

When censorship comes through the back door, dressed funny

Sometimes censorship arrives at the front door, and then we confront it. At other times it comes around the back and tries to sneak inside unnoticed. Sometimes it dresses up in funny clothes.

 By [Anton Harber](#) 21 Aug 2013

My story today is about censorship disguised as copyright protection. It involves Absa Bank, the SABC, a documentary filmmaker, a muckraking magazine, a literary festival, two lawyers, apartheid, and a barrel-load of intrigue.

Apartheid is part of the story because it always is. Absa is involved because it was implicated in financial shenanigans in the dying days of apartheid. The muckraking Noseweek magazine ran the original story. The documentary-maker is Sylvia Vollenhoven who made "Project Spear", which apparently tells of a former British intelligence man who offers to recover many billions of rands secreted overseas in the dying days of apartheid and offered to do it on spec. To his surprise, there was no interest from the new South African government, raising interesting questions.

No explanation

Vollenhoven made her film for an SABC series called "If Truth be Told." Well, it was not. She says that she had the approval of her commissioning editor all the way, but when it was finished and showed to the political heavyweights they wanted major - and impossible - last-minute changes. They chose not to show it, and - without explanation to her or the audience - screened in its place a re-run.

Vollenhoven says she entered into discussions to buy the film from the SABC. And she and Martin Welz of Noseweek decide to show it to a tiny audience at the Franschoek Literary Festival earlier this year.

Enter the two lawyers. Not only do they fly down to the Cape and put a judge on weekend standby to stop them showing the film to a handful of people, but they serve court papers demanding that nobody ever show it, they return all copies and every bit of footage, and never even make "an adaptation" of it.

Blocked... and it's censorship

In other words, not content with not screening it, the SABC is trying to block it out entirely and prevent anyone ever seeing it, or making another version of it, or even possessing a copy of it. They don't even want another version made of the same story.

That is called censorship.

I have no idea if the film is any good, or a load of baloney. I can't see it because now I am not allowed to. I have to think that if someone goes to so much trouble to ensure that nobody ever sees it, it probably has something juicy in it.

But why should the SABC, which is in the business of showing such films, not suppressing them, and which does not have money to throw around on legal actions, care so much?

'Nothing to do with content'?

Vollenhoven thinks it is the result of "fear, insecurity and 'juniorisation'" at the SABC, rather than a grand conspiracy.

SABC spokesperson Kaizer Kganyago has been quoted saying their concern is only with the principal of who owns the film. "We own this material. We have commissioned it and paid for it and we want all of it to be returned ... It's a matter of principle.

"People are making it sound as if it's about the content. This has got nothing to do with the content. The fact is it doesn't belong to them and they're showing it to people," he said.

Really? SABC would go to these lengths to keep control of a film they don't even want to show?

The clause with claws

The root of a problem is an archaic clause in SABC agreements with independent producers that gives the total and open-ended ownership of all material, even if they never use it. That clause is confining a range of material to the archive, hidden forever unless the SABC finds a use for it.

The effect is to suppress information and material.

Vollenhoven is defending her case, with the support of the Freedom of Expression Institute, and challenging the SABC to sell copyright to her. It will be a fascinating case to watch. Hopefully, we will get to see the film. And SABC will be pushed to modernise its contracts with producers and pull them into line with international norms.

ABOUT ANTON HARBER

Anton Harber, Wits University Caxton Professor of Journalism and chair of the Freedom of Expression Institute, was a Weekly Mail (now Mail & Guardian) founding editor and a Kagiso Media executive director. He wrote *Diepsloot* (Jonathan Ball, 2011), *Recht Malan* Prize winner, and co-edited the first two editions of *The A-Z of South African Politics* (Penguin, 1994/5). He also wrote *What is Left Unsaid: Reporting the South African HIV Epidemic* (Jacana, 2010) and *Troublemakers: The best of SA's investigative journalism* (Jacana, 2010).
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