

Dr David Hoile v The Daily Telegraph & The Sunday Telegraph

Clauses noted: 1, 2

Dr David Hoile of the European Sudanese Public Affairs Council complained to the Press Complaints Commission that two articles published in The Daily Telegraph on 3 August 2007 and 1 September 2007, headlined "What makes Brown think UN can fix Darfur?" and "Brown and Sarkozy vow to bring peace to Darfur" respectively, and an article published in The Sunday Telegraph on 2 September 2007 headlined "Aid staff are caught in Darfur crossfire" were inaccurate and misleading in breach of Clause 1 (Accuracy) of the Code of Practice. The complainant also said that he had been denied an opportunity to reply in breach of Clause 2 (Opportunity to reply).

The complaint was not upheld.

The complainant said that the mortality figures used in all three articles about the crisis in Darfur were inaccurate and misleading: the 3 August article claimed that the "murderous activities of the numerous militias" accounted for an "estimated 7,000 deaths a month"; the article of 1 September stated that the "four-year civil war has claimed 300,000 lives"; while the 2 September article made reference to the crisis claiming "an estimated 400,000 lives", despite a report a month earlier in the same newspaper which stated that the war had "claimed more than 200,000 lives".

The complainant said that – while it was clearly difficult to assess conflict mortality figures accurately – the international focus on the Darfur crisis had prompted considerable efforts to establish credible estimates. In March 2007, Médecins sans Frontières (MSF) – echoing the findings of the World Health Organisation-affiliated Center for Research on the Epidemiology of Disasters (CRED) – said that just over 131,000 people may have died between 2003-2005, of which one fifth may have been violence-related. Following the end of the large-scale fighting in 2004, the United Nations mission in Sudan had recorded an average of 200 civilian deaths per month since the second half of 2006, peaking above 400 in September-November 2006. If the high-end estimate of the post-2005 mortality rate was added to MSF's figure of 131,000, the number of deaths would be about 140,000.

In addition, the complainant said that a United States Government Accountability Office study in November 2006 provided the first (and, to date, only) objective assessment of the figures. Most of the experts featured had the highest overall confidence in the CRED figures, which varied from 125,000 to 141,000 deaths, and expressed the least confidence in three estimates which reported the highest numbers of deaths, ranging from 253,573 to 396,563. The newspapers' claims of 200,000, 300,000 and 400,000 deaths were more conjecture and comment than fact, as they had been presented.

The newspapers pointed to an article in the respected journal Science which had carried out a detailed survey of mortality in Darfur in September 2006. This estimated that between 170,000 and 255,000 people had died since the outbreak of the civil war. The report made clear that it was "likely that the number of deaths for this conflict is higher than 200,000 individuals and it is possible that the death toll is much higher". One of its authors was quoted in the New York Times saying: "We could easily be talking about 400,000 deaths".

The newspapers added that, as the war had continued to the present day, it was reasonable to assume that the death toll would have climbed considerably. Moreover, Kofi Annan wrote in April 2005 that "no-one really knows how many people have died in Darfur since the conflict began, but some analysts say it could be 300,000 or more". In circumstances where there were no clear facts, all estimates were necessarily and self-evidently statements of opinion. The newspapers could not accept the set of figures put forward by the complainant as authoritative in circumstances where it might never be known, even approximately, how many people had died. Readers would have understood this – especially in the context of the rounded figures used – and would not have been misled into giving them the credence that they did not deserve.

In relation to the figure of 7,000 deaths a month, the newspaper had emphasised that this was an estimate, based on annual estimates and a broad awareness of the state of the conflict at the time. It was not purported to be an average figure – given that the same article had stated that the conflict had caused “the deaths of at least 200,000 civilians” – but rather an indication to readers that the death rate at that time was substantially higher than normal.

The complainant said that none of the evidence supplied by the newspapers proved their claim that 400,000 people had died in Darfur. Moreover, the newspaper had been unable to provide any source – reputable, credible, partisan or otherwise – to corroborate the claim (or even estimate) that 7,000 people were still dying every month. The two-page article in *Science* was not a definitive study and was insignificant compared with the far more rigorous reports to which he had made reference. In the complainant’s view, the newspapers could have addressed the questionable figures “by way of a simple, one or two paragraph letter for publication”.

Adjudication

The first part of the Code relevant to this complaint requires that the press ‘must take care not to publish inaccurate, misleading or distorted information’. In adjudicating under this clause, the Commission normally considers whether newspapers have grounds on which to publish information, as well as looking at the manner in which it is presented. Neither the Code nor the Commission require an absolute level of objective truth in reporting. Such a standard would be impossible to enforce – particularly in cases like this where it is accepted that the correct position is unclear, and that a precise and universally agreed figure may never emerge.

Against this background, it was clear to the Commission that the newspapers had grounds on which to use the figures for the number of deaths caused by the conflict. Published estimates ranged from around 140,000 up to 400,000, and the newspapers’ figures were within this scale. Furthermore, the Commission agreed that by using round numbers the newspapers were giving their readers a clear signal that the figures were estimates and not a claim on a precise figure. This was in accordance with the terms of Clause 1 (iii). Moreover, it would have been implicit in the coverage – which referred to the high degree of human displacement and the ongoing civil war – that the upheaval in Sudan did not lend itself to the easy compilation of completely accurate mortality figures.

The Code also requires that ‘a significant inaccuracy, misleading statement or distortion once recognised must be corrected’. While the Commission was satisfied that the newspapers had taken care not to publish inaccurate material, it also had to consider whether – in spite of this care – a significant inaccuracy had nonetheless been published. It could not conclude that this was the case. What the complainant offered was an informed point of view rather than proof that the newspapers were wrong. This was not enough for the Commission to conclude that the Code had been breached when the newspapers’ figures were in line with others that had been published – albeit ones that the complainant himself disputed. It followed that the newspapers were not obliged to publish a correction on the total number of deaths caused by the conflict.

In relation to the 7,000 deaths a month figure, it was regrettable that the newspaper had not been able to point to the precise provenance of this estimate, relying instead on a mathematical argument and the journalist’s understanding of the conflict at that time. However, this did not mean that the reference to it breached the Code. First, the Commission noted that the newspaper had clearly stated that this was an estimate rather than a fact, again in accordance with Clause 1 (iii). Second, as with the total figure of deaths, there did not appear to be an accepted standard against which the figure could be compared. Third, within the context of the article, and particularly of the Darfur crisis in general, the dispute over the actual number was not a matter of great significance given that it was within the estimated range for deaths so far. The article itself had referred to “at least 200,000” deaths, which did not preclude the possibility of the higher end figures which had also been published in separate articles on the matter. In these circumstances, and where the difficulties in

establishing a correct figure are well known, it was not therefore possible to say with any degree of certainty that the newspaper's figure was significantly inaccurate.

For all these reasons, the Commission concluded that there was no breach of Clause 1. It followed that there could be no possible breach of Clause 2, which states that a fair opportunity for reply to inaccuracies must be given when reasonably called for. The complaint was not upheld.

Adjudication issued 08/07/2008