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Re: Code of Conduct and Ethics Violations by CBSA Minister Representative

Canadian Border Security Agency (CBSA) staff are required to obey a code of conduct, which is maintained by the agency and is available on its website. The principles and ethics of the CBSA guarantee that the decision-making and actions of CBSA officers are ethical and fair, and that the public's confidence in the agency is protected in an objective and unbiased way.

Having a code of conduct in place ensures that all employees are held to the same standards and principles in the course of their daily work activities. The CBSA's mandate, which includes the enforcement of immigration and refugee laws, requires officers to demonstrate respect for Canada's democracy, respect for people, and respect for the Charter of Rights and Freedoms. This is especially true in the agency's enforcement functions related to immigration and refugee matters.

This collective complaint is the result of the shared experiences of asylum seekers who have never met before arriving in Canada, but who have a common bond in Vancouver that has brought us all together: Jeffery Wichurak, the CBSA Minister Representative.

Mr. Wichurak has taken a number of steps against a number of refugee claimants, which have breached his obligations under the CBSA's code of conduct including his commitment to respect, fair application of the law, use of accurate information, and breach of privacy and confidentiality, among other matters.

After years of mistreatment, we believe it is in our best interests to voice our concerns, and we are pleading with the CBSA to treat our complaint with the utmost seriousness. The ramifications of his activities have resulted in fractured families, mental health crises, financial hardship, and a variety of other calamities.

This joint complaint does not represent an attempt to obtain an alternate tribunal to hear the specifics of individual refugee cases, nor are we asking for the CBSA to fetter in the specifics of the case of the officers in question.

A single CBSA officer is not required to manage every case of an Egyptian refugee in Vancouver, nor is he an expert in Egypt to the point that he may act as the only Minister Representative in Canada in these situations.

The submission provided below reveals that the CBSA Minister Representative is prejudiced and biased in his or her decisions. Even in the instance where there is only the appearance of prejudice and bias, CBSA Management has a responsibility to address the situation in order to provide a fair, objective, unbiased, and transparent procedure for all applicants. We request from the CBSA Central Management and CBSA Pacific Region Management to:

- reassign our cases to a team that is independent of Mr. Jeffery Wichurak, the Minister Representative
- investigate the allegations of code of conduct

General Background on Complainants

1. We are 4 families, 12 individuals, who have come to Canada with our families in order to seek refugee protection from Egyptian authorities who have persecuted us in our country of origin.
2. Having spent years being subject to arbitrary arrest, torture, or the threat of persecution, each of us arrived in Vancouver with genuine claims for asylum.
3. Mr. Wichurak has suspended each of our applications for refugee protection and placed us in inadmissibility under Section 34(1)(f) of the Immigration Act on the grounds that we are either directly or indirectly members or supporters of the Muslim Brotherhood (MB) or the Freedom and Justice Party (FJP). As you are aware, the FJP won Egypt's first democratic election in 2012, and the party has been under attack in Egypt since the 2013 military takeover. As well, the Government of Canada diplomatically engaged with the FJP and President Morsi's office.
4. In contrast to the situation in which we find ourselves, hundreds of other Egyptian nationals have come to Canada and successfully been given protection. Some of these individuals served as elected members of Parliament and others served in President Morsi's presidential office or Ministries. Many of these individuals have been granted permanent residency, and others have become Canadian citizens. In each of these cases, the CBSA correctly determined that they had a valid claim to protection and that their membership or affiliation with the MB and/or the FJP was the reason for such a claim rather than an objection to it. Thousands of additional Egyptian refugees have found protection and asylum in countries that share Canada's values of protecting refugees and granting political asylum, including the United Kingdom, Australia, and the United States.
5. Mr. Wichurak's stance is diametrically opposed to that of the entire CBSA agency across the country.
6. None of us have been accused of any action we have committed ourselves that is criminal in nature or meets section 34(1)(f).

Code of Conduct Violations

(A) Prejudiced and Ideologically Driven:

The CBSA's Value states:

"We serve the public interest by: making decisions and behaving in ways that maintain public confidence and preserve CBSA's reputation in light of its high visibility; refraining from using our official roles, the Agency's property or assets, and non-publicly accessible information to gain personal advantage or to advantage or disadvantage others; ensuring that our off-duty and private activities and our private financial affairs do not conflict with our official duties."

The CBSA maintains a Social Media policy that states:

"While there are many benefits to using social media, there are also potential risks and challenges. As professionals, we must bear in mind that social networks are public fora, and that comments and behaviour on these fora become a part of the public record. Our CBSA value of Respect encompasses our duty of loyalty to the Agency. Therefore, we use sound judgment to ensure that our personal and professional use of social media does not compromise the Agency's reputation, its protected information, or our working relationships with our colleagues, stakeholders and clients."

Furthermore the policy states:

"When commenting in social media fora: we are mindful of our duty of loyalty and remain non-partisan; we refrain from disparaging the Agency, its employees (including managers) and the Government of Canada."

The CBSA's Private, Off-Duty Conduct and Outside Activities policy states:

"Our CBSA values of Respect, Integrity and Professionalism guide us throughout our work day. They can also extend to our private time. This is especially true in terms of engaging in outside activities on social media fora, outside employment, and political activities."

Furthermore, the policy states:

"We understand that our outside activities and off-duty conduct are usually private matters. They could become work-related matters, however, if they have negative consequences on the Agency. We avoid such activities, which may include those that: reflect negatively on the Agency, its employees (including its managers) or its programs."

The CBSA maintains a Conflict of Interest policy that states:

"Conflict of interest does not relate exclusively to matters concerning financial transactions and the transfer of economic benefit. While financial activity is important, conflicts of interest in any area of activity can negatively impact the perceived objectivity and impartiality of the public service. This is especially important with respect to activities on social media fora and when using electronic communication devices."

7. Substantial evidence suggests that Mr. Wichurak's actions are motivated by ideology, whether it be his affiliation with external foreign groups, collaboration with anti-Muslim groups, use of reports by anti-Muslim groups, targeting of legitimate Muslim organisations in Canada, or cooperation with foreign governments in promoting their interests.
8. In April 2021, after Mr. Wichurak successfully found the first claimant as inadmissible, the CBSA began a problematic process of deporting the claimant. A public call to action was launched by the Vancouver community at the time to prevent the claimant's deportation. The Department of Justice stopped the deportation order.¹
9. Members of the community were able to identify Mr. Wichurak's personal social media account on Facebook as a result of this campaign. To their shock, Mr. Wichurak had posted several times an image of the US flag that is greyed out with a solid blue line.² A screenshot was shared on social media of his facebook page. Within hours, Mr. Wichurak deleted all his posts online and changed his name on his facebook page.
10. The "Thin Blue Line" in general has historically been used in North America as a sign of solidarity and support for police. The line is used through police badges or which emblem is used to represent an agency.
11. An RCMP directive has banned officers from using this symbol while on duty because it has resulted in divisive environment and doesn't help to strengthen ties between law enforcement and the people they are meant to serve, such as in recent events such as the deaths of George Floyd and Breonna Taylor in the U.S. and Chantel Moore in New Brunswick.³
12. However, the 'Thin Blue Line' in the US Flag has been embraced by right wing supporters in the US and is a symbol that is increasingly being put on display by right wing and white supremacy groups. The flag stirred controversy after it was co-opted by right wing groups, especially by the Blue Lives Matter movement, which sprung up in 2014 as a counterforce to the anti-racism Black Lives Matter movement.⁴
13. It was flown at Trump campaign rallies, at the white supremacist rally in Charlottesville, Virginia, and worn as face masks by officers policing the Black Lives Matter protests in 2020. The "Thin Blue Line" flag was seen at the attempted insurrection at the US Capitol building in January.⁵
14. Mr. Wichurak's usage of this insignia has nothing to do with the CBSA or any other Canadian law enforcement agency. What is Mr. Wichurak's motivation for publicly endorsing a symbol of white supremacy?

¹ <https://www.cbc.ca/news/canada/british-columbia/deportation-vancouver-1.5978332>

² <https://www.facebook.com/ibrahimkh1994/posts/10224221618304394>

³ <https://globalnews.ca/news/7392282/rcmp-directive-thin-blue-line/>

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<https://www.politico.com/news/magazine/2020/06/09/the-short-fraught-history-of-the-thin-blue-line-american-flag-309767>

⁵ <https://www.insider.com/how-thin-blue-line-became-controversial-symbol-to-represent-police-2021-2>

15. His choice to share this symbol on his personal facebook page is a clear violation of the CBSA's social media policy. His choice to use this symbol off-duty and in his private activities has a clear conflict with his official duties.
16. His choice to associate with this movement in the United States in his personal social media clearly compromised the Agency's reputation, and its credibility and objectivity towards its clients - refugee claimants.
17. His choice to associate with this movement in the United States questions his loyalty to Canada and is without question partisan. Furthermore, his action disparages the Agency and the Government of Canada.
18. His choice to associate with this movement in the United States questions his commitment to CBSA's values of Respect and Integrity which as per the policy extend to the private time of CBSA officers.
19. His support of this symbol and what it represents in the United States suggests that Mr. Wichurak carries far-right or white supremacy ideological views. This is further supported by the arguments Mr. Wichurak has chosen to raise as part of demonstrating inadmissibility of the claimants.
20. Mr. Wichurak has argued that the Egyptian people, including those who associate with the Muslim Brotherhood, who participated in President Nasser's quest to remove British colonial control in Egypt in the 1940s committed an act of subversion of a colonial government. It is difficult to comprehend why the CBSA would take action against current day refugees on the basis of Egyptians in the 1940s participating in their struggle for independence in the face of colonialism.
21. Since when does the Government of Canada, or the Canadian parliamentary democracy and its institutions, support historical colonial powers and view the fight for self determination and independence as a national security risk. This view is consistent with white supremacists who are against reconciliation with the Indigenous people and decolonization in Canada.
22. This belief is rooted in the idea that European White men are understood as superior to all other races and thus, by definition, had a right to possess and control their land and labor.⁶ A revolt for independence by the Egyptian people, therefore, is a subversion of democracy.
23. Mr. Wichurak further argues that Egyptians, including those associated with the Muslim Brotherhood, who participated in the in the War of Independence in 1948 as part of the Egyptian military operation, committed an act of subversion. The State of Israel did not exist at that point, and the Palestinian people lived under British colonization in Palestine.
24. A conflict of interest exists when Mr. Wicharuk utilises his own white supremacist ideas to affect his position as a Minister Representative. This creates a perception of bias, which is detrimental to the CBSA's perceived objectivity and impartiality.

⁶ <https://www.californialawreview.org/settler-colonialism-white-supremacy-covid-19/>

(B) Prejudice

The CBSA's Value states *"We uphold the Canadian parliamentary democracy and its institutions by: aligning our efforts, energy and expertise with the Government of Canada and CBSA's priorities; enacting the lawful decisions of leaders and carrying out duties in accordance with the Agency's policies and directives; and providing impartial, objective and factual information, advice and support in a timely manner to further Agency objectives."*

The CBSA maintains a Harassment and Discrimination policy that states:

"Discrimination involves treating someone differently or unfairly because of a personal characteristic or distinction which, whether intentional or not, has an effect which imposes disadvantages not imposed upon others, or which withholds or limits access to other members of society. There are thirteen prohibited grounds for discrimination under the Canadian Human Rights Act: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability, pardoned conviction or record suspension."

25. Mr. Wicharuk has relied on material from right-wing and/or anti-Muslim institutions that have demonstrated a pattern of Islamophobic prejudice in order to demonstrate that there are reasonable grounds to believe that the Muslim Brotherhood is or was engaged in terrorism and or subversive activity.
26. Mr. Wicharuk is actively involved with the International Institute for Counter-Terrorism (ICT), an Israel-based think tank founded by high-ranking Israeli military personnel with former and present ties to Mossad (Israel's intelligence service), the Israeli National Security Council, and the Israeli Defense Forces. Human rights organisations have described the ICT as a right-wing think tank that consistently produces Islamophobic and anti-Arab analysis on terrorism.
27. Mr. Wicharuk has relied on material gathered by the Investigative Project on Terrorism (IPT), an anti-Muslim group created by Steven Emerson in 1995. The primary goal of IPT is to portray Islam as a faith that is inherently radical, violent, and antagonistic.⁷
28. Mr. Wicharuk has worked closely with the Egyptian authorities and has relied on a study commissioned by the present Egyptian regime for his evidence. In response to the 2013 military coup in Egypt, thousands of Egyptian nationals have applied for refugee status in nations all over the world. Political activists, opposition figures, journalists, and human rights defenders are among those who have applied for refuge in Canada. This report has been utilized by the Egyptian authorities to target Egyptian refugees in an attempt to prevent them from submitting claims for asylum. Mr. Wicharuk has displayed an obvious conflict of interest in his role as Minister Representative who must deliver truthful and objective evidence.
29. Mr. Wicharuk has supplied evidence that characterises the 2013 military coup as a revolution, which is erroneous information, except from the framing by the current Egyptian regime. Even worse, the evidence submitted by Mr. Wicharuk justified the killing and massacre of over a

⁷ <https://islamophobicnetwork.com/organization/investigative-project-on-terrorism/>

thousand Egyptians in Rabaa by the military government. The fact that he has submitted material that is commissioned by the state that has persecuted the refugees in question demonstrates his partisan leaning which is in violation of the code of conduct.

30. Other evidence he chooses to use is sourced from unauthored blogs, or individuals who are known to be extremely Islamophobic, unreliable, unsubstantiated, and heavily criticized.
31. Mr. Wicharuk has submitted a report by a well known Canadian Islamophobe, Thomas Quiggin, called "The Muslim Brotherhood in North America (Canada/USA)". According to a 2014 article in Maclean's magazine titled 'Muslim Brotherhood: the new Islamist bogeyman in Canada': *"Quiggin's report reads more like a doomsday manifesto, predicting the end of Western civilization at the hands of Muslims" and portrays Canada's Muslim community as "a secretive cabal plotting the downfall of Western civilization from within"*.⁸ Mr. Wicharuk has exploited elements of this research to target genuine Canadian Muslim organisations, accusing them of terrorism. This is an extreme form of Islamophobia, because it discriminates against Muslims living in Canada.
32. The success of the CBSA mandate to effectively support national security and public safety priorities, is predicated upon the agency's due diligence efforts to gather relevant and reliable evidence. The pervasive reliance by this CBSA officer to rely upon unscrutinized, open-source third-party hearsay, citing of biased sources, and his disregard of widely available clarifications is problematic.
33. Using inaccurate evidence provided by individuals with a conflict of interest, Mr. Wicharuk has demonstrated that he has willfully failed to deliver unbiased, objective, and factual information as required by the code of conduct.
34. The evidence is discriminatory against these refugees on the basis of their faith and race, notably towards Muslims and Arabs, which is a breach of the Charter of Rights and Freedoms of Canada.

(C) Harassment of Claimants:

The CBSA's Value states *"We respect human dignity and the value of every person by: providing conscientious and equitable service to all colleagues, clients, partners and stakeholders regardless of race, national or ethnic origin, colour, political belief, religion, family status, physical or mental ability, sex, gender identity or expression, sexual orientation, genetic characteristics, age or economic and social status."*

The CBSA maintains a Harassment and Discrimination policy that states:

"Our CBSA value of Respect encompasses all that we do to value the inherent dignity of all people. We show respect by never engaging in discriminatory or harassing behaviour."

⁸ <https://www.macleans.ca/news/world/the-muslim-brotherhood-the-new-islamist-bogeyman-in-canada/>

“It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. It includes harassment within the meaning of the Canadian Human Rights Act.”

The CBSA maintains a Contact with the Public policy that states:

“Our CBSA values of Respect, Integrity and Professionalism guide our interactions with members of the public. As CBSA employees we demonstrate these values in a number of ways, including:

by providing quality service that is fair, accurate, accessible, efficient, timely and respectful of Canada's official languages;

by continually striving to achieve service excellence;

by never engaging in discriminatory or harassing behaviour; and

by never making abusive, derisive, threatening, insulting, offensive or provocative statements or gestures to or about another person. “

35. Mr. Wicharuk has failed to provide excellent service to the refugees under his administration. Mr. Wicharuk has undertaken actions that have resulted in significant damage. Refugee hearings are being delayed inordinately long periods of time, he has shown up to hearings unprepared and asking for a postponement, he has delayed appeals indefinitely, and families are being split up into separate cases. This has been going on for more than three years. These acts do not represent a regard for the dignity of refugees who have fled persecution in their home countries and come to Canada.
36. Mr. Wicharuk has taken direct actions in order to harass a refugee. Several community activists spoke out publicly and on social media against the deportation of one of the refugees without the involvement of the refugee. Mr. Wicharuk arranged for Delta police officers to go to the refugee's home and harass and intimidate him in the middle of the night. The refugee has been living in fear as a result of this. Mr. Wicharuk has proceeded to intimidate the refugee, threatening him with police action if he does not comply. However, despite the fact that Mr. Wicharuk is well aware that the social media campaign was launched by members of the Vancouver community and not by the refugee, he has continued to threaten the refugee.
37. Mr. Wicharuk's use of colleagues from an external law enforcement agency is undoubtedly harassing behaviour and a breach of the code of conduct, which constitutes abusive, threatening, and provocative activities by Mr. Wicharuk.
38. Mr. Wicharuk has sought to prohibit a mother from attending her child's hearing even though the child is a minor.
39. Mr. Wicharuk's actions against the refugees has resulted in mental illness including risk of suicide.

(D) Confidentiality

The CBSA's Value states that *"We use resources responsibly by: ensuring the use of CBSA's resources is efficient, effective, approved and accounted for; avoiding waste and misuse of the Agency's money, property and resources; and safeguarding confidential information, sharing knowledge only as appropriate, and making every effort to prevent security risks."*

The CBSA maintains a Confidentiality and Disclosure of Information policy that states:

"Our CBSA value of Professionalism includes our role as custodians of government resources. As professionals, we acquire information, preserve it and share it only when authorized to do so.

We are legally obliged to protect the privacy of individuals and our commercial clients' business information."

Furthermore, the policy states:

"We keep in strict confidence all information that we obtain about CBSA's clients and all other official information including policies, programs, practices and procedures to which the public does not have official access. We disclose this type of information to clients or designated representatives only if specifically authorized by legislative or Agency guidelines."

40. Mr. Wicharuk has not taken any precautions to protect confidential information. Mr. Wicharuk has communicated information about the claimants and witnesses with the Egyptian authorities, putting the refugees and their families in danger of being killed or harmed. This is a blatant breach of the code of conduct.
41. After sharing information with the Egyptian government, one claimant's father and wife were intimidated by Egyptian authorities. The bank accounts in Egypt of another claimant were frozen. The family of a witness (a Canadian citizen) that testified at the IRB hearing was also approached and intimidated by Egyptian authorities.
42. A claimant's visa to another country was revoked when the CBSA informed the other country of the claimant's inadmissibility allegation by Canada.
43. Private information about the claimants was shared with a foreign government without consideration of the security risks it would cause. As a result, despite the fact that the claimants survived persecution, they are now exposed to greater levels of danger as a result of Mr. Wicharuk's activities.

(E) Loss of Public Confidence:

The CBSA states that *"Integrity is the cornerstone of good governance and democracy. By upholding the highest ethical standards, public servants conserve and enhance public confidence in the honesty, fairness and impartiality of the federal public sector."*

The CBSA states that *“We exercise our authority in an honest, open and fair manner. We accept responsibility for our actions in order to build and maintain a reputation of trustworthiness and accountability.”*

44. Using allegations against refugees that are ideologically inspired and discriminatory. These actions will create a cascade of refugee and diplomatic problems for the Government of Canada.
45. Furthermore, it poses a threat to the safety and security of hundreds of Canadian Egyptians who took part in Egypt's democratic transition following the revolution, and thousands of Canadian Egyptians who voted in the election. Many Canadian citizens participated with legitimate Egyptian political parties, of which the Freedom and Justice Party was the largest, were present during the protests in revolutions, and served in President Morsi's presidency. Such charges by Mr. Wicharuk raise the question of whether the freedom of association granted to these Canadian citizens by the Charter of Rights and Freedoms is regarded to be linked with a terrorism or subversion by the CBSA.
46. Mr. Wicharuk has not conducted himself in an honest, open, and fair way in the exercise of his power. Because of his decisions, there have been media stories concerning the CBSA's prejudice. His actions have also damaged the agency's credibility, and the Muslim, Arab, and Egyptian communities' faith in the agency has deteriorated significantly.

Mr. Jeffery Wicharuk, in our judgement, has committed major violations of the code of conduct for all the reasons listed above. It is true that the CBSA has the right to secure Canada's borders, but this authority should be applied with a sense of responsibility and without malice. Mr. Wicharuk has approached these cases with reckless indifference towards the truth and has endangered our lives.

We request that this complaint be investigated urgently so that the refugees who have been harmed by these violations are not put at greater risk.