

**FOR IMMEDIATE RELEASE:**

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**Media Release – Over 100 lawyers and legal scholars from across Ontario join call for Minister Naqvi to stop accepting immigration transfers to Ontario jails**

This morning, over 100 refugee and immigration lawyers and legal scholars from across Ontario sent an open letter to Minister Yasir Naqvi, Ontario Minister of Community Safety and Correctional Services, regarding the incarceration of immigration detainees in the province's jails. Their letter expressed alarm that the Province is confining hundreds of individuals in its jails who are not awaiting trial or serving a criminal sentence. And it highlighted Ontario's responsibility for the extremely difficult conditions that vulnerable immigration detainees – including those with mental illness – face when incarcerated.

The letter from lawyers and legal scholars comes on the heels of last week's open letter to Minister Naqvi from 150 physicians, nurses and other healthcare providers across Ontario, raising similar concerns.

Canada Border Services Agency (CBSA) detains thousands of individuals for immigration purposes each year. Immigration detainees include refugees, permanent residents and other non-citizens. Most immigration detainees are held in dedicated immigration holding centres. But Ontario continues to incarcerate some detainees at the request of CBSA in the province's high security jails, under an agreement signed in 2014. Transfers to provincial jails occur for many reasons, including because a detainee is sick (CBSA has declined to build on-site medical facilities at the immigration holding centres).

As a result, one third of immigration detentions now occur in maximum security correctional facilities despite the fact that many detainees have never broken any laws, let alone criminal laws. For instance, some detainees are being held while immigration authorities verify their identity documents.

Lawyers and legal scholars described the practice of incarcerating immigration detainees in jails as "alarming". As stated in the letter: "Prisons are part of the criminal justice system. Their principal function is to hold those charged with or convicted of criminal wrongdoing. Individuals held for immigration purposes should not be transferred to, and detained in, these institutions."

Moreover, there is little to no due process for detainees before they are transferred to a jail: "There are no public laws or regulations governing when and in what circumstances an immigration detainee can be transferred to, and incarcerated in, a provincial jail."

The letter also raised concerns about the conditions faced by immigration detainees in Ontario jails. According to Barbara Jackman: "Detainees with mental health illness are routinely subject to prolonged confinement in near or complete isolation. This often takes place in the solitary confinement unit of the jail." The lawyers and legal scholars highlighted the recent decision in *Ogiamien v. Ontario*, 2016 ONSC 3080. Therein, Judge Gray stated that the treatment of the immigration detainee in that case, who was detained in Maplehurst Correctional Complex, "was so

excessive as to outrage standards of decency; was disproportionate; and was degrading". Barbara Jackman served as *amicus curiae* to the Superior Court in the case.

Immigration detention is a federal responsibility. But Ontario's lawyers and legal scholars stress that this does not release Ontario for responsibility and liability for the treatment detainees in its own jails. As stated by Raoul Boulakia, Executive Member of the Refugee Lawyers Association of Ontario: "There is no requirement for Ontario to be involved or to provide jail cells for immigration detainees. Nonetheless, Ontario continues to voluntarily incarcerate immigration detainees at CBSA's request. This makes the incarceration of immigration detainees, and their treatment in Ontario's jails, as much a provincial matter as it is a federal one".

The legal experts are backing the medical community on their call for Ontario to end this harmful practice by immediately refusing all transfers of immigration detainees with serious physical or mental illness and by cancelling the federal-provincial agreement under which the transfers are made.

A copy of the letter to Minister Naqvi can be found at the following link:

<https://stoptransferstojails.wordpress.com/>

For questions or comments, contact:

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