

## CanWest sues satirists for their *Vancouver Sun* parodies

By Gordon Murray

“What is the use of writing, if not to challenge the blockade imposed by the system on the dissenting message?”

—Eduardo Galeano.

Imagine a humourless political landscape without Adbuster-like spoof ads, where shows such as *This Hour Has 22 Minutes* can't use Mquintie garb to lampoon police brutality or use banks' names to ridicule their corporate greed—a land where corporate and government slogans, names and logos (or near-facsimiles) are off-limits for artists, activists, and satirists.

That could be Canada's grey future if a November 2008 pre-trial decision in *The Vancouver Sun* parody case is not overturned on appeal. The procedural ruling excluded both parody and the Charter right of freedom of expression as possible defences against both copyright and trademark infringement. Canada is currently the only G-8 country that does not include the users' right of parody in its copyright regime.

The ruling came in the lawsuit that media giant CanWest is pursuing against Carel Moiseiwitsch and me for “conspiring” to produce a June 2007 *Vancouver Sun* newspaper parody that satirized owner CanWest's well-documented bias in favour of Israel, with articles such as “Celebrating 40 years of Civilizing The West Bank” by “P. Rupa Ghanda.”

CanWest is the biggest media conglomerate in Canada, owning 10 large metropolitan daily newspapers, *The National Post*, the Global TV network, and many weeklies and specialty channels. In Vancouver, where the parody was produced, CanWest is the dominant news organization, owning both daily newspapers, the market-leading television newscast, and more than a dozen community papers.

In a 2003 interview, CanWest's founder, Izzy Asper, boasted: “In all of our newspapers...we have a very pro-Israeli position...” This bias is quantified

in a study by the Near East Cultural and Education Foundation (NECEF), which found that during 2004 CanWest's flagship *National Post* was 89 times more likely to report the death of an Israeli child than the death of a Palestinian child in the headline or first paragraph of its news stories.

In September 2008, after we had publicly taken sole responsibility for producing the 2007 parody, CanWest added to their writ another parody of *The Vancouver Sun* we published in 2002 that satirized CanWest's sycophantic coverage of B.C. Premier Gordon Campbell's first slash-and-burn budget.

(The banner headline read: “Budget puts profits and CEOs first.”)

In seeming contradiction of CanWest's zeal to prosecute parodies of its publications, its editorial pages are a constant paean to freedom of speech. For example, *The National Post* proclaimed in May 2008: “The principles of free expression have to be guarded stringently in a liberal democracy.”

Prominent freedom-of-information organizations, including the B.C. Civil Liberties Association (BCCLA) and Quebec's Ligue des droits et libertés, dispute CanWest's claim that this case is about trademarks, and have called on CanWest to drop the lawsuit. A BCCLA open letter to CanWest stated that it “views the CanWest lawsuit to be an ill-advised attempt by CanWest to use the courts to silence satirical criticism and constrain fair comment.”

If the November 2008 pre-trial ruling stands, it would be a serious blow to the fundamental right of free speech in Canada. An appeal has been filed, arguing that the ruling relied on a single lower court case that has been superseded by a later Supreme Court decision. The appeal also quotes a more recent B.C. court ruling concerning a spoof website created by a union during

a labour dispute: “A reasonable balance must be struck between the legitimate protection of a party's intellectual property and a citizen's or union's right of expression.”

In the meantime, we are continuing the grassroots campaign to raise awareness of the case and bring public pressure to bear on CanWest. Despite significant and sustained effort by many people, there has been little or no mainstream media coverage of the

case and the threat to free speech and artistic expression that it entails.

We have, however, been honoured and amazed to receive statements of support

from many distinguished individuals and organizations, including Noam Chomsky, Naomi Klein, Linda McQuaig, the Canadian Labour Congress, the B.C. Federation of Labour, PEN Canada, and the Canadian Library Association. It is through collective action that we can best defend against corporate and government attacks on our civil rights.

The website of our defence committee—[www.seriouslyfreespeech.com](http://www.seriouslyfreespeech.com)—provides more information about our case and how donations can be made to our defence fund. Cheques made out to “Seriously Free Speech Committee” can be sent directly to the Committee at: P.O. Box 57112, RPO East Hastings Street, Vancouver, B.C. V5K 5G6.

(Gordon Murray is a Vancouver activist and information technologist who has been involved in alternative publishing for more than 20 years. Carel Moiseiwitsch is a Vancouver activist and visual artist who has exhibited internationally and was a freelance editorial illustrator for the *Vancouver Sun* and *Province* for over a decade. They have both worked to support indigenous rights in Canada, Palestine, and around the world for at least 25 years. To see examples of their visual/technical collaborations, go to [www.freexero.com](http://www.freexero.com).) 