

# Carney government asks Canada's Supreme Court to overturn rulings against use of Emergencies Act to end 2022 "Freedom Convoy"

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The Liberal government of Prime Minister Mark Carney has appealed to Canada's Supreme Court to overturn lower court rulings that found unlawful Ottawa's February 2022 invocation of the Emergencies Act to disperse the far-right "Freedom Convoy." The Convoy menacingly occupied downtown Ottawa for 23 days and blocked key border crossings with the United States to press for the final elimination of all remaining COVID-19 pandemic mitigation measures.

The Liberals are intent on ensuring that they and future governments retain the broadest possible latitude to invoke emergency powers in political and social crises, in particular against the working class and a developing movement against austerity and war.

A spokesperson for Justice Minister Sean Fraser told CBC News last week the government is "committed to ensuring it has the tools needed to protect the safety and security of Canadians in the face of threats to public order and national security."

In its filing with Canada's highest court, the government argued that the lower court decisions that found the use of the Emergencies Act unconstitutional were based on "wrong principles" and a "flawed approach." It further argued that the high court needs to make a final determination since the lower court rulings contradict the findings of a public inquiry convened by Carney's predecessor, Justin Trudeau. In his 2023 report, Justice Paul Rouleau found the use of the Act against the Convoy was "reasonable."

Federal Court Judge Richard Mosley, a Liberal appointee, ruled in January 2024 that the Trudeau government's invocation of a public order emergency under the Emergencies Act was unlawful because it did not meet the Act's high threshold for a "national emergency" or a threat to the security of Canada. It also found that some measures taken under the Act, including the freezing of bank accounts of Convoy participants, violated the constitution's Charter of Rights and Freedoms and were not justified.

Under the law a "national emergency" is defined as an urgent and critical situation that exceeds provincial capacity and cannot be effectively dealt with under any other law of Canada. A public order emergency further requires the existence of a "threat to the security of Canada" as defined in the act that governs the operations of the Canadian Security Intelligence Service (CSIS). Mosley ruled these criteria were not met in the Trudeau government's invocation.

A three-judge panel of two Conservative appointees and one Liberal appointee, upheld Mosely's ruling in January of this year.

## A draconian law imposed on the basis of a secret "reinterpretation"

Mosley's ruling and the Federal Court of Appeal's concurrence do nothing to protect democratic rights, as the main contention is over the legal process in determining the threshold for its use and not the constitutionality of the Emergencies Act itself. The successor to the War Measures Act, it gives the federal government immense power to run roughshod over basic democratic rights in order to take "special temporary measures that may not be appropriate in normal times."

The sweeping powers it grants the government include the ability to ban public assembly and free travel, lock down "protected areas" of cities, seize public utilities and services, compel the labour of those working in "essential services" and imprison for up to five years and impose a \$5,000 fine on anyone found in violation of the government's orders.

The Trudeau government's invocation of a "public order emergency" was based on a secret reinterpretation of the Emergencies Act authored by the Justice Department. Not only has the government refused to make this "reinterpretation" public, it refused to even share it with the Rouleau inquiry, invoking solicitor-client privilege to shield its reasoning from scrutiny. This secret rewriting of the law, carried out behind closed doors and concealed from democratic oversight, underscores the criminal character of the assault on democratic rights launched by the Liberals under the cover of dispersing the "Freedom" Convoy and demonstrates how easily constitutional protections can be set aside when the interests of the ruling class demand it.

A direct parallel can be drawn with the government's use of Section 107 of the Canada Labour Code, which has been "reinterpreted" to grant Ottawa sweeping powers to intervene against strikes and impose binding arbitration in key sectors. In both cases, the Liberals have stretched and redefined existing legal provisions to sideline parliament and expand its authority to suppress opposition, particularly from the working class.

The Carney government's appeal to the Supreme Court is thus aimed at ensuring there are no new legal constraints that could limit the future use of the authoritarian powers contained in the Emergencies Act.

The government argues in its filing to the court that the lower courts failed to consider if it "acted reasonably in finding reasonable grounds to conclude that a public order emergency existed." The filing further argues that legal flaw in the lower court rulings "hamstrings governments' ability to respond effectively to future crises" and "neuters" the Emergencies Act. "It amounts to second-guessing with the benefit of 20/20 hindsight," the government said of Mosely's ruling.

The Emergencies Act was deployed for the first time ever in February

2022 after the far-right Convoy had occupied downtown Ottawa for three weeks and blockaded key border crossings, including the Ambassador Bridge in Windsor and at Coutts, Alberta, disrupting hundreds of millions of dollars in daily Canada-US trade.

The situation provoked alarm within corporate Canada and in Washington. US President Joe Biden pressed Trudeau to use his federal powers to disperse the blockades. The federal government itself cited the impact on trade corridors, economic security and relations with the United States as central justifications for its actions.

### **How the Convoy came to dominate Canadian political life**

The Convoy protest, which never mobilized more than a few thousand people, was promoted by Trump-aligned forces, sections of the Conservative Party, and right-wing media outlets for the purpose of destabilizing the Liberal government and pushing establishment politics even more sharply to the right. Among its initiators and chief organizers were proponents of far-right conspiracy theories and advocates of the elected government's replacement by an emergency "junta."

The Convoy's ability to dominate political life for weeks was due to the widespread support it enjoyed within the ruling class, the media and the state. The Tory government of Ontario Premier Doug Ford refused to take any action against the movement. Conservative politicians courted the protest, including Pierre Poilievre, who met with organizers and rose to leadership of the party in its aftermath by touting his credentials as the Convoy's most strident supporter.

In striking contrast with their treatment of worker and left-wing protests, the Ottawa police and RCMP allowed the occupation of the capital to continue indefinitely, even as residents were subjected to harassment, intimidation and increasingly intolerable living conditions. Pro-Convoy elements in the police repeatedly leaked information to its leaders.

Faced with mounting economic damage and a loss of control, the Liberal government turned to the Emergencies Act to force a mobilization of the police and cut off organizers' funds. Its overriding concern was restoring order in the capital and securing trade flows with the US.

The Convoy was quickly dispersed. But in its immediate aftermath the provincial governments, with Ottawa's support, moved to dismantle remaining pandemic measures, implementing a core demand of the protest.

The trade unions and the New Democratic Party played a critical role in legitimizing this authoritarian turn by backing the invocation of the Act and voting to sustain it in parliament.

In contrast, the *World Socialist Web Site* and Socialist Equality Party (Canada) opposed the so-called Freedom Convoy while also opposing Trudeau government's breaking of the taboo on the Emergencies Act; since its use and the sweeping powers exercised—freezing bank accounts, banning assemblies and forcing financial institutions to hand over information without warrants—set a far-reaching precedent in the assault on democratic rights.

The WSWS warned that once normalized, such emergency powers would be directed first and foremost against growing working class opposition, including political strikes, and other left-wing movements.

The government's subsequent efforts to reinterpret and conceal the legal threshold for invoking emergency powers underscores how democratic safeguards can be eroded behind closed doors. Against this, the WSWS insists that the defense of democratic rights and the fight against the far-right depends on the independent political mobilization of the working class, not reliance on the courts, the pro-capitalist trade unions, or any faction of the capitalist state, which all function to contain opposition and

preserve the existing social order.

In mid-February 2022, under conditions where Convoy blockades were directly threatening their profits and commercial ties with the United States, decisive sections of big business supported the Liberal government's use of emergency powers to end the blockades and reassert capitalist law and order. A joint statement issued by over 70 Canadian Chambers of Commerce and other business associations demanded that "federal, provincial, state and local governments ... work collaboratively to deliver rapid solutions to the illegal blockade of traffic." After repeatedly hailing the Convoy as a protest of "loyal Canadians," interim Conservative leader Candice Bergen called in the House of Commons for the blockades to voluntarily disperse as they were disrupting the economy.

### **The rehabilitation of the Convoy within the political establishment**

However, under conditions of a sharp rightward shift, significant sections of the ruling class have moved to rehabilitate the Convoy, presenting it as a legitimate protest movement and downplaying, if not outright denying its far-right character and anti-democratic aims. This is part of a broader process, in which far-right forces are increasingly being brought into the corridors of power.

Poilievre, who epitomizes the Conservatives transformation into a party of the far-right, denounced the potential seven-year sentence for Convoy organizers Tamara Lich and Chris Barber, both convicted on mischief charges in 2025, asking "How is this justice?" Ontario Conservative MP Andrew Lawton called the sentencing guidelines "excessive and vindictive," declaring the convoy had been a "three-week peaceful protest." Lich and Barber were ultimately given a slap on the wrist: 18-month conditional home sentences, with credit for jail-time served.

The Liberal government, for its part, has sought to cover up the extent of the support the Convoy enjoyed within the state apparatus, including the Canadian Armed Forces.

These developments parallel events in the United States, where the Democratic Party, terrified of precipitating a working class upsurge, worked following Trump's January 6, 2021 coup to prop up the Republican Party and cover up the support it enjoyed within the state apparatus.

On returning to office in January 2025, Trump pardoned all the fascist riffraff who had led the assault on the US Capitol and launched what is an ongoing operation to eviscerate democratic rights and establish a presidential dictatorship.

As the WSWS explained following the Emergencies Act's invocation:

Canada's ruling elite is moving in the same authoritarian direction. Over recent years, the Trudeau government and its provincial counterparts have virtually outlawed the right to strike, at least whenever workers find themselves in a position of strength. In the name of the "war on terror," the intelligence agencies have been given since 2001 vast new powers to spy on and disrupt political opponents—powers that are directed principally towards suppressing social opposition from below. Calls are already being made from many quarters for some of the powers the Trudeau government invoked during last month's ten-day emergency, such as the ban on protests in the environs of "critical infrastructure," to be made permanent.

The ruling class views its vast repressive state powers as essential if it is to withstand mounting popular opposition to unprecedented levels of social inequality, the reckless drive to war,

and the prioritization of corporate profits over the safeguarding of human life during the COVID-19 pandemic.

In the ensuing four years, governments across Canada have continued to escalate the attack on the right to strike, pushed to restrict the right to protest—smearing demonstrations against Israel’s imperialist backed genocide in Gaza as “antisemitic”—and invoking extraordinary measures, including the “notwithstanding clause,” to override constitutional protections of democratic rights. Tens of billions of dollars are being funneled into a massive military build up while public sector jobs are being slashed and essential public services starved of funds.

The Carney government’s appeal to the Supreme Court is a warning that the Canadian ruling class, despite its internal divisions, is determined to preserve and expand its capacity to deploy authoritarian measures in the class battles that lie ahead. The experience of 2022 demonstrated that the ruling class is prepared to override legal limits and deploy authoritarian powers when confronted with a crisis affecting the interests of Canadian capital.

The defense of democratic rights cannot be entrusted to any faction of the ruling class or the courts. It requires the independent political mobilization of the working class on the basis of a socialist and internationalist program.



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