

CASE NO: 1090, 1091 and 1092

ADJUDICATION BY THE NEW ZEALAND PRESS COUNCIL ON THE COMPLAINTS OF TZE MING MOK AND OTHERS, THE ASIA NEW ZEALAND FOUNDATION AND GRANT HANNIS AGAINST NORTH & SOUTH

EMBARGO

NOT TO BE PUBLISHED BEFORE 11 JUNE 2007

CONFIDENTIAL TO THE COMPLAINANTS AND NORTH & SOUTH UNTIL 11 JUNE 2007

Introduction:

The Press Council has upheld complaints by Tze Ming Mok and others, the Asia New Zealand Foundation and Grant Hannis against *North & South* for its report on Asian immigration and crime. The Council has found the magazine breached its principles on accuracy and discrimination.

The Background:

In its December issue (published in November) *North & South* carried a cover story by Deborah Coddington flagged as “Asian Angst: Is it time to send some back?” The discussion of immigration policy concentrated on crime but also referred to demands on legal aid and health services.

At the heart of the article was the use of figures which said that in 2001 Asians made up 6.6 per cent of the population but were responsible for just 1.7 per cent of all criminal convictions. It went on to say: “However, according to Statistics New Zealand national apprehension figures from 1996 to 2005, total offences committed by Asiatics (not including Indian) aged 17 to 50 rose 53 per cent from 1791 to 2751.”

Several crimes committed by Asians, ranging from kidnapping to “domestic” murders and breaches of the Fair Trading Act, were described in the course of the story. It quoted Detective Sergeant John Sowter, head of the Auckland Drug Squad, as saying that 90 per cent of major drug cases involved foreign nationals “and the large majority of those are Asian”

Charles Mabbett, media adviser to the Asian New Zealand Foundation, wrote to the magazine challenging the article. Another letter of complaint was sent by Tze Ming Mok and 24 other signatories.

In the January issue the magazine published several letters critical of the article, including a letter from Mr Mabbett and another from Keith Ng, specifically dealing with the

statistics. This carried a footnote from Deborah Coddington rejecting the criticism. Further critical letters were published in the February issue.

The Complaints:

Charles Mabbett lodged a complaint with the Press Council on December 13 and a similar complaint was made on December 18 by Tze Ming Mok and 18 others [see attached schedule for names of all complainants]. A third complaint was made by Grant Hannis, Head of Journalism at Massey University, on March 29 following the publication in January of Keith Ng's letter and the response to it. The Council has treated the complaints together.

Mr Mabbett's complaint was on two grounds: accuracy and discrimination. On the cover line "Is it time to send some back?" he said migrants who had been granted permanent residency had the same rights as any other citizens and New Zealand was their home country. The suggestion that legal aid was being made available for "the worst Asian criminals" failed to explain that legal aid is available for anyone unable to afford representation.

Mr Mabbett said the claims of increased crime had failed to take into account the increase in Asian population. In 1996 Asians were far less likely than the general population to commit crime by a factor of 2-1. By 2005 this had risen to 3.7 to 1.

On discrimination he complained that the language used was inflammatory and cited as an example "a flick through the crime files shows the Asian menace has been steadily creeping up on us." He further complained that there was a lack of representation of Asian views with only two, Lincoln Tan and Rosemary Jones, being quoted.

The complaint by Tze Ming Mok also complained on the grounds of accuracy. It too made the point that measured against the increase in the Asian population the crime rate had fallen. The complaint referred to the published correspondence from Keith Ng with the reply from Deborah Coddington. In this exchange Deborah Coddington did not address the crucial issue of the comparison between the increase in crime with a larger increase in population but attacked the validity of Ng's analysis because he used a different age range. But Tze Ming Mok's complaint said the pattern of decreasing Asian representation in the crime figures was repeated for all age groups.

This failure of the basic plank on which the article rested meant that phrases like "the gathering crime tide" and "Asian menace" were themselves misleading. The complaint said the article was not an opinion column but an investigative feature yet it had a strong editorial bias.

The complaint by Grant Hannis concentrated on the statistical issue. Using figures he obtained from Statistics New Zealand on March 9, 2007, he asserted that using the populations and time periods used in the article it was clear the Asian crime rate had fallen. The rebuttal by Deborah Coddington of Keith Ng's figures, on the grounds that his use of population and time periods did not match those in the article, was groundless.

The Magazine's Response.

North & South responded to the initial complaint in a letter from Debra Millar, the group publisher of ACP magazines, which said the article was subject to a two-week editing process which included additional checking of statistics and verification of quotes. She attached a submission from the author.

In that submission Deborah Coddington said it was important to record the Asian New Zealand Foundation existed to promote positive coverage of Asian issues. She agreed that permanent residents had the same rights as other New Zealanders and that legal aid was universally available but this did not preclude discussion about these issues.

Ms Coddington agreed that the crimes of other ethnic groups could be catalogued in a similar way and said she had done that in a story on Maori child abuse but “this story is about the negative aspects of Asian immigration.” It was about crimes “mainly alien to New Zealand, secretive, underworld gang crimes” which was not stated as her opinion but in observations from experts like the head of the Auckland Drug Squad. She repeated the argument that Keith Ng’s statistical criticism was invalid because it was not comparing like with like.

A “gathering crime tide” was a metaphor carefully chosen because a tide can go in and out.

In response to Tze Ming Mok she says that the article clearly pointed out that the Asian population had risen.

Overall Deborah Coddington says that “flaws in New Zealand’s immigration policies, using graphic examples of the types of people we might not want” is a legitimate subject for an article. “I reiterate that the article was to expose readers to the downside of Asian immigration which I clearly stated has been overwhelmingly good for New Zealand.”

In a further response Charles Mabbett repeated that the statistical basis of the crime figures was lacking and there was therefore a lack of balance in the coverage.

On March 29 Deborah Coddington repeated her view that there was a conflict of interest in Mabbett’s position. She said that being hostile to Asian criminals could not be taken to her being hostile to all Asians. She pointed out that she quoted Mr Api Fiso that “the Asian reputation as a law abiding community is still there.” If she had been writing an unbalanced story she would not have included that.

In response to Dr Hannis’ complaint Ms Coddington says that she did point out the increase in the Asian population. When recording the rise in the number of offences committed by Asiatics aged 17 to 50 in the national apprehension figures from 1996 to 2005 she “did not intend to insult the intelligence of my readers by putting, in the same sentence, that this needed to be measured against the population growth.”

Ms Coddington said that Dr Hannis was using figures not available to her at the time and that she was using national apprehension statistics which were not the same as crime rate figures.

In his response of April 12 Dr Hannis says that it would have been easy to use extrapolated figures. Regardless of that, the article presented an incomplete statistical analysis in neglecting to compare the rates against the population. The crime rate he calculated used the same national apprehension figures Ms Coddington used. He did compare like with like.

Conclusion.

Freedom of Expression, affirmed by the New Zealand Bill of Rights Act and central to all Press Council considerations, is not unlimited. Amongst other things, it is subject to the prohibition on discrimination in the Human Rights Act. That is reflected in the Council’s Principle 8, which provides:

Publications should not place gratuitous emphasis on gender, religion, minority groups, sexual orientation, age, race, colour or physical or

mental disability. Nevertheless, where it is relevant and in the public interest, publications may report and express opinions in these areas. Immigration policy and crime rates in a specific ethnic community or sector of society are legitimate subjects for journalistic investigation by a free press that would fall within the proviso to principle 8. Nor is balance in the form of neutrality necessarily required. Magazines are entitled to take a strong position on issues they address (principle 7). But that does not legitimise gratuitous emphasis on dehumanising racial stereotypes and fear-mongering and, of course, the need for accuracy always remains. The key issue is the absence of correlation between the Asian population and the crime rate. Ms Coddington argues she has recorded the rise in the Asian population and it would have insulted the readers to link that with the crime figures. The Council does not accept this argument. The linkage is vital and should have been made explicit. It is abundantly clear and is not effectively challenged by Ms Coddington, despite quibbles about terminology and direct comparisons of her figures with those of her critics, that the rate of offending is dropping pro rata. To then talk of a gathering crime tide is therefore wrong.

The suggestion that a “crime wave” – a phrase Ms Coddington points out she did not use - is different from a “crime tide” because a tide can go out is disingenuous. In the context of the article as a whole the implication is clear that crime generated from within the Asian immigrant community is increasing.

Both in the article and in responses to the complaint Ms Coddington refers to a May 2003 *North & South* article stating that people of Asian origin have long been known in New Zealand for their “all-round fine citizenship.” The implication is that this has changed. The statistics do not support this.

The language used is emotionally loaded. There is an explicit statement in the third paragraph of the article “we’ll make it loud and clear from the start, the vast majority of Asians making New Zealand their new home are hard-working, focused on getting their children well educated and ensuring they’re not dependent on the state (unlike so many New Zealand citizens.)”. But the subsequent use of phrases like “The Asian menace has been steadily creeping up on us”, “Asian crime continues to greet us with monotonous regularity” and “as each week passes with news of yet another arrest involving a Chinese sounding name” combine to portray a group that has a disproportionate tendency to crime.

The chronicle of crimes is not restricted to gang or professional criminal acts but includes domestic incidents and fraud. That there are serious crimes committed by individual Asians is not at issue but the failure to set this in context, both of other sectors of New Zealand society and of the Asian communities as a whole, cannot but stigmatise a whole group.

There are counter-references in the report. Immigration Minister David Cunliffe is quoted as saying he has seen no evidence Asian crime rates higher than other ethnic groups and Graham Gill of the Commerce Commission is quoted as saying there are “ratbags who regardless of their ethnicity will break laws”. But this is followed by a reference to ignorance of “a major problem” and the quotations do not therefore change the overall tenor of the material which in the Council’s view does breach the Principle referring to discrimination.

Ms Coddington suggests that in the case of Charles Mabbett there is a conflict of interest. But complaints to the Press Council may be expected to come from parties with an

interest and Mr Mabbett has an incontestable right to make his complaint. He and the other complainants seek no special treatment.

North & South did carry a large number of critical letters but any ameliorating effect of this was negated by counter-comments and lack of recognition of the statistical inadequacies. The *North & South* article has failed to meet its obligation in regards to accuracy and discrimination and the complaints are upheld.

Press Council members considering this complaint were Barry Paterson (Chairman), Aroha Beck, Ruth Buddicom, Kate Coughlan, John Gardner, Penny Harding, Keith Lees, Denis McLean, and Lynn Scott.

Alan Samson took no part in the consideration of this complaint.

People with a complaint against a magazine or newspaper should first complain in writing to the editor of the publication and then, if not satisfied with the response, complain to the Press Council. Complaints should be addressed to the Secretary, P O Box 10 879, The Terrace, Wellington. Phone 473 5220. Information on the Press Council is available at www.presscouncil.org.nz

Schedule of additional complainants to the Tze Ming Mok complaint:

Keith Ng - Journalist

The New Zealand Chinese Association (represented by President Kai Luey and Vice-President Steven Young)

Ruth DeSouza & Andy Williamson, Aotearoa Ethnic Network

Kumanan Rasanathan, Public Health Physician

Stephen Epstein, Asian Studies Institute, Victoria University Wellington

James Liu, Centre for Applied Cross-Cultural Research, Victoria University Wellington

Roseanne Liang, film-maker

Kenneth Leong, entrepreneur

Derek Cheng - Journalist

John Ong - Journalist

Esther & David Fung - Community leaders

Sekhar Bandyopadhyay - Academic

Belinda Borell - Academic

Manying Ip - Academic

Sapna Samant, documentary-maker