment</p> <p>3 protocol, I don't know what the current encampment</p> <p>4 protocol is, to be honest. The reason I know</p> <p>5 about the August 2023 protocol, and I don't know</p> <p>6 what happened to that, is that I co-convene a</p> <p>7 group of cities from across the country,</p> <p>8 municipalities, it's called the Right to Home</p> <p>9 Working Group. It started in 2020, a few months</p> <p>10 into the pandemic. A variety of cities attend, it</p> <p>11 changes all the time. It's co-convened with the</p> <p>12 Canada Urban Institute.</p> <p>13 In one session in June we had a</p> <p>14 thematic focus on homelessness and homeless</p> <p>15 encampments. Two people from the City of Hamilton</p> <p>16 attended and presented on what I believe ended up</p> <p>17 being the August 2023 protocol. So Councillor</p> <p>18 Nann, and if I recall it was the head of the</p> <p>19 housing department, Michelle, whose last name I</p> <p>20 can't -- Baird, and they presented what at the</p> <p>21 time was their process for developing a protocol.</p> <p>22 And I'm not sure if they presented the whole</p> <p>23 protocol or just parts of it, I can't remember. I</p> <p>24 apologize, it's all done by Zoom.</p> <p>25 So we had a -- they have a</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>
<p style="text-align: right;">74</p> <p>1 affidavit. So this is page 24 of your affidavit,</p> <p>2 it's that new paragraph numbering, paragraph 23.</p> <p>3 A. Sorry, the last page?</p> <p>4 180 Q. Yes, the very last page, just</p> <p>5 above --</p> <p>6 A. Last paragraph, yeah.</p> <p>7 181 Q. Just above the signatures. You</p> <p>8 said:</p> <p>9 "I have reviewed the City of</p> <p>10 Hamilton 'Six Step Encampment Response' provided</p> <p>11 in Encampment Response Update dated September 9,</p> <p>12 2021."</p> <p>13 That's attached as Exhibit "J" to</p> <p>14 your affidavit. You state that the encampment</p> <p>15 process that was established by the City of</p> <p>16 Hamilton in 2021 does not comply with your</p> <p>17 commentary, for example in your National Protocol</p> <p>18 for Homeless Encampments in Canada.</p> <p>19 Now, are you aware that the City of</p> <p>20 Hamilton subsequently in August 2023 enacted a</p> <p>21 protocol that permits encamping, definitely in</p> <p>22 public parks, subject to certain rules about</p> <p>23 distances and space?</p> <p>24 A. Yes, I am aware of that.</p> <p>25 182 Q. Does the current encampment</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p>	<p style="text-align: right;">76</p> <p>1 presentation and Q&A after, other cities could ask</p> <p>2 questions. It was an opportunity to kind of</p> <p>3 provide, again, information to other cities of</p> <p>4 different approaches to encampments.</p> <p>5 I do recall querying. I think there</p> <p>6 was a mention of sanctioned sites, five sanctioned</p> <p>7 sites or six, I can't really remember, but</p> <p>8 something like that, and I do recall weighing in</p> <p>9 and saying, you know, under international human</p> <p>10 rights law sanctioned sites can be problematic if</p> <p>11 they weren't agreed to through a meaningfully</p> <p>12 engaged process.</p> <p>13 So, yeah, that was in June of 2023.</p> <p>14 And then the protocol came out August 2023. But I</p> <p>15 don't know what happened. I didn't follow it, so</p> <p>16 I don't know what's happened since.</p> <p>17 183 Q. You weren't provided with any</p> <p>18 information about it?</p> <p>19 A. I'm sorry, what was that?</p> <p>20 184 Q. You have not been provided with</p> <p>21 any information about it?</p> <p>22 A. I have not, actually.</p> <p>23 185 Q. So you're not able to</p> <p>24 meaningfully speak about the current protocols in</p> <p>25 force?</p> <p style="text-align: center;">NIMIGAN MIHAILOVICH REPORTING INC. 1.905.522.1653 info@nmreporting.ca</p> <p style="text-align: right;">A1322</p>

1 A. I don't know what protocols are
2 in force, no.
3 186 Q. Thank you, those are all my
4 questions.
5 MR. CHOUDHRY: Okay, thank you.
6 Ms. Farha, you're still under oath.
7 I would like to take five minutes to review my
8 notes. While you're under oath please continue to
9 not communicate with anyone. I think Mr. Diacur
10 would agree, if you need a health break or get a
11 glass of water, that's fine. But you're still in,
12 you're still in solitary, okay? Then I'll come
13 back in five minutes and let you know if I have
14 any questions, okay?
15 -- Recessed at 2:58 p.m.
16 -- Reconvened at 3:04 p.m.
17 MR. CHOUDHRY: Ms. Farha, thank you
18 for your time. I have no questions.
19 THE DEPONENT: Thank you.
20 MR. CHOUDHRY: Mr. Diacur, I think
21 that wraps up this cross-examination.
22 MR. DIACUR: Yes, we are concluded.
23 Thank you very much for attending and answering.
24 You are free to go.
25 ---Whereupon the examination adjourned at 3:04 p.m.
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1 REPORTER'S CERTIFICATE
2
3 I, SHEILA M. FINLAY, CSR, Certified
4 Shorthand Reporter and Commissioner of Oaths within
5 and for the Province of Ontario, certify;
6 That the foregoing proceedings were
7 taken before me at the time and place therein set
8 forth, at which time the witness was put under oath
9 by me;
10 That the testimony of the witness and
11 all objections made at the time of the examination
12 were recorded stenographically by me and were
13 thereafter transcribed;
14 That the foregoing is a true and
15 correct transcript of my shorthand notes so taken.
16
17 Dated this 30th day of August 2024
18
19 
20
21 [Signed Electronically]
22 SHEILA M. FINLAY, CSR /ACT
23 CERTIFIED SHORTHAND REPORTER/
24 AUTHORIZED COURT TRANSCRIPTIONIST
25 Commission Expires September 1, 2024

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NEWS

The case for a human rights response to homeless encampments

FEBRUARY 11, 2020



A pattern is emerging. For two years running, the month of January has triggered the forced eviction of homeless people living in encampments in Toronto.

This was the fate of those [living in the Rosedale ravine](#) a few weeks ago. They were evacuated ostensibly to preserve the ecology of the area, though it's just as likely that their removal had to do with pressure from neighbours.

Similarly, almost exactly a year ago, homeless folks living under the Gardiner Expressway had their encampment torn down for [fire safety reasons](#). A few weeks later, a cluster of transparent domes – infrastructure for a luxury pop-up dining concept dubbed Dinner With A View – appeared nearby in a twisted metaphor for gentrification, with a heavy dose of irony.

A5609



Peter Biesterfeld

Homeless people living in the Rosedale ravine were cleared out a few weeks ago.

What's happening in Toronto is mirrored across the country, with tent cities dotting the Canadian landscape in Edmonton, Winnipeg, London, Peterborough, North Bay and Fredericton. Regardless of where they spring up, the experience is disturbingly similar – deplorable conditions and, eventually, eviction.

Last fall, those living in a tent city in downtown Moncton were forcibly evicted amid reports the city wants to adopt a zero-tolerance policy regarding tents in public spaces. Meanwhile, residents of a tent encampment in Vancouver's Oppenheimer Park are fighting to remain on-site during the winter, arguing with the city for heaters to stave off hypothermia in the face of unusually low temperatures.

In Ottawa, a group rendered homeless after a [rooming house fire last April](#) established a tent city after having only been provided with a few days' accommodation in motel rooms. After living on public lands for months, they were evicted with very little notice.

There is one common denominator connecting all of these situations: the failure of governments to successfully implement the right to adequate housing.

With nowhere to go due to lack of adequate shelter spaces, unaffordable rents and necessary social supports, people who are homeless form their own communities. They provide one another with what they need – [support and safety](#) – attempting to live with some form of dignity within a system and society that has failed them.

What's mystifying is the response to encampments by all levels of government.

Instead of trying to address the situations through robust human rights-based strategies, they respond by committing yet another human rights violation: forcibly evicting people from their homes. For those experiencing homelessness, it's double jeopardy.

Governments need to recognize that tent encampments are of their own making. It's time to develop a national protocol on tent encampments based on human rights.

What does that mean? Here are the fundamentals:

A1325

A5610



Samuel Engelking

The rise of tent cities across Canada belies the country's wealth as well as its international standing as a human rights leader.

A ban on forced evictions

Forced eviction, the permanent or temporary removal of a person from their lands or home – whether an apartment, a house, a tent or a car – constitutes a gross violation of international human rights law, particularly when shelters are at capacity. Laws permitting forced evictions should be repealed. And all viable alternatives to eviction must be explored in consultation with residents.

Meaningful engagement

Residents of informal settlements are not recipients of charity nor are they trespassers, criminals or deviants. They are rights-holders, and they are experts in their own lives. Any policies, programs or decisions that affect them should include their active and meaningful participation. Residents should be provided with the necessary resources and support to engage in discussions with government officials regarding their living conditions and arrangements.

Access to basic services

Conditions in encampments are often deplorable. Governments fail to provide basic services required for human dignity such as toilets, showers, garbage collection and electricity. Denial of these services not only infringes the right to adequate housing but also serves to entrench public stereotypes about those living in poverty and homelessness. The provision of these services should be mandatory.

Housing over evictions

Where there is no viable alternative and eviction is required, it must be carried out in a manner consistent with international human rights law, which includes relocating residents to adequate, long-term housing with supports in the approximate location to the encampment or to another agreed-upon location.

A human rights foundation

Implementing the right to housing and securing human dignity must be the foundation of any response to tent encampments.

A1326

8/22/24, 1:59 PM

The case for a human rights response to homeless encampments - NOW Toronto

The rise of tent cities across Canada belies the country's wealth as well as its international standing as a human rights leader. How governments in Canada respond to encampments is a test of their respect for human rights. Let's hope they pass. **A5611**

Leilani Farha is the UN Special Rapporteur on the Right to Housing. Haseena Manek is director of communications for The Shift.

@nowtoronto



A1327

Ex # 2 m/d/y 08/27/2024 Pg 1 of 4

Exam of LEILANI FAHRA

Heegsma et al v City of Hamilton

Nimigan Mihailovich Reporting Inc.

Global Homelessness Action

< As of today, 150 million people around the world are living in homelessness. The Shift has collaborated with more than 30 organizations from 20 countries around the world to amplify the voices of people living in homelessness through the Global Homelessness Action. Help hold governments accountable by signing the petition today. >

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“The financialization of housing is...contributing to the degradation of the planet, driving the unsustainable construction of housing, sometimes just to be used as an instrument of investment, and eating into the global carbon budget...It is fueling the housing crisis by... driving unaffordability, evictions, and homelessness in cities across the world.” – Julieta Perucca, The True Cost of Financialization

OUR RESOURCES

(<https://www.make-the-shift.org/wp-content/uploads/2021/06/BS-letters.pdf>)
Blackstone

(https://www.make-the-shift.org/wp-content/uploads/2020/04/A_HRC_43_43_E-2.pdf)

(<https://www.make-the-shift.org/wp-content/uploads/2020/08/A-Na>)

Protocol-for-Homeless-Encampments-in-Canada.pdf)

1-Human-Rights-Based-National-Housing-Strategies2.pdf)

The Right to Housing for residents of informal set

A5614

A National Protocol for Homeless Encampments in Canada
A Human Rights Approach

Human Rights Based Housing Strategies

A1330

GET ACTIVE

A5615

If you want to help make the shift, you can follow us on social media and use the hashtag **#maketheshift** when promoting your right to housing events and statements.

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Ex # 3 m/d/y 08/27/2024 Pg 1 of 5

Exam of LEILANI FAHRA

Heegsma et al v City of Hamilton

Nimigan Mihailovich Reporting Inc.

As access to affordable housing becomes more difficult, the number of homeless encampments across Canada has increased. While encampments do not satisfy the right to housing, the rights of encampment residents must be protected. The Shift has developed several resources to help ensure the rights of encampment residents are upheld. Download them and use them in your community!



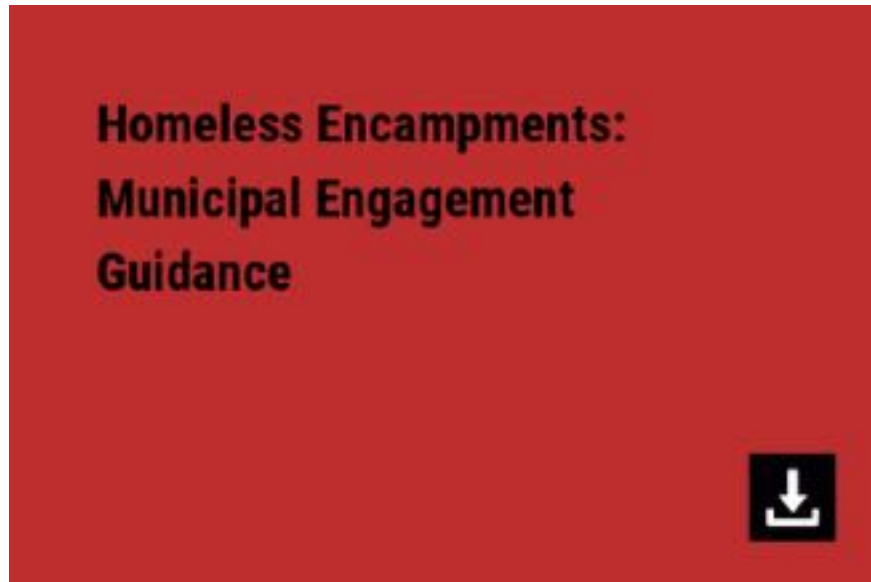
Campements de sans-abri: des orientations pour l'implication des municipalités

The National Working Group on Homeless Encampments (NWG-HE) – convened by The Shift since January 2023 – presents a Municipal Engagement Guidance. This Guidance is intended to support municipalities in engaging homeless encampments in a constructive and peaceful manner. The Guidance is not a road map to solving homelessness. It is an effort to establish national standards, based in human rights, for municipal government engagement with encampments across the country of Canada. It is intended to help ensure the best outcomes for those living in encampments and their communities in the short term, while establishing a foundation for longer-term solutions.

([HTTPS://MAKE-THE-SHIFT.ORG/WP-](https://make-the-shift.org/wp-content/uploads/2023/11/NWG-HE-GUIDANCE-FRENCH-W-LIST-1.PDF)

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Homeless Encampments: Municipal Engagement Guidance

The National Working Group on Homeless Encampments (NWG-HE) – convened by The Shift since January 2023 – presents a Municipal Engagement Guidance. This Guidance is intended to support municipalities in engaging homeless encampments in a constructive and peaceful manner. The Guidance is not a road map to solving homelessness. It is an effort to establish national standards, based in human rights, for municipal government engagement with encampments across the country of Canada. It is intended to help ensure the best outcomes for those living in encampments and their communities in the short term, while establishing a foundation for longer-term solutions.

([HTTPS://MAKE-THE-SHIFT.ORG/WP-CONTENT/UPLOADS/2023/11/NWG-HE-GUIDANCE-W-LIST.PDF](https://make-the-shift.org/wp-content/uploads/2023/11/NWG-HE-Guidance-W-List.pdf))

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A National Protocol on Homeless Encampments: A Human Rights Approach

In April 2020, former UN Special Rapporteur on the Right to Adequate Housing Leilani Farha and Dr. Kaitlin Schwan released *A National Protocol on Homeless Encampments: A Human Rights Approach* (<https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>). The Protocol, based in international and domestic human rights law, outlines eight Principles to guide governments in their responses to homeless encampments.

([HTTPS://MAKE-THE-SHIFT.ORG/WP-CONTENT/UPLOADS/2020/08/A-NATIONAL-PROTOCOL-FOR-HOMELESS-ENCAMPMENTS-IN-CANADA.PDF](https://www.make-the-shift.org/wp-content/uploads/2020/08/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf)) **DOWNLOAD**

Homeless Encampments & Your Human Rights Handout

This Handout, *Homeless Encampments & Your Human Rights* (<https://www.make-the-shift.org/wp-content/uploads/2020/12/THESHIFT-Tent-Encampment-Protocol-Handout.pdf>), is for people living in encampments in Canada. It outlines residents' human rights and how governments are obliged to respect them. Download and freely distribute!

([HTTPS://MAKE-THE-SHIFT.ORG/WP-CONTENT/UPLOADS/2020/12/21-11-12-THESHIFT-TENT-ENCAMPMENT-PROTOCOL-HANDOUT.PDF](https://www.make-the-shift.org/wp-content/uploads/2020/12/21-11-12-THESHIFT-TENT-ENCAMPMENT-PROTOCOL-HANDOUT.PDF))

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LEILANI FARHA

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 +1.613.302.7769
 leilani@maketheshift.org

HIGHLIGHTS

- University Health Network, Gattuso Social Medicine Clinic, Fellow (2024 – 2025)
- Open Society Foundation – Fellow (June 2020- June 2021).
- Co-Host of PUSHBACK Talks – podcast about cities, housing, finance and human rights. Listeners in over 160 countries.
- UN Special Rapporteur on adequate housing (May 2014 – April 2020).
- World Premiere of documentary film PUSH, CPH:Dox Festival, Copenhagen, Denmark. (March 2019, lead character).
- Jack Layton Award for Progressive Leadership (March 2019).

EDUCATION AND QUALIFICATIONS

2015	Honorary Doctor of Humane Letters (DHumL) Mount Saint Vincent University, Halifax, Nova Scotia.
1997	Admitted to the Bar of Ontario
1991 - 95	Bachelor of Law (LLB), University of Toronto Master of Social Work (MSW), University of Toronto
1986 - 90	Bachelor of Arts, English Literature (B.A.), Honours University of Toronto, Victoria College

WORK EXPERIENCE

2020 – Present	The Shift <i>Global Director</i>
2014 – 2020	<i>UN Special Rapporteur on the right to adequate housing and to non-discrimination in that context</i>
2012 – 2020	Canada Without Poverty <i>Executive Director</i>

2002 – 2012

Centre for Equality Rights in Accommodation
Executive Director

1997 – 2001

Centre on Housing Rights and Evictions (COHRE),
Women's Programme Coordinator/Legal Officer

RECENT SPEECHES + PRESENTATIONS

Urban Future Conference, “Is a just transition for housing possible?” (Rotterdam, 5 June 2024)

University of Nebraska – Lincoln, E.N. Thompson Forum on World Issues 2023-2024, Keynote Speech, “Back Home: Returning Housing to Human Rights” (Lincoln, 9 April 2024).

Hispanic Federation, Keynote Speaker, ¡Nos quedamos! We stay! Just alternatives to regulate short-term rentals in Puerto Rico, Keynote Speech, “Human Rights and Short-Term Rental Platforms”, (Puerto Rico, 7 March 2024).

University of Toronto, John H. Daniels, School of Architecture, Keynote Speech, “Architecture and the Right to Housing” (Toronto, 21 March 2024).

UCLA, Town Hall, Panelist, “The Right to Housing in California’s Constitution” (Los Angeles, 11 April 2024, virtual).

Government of Brazil, International Housing First Seminar, Keynote Speaker, “Human Rights and International Norms for the Operationalization of Housing First” (Brasilia, 28-29 November 2023).

Green Social Summit, Keynote Speaker, “Affordable housing is a human right” (Madrid, 29 September 2023).

Association of Municipalities in Ontario, AMO Annual Conference, Panelist, “Root Causes and Systemic Solutions for Ending Homelessness” (London, ON, 23 August 2023).

International Social Housing Festival, Keynote Speaker, “Human Rights and Housing Systems in Southern Europe” (Barcelona, 7-9 June 2023).

Human Rights Cities Leadership Summit, Panelist, “Housing and the Right to the City” (Atlanta, 19 May 2023).

Cities Summit of the Americas, Panelist, “Building on the Experience of the Cities for Adequate Housing Movement”, (Denver, 27 April 2023).

The Canadian Museum for Human Rights, Keynote Speaker, “3,2,1... Liftoff! A Mission Approach to the Right to Housing” (Winnipeg, 20 April 2023).

SHARE Investor Summit, Panelist, Investors For Affordable Cities. “Exploring Principles For Responsible Investment In Residential Real Estate” (Vancouver, 15 February 2023).

Ontario Non-Profit Housing Association, Keynote Speech, “Vultures, Parasites, and Zombies - Cleaning House with Human Rights” (Toronto, 5 November 2022).

Home for 10 | Scotland's Annual Homelessness Conference, Keynote, “Making the Shift” (Glasgow, 4 October 2022).

SELECTED OPINION PIECES

“[National Housing Council’s Missed Opportunity](#)”, co-authored with Julieta Perucca, The Hill Times (10 June, 2024).

“[Israel lied about UNRWA. US and UK must end their dehumanising defunding of Palestinian aid](#)”, The New Arab (1 May 2024).

“[On Israel-Gaza, Canada must rise to the humanity of the moment](#)”, co-authored with Alex Neve, Sen. Kim Pate, The Hill Times (15 November, 2023)

“[Here is what cities should do about encampments](#)”, The Toronto Star (9 November, 2023).

“[Student housing used to be affordable. Why has it become an ‘asset class’ to enrich the already wealthy?](#)”, The Guardian (30 August, 2023).

“[An Ontario ruling defending those living in encampments is only a partial victory](#)”, co-authored with Diana Chan McNally, The Globe and Mail (1 February, 2023).

“[Time to hear from the Ottawa residents who endured the trucker convoy](#)” co-authored with Alex Neve and Debbie Owusu-Akyeeah (The Ottawa Citizen (11 July, 2022).

“[Here’s how rocketing rents and unaffordable house prices can be fixed](#)”, The Guardian (2 June, 2022).

“[Profit mongers should have no home in Canada’s housing market](#)”, co-authored with Julieta Perucca, The Globe and Mail (16 June, 2021)

“[Homelessness is rising but is neither inevitable nor unstoppable](#)” co-authored with Juha Kaakinen, The Guardian (10 December 2020)

“[States have to ensure adequate housing amid the pandemic](#)”, Al-Jazeera Opinion, (August 19, 2020).

“[How can billions of people ‘stay home’ to beat Covid-19 without a safe place to live](#)”, The Guardian (April 29, 2020).

“[When Governments sell out to developers, housing is no longer a human right](#)”, The Guardian (February 29, 2020).

“[Grenfell Tower is a terrible betrayal of human rights](#)” *The Guardian*, (June 21st, 2017).

“[Housing is a human right, not a commodity](#)” *The Globe and Mail*, (March 30, 2017).

“[Homeless people are not cockroaches or vermin – they are human and have rights](#)” *The Guardian* (21 December, 2015).

SPECIAL RAPPORTEUR SELECTED THEMATIC REPORTS

2020

Guidelines for the Implementation of the Right to Housing
A National Protocol for Homeless Encampments in Canada

2019

The Right to Housing of Indigenous Peoples
The Right to Housing and Access to Justice

2018

Upgrading Informal Settlements and Encampments
Human Rights Based Housing Strategies

2017

The Financialization of Housing and Human Rights
The Right to Housing of Persons With Disabilities

2016

Homelessness and the Right to Housing

2015

The International Human Rights Obligations of Sub-National Governments

RECENT SELECTED PUBLICATIONS

[*The right to housing: A mission-oriented and human rights-based approach*](#), co-authored with Mariana Mazzucato, (30 May, 2023). Written as part of a series by the Council on Urban Initiatives.

[*Area C is Everything: Planning for the Future of Palestine*](#) (March, 2023). Written as a consultant to the Norwegian Refugee Council.

Homelessness, Housing and Human Rights Accountability in [*Displacement City: Fighting for Health and Homes in a Pandemic*](#) ed. Cathy Crowe (University of Toronto Press, 2022)

The Human Right to Housing in the Age of Financialization in [*Research Handbook on Human Rights and Poverty*](#), co-authored with Kaitlin Schwan, ed. Martha Davis and Morton Kjaerum (2021).

[*Model Emergency Housing Legislation*](#): Protecting the Right to Housing during Covid-19, co-authored with Open Society et al. (December 2020).

[*The Frontline Defence: Housing and Human Rights in the time of COVID-19*](#), in [*Vulnerable: The Law, Policy and Ethics of Covid-19*](#), eds. Coleen Flood, Jane Philpott et. al (2020).

Housing Shock: The Irish Housing Crisis and How to Solve It, Rory Hearne, Foreword (2020).

[*A National Protocol for Homeless Encampments in Canada*](#). Co-authored with Kaitlin Schwan (April 2020).

SELECTED STRATEGIC LITIGATION

Intervenor Application, High Court of the Northern Territory, Australia in the Santa Theresa Case involving Indigenous peoples and the “habitability” of housing (forthcoming).

Amicus Curiae brief submitted to the Constitutional Court of Hungary in Case [No. III/01628/2018](#),

initiated by Kaposvár District Court (Kaposvári Járásbíróság) regarding the constitutionality of amendments to section 178/B of the Act II of 2012 on Misdemeanors, in relation to persons residing in public spaces as habitual dwelling. (Submission: December 2018).

Canada Without Poverty vs. *Canada* – Charter of Rights and Freedoms, Freedom of Expression challenge to income tax act provisions governing charities. (Decision: July 2018).

Amicus Curiae brief submitted to the Constitutional Court of the Republic of Guatemala, Ref. File No. 2698-2017 regarding the [Community of Laguna Larga](#).

[MDB et al. v. Spain](#) - Third Party Intervention to the Committee on Economic, Social and Cultural Rights with respect to Communication 5/2015. (Decision: January 2017).

SELECTED HUMAN RIGHTS RESEARCH MISSIONS

2015 - 2020

Countries: Cabo Verde, Chile, Egypt, France, India, New Zealand, Nigeria, Portugal, Serbia and Kosovo, South Korea,

Cities: Barcelona, Berlin, Detroit, Dublin, Jakarta, Lausanne, London, Los Angeles, Manila, Mexico City, Oakland, San Diego, San Francisco, Toronto, Vancouver, Vienna.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO,
SHAWN ARNOLD, ET AL.**

Applicants


-and-

CITY OF HAMILTON

Respondent

AFFIDAVIT OF STEPHEN GAETZ

SWORN JUNE 14, 2022

colborne 

I, Stephen Gaetz, of the City of ~~TORONTO~~ in the Province of Ontario, AFFIRM AND SAY:

1. I have personal knowledge with respect to the facts set out below, except where stated otherwise. Where the information is not based on my personal knowledge, it is based upon information provided by others which I believe to be credible and true.

Credentials and Nature of Work

2. A copy of my *Curriculum Vitae* is attached hereto as **Exhibit “A”** to my affidavit.

3. I am a full Professor in the Faculty of Education at York University, in Toronto, Ontario, where I have been on the faculty since 2000. I am also President and CEO of the Canadian Observatory on Homelessness (“COH”), a research institute with a mandate to work in collaboration with partners to conduct and mobilize research to have an impact on solutions to

homelessness.¹ As President of the COH, one of my key projects is the Homeless Hub (www.homelesshub.ca), an innovative web-based research library internationally recognized as a leading example of innovation in knowledge mobilization. I also co-lead, and am Scientific Director of, Making the Shift – A Youth Homelessness Social Innovation Lab (“Making the Shift”).² In 2021, the United Nations Economic Commission for Europe established the Toronto Centre of Excellence on Youth Homelessness Prevention at Making the Shift.³

4. I have had a long-standing interest in understanding homelessness – its causes, how it is experienced, and potential solutions. My interest began when I worked in the homelessness sector for seven years in the 1990s, which gave me extensive insight into the causes and conditions of homelessness, as well as institutional responses to homelessness. My expertise extends to the structure and operations of the homeless shelter system. I began to develop this expertise when I worked at the Shout Clinic (1993-1999), where I focused on youth homelessness, and at the Queen West Community Health Centre (1999), where I focused on adult and family homelessness. In both positions I regularly visited emergency shelters for youth, adults and families. Since that time, I have continued to visit emergency shelters across Canada and internationally and have developed further expertise on the characteristics and operations of shelters, as well as on the perspectives of individuals and families who use them because they are without housing.

¹ “About Us: Canadian Observatory on Homelessness,” Homeless Hub, 2021, [https://www.homelesshub.ca/about-us/about-the-coh#:~:text=The%20Canadian%20Observatory%20on%20Homelessness%20\(COH\)%20is%20a%20non%2D,with%20lived%20experience%20of%20homelessness](https://www.homelesshub.ca/about-us/about-the-coh#:~:text=The%20Canadian%20Observatory%20on%20Homelessness%20(COH)%20is%20a%20non%2D,with%20lived%20experience%20of%20homelessness).

² “What is Making the Shift: Youth Homeless Innovation Lab,” Making the Shift, accessed June 5, 2022, <https://makingtheshiftinc.ca/what-is-making-the-shift/>.

³ United Nations Economic Commission for Europe, “UNECE Establishes Toronto Centre of Excellence on Youth Homelessness Prevention at York University,” June 16, 2021, <https://unece.org/housing-and-land-management/press/unece-establishes-toronto-centre-excellence-youth-homelessness>.

5. My program of research has been defined by my desire to “make research matter” through conducting rigorous scholarly research that contributes to our knowledge base on homelessness and is mobilized so that it has an impact on policy, practice and public opinion. In particular, I focus on research designed to move away from our current response which focuses on emergency services and supports such as shelters and day programs to a response that focuses on prevention and sustainable exits from homelessness. As an internationally recognized leader and innovator in the area of knowledge mobilization, I have pioneered efforts to bring together researchers, practitioners, policy makers and people with lived experience of homelessness to participate in a broad agenda of community-engaged scholarship and knowledge creation designed to contribute to solutions to homelessness. In 2016 I was awarded a Research Impact (Connection) award by the Social Sciences and Humanities Research Council of Canada, and in 2017 I was made a Member of the Order of Canada.

Defining homelessness

6. The Canadian definition of Homelessness is as follows:

Homelessness describes the situation of an individual, family or community without stable, safe, permanent, appropriate housing, or the immediate prospect, means and ability of acquiring it. It is the result of systemic or societal barriers, a lack of affordable and appropriate housing, the individual/household’s financial, mental, cognitive, behavioural or physical challenges, and/or racism and discrimination. Most people do not choose to be

homeless, and the experience is generally negative, unpleasant, unhealthy, unsafe, stressful and distressing (1).⁴

7. Homelessness describes a spectrum of housing and shelter circumstances, with people being without any shelter at one end, and being insecurely housed at the other. This spectrum includes:

- a) **Unsheltered**, or absolutely homeless and living on the streets or in places not intended for human habitation, including encampments;
- b) **Emergency Sheltered**, including those staying in overnight shelters for people who are homeless, as well as shelters for those impacted by family violence;
- c) **Provisionally Accommodated**, referring to those whose accommodation is temporary or lacks security of tenure; and
- d) **At Risk of Homelessness**, referring to people who are not homeless, but whose current economic and/ or housing situation is precarious or does not meet public health and safety standards.

8. For many people homelessness is not a static state but rather a fluid experience, where one's shelter circumstances and options may shift and change quite dramatically and with frequency.

9. According to the Canadian definition of homelessness, the risk factors that contribute to vulnerability to homelessness include:

- a) Housing precarity;

⁴ Stephen Gaetz et al., "Canadian Definition of Homelessness," *Canadian Observatory on Homelessness*, 2012, <https://www.homelesshub.ca/sites/default/files/attachments/Definition%20of%20Homelessness>.

- b)** Precarious employment;
- c)** Sudden unemployment with few prospects and little to no financial savings or assets, or social supports to turn to for assistance;
- d)** Supported housing with supports that are about to be discontinued;
- e)** Households facing eviction, lacking the resources needed to afford other housing including social supports, or living in areas with low availability of affordable housing;
- f)** People with severe and persistent mental illness, active addictions, substance use and/or behavioural issues;
- g)** Division of household caused by situations (such as separation, divorce, conflicts between caregivers and children, or roommates moving out);
- h)** Violence / abuse (or direct fear of) in current housing situations; and
- i)** Institutional care that is inadequate or unsuited to the needs of the individual or family.

The Causes of Homelessness

10. There is no single cause that explains everyone's experience of homelessness. Pathways into and out of homelessness are neither linear nor uniform. Individuals and families who wind up homeless may not share much in common with each other, aside from the fact that they are extremely vulnerable and lack adequate housing and income and the necessary supports to ensure they stay housed.

11. Nevertheless, using a social-ecological model, we can explain the causes of homelessness as the outcome of a complex and intricate interplay between **structural factors, systems failures,** and **individual circumstances.** ⁵

12. **Structural factors** include economic, systemic, and societal issues that affect outcomes and opportunities for young people and their families” (18).⁶ Because these factors occur at a societal level, individuals and families cannot control these factors and the impact on their lives, and people have limited ability to change them. Structural factors not only affect people experiencing homelessness, but much larger segments of the population. Key structural factors that contribute to homelessness include social and economic conditions like poverty, violence, inadequate education, underemployment, and lack of affordable housing. Other contributing factors include discrimination in the form of homophobia, transphobia, racism, and bullying. Ongoing racism and the experience of colonialism are at the core of experiences of homelessness for many Indigenous people and their families. These structural factors not only contribute to housing precarity for individuals and their families but can manifest at the community level as well.

13. **Systems failures** refer to those situations where inadequate policy and service delivery contribute to the likelihood that someone will become homeless. Systems failures that contribute to homelessness occur when individuals and families experience:

⁵ Stephen Gaetz and Erin Dej, “A New Direction: A Framework for Homelessness Prevention,” *Canadian Observatory on Homelessness Press*, 2017, <https://www.eenetconnect.ca/fileSendAction/fcType/0/fcOid/360050555503230772/filePointer/360050555503230803/fodoid/360050555503230797/COHPreventionFramework.pdf>; Stephen Gaetz et al., “Duty to Assist—A Human Rights Approach to Youth Homelessness,” *Canadian Observatory on Homelessness Press*, 2018, https://www.homelesshub.ca/sites/default/files/Duty_to_Assist.pdf

⁶ Gaetz and Dej, “A New Direction”, 18.

1. **Barriers to accessing public systems** (e.g., health, social services, legal supports) that they are entitled to, or where the supports they get are inadequate in protecting the person from homelessness; these barriers are unequally distributed, with some groups facing greater disadvantage than others.
 2. **Failed transitions from publicly funded institutions and systems:** including (for example) child welfare, hospitals, and corrections; inadequate discharge planning and support means that many individuals fall into homelessness upon leaving such systems because they lack other options.
 3. **Silos and gaps both within and between government funded departments and systems, and also within non-profit sectors:** the division of services, funding, and data into silos impedes collaboration and undermines the ability of communities and government to take an integrated systems approach to complex social problems; it also creates untold problems for individuals and families who struggle to get their needs met, specifically creating challenges for people to identify, access, and navigate necessary services and supports.
14. **Individual and relational factors** refer to the personal circumstances that place people at risk of homelessness, and may include:
1. **Personal or family crises:** such as emergencies (e.g., house fire, community evacuation, sudden unemployment, eviction) or personal crises (e.g., family break-up or intimate partner violence).
 2. **Housing precarity and insecurity:** the Canada Mortgage and Housing Corporation defines a household as being in “core housing need” if an individual or family’s housing: “falls below at least one of the adequacy, affordability, or suitability

standards and would have to spend 30% or more of its total before-tax income to pay the median rent of alternative local housing that is acceptable (meets all three housing standards)”.⁷

3. **Interpersonal and relational problems:** includes ongoing family conflict, interpersonal violence and abuse, involvement with the criminal justice system, and/or mental health, addictions, and justice problems among other family members.
4. **Interpersonal violence:** People experiencing interpersonal violence or abuse (or living in direct fear of violence or abuse) in their current housing situations may be at risk of homelessness.
5. **Trauma:** the relationship between homelessness and trauma is bidirectional; trauma in the form of adverse experiences is both a risk factor for, and a potential outcome of, homelessness, and can lead to mental health challenges and behavioural changes that can impair decision making.

Who is homeless in Canada and who stays in homeless shelters?

15. Homelessness is a widespread social concern in Canada and many other developed countries. More than 235,000 people in Canada experience homelessness in any given year, and 25,000 to 35,000 people may experience homelessness on any given night.⁸ A study by the Government of Canada identified that in 2016 there were an estimated 129,000 unique emergency

⁷ Canada Mortgage and Housing Corporation, “The National Housing Strategy Glossary of Common Terms,” 2022, <https://www.cmhc-schl.gc.ca/en/nhs/guidepage-strategy/glossary>.

⁸ Stephen Gaetz et al., “The State of Homelessness in Canada 2016,” *Canadian Observatory on Homelessness Press*, 2016, https://homelesshub.ca/sites/default/files/SOHC16_final_20Oct2016.pdf; Employment and Social Development Canada, “Everyone Counts 2018 Highlights: Preliminary Results from the Second Nationally Coordinated Point-in-Time Count of Homelessness in Canadian Communities,” *Government of Canada*, 2019, <https://publications.gc.ca/site/eng/9.874995/publication.html>.

shelter users, and just over 14,000 Canadians stayed in an emergency shelter on any given night⁹. This suggests that almost half of all Canadians who experience homelessness in a given year do not access emergency shelters at any time during the year, which begs the question as to why they do not.

16. In 2018 the Government of Canada conducted a national Point in Time Count (“PiT Count”) in over 60 communities across the country on a single day. The PiT Count revealed that the homeless population in Canada is quite diverse, in terms of age, gender, and ethno-racial background.¹⁰

17. **Chronic Homelessness:** PiT Count respondents were asked how long and how many different times they experienced homelessness over the past year. Six or more months of homelessness was considered chronic homelessness, three or more episodes lasting less than six months of homelessness was considered episodic homelessness. People experiencing chronic homelessness accounted for 60% of all respondents whereas episodic homelessness accounted for 8% of all respondents.¹¹

18. **Gender:** The majority (62%) of PiT Count respondents identified as male, 36% identified as female and 2% identified as trans male, trans female, transgender, non-binary, androgynous, gender fluid, two-spirit, genderqueer or gender non-conforming, or provided another response not listed on the survey.¹² While the percentage of women in the homeless emergency shelter

⁹ Annie Duchesne, Ian Cooper, and Nancy Baker, “The National Shelter Study: Shelter Use in Canada 2005-2016,” *Employment and Social Development Canada*, 2021. 8, https://publications.gc.ca/collections/collection_2021/edsc-esdc/Em12-17-2020-eng.pdf.

¹⁰ Employment and Social Development Canada, “Everyone Counts 2018 Highlights”.

¹¹ Employment and Social Development Canada, “Everyone Counts 2018 Highlights”.

¹² Employment and Social Development Canada, “Everyone Counts 2018 Highlights”.

population across Canada appears to be lower than men, the unique circumstances facing women must be addressed. Women are at increased risk for hidden homelessness, living in overcrowded conditions or having sufficient money for shelter, but not for other necessities. In addition, according to the 2009 General Social Survey, 6% of women report some form of intimate partner (spousal) assault.¹³ Family violence is a major cause of homelessness for women, and while some women make use of Violence Against Women shelters, others wind up using homelessness shelters. A 2010 PiT Count of women staying in found that abuse was the most commonly cited reason for admissions (71%) and the majority (60%) had not reported this to the police.¹⁴ When women become homeless, they are at increased risk of violence and assault, sexual exploitation and abuse, which may explain the lower numbers of women in the shelter system.¹⁵ Many women will go to lengths to avoid the shelter system, including staying in dangerous and unhealthy relationships and/or making arrangements to move in with a partner (even when that situation is unsafe) rather than submit to the incredible risk of violence and exploitation on the streets. Many women will choose to live in encampments surrounded by friends for protection.

*Note that respondents who identified as male and female may include cisgender and transgender people. As a result, this report may undercount the number of people who may identify as gender diverse. Gender for dependents was identified by their parents or guardians.

¹³ Marie Sinha, "Measuring Violence Against Women: Statistical Trends," *Juristat: Canadian Centre for Justice Statistics* (2013): 1.

¹⁴ Marta Burczycka and Adam Cotter, "Shelters for Abused Women in Canada, 2010," *Statistics Canada*, 2011. <https://www.publicsafety.gc.ca/cnt/cntrng-crm/plcng/cnmcs-plcng/rsrch-prtl/dtls-en.aspx?d=PS&i=63570487>.

¹⁵ Stephen Gaetz, Bill O'Grady, and Kristy Buccieri, "Surviving Crime and Violence: Street Youth and Victimization in Toronto," *The Homeless Hub Press*, 2010, https://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/29374/Surviving%20the%20Streets.JFCY_September16.2010.pdf?sequence=1; Emily Paradis and Janet Mosher, "'Take the Story, Take the Needs, and DO Something': Grassroots Women's Priorities for Community-Based Participatory Research and Action on Homelessness," *Canadian Homelessness Research Network Press*, 2012, https://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/29386/CBPRwomenhomeless_report_0.pdf?sequence=1&isAllowed=y.

19. **Gender Identity:** When PiT Count “respondents were asked about their sexual identity or orientation, over 20% of youth identified as bisexual, gay, lesbian, asexual, pansexual, two spirit, queer, questioning, or provided another response not listed on the survey. When considered together with gender diverse responses, 21% of youth identified as LGBTQ2. LGBTQ2 responses were less frequent with age, accounting for 11% of responses from adults, 6% of responses from older adults, and 5% of responses from seniors.” (9).¹⁶

20. **Age:** “Dependents and unaccompanied youth each comprised 13% of PiT Count respondents. Adults were the largest group, accounting for nearly half (49%) of those identified. Over 1 in 5 (22%) were older adults and 3% were seniors” (8).¹⁷

21. **Indigenous identity:** Indigenous Peoples are disproportionately represented in the homeless population in Canada. “Nearly one third (30%) of [The PiT Count] respondents identified as Indigenous, with the majority identifying as First Nations. In contrast, approximately 5% of the Canadian population identifies as Indigenous in the 2016 census, suggesting an overrepresentation of Indigenous Peoples experiencing homelessness. This percentage was higher among those who were staying in unsheltered locations (37%) and among those who were staying with others (43%). This suggests that shelter-specific statistics are likely to underestimate the extent of Indigenous homelessness” (11).¹⁸ Indigenous Peoples’ experiences of poverty and homelessness are firmly rooted in colonial practices and systemic discrimination. The experience of colonialism (resulting in intergenerational trauma), poverty, as well as extreme racism in many

¹⁶ Employment and Social Services Development Canada, “Everyone Counts 2018 Highlights,” 9.

¹⁷ Employment and Social Services Development Canada, “Everyone Counts 2018 Highlights,” 8.

¹⁸ Employment and Social Services Development Canada, “Everyone Counts 2018 Highlights,” 11.; Statistics Canada, “Focus on Geography Series, 2016 Census,” *Statistics Canada Catalogue no. 98-404-X2016001*, April 18, 2019, <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-CAN-eng.cfm?Lang=Eng&GK=CAN&GC=01&TOPIC=9>.

Canadian cities creates more limited opportunities and greater risk of homelessness. It also means that many Indigenous people will avoid using homeless shelters or other services designed to support people who are homelessness.

22. People with a Disability: **A large number of people experiencing homelessness also have physical, mental, developmental or learning disabilities that impact on mobility, experience of pain, energy levels and / or decision making (note this information does not come from the PiT count study but other research). A study in New York found that one-fifth of surveyed homeless adults residing in shelters reported a disease or disability that restricted their functioning¹⁹. “In a national survey of homeless service user in the United States, 46 percent reported one or more chronic, debilitating conditions including arthritis, rheumatism, or joint problems (24%); high blood pressure (15%); and problems walking, a lost limb, or other handicap (14%)²⁰.**

The Homelessness Emergency Shelter System – an overview

23. According to Employment and Social Development Canada, in 2016 there were “over 15,400 emergency shelter beds at about 400 emergency shelters across Canada” (7).²¹ “The number of shelters and beds remained relatively stable between 2005 and 2016, but demand for shelter beds increased. The average occupancy rate at Canada’s emergency shelters in 2016

¹⁹ Barrow et al. "Mortality among homeless shelter residents in New York City." *American Journal of Public Health*. April 1999. 89(4): 530.

²⁰ National Council on Disabilities. Guide to disability civil rights laws, April 2002: www.ncd.gov/newsroom/publications/disabilityrights.html; US Department of Justice. Americans with Disabilities Act, ADA Home Page: www.usdoj.gov/crt/ada/. 2.

²¹ Annie Duchesne, Ian Cooper, and Nancy Baker, “The National Shelter Study,” 7.

was 91.0%, an increase of almost 10 percentage points since 2005” (8).²² On an average night in 2016, just over 14,000 Canadians stayed in an emergency shelter.²³

24. Emergency shelters are designed to provide temporary shelter with minimum supports for people who do not have access to housing that is safe, affordable and appropriate. Not all emergency shelters are the same. They vary in the number of beds they offer, and in Canada the range is from less than ten beds to over 600 at The Drop In (Calgary). Emergency shelters are potentially funded by different orders of government, as well as charitable donations (especially for shelters affiliated to religious organizations). Some municipalities have “shelter standards” which govern the operations of emergency shelters that those municipalities provide direct funding to. The City of Hamilton had such a plan, called the “Blueprint for Emergency Shelter Services”. However, this document is no longer available online and it is not clear if there are any current standards.

25. Bearing in mind that there is variation in how shelters operate, there are some common characteristics:

- a) **Emergency shelters** provide beds for people experiencing homelessness to sleep on during the night. This may include bunk beds, single beds, cots or mats on the floor.
- b) Most shelters are set up for **single individuals**, with **separate shelters for men and women**, and a smaller number targeting women fleeing violence, unaccompanied youth, and families.

²² Annie Duchesne, Ian Cooper, and Nancy Baker, “The National Shelter Study,” 8.

²³ Annie Duchesne, Ian Cooper, and Nancy Baker, “The National Shelter Study.”

- c) People are typically provided shelter in a **congregate setting**, meaning that two or more people share the same room. In some cases, this means more than 50 people in a single congregate setting.
- d) Some shelters **limit the number of nights** an individual can stay.
- e) Intake to the shelter begins in the evening on a **first come first served** basis. When the shelter is full, people are turned away, without any assessment of relative need or priority.
- f) There is typically a **curfew**, after which people will not be admitted.
- g) Some but not all shelters provide an **evening meal**, and in some cases a **breakfast**. Because of budget constraints, the quality of food provided by shelters is generally low and can contribute to malnourishment.²⁴
- h) At most shelters, people are **discharged in the morning** and are not allowed back in until the evening, **regardless of the weather**, whether a person is **ill** or has a disabling condition.
- i) Shelters will usually **admit people with serious mental illnesses** but are not medical institutions. They generally do not have in-house staff who are trained medical professionals, and many staff – particularly on the night shift – have minimal training. Because of low pay, there is typically a significant amount of turnover.
- j) Shelters are generally not able to accommodate people who are experiencing homelessness and at the same time have **nighttime jobs**.

²⁴ Naomi Dachner et al., "An Ethnographic Study of Meal Programs for Homeless and Under-Housed Individuals in Toronto," *Journal of Health Care for the Poor and Underserved* 20, no. 3 (2009): 846-853.; Stephen Gaetz et al., "'Managing' homeless youth in Toronto: mismanaging food access and nutritional well-being," *Canadian Review of Social Policy* 58 (2006): 43.

- k) Shelters typically have **rules and restrictions** – in some cases informal practices – allowing staff to discharge those accessing the shelter, for a range of reasons, including fighting, being disruptive, coming in drunk or having used drugs. As one organization states: “These rules and restrictions are well-intended but can prevent people from accessing shelter beds. ... For example, many mass shelters don’t allow pets — and for good reason, if you can imagine a mass shelter with dozens of dogs running around on the loose. But for the homeless with pets, who wouldn’t imagine giving up their only companion, where do they go for shelter?” (sec. 2).²⁵
- l) Some shelters do not allow people to bring in **personal possessions** outside of the clothes on their back.
- m) Some shelters have **historically condemned homosexuality** and require residents to not openly display their orientation, which exposes LGBTQ2S people to potential ridicule and attacks.
- n) Generally, **drinking and drug use** are not allowed inside a shelter, and some will bar people who are suspected of drinking from entering the shelter.

Shelters and the spread of infectious disease

26. Shelters, in terms of their design and operations, can pose public health challenges. Compromised health and well-being are a consequence of overcrowded living conditions, lack of access to safe and private spaces, reliance on shelters and drop-ins to meet daily needs, and barriers to accessing services. As I have written:

²⁵ Pallet, “Why People Experiencing Homelessness Don’t Accept Shelter,” May 20, 2020, sec. 2, <https://palletshelter.com/blog/why-the-homeless-dont-accept-shelter/>.

While these services have been designed to meet the immediate needs for shelter, warmth, food and companionship, these same services are constituted in ways that undermine individual autonomy, privacy, safety and freedom of movement. The design of these services often places people in vulnerable circumstances that may exacerbate the spread of infectious disease ... (20)²⁶

27. In addition, Rowan et al. state:

Congregate shelters for PEH (People experiencing homelessness) are often crowded indoor environments with poor ventilation through which hundreds of people may pass each day, eating and sleeping in close proximity. The frequency of close contact with others in this high-density indoor environment greatly increases the risk of transmission of respiratory pathogens (1-2).²⁷ ...

28. “In overcrowded shelters and drop-ins, infection control becomes an obvious challenge (Duchene, 2010), as does the issue of quarantine and isolation, since most shelters have not been designed with infection control in mind. Increased attention to supporting hygienic practices and better ventilation will be necessary, along with plans to ensure that agencies have quick access to medical and hygiene supplies and food, and space to store them. All these needs have resource implications for a sector with inadequate funding”²⁸

²⁶ Stephen Gaetz and K. Buccieri, "The Worst of Times: The Challenges of Pandemic Planning in the Context of Homelessness," In *Pandemic Preparedness and Homelessness: Lessons from H1N1 in Canada*, eds. Kristy Buccieri, and Rebecca Schiff (Toronto: Canadian Observatory on Homelessness, 2016), 13-32, 20, https://www.homelesshub.ca/sites/default/files/attachments/LessonsfromH1N1-Chapter_1.pdf.

²⁷ Sarah E. Rowan et al., "Lower Prevalence of Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) Infection Among People Experiencing Homelessness Tested in Outdoor Encampments Compared with Overnight Shelters: Denver, Colorado, June-July 2020," *Clinical Infectious Diseases* (2022), ciac039, <https://doi.org/10.1093/cid/ciac039>.

²⁸ Stephen Gaetz and K. Buccieri, "The Worst of Times: The Challenges of Pandemic Planning in the Context of Homelessness," In *Pandemic Preparedness and Homelessness: Lessons from H1N1 in Canada*, eds. Kristy Buccieri, and Rebecca Schiff (Toronto: Canadian Observatory on Homelessness, 2016), 13-32, 20,

29. Pandemics such as COVID-19 can pose grave risks for homeless individuals, particularly in the context of staying at a homeless shelter. While in many communities' efforts have been made to improve hygiene practices, reduce the number of beds etc., homeless shelters by design exacerbate risk in the context of a pandemic. As I have written:

We know that at the best of times, the health of homeless people is compromised by situational factors (such as nutritional vulnerability and compromised immunity), structural factors (such as lack of income and inadequate housing), and pre-existing health conditions. Yet ultimately what underlies their vulnerability is not simply the characteristics and behaviours of the population. We need to consider the ways in which the infrastructure we have built to respond to homelessness — in particular, our reliance on emergency services that are often characterized by overcrowding, congregate living and resources inadequate to maintaining hygiene — organize the lives of people who are homeless to exacerbate this vulnerability and create the possibility of potential disaster in the event of a serious infectious disease outbreak (13).²⁹

Reasons why the shelter system may be incompatible with an unhoused person

30. There are many rational reasons why individuals and families might choose not to stay at a homelessness shelter, and these reasons are usually related to the operational features of shelters described above. Reasons for not wanting to stay in a shelter include:

1. **Fear:** Individuals accessing shelters may know other residents who they are afraid of for one reason or another (e.g., the person is violent, there is a previous conflict, etc.);

https://www.homelesshub.ca/sites/default/files/attachments/LessonsfromH1N1-Chapter_1.pdf, 23

²⁹ Gaetz, and Buccieri, "The Worst of Times", 13.

other residents may not be known to the individual, and they may have trouble assessing the potential risk a stranger may present; finally, because shelter residents are often exposed to racist, homophobic and transphobic attacks (sometimes physical) by other residents, and in some cases by staff, many people would rather take their chances living outside of shelters than to stay at one.

2. **Risk of criminal victimization:** People experiencing homelessness are more likely to be victims of crime, including assault and sexual assault, than are people who are housed.³⁰ Surrounding oneself with friends can be a protective factor, and this is easier to achieve if one lives outside of a shelter setting.
3. **Not being able to stay with friends:** In general, most people would prefer to stay with friends rather than with strangers, which is hard to do in a shelter; lacking control over who is living with you in a congregate environment can be very scary and stressful.
4. **Negative prior experiences of public institutions:** Repeated negative experiences with public services can lead people to reject accessing public services, or to see that they have any value; many people will choose to *not* access homelessness shelters, but

³⁰ Stephen Gaetz, Bill O'Grady, and Kristy Buccieri, "Surviving Crime and Violence"; Bill O'Grady, Stephen Gaetz, and Kristy Buccieri. "Can I see your ID: The policing of youth homelessness in Toronto." *Justice for Children and Youth and Homeless Hub Press*, 2011, https://homelesshub.ca/sites/default/files/CanISeeYourID_execsummary.pdf; Bill O'Grady, Stephen Gaetz, and Kristy Buccieri, "Legal and Justice Issues: Policing Street Youth in Toronto," In *Youth Homelessness in Canada: Implications for Policy and Practice*: eds. Stephen Gaetz, Bill O'Grady, Bill Buccieri, Krista Karabanow, Jeff Marsolais, and Allyson Marsolais, (Toronto: Canadian Homelessness Research Network Press, 2013), 335-352.; Sylvia Novac et al., "More Sinned Against than Sinning? Homeless People as Victims of Crime and Harassment," In *Finding Home Policy Options for Addressing Homelessness in Canada*: eds. David Hulchanski, Philippa Campsie, Shirley Chau, Stephen Hwang, and Emily Paradis, (Toronto: Cities Centre, University of Toronto, 2009), 660-671.

rather seek other options including sleeping outdoors or living in homelessness encampments, where they can exercise more control over their lives.

5. **Pets:** People who experience homelessness often have pets for companionship (like anyone else) but also to enhance their personal safety; the exclusion of pets from shelter means they may not choose shelter.
6. **Personal belongings:** Because many shelters **do not have facilities to store personal belongings**, many people will avoid using shelters. Also, within shelters, people are often afraid of having the few personal belongings they can bring into the shelter stolen. For instance, people will often sleep with their shoes on for fear someone else will steal them. Eugene Stroman, a homeless person in Houston, Texas, described why he did not like to stay in a shelter:

There are ... reasons to say no when officers offer to bring you to shelter. Agreeing to go to a shelter in that moment means losing many of your possessions. You have to pack what you can into a bag and leave the rest behind, to be stolen or thrown away by City workers. For me, I would have lost my bulky winter clothes, my tent, my non-perishable food, and the bike parts I used to make repairs for money. You give up all this property just for the guarantee – if you trust the police – of a spot on the floor for one

night. It's not really a "choice" for me to give up all those resources. I needed to make smart survival decisions (8).³¹

7. **Separating couples:** Individuals who are romantically coupled – whether gay or straight – cannot sleep in the same bed.; or couples consisting of a male and a female, they are not able to stay in the same shelter because shelters are generally exclusively for men or women only.
8. **Noise:** Shelters can be very noisy during the night, because of snoring, shouting, or people with mental health challenges being in distress.
9. **Mental health:** The high frequency of mental illness and cognitive impairment among the homeless population can make it difficult for some people to function in a shelter setting, and to adhere to public health recommendations; the COVID-19 pandemic and its necessary public health measures have had a negative impact on mental health in the Canadian population, including those who are experiencing homelessness.³²
10. **Shelter rules:** The rule-bound nature of staying in an institutional setting such as a shelter can be experienced as problematic and infantilizing; few adults would be fine with curfews, rules regarding whether they can drink or not, demands that they must leave their residence first thing in the morning regardless of the weather, how well they

³¹ National Law Centre on Homelessness and Poverty, "Tent City U.S.A.: The Growth of America's Homeless Encampments and How Communities are Responding," 2017, 8. https://homelesslaw.org/wp-content/uploads/2018/10/Tent_City_USA_2017.pdf.

³² Aganeta Enns et al., "Evidence-Informed Policy Brief-Substance Use and Related Harms in the Context of COVID-19: A Conceptual Model," *Health promotion and chronic disease prevention in Canada: research, policy and practice* 40, no. 11-12 (2020): 342-349.

feel, whether they had a traumatizing experience the previous day, whether they have health challenges or disabling conditions that make movement challenging.

11. **Communicable disease:** While one can catch a communicable disease in many places, many people who are homeless are aware that this risk can be amplified within a shelter setting; it was therefore not at all surprising to see the rise of homelessness encampments during the COVID-19 pandemic, as many people were making the very rational decision to avoid congregate settings such as emergency shelters in order to reduce their risk of infection.

Health and Well-Being of People who Experience Homelessness

31. The population of people experiencing homelessness in Canada is characterized by markedly worse health outcomes than the general population, with lower life expectancy and significantly higher rates of chronic disease as well as mental health and substance abuse conditions. The relationship between homelessness and health is complex and is said to be "bi-directional" - homelessness causes poor health and poor health can lead to homelessness.³³

32. There is considerable evidence that homelessness is associated with poor health, a compromised immune system and barriers to accessing health services.³⁴ Negative outcomes

³³ Public Health Ontario, "Homelessness and Health Outcomes: What are the Associations," April, 2019, <https://www.publichealthontario.ca/-/media/documents/E/2019/eb-homelessness-health.pdf>.

³⁴ Manal Guirguis-Younger, Stephen Hwang, and Ryan McNeil, eds., *Homelessness & health in Canada* (Ottawa: University of Ottawa Press, 2014).; James Frankish, Stephen Hwang, and Darryl Quantz, "Homelessness and Health in Canada: Research Lessons and Priorities," *Canadian journal of public health* 96, no. 2 (2005): S23-S29.; Dina Kulik et al., "Homeless Youth's Overwhelming Health Burden: A Review of the Literature," *Paediatrics & child health* 16, no. 6 (2011): e43-e47.; Stephen Hwang et al., "Health Care Utilization Among Homeless Adults Prior to Death," *Journal of Health Care for the Poor and Underserved* 12, no. 1 (2001): 50-58.; Lynn Rew, "Characteristics and Health Care Needs of Homeless Adolescents," *Nursing Clinics* 37, no. 3 (2002): 423-431.; Josephine Ensign, and Michelle Bell, "Illness Experiences of Homeless Youth," *Qualitative Health Research* 14, no. 9 (2004): 1239-1254.; Jean-François Boivin et al., "The Health of Street Youth," *Canadian journal of public health* 96, no. 6 (2005): 432-437.; Stephen Hwang, "Homelessness and Health," *Cmaj* 164, no. 2 (2001): 229-233.; Elise Roy et al.,

include, but are not limited to, greater incidences of illness and injury, chronic medical conditions, including heart disease, diabetes, seizures, arthritis and musculoskeletal disorders,³⁵ dental and periodontal disease,³⁶ nutritional vulnerability,³⁷ and higher mortality rates.³⁸

The Street Health Report 2007 is a Canadian study in which 360 homeless people were interviewed in Toronto. “74% of the homeless people we interviewed had at least one serious physical health condition, and 52% of the total sample had two or more. For people without any serious health conditions, the average time homeless was 3.7 years. The average length of time homeless for people with at least one serious health condition was 5.1 years. The significant difference between these two averages suggests that being homeless for a longer period increases one’s likelihood of serious illness.”³⁹

"Mortality in a Cohort of Street Youth in Montreal," *Jama* 292, no. 5 (2004): 569-574.; Naomi Dachner, and Valerie Tarasuk "Homeless Youth, Nutritional Vulnerability, and Community Food Assistance Programs," In *Youth Homelessness in Canada: Implications for Policy and Practice*: eds. Stephen Gaetz, Bill O’Grady, Bill Buccieri, Krista Karabanow, Jeff Marsolais, and Allyson Marsolais, (Toronto: Canadian Homelessness Research Network Press, 2013), 335-352.

³⁵ Shirley Harris, Carol Mowbray, and Andrea Solarz, "Physical Health, Mental Health, and Substance Abuse Problems of Shelter Users," *Health & Social Work* 19, no. 1 (1994): 37-45.; James Frankish, Stephen Hwang, and Darryl Quantz, "The Relationship Between Homelessness and Health: An Overview of Research in Canada," In *Finding home: Policy options for addressing homelessness in Canada*, edited by David Hulchanski, Philippa Campsie, Shirley Chau, Stephen Hwang, and Emily Paradis, (Toronto: Cities Centre, University of Toronto, 2009), 660-671.

³⁶ Stephen Gaetz, and Jack Lee, "Developing Dental Services for Street Youth," *Ontario dentist* 72, no. 9 (1995): 34-37.; Jack Lee, Steve Gaetz, and Fred Goettler, "The Oral Health of Toronto's Street Youth," *Journal (Canadian Dental Association)* 60, no. 6 (1994): 545-548.

³⁷ Stephen Gaetz et al., "" Managing" Homeless Youth in Toronto"; Valeri Tarasuk et al., "Food Deprivation is Integral to the 'Hand to Mouth' Existence of Homeless Youths in Toronto," *Public Health Nutrition* 12, no. 9 (2009): 1437-1442.

³⁸ Travis Baggett et al., "Mortality Among Homeless Adults in Boston: Shifts in Causes of Death Over a 15-Year Period," *JAMA internal medicine* 173, no. 3 (2013): 189-195.; Angela Cheung, and Stephen Hwang, "Risk of Death Among Homeless Women: a Cohort Study and Review of the Literature," *Cmaj* 170, no. 8 (2004): 1243-1247.; Stephen Hwang, "Mortality Among Men Using Homeless Shelters in Toronto, Ontario," *Jama* 283, no. 16 (2000): 2152-2157.; Stephen Hwang, "Mental Illness and Mortality Among Homeless People," *Acta Psychiatrica Scandinavica* 103, no. 2 (2001): 81-82.

³⁹ Erika Khandor, and Kate Mason, "The Street Health Report 2007," *Street Health*, accessed June 7, 2022: <https://www.streethhealth.ca/downloads/the-street-health-report-2007.pdf>. 21

33. Moreover, the Street Health Report found 41% of homeless people reported that they were usually in pain, and of that group 46% described it as moderate and 35% as severe (amongst the general population the rates are 8% and 2%).⁴⁰ The study authors stated: “These high levels of pain and discomfort among the homeless population suggest that many people may have disabilities and medical conditions that are not acknowledged, diagnosed or treated” (21).⁴¹

34. The homeless population in Ontario and Toronto experiences disproportionately high rates of HIV, AIDS and Hepatitis-C.⁴² In a 2007 study which surveyed 368 people experiencing homelessness in Toronto, 23% of respondents reported having Hepatitis C (compared to 0.8% in Canada's general population), 2% reported being HIV positive (compared to 0.006% in Toronto's general population) and 1.1% reported having AIDS.⁴³ These numbers can be reasonably extrapolated to Hamilton. These chronic health conditions significantly compromise a person's immune system, predisposing them to increased mortality risks from COVID-19.

35. A large proportion of people experiencing homelessness have physical, mental, developmental and/or learning disabilities that impact on mobility, experience of pain, energy level and/or decision making. In a national survey of homeless service user in the United States, 46% reported one or more chronic, debilitating conditions including: arthritis, rheumatism, or joint problems (24%), high blood pressure (15%), and problems walking, a lost limb, or other handicap (14%).⁴⁴

⁴⁰ Erika Khandor, and Kate Mason, “The Street Health Report 2007,”

⁴¹ Erika Khandor and Kate Mason, “The Street Health Report 2007”, 21.

⁴² Erika Khandor and Kate Mason, “The Street Health Report 2007”.

⁴³ Erika Khandor and Kate Mason, “The Street Health Report 2007”.

⁴⁴ Susan Barrow et al., "Mortality Among Homeless Shelter Residents in New York City," *American journal of public health* 89, no. 4 (1999): 529-534.

36. According to one study conducted in Toronto, 43% of homeless respondents reported arthritis or rheumatism, 23% reported problems walking, a lost limb, or another physical handicap, 20% reported heart disease, and 17% reported high blood pressure. Encampments can provide reprieve from the need to constantly be moving and carrying belongings.⁴⁵

37. The 2018 Toronto Street Needs Assessment further shows that people who were sleeping outdoors experienced a higher prevalence of medical conditions when compared to those staying in city-administered shelters. People sleeping rough were more likely to have one or more type of health condition (80% vs. 52%), a chronic or acute medical condition (38% vs. 29%), a physical disability (37% vs. 20%), an addiction (57% vs. 22%) and a mental health issue (56% vs. 26%). These figures can be reasonably extrapolated for Hamilton. All these health factors indicate that homeless people sleeping outdoors and in encampments are generally in poorer health than the broader homeless population, ultimately leaving them more susceptible to complications or severe symptoms from COVID-19.⁴⁶

38. “In general, 30-35% of those experiencing homelessness, and up to 75% of women experiencing homelessness, experience mental illnesses. 20-25% of people experiencing homelessness suffer from concurrent disorders (severe mental illness and addictions)” (para. 3).⁴⁷ Approximately 30% of people who are homeless suffer from mental illness⁴⁸ and/or substance use

⁴⁵ Susan Barrow et al., “Mortality Among Homeless”.

⁴⁶ “Street Needs Assessment 2018,” City of Toronto, Accessed June 7, 2022, <https://www.homelesshub.ca/sites/default/files/attachments/99be-2018-SNA-Results-Report.pdf>.

⁴⁷ Canadian Observatory on Homelessness, “About Homelessness: Mental Health,” 2021, para. 3, <https://www.homelesshub.ca/about-homelessness/topics/mental-health>.

⁴⁸ Vicky Stergiopoulos et al., “Assessing the Mental Health Service Needs of the Homeless: A Level-of-Care Approach,” *Journal of Health Care for the Poor and Underserved* 21, no. 3 (2010): 1031-1045.; Geoffrey Nelson, Tim Aubry, and Adele Lafrance, “A Review of the Literature on the Effectiveness of Housing and Support, Assertive Community Treatment, and Intensive Case Management Interventions for Persons with Mental Illness Who Have Been Homeless,” *American Journal of Orthopsychiatry* 77, no. 3 (2007): 350-361.

disorders.⁴⁹ Post-Traumatic Stress Disorder ("PTSD") is very common among people experiencing homelessness, with one study in Australia reporting that 79% of women who had experienced homelessness also had experiences of PTSD.⁵⁰ Homelessness itself, through the loss of stable shelter, inability to meet basic needs, threats to personal safety and impact on pre-existing mental health conditions, can be a traumatizing event.⁵¹ Mood disorders (depression and bipolar disease), schizophrenia and substance-induced psychosis are all much more prevalent in the homeless population when compared to the general population. Cognitive impairment due to acquired brain injuries is an extremely common condition among the homeless population, with 58% of homeless men and 42% of homeless women reporting an acquired brain injury.⁵²

39. A report from the National Alliance to End Homelessness in the United States suggests that data clearly shows that substance abuse and overdose disproportionately impacts people experiencing homelessness.⁵³ A large study of individuals experiencing homelessness treated by Boston Health Care for the Homeless in 2003-2008 found drug overdose to be a leading cause of death with opioids present in 81% of overdoses.⁵⁴ Emerging evidence from San Francisco⁵⁵,

⁴⁹ Michelle Grinman et al., "Drug Problems Among Homeless Individuals in Toronto, Canada: Prevalence, Drugs of Choice, and Relation to Health Status," *BMC public health* 10, no. 1 (2010): 1-7.; Thomas Kerr et al., "Injection Drug Use Among Street-Involved Youth in a Canadian Setting," *BMC public health* 9, no. 1 (2009): 1-7.; Iris Torchalla et al., "Substance Use and Predictors of Substance Dependence in Homeless Women," *Drug and alcohol dependence* 118, no. 2-3 (2011): 173-179.

⁵⁰ Katheryn Taylor and Louise Sharpe. "Trauma and post-traumatic stress disorder among homeless adults in Sydney. Australian & New Zealand". *Journal of Psychiatry*, (2008). 42(3), 206-13.

⁵¹ Tanya Gulliver, and Alicia Campney, "Healing the Pain and Hurt: Dealing with the Trauma of Homelessness," accessed June 7, 2022, <https://homelesshub.ca/sites/default/files/23%20-%20Trauma%20Informed%20Services.pdf>.

⁵² Stephen Hwang et al., "The Effect of Traumatic Brain Injury on the Health of Homeless People," *Cmaj* 179, no. 8 (2008): 779-784.

⁵³ National Alliance to End Homelessness, "Opioid Abuse and Homelessness," April 5, 2016, <https://endhomelessness.org/resource/opioid-abuse-and-homelessness/>.

⁵⁴ Travis Baggett et al., "Mortality Among Homeless Adults."

⁵⁵ Dan Simon, "The Impact Homelessness and the Opioid Crisis are Having on San Francisco Streets," *CNN Health*, December 30, 2018, accessed June 7, 2022, <https://edition.cnn.com/2018/12/27/health/drug-use-san-francisco-streets/index.html>.

Vancouver,⁵⁶ and Hamilton⁵⁷ suggests that the opioid crisis has had a greater impact on the homelessness community, although there is not yet published research to verify these claims.

Overall, the homeless population has a reduced life expectancy when compared to the general population. Baggett et al. 2018 found that those who are homeless or vulnerably housed in Canada have a mortality rate from cardiovascular disease that is 2-3-fold higher than the rest of the population in Canada.⁵⁸ A Canadian study in 2009 found that: “Homeless and marginally housed individuals living in shelters, rooming houses, or hotels have significantly higher mortality rates than individuals with incomes in the lowest fifth of the distribution. The probability that a 25 year old living in shelters, rooming houses, or hotels would survive to age 75 was only 32% for men and 60% for women compared with 51% and 72%, respectively, in the lowest income fifth.”⁵⁹

40. Poor physical and/or mental health is a clear challenge for people experiencing homelessness. In addition to poor health, these factors can affect decision-making, ability to keep track of timing and mobility, the latter particularly important for people who do not have the money to take public or private transit.

⁵⁶ Christine Coulter, “Vancouver’s Housing and Opioid Crises are Linked, Says Addictions Expert,” *CBC News*, November 20, 2017, accessed June 7, 2022, <https://www.cbc.ca/news/canada/british-columbia/vancouver-s-housing-and-opioid-crises-are-linked-says-addictions-expert-1.4410822>.

⁵⁷ Teviah Moro, “Opioid Crisis: Life and Death on Hamilton’s Streets,” *The Hamilton Spectator*, June 22, 2018, accessed June 2, 2022, <https://www.thespec.com/news/hamilton-region/2018/06/22/opioid-crisis-life-and-death-on-hamilton-s-streets.html>.

⁵⁸ Travis Baggett et al., “Mortality Among Homeless Adults.”

⁵⁹ Stephen Hwang, Russell Wilkins, Michael Tjepkema, Patricia J O’Campo and James Dunn, “Mortality among residents of shelters, rooming houses, and hotels in Canada: 11 year follow-up study.” *BMJ* 2009; 339 :b4036 doi:10.1136/bmj.b4036.

41. People who are homeless also experience barriers to accessing health care, including discrimination, and lacking funds for prescriptions. Guirguis-Younger, McNeil & Hwang write:

Paradoxically, whereas homeless populations have high levels of health services utilization, especially emergency department and in-patient care, they frequently have unmet health needs due to the barriers that they face to accessing care and adhering to treatment. The reasons for this are complex and, to a great extent, largely the product of the challenges experienced by homeless persons. For example, the daily struggle for survival, such as addressing immediate needs (e.g., food, shelter etc.), often takes precedence over health needs, leading homeless persons to delay seeking treatment. Furthermore, researchers have found that homeless persons often feel unwelcome in health care settings due to discrimination and subsequent to these experiences are less likely to seek care (2-3).⁶⁰

Further complicating these risks is the fact that homeless populations are often quite diverse. Several sub-populations, including Indigenous peoples (who make up less than 5% of the population but 30% of the homeless population)⁶¹, LGBTQ2S youth and women, face special challenges because of their unique status including discrimination, and may experience additional barriers to accessing health services and social supports.

The Service Prioritization Decision Assistance Tool (VI-SPDT)

⁶⁰ Manal Guirguis-Younger, Stephen Hwang, and Ryan McNeil, "Homelessness and Health in Canada," 2-3,

*Internal citations omitted.

⁶¹ Stephen Gaetz et al., "The State of Homelessness in Canada."

42. Communities in Canada and the United States are using coordinated access systems to optimize the homelessness sector to distribute access to scarce housing resources to those in greatest need. In both countries, communities are required to use standardized assessment tools in order to prioritize individuals and families for access to housing supports, and in particular the strongly evidenced-based intervention, Housing First. Homeless service providers try to measure “vulnerability” as a central factor in deciding how to allot their limited housing resources.

43. The most widely used assessment tool in both countries is the Vulnerability Index – Service Prioritization Decision Assistance Tool (“VI-SPDAT”), the first version of which was released in 2013. This is an assessment tool developed by two private consulting firms – Community Solutions, and OrgCode. The proprietors of VI-SPDAT stated it is designed to help communities assess vulnerability and risk, measured by length of time homeless, and acuity of mental health problems or addictions. The VI-SPDAT uses a survey/interview approach that includes 27 items to produce a score for each individual so that they can be prioritized and ranked. The stakes are very high for VI-SPDAT – the score and ranking can determine whether and when an individual will receive the housing and supports needed to exit homelessness.

Does the VI-SPDAT work?

44. There has long been skepticism by researchers and experts on the psychometric properties of assessment about the validity of VI-SPDAT and its ability to objectively assess vulnerability and needs.⁶² As Brown and Cummings state:

⁶² Tim Aubry et al., “Screening for Housing First,” *Canadian Observatory on Homelessness*, 2015, accessed June 7, 2022, <https://www.homelesshub.ca/sites/default/files/attachments/ScreeningforHF-Dec8.pdf>; Rachelle Levitt, “Assessment Tools for Allocating Homelessness Assistance: State of the Evidence,” *U.S. Department of Housing and Urban Development*, February, 2015, https://www.huduser.gov/publications/pdf/assessment_tools_Convening_Report2015.pdf.

In addition to its ease of use and other potential strengths, the VI-SPDAT has gained traction due to the developers' assertions that it is "evidence-informed" and the strongest tool available based upon its evidence and testing. However, the evidence base for the VI-SPDAT versions 1 and 2 is largely unclear (sec. 3).⁶³

45. The VI-SPDAT has never been validated by independent researchers with expertise in the psychometric properties of assessment. However, in the last several years there have been a series of peer-reviewed articles published by independent researchers that explore the validity of the VI-SPDAT⁶⁴. There is a consensus across this body of research that the VI-SPDAT is not valid and does not achieve what it claims it can do. Key conclusions from this research suggest:

1. **The VI-SPDAT does not fully measure vulnerability:** "The Socialization and Daily Functions domain and health-related items on the Wellness domain demonstrated particularly poor validity" (sec. 4).⁶⁵

⁶³ Molly Brown, and Camilla Cummings, "New Research on the Reliability and Validity of the VI-SPDAT: Implications for Coordinated Assessment," *Canadian Observatory on Homelessness*, July 5, 2018, accessed June 7, 2022, sec. 3, <https://www.homelesshub.ca/blog/new-research-reliability-and-validity-vi-spdatt-implications-coordinated-assessment>.

⁶⁴Brown and Cummings, "New Research on Reliability"; Brown, Molly et al., "Reliability and Validity of the Vulnerability Index-Service Prioritization Decision Assistance Tool (VI-SPDAT) in Real-World Implementation," *Journal of Social Distress and the Homeless* 27, no. 2 (2018): 110-117.; Ecker, John, Molly Brown, Tim Aubry, Katherine Francombe Pridham, and Stephen Hwang. "Coordinated Access and Coordinated Entry System Processes in the Housing and Homelessness Sector: A Critical Commentary on Current Practices." *Housing Policy Debate* (2022): 1-20. <https://doi.org/10.1080/10511482.2022.2058580>.; Courtney Cronley, "Racial and Gender Bias in the VI-SPDAT," *Canadian Observatory on Homelessness*, January 20, 2021, accessed June 7, 2022.

<https://www.homelesshub.ca/blog/racial-and-gender-bias-vi-spdatt#:~:text=There%20is%20evidence%20of%20racial,higher%20on%20the%20VI%20SPDAT>.; Courtney Cronley, "Invisible Intersectionality in Measuring Vulnerability Among Individuals Experiencing Homelessness—Critically Appraising the VI-SPDAT," *Journal of Social Distress and Homelessness* 31, no. 1 (2020): 23-33.; Marybeth Shinn, and Molly K. Richard, "Allocating Homeless Services After the Withdrawal of the Vulnerability Index - Service Prioritization Decision Assistance Tool," *American Journal of Public Health* 112, no. 3 (2022): 378-382.; Catriona Wilkey et al., "Coordinated Entry Systems Racial Equity Analysis of Assessment Data," *C4 Innovations*, October, 2019, https://c4innovates.com/wp-content/uploads/2019/10/CES_Racial_Equity_Analysis_2019-.pdf.

⁶⁵ Brown and Cummings, "New Research on Reliability," sec. 4.

2. **The ability to capture an adequate assessment of an individual or family using the VI-SPDAT has been questioned:** Communities that use the VI-SPDAT have critiqued its ability to accurately uncover the circumstances of individuals and families⁶⁶ and domestic violence survivors.⁶⁷
3. **The VI-SPDAT doesn't produce consistent results:** "In terms of reliability, we found individuals that were administered the VI-SPDAT twice did not produce consistent scores. In fact, 89% produced either higher or lower scores during their second administration" (sec. 4).⁶⁸
4. **There is evidence of racial bias in the VI-SPDAT:** "Both Black and White women reported similarly high odds of homelessness due to trauma, but white women scored consistently higher on the VI-SPDAT" (sec. 4)⁶⁹; an evaluation of several U.S. communities utilizing the VI-SPDAT in coordinated systems found a general pattern of significantly lower scores among individuals and families who were Black, Indigenous, and people of color compared to those who were White, with major implications when scarce resources are being allocated, since "If biases persist within the assessment and coordinated entry process, over time more Black people who are

⁶⁶ Caroline Balagot et al., "The Homeless Coordinated Entry System: the VI-SPDAT and Other Predictors of Establishing Eligibility for Services for Single Homeless Adults," *Journal of Social Distress and the Homeless* 28, no. 2 (2019): 149-157.

⁶⁷ Kristie Thomas et al., "No Easy Decisions: Developing an Evidence-Informed Process to Allocate Housing Choice Vouchers to Survivors of Intimate Partner violence." *Housing Policy Debate* 30, no. 5 (2020): 783-805, <https://doi.org/10.1080/10511482.2020.1755336>

⁶⁸ Brown and Cummings, "New Research on Reliability," sec. 4.

⁶⁹ Cronley, "Racial and Gender Bias," sec. 4.; Cronley, "Invisible Intersectionalities in Measuring"; Wikey et al., "Coordinated Entry Systems."

experiencing homelessness will be without housing for longer periods of time compared to their white counterparts” (9-10).⁷⁰

46. In conclusion the scholarly research on the VI-SPDAT suggests that the VI-SPDAT has considerable weaknesses in its validity and reliability, and when applied it can perpetuate systemic racism.

What is a homelessness encampment?

Following from the typology laid out in the Canadian Definition of Homelessness⁷¹, people living in encampments would be considered part of the “Unsheltered population”, which includes people who lack housing and are not accessing emergency shelters or accommodation, except during extreme weather conditions. In most cases, people are staying in places that are not designed for or fit for human habitation.

47. Homelessness encampments are defined as locations where one or more homeless people live in an unsheltered public, semi-public or privately owned area such as the streets, campgrounds, under bridges, undeveloped properties, abandoned buildings, vehicles, or parks. People living in encampments may live in tents, make-shift structures made of cardboard, wood, or other materials, or live in the open.

48. Homelessness encampments are not new.⁷² During the Great Depression, for instance, there was a large homeless encampment occupying the southern part of Central Park in New York.

⁷⁰ Cronley, “Invisible Intersectionality in Measuring,” sec. 9-10.

⁷¹ Stephen Gaetz, Carolann Barr, Anita Friesen, Bradley Harris, Charlie Hill, Katheryn Kovacs-Burns,, Bernadette Pauly, Bruce Pearce, Alina Turner and Allkyson Marsolais, (2012) *The Canadian Definition of Homelessness*. Canadian Homelessness Research Network.

⁷² Chris Herring, "The New Logics of Homeless Seclusion: Homeless Encampments in America's West Coast Cities," *City & Community* 13, no. 4 (2014): 285-309.

Since the rise of modern mass homelessness, we have begun to see the emergence of and growth of homelessness encampments in cities across Canada and the United States, particularly over the past decade. The recent pandemic has led to the rapid growth of homelessness encampments in many Canadian cities.

The structure and organization of homelessness encampments

49. The internal organization and motivations of residents significantly vary among encampments. Some encampments have a strong social structure and organization, sometimes with oversight or assistance from local charitable or faith-based organizations. Residents may be required to assume for day-to-day operations, including security patrols and other duties.⁷³ Residents may vote in governance decisions, and they may be expected to attend weekly resident meetings in accordance with an encampment-wide code of conduct.⁷⁴ A key informant conducting research on encampments described the social structure established by a group of mothers staying with their children in a recently cleared encampment in Oakland, California. Residents of the encampment prohibited drug use and shared responsibility for childcare. These expectations promote a sense of community and have been credited with helping encampment residents “feel human” and believe that they have something to contribute (349).⁷⁵ However the potential for exploitation exists in encampments.

⁷³ Chris Herring, and Manuel Lutz, "The Roots and Implications of the USA's Homeless Tent Cities," *City* 19, no. 5 (2015): 689-701.; Tony Sparks, "Citizens Without Property: Informality and Political Agency in a Seattle, Washington Homeless Encampment," *Environment and Planning A: Economy and Space* 49, no. 1 (2017): 86-103.

⁷⁴ Sparks, "Citizens Without Property."

⁷⁵ Tony Sparks, "Neutralizing Homelessness, 2015: Tent Cities and Ten-Year Plans," *Urban Geography* 38, no. 3 (2017): 348-356, 389.; Rebecca Cohen, Will Yetvin, and Jill Khadduri, "Understanding Encampments of People Experiencing Homelessness and Community Responses: Emerging Evidence as of Late 2018," *U.S. Department of Housing and Urban Development*, June 24, 2020, <http://dx.doi.org/10.2139/ssrn.3615828>.

The rise of homelessness encampments during the COVID-19 Pandemic.

50. There can be no doubt that the number of encampments grew dramatically across Canada during the COVID-19 pandemic, but this should not have come as a surprise. In fact, it was entirely predictable. In a book chapter on homelessness and pandemics authored by myself and Kristy Buccieri, we suggested that:

One lesson emergency planners have learned is that complex disasters have a way of evolving along unanticipated lines — and a pandemic is certainly a complex disaster. Compromised health and overcrowded living conditions may make people who are homeless particularly vulnerable in the event of a pandemic, forcing them to make different decisions because of their circumstances. Factors that impact on decision-making include having fewer options (for example, regarding shelter and transportation), limited access to resources or the ability to prepare in advance (by stockpiling food and other necessities), and being unable to adhere to forced or voluntary quarantine without a home of their own. Because of overcrowded conditions and safety concerns, many people who are homeless will limit their use of such services or avoid them altogether (25-26).⁷⁶

51. The perception of people experiencing homelessness that they would be safer during the COVID-19 pandemic living in an encampment is not incorrect. One study in Denver Colorado with a large-scale sample found that the rate of COVID-19 was lower for people living in encampments compared to those who stayed at homeless shelters: “A higher proportion of persons tested at overnight shelters were SARS-CoV-2 seropositive compared with those tested at encampments (21.5% vs 8.7%, $P = .006$).” (3).⁷⁷

⁷⁶ Gaetz, and Buccieri, “The Worst of Times,” 25-26.

⁷⁷ Rowan et al., “Lower Prevalence of Severe Acute Respiratory Syndrome Coronavirus 2,” 3.

The benefits of an encampment for people experiencing homelessness

52. There are three main reasons why people experiencing homelessness may choose encampments over other alternatives such as homeless shelters:

53. **First, homelessness shelters do not meet people’s needs.** There are compelling and rational reasons why people would choose to not stay at homelessness shelters:

Shortcomings in the shelter system are consistently identified as a primary factor that “pushes” people to congregate in encampments. Many communities have literal shortages in the capacity of the shelter system to provide beds for everyone experiencing homelessness. In other communities, shelter beds are available but go unused because of regulations or conditions that are incompatible with potential clients’ expectations or needs. Exhibit 2 lists some of the reasons cited in the literature and in key informant interviews why people experiencing homelessness may eschew shelters in favor of encampments (4).⁷⁸

Exhibit 2. Shortcomings in the Shelter System

Specific shortcomings in the shelter system that may contribute to increased numbers of people congregating in encampments:

- A supply of shelter beds insufficient to meet the demand; this problem may be exacerbated by limited funding for emergency shelters and by community opposition to creating new or expanded shelter and bridge housing facilities or permanent supportive housing.
- Restrictions in shelters that would result in separation from a partner, family member, or pet.
- Shelter entry/exit times and locations that are inconvenient or incompatible with people’s daily routines, including work schedules.
- Concerns about the security of personal belongings; restrictions on the ability to store belongings and difficulty moving belongings in and out of shelters on a daily basis.
- Concerns about personal safety and exposure to germs and disease within shelters.

⁷⁸ Cohen, Yetvin, and Khadduri, “Understanding Encampments of People,” 4.

- Specific barriers to entry, including sobriety requirements and entry fees.
- General perceptions of shelters as “inhospitable,” “alienating,” “demeaning,” and offering little or no support or case management to find permanent housing (5).⁷⁹

54. ***Second, encampments provide a sense of safety and community.*** People experiencing homelessness are more likely to be victims of crime. While there is still risk of crime in encampments, people still find them safer in part because they are able to surround themselves with people of their choosing. Romantic couples are not forced to stay apart, friends can be with friends, people can look out for each other and watch over personal belongings if people need to leave an encampment temporarily. Collectively people can begin to develop a sense of community:

People who stay in encampments may see them as offering greater safety and protection from police harassment and aggression, and from assaults or the theft of belongings, than if they were unsheltered on their own. This sense of “safety in numbers” may be particularly prevalent in long-standing and highly organized encampments, in which residents have established around-the-clock security patrols and mutually enforced norms and standards for behavior. In high-cost cities in particular, individuals’ decision to congregate in an encampment may be influenced by the behavior of their peers, according to a key informant who is conducting research on encampments. Once a critical mass of people has determined that encampments are a way of dealing with their housing crisis, others may feel emboldened to follow suit. Some cities respond to the presence of an established encampment by providing bathroom facilities and other basic services, making

⁷⁹ Cohen, Yetvin, and Khadduri, “Understanding Encampments of People,” 5.

encampments seem to be a reasonable alternative to constant moving, threats of eviction, or shelters (5).⁸⁰

In summary, there is often a sense of community that develops among encampment residents, and people come to rely on one another to watch their belongings when they leave the encampment site (although thefts do take place), to supervise drug consumption and respond to overdoses, and to share resources. Perspectives from individuals living in tent cities in the US have revealed that encampments can provide a sense of safety and autonomy that is not felt in shelters.

55. *Third, encampments accommodate the desire for autonomy and privacy.* As discussed above, homelessness services are typically rule-bound environments that restrict what people can do and when. Individuals are subject to curfews, restrictions on drinking alcohol or using other substances, and are not able to stay with partners or friends, and do not have control over what you they can do and when:

In contrast to the rules that govern many aspects of shelter stays, staying in an encampment means that people can generally come and go as they please. The ability to exercise autonomy and freedom of movement appears to be a powerful factor that draws some people to encampments⁸¹. This independence is sometimes eroded in communities that “normalize” encampments, introducing regulations that restrict residents’ activities in the

⁸⁰ Cohen, Yetvin, and Khadduri, “Understanding Encampments of People,” 5,

*Internal citations omitted.

⁸¹ National Law Center on Homelessness and Poverty. 2014. Welcome Home: The Rise of Tent Cities in the United States. Washington, DC: National Law Center on Homelessness and Poverty.
Sparks, T. 2017a. Citizens Without Property: Informality and Political Agency in a Seattle, Washington Homeless Encampment. *Environment and Planning* 49 (1): 86–103. doi:10.1177/0308518X16665360.

process. When that happens, encampments may in effect become an extension of the same shelter system that people reject in favor of encampments.⁸²

Addressing encampments through law enforcement.

56. The presence of homelessness encampments makes the issue of homelessness publicly visible. Responses to homelessness in such circumstances are often framed by discourses that stigmatize people experiencing homelessness, and often result in the use of law enforcement to contain and eradicate encampments, without resolving the underlying conditions that perpetuate the homelessness of residents of encampments. The problem is not that people are choosing to live in tents in parks because they are law breakers or don't like to follow rules, it is that people lack money and resources to access and maintain stable housing. Their poverty gets framed as a nuisance and disorder, resulting in the use of law enforcement to address a social and economic problem:

Encampments are often portrayed publicly through three closely linked narratives—individual deficiencies, mental health and substance use, and criminalization—which often inform governmental, community, and non-profit responses to these sites. Despite the fact that people experiencing homelessness are no more likely to break the law, except for laws that punish people for living outdoors, community opposition to encampments is often based in fears of increasing crime rates and jeopardizing public health and safety (989).⁸³

⁸² Cohen, Yetvin, and Khadduri, "Understanding Encampments of People," 6

⁸³ Nicholas Olson, and Bernadette Pauly, "Homeless Encampments: Connecting Public Health and Human Rights," *Canadian Journal of Public Health* 112, no. 6 (2021): 989.

*Internal citations omitted.

57. A report by the National Law Center on Homelessness and Poverty discusses the negative impacts of the criminalization of homelessness and encampments:

Many communities have responded to the growth of encampments described above by increasing the number, and the enforcement, of laws criminalizing homelessness. These policies are tremendously expensive for communities, and involvement in the criminal justice system often results in the further entrenchment of homelessness. It costs time and money to extricate oneself from the criminal justice system; criminal records make it more difficult to find jobs or housing. Sweeps of encampments without ensuring adequate notice and alternative housing can be life-threatening for the individuals living there. A handful of communities have begun looking at more constructive, less punitive approaches.⁸⁴

Guidance and Protocols for Addressing Homelessness Encampments in Canada and the United States

58. In 2015, the U.S. Interagency Council on Homelessness issued *Ending Homelessness for People Living in Encampments: Advancing the Dialogue*, which contains a useful checklist approach for communities addressing homeless encampments. The guidance first sets forth several underlying principles, including:

1. The forced dispersal of people from encampment settings is not an appropriate solution or strategy, accomplishes nothing toward the goal of linking people to permanent housing opportunities, and can make it more difficult to provide such lasting solutions to people who have been sleeping and living in the encampment (2).⁸⁵

⁸⁴ National Law Centre on Homelessness and Poverty, “Tent City U.S.A.,” 28.

⁸⁵ United States Interagency on Homelessness, “Ending Homelessness for People Living in Encampments: Advancing the Dialogue,” August 13, 2015, accessed June 7, 2022, 2, https://www.usich.gov/resources/uploads/asset_library/Ending_Homelessness_for_People_Living_in_Encampments

2. Providing lasting solutions and ending the homelessness of people living in encampments requires a thoughtful, coordinated, and collaborative plan and process to ensure that people can be linked to appropriate housing options and that the presence of encampments in the community can be resolved (3).⁸⁶

59. Based on these principles, the guidance offers an action planning checklist based around four key elements:

1. **Preparation and Adequate Time for Planning and Implementation:** Action plans for creating and providing housing solutions for people living in encampments should ensure that there is adequate time for strategizing, collaboration, outreach, engagement, and the identification of meaningful housing options. Adequate time is essential to achieve the primary objective of meeting the needs of each person and assisting them to end their homelessness.
2. **Collaboration across Sectors and Systems:** Action plans should include collaboration between a cross-section of public and private agencies, neighbors, business owners, and governmental entities, based upon on where the encampment is located. The action plan should feature strong communication among a broad range of community service providers and managers of the permanent housing resources that are being utilized in order to maximize efficiency, align resources, and address system gaps.
3. **Performance of Intensive and Persistent Outreach and Engagement:** Action plans should involve agencies that have strong outreach experience and demonstrated skills

[Aug2015.pdf](#).

⁸⁶ United States Interagency on Homelessness, “Ending Homelessness for People,” 3.

in engaging vulnerable and unsheltered people. Effective outreach is essential for effectively connecting people with coordinated assessment systems, resources, and housing options.

4. **Provision of Low-Barrier Pathways to Permanent Housing:** Action plans should focus on providing people with clear, low-barrier pathways for accessing and attaining permanent housing opportunities and should not focus on relocating people to other encampment settings (3-4).⁸⁷

60. Leilani Fahra, former UN Special Rapporteur on the right to adequate housing, and Kaitlin Schwan authored *A National Protocol for Homelessness Encampments in Canada* in 2020. They identified the following eight principles to guide governments and other stakeholders in adopting a rights-based response to 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

⁸⁷ United States Interagency on Homelessness, "Ending Homelessness for People," 3-4.

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.”² 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.

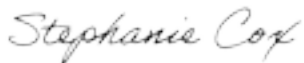
Principle 7: Ensure human rights-based goals and outcomes, and the preservation of dignity for homeless encampment residents. Governments have an obligation to bring about positive human rights outcomes in all of their activities and decisions concerning homeless encampments. This means that Canadian 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 affects 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 (2-4).⁸⁸

⁸⁸ Leilani Farha, and Kaitlin Schwan, "A National Protocol for Homeless Encampments in Canada: A Human Rights Approach," *UN Special Rapporteur on the Right to Housing*, April 30, 2020, accessed June 7, 2022, 2-4, <https://www.make-the-shift.org/wp-content/uploads/2020/04/A-National-Protocol-for-Homeless-Encampments-in-Canada.pdf>.

Sworn remotely by Stephen Gaetz at the Town of Colborne, in the Province of Ontario, before me on June 14, 2022 by “zoom” videoconference in accordance with O. Reg. 431/20, of Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
Stephanie Cox, LSUC 65464F



Stephen Gaetz

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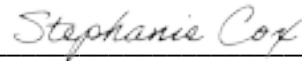
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THIS IS EXHIBIT "A" TO THE
AFFIDAVIT OF STEPHEN GATES
AFFIRMED REMOTELY BEFORE ME AT
THE CITY OF COLBORNE DURING A "ZOOM" VIDEOCONFERENCE
IN ACCORDANCE WITH O.REG. 431/20,
ADMINISTERING OATH OR DECLARATION REMOTELY
THIS 14TH DAY OF JUNE, 2022



STEPHANIE COX
LSO NO. 65464F
Commissioner for Taking Affidavits, etc

CURRICULUM VITAE

A) PERSONAL

1. NAME

Stephen Anthony Gaetz

Faculty of Education

York University

631 Kaneff Tower

4700 Keele St.

Toronto, ON M3J 1P3

Tel: (416) 736-2100 x20050

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2. CURRENT POSITION

Professor, Faculty of Education, York University

President and CEO, Canadian Observatory on Homelessness

Research Director, Making the Shift – Youth Homelessness Social Innovation Lab

Director, Toronto Center of Excellence on Youth Homelessness Prevention at York University (Toronto Centre of Excellence). United Nations Economic Commission for Europe.

3. DEGREES

- 1990 Ph.D. Anthropology York University, Toronto
Dissertation title: *Community Action and the Provision of Youth Services in Cork, Ireland*
- 1985 M.A. Anthropology York University, Toronto
Dissertation title: *Youth Expression in the Eighties: A Network Analysis of Punks in Toronto*
- 1983 B.A. Anthropology (Honours) University of Calgary

4. EMPLOYMENT HISTORY

2014 -	<u>Professor</u> – Faculty of Education, York University
2005 - 2014	<u>Associate Professor</u> - Faculty of Education, York University
2012 - 2013	<u>Associate Dean, Research and Professional Development</u> - Faculty of Education, York University
2007 – 2011	<u>Associate Dean, Research and Professional Development</u> – Faculty of Education, York University
2000 - 2005	<u>Assistant Professor</u> - Faculty of Education, York University
2000 -	Appointment to the Faculty of Graduate Studies, York University
1999 - 2000	<u>Community Development Officer</u> - Community and Neighbourhood Services Department, City of Toronto
1999	<u>Coordinator, Homeless Initiative</u> - Queen West Community Health Centre
1993 - 1999	<u>Health Promoter</u> - Shout Clinic, Toronto, Ontario
1992 - 1993	<u>Lecturer</u> - Department of Anthropology, York University
1990 - 1992	<u>Post-Doctoral Fellow</u> - Department of Anthropology, York University

5. HONOURS AND AWARDS

2020	York Research Chair in Homelessness and Research Impact
2020	York University Research Leader Award
2019	York University Research Leader Award
2017	York University Research Leader Award
2016	Member of the Order of Canada
2016	Dean's Research Award – Faculty of Education
2016	York University Research Leader Award
2015	SSHRC Research Impact – Connection Award
2015	York University Research Leader Award
2013	Faculty of Education Merit Award - \$3000
2012	Faculty of Education Merit Award - \$2000
2011	Faculty of Education Merit Award - \$2000
2010	Faculty of Education Merit Award - \$2000
2009	Faculty of Education Merit Award - \$2000

2008	Faculty of Education Merit Award - \$2000
1990 - 1992	Social Sciences and Humanities Research Council of Canada Postdoctoral Fellowship
1986 - 1989	Social Sciences and Humanities Research Council of Canada Doctoral Fellowship
1986	Ontario Graduate Scholarship (declined)
1985	Ontario Graduate Scholarship

ADVISORY PANELS and COMMITTEES

2018- present	Government of Canada –Reaching Home’s Data Strategy Advisory Committee
2017-18	Government of Canada – Advisory Committee on Homelessness
2016-17	Government of Canada – Advisory Committee on Poverty Reduction Strategy
2015	Province of Ontario - Expert Advisory Panel on Homelessness
2013-14	Canadian Mental Health Association – Advisory Committee on Housing First

B SCHOLARLY AND PROFESSIONAL CONTRIBUTIONS

1. SUMMARY OF PUBLICATIONS AND PROFESSIONAL CONTRIBUTIONS

Books: 1
 Edited books, special issues of journals: 5
 Articles in refereed journals: 42
 Chapters in books: 22
 Professional Reports: 45 (Peer reviewed: 13)
 Conference presentations: 166
 Keynote addresses: 31
 Invited presentations: 207
 Webinars: 18
 Book Reviews: 2
 Curriculum Materials: 7
 Other publications: 8
 Blog posts: 32

CITATIONS

	All	Since 2017
Citations	4491	2531
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Contract Reports

Schwan, K., French, D., Gaetz, S., Ward, A., Ackerman, J. & Redman, M. (2018) Preventing Youth Homelessness – An International Scan of the Evidence. Wales: Wales Centre for Public Policy; Canadian Observatory on Homelessness & A Way Home Canada

Scott, F., Winland, D. & Stephen Gaetz (2014) *A Path To Home: Supporting Housing Needs for Newcomers Year 1 Evaluation.* Toronto: YMCA.

Gaetz, Stephen (2012) *Summative Evaluation of the Homelessness Partnering Strategy.* Homelessness Partnering Secretariat, Human Resources and Skills Development Canada, May, 2012

Gaetz, Stephen (2011) *Towards a Canadian Definition of Homelessness - A Literature Review.* Homelessness Partnering Secretariat, Human Resources and Skills Development Canada, March, 2011

Gaetz, Stephen (2011) *Plans to End Homelessness in Canada. A Review of the Literature.* Prepared for Eva's Initiatives and Virgin Unite. February, 2011

Gaetz, Stephen (2002). *Street Justice - The Legal and Justice Issues of Homeless Youth in Toronto.* Toronto: Justice for Children and Youth.

Gaetz, Stephen (2002). *Street Youth Agencies and the Legal and Justice Issues of Homeless Youth in Toronto.* Toronto: Justice for Children and Youth

3. PRESENTATIONS and PUBLIC LECTURES

Conference Presentations

Gaetz, Stephen & Melanie Redman (2022) "Housing First for Youth – Emerging Research Results." *Housing First Partners Conference, Seattle*. April 12, 2022

Walter, Heidi & Stephen Gaetz (2022) "Housing First for Youth – Adaptations and Lessons Learned from Canada." *Housing First Partners Conference, Seattle*. April 12, 2022

Gaetz, Stephen (2022) "Homelessness Prevention." *Quebec Homelessness Prevention Policy Collaborative Conference – The Promise of Prevention in Homelessness*. Montreal, Quebec (On Line). February 16, 2022

Gaetz, Stephen & Melanie Redman (2021) "Youth Homelessness Social Innovation Lab – UPDATES." *Upstream Conference, Australia* (On Line). November 19, 2021.

Gaetz, Stephen (2021) "Making the Shift to the Prevention of Youth Homelessness: Opportunities and Challenges for Systems Transformation." *Developing Homelessness Work*. Tampere, Finland. (On Line). November 16, 2021.

Gaetz, Stephen (2021) "Social Innovation in Driving Change." *CAEH Virtual National Conference on Ending Homelessness, Canada*. (On Line). October 26, 2021

Gaetz, Stephen & Walter, Heidi (2021) "Social Innovation in Action: Addressing the Needs of Young People through Housing First for Youth." *The Fourth International Housing First Conference: Knowledge Mobilization of Evidence-Based Housing First practices*. (On Line). October 5, 2021

Gaetz, Stephen (2021) "Housing First for Youth." *Australia. National Youth Homelessness Virtual Conference* (On Line). July 16, 2021

Gaetz, Stephen; Redman, Melanie & Walter, Heidi (2021) "Housing First for Youth – Lessons from Making the Shift." *Housing First Partners Conference* (On Line). April 8, 2021

Gaetz, Stephen (2021) *Research Impact and Homelessness*. Campaigning: A Case Study on Homelessness Advocacy (On Line). February 25, 2021

Gaetz, Stephen (2020) *Covid 19 and Homelessness: What are the implications for Canada?* European Observatory on Homelessness Conference (On Line). Sept 25, 2020

Gaetz, Stephen & Redman, Melanie (2020) *Preventing Youth Homelessness through Duty to Assist*. Atlantic Summer Institute on Healthy and Safe Communities (On Line). August 14, 2020

Gaetz, Stephen (2020) *Covid 19-Lessons from Canada*. More Direct Futures Housing Network (On Line). May 14, 2020

Gaetz, Stephen & Redman, Melanie (2020) *Making the Shift – Youth Homelessness Social*

Innovation Lab. CRISIS UK Homelessness Prevention Conference. March 10, 2020

Gaetz, Stephen (2020) *“YAP – Youth Assessment and Prioritization Tool”* Cardiff, Wales: *Preventing Youth Homelessness 2020*. March 9, 2020.

Gaetz, Stephen (2020) *“THIS is Housing First for Youth”* Cardiff, Wales: *Preventing Youth Homelessness 2020*. March 9, 2020.

Gaetz, Stephen; Kidd, Sean; Malenfant, Jane; Aboud, Cecile & David French (2019) *Without a Home – The National Youth Homelessness Survey - 2019*. Edmonton: National Conference on Ending Homelessness (CAEH). November 5, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Designing the Adaptation of a Duty to Assist in Canada*. Edmonton: National Conference on Ending Homelessness (CAEH). November 4, 2019

Gaetz, Stephen; Redman, Melanie & Sheryl Green (2019) *Making the Shift – A Youth Homelessness Social Innovation Lab*. Edmonton: National Conference on Ending Homelessness (CAEH). November 4, 2019

Gaetz, Stephen (2019) *Implementing Housing First for Youth..* Melbourne Australia. Victorian Homelessness Conference. October 15, 2019

Redman, Melanie & Stephen Gaetz (2019) *Designing the Adaptation of a Duty to Assist in Canada*. European Observatory on Homelessness Research Conference. Helsinborg, Sweden. September 20, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Ending Youth Homelessness*. The Voices of People with Lived Experience. Charlottown, PEI: Atlantic Summer Institute Supportive Environments for Child and Youth Mental Health: Our Shared Responsibility! August 20, 2019

Redman, Melanie & Gaetz, Stephen, (2019) *A Way Home*. Hinkley Island, England: Under One Roof: Homeless Link Annual Conference. July 3, 2019

Gaetz, Stephen (2019) *The Canadian Definition of Youth Homelessness*. Porto, Spain: FEANTSA Policy Conference. May 29, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Ending Youth Homelessness*. Oshawa, ON: Durham Region Homelessness Prevention Conference, March 19, 2019

Gaetz, Stephen (2018) *Realizing the Right of Youth to Housing* Hamilton, Ontario: Canadian Alliance to End Homelessness Conference. November 7, 2018

Gaetz, Stephen (2018) *A Duty to Assist – How we can end youth homelessness in Canada* Hamilton, Ontario: Canadian Alliance to End Homelessness Conference. November 7, 2018

Gaetz, Stephen (2018) *Making Research Matter! The Canadian Observatory on Homelessness*. Hamilton, Ontario: Canadian Alliance to End Homelessness Conference. November 6, 2018

Gaetz, Stephen, Redman, Melanie & Schwan, Kaitlin (2018) *The Roadmap for the Prevention of Youth Homelessness*. Hamilton, Ontario: Canadian Alliance to End Homelessness Conference. November 5, 2018

Redman, Melanie & Stephen Gaetz (2018) *Ending Youth Homelessness: Can we do it?* Orillia Ontario: Conference on Youth Homelessness. October 2, 2018

Gaetz, Stephen & Redman, Melanie (2018) *Making the Shift – A Youth Homelessness Social Innovation Lab*. Budapest, Hungary: European Observatory on Homelessness, International Conference on Homelessness. Sept 23, 2018

Redman, Melanie & Stephen Gaetz (2018) *A Way Home: Updates from Canada*. Edinburgh Scotland: National Conference on Ending Youth Homelessness. Sept 18, 2018

Gaetz, Stephen & Redman, Melanie (2018) *A Way Home: Transforming Systems for Change*. Antwerp, Belgium: Launch of A Way Home Europe. Sept 17, 2018

Gaetz, Stephen (2018) *Defining Homelessness*. Sao Paulo Brazil: Housing First conference. August 29, 2018

Gaetz, Stephen (2018) *Housing First and Housing First for Youth*. Sao Paulo Brazil: Housing First conference. August 29, 2018

Gaetz, Stephen & Redman, Melanie (2018) *What the Future Looks Like? A Roadmap for the Prevention of Youth Homelessness*. Happy Valley – Goose Bay, Nfld & Labrador: Social Innovation Summit. June 6, 2018

Redman, Melanie & Gaetz, Stephen (2018) *What the Future Looks Like? A Roadmap for the Prevention of Youth Homelessness*. Windsor: Ontario Municipal Social Services Association. May 27, 2018

Gaetz, Stephen & Redman, Melanie (2018) *Transforming Systems for Change: Lessons from Canada*. New York: National Symposium on Solutions to End Youth Homelessness. April 30, 2018

Redman, Melanie & Stephen Gaetz (2018) *Implementing Housing First for Youth – Key Challenges*. New York: National Symposium on Solutions to End Youth Homelessness. April 30, 2018

Gaetz, Stephen & Redman, Melanie (2018) "THIS is Housing First for Youth". Denver: Housing First Partners Conference. April 10, 2018

Gaetz, Stephen & Dej, Erin (2017) "Homelessness Prevention – From Framework to Action". Winnipeg, Manitoba. Canadian Alliance to End Homelessness Conference, October 26, 2017

Gaetz, Stephen & Schwan, Kaitlin (2017) "Preventing Youth Homelessness- 10 things we can do". Winnipeg, Manitoba. Canadian Alliance to End Homelessness Conference, October 25, 2017

Gaetz, Stephen (2017) "THIS is Housing First for Youth". Winnipeg, Manitoba. Canadian

Alliance to End Homelessness Conference, October 25, 2017

Gaetz, Stephen (2017) "Understanding Youth Homelessness in Canada – The first national survey". Barcelona, Catalonia. European Observatory on Homelessness Conference, September 22, 2017

Gaetz, Stephen (2017) "Understanding Youth Homelessness in Canada – The first national survey". Barcelona, Catalonia. European Observatory on Homelessness Conference, September 22, 2017

Redman, Melanie & Gaetz, Stephen (2017) "Making the Shift – Preventing and Ending Youth Homelessness in Canada". Barcelona, Catalonia. European Observatory on Homelessness Conference, September 22, 2017

Gaetz, Stephen (2017) "Homelessness Prevention and Housing First for Youth". CHRA Congress Halifax, ON. May 4, 2017

Gaetz, Stephen (2016) "Housing First for Youth". *New Directions – National Conference on Homelessness*. Edinburgh Scotland. November 10, 2016

Gaetz, Stephen (2016) "Knowledge Mobilization and Design Thinking". Tackling Homelessness: Developing and Sharing Best Practice. Bristol, UK. November 8, 2016

Gaetz, Stephen (2016) "Homelessness Prevention 101". *Canadian Alliance to End Homelessness conference*. London, Ontario. November 3, 2016

Gaetz, Stephen (2016) "The State of Homelessness in Canada 2016". *Canadian Alliance to End Homelessness conference*. London, Ontario. November 3, 2016

Gaetz, Stephen (2016) "Canadian Definition of Youth Homelessness". *Canadian Alliance to End Homelessness conference*. London, Ontario. November 2, 2016

Gaetz, Stephen; Bill O'Grady & Sean Kidd (2016) "Without a Home: Results of the National Youth Homelessness Survey". *Canadian Alliance to End Homelessness conference*. London, Ontario. November 2, 2016

Redman, Melanie & Gaetz, Stephen (2016) A Way Home – Ending youth homelessness in Canada. OMSSA Service Managers conference. Toronto, Canada. October 27, 2016

Gaetz, Stephen (2016) "Criminalizing Homelessness in Canada: The Impact on Homeless Youth". *International Community Corrections Association*. Toronto, ON October 4, 2016

Gaetz, Stephen (2016) "Transitioning to Housing First – Key Challenges for Service Providers" European Observatory on Homelessness Research Conference. Copenhagen, Denmark. September 23, 2016

Gaetz, Stephen (2016) "Rural Homelessness and Housing First for Youth". *Rural Sociological Society Conference*. Toronto, ON. August 8, 2016

Gaetz, Stephen (2016) "Housing First for Youth – Challenges in Going to Scale" *National Alliance to End Homelessness Conference*. July 26, 2016

- Redman, Melanie & Gaetz, Stephen (2016) "A Way Home". *FEANTSA Policy Conference*. Brussels Belgium. June 10, 2016
- Gaetz, Stephen & Redman, Melanie (2016) "Housing First for Youth in Europe – A Human Rights Approach" *Rock Trust – Ending Youth Homelessness National Conference*. Edinburgh Scotland. June 6, 2016
- Gaetz, Stephen (2016) "Moving from Crisis to Prevention – Reimagining our Response to Youth Homelessness" *Rock Trust – Ending Youth Homelessness National Conference*. Edinburgh Scotland. June 6, 2016
- Redman, Melanie & Gaetz, Stephen (2016) "Coming Together to End Youth Homelessness – A Way Home". *Rock Trust – Ending Youth Homelessness National Conference*. Edinburgh Scotland. June 7, 2016
- Gaetz, Stephen (2016) "Adolescence, Homelessness and Stigma" *A4YC Conference*, Edmonton AB. May 17, 2016
- Gaetz, Stephen (2016) "Tackling 'Wicked Problems' through Collective Impact". *Housing Affordability and Market Based Solutions Conference*. University of Calgary, Calgary AB. February 10, 2016
- Gaetz, Stephen (2016) "The Housing System – Can we address affordability?". *Housing Affordability and Market Based Solutions Conference*. University of Calgary, Calgary AB. February 10, 2016
- Gaetz, Stephen (2016) "Housing First for Youth – The challenges of going to scale" National Alliance to End Homelessness Conference on Family and Youth homelessness. Oakland, CA. Feb 19, 2016
- Gaetz, Stephen (2016) "Oh Canada! Lessons on Housing First from the Canadian Response to Homelessness" Second Annual Convening on Unaccompanied Homeless Women. Los Angeles CA. January 21, 2016
- Gaetz, Stephen (2016) "Young, Female and Homeless" Second Annual Convening on Unaccompanied Homeless Women. Los Angeles CA. January 21, 2016
- Redman, Melanie & Gaetz, Stephen (2015) "A Way Home" *The American Round Table to Abolish Homelessness*. Boston, MA. November 6, 2015
- Gaetz, Stephen (2015) "Issues and Challenges in Going to Scale" *The American Round Table to Abolish Homelessness*. Boston, MA. November 6, 2015
- Gaetz, Stephen (2015) "Panel: Exploring effective systems responses to homelessness - systems, planning and coordination" *CAEH 2015 – National Conference on Ending Homelessness*. Montreal, Que. October 19, 2015
- Gaetz, Stephen (2015) "A Framework for Systems Integration" *CAEH 2015 – National Conference on Ending Homelessness*. Montreal, Que. October 19, 2015
- Gaetz, Stephen (2015) "Screening for Housing First" *CAEH 2015 – National Conference on*

Ending Homelessness. Montreal, Que. October 19, 2015

Gaetz, Stephen (2015) "A Framework for Preventing Youth Homelessness" *CAEH 2015 – National Conference on Ending Homelessness.* Montreal, Que. November 2, 2015

Redman, Melanie & Gaetz, Stephen (2015) "A Way Home" *CAEH 2015 – National Conference on Ending Homelessness.* Montreal, Que. November 2, 2015

Gaetz, Stephen (2015) "A Framework for Homelessness Prevention" *Toronto Homelessness Research Symposium.* Toronto, ON. October 19, 2015

Gaetz, Stephen (2015) "Youth Homelessness in Toronto." *Toronto Homelessness Research Symposium.* Toronto, ON. October 19, 2015

Gaetz, Stephen (2015) "Making Research Matter" *Toronto Homelessness Research Symposium.* Toronto, ON. October 19, 2015

Gaetz, Stephen (2015) "Homeless Veterans in Canada: An Emerging Issue." *European Observatory on Homelessness Research Conference.* Dublin, Ireland. September 25, 2015

Gaetz, Stephen (2015) "Criminalizing Homelessness in Canada: What happens when we use policing as a strategic response to youth homelessness?." *International Academy of Law and Mental Health Congress.* Vienna, Austria. July 17, 2015

Gaetz, Stephen (2015) "Oh Canada! Lessons on Housing First from the Canadian Response to Homelessness." *Housing First Day conference,* Utrecht NL. July 6th, 2015

Gaetz, Stephen (2015) "A Framework for Housing First for Youth." *Housing First Day conference,* Utrecht NL. July 6th, 2015

Redman, Melanie & Gaetz, Stephen (2015) "Building Links for the Prevention of Youth Homelessness." *FEANTSA Conference.* Paris, June 20th, 2015

Gaetz, Stephen & Redman, Melanie (2015) "Youth Homelessness in Canada: Does Challenging Measures that Criminalize Youth Homelessness Work?," *Housing Rights Watch Conference.* Paris, June 18th, 2015

Gaetz, Stephen (2015) "Panel presentation – The Criminalization of Youth Homelessness." *The Legal Needs of Street Youth conference.* London, UK June 17, 2015

Gaetz, Stephen (2015) "Solving Youth Homelessness – Lessons from Canada" *Homelessness in a Global Landscape Conference – Institute of Global Homelessness,* Chicago, IL., June 2st, 2015

Gaetz, Stephen (2015) "Understanding and measuring homelessness in Canada" *Homelessness in a Global Landscape Conference – Institute of Global Homelessness,* Chicago, IL., June 1st, 2015

Gaetz, Stephen (2015) "Canadian Point-in-Time Count – Implementation Toolkit" *Government of Canada – Homelessness Partnering Strategy – HPS PiT Count Workshop.* Winnipeg, MN May 1, 2015

- Gaetz, Stephen (2015) "From Child Protection to Youth Homelessness: Can we turn off the taps?" *Canadian Housing and Renewal Association National Conference on Housing and Homelessness*. Winnipeg, MN April 30th, 2015
- Gaetz, Stephen (2015) "Canadian Point-in-Time Count – Implementation Toolkit" *Government of Canada – Homelessness Partnering Strategy – HPS PIT Count Working Group*. Ottawa, ON April 9, 2015
- Gaetz, Stephen (2015) "Solving Youth Homelessness. Lessons from Canada" *Ending Family and Youth Homelessness*. National Alliance to End Homelessness. San Diego, CA. February 19, 2015
- Gaetz, Stephen (2014) "Canadian Point-in-Time Count Methodology and Toolkit" *National Conference on Ending Homelessness*. Vancouver, BC. November 5, 2014.
- Gaetz, Stephen (2014) "Can we think about a Housing First strategy for Youth?" *National Conference on Ending Homelessness*. Vancouver, BC. November 4, 2014.
- Gaetz, Stephen (2014) "Thinking about an End to Youth Homelessness" *National Conference on Ending Homelessness*. Vancouver, BC. November 3, 2014.
- Gaetz, Stephen (2014) "Housing First for Youth" *National Conference on Ending Homelessness*. Vancouver, BC. November 3, 2014.
- Gaetz, Stephen (2014) "Young, Female and Homeless" *One in Four Convening on Unaccompanied Homeless Women*. Harvard, Oct. 24, 2014.
- Gaetz, Stephen (2014) "Can Housing First work for youth?". *8th National Conference on Homelessness*. Brisbane Australia, September 12, 2014
- Gaetz, Stephen (2014) "Preventing Youth Homelessness - What do we know? What should we do?" *8th National Conference on Homelessness*. Brisbane Australia, September 11, 2014
- Gaetz, Stephen (2014) "Oh Canada! Housing first and the evolution of the Canadian response to Homelessness". *8th National Conference on Homelessness*. Brisbane Australia, September 11, 2014
- Gaetz, Stephen (2014) "A Framework for Housing First for Youth". *National Alliance to End Homelessness conference*. Washington, DC. July 29, 2014.
- Gaetz, Stephen (2014) "Why youth homelessness is different than adult homelessness". *National Alliance to End Homelessness conference*. Washington, DC. July 29, 2014.
- Gaetz, Stephen (2014) "Thinking about . . . Youth Homelessness" *Western Next Practices Colloquy*. Los Angeles, June 18, 2014
- Gaetz, Stephen (2014) "A Safe and Decent Place to Live: Understanding youth homelessness in urban and rural areas of Canada". *Youth Housing and Homelessness Conference*. Ottawa, June 23, 2013
- Gaetz, Stephen (2014) "Preventing Youth Homelessness" *FEANTSA Youth Homelessness Study Session*. Budapest, Hungary. March 4, 2014.

- Gaetz, Stephen (2014) "Research Impact! How research can contribute to ending homelessness." *Housing First Conference*, Kelowna BC. February 27, 2014.
- Gaetz, Stephen (2014) "Housing Options for Youth". National Alliance to End Homelessness, Ending Family and Youth Homelessness Conference. New Orleans, LA. Feb 17, 2014.
- Gaetz, Stephen. (2014) "Rethinking Our Response to Youth Homelessness" *Ending Youth Homelessness in Red Deer conference*. Red Deer Alberta. January 29, 2014.
- Gaetz, Stephen (2013) "Towards a Prevention Framework for Homeless Youth". *FEANTSA Conference on Youth Homelessness*. Prague, Czech Republic. November 9, 2013
- Gaetz, Stephen (2013) "Making Research Matter! How Research Can Contribute to Ending Homelessness." *Homelessness Partnering Strategy – National Workshop on Housing First*. Ottawa, ON, November 1, 2013
- Gaetz, Stephen (2013) "Research Matters: The Canadian Homelessness Research Network." *National Conference on Ending Homelessness*. Ottawa: October 28th, 2013
- Gaetz, Stephen (2013) "The State of Homelessness in Canada, 2013." *National Conference on Ending Homelessness*. Ottawa: October 28th, 2013
- Gaetz, Stephen (2013) "A Framework for Preventing Youth Homelessness", *Next Practices*. Boston, USA. October 25th, 2013
- Gaetz, Stephen (2013) "Knowledge Mobilization as Design", *York Symposium on the Scholarship of Engagement*. York University, Toronto Canada. October 2, 2013
- Gaetz, Stephen (2013) "Adaptation and Implementation Challenges for Housing First", *Housing First. What's Second?* FEANTSA European Research Conference - Berlin, Germany, September 20th, 2013
- Gaetz, Stephen (2013) "Family Matters – Youth Homelessness and Family Reconnection". National Alliance to End Homelessness Conference. Washington, DC., July 20th, 2013
- Gaetz, Stephen (2013) "Rethinking Models of Prevention, Accommodation and Support for Homeless Youth" *International Homelessness Research Conference*, Philadelphia, Pennsylvania, June 3, 2013
- Gaetz, Stephen (2013) "The Real Cost of Homelessness" *Canadian Economics Association conference*, Montreal, May 30, 2013
- Gaetz, Stephen (2013) "The Bottom Three Feet of the City: Youth Homelessness and Geographies of Exclusion". *Canadian Anthropology Society meetings*. Victoria, May 10, 2013
- Gaetz, Stephen (2013) "Research Impact! Using Research to Support the Work of CABS". *Canadian Housing and Renewal Association – Community Advisory Body Meeting*. Ottawa, May 6, 2013

Gaetz, Stephen (2013) "Reimagining our Response to Youth Homelessness?" *Social Planning Council of Hamilton, Community Meeting*. Hamilton April 24, 2013

Gaetz, Stephen (2013) "The Real Cost of Homelessness" *Northern Housing Conference*, Whitehorse, Yukon. March 25, 2013

Gaetz, Stephen (2013) "A Framework for Preventing Youth Homelessness" *Ending Family and Youth Homelessness*, National Alliance to End Homelessness. Seattle WA, Feb 21, 2013

Gaetz, Stephen (2012) "Supporting Transitions to Adulthood: The Foyer". *Ontario Non-Profit Housing Association Conference*. Toronto. November 17, 2012.

Gaetz, Stephen (2012) "Making Research Matter – Creating impact for Housing and Homelessness Research". *Ontario Non-Profit Housing Association Conference*. Toronto. November 17, 2012.

Gaetz, Stephen (2012) "Homelessness, Social Exclusion and the Risk of Tuberculosis Infection". *Tuberculosis in Canada: Detection, Intervention and Compliance*. Centre for Disease Modelling. Ottawa: November 15, 2012

Gaetz, Stephen (2012) "Stopping the Problem Before it Starts. A Prevention Response to Youth Homelessness" *Pushing the Limits conference*. United Way of Calgary and Area. October 18, 2012

Gaetz, Stephen (2012) "The Possibilities of Connection: Linking schools, community organizations and families in addressing youth homelessness in Australia and the UK" *Pushing the Limits conference*. United Way of Calgary and Area. October 17, 2012

Gaetz, Stephen (2012) "Supporting Transitions to Independence. The Foyer." Woods Homes Provincial Youth Shelter Symposium. Calgary, September 20th, 2012

Gaetz, Stephen (2012). "Do we need a big bridge to cover a small gap since we're all on campus or do we need a small bridge to cover a large gap between research and practice?" *Knowledge Mobilization Forum*, Ottawa. June 17, 2012

Gaetz, Stephen (2012). "Responding to H1N1 in the Context of Homelessness in Canada". *Pan-inFORM – Indigenous Populations Health Protection – IPHP*. York University, May 7, 2012

Gaetz, Stephen (2012). "Thinking about Program Evaluation in the Homelessness Sector", *Homelessness Community Advisory Board Meeting*, St. John's, Nfld. May 4, 2012

Gaetz, Stephen (2012). "Towards a Canadian Definition of Homelessness" *Homelessness Community Advisory Board Meeting*, St. John's, Nfld. May 4, 2012

Gaetz, Stephen (2012). "Reimagining our Response to Youth Homelessness" *Canadian Housing Renewal Association*. St. John's Nfld., May 3, 2012.

Gaetz, Stephen & MacKinnon, Martha (2012) "Educating the Homeless Student. Pedagogical and Legal Issues." *Canadian Association for the Practical Study of Law in Education*. Ottawa, April 30, 2012

Gaetz, Stephen (2012). "Ending Homelessness – The role of data, evidence and knowledge mobilization" *Seven Cities on Housing and Homelessness – Leadership Summit*. Calgary, Alberta. April 16, 2012

Gaetz, Stephen (2012). "Knowledge Transfer and Networking Between Communities of Practice" *Espace public et sans domicile fixe: La Recherche S'Expose*. St. Etienne, France. March 7, 2012

Gaetz, Stephen (2012). "Making the Case for Housing First: What can Research Offer?" *Espace public et sans domicile fixe: La Recherche S'Expose*. St. Etienne, France. March 7, 2012

Gaetz, Stephen (2012). "The Housing Crisis and Homelessness: The Canadian Homeless Hub and Lessons For Ireland" *New Housing Poverties in Contemporary Ireland*. Cork, Ireland. March 2, 2012

Gaetz, Stephen (2011). "Reimagining our Response to Youth Homelessness: A Canadian and Global Perspective". *CMHC – National Housing Research Committee Meeting*. Ottawa, Nov. 8, 2011

Gaetz, Stephen (2011). (Chair and Session Organizer) "New Directions in Research on Youth Homelessness in Canada" *CMHC – National Housing Research Committee Meeting*. Ottawa, Nov. 8, 2011

Gaetz, Stephen (2011). "Reimagining our Response to Youth Homelessness in Canada". *ONPHA Conference*, Niagara Falls, ON. October 30, 2011

Gaetz, Stephen & O'Grady, Bill (2011). "Can I See Your ID? Policing and the Criminalization of Youth Homelessness in Canada". *Without a Home – Current Issues in Homelessness*. York University, Toronto, October 6, 2011.

Gaetz, Stephen (2011). "Responding to H1N1 in the Context of Homelessness in Canada". *Health Systems Research on H1N1 – Knowledge Exchange Workshop (CIHR)*. Ottawa. September 20, 2011

O'Grady, Bill & Gaetz, Stephen (2011). "Being Served and Protected: Un-housed youth's experiences with the Toronto Police Service". *American Bar Association Meetings*. Toronto, August 5, 2011

Gaetz, Stephen (2011) "Mobilizing Homelessness Research" *2011 Ontario Education Research Symposium*. Toronto. January 27, 2011

Gaetz, Stephen (2010). "Research and Policy". *The Road Home Conference on Homelessness*. Edmonton, Alberta. November 17

Gaetz, Stephen (2010). "Youth, Housing and Homelessness". *The Road Home Conference on Homelessness*. Edmonton, Alberta. November 16

Gaetz, Stephen (2010). "TEDx Presentation - Making Research Matter: Mobilizing Homelessness Research". Ctrl+Alt+Delete TEDx York U. November 4

Gaetz, Stephen (2010). Closing Plenary: "The Engaged Researcher" *l'itinérance. Défis théoriques et méthodologiques. Rethinking Homelessness. Theoretical and Methodological Challenges*. UQAM, Montreal, October 29

Gaetz, Stephen; Waegemakers-Schiff, Jeanette & Schiff, Rebecca (2010). "Pandemic preparedness for homeless persons in various Canadian cities". *l'itinérance. Défis théoriques et méthodologiques. Rethinking Homelessness. Theoretical and Methodological Challenges*. UQAM, Montreal, October 27

Gaetz, Stephen (2010). "Making Research Matter – Mobilizing Research to Help End Homelessness" *Calgary Homeless Foundation Research Conference*. Calgary, October 10, 2010

Gaetz, Stephen (2010). "Safe Streets, livable streets, whose streets? The law and order response to youth homelessness in Canada" *The Joe Doherty Seminar. The Changing Urban Frontier and Youth Homelessness*. St. Andrews, Scotland. Feb. 10, 2010

Gaetz, Stephen (2009). "A Safe and Decent Place to Live". *Practice and Policy Innovations: Incorporating Socially Marginalized People in Housing and Communities*. Bellagio, Italy. November 5, 2009

Gaetz, Stephen (2009) The Canadian Response to Homelessness – Expensive but is it effective?" Tax Expenditures and Public Policy in Comparative Perspective Conference. Toronto, ON. September 10, 2009

Gaetz, Stephen (2009). "Creating Agents of Change: Bringing Homelessness into the Classroom". BC Teachers Federation Leadership Conference,. Vancouver, BC, August 2009

Gaetz, Stephen (2009). *Mobilizing Homelessness Research in Canada*. Growing Home: Housing and Homelessness in Canada. Calgary, February 2009

Gaetz, Stephen (2009). *Canadian Homelessness Research Network: Making Research Matter*. Growing Home: Housing and Homelessness in Canada. Calgary, February 2009

Gaetz, Stephen & Bill O'Grady (2008). *Youth Homelessness and Incarceration*. Raising the Roof - Partners Solving Youth Homelessness. Toronto, Nov. 2008

Gaetz, Stephen (2007). *The Homeless Hub: Canadian Homelessness Research Clearinghouse Project*. Ontario Municipal Social Services Association Annual Meeting. Toronto, Canada October, 2007

Gaetz, Stephen & O'Grady, Bill (2007). *Health among Toronto Street Youth: An Analysis of Immigrant & Non-Immigrant Youth*. ISA Research Committee on Family Studies Health in Families, Healthy Families: Gendered Explorations, Toronto, Canada

Gaetz, Stephen (2006). *Homelessness in Canada*. International Homelessness Seminar held in London, UK

Gaetz, Stephen (2006). *Developing a Clearinghouse of Homelessness Research in Canada*. Workshop: International Comparative Perspectives on Homelessness. 11th International Metropolis Conference. Lisbon, Portugal (October)

Gaetz, Stephen (2005). *Making Research Matter: The Emergence of Research as a Factor in Solving the Homelessness Crisis in Canada*. Breaking New Ground: Innovation in the Public Sector, International Conference, Cork Ireland (September, 2005).

Gaetz, Stephen & O'Grady, Bill (2005). *Diversity and Making Money: Race, Gender and the Economy of Young Homeless Workers in Toronto*. Canadian Conference on Homelessness. Toronto (May)

Naomi Dachner, Valerie Tarasuk, Jinguang Li, Stephen Gaetz & Blake Poland (2005). *Food Insecurity and Nutritional Vulnerability Among Homeless Youth in Toronto*. Canadian Conference on Homelessness. Toronto (May)

Naomi Dachner, Valerie Tarasuk, Stephen Gaetz & Blake Poland (2005). *An Examination of Community Efforts to Help Meet the Food Needs of Homeless People in Toronto*. Canadian Conference on Homelessness. Toronto (May)

Gaetz, Stephen (2004). *An Urban Other: Street Youth and Criminal Victimization in Toronto*. Association of Canadian Studies in Ireland. Cork, Ireland (April).

Gaetz, Stephen (2003). *Street Justice: Alternative Education and Social Inclusion*. Expanding Paradigms: What is Education Anyway?, Graduate Student Conference, York University. Toronto, Ontario.

Gaetz, Stephen & O'Grady, Bill (2002). *Street Youth and Gendered Work*. The Congress of Social Sciences and Humanities conference. Toronto, Ontario.

Gaetz, Stephen (2001). *Starting a Professional Development School*. International Conference on School Effectiveness and Improvement Annual Meeting. Toronto, Ontario.

Gaetz, Stephen & O'Grady, Bill (1999). *"Making a buck" - Income Generating Strategies of Street Youth in Toronto*. American Society of Criminology Annual Meeting. Toronto, Ontario.

Gaetz, Stephen (1999). *Developing Dental Services within a Community Health Centre Context*. Association of Ontario Health Centres Annual Meeting. London, Ontario.

Gaetz, Stephen (1998). *Street Youth and Sexuality*. Guelph Conference and Training Institute on Sexuality. Guelph, Ontario.

Gaetz, Stephen (1996). *Community Development and Lesbian, Gay and Bisexual Youth*. Other Young Lives II Conference. Toronto, Ontario.

Gaetz, Stephen & Travers, Anna (1996). *Are Street Youth a Community? Challenging Notions of Community Development*. Association of Ontario Community Health Centres Conference. Toronto, Ontario.

Gaetz, Stephen (1993). *Planning Community-based Youth Services in Cork, Ireland*. Canadian Association of Anthropology and Sociology. Toronto, Ontario.

Gaetz, Stephen (1991). *Turning Rebellion into Money: an Analysis of the Commodification of Punk Culture*. Critical Anthropology conference. Toronto Ontario.

Gaetz, Stephen (1986). *The Economy of Punks in Toronto*. Canadian Anthropological Association Meetings. Toronto, Ontario.

Gaetz, Stephen (1985). *Punks in Toronto*. North East Anthropology Association Meetings. Buffalo, N.Y.

Keynote Addresses

Gaetz, Stephen (2021) "Impact of Homelessness and Extreme Poverty on Involvement with the Criminal Justice System." *Annual Justice and Treatment Partnership Conference, Toronto (On Line) – December 7, 2021*. (Keynote Address)

Gaetz, Stephen & Redman, Melanie (2021) "Towards the Transformation of Our Response to Youth Homelessness". Australia – National Youth Homelessness Virtual Conference. June 15, 2021. (Keynote Address)

Gaetz, Stephen & Redman, Melanie (2020) "Making the Shift – A Youth Homelessness Social Innovation Lab and the Duty to Assist". London, UK: *Homelessness Prevention Conference / CRISIS*. March 20, 2020. (Keynote Address)

Redman, Melanie & Stephen Gaetz (2020) "Making the Shift – A Youth Homelessness Social Innovation Lab". Cardiff, Wales: *Preventing Youth Homelessness 2020*. March 9, 2020. (Keynote Address)

Gaetz, Stephen & Redman, Melanie (2019) "A Roadmap for the Prevention of Youth Homelessness". Sydney, Australia: *NSW Homelessness, AGM*. October 21, 2019. (Keynote Address)

Gaetz, Stephen (2019) "Lessons from Canada: Progress, Challenges, Next Steps". Melbourne Australia: *Victorian Homelessness Conference*. October 14, 2019. (Keynote Address)

Redman, Melanie & Stephen Gaetz (2019) "Creating Research Impact: Making the Shift, A Youth Homeless Social Innovation Lab". Toronto, York University: *Faculty of Education Launch*. Sept. 4, 2019. (Keynote Address)

Gaetz, Stephen (2018) "Can We End Youth Homelessness in Canada?". Toronto, ON: *The Jackman Lecture: York University*. December 4, 2018. (Keynote Address)

Gaetz, Stephen & Redman, Melanie (2018) "A Way Home: Transforming Systems for Change". Antwerp, Belgium: *Launch of A Way Home Europe*. Sept 17, 2018. (Keynote Address)

Redman, Melanie & Stephen Gaetz (2018) "What the Future Looks Like? A Roadmap for the Prevention of Youth Homelessness". New York: *Point Source Symposium on Solutions to Youth Homelessness*. Thursday, February 22, 2018. (Keynote Address)

Gaetz, Stephen & Redman, Melanie (2018) "What the Future Looks Like? A Roadmap for the Prevention of Youth Homelessness". Ottawa: *Coming Up Together Conference on Youth Homelessness*. Thursday, February 22, 2018. (Keynote Address)

Redman, Melanie & Stephen Gaetz (2018) "What the Future Looks Like? A Roadmap for the Prevention of Youth Homelessness". Toronto: *Homelessness Partnering Strategy / Government of Ontario Homelessness Conference*. January 23, 2018. (Keynote Address)

Gaetz, Stephen (2017) "Preventing and Ending Homelessness" Toronto, Ontario: *ICFHT AGM*. Monday, October 23, 2017. (Keynote Address)

Gaetz, Stephen (2017) "The *SHIFT* to end homelessness". Edmonton, Alberta: *Douglas R.W. Wilson lecture* Thursday, October 19, 2017. (Keynote Address)

Gaetz, Stephen (2015) "A Way Home" *OMSSA Conference on Homelessness Prevention, Toronto, ON*. November 25, 2015. (Keynote Address)

Gaetz, Stephen (2015) "Preventing Youth Homelessness through School-Based Initiatives." *Graduate Student Conference in Education*, York University, Toronto, ON, November 19, 2015. (Keynote Address)

Gaetz, Stephen (2015) "Knowledge Mobilization and Design Thinking: Towards Enhancing the Impact of Homelessness Research". *The North American HIV/AIDS Housing Summit VII*. Washington DC., September 15. (Keynote Address)

Gaetz, Stephen (2015) "Oh Canada! What we have learned, Where we are going ..." *Launch of Edmonton Plan to Prevent, Reduce and End Youth Homelessness*. Edmonton, AB., June 10th, 2015. (Keynote Address)

Gaetz, Stephen (2015) "10 things I've learned about Youth Homelessness" *Youth Services Access and Design Forum – Homeward Trust*. Edmonton, AB., June 10th, 2015. (Keynote Address)

Gaetz, Stephen (2015) "Oh Canada! Lessons on Housing First from the Canadian Response to Homelessness" *Housing First: The Solution to Rough Sleeping? Pathway*,

Focus Ireland, City of Dublin. Dublin, Ireland., June 26th, 2015. (Keynote Address)

Gaetz, Stephen (2015) "Understanding Youth Homelessness in Canada" *Re-Imagining Youth Homelessness in Ottawa*. Calgary Homeless Foundation Research Symposium, Calgary, AB. April 22nd, 2015. (Keynote Address)

Gaetz, Stephen (2014) "Understanding Youth Homelessness in Canada" *Re-Imagining Youth Homelessness in Ottawa*. Youth Services Bureau, Ottawa. November 17th, 2014

Gaetz, Stephen (2014) "Thinking About Youth Homelessness" *Attacking Rural Homelessness in Lanark County*. Perth, Ontario. October 20, 2014. (Keynote Address)

Gaetz, Stephen (2014) "Oh Canada! Housing first and the evolution of the Canadian response to Homelessness". *8th National Conference on Homelessness*. Brisbane Australia, September 11, 2014. (Keynote Address)

Gaetz, Stephen (2014) Keynote Inaugural lecture of the Star Institute. Li Ka Shing Knowledge Institute, Toronto. On. September 30, 2014. (Keynote Address)

Gaetz, Stephen (2013) "Homelessness in Canada", *International Homelessness Research Conference*, Philadelphia, Pennsylvania, June 3, 2013. (Keynote Address)

Gaetz, Stephen (2013) "Research Impact! How Research Can Contribute to Ending Homelessness". *Southern Alberta Research Symposium*. City of Lethbridge, May 20, 2013

Gaetz, Stephen (2012) "Research Impact! How Research Can Contribute to Ending Homelessness". (Keynote Address) *Calgary Research Symposium*. Calgary Homeless Foundation. November 29, 2012

Gaetz, Stephen (2012) "What if every child had a caring adult in their life?" (Keynote Address) *Pushing the Limits conference*. United Way of Calgary and Area. October 17, 2012 (Keynote Address)

Gaetz, Stephen (2012) "What Works and For Whom? Developing a Framework for Promising Practices". (Keynote Address) *Workshop on Homelessness: Sharing Promising Practices*. Homelessness Partnering Strategy. October 11, 2012. (Keynote Address)

Gaetz, Stephen (2012) "Can We Reimagine our Response to Youth Homelessness?" *Woods Homes Provincial Youth Shelter Symposium*. Calgary, September 20th, 2012. (Keynote Address)

Gaetz, Stephen (2012). "Family Matters: Rethinking the role of family in our response to youth homelessness". Keynote panel. Graduate Students Conference in Education 2012: *Education in a Changing World*. York University. April 27, 2012. (Keynote Address)

Gaetz, Stephen (2010). "The Engaged Researcher: Making Research Matter" (Keynote Address) *Calgary Homeless Foundation Research Symposium*, August, 2010. (Keynote Address)

Gaetz, Stephen (2008). *Making Research Matter: Mobilizing Homelessness Research to End Homelessness*. Calgary Homeless foundation Research Symposium. Calgary, Canada. August, 2008. (Keynote Address)

Invited Public Lectures

Gaetz, Stephen (2022) "Can we end youth homelessness in Canada? " *Office of the President Salon*, York University. February 3, 2022

Gaetz, Stephen (2021) "UN Sustainable Development Goals: Poverty and Homelessness." *SDG Action Networking Series*, Government of Canada SDG Unit (ESDC). January 27, 2022,

Gaetz, Stephen (2021) "Building Large Scale Grants". *Vice President of Research and Innovation Event*, York University. December 2, 2021.

Gaetz, Stephen (2021) "PREVENTING Youth Homelessness ... Why do it? " *Choices for Youth AGM*, St. John's Nfld. Oct 2, 2021

Gaetz, Stephen (2021) "Knowledge Mobilization and Youth Homelessness Prevention." *LivEx Group Meeting*, York University, Toronto (OnLine). September 3, 2021

Gaetz, Stephen (2021) "What IS Youth Homelessness Prevention?" *Innovation York*, York University, Toronto (OnLine). July 7, 2021

Gaetz, Stephen and Redman, Melanie (2021) "Launch of the Toronto Charter Centre on Youth Homelessness Prevention". *York University, Toronto and the United Nations Economic Commission for Europe* (OnLine). June 16, 2021

Gaetz, Stephen and Redman, Melanie (2021) "Making the Shift – Youth Homelessness Social Innovation Lab." *Province of Ontario, Ministry of Housing*, Toronto (OnLine). Tuesday, June 7, 2021

Gaetz, Stephen (2021) *Understanding Research Impact*. Making the Shift Board of Directors, Toronto (OnLine). March 24, 2021

Gaetz, Stephen (2020) *Building Winning Large Scale Grants*. Research Commons Workshop, York University, Toronto (OnLine). December 99, 2020

Gaetz, Stephen (2020) *Covid 19 and Youth Homelessness*. Faculty of Education, York University, Toronto (OnLine). September 19, 2020

Gaetz, Stephen (2020) *Why do research on youth homelessness prevention?*. LivEx Group, York University, Toronto (OnLine). September 19, 2020

Gaetz, Stephen & Redman, Melanie (2020) *Making the Shift, A Youth Homeless Social Innovation Lab. Problematic substance use, Housing and Homelessness*. Ottawa: Health Canada – Elicit Substance and Cannabis Unit. February 6, 2020

Redman, Melanie & Stephen Gaetz (2020) *Making the Shift, A Youth Homeless Social Innovation Lab. Networks of Centres of Excellence*. Ottawa: Health Canada. January 17,

2020

Gaetz, Stephen & Anika Mifsud (2019) *Migration and Homelessness in the Greater Toronto Area*. Toronto: United Way of Greater Toronto. December 9, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Creating Research Impact: Making the Shift, A Youth Homeless Social Innovation Lab*. Toronto: Graduate Program in the Faculty of Education. November 13, 2019

Redman, Melanie & Stephen Gaetz (2019) *Designing the Adaptation of a Duty to Assist in Canada*. Toronto Canada: A Way Home Funders' Table. October 24, 2019

Gaetz, Stephen (2019) *Lessons from Canada: Progress, Challenges, Next Steps*. Melbourne, Australia: Salvation Army, October 17, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Getting Organized through Collective Impact*. Melbourne, Australia: Salvation Army, October 17, 2019

Redman, Melanie & Stephen Gaetz (2019) *Roadmap for the Prevention of Youth Homelessness*. Melbourne, Australia: Salvation Army, October 17, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Upstream: Taking Social Innovation Abroad*. Geelong Australia: Upstream Colloquium. October 16, 2019

Redman, Melanie & Stephen Gaetz (2019) *Creating Research Impact: Making the Shift, A Youth Homelessness Social Innovation Lab*. Toronto, Ontario: Meeting with Anna Bailao, Deputy Mayor, City of Toronto. October 7, 2019

Gaetz, Stephen (2019) *Homelessness in Canada: What We Know, What We Can Do*. Toronto, Ontario: SHAD Lecture, York University. July 16, 2019

Gaetz, Stephen & Redman, Melanie (2019) *The Roadmap for the Prevention of Youth Homelessness*. Dublin, Ireland: Focus Ireland. June 26, 2019

Redman, Melanie & Stephen Gaetz (2019) *Understanding Youth Homelessness*. Dublin, Ireland: Trinity College Lecture. June 25, 2019

Gaetz, Stephen (2019) *Understanding Youth Homelessness*. Toronto, Ontario: Bridgeable. May 21, 2019

Gaetz, Stephen & Redman, Melanie (2019) *A Duty to Assist – How We Can End Youth Homelessness*. Toronto, ON: A Way Home Advisory Committee. May 16, 2019

Gaetz, Stephen (2019) *A Duty to Assist – How We Can End Youth Homelessness*. Toronto, ON: National Learning Community on Youth Homelessness Meeting. May 13, 2019

Gaetz, Stephen (2019) *Making the Shift – A Youth Homelessness Social Innovation Lab*. Toronto, ON: National Learning Community on Youth Homelessness Meeting. May 13, 2019

Redman, Melanie & Stephen Gaetz (2019) *A Duty to Assist – How We Can End Youth Homelessness*. Hamilton, ON: Street Youth Planning Collaborative. May 1, 2019

Gaetz, Stephen (2019) *What the Future Looks Like – Preventing and Ending Youth Homelessness in Canada*. Toronto, Ontario: Academy of Lifelong Learning Lecture: University of Toronto February 6, 2019

Gaetz, Stephen & Redman, Melanie (2019) *The Development of Highly Qualified Personnel*. Geneva, Switzerland: United Nations Economic Commission of Europe. February 19, 2019

Redman, Melanie & Stephen Gaetz (2019) *Making the Shift – Towards a UN Charter Centre on Homelessness*. Geneva, Switzerland: United Nations Economic Commission of Europe. February 19, 2019

Gaetz, Stephen & Redman, Melanie (2019) *Canadian Observatory on Homelessness*. Geneva, Switzerland: United Nations Economic Commission of Europe. February 19, 2019

Gaetz, Stephen (2019) *Making the Shift – A Youth Homelessness Social Innovation Lab*. Toronto, Ontario: Social Innovation Seminar, Trillium Foundation. February 6, 2019

Redman, Melanie & Stephen Gaetz (2018) *Making the Shift – A Youth Homelessness Social Innovation Lab*. Ottawa, Ontario: Conference Board of Canada. December 6, 2018

Gaetz, Stephen (2018) *A Duty to Assist – How We Can End Youth Homelessness*. Toronto, ON: Youth Homelessness Funders Table. October 31, 2018

Gaetz, Stephen & Redman, Melanie (2018) *Making the Shift: Youth Homelessness Social Innovation Lab*. Ottawa, Ontario: Government of Canada, Employment and Social Development Canada. October 16, 2018

Redman, Melanie & Stephen Gaetz (2018) "LGBTQ2S Youth and Youth Homelessness". Dublin, Ireland: Focus Ireland meeting. June 16, 2018

Gaetz, Stephen & Redman, Melanie (2018) "The relationship between involvement in Child Welfare and Youth Homelessness". Toronto: Ontario Association of Childrens' Aid Societies. March 7, 2018

Turner, Alina & Gaetz, Stephen (2018) "Building Regina's Plan to Prevent and End Homelessness". Regina: Systems Planning Meeting. February 15, 2018

Gaetz, Stephen (2018) "The Legal and Justice Issues of Youth who Experience Homelessness". Vancouver: American Bar Association Meeting on the Legal Needs of Street Youth. February 1, 2018

Gaetz, Stephen (2018) "A Way Home Canada". Kelowna: Launch of A Way Home Kelowna. January 18, 2018

Gaetz, Stephen (2018) "Housing First for Youth". Kelowna: Launch of A Way Home Kelowna. January 18, 2018

Gaetz, Stephen (2018) "Preventing youth homelessness – Five things we can do". Kelowna: Launch of A Way Home Kelowna. January 18, 2018

- Gaetz, Stephen & Redman, Melanie (2017) "THIS is Housing First for Youth" St. John's, Nfld: Choices for Youth Meeting of NL Working Group on Youth Homelessness. December 8, 2017
- Redman, Melanie & Gaetz, Stephen (2017) "Making the Shift – Preventing and Ending Homelessness in Canada" Toronto: Province of Ontario Poverty Reduction Strategy. August 18, 2017
- Gaetz, Stephen (2017) "Partnerships" Toronto: NCE Planning Day August 15, 2017
- Gaetz, Stephen (2017) "Clusters and Themes" Toronto: NCE Planning Day August 14, 2017
- Gaetz, Stephen (2017) "Making the Shift Overview" Toronto: NCE Planning Day August 14, 2017
- Redman, Melanie & Gaetz, Stephen (2017) "Making the Shift – Preventing and Ending Homelessness in Canada" Toronto: Making the Shift Kick-Off. August 14, 2017
- Gaetz, Stephen (2017) "A Framework for Housing First for Youth" Toronto: Making the Shift Training Day. August 13, 2017
- Gaetz, Stephen & Redman, Melanie (2017) "Making the Shift" Toronto: Trillium Foundation. July 19, 2017
- Gaetz, Stephen & Vasko, Stephanie (2017) "Knowledge Mobilization and Design Thinking" Toronto: REALIZE. July 10, 2017
- Redman, Melanie & Gaetz, Stephen (2017) "A Way Home and Collective Impact" Toronto: Trillium Foundation. July 10, 2017
- Gaetz, Stephen & Redman, Melanie (2017) "Making the Shift – Preventing and Ending Youth Homelessness in Canada" Dublin: Trinity College. June 27, 2017
- Redman, Melanie & Gaetz, Stephen (2017) "Making the Shift – Can we make homelessness prevention a priority?" Dublin: Trinity College. June 27, 2017
- Gaetz, Stephen & Redman, Melanie (2017) "Housing First for Youth" Utrecht, Netherlands June 22, 2017
- Gaetz, Stephen (2017) "Understanding Youth Homelessness" Budapest, Hungary: FEANTSA Youth Homelessness Study Group. June 12, 2017
- Gaetz, Stephen (2017) "Housing First for Youth" Budapest, Hungary: FEANTSA Youth Homelessness Study Group. June 13, 2017
- Gaetz, Stephen & Redman, Melanie (2017) "Coming Together to End Youth Homelessness in Peterborough" Peterborough, Ontario. May 22, 2017
- Gaetz, Stephen (2017) "Without a Home – The National Youth Homelessness Survey" Toronto, Ontario: National Learning Community on Youth Homelessness. May 10, 2017
- Gaetz, Stephen & Redman, Melanie (2017) "Making the Shift Launch – Strategy Session"

Toronto: Catherine Donnelly Foundation. April 21, 2017

Gaetz, Stephen (2017) "Addressing Youth Homelessness in Canada" Toronto: Covenant House AGM. April 19, 2017

Gaetz, Stephen & Redman, Melanie (2017) "Youth Homelessness Social Innovation Lab" Ottawa: Homelessness Partnering Strategy. April 18, 2017

Redman, Melanie & Gaetz, Stephen (2017) "A Way Home Advisory Committee Meeting" Toronto: Catherine Donnelly Foundation. April 6, 2017

Gaetz, Stephen & Redman, Melanie (2017) "Coming Together to End Youth Homelessness in Elgin County" Elgin County. April 3, 2017

Redman, Melanie & Gaetz, Stephen (2017) "Reimagining our Response to Youth Homelessness" Toronto: *Ontario Ministry of Housing*. March 25, 2017

Gaetz, Stephen & Redman, Melanie (2017) "The Canadian Observatory on Homelessness and A Way Home - " Toronto: *Danish Study Tour*. February 16, 2017

Gaetz, Stephen (2017) "Knowledge Mobilization and Design Thinking" Toronto: *Divided City / United City*. February 14, 2017

Gaetz, Stephen & Czech, Wally (2017) "Professional Knowledge Transfer: Housing First for Youth". London, ON. January 22, 2017

Gaetz, Stephen (2017) "Housing First for Youth: Employment Training Program Design Sprint". London, ON. January 18, 2017

Redman, Melanie & Gaetz, Stephen (2016) "Implementing New Community Planning Tools on Youth Homelessness". Homelessness Partnering Strategy/ Ontario Ministry of Housing Conference Toronto, ON. January 11, 2017

Gaetz, Stephen & Redman, Melanie (2016) "A Way Home". Home Depot Canada Foundation, Board Meeting. Toronto, ON. December 13, 2016

Redman, Melanie & Gaetz, Stephen (2016) "Coming Together to End Youth Homelessness in Elgin County". St. Thomas, ON. November 30, 2016

Gaetz, Stephen & Redman, Melanie (2016) "Coming Together to End Youth Homelessness in Renfrew County". Arnprior, ON. November 23, 2016

Gaetz, Stephen (2016) "Homelessness in Canada: Understanding the National Context". Raising the Roof AGM. Toronto, ON. November 24, 2016

Gaetz, Stephen (2016) "Homelessness Prevention 101". *Leo Burnett*. Toronto, Canada. October 31, 2016

Gaetz, Stephen; Tim Richter and Erin Dej (2016) State of Homelessness in Canada release. Ottawa Ontario

Redman, Melanie & Gaetz, Stephen (2016) "Coming Together to End Youth Homelessness in Washington State". Seattle WA. October 12, 2016

Gaetz, Stephen & Redman, Melanie (2016) "Coming Together to End Youth Homelessness in Winnipeg". Winnipeg, MN. October 11, 2016

Redman, Melanie & Gaetz, Stephen (2016) "Coming Together to End Youth Homelessness in LANARK County". *A Way Home Lanark County*. Perth, ON. October 7, 2016

Gaetz, Stephen & Redman, Melanie (2016) "A Way Home". *Catherine Donnelly Foundation – Funders Table*. September 16, 2016

Gaetz, Stephen (2016) "Responding to Youth Homelessness – What We Should Know, What We Should Do". Young Street Mission Board Meeting. Toronto, ON. September 27, 2016

Redman, Melanie & Gaetz, Stephen (2016) "Reimagining our response to youth homelessness" Focus Ireland. Dublin, Ireland June 27

Gaetz, Stephen & Redman, Melanie (2016) "Housing First for Youth in Europe – A Human Rights Approach" Rock Trust. Edinburgh, Scotland. June 6, 2016

Redman, Melanie & Gaetz, Stephen (2016) "A Way Home". *Catherine Donnelly Foundation – Funders Table*. May 4, 2016

Gaetz, Stephen. (2016) "Knowledge Mobilization and Design Thinking." National Learning Community on Youth Homelessness meeting. May 25, 2016

Redman, Melanie & Gaetz, Stephen (2016) "A Way Home". *Downtown Women's Centre*. Los Angeles, CA. April 7, 2016

Gaetz, Stephen (2016) "Knowledge Mobilization and Design Thinking – Making homelessness research matter!" Graduate Seminar. April 5, 2016

Gaetz, Stephen (2016) "Knowledge Mobilization and Design Thinking – Making homelessness research matter!" OISE CEPP Seminar. March 30, 2016

Gaetz, Stephen & Redman, Melanie (2016) "A Way Home". *FEANTSA Youth*. Budapest Hungary. March 14, 2016

Redman, Melanie & Gaetz, Stephen (2016) "Advocacy, Change and Coalition Building". *FEANTSA Youth*. Budapest Hungary. March 14, 2016

Gaetz, Stephen & Redman, Melanie (2016) "Building your coalition through Collective Impact". *FEANTSA Youth*. Budapest Hungary. March 13, 2016

Gaetz, Stephen (2016) A Framework for Homelessness Prevention. FEANTSA. Brussels, Belgium. March 3, 2016

Gaetz, Stephen. (2016) "Knowledge Mobilization and Design Thinking – How to make homelessness research matter!." *Rosa Bruno-Jofre Symposium in Education*. Toronto, Ontario, February 25, 2016

Gaetz, Stephen. (2016) "Knowledge Mobilization and Design Thinking – Towards Enhancing the Impact of Research on Policy and Practice." York University, January 20,

2016

Redman, Melanie & Gaetz, Stephen (2016) *A Way Home*. Mental Health Commission Housing First Regional Training meeting Ottawa, ON. December 7, 2015

Gaetz, Stephen (2015) "The Big Picture: Mobilizing PiT Count Results." *HPS Point in Time Count Workshop*. Toronto ON, November 25, 2015

Gaetz, Stephen (2015) "Towards a National Research Agenda." *National Learning Community on Youth Homelessness Conference*, St. John's, NL. November 24, 2015

Gaetz, Stephen (2015) "A Framework for Preventing Youth Homelessness." *National Learning Community on Youth Homelessness Conference*, St. John's, NL. November 24, 2015

Gaetz, Stephen & Redman, Melanie (2015) "A Way Home." *National Learning Community on Youth Homelessness Conference*, St. John's, NL. November 23, 2015

Gaetz, Stephen (2015) "The Big Picture: Mobilizing PiT Count Results." *HPS Point in Time Count Workshop*. Vancouver, BC. November 18, 2015

Redman, Melanie & Gaetz, Stephen (2015) "A Way Home – Supporting Community and Government Planning" *Funders Together meeting*. Toronto, ON September 29th, 2015

Gaetz, Stephen & Redman, Melanie (2015) "From Child Protection to Youth Homelessness: Can we turn off the taps?" *Meeting of Provincial and Territorial Advocates for Youth*. St. John's Nfld. September 13, 2015

Gaetz, Stephen (2015) "Housing Options for Youth." *Yonge Street Mission*. September 9, 2015

Gaetz, Stephen (2015) "Research in Canada: The Canadian Observatory on Homelessness." *Impuls, Netherlands Centre for Social Care Research, Radboud University Medical Centre*, Utrecht NL. July 6th, 2015

Gaetz, Stephen & Redman, Melanie (2015) "A prevention-Based Approach to Youth Homelessness" *Trinity College, Dublin*. Dublin, Ireland. June 25th, 2015

Redman, Melanie & Gaetz, Stephen (2015) "Reimagining our Response to Youth Homelessness" *Trinity College, Dublin; Focus Ireland*. Dublin, Ireland. June 24th, 2015

Gaetz, Stephen & Redman, Melanie (2015) "Reimagining our Response to Youth Homelessness" *Raikes Foundation / Champion Foundation meeting*. Seattle WA., June 4th, 2015

Redman, Melanie & Gaetz, Stephen (2015) "A Way Home – Supporting Community and Government Planning" *Raikes Foundation / Champion Foundation meeting*. Seattle WA., June 4th, 2015

Gaetz, Stephen & Redman, Melanie (2015) "Addressing Homelessness through Community Planning" *Yellowknife Community Forum*. Yellowknife NWT., May 14th, 2015

- Gaetz, Stephen (2015) "Reimagining our Response to Youth Homelessness" *Catherine Donnelly Foundation Meeting*. Toronto, ON., May 28th, 2015
- Gaetz, Stephen (2015) "Reimagining our Response to Youth Homelessness" *Funders Together Meeting*. Boston, MA. May 6th, 2015
- Gaetz, Stephen (2015) "Preventing Youth Homelessness through school-based initiatives" *Working Upstream - Preventing Youth Homelessness through School-Linked Services*. Canadian Observatory on Homelessness Toronto, ON. April 24th, 2015
- Gaetz, Stephen (2015) "Oh Canada! Understanding homelessness and the Canadian response" *Toronto Public Library*. Toronto, ON. April 21st, 2015
- Gaetz, Stephen (2015) "10 things I've learned about Youth Homelessness" Samuel W. Shaw School. Calgary, AB. April 17th, 2015
- Gaetz, Stephen (2015) "Canadian Definition of Homelessness" Ontario Advisory Panel on Homelessness. Toronto, ON. March 15, 2015
- Gaetz, Stephen (2015) "Canadian Point-In-Time Count – Methodology and Toolkit" Hamilton Aboriginal Homelessness Symposium. Toronto, ON. March 27, 2015
- Gaetz, Stephen (2015) "Canadian Point-In-Time Count – Methodology and Toolkit" COH / Homeless Hub. Toronto, ON. March 24, 2015
- Gaetz, Stephen (2015) "Canadian Definition of Homelessness" Ontario Advisory Panel on Homelessness. Toronto, ON. March 15, 2015
- Gaetz Stephen (2015) "Taking a Human Rights Approach to Youth Homelessness". *FEANTSA Youth Homelessness Network Meetings*. Strasbourg, France. March 10, 2015
- Gaetz, Stephen (2015) "Ending Youth Homelessness" Ministry of Municipal Affairs and Housing, Province of Ontario. Toronto, ON. March 4, 2015.
- Gaetz, Stephen (2015) "Understanding Constellations of Activity" Mobilizing Local Capacity meeting. Toronto, ON. March 3, 2015.
- Gaetz, Stephen, Pollett, Sheldon (2015) "Coalition to End Youth Homelessness: Coalition Structure" Mobilizing Local Capacity meeting. Toronto, ON. March 3, 2015.
- Gaetz, Stephen, Pollett, Sheldon (2015) "The Vision: Coalition to End Youth Homelessness:" Mobilizing Local Capacity meeting. Toronto, ON. March 3, 2015.
- Gaetz, Stephen. (2015) "Homelessness in Canada. What do we know, what can we do?" *Toronto Public Library*. Toronto, ON, February 26, 2015.
- Gaetz, Stephen (2015) "Oh Canada! Understanding homelessness and the Canadian response." Toronto Public Health. Toronto, ON. February 25, 2015.
- Gaetz, Stephen (2015) "*Knowledge Mobilization and Design Thinking: Towards enhancing the impact of research on policy and practice*". Graduate program in Education, February 4th, 2015

- Gaetz, Stephen (2015) *Towards an IGH Web Presence*", Institute of Global Homelessness meeting. London, UK. January 27, 2015
- Gaetz, Stephen (2015) *"Oh Canada! Lessons from the Canadian Response to Homelessness"*, University College Cork, City of Cork, Cork Ireland. January 20, 2015
- Gaetz, Stephen (2015) *"Canadian Point in Time Counts – Methodology and Toolkit"*, Ottawa Alliance to End Homelessness. Ottawa, ON. January 12, 2015
- Gaetz, Stephen (2014) *"The State of Homelessness in Canada 2014"*, City of Toronto Affordable Housing Office. Toronto, ON. December 3rd, 2014
- Gaetz, Stephen (2014) *"Canadian Observatory on Homelessness – Research Agenda"*, Newfoundland Housing and Homelessness Network. St. John's, Nfld. December 5th, 2014
- Gaetz, Stephen (2014) *"Towards a Strategy to End Youth Homelessness"*, Newfoundland Housing and Homelessness Network. St. John's, Nfld. December 4th, 2014
- Gaetz, Stephen (2014) *"Youth Homelessness – What do we know? What do we need to do?"*, Newfoundland Housing and Homelessness Network. St. John's, Nfld. December 3rd, 2014
- Gaetz, Stephen (2014) *"Acuity Assessment and Housing First for communities"* Newfoundland Housing and Homelessness Network. St. John's, Nfld. December 3rd, 2014
- Gaetz, Stephen (2014) *"Canadian Point in Time Counts: Methodology and Toolkit"* Newfoundland Housing and Homelessness Network. St. John's, Nfld. December 3rd, 2014
- Gaetz, Stephen (2014) *"Leaving Home: Youth Homelessness in York Region"* United Way York Region. Aurora, ON November 27th, 2014
- Gaetz, Stephen (2014) *"Housing First in Canada – Is it the solution?"* ACTO National Housing Day Symposium. Toronto, ON. November 20th, 2014
- Gaetz, Stephen (2014) *"A Research agenda for Ending Youth Homelessness"* National Learning Community on Youth Homelessness Meeting. Montreal, Quebec. November 20, 2014.
- Gaetz, Stephen (2014) *"An End to Youth Homelessness"* Re-Imagining Youth Homelessness in Ottawa. Youth Services Bureau, Ottawa. November 17th, 2014
- Gaetz, Stephen (2014) *"A Prevention Framework for Youth Homelessness"* Re-Imagining Youth Homelessness in Ottawa. Youth Services Bureau, Ottawa. November 17th, 2014
- Gaetz, Stephen (2014) *"Preventing Youth Homelessness"* Attacking Rural Homelessness in Lanark County. Perth, Ontario. October 20, 2014
- Gaetz, Stephen (2014) *"The Real Cost of Homelessness"* Victoria Chamber of Commerce. Victoria, BC. October 16, 2014
- Gaetz, Stephen (2014) *"Coming of Age – Addressing Youth Homelessness"* Vancouver Foundation Community Meeting. Vancouver, BC. October 15, 2014

Gaetz, Stephen (2014) "Housing First, What's Next?" *Community Legal Clinic of York Region*. October 1, 2014.

Gaetz, Stephen (2014) "Housing First in Canada" *RENT – Training day on Housing First*. September 22, 2014.

Gaetz, Stephen (2014) "The Kids Aren't Alright: Understanding Youth Homelessness in Winnipeg" *Winnipeg Chamber of Commerce*. Winnipeg, Mn., September 4, 2014

Gaetz, Stephen (2014) "Making A Difference – The role of financial institutions" *Assiniboine Credit Union community meeting*. Winnipeg, Mn., September 4, 2014

Gaetz, Stephen (2014) "A Safe and Decent Place to Live - Care, respect and dignity in responding to the needs of homeless youth" *RAY community meeting*. Winnipeg, Mn., September 3, 2014

Gaetz, Stephen (2014) "Youth Homelessness 101: What are the causes and conditions?" *RAY community meeting*. Winnipeg, Mn., September 3, 2014

Gaetz, Stephen (2014) "Getting Ready for Housing First". *Community meeting*, Fredericton, New Brunswick, June 25, 2014

Gaetz, Stephen (2014) "Understanding Housing First". *Community meeting*, Fredericton, New Brunswick, June 25, 2014

Gaetz, Stephen (2014) "A Safe and Decent Place to Live: Care, respect and dignity in responding to the needs of homeless youth." *Harris Centre*, St. John's Newfoundland. June 16, 2014

Gaetz, Stephen (2014) "Trends in Homelessness in Canada" *Community meeting*, St. John's Newfoundland.

Gaetz, Stephen (2014) Host: Cafe Scientifique "Ending Homelessness Through Housing First: Lessons Learned from the Toronto Site of the At Home/Chez Soi Project" *MHCC At Home/Chez Soi - Toronto Site* Centre for Social Innovation. Tuesday, April 29th, 2014

Gaetz, Stephen (2014) "State of Homelessness in Canada." *York Region Human Services Planning Board meeting*. April 15, 2014

Gaetz, Stephen (2014) Host: Panel of key participants. *Mental Health Commission of Canada, official launch of the final report on the At Home/Chez Soi project*. Ottawa: April 8, 2014

Gaetz, Stephen (2014) Panel participant: *The Aging Homeless: Best Practices for End of Life Care* Panel Discussion. Li Ka Shing Knowledge Institute St. Michael's Hospital, Toronto. March 25, 2014

Gaetz, Stephen (2013) "The Role of Research in Addressing Homelessness". *Ministry of Municipal Affairs and Housing*, Toronto, ON. November 28, 2013.

Gaetz, Stephen (2013) "Reimagining Our Response to Youth Homelessness" *Covenant House*, Toronto, ON, October 27, 2013

Gaetz, Stephen (2013) "Youth Homelessness in York Region. United Way of York Region. Markham, ON. October 25, 2013

Gaetz, Stephen (2013) "Making Research Matter! How Research Can Contribute to Ending Homelessness", *Aboriginal Homelessness Research Network meeting*, Calgary, AL, October 18, 2013

Gaetz, Stephen (2013) "Canadian Homelessness Research Network: Sustaining Complex Partnerships" *SSHRC Partnership Grant Start-up Meeting*, Montreal, Que, October 16, 2013

Gaetz, Stephen (2013) "Making Research Matter! How Research Can Contribute to Ending Homelessness." *Homelessness Partnering Strategy – National Workshop on Housing First*. Ottawa, ON, October 4, 2013

Gaetz, Stephen (2013) "The State of Homelessness in Canada". *Municipality of Kitchener-Waterloo*. Waterloo, ON., Oct. 3, 2013

Gaetz, Stephen (2013) "Ending youth Homelessness – Approaches, Successes and Challenges". *Homeward Trust Community Meeting*, Edmonton. September 6, 2013

Gaetz, Stephen (2013) "The Victimization of Homeless Youth: Crime, Violence and Policing". *Ontario Ministry of Municipal Affairs*. Toronto. February 7, 2013

Gaetz, Stephen (2013) "The Real Cost of Homelessness", *Community Forum*, Uxbridge Ontario. February 6, 2013

Gaetz, Stephen (2013) "Supporting Transitions to Adulthood: The Foyer". *City Seminar*, York University. January 11, 2013

Gaetz, Stephen (2012) "Reimagining Or Response to Youth Homelessness". *United Way, York Region*. Markham. November 26, 2012

Gaetz, Stephen (2012) "The Real Cost of Homelessness: Can We Save Money and Do the Right Thing?" *Canadian Forum on Civil Justice*. November 22, 2012

Gaetz, Stephen (2012) "The Real Cost of Homelessness: Can We Save Money and Do the Right Thing?" *Peel Region*. November 9, 2012

Gaetz, Stephen (2012) "The Canadian Homelessness Research Network". *City of Toronto, Community and Recreation Committee*, September 19th, 2012

Gaetz, Stephen (2012) "What is the meaning of Social Profiling?" *Abused, Neglected, Arrested: Impact of social profiling of people who are homeless*. Hosted by the Wellesley Institute and the Sanctuary. Toronto, September 6, 2012

Gaetz, Stephen; O'Grady, Bill & Buccieri, Kristy (2012). "Can I See Your ID? Policing and the Criminalization of Youth Homelessness in Canada". Office of the Independent Police Review Director (Staff). Toronto, July 12, 2012.

Gaetz, Stephen; O'Grady, Bill & Buccieri, Kristy (2012). "Can I See Your ID? Policing and the Criminalization of Youth Homelessness in Canada". Office of the Independent Police Review Director (Board of Directors). Toronto, June 25, 2012.

Gaetz, Stephen (2012). "Making Research Matter: the Canadian Homelessness Research Network" *Graduate Program in Education Winter Colloquium: Engaged Scholarship – Research Impact on Solutions to Homelessness*. York University, Toronto. Thursday, March 29, 2012

Gaetz, Stephen (2012). "Thinking about knowledge mobilization and engaged research. Lessons from the Canadian Homelessness Research Network" *EDU / LAPS / YorkU Libraries, Research Support Series "Knowledge co-creation and knowledge mobilization"* York University, Toronto, ON. March 20, 2012

Gaetz, Stephen (2012). "Research on Youth Homelessness and Policing". *Hot Spot Youth and Policing Roundtable Meeting*. Toronto, ON. February 27, 2012

Gaetz, Stephen (2011) "Mobilizing Homelessness Research" Toronto: 4th Annual CHRN National Advisory Body meeting. October 8, 2011

Gaetz, Stephen (2011) "Reimagining our Response to Youth Homelessness: A Canadian and Global Perspective". *Greater Victoria Coalition to End Homelessness*. Victoria, BC. July 6, 2011

Gaetz, Stephen & Michaela Hynie (2011) "Understanding Program Evaluation for the Homelessness Sector". Toronto: City of Toronto. May 26, 2011

Gaetz, Stephen (2011) "Family Matters! Homeless youth and Eva's Initiatives "Family Reconnect" Program". Toronto: Eva's Initiatives. April 10, 2011

Gaetz, Stephen (2010) "Homelessness Partnering Secretariat and the Canadian Homelessness Research Network Meeting" Homelessness PAertnering Secretariat, Ottawa, January 18, 2011

Gaetz, Stephen & Bill O'Grady (2010) "Surviving Crime and Violence – Street Youth and Victimization in Toronto" Justice for Children and Youth meeting. Toronto October 23, 2010

Gaetz, Stephen (2010) "Poverty Reduction, Homelessness and Affordable Housing" Province of Ontario Lunch and LearnToronto, June 28, 2010

Gaetz, Stephen (2010) "Responding to Homelessness – Distributed Leadership as a solution?" City of Toronto, Toronto, June 25, 2010

Gaetz, Stephen & Bill O'Grady (2010) "Surviving Crime and Violence" Community town hall. Toronto. June 17, 2010

- Gaetz, Stephen (2009) "Thinking about Poverty, Pandemics and Homelessness"
Departmental Research Seminar, Department of Anthropology, York University, Toronto,
October 15, 2009
- Gaetz, Stephen (2008). *Ending Homelessness: Innovation and Research*. SHIFT: Sharing
Homelessness Innovation for Toronto. City of Toronto. October 15, 2008
- Gaetz, Stephen (2007). *The Homeless Hub – Mobilizing Research on Homelessness*.
CMHC National Housing Research Committee. Ottawa, Ontario. October
- Gaetz, Stephen (2007). *Homeless Youth*. KM in the AM - Knowledge Mobilization
Breakfast. Markham, Ontario. September
- Gaetz, Stephen (2005). *Working with Homeless Youth*. Children and Youth “At Risk”
Conference, York University.
- Gaetz, Stephen (2003). *Street youth, Children’s Services and Access to Protection*. Helping
Children Who Live in Toxic Situations - Conference sponsored by the American
Orthopsychiatric Association and the Sparrow Lake Alliance. Toronto, Ontario. October
- Gaetz, Stephen (2003). *Street Justice: Working with Youth who are Homeless*. Building on
successes: An agency forum on homelessness - Conference sponsored by the City of
Toronto and HRDC Canada. Toronto, Ontario. February
- Gaetz, Stephen (2003). *Building Bridges: Street Youth and the Police*. Common Cause:
Youth Safety in the City - Conference sponsored by the City of Toronto. Toronto, Ontario.
January
- Gaetz, Stephen (2002). *Youth Leadership: Including Street youth in the Development of
Health Promotion Materials*. Westview Project 10th Anniversary Conference. Toronto,
Ontario. September
- Gaetz, Stephen (1999). *Planning and Developing Dental Services for Marginalized
Populations*. Rexdale Community Health Centre. Toronto, Ontario. September
- Gaetz, Stephen (1999). *Working with Street Youth in Toronto*. Eva’s Place Annual
General Membership Meeting. Toronto, Ontario. May
- Gaetz, Stephen (1998). *Developing a Strategy for Street Youth Employment*. Planning in
Health Promotion and Population Health Workshop on the Social Services System.
University of Toronto.
- Gaetz, Stephen (1998). *Thinking about Street Youth and Health Care*. Faculty of
Medicine, University of Toronto. April
- Gaetz, Stephen (1998). *Working with Street Youth*. Faculty of Social Work, University of
Toronto. May
- Gaetz, Stephen (1997). *Health Issues of Street Involved Youth*. Canadian Mental Health
Association. Toronto, Ontario.

Gaetz, Stephen (1997). *Health Issues of Street Involved Youth*. Hospital for Sick Children. Toronto, Ontario.

Gaetz, Stephen (1996). *Planning a Dental Service for Street Youth*. Central Toronto Dental Hygienist's Society. Toronto, Ontario. November

Gaetz, Stephen (1996). *Planning a Dental Service for Street Youth*. Newmarket: York Region Dental Hygienist Society. Newmarket, Ontario.

Gaetz, Stephen (1996). *Developing Health Promotion Materials with Street Youth*. Planning in Health Promotion and Population Health Workshop, University of Toronto. Toronto, Ontario.

Gaetz, Stephen (1996). *Planning a Dental Service for Street Youth*. Faculty of Dentistry Student's Association. University of Toronto.

Gaetz, Stephen (1995). *Planning a Dental Service for Street Youth*. Durham Dental Hygiene Component Society. Oshawa, Ontario.

Gaetz, Stephen (1995). *Planning a Dental Service for Street Youth*. Halton Peel Dental Hygienist's Society. Mississauga, Ontario.

Gaetz, Stephen (1995). *Planning a Dental Service for Street Youth*. Halton-Peel Dental Nurses and Assistants Association. Mississauga, Ontario.

Gaetz, Stephen (1995). *Oral Health of Street Youth*. Toronto Academy of Dentistry (central). Toronto, Ontario.

Gaetz, Stephen (1995). *Planning a Dental Service for Street Youth*. Toronto North Dental Hygienist's Society. Toronto, Ontario.

Gaetz, Stephen (1995). *Planning a Dental Service for Street Youth*. Central Toronto Dental Hygienist's Society. Toronto, Ontario.

Gaetz, Stephen (1995). *Providing Health Services for Street Youth*. Hospital for Sick Children. Toronto, Ontario.

Gaetz, Stephen (1995). *The Oral Health Needs of Street Youth*. Ontario Dental Association. Toronto, Ontario.

Gaetz, Stephen (1994). *Working with Street Youth*. Series of 6 workshops presented to Metro Toronto Police, 52 Division. Toronto, Ontario.

Gaetz, Stephen (1994). *Outreach to Straight Male Youth*. Paper presented at the "Get Down to it; Conference on Youth Health Issues", City of Toronto, Department of Public Health. Toronto, Ontario.

Gaetz, Stephen (1994). *Street Youth and Health Care*. East York Department of Public Health. Toronto, Ontario.

Gaetz, Stephen (1992). *Reaching Males through Family Planning Clinics*. East York Department of Public Health. East York, Ontario.

Webinars

- Gaetz, S., Redman, M. (2020). *The Role of Research in Youth Homelessness and Prevention: Presentation to the LivEx Network*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/418446312>
- Redman, M., Gaetz, S., Baab, C. H., Huys, J., Vandergrift, K. (2018). *Putting UN General Comments 21 on Children in Street Situations to Work for Canadian Children and Youth!* Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/320579465>
- Gaetz, S., Redman, M., Schwan, K., & French, D. (2018). *The Roadmap for the Prevention of Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.youtube.com/watch?v=7uKcpIMBygl>
- Gaetz, S., Turner, A., Elliott, D., & Reilly, J. (2018). *Homeless-Serving System Governance and the HPS Renewal*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/298453641>
- Gaetz, S., Redman, M., & Ali, N. (2018). *Without a Home - 2nd National Survey on Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/269522436>
- Redman, M., Gaetz, S., Turner, A. (2018). *Systems Planning 101 Webinar - Building Systems Capacity*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/269525431>
- Gaetz, S., Redman, M. (2018). *THIS is Housing First for Youth: A Program Model Guide Webinar*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/269529941>
- Gaetz, S., Redman, M., Buchnea, A. (2018). *Getting Ready: Without a Home 2019 Guide for Participating Agencies*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/306444255>
- Gaetz, S., Redman, M. (2017). *A New Direction: A Framework for Homelessness Prevention Webinar*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/218991959>
- Gaetz, S., Redman, M. (2017). *Introducing new protections services for 16-17 year old youth in Ontario: Impacts and opportunities for youth service providers*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/269533266>
- Gaetz, S., Redman, M. (2017). *Collective Impact and Youth Homelessness Community Planning*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://youtu.be/MMnggSezNmY>

- Gaetz, S., O'Grady, B., Kidd, S., & Schwan, K. (2016). *Without a Home: The National Youth Homelessness Survey Webinar (Nov 18)*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/269522436>
- Redman, M., Gaetz, S. (2016). *Launch of a Proposal for Federal Reinvestment in Youth Homelessness (April 13)*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/162783375>
- Gaetz, S., Pollett, S., McMillan, L. (2015). *A Way Home: A New Coalition to Prevent, Reduce and End Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/143613851>
- Gaetz, S., Jackson, N., Czech, W., & Turner A. (2015). *Using Point-in-Time Counts to Measure Progress Towards Ending Homelessness Webinar*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/124415829>
- Gaetz, S., Coffey, M., MacKenzie, D. (2015). *Working Upstream: Preventing Youth Homelessness Through School-Linked Service Models – Part 1*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/130210235>
- Gaetz, S., Coffey, M., MacKenzie, D. (2015). *Working Upstream: Preventing Youth Homelessness Through School-Linked Service Models – Part 2*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/130438273>
- Gaetz, S., MacDonald, J., McKittrick, M., Morton, E. (2014). *Webinar: Coming of Age: Reimagining the Response to Youth Homelessness in Canada*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/89446604>
- Gaetz, S. (2014). *Webinar: A Safe and Decent Place to Live: Towards a Housing First Framework for Youth*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/92675319>
- Gaetz, S., Doberstein, C., Belanger, Y., MacDonald J., Bellot, C. (2014). *Launch of the Canadian Observatory on Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press.
- Abramovich, A., Tarasuk, V., Dachner, N., & Gaetz, S. (2013). *Book Launch: Youth Homelessness in Canada*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/65264084>
- Gaetz, S. (2011). *Can I see your ID? Policing and the criminalization of youth homelessness in Toronto*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://vimeo.com/31793667>

Book Reviews

Gaetz, Stephen (2013) Kristina E. Givson (2011) "Street Kids – Homeless Youth, Outreach and the Policing of New York's Streets." *European Journal of Homelessness* , Volume 7, No.

2, December 2013: 439-443

Gaetz, Stephen (2011) MaryEllen Hombs "Modern Homelessness". European Journal of Homelessness: Volume 5, Issue 2 (December 2011): 241-243

Curriculum Materials

Gaetz, Stephen (2009). "Homelessness Curriculum for Teachers and Students".
<http://homelesshub.ca/Education/>

I directed the development of this resource centre for educators and students interested in exploring the issue of homelessness through a variety of subject areas. Assisted teachers in preparing the following curriculum units: "An Integrated Unit for Elementary School; Exploring Homelessness through the Artist's Hands; Integrating Homelessness Issues into Family / Social Studies; Integrating Homelessness Into Civics Classes; The Study of Homelessness in English and Media Class; Understanding Homelessness Through Drama.

In addition, I also authored supporting resources for teachers and students on the following topics:

- What is Homelessness?
- Who are Homeless People?
- Who are Street Youth?
- Why do Young People Become Homeless?
- Why do Street Youth Panhandle?
- Do Homeless Youth Get Enough to Eat?
- Attitudes about Homelessness

Blog posts

Gaetz, S., Redman, M. (2019). *Announcing the Launch of Making the Shift!* Toronto, ON: Canadian Observatory on Homelessness Press.
<https://www.homelesshub.ca/blog/announcing-launch-making-shift>

Gaetz, S., Redman, M. (2019). *What's the Future of Homelessness Prevention? Adapting the Welsh "Duty to Assist" for Canada.* Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/whats-future-homelessness-prevention-adapting-welsh-duty-assist-canada>

Gaetz, S., Redman, M. (2019). *Reflections on Reaching Home, the Government of Canada's New Homelessness Strategy.* Toronto, ON: Canadian Observatory on Homelessness Press. homelesshub.ca/blog/reflections-reaching-home-government-canada's-new-homelessness-strategy

French, D., Gaetz, S., & Redman, M. (2019). *Youth continue to be outnumbered! Our response to the Federal Government's National Point-in-Time Count.* Toronto, ON:

Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/youth-continue-be-outnumbered-our-response-federal-government%E2%80%99s-national-point-time-count>

Gaetz, S., Redman, M. (2019). *The Making the Shift Lab in Action: 6 Months In*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/making-shift-lab-action-6-months>

Ferguson, C., Gaetz, S., & Redman, M. (2019). *Experiments in Paradigm Shifting: How Service Design Can Inform the Duty to Assist Policy*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/experiments-paradigm-shifting-how-service-design-can-inform-duty-assist-policy>

Gaetz, S. (2018). *It's time for a change: Report of the Advisory Committee on Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/it%E2%80%99s-time-change-report-advisory-committee-homelessness-0>

Gaetz, S., Redman, M. (2018). *Announcing the Launch of Making the Shift!* Toronto, ON: Canadian Observatory on Homelessness Press. <https://www.homelesshub.ca/blog/announcing-launch-making-shift>

Gaetz, S., Redman, M. (2017). *Towards a Canadian Youth Homelessness Data Dashboard*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/towards-canadian-youth-homelessness-data-dashboard>

Gaetz, S., Redman, M. (2017). *Announcing the Launch of Making the Shift!* Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/announcing-launch-making-shift>

Dej, E., Gaetz, S. (2017). *Looking Forward: Shifting Towards Homelessness Prevention*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/looking-forward-shifting-towards-homelessness-prevention>

Gaetz, S. (2016). *Let's Talk Housing & Prevention*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/lets-talk-housing-prevention>

Gaetz, S., Redman, M. (2016). *Towards an Ontario Strategy to End Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/towards-ontario-strategy-end-youth-homelessness>

Gaetz, S. (2016). *OF COURSE, we need a separate definition for youth homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/course-we-need-separate-definition-youth-homelessness>

Gaetz, S., Redman, M. (2016). *Opportunity Knocks: A Proposal for Federal Investment to Prevent and End Youth Homelessness*. Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/opportunity-knocks-proposal-federal-investment-prevent-and-end-youth-homelessness>

Gaetz, S. (2016). *Why is the harm reduction model so important?* Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/why-harm-reduction-model-so-important>

Gaetz, S. (2015). *What is homelessness?* Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/what-homelessness>

Gaetz, S. (2015). *Launch: Community Workspace on Homelessness.* Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/launch-community-workspace-homelessness>

Gaetz, S. (2015). *Let's do things differently! 'A Way Home' and the promise of ending youth homelessness.* Toronto, ON: Canadian Observatory on Homelessness Press. <http://homelesshub.ca/blog/lets-do-things-differently-%E2%80%98-way-home%E2%80%99-and-promise-ending-youth-homelessness>

Gaetz, Stephen (2014) [Ask the Hub - Are governments supportive of the harm reduction approach?](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Prevention](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Ask the Hub - Does Housing First “Leave Youth Behind”?](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Housing First CAN work for young people, but let's make sure we get it right](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Transitional Housing](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Discharge Planning for Hospitals and Mental Health Facilities](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Coordinated Assessment](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Outreach](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Transitions from Child Protection](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Ask the Hub - Can We End Youth Homelessness?](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Youth Homelessness](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Ask the Hub - What's new on the Homeless Hub?](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Discharge Planning – Health and Mental Health](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Harm Reduction](#) Toronto: Homeless Hub

Gaetz, Stephen (2014) [Solutions: Retooling Emergency Services](#) Toronto: Homeless Hub

- Gaetz, Stephen (2014) Solutions: Addressing Legal and Justice Issues Toronto: Homeless Hub
- Gaetz, Stephen (2013) The Debate is Over! Housing First Works! Toronto: Homeless Hub
- Gaetz, Stephen (2013) Addressing Youth Homelessness: Research Points the Way Toronto: Homeless Hub
- Gaetz, Stephen (2013) Things Need to Change Toronto: Homeless Hub
- Gaetz, Stephen (2012) Creating Research Impact - How We Make Homelessness Research Matter Toronto: Homeless Hub
- Gaetz, Stephen (2012) Foyers give young people a safe and decent place to live, learn and grow Toronto: Homeless Hub
- Gaetz, Stephen (2012) Youth Homelessness and Labour Market Integration Toronto: Homeless Hub
- Gaetz, Stephen (2012) Canada now has a shared definition of homelessness – but, do we even need one? Toronto: Homeless Hub
- Gaetz, Stephen (2012) New Canadian Alliance to End Homelessness will make an impact! Toronto: Homeless Hub
- Gaetz, Stephen (2011) The rich get richer and the homeless get fined Toronto: Homeless Hub
- Gaetz, Stephen (2011) Solving youth homelessness in Canada Toronto: Homeless Hub
- Gaetz, Stephen (2011) Feed the homeless at own risk... Toronto: Homeless Hub
- Gaetz, Stephen (2011) Can housing first work if there isn't enough affordable housing? Toronto: Homeless Hub
- Gaetz, Stephen (2010) Jail is not a solution for our homelessness problem Toronto: Homeless Hub
- Gaetz, Stephen (2010) Does the right to protection from crime and violence apply to all youth ... even homeless youth? Toronto: Homeless Hub
- Gaetz, Stephen (2010) Should we give money to panhandlers? Toronto: Homeless Hub
- Gaetz, Stephen (2010) The beginnings of a Leadership Academy Toronto: Homeless Hub

5. PROFESSIONAL SERVICES

Conference Organizing Committee

- 2013 *International Homelessness Research Conference*, Philadelphia, June 3, 2013
- 2010 *Repenser l'itinérance. Défis théoriques et méthodologiques. Rethinking*

Homelessness. Theoretical and Methodological Challenges. (Organizing Committee) UQAM, Montreal, October 27-30

- 2004-05 *Canadian Conference on Homelessness: Stories, Research, Solutions* (Chair) York University, 2005.
- 1995 *Other Young Lives Conference on Lesbian, Gay and Bisexual Youth*, Toronto, February, 1995.
- 1994 *Get Down to it! Conference on Youth Health Issues*, City of Toronto, Department of Public Health, November, 1994.

Editorial Board:

- 2006 Guest Editor: Special Issue on Homelessness - *Canadian Review of Social Policy*, 2006, No. 58
- 2008-09 Editorial Board – Finding Home book project (David Hulchanski, PI)

6. PUBLIC APPEARANCES

Press (newspaper, television and radio) (*selected – stopped tracking in 2015)

- 2015 “Unstoppable real estate market displaces Beatrice House shelter”. Denise Balkissoon. *The Globe and Mail*. June 19, 2015
- 2015 “Five years of Hamilton police ACTION team: How is it working?” Nicole O’Reilly, *Hamilton Spectator*. May 26, 2015
- 2015 “Counting the homeless: What’s the point of Point-in-Time?” Mark Rendell, *EDGE*, May 21, 2015
- 2015 “Homeless killings, assaults highlight the perils of life on the streets”. John Hembrey, *CBC News*. May 5, 2015
- 2015 “A national housing strategy: Without one Calgary suffers”. James Wilt. *Rabble.ca* April 30, 2015
- 2015 “Street people susceptible to violent crime” Kathleen Saylor. *Winnipeg Free Press*. April 28, 2015
- 2015 “From burnings to beatings, homeless people face violence on the streets”. Michael Tutton. *CTV News*. April 26, 2015
- 2015 “Toronto legal clinic helps homeless fight unpayable ‘nuisance’ tickets” Toronto legal clinic helps homeless fight unpayable ‘nuisance’ tickets” Laurie Montsebratten, *Toronto Star*, Mar 9, 2015

- 2015 "Homelessness – Hardly home free" Debora Van Brenk. London Free Press. February 9th, 2015
- 2015 "Toronto experts advise Ontario on how to end homelessness" Laurie Montsebratten, *Toronto Star*, February 9, 2015
- 2015 "Toronto seized under 11th extreme cold alert this winter." Daily Times. Jan 31, 2015
- 2015 "Suburban homelessness is a problem often neglected in Toronto" , Markus Gee, *The Globe and Mail*, Jan 14, 2015
- 2015 "Hamilton activists push Liberals to scrap panhandling laws", Teviah Moro, *Hamilton Spectator*, Jan 6, 2015
- 2014 "Safe Streets Act should be repealed" *CBC Toronto*. December 15, 2014
- 2014 "Panhandling tickets saddle Toronto's homeless with debt: York professor" *Metro* (Toronto). December 15, 2014
- 2014 "Michael Bryant urges repeal of law that 'criminalizes homelessness'" *Toronto Star*. Toronto, ON., December 15, 2014
- 2014 "Repeal 'Rotten' Safe Streets Act, says former Ontario Attorney General" *Canadian Press*. Toronto. December 15, 2014
- 2014 "Expert optimistic N.L. can reduce youth homelessness" *The Telegram*. St. John's, Nfld. December 4, 2014
- 2014 "Momentum building for youth homelessness plan in York Region" *Yonge Street*. Toronto, December 3, 2014
- 2014 "'Housing First' the focus as homelessness experts meet in Ottawa (with video)." *Ottawa Citizen*, Ottawa ON. November 17, 2014
- 2014 "What would it cost to dramatically reduce homelessness? About \$46 per Canadian a year". *Ottawa Citizen*, Ottawa ON. October 29, 2014
- 2014 "Tory's focus on housing welcomed by national homelessness advocate". *York Guardian*, Toronto ON. October 30, 2014
- 2014 "\$46 more per Canadian per year can vastly cut homelessness, new report says", *Toronto Star*, October 29th, 2014
- 2014 "Tory's focus on housing welcomed by national homelessness advocate". *York Guardian*, Toronto ON. October 30, 2014
- 2014 "Homelessness groups want each Canadian to contribute Tory's focus on housing welcomed by national homelessness advocate". *York Guardian*, Toronto ON. October 30, 2014
- 2014 "Report tackles homelessness crisis", *Calgary Herald*, Oct. 29, 2014

- 2014 "Solving homelessness could cost you just \$46", Winnipeg Sun, Oct. 30, 2014
- 2014 "Study: Helping homeless won't break bank" Chronicle Herald, Oct. 30, 2014
- 2014 "Add \$46 a year per Canadian to housing budget, cut homelessness: report", Hamilton Spectator, Oct. 30, 2014
- 2014 "'\$106 A YEAR' ; Homelessness groups ask Canadians for help" Edmonton Sun, Oct. 30, 2014
- 2014 "Tory's focus on housing welcomed by national homelessness advocate" York Guardian, Oct. 30, 2014
- 2014 "Is \$46 per Canadian too much to spend?" Daily News Nanaimo, Oct. 30, 2014
- 2014 "Range of homelessness solutions needed" Times Colonist Oct. 30, 2014
- 2014 "Extra \$46 per Canadian could help homeless: study" Cape Breton Post, Oct. 30, 2014
- 2014 "Add \$46 a year per Canadian to housing budget, cut homelessness: report " St. John's Telegram, Oct. 30, 2014
- 2014 "Use surplus to aid affordable housing, report says", Guelph Mercury, Oct. 30, 2014
- 2014 "Groups want \$106 per Canadian to fight homelessness" The Sault Star; Pembroke Observer; The Owen Sound Sun Times; Niagara Falls Review; Northbay Nugget, Belleville intelligencer; Brockville Recorder and Times; Simcoe Reformer; Welland Tribute; Woodstock Sentinel Review; Stratford Beacon; Sudbury Star; Orilla Packet and Times Oct. 30, 2014
- 2014 "Study: Extra \$46 per Canadian could Reduce Homelessness" Blackburn News, Oct. 29, 2014
- 2014 "Extra \$46 per Canadian could help homeless: study " Caledon Enterprise, Oct. 29, 2014
- 2014 "Homelessness Report Out Today " BT Vancouver , Oct. 29, 2014
- 2014 "Groups want each Canadian to pay \$106 a year to reduce homelessness", Canoe, Oct. 29, 2014
- 2014 "Thunder Bay homeless shelters operating beyond capacity " CBC Thunder Bay, Oct. 29, 2014
- 2014 "Canadian homelessness: \$46 a person would help, report says" CBC, Oct. 29,
- 2014 "Add \$46 a year per Canadian to housing budget, cut homelessness: report" City News, Oct. 29, 2014
- 2014 "Report calls for increased investment in affordable housing", CTV, N.D.
- 2014 "Add \$46 a year for each Canadian to housing budget, cut homelessness: report",

- CTV Winnipeg, Oct. 29, 2014
- 2014 "Extra \$46 per Canadian could help homeless: study", Durham Region, Oct. 29, 2014
- 2014 "Add \$46 a year per Canadian to housing budget, cut homelessness: report", Edmonton Journal, Oct. 29, 2014
- 2014 "York research group releases report on homelessness in Canada", Excalibur, Nov. 12, 2014
- 2014 "Tackling homelessness is everyone's business" *Winnipeg Free Press*. Winnipeg, MN September 5, 2014
- 2014 "Homelessness is our problem too" *Winnipeg Free Press*. Winnipeg, MN September 30, 2014
- 2014 "Poverty Reduction Reboot" The Agenda. TVOntario, Sept 22, 2014
- 2014 "St. John's youth homelessness above national average" The Telegram. St. John's, Nfld, June 17, 2014
- 2014 "Helping Hidden Lives" The Agenda. TVOntario, Sept 22, 2014
- 2014 "'Housing First' approach may put homeless youth last, report warns" CTV news, April 21, 2014
- 2014 "Canada failing homeless youth, report charges" *Toronto Star*. Toronto, ON March 3, 2014
- 2013 "Canada's Homeless" CBC The National. June 19, 2013
- 2013 "Homelessness in Canada" CTV National. June 19, 2013
- 2013 "Canada Homelessness Study: 30,000 on the streets, in shelters on a given night" *Toronto Star*. June 20, 2013
- 2013 "Homelessness Affects 200,000 in Canada" Canadian Press story, in newspapers across the country. June 19, 2013
- 2013 "National report on homelessness says Alberta leads the fight" *Calgary Herald* June 19, 2013
- 2013 "Canada's Homeless" CBC Radio (four times, different communities) June 19, 2013
- 2013 "New Study 'Shatters Myths' of Homelessness in Toronto" *Metro Toronto*, January 10, 2013. Interviewer, Jessica Smith
- 2012 "Responding to youth homelessness" Radio Canada (television and radio). Montreal. November 15, 2012. Interviewer, Julie-Anne Lamoureux
- 2012 News1130 Radio, Vancouver. October 12, 2012. Interviewer, Renee Bernard.

- 2012 "Cities leading fight against homelessness may surprise you" News1130 Radio Newsletter, Vancouver. October 12, 2012. Interviewer, Renee Bernard.
- 2012 "Policing Toronto's Panhandlers". Toronto Sun. October 7, 2012. Writer, Simon Kent
- 2012 "Homelessness, Defined" Novae Res Urbis, October 5, 2012. Interviewer, Jake Tobin Garrett
- 2012 XFM News, Antigonish NS. October 3, 2012: Interviewer, Brittany Cavanagh
- 2012 "New Canadian research on costs of homelessness" The American Round Table to Abolish Homelessness. October 4, 2012. Issue XX
- 2012 CBC Yellowknife. October 3. Interviewer: Mark Winkler
- 2012 "The Current" – CBC News. September 28, 2012.
- 2012 Media Mornings, Vancouver's Co-op Radio 100.5 FM. September 27, 2012. Interviewer, Jane Bouey
- 2012 CBC News, Vancouver. September 27, 2012. Interviewer, Robert Zimmerman
- 2012 People First Radio, CHHLY, Nanaimo. September 27, 2012. Interviewer, Kevin Midbo
- 2012 CFAX 1070AM Interview Request, Victoria. September 25, 2012. Interviewer, Sonia Lowe
- 2012 "Housing homeless cheaper, more effective than status quo: study" Globe and Mail. September 24, 2012. Heather Scofield, Canadian Press/Globe and Mail
- 2012 "BC could learn from Alberta how to save on costs of homelessness: expert" Metro Vancouver. September 24, 2012. Interviewer: Kate Webb
- 2012 Regina Leader-Post. September 24, 2012. Interviewer: David Fraser
- 2012 AM 800 CKLW, Windsor. September 24, 2012. Interviewer, Rusty Thomson
- 2012 The Todd Veinotte Show. (Rogers Cable, Atlantic Canada) September 14, 2012. Reporter: Todd Veinotte
- 2012 As it Happens, (CBC) Toronto, September 14, 2012., Anchor Laura DiBatista
- 2012 "Critics say new definition of 'homeless' too broad, includes those only 'at risk'." National Post (front page). September 12, 2012. Writer, Tristin Hopper
- 2012 CBC Morning News, Whitehorse. May, 23, 2012
- 2011 "Conservatives quietly fund massive homeless housing pilot project – At Home/Chez Soi" Canadian Press. December 26, 2012. Writer, Heather Scofield.
- 2011 "Report says homeless youth are unfair police targets. Canadian Press / CTV

- News. November 10, 2011. Writer, Heather Scoffield.
- 2011 "Is the homeless veteran problem set to explode?" The Canadian Press, Nov. 7, 2011. Writer: Heather Scoffield
- 2011 "Time on the streets not easy for the uninitiated" Toronto Sun. August 20, 2011. Writer, Terry Davidson
- 2011 "Poll calls for tougher panhandling laws" Canoe News. September 14, 2011. Writer: Jenny Yuen
- 2010 Metro Morning, Toronto, September 27, 2010, Anchor/Reporters: Matt Gallaway
- 2005 Canada Now (local) (CBLT-TV), Toronto, 20 May 2005, 06:32PM, Anchor/Reporters: Diana Swain, Christina Birak.
- 2005 MORNING NORTH (HR1) (CBCS-FM), SUDBURY, 18 May 2005, 06:32AM, Anchor/Reporters: MARKUS SCHWABE, RUTH REID.
- 2005 Metro Morning, Toronto, 18 May 2005, Anchor/Reporters: Andy Barrie, Martina Fitzgerald
- 2005 London News (CBCL-FM), 18 May 2005, Anchor/Reporters: Carrie McKee, Jean Carter
- 2005 Ottawa Morning (CBO-FM), Ottawa, 25 May 2005, 06:21AM, anchor/Reporters: Anthony Germain
- 1999 Guest on Metro Morning (CBC Radio). Topic: "Street Youth and Making Money".
- 1999 Guest on TVO Studio 2. Topic: "Safe Streets Act".
- 1998 Guest on TVO. Parent Connection. Topic: "Squeegee Kids".
- 1995 Guest on Metro Morning (CBC Radio). Topic: "Street Youth and Oral Health".
- * Note: I have not actively kept track of media contacts until this past year

7. FUNDING

Summary:

Research funding received as Principal Investigator: **\$46,461,458**

Research funding received as Co-Investigator or Partner: **\$6,599,836**

Program Evaluation Contracts: **\$1,049,791**

Total: \$54,111,085

Research Grants

- 2022 *The Canadian Observatory on Homelessness (COH) - Mobilizing Partnerships to Prevent and End Homelessness*
SSHRC Partnership Development Grant
Stephen Gaetz (Principal Investigator)
Amount: \$2,499,457.
- 2021 *Making the Shift – Youth Homelessness Demonstration Lab (extension)*
Social Development Partnership Program, Government of Canada
Stephen Gaetz (Co-Principal Investigator); Redman, Melanie, A Way Home Canada (Co-Principal Investigator)
Amount: \$3,700,000
- 2021 *Designing Canada's long-term affordable housing approach*
SSHRC Partnership Development Grant
Stephen Gaetz (Co-Applicant); Abe Oudshoorn, Western University (Principal Investigator)
Amount: \$199,114
- 2021 *Beyond Agency: How does Knowledge Mobilization Advance Social Innovation in Communities?*
SSHRC Insight Development Grant
Stephen Gaetz (Co-Applicant); Jacqueline Sohn, York University (Principal Investigator)
Amount: \$50,000
- 2020 *Enhanced Surveillance for Chronic Disease Program (ESCDP) "Homelessness Counts"*
Public Health Agency of Canada - The Enhanced Surveillance for Chronic Disease
Stephen Gaetz (Co-Applicant); Cheryl Forchuk, Western University (Principal Investigator)
Amount: \$995,281
- 2020 *Making the Shift – Youth Homelessness Demonstration Lab (extension)*

- Social Development Partnership Program, Government of Canada
Stephen Gaetz (Co-Principal Investigator); Redman, Melanie, A Way Home Canada
(Co-Principal Investigator)
Amount: \$3,800,000
- 2019 *Making the Shift – Youth Homelessness Demonstration Lab* (extension)
Social Development Partnership Program, Government of Canada
Stephen Gaetz (Co-Principal Investigator); Redman, Melanie, A Way Home Canada
(Co-Principal Investigator)
Amount: \$2,900,000
- 2019 *Interventions research in homelessness, housing, and health*
Foundation Grant – CIHR
Stephen Gaetz (Partner); Stephen Hwang, University of Toronto (Principal
Investigator)
Amount: \$3,972,033
- 2019 *Homelessness; Housing First; Social Service System Coordination*
SSHRC Partnership Development Grant
Stephen Gaetz (Partner); John Graham, UBC - Okanagan (Principal Investigator)
Amount: \$192,900
- 2019 *Working upstream to prevent and end youth homelessness: mapping existing policies
and practices to build better educational responses in Canada*
SSHRC Partnership Development Grant
Stephen Gaetz (Partner); Jacqueline Kennelly, Carleton University (Principal
Investigator)
Amount: \$199,550
- 2019 *Migration of People Experiencing Homelessness in Greater Toronto*
United Way of Greater Toronto
Stephen Gaetz (Principal Investigator)
Amount: \$30,000
- 2019 *Indigenizing Coordinated Access in Hamilton*
Hamilton Indigenous Community Advisory Body
Stephen Gaetz (Principal Investigator)
Amount: \$61,432
- 2018 *Making the Shift – A Youth Homelessness Solutions Impact Accelerator*
Networks of Centres of Excellence Program – Government of Canada
Stephen Gaetz (Co-lead applicant); Redman, Melanie, A Way Home Canada (Co-lead

- applicant)
Amount: \$17, 901, 337
#900-2018-202
- 2017 *Making the Shift – Youth Homelessness Social Innovation Lab*
Social Development Partnership Program, Government of Canada
Stephen Gaetz (Co-Principal Investigator); Redman, Melanie, A Way Home Canada
(Co-Principal Investigator)
Amount: \$7, 908, 405
- 2017 *Defining an End to Homelessness*
Homelessness Partnering Strategy, Employment and Social Development,
Government of Canada
Stephen Gaetz (Principal Investigator)
Amount: \$431,211
- 2017 *Point in Time Count toolkit and technical support*
Homelessness Partnering Strategy, Employment and Social Development,
Government of Canada
Stephen Gaetz (Principal Investigator)
Amount: \$126,149
- 2017 *Youth Homelessness Prevention Framework Consultation*
Home Depot of Canada Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$61,732
- 2016 *National Youth Homelessness Survey*
Home Depot of Canada Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$81,000
- 2016 *Housing First for Youth and Employment – Design Charet*
Home Depot of Canada Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$18,500
- 2016 *Computer simulation modeling to address homelessness*
Social Sciences and Humanities Research Council of Canada
Stephen Gaetz (Co-Investigator); Eric Latimer (McGill: Principal Investigator)
Amount: \$196,043

- 2016 *Enhancing the Influence of Engaged Scholarship*
Social Sciences and Humanities Research Council of Canada
Stephen Gaetz (Co-Investigator); Naomi Nichols (McGill: Principal Investigator)
Amount: \$69,933
- 2015 *Toolkits for Youth Homelessness Employment and Housing Programs*
Home Depot of Canada Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$35,000
- 2015 *Social Sciences and Humanities Research Council (SSHRC) Impact Award – Connection.*
Social Sciences and Humanities Research Council of Canada
Stephen Gaetz (Principal Investigator)
Amount: \$50,000
#780-2016-0009
- 2015 *Point-in-Time Homeless Count Training and Support for Designated Communities of the Homelessness Partnering Strategy*
Community Development and Homelessness Partnering Directorate, Government of Canada
Stephen Gaetz (Principal Investigator)
Amount: \$367,576
- 2014 *Understanding Youth Homelessness: A youth focused Point-in-Time methodology and toolkit*
Laidlaw Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$20,000
- 2014 *Inspiring Local Communities: Toolkits for developing innovative models of housing and support for homeless youth*
The Home Depot Canada Foundation
Stephen Gaetz (Principal Investigator)
Amount: \$35,000
- 2013 *The Canadian Observatory on Homelessness: Creating Policy Impact*
SSHRC Partnership Grant
Stephen Gaetz (Principal Investigator)
Amount: \$2,502,967
#895-2012-1012
- 2013 Transforming Treatment Services and Housing for People with Mental Illness in

- Canada: A Systems Approach to Integrated Knowledge Translation
 CIHR – Partnerships for Health Systems Improvement
 Stephen Gaetz (Co Investigator); Nelson, G., Stergiopolous, V., Goering, P. (Principal Investigators)
 Amount: \$194,970
- 2013 *York Symposium on Engaged Scholarship*
 SSHRC Connections Grant
 Stephen Gaetz (Principal Investigator)
 Amount: \$31,187
- 2013 *Housing First Promising Practices Case Studies*
 HRDC Homelessness Partnering Strategy
 Stephen Gaetz (Principal Investigator)
 Amount: \$60,000
- 2012 *Canadian Observatory on Homelessness*
 SSHRC Partnership Grant - Letter of Intent
 Stephen Gaetz (Principal Investigator)
 Amount: \$20,000
- 2012 *Knowledge Mobilization for housing and economic vulnerability*
 SSHRC Public Outreach Grant
 Stephen Gaetz (Principal Investigator)
 Amount: \$141,798
 #604-2011-0016
- 2012 *Navigating the Road to Reintegration*
 SSHRC Partnership Development Grant
 Stephen Gaetz (Co-Investigator); Bill O’Grady (Principle Investigator)
 Amount: \$198,960
- 2012 *Developing a Foyer: A Horizontal Pilot Project*
 HRDC Homelessness Partnering Strategy
 Stephen Gaetz (Principal Investigator)
 Amount: \$29,640
- 2011 *Youth Homelessness e-book project*
 HRDC Homelessness Partnering Strategy
 Stephen Gaetz (Principal Investigator)
 Amount: \$35,132
- 2011 *Promising Practices in the Homelessness Sector*

- HRDC Homelessness Partnering Strategy
 Stephen Gaetz (Principal Investigator) Michaela Hynie, Bernie Pauly, Daphne Winland, Jeannette Waegemakers-Schiff (co-investigators)
 Amount: \$84,920
- 2010 *Building Program Evaluation Capacity in the Homelessness Sector*
 HRDC Homelessness Partnering Strategy
 Stephen Gaetz (Principal Investigator)
 Amount: \$79,465
- 2010 *Responding to H1N1 in the Context of Homelessness in Canada*
 Canadian Institutes of Health Research
 Catalyst Grant: Pandemic Preparedness
 Stephen Gaetz (Principal Investigator)
 Amount: \$100,000
- 2009 *The provision of charitable food assistance in Canada: forging a more adequate response*
 Canadian Institutes of Health Research
 Stephen Gaetz, (co-investigator); Valerie Tarasuk, (principal investigator). Blake Poland, A. Hamelin, Alex Ostry, K. Raine, P.L. Williams
 Amount: \$ 314,521
- 2009 *Understanding Pandemic Preparedness in the Context of the Canadian Homelessness Crisis*
 Canadian Institutes of Health Research
 Catalyst Grant: Pandemic Preparedness
 Stephen Gaetz (Principal Investigator)
 Amount: \$100,000
- 2009 *Ending Homelessness: "What works and for whom?" A Knowledge Mobilization Partnership*
 Collaborative Faculty Incentive Grant
 York University / University of Victoria
 Stephen Gaetz, Bernie Pauly (Principal Investigators)
 Amount: \$30,000
- 2008 *Canadian Homelessness Research Network.*
 SSHRC Strategic Knowledge Cluster Program
 Stephen Gaetz (Principal Investigator)
 Amount: \$2,097,039
 #857-2007-0015

- 2008 *The Homeless Hub: A Knowledge Mobilization Project*
Homelessness Partnering Strategy
Human Resources & Social Development Canada
Stephen Gaetz (Principal Investigator)
Amount: \$90,420
- 2007 *Canadian Homelessness Knowledge Impact Initiative.*
Housing and Homelessness Branch
Human Resources & Social Development Canada
Stephen Gaetz (Principal Investigator)
Amount: \$145,371
- 2006 *Attending to social vulnerabilities in tuberculosis transmission: A synergistic model of qualitative and quantitative methods.*
SSHRC Research Initiative Grant
Stephen Gaetz (Principal Investigator)
Amount: \$40,000
- 2005 *Institutional Discharge and Homelessness: A Look at Canadian Corrections in the Public and Private Spheres*
National Homelessness Initiative National Research Program
Homelessness and Justice Domain
Stephen Gaetz, Bill O'Grady (Principle Investigators).
Amount: \$136,276
- 2004 *Canadian Conference on Homelessness:*
- National Homelessness Initiative (HRSD): \$225,000
- Canada Mortgage and Housing Corporation: \$49,000
- National Homelessness Initiative - Ontario Directorate: \$45,923
- Ontario Ontario Mental Health Foundation: \$25,000
- City of Toronto: \$15,000
- Wellesley Central Health Corporation: \$15,000
Total amount: \$375,923
- 2004 *A Pilot Study of Local Responses to the Food and Nutrition Needs of Homeless Youth.*
Canadian Institutes of Health Research:
Stephen Gaetz, Blake Poland (co-investigators); Valerie Tarasuk, (principal investigator).
Amount: \$98,294
- 2004 *Literature Review of Research on Homelessness in Canada.*
York Incentive Grant:
Stephen Gaetz (Principal Investigator).

Amount: \$5000

- 2003 *A Study of Community Responses to the Food and Nutrition Needs of Homeless People in Southeast Toronto.*
Wellesley Central Urban Health Grant Initiative:
Stephen Gaetz, Blake Poland (co-investigators); Valerie Tarasuk, (principal investigator)
Amount: \$50,000
- 2003 *Developing a Virtual Clearinghouse of Research on Homelessness.*
Wellesley Central Urban Health Grant Initiative:
Stephen Gaetz, Alice Broughton (Sherbourne Health Centre), Wengari Murkuri (Street Health).
Amount: \$15,000
- 2002 *Food: Nutritional Vulnerability and Social Exclusion among Homeless Youth.* Canadian Institutes of Health Research:
Stephen Gaetz, Blake Poland (co-investigators); Valerie Tarasuk, (PI).
Amount: \$227,758
- 1999 *Community Economic Development and Street Involved Youth*
Homeless Initiative Fund - City of Toronto / HRDC.:
Stephen Gaetz (Principal Investigator).
Amount: \$24,000

Program Evaluation Contracts 2016-19

Note that these contracts are with the Canadian Observatory on Homelessness and though in many cases I am listed as Principal Investigator, I may have had limited involvement with the projects.

2019	Penny Lane Evaluation. (Boys and Girls Clubs of Calgary)	\$20,340
2019	Program Review of Eva's Family Reconnect & Evaluation of YOUTH BelongProject (Eva's)	176,000
2019	ICM Evaluation (Homes First)	\$10,666
2019	Development of Survey and Outcome Measuring (Red Door Shelter)	\$10,412
2019	Evaluation of Supportive Training, Social Enterprise (Choice for Youth)	\$40,000
2019	Evaluation of YES Transitional Housing (Peterborough)	\$25,000
2018	Evaluation of LGBTQ Transitional Housing (EGALE)	\$80,875

2018	Host Homes evaluation (Raising the Roof)	\$49,998
2018	Bridging the Gap – Host Homes Evaluation (Raising the Roof)	\$50,000
2018	Evaluation of Youth Services Host Home Program (One Roof Hamilton)	\$105,321
2018	Evaluation of A Way Home Toronto (Covenant House)	\$35,500
2018	Family Homelessness (City of Toronto)	\$38,375
2018	Evaluation of Low Barrier Services (City of Toronto)	\$49,575
2017	EPIC Evaluation (City of Toronto)	\$57,533
2017	Outcomes Framework (Eva's Initiatives)	\$20,540
2017	Evaluation of Grants Program (HDCF)	\$19,057
2017	Evaluation of Hire Up (Impakt)	\$57,300
2017	CMHA TCM Evaluation (Ottawa Mission)	\$42,345
2016	Region of Peel	\$90,430
2016	St. John's	\$28,274
2016	Training and Technical Assistance Evaluation (Canadian Alliance to End Homelessness)	\$42,250

TOTAL REVENUE: \$1,049,791

Contract Research

- 2011 Towards a Canadian Definition of Homelessness
HRDC Homelessness Partnering Initiative
Stephen Gaetz (Principal Investigator).
Amount: \$8,000
- 2011 Plans to End Youth Homelessness in Canada - A Review of the Literature
Eva's Initiatives and Virgin Unite
Stephen Gaetz (Principal Investigator).
Amount: \$7,500
- 2001 *Street Involved Youth and Access to Justice.*
Justice for Children and Youth Foundation:
Stephen Gaetz (Principal Investigator).
Amount: \$30,000
- 1995 *Research on youth values in Toronto.*
Cultural Analysis Group, N.Y, N.Y.
Daphne Winland, Stephen Gaetz (Principal Investigators)
Amount: \$2400

- 1991 *Effectiveness of Refugee Sponsorship Programmes.*
 Employment and Immigration Canada
 Daphne Winland, Stephen Gaetz (Principal Investigators)
 Amount: \$5000

Travel/Development Grants

- 2004 Conference travel support: *Faculty of Education*, ORS (York University): \$1,700.00.
 Conference paper presentation "*An Urban Other: Street Youth and Criminal
 Victimization in Toronto.* Association of Canadian Studies in Ireland, Cork, Ireland
- 2002 Faculty of Education Minor Research and Development Grant: \$2500.00.
 Stephen Gaetz and Don Diplo (principal investigators). *TL Kennedy Research Project.*
- 2001 Faculty of Arts International Working Group - International Pilot Projects.\$6000.00.
 Stephen Gaetz and Penny Van Esterik (principal investigators). *Others in our Midst:
 Cross-Cultural Practices of Communicating about Cultural Differences.*
- 2001 SSHRC Small Research Grant: \$2500.00.
 Broken Promises The Educational Experiences of Homeless Youth in Toronto.

C. TEACHING

1. UNDERGRADUATE PROGRAMME

Courses Taught

2018	ED/EDFE 1101 3.0 Adolescent Development and Health. Course Director (Fall session)
2017	ED/EDFE 1101 3.0 Adolescent Development and Health. Course Director (Fall session)
2016	ED/EDFE 1101 3.0 Adolescent Development and Health. Course Director (Fall session)
2015	ED/EDFE 1101 3.0 Adolescent Development and Health. Course Director (Fall session)
2014	EDUC 3310 3.0 Adolescent Development and Health.
2012	EDUC 3310 3.0 The Adolescent and the Teacher.
2001-2006	EDUC 3310 3.0 The Adolescent and the Teacher (TL Kennedy site).
2001-2006	EDUC 3310 3.0 The Adolescent and the Teacher (Keele site).
2002	EDUC 3310 3.0 The Adolescent and the Teacher (Durham site).
2001-2003	ED/CMYR2400 3.0 Communication and the Education Process (TL Kennedy site).
2001-2003	ED/CMYR2400 3.0 Communication and the Education Process (Keele site).
1996 (winter)	ANTH 4210.03F Other Young Lives: Anthropology and Youth Cultures. York University.
1993-1994	ANTH 2010B.06 Anthropology of Youth Culture. York University.
1992 (fall)	ANTH 2000A.03 Anthropology of Youth Culture. York University.

2. GRADUATE PROGRAMME

2020	EDUC 5935 30. Understanding Youth Homelessness - <i>Its causes and conditions, and what we can do about it.</i> Course Director (Summer session)
2019	EDUC 5935 30. Understanding Youth Homelessness - <i>Its causes and conditions, and what we can do about it.</i> Course Director (Summer session)
2019	EDUC 5930 3.0 Engaged Scholarship: Bridging the gap between academia, policy and practice through <i>Knowledge Mobilization.</i> Course Director (Winter session)
2018	EDUC 5930 3.0 Engaged Scholarship: Bridging the gap between academia, policy and practice through <i>Knowledge Mobilization.</i> Course Director (Winter session)
2017	EDUC 5935 3.0. Understanding Youth Homelessness - <i>Its causes and conditions, and what we can do about it.</i> Course Director (Summer session)
2016	EDUC 5930 3.0 Engaged Scholarship: Bridging the gap between academia, policy and practice through <i>Knowledge Mobilization.</i> Course Director (Winter session)
2016	EDUC 5935 3.0 Understanding Youth Homelessness - <i>Its causes and conditions, and what we can do about it.</i> Course Director (Summer session)
2014	EDUC 5930 3.0 Engaged Scholarship: Bridging the gap between academia, policy and practice through <i>Knowledge Mobilization.</i>
2011 - 14	EDUC 5435 3.0 Studies of Adolescence and Cultural Experience
2006	EDUC 5435 3.0 Studies of Adolescence and Cultural Experience
2001-2006	EDUC 5430 3.0 Social Deviance, Resistance and Schooling.
2001	EDUC 5120 6.0 Theory and Research in Language, Culture and Teaching.

3. POST-DOCTORAL FELLOWS

Hart Walker (2021 – Present)

Karen Naidoo (2021 – Present)

Emmanuel Banchani (2021 – Present)

Ahmad Bonakdar (2021 – 2022)

Jackie Sohn (2019- present)

Meryl Burato (2018 – 2021)

Anika Mifsud (2018 – 2020)

Rachel Caplan (2018 – 2020)

Erin Dej (2016-2018)

Kaitlin Schwan (2017 – 2020)

Naomi Nichols (2014-2015)

4. GRADUATE SUPERVISION

Doctoral Programme Supervision and Committees

Supervision (Current)

Michael Kenney (2014-21) Faculty of Education

Committee Membership (Current)

Supervision (Completed)

Sabina Mirza (2012-21) *Exploring Schooling and Educational Attainment Through the Experiences of Homeless Youth*. Faculty of Education, York University

Amanda Noble (2012-2018) *Housing First and 'Ending' Youth Homelessness in the Neoliberal Era: A Case Study of the Infinity Project & Calgary's 10-Year Plan to End Homelessness*. Faculty of Education, York University.

Maria Lucia DiPlacito (2010-2015) *Campus Mental Health: Implications For Instructors Supporting Students*. Faculty of Education, York University.

Kristy Buccieri (2007-2012) *Caught Somewhere Between Public and Private: How Patriarchy, Heteronormativity and Neoliberalism Collude to Keep Homeless Youth In and Out of Place*. Faculty of Education, York University.

Committee Membership (Completed)

Jason Webb (2021) *Working for Citizenship in the Liminal Space - Social Reproduction in the Emergency Family Shelter System* Supervisor: Amber Gazso, Sociology, York University

Dustin Graham (2020) *Reclaiming student voices on school-based, mental health impacts: youth reflections, lived experiences and recommendations for transforming Ontario secondary schools*. Supervisor: Chloe Brushwood-Rose. Faculty of Education, York University.

Kathleen Worton (2018) *Knowledge mobilization for complex community interventions: Examining how peer learning strategies influence local implementation of Housing First*. Supervisor: Geoffrey Nelson. Department of Community Psychology. Wilfred Laurier University. Waterloo Ontario

Rebecca Houwer (2017) *Enacting justice-focused sustainabilities through community-engaged learning and action in postsecondary education: The NOISE for Social Change Project*. Supervisor: Steve Alsop, Faculty of Education

Lauren Joly (2017) *Understanding Romantic Relationships and Resilience Among Street-Involved Youth: A Quantitative and Qualitative Exploration*. Supervisor: Jennifer Connolly Clinical-Developmental Psychology, York University

Megan Sandhu (2016) *University-Community Partnerships: An Action-Humanities Approach to Addressing Homelessness*. Supervisor: Markus Reisenleitner. Faculty of Liberal Arts and Professional Studies. York University.

Kaitlin Schwan (2016) *Why Don't We Do Something? The Societal Problematization of "Homelessness" and the Relationship between Discursive Framing and Social Change*. Supervisor, David Hulchanski. Department of Social Work, University of Toronto.

Carrie Anne Marshall (2015) *Occupation, Homelessness, and the Transition to Becoming Housed in Chronically Homeless Persons in a Small Urban Context*. Supervisor: Rosemary Lysaght, Queens University

Michelle Wyndham-West (2014) *Is it worth the shot? Ontario women's negotiations of risk, gender and the Human Papillomavirus (HPV) Vaccine*. Supervisor: Naomi Adelson, Department of Anthropology, York University

Lisa Romano-Dwyer (2012) *"And I can get anyone into Hamlet." Using Humanities-Based Approaches After Expulsion for School Violence: A Hermeneutical Transformation of Safe Schools*. Supervisor: Alison Griffith. Faculty of Education.

Gregory Knoll (2012) *Stages of Change Training for Youth Outreach Workers: Bridging Research, Theory and Practice*. Graduate program in Psychology, York University

Naomi Nichols (2011) *All My Life I've Slipped Through the Cracks" The Social Coordination of "Youth Work"*. Faculty of Education, York University

Christopher Smith (2008). *A User's Guide to the City: "Juice Bars", 'Liquid Handcuffs' and the Disorder of Drugs*. Communications Studies, York University

Bronwyn Low (2001). *Spoken Word: Exploring the Language and Poetics of Hip Hop Popular*. Faculty of Education, York University.

Dean's Representative

Margaret Jean Mitchell (2002). *Roads, Restlessness and Relationships: An Urban Settlement in Post-Colonial Vanuatu*. Department of Anthropology, York University.

Internal / External Examiner

Lauren Joly (2018) *Understanding Romantic Relationships and Resilience Among Street-Involved Youth: A Quantitative and Qualitative Exploeration*. Graduate Program in Clinical Psychology. Supervisor: Jennifer Connolly

Geoff Sorge (2011) *Cognitive Abilities and Rational Thinking Variables as Predictors of Antisocial/Risky Behaviour*. Faculty of Health, York University.

Jim Steiben (2010) *Neurophysiological Mechanisms of Emotional Regulation for Subtypes of Externalizing Children*. Department of Psychology, York University

Anna Ning (1999). *Embodying the Myth of Healthiness: Conformity, Resistance and Complicity in Narratives of Addiction and Recovery*. Department of Anthropology, York University.

External Examiner

Darren Stonehouse (2021) *The Neoliberal Representation of Homelessness and its Alignment with Material Conditions and Lived Experiences in Victoria, Australia*. La Trobe University, Melbourne, Australia.

Jennifer Bell (2019) Solina Richter, Sarah Stahlke, Department of Nursing, University of Alberta

Heather M. Patterson. (2016) *Attachment Styles, Psychological Functioning, and Resilience Factors among Street-involved Youth: Describing Youth who Access Community Agency Support*. Department of Psychology. Memorial University of Newfoundland

Michelle Wyndham-West (2015) Sarah Benbow (2015) *Mothers Experiencing Homelessness: Social Exclusion, Resistance, and Health*. Nursing, Western University. December, 2015

Erin Dej (2015) *Seeking Inclusion in the 'Land of Broken Toys': Negotiating Mental Health Managerialism Among Homeless Men and Women*. Department of Criminology, Université d'Ottawa - University of Ottawa

Lorcan Patrick Byrne (2014) *Between Respectability and Disgrace: Schismogenesis & the Regeneration of Inequality, Stigma and Social Exclusion in Limerick*. University College Limerick, Ireland

Felicia Garcia (2013). *Coping and Suicide Amongst 'the Lads': Expectations of masculinity in post-traditional Ireland*. Department of Anthropology. University of Maynooth, Ireland

Abe Oudshoorn (2011) *Client-Provider Relationships in a Community Health Clinic for People Experiencing Homelessness: A Critical Ethnography*. Department of Nursing, University of Western Ontario

Dennis Staunton (2008). *The Occupational Benefits of Getting a University Degree Later in Life as a Mature Student*. Department of Applied Social Studies. University College Cork, Ireland

Masters Programme Supervision and Committees

Supervision (Current)

Sarah O'Connor – Public Policy

Committee Membership (Current)

Arnel Borrás – Health

Supervision (Completed)

Cody Samuelson (2021) *From Reaction to Action: The Kelowna Journey Home Systems Approach*. Development Studies, York University.

Rayna Slobodian (2019) *Rich and Poor Divide: How Portrayals of the Poor and Poverty in News Media Perpetuate Stigma and Inequality*. Faculty of Education, York University.

Bahen, Julia (2016) *Ending the Cycle: Incarceration, Reintegration, and Discharge Planning*. Faculty of Environmental Studies, York University

Isaac Coplan (2014) *Youth Homelessness in Ontario – Knowledge Mobilization, Systems*

Integration and Social Media to #EndYouthHomelessness. Faculty of Environmental Studies, York University

Marylou DiPlacito (2009) (M.Ed. Thesis) *A Parent's Journey, An Adolescent's Hardships: The Impacts of Parental Illness on Schooling*. Completed, November, 2009. Faculty of Education, York University

Jodi Barrett (2009). *Vital Links: Connecting Homeless Families with Education*. (M.Ed. Thesis). Completed, September, 2009. Faculty of Education, York University

Fatima Hussein (2008). *The Economic and Social Consequences of Mental Illness with Homelessness as a Demographic Index*. (MA, Thesis). Completed, September, 2008. Critical Disabilities Studies, York University.

Patricia Baird (2007) *The Need for a Harm Reduction Approach to Substance Use in Ontario Schools. Why the Message, 'Just Say No' to Drugs is Ineffective for Youth*. (M.Ed., MRP). Completed, April, 2007. Faculty of Education.

Tally Wolf (2007) *Starred Students at Teva* (M.Ed. Thesis). Completed, March 2007. Faculty of Education.

Ellen Walton (2007) *Sambos, Mandingos, and Gangstas in Toronto's Education System: Exploring Social Relations and the Impact of Identity and Black Masculinity in Schools*. (M.Ed., MRP). Completed, January, 2007. Faculty of Education.

Sharon McCleave (2006) *The Provision of Dental Care for Homeless Youth: Exploring an Educational Model of Service Learning for Dental Students*. (M.Ed. Thesis). Completed, December 2006. Faculty of Education.

Shelly Mediratta (2006) *Identity Abandonment: Trying to make sense of myself and the need for an anti-bias curriculum in Ontario A conceptualization of identity*. (M.Ed. Major Research Paper). Completed, September 2006. Faculty of Education.

Gemma Bose (2006) *Navigating the Educational System for Racial Minority Students and Racial Minority Teachers* (M.Ed. Major Research Paper). Completed, September 2006. Faculty of Education.

Chantal Tremblay (2006) *Leaving High School: On Becoming More Resilient to Verbal Abuse After the Adolescent Years*. (M.Ed: Major Research Paper). Completed, July 2006. Faculty of Education.

Jennifer Gee (2005) *Bigger isn't always better: Ideal school size and the Ontario Government's educational funding formula*. (M.Ed. Major Research Paper). Completed, October 2005. Faculty of Education.

Bitu Sarabi-Khosravi (2005) *Resistance and second language learning: reflections on possible 'resistant' acts in second language classrooms*. (M.Ed. Major Research Paper). Completed, September 2005. Faculty of Education.

Anne Pohl (2004) (co-supervisor with Celia Haig-Brown) *Opening Respectful Encounters with Inner City, At-Risk Youth in Toronto's Schooling Institutions*. (Thesis). Completed, September, 2004. Faculty of Education.

Maria Melessanakis (2004) *Paradise Envisioned is Seldom a Paradise Realized: The Perspectives of Teacher Candidates on the Impact of Professional Development Schools - A Literature Review and Canadian Case Study*. (Thesis). Completed, May, 2004. Faculty of Education.

Nancy Carvalho (2004). *The Over Representation of Young People with Learning Disabilities in Youth Detention Centres*. (Major Research Paper) Faculty of Education.

Brian Weinstock (2003). *Rethinking Mortadella: Progressing Toward a Critical Multicultural Pedagogy*. (Major Research Paper). Faculty of Education.

Committee Membership (Completed)

Veronica Lockyer (2021) *The Violence of Not Being Heard - Rural and Urban Youth, Differing and Similar Oppressive Obstacles*. Completed: December 2021. Supervisor: Theresa Holmes. Department of Anthropology, York University.

Meagan La Plante (2017) *Rapid Rehousing Practice at a Shelter for Homeless Youth*. Supervisor: Girah Bhatt, Royal Rhodes University, Victoria BC

Kathryn Hardill (2016) *That Look That Makes You Not Really Want to Be There: Health Care Experiences of People Who Use Illicit Opioids in Small Urban and Rural Communities - A Critical Social Theory Analysis*. Faculty of Health (Nursing) York University

Mary Choy (2014) *Re-Conceptualizing "Contributing": Homelessness and Unpaid Labour in a Neo-liberal Climate* Completed: November, 2015. Supervisor: Amber Gaszo, Sociology, York University

Tracey Methven (2012) *A Hub School – The Heart of a Community Conceived For and With Stakeholders of Keelestdale-Eglinton West*. (MRP). Completed, September 2012. Supervisor, Don Diplo, Education

Darlene Mooney (2012) *Crown Wards Leaving Care: A Stakeholders' Discussion of their Readiness*. (Thesis). Completed, January 2012. Supervisor, Naomi Norquay, Education

Lauren Joly (2011) *Evaluating Outreach Programs for Street Involved Youth: A Quantitative and Qualitative Review of the Research*. (Thesis) Completed, July, 2011. Supervisor, Jennifer Connolly, Psychology

Sabina Mirza (2010) *South Asian Celebrations in Adolescent and Children's Literature*. (Major Research Paper). Completed, July 2010. Supervisor, Karen Krasny

Suba Jeyaratnam (2010) *A Critical Analysis of the Relationships between Homelessness and Disability among Immigrant Women in Toronto Community Agencies and Shelters*.

(Major Research Paper). Completed, July 2010. Supervisor, Nancy Halifax, Critical Disabilities Studies.

Jennifer J. Logan (2010) *"There's no place like home": A Snapshot of the Settlement Experiences of Newcomer Tibetan Women in Parkdale, Toronto*. Completed, June 2010. Supervisor, Valerie Preston, Geography.

Tina E. Wilson (2009) *In Their Own Best Interests? Textually Mapping Governmentality in the Lives of Young People Without Stable Housing in Canada*. University of Toronto. Adrienne Chambon (Suervisor) Faculty of Social Work, University of Toronto.

Rasulan A. Hoppie (2009) *Moving on up? Black Families' Pursuit of the Suburban Dream and Implications for their Children*. Completed, December 2009. Supervisor, Carl James, Faculty of Education

Yimin Du (2009) *Global Stability of TB Models: Heterogeneous Populations and Resistance*. Completed, December 2009. Supervisor, Jianhong Wu. Graduate Program in Mathematics, York University.

Ilona Abramovich (2008) *Young, Queer and Homeless in Toronto: Where is the Support?* Completed, August 2008. Supervisor, Nancy Halifax. Graduate Program in Critical Disabilities Studies, York University.

Amy Brandon (2007) *The Mis-/Under-Representation of Youth in Canadian Federal Policy and Policy Development*. Completed: February, 2007. Supervisor, Don Dippo, Faculty of Education

Jeewan Chanicka (2006) *The Jihad In Me: A Reflective Journey on the Role of Islamic Epistemology as a Guiding Framework for Student Engagement and Teacher Resistance in a Post September 11th World*. Completed: December, 2006. Supervisor: Carl James, Faculty of Education

Ramon San Vicente (2006) *Old School, New Rules: Redefining Black Males, Hip Hop Culture and Public Schooling*. (Thesis) Completed: December, 2006. Supervisor: Joy Manette, Faculty of Education

Sandra Mayberry (2006) *Constructing and Managing Behaviour in Ontario Schools: An Institutional Ethnographic Study*. (Thesis) Completed: April, 2006. Supervisor: Alison Griffith, Faculty of Education

Maureen Chard (2006) *Constructing and Managing Behaviour in Ontario Schools: An Institutional Ethnographic Study*. (Thesis) Completed: April, 2006. Supervisor: Alison Griffith, Faculty of Education

Katherine Miles (2006) *The Significance of Social Integration Strategies for ESL Students in Mainstream Classrooms*. (MRP). Completed: May 15, 2006. Supervisor: Connie Mayer. Faculty of Education.

Pamela Dogra (2006) *The Way I See It: Stories of Learning and Teaching*. (MRP) Completed: May, 2006. Supervisor: Isabel Killoran. Faculty of Education

Mike Malcolm (2006) *Toronto Schools and the Creation of the Deviant School Profile and Identity: the implications of the social construction of the deviant identity on student success*. (MRP) Completed: April, 2006. Supervisor: Carl James. Faculty of Education

Lisa Varghese (2006) *Finding a "Home": thinking Through the Issues and Complexities of South Asian Adolescent Conduct in Today's Greater Toronto Area* (Thesis) Completed: April, 2006. Supervisor: Carl James. Faculty of Education

Thomas Douglas (2005). *Finding the One (in ten): Early Identification of Teacher Candidates With Maximal Social Justice Education Praxis Potential*. (Thesis) Completed: April, 2005. Supervisor: Patrick Solomon. Faculty of Education

Robert W. Young (2005). *"You Can't Make Me" Punishment and Pedagogy in the Prison Classroom*. (Thesis) Completed: May, 2005. Supervisor: Susan Dion. Faculty of Education

Susan Clarke (2005). *Interpreting the Reggio Emilia approach: Implications for reducing violence and aggression in early childhood*. (Thesis) Completed, February, 2005. Supervisor: Carol Anne Wien. Faculty of Education

James Rhee (2004). *Relationships and Reflection - Two Keys of Teacher Response to Student Behaviour*. (Thesis) Completed, September 2004. Supervisor: Isabel Killoran. Faculty of Education.

Claudia Johnson (2004). *What's Power and Authority Got To Do With It? Making Meaning From Students' Understanding of Student-Teacher Relationships*. (Thesis) Supervisor: Susan Dion. Faculty of Education.

Marisa Panaroni & Sally Rivers (2004). *Transforming novel studies through anti-bias instruction*. (Major Research Paper) Completed, September 2004. Supervisor: Isabel Killoran. Faculty of Education.

Nazreen Motiar (2003). *Use them or lose them: The state of elementary school librarians*. (Major Research Paper) Completed, September 2003. Supervisor: Isabel Killoran. Faculty of Education.

Dean's Representative

Loriann Hottot (2002). *Complexity and Contradiction in the Construction of Femininity*. (Thesis). Supervisor, Alison Griffith. Faculty of Education.

Internal / External Examiner

Kathy Hardill (2016) *"That Look That Makes You Not Really Want to Be There": Health Care Experiences of People Who Use Illicit Opioids In Small Urban and Rural Communities – A Critical Social Theory Analysis*. Faculty of Health (Nursing) York University

Julia Riddell (2014) *The Development of Self in Relationships: Youth's Narratives of Change Through a Residential, Wilderness and Family Therapy Intervention*. Masters of Arts (Psychology), York University. November, 2014

Bertie Friedlander (2006) *Successful Aging - An Analysis of People and Places Dedicated to Learning Programs for Seniors*. Masters of Arts (Anthropology) April, 2006

Clifford Agburu (2005) *The Dilemma of Alcohol Addiction: A Disability Without Disability Benefits in Ontario*. Masters of Arts (Critical Disability Studies), York University.

Andrew Taylor (2005). *Negotiating Harm Reduction: Risk, Bodies and Youth Substance Users*. Masters of Arts (Anthropology), York University.

Caroline McIssac (2003). *Romantic Dissolution and Depressive Problems in Adolescence: A Developmental Analysis*. Masters of Arts (Psychology), York University.

External Examiner

Meagan E. La Plante (2017) *Rapid Rehousing Practice at a Shelter for Homeless Youth*. Master of Art in Leadership. Royal Rhodes University. Supervisor: Gira Bhatt

Kim Stanford (2002). *The Right (to) Pleasure: A Participatory Foucaultian Exploration of Youth Drug Users' Experience with Harm Reduction*. Masters of Public Health Sciences, Public Health Sciences, University of Toronto.

5. RESEARCH TRAINING through RESEARCH ASSISTANTSHIPS

PhD (26); MA (53); Undergraduate (14)

Doctoral Research Assistantships

Afsaneh Bohouli (2013/14)

Christyne Hebert (2013/14)

Kandirra Wilson (2012/13)

Carey Doberstein (2012/13)

Caryl Patrick (2011/12)

Cheryl Athersych (2011/12)

Sabina Mirza (2011/12, 2012/13)

Julia Sinclair-Palm (2011/12, 2012/13)

Jennifer King (2010/11)

Amanda Noble (2011/12, 2012/13, 2013)

Naomi Nichols (2010/11, 2011/12)

Andrew Grimo (2010/11)

Claire Major (2008/09, 2011/12) Karen Kugelmass (2010/11)
 Kristy Buccieri (2008/09, 2009/10, 2010/11, 2011/12, 2012/13)
 Jaime Yard (2008/09)

Masters Research Assistantships

Ryan Walters (2013/14)	Isaac Coplan (2013/14)
Fleurie Hunter (2013, 2013/14))	Kami Chisholm (2013/14)
Nick Spohr (2012/13)	Jason Bertkin (2012/13)
Meezan Elgen (2012/13)	Sanya Vukas (2012/13)
Nicki Pariser (2012/13)	Andrew Nolan (2012/13)
Mary Choy (2011/12)	Michael Gonzales (2012/13, 2013/14)
Stefania Jakovlevski (2011/12)	Allison Leslie Fischer (2011/12)
Amanda Dunn (2010/11, 2011/12)	Jenna Maley (2010/11)
Pulak Bakshi (2010/11, 2011/12)	Kirk Hatcher (2010/11)
Jessica Whelan (2010/11, 2011/12)	Tara Patton (2010/11)
Christopher Ho (2009/10, 2010/11, 2011/12)	Delaney Downer (2009/10, 2010/11)
Sabina Mirza (2008/09, 2009/10, 2010/11)	Janice Fennell (2009/10)
Jesse Newell (2008/09, 2009/10, 2010/11)	Diwei Wang (2008/09, 2009/10, 2010/11)
Fizza Haider (2008/09, 2009/10)	Magdalene Garda (2008/09, 2009/10)
Vivian Kwouw (2008/09)	Sran Gurgeet (2009/10)
Maya Shapiro (2008/09)	Spy Denhomme-Welch (2008/09)
Susan Appotive (2007/08)	Shari Grayson (2007/08)

Undergraduate Research Assistantships

Alexander Moldovan (2013/14)	Alicia Campney (2013/14)
Ashley Abbasi (2013/14)	Jesse Donaldson (2013)
Oxana Roudenko (2012)	Monique MacLeod (2012)
Sebastien Wan (2012)	Jesse Thistle (2012)
Gerald Wan (2011, 2012)	Esther Townsend (2011)
Matthew Aaron (2003, 2004, 2005)	

D) SERVICE

1. UNIVERSITY SERVICE:

Administrative Roles

2012-2013	Associate Dean, Research and Professional Development – Faculty of Education (six months)
2007-2011	Associate Dean, Research and Professional Development – Faculty of Education (four years) (Note: I have not included committees I sat on in my role as Associate Dean (2007-2011))

Committee Membership

2009-2013	York Centre for Education and Community (Executive Committee and External Advisory Committee)
2008-2013	York Homelessness Research Network
2011-2013	York Institute for Health Research (Executive Committee)
2010-2011	Lifelong Learning, Partnerships & Outreach
2010-2011	York Mental Health Strategy Working Group
2010-2011	York University, Dispute Resolution Committee
2009-2011	GRIP committee
2003-2011	International Advisory Group - RPD – Faculty of Education
2003-2006	Visiting Scholars - Graduate Programme (Chairperson) – Faculty of Education
2003-2004	Awards Committee - Graduate Programme (Chairperson) – Faculty of Education
2003-2011	Coordination and Planning – Faculty of Education
2002-2003	Visiting Scholars - Graduate Programme
2001-2002	Awards Committee - Graduate Programme
2001-2002	Ethics Review Committee – Faculty of Education
2000-2001	Admissions Committee - Graduate Programme – Faculty of Education
2000-2001	Tenure and Promotions Committee – Faculty of Education

Program Development

- 2008 York Centre for Education and Community – ORU Proposal (successful)
- 2003-2005 Children at Risk Symposium programme development.
- 2003-2007 Harm Reduction certificate programme development.
- 2003-2004 Community-Based Research seminar series programme development.
- 2003-2005 Canadian Conference on Homelessness.

2. COMMUNITY SERVICE:

Board of Directors - Community Organizations

- 2014 – 2016 *Raising the Roof*, President
- 2010 - 2019 *York Region Human Services Planning Board*
- 2012 – 2018 *Canadian Alliance to End Homelessness*. Board of Directors (Secretary, and Founding Member)
- 2007 - Present *Raising the Roof*. Board of Directors
- 2007 - Present *Canadian Housing Renewal Association*. Policy Advisory Committee
- 2003 - 2007 *Central Toronto Community Health Centres*. President of Board of Directors.
- 2002 - 2007 *Central Toronto Community Health Centres*. Board Member.

Community Planning Committees

- 2015-16 Province of Ontario *Provincial Expert Panel on Homelessness*
- 2002 – 2004 *City of Toronto Mayor's Community Safety Awards Committee*.
- 1999 *SWYM Consortium*. - Squeegee Initiative.
- 1998 *Toronto Community and Social Planning Council*. - Squeegee initiative.
- 1997 – 1998 *Shout Clinic / SETO*
- 1997 – 1998 *Wellesley / St. Michaels Hospital Ambulatory Care Needs Assessment*.
- 1994 *SETO*. Homeless Emergency Access project.
- 1987-1988 *Togher Community Association*. Cork, Ireland (1987-88).

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRISTEN HEEGSMA, DARRIN MARCHAND, GORD SMYTH, MARIO MUSCATO, SHAWN
ARNOLD, ET AL.**

Applicants

-and-


CITY OF HAMILTON

Respondent

ACKNOWLEDGMENT OF EXPERT'S DUTY

1. My name is Stephen Gaetz. I live in Colborne, in the Province of Ontario.
2. I have been engaged by or on behalf of the Hamilton Community Legal Clinic to provide evidence in relation to the above-noted court proceeding.
3. I acknowledge that it is my duty to provide evidence in relation to this proceeding as follows:
 - (a) to provide opinion evidence that is fair, objective and non-partisan;
 - (b) to provide opinion evidence that is related only to matters that are within my area of expertise;
and
 - (c) to provide such additional assistance as the court may reasonably require, to determine a matter in issue.
4. I acknowledge that the duty referred to above prevails over any obligation which I may owe to any party by whom or on whose behalf I am engaged.

Date June 14, 2022



Signature

Heegsma et al
Applicants

-and-

A5760
CITY of HAMILTON
Respondents

Court File No. CV-21-00077187-0000

Ontario
Superior Court of Justice

PROCEEDING COMMENCED AT HAMILTON

APPLICATION RECORD VOLUME 5
TABS 86-88

COMMUNITY LEGAL CLINIC OF YORK REGION
21 Dunlop Street, Richmond Hill, ON L4C 2M6
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Michelle Sutherland (LSO# 70159T)
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Curtis Sell (LSO # 84128A)
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HĀKI CHAMBERS
319 Sunnyside Avenue, Toronto, ON M6R 2R3
Sujit Choudhry (LSO# 45011E)
sujit.choudhry@hakichambers.com

ROSS & MCBRIDE LLP
1 King Street West, 10th Floor, Hamilton, ON L8P 1A4
Wade Poziomka (LSO# 59696T)
wpoziomka@rossmcbride.com

Counsel to the Applicants

A1476