

2022-20: Huyer v Toronto Sun

May 12, 2022

The National NewsMedia Council has considered and upheld a complaint about an issue of accuracy in a February 18, 2022 article “Emergencies Act regulations ban protests except for Indigenous or refugees,” published by the Toronto Sun.

The article stated that specific groups of people, including Indigenous peoples and refugees, were exempt from the prohibition on participating in banned protests as part of the federal government’s activation of the Emergencies Act. In particular, the article states that “Under the provisions of the Emergencies Act invoked by the Trudeau government, protests can be banned in certain areas and for most people — but not for First Nations or refugees to Canada.”

In his submission, complainant Timothy Huyer argued that the column inaccurately described the provisions in the legislation which, in turn, left readers with an incorrect impression that historically marginalized groups were, without explanation, exempt from federal emergency prohibitions against participating in illegal assemblies.

In particular, the complainant states, “the only possible reading of the Regulations is that s. 3(2) provides exceptions on the prohibition of foreign nationals **entering** Canada with the intent of participating in a protest and does not provide exceptions to the prohibition on **participating** in such protests.” (*Emphasis added.*)

In stating his concerns, Huyer argued that misrepresenting the legislation in such a way would foment public animosity towards those groups. He wished to see the news organization publish a retraction of the story and issue an apology in both print and online versions.

In response to the complaint, the Sun stated that the complainant was mistaken and that the story in question cited the relevant sections and subsections of the regulations correctly. The Sun said the article included a hyperlink to the legislation for readers to conduct their own assessment of the regulations.

The news organization argued that the news story presented readers with a “plain reading” of the regulations. They said the complainant had based his argument on both personal emotions and an untested legal argument related to the regulations.

The NNC would point out the news organization offered the complainant an opportunity to publicly express their concerns about the report in a letter to the editor. The complainant did not accept this offer as a remedy.

In reviewing the piece in question, the news organization appears to categorize the article in question as a news article, not as an opinion column. Staff notes that the journalist who produced the piece often provides opinion and analysis columns to the Sun.

Generally speaking, the NNC has long supported the prerogative of news organizations to select the scope of a story. At the same time, standard journalistic practice calls for news organizations to report information with accuracy and precision, to demonstrate fairness, and to corroborate claims or allegations based on rigorous sourcing and research.

At issue in this complaint is whether the interpretation of the legislation presented by the news organization is accurate. Based on a careful reading of the regulations, Council is of the view that the piece misinterprets the application of specific exemptions contained in the Emergencies Act.

[Section 2 of the regulations](#), which deals with prohibitions on public assembly, states in subsection 1 that “a person must not participate in a public assembly that may reasonably be expected to lead to a breach of the peace by: (a) the serious disruption of the movement of persons or goods or the serious interference with trade; (b) the interference with the functioning of critical infrastructure; or (c) the support of the threat or use of acts of serious violence against persons or property.”

Section 3, subsection 1, stipulates foreign nationals cannot enter Canada to participate in, or facilitate, a public assembly that can be expected to lead to a breach of the peace. Section 3, subsection 2, provides exceptions to Section 3, subsection 1, stating that certain groups cannot be prohibited from *entering* Canada. It should be noted that 3(2) is an exception that applies only to 3(1) about the prohibition on entering Canada with the intent to participate in protests and does not grant exemption to subsection 2(1) related to participating in such protests.

It is the view of the Council that an ordinary reading of the regulations does not support the conclusions drawn in the news story.

Council recognizes the role of journalism in upholding freedom of expression and the shaping of public debate on matters of public interest. At the same time, however, responsible journalism demands a commitment to accuracy, which includes providing relevant context for readers to understand and assess the facts presented.

Given that this piece is labeled a news article, and there are no indications it is an opinion piece, staff are concerned that no sources are cited in the story to support the statements in question. Council agreed with the complainant’s assessment that the regulations do not indicate that Indigenous persons and/or refugees are exempt from the ban on participating in protests under the Emergencies Act.

In his submission, the complainant argued that the errors committed by the news organization were highly prejudicial and invites anger towards Indigenous peoples and refugees. He urged the news organization to issue a retraction and an apology in print, online, and on social media.

To the complainant's concerns about the possible impact, the NNC cautions against amplifying unverified statements about marginalized communities in Canadian society, which may significantly compound harm against individuals and groups, and erode overall reader trust, particularly in the current polarized social and political environment.

Council is of the view that this error could have easily been mitigated if this story had been given proper journalistic treatment, such as by consulting with legal or policy experts prior to its publication. Although the fact that the news organization offered to provide the complainant with an opportunity to write a letter to the editor to express their concerns is noted, the NNC does not view this offer as an adequate remedy for the breach of journalistic standards in this case. As such, the NNC upholds the complaint on the grounds of a breach of the journalistic standard of accuracy.

To the complainant's suggestions of remedy, it is worth noting that the NNC does not compel members to issue apologies or retractions, although the news organization may choose to do so. As members of the Council, they are obliged to publish a summary of Council's findings of this complaint. The NNC does not have the mandate to sanction or censure specific journalists.