

# Lawyers for Egyptian asylum-seeker facing deportation say oversight of CBSA needed

“That’s problematic,” Mithoowani said in an interview.

“This is a refugee claimant who is seeking Canada’s protection from the Egyptian authorities, and usually those matters are private, and we would not communicate with a government that someone is alleging is persecuting them.”

Another transcript of a hearing on Oct. 25, 2017, shows the public safety minister’s counsel saying that a liaison officer was going to travel to Egypt to speak to a government minister about the Muslim Brotherhood.

The counsel said the officer was aware Elmady was a refugee claimant and would be discreet and make “limited inquiries,” according to the transcript.

Elmady authorized his translator to provide the transcripts to The Canadian Press.

Elmady said his refugee claim was rejected last October after the CBSA characterized him as a “security threat” because he is a member of the Freedom and Justice Party of Egypt that’s linked to the Muslim Brotherhood.

The Muslim Brotherhood is not listed on Canada’s list of terrorist entities.

Elmady was one of millions of Egyptians who took to the street in the 2011 Arab Spring uprising to protest against the country’s then-president, Hosni Mubarak, and demand democracy. His party came to power following the 2012 elections, a year after Mubarak’s resignation.

In 2013, Egypt’s army chief seized power in a military coup against the elected Freedom and Justice Party’s government.

Since then, the government has been arresting thousands of the party’s members and Muslim Brotherhood supporters after labelling them as “terrorists” in a campaign that Amnesty International called in 2015 a “ruthless bid to crush

dissent.”

Elmady said the campaign against his party forced him to flee Egypt for Saudi Arabia before eventually landing in Canada in 2017.

Another lawyer for Elmady, Washim Ahmed, said he was detained following his landing in Vancouver for two months, and he did not have a battery for his hearing aid device that he needs.

During the interrogation, the CBSA also breached client-solicitor privilege by accessing an email exchange between him and a lawyer without his consent, Ahmed alleged.

Elmady said the CBSA assessment of his case was based on unfair procedures that put him and his family in Egypt at risk.

He said the Egyptian police are now closely watching his father, wife and two children and are intimidating them.

“My father was arrested for two days,” he said in Arabic. “My wife doesn’t know what to do.”

Mithoowani said her client is now challenging his inadmissibility decision before the Federal Court and is filing for a pre-removal risk assessment which would give him limited protection to stay in Canada if he proves that his life will be at risk if he is deported.

The CBSA said it would be inappropriate to comment on a specific case when there is ongoing litigation.

It said the removal of an individual from Canada follows a series of processes and recourse mechanisms that afford foreign nationals due process.

“It is only after such processes have been exhausted that the CBSA can remove a person from Canada,” the agency said in a statement.

“We can also tell you that the CBSA is committed to respecting private, sensitive and privileged information while also protecting the safety and security of the Canadian border.”

CBSA added that officers are instructed not to examine content clearly marked as

being subject to solicitor-client privilege, nor to examine content over which a traveller asserts privilege.

In a statement earlier this month, Mary-Liz Power, then a spokeswoman for Public Safety Minister Bill Blair, said privacy legislation prevents her from commenting on specific cases but everyone deserves equal and competent treatment in their interactions with border services officers.

“(The officers) undergo mandatory anti-racism training that benefits them, the agency, and helps them better support the public they serve every day,” she said.

“We will always ensure Canada remains a welcoming country for those fleeing war and persecution.”

Justin Mohammed, a human rights law and policy campaigner at Amnesty International Canada, said Canadian officials should be informed by context if they inquire about refugee claimants to their country of origin, especially when the foreign government itself is the alleged agent of persecution.

“It would be really important to consider the possibility of harm that could come to relatives or other persons who are close to the refugee claimant,” he said.

Mithoowani said the case speaks to the need to provide a body that can oversee the actions of the border agency. There’s too much discretion left to individual agents, she said.

“What this case shows is that there’s a systemic problem of CBSA agents acting in ways that they should not act,” she said.

“There are no effective complaint mechanisms. There’s no overview of these processes, even though their actions can have such devastating consequences.”

The Liberal government tabled two pieces of legislation that would make the CBSA subject to the same civilian complaints process that applies to the RCMP, but the bills didn’t pass in Parliament.

Elmady said he doesn’t understand how, in a country such as Canada, his case has been handled the way that it has.

“I was hoping, over the last three years, that there would be justice and someone

would understand my situation.”

---

*This report by The Canadian Press was first published May 19, 2021.*

*This story was produced with the financial assistance of the Facebook and Canadian Press News Fellowship.*

---

Source:

<https://www.ctvnews.ca/canada/lawyers-for-egyptian-asylum-seeker-facing-deportation-say-oversight-of-cbsa-needed-1.5434076>

[Disclaimer]