

# Freedom of publishing under threat in Canada?

*An incredible censorship attempt is endangering the very existence of the publisher Écosociété (Quebec – Canada); more than 60 publishers from 30 countries<sup>1</sup> have declared their undivided support for the Quebec publisher and are calling on the protagonists of the Noir Canada affair to respect the rights of freedom of expression and publication.*

## The facts

- Publication of the book *Noir Canada– Pillage, criminalité et corruption en Afrique*, by Alain Deneault, in collaboration with Delphine Abadie and William Sacher, was announced by the publisher Écosociété in January 2008.
- The book exposes the activities of Canadian mining and oil companies in Africa. As a result of rapidly rising raw material prices, these companies which are exploiting African land with the complicity of local authorities (but often to the detriment of local populations), have been recording colossal profits in the last few years. In writing their book, the author and his collaborators used government sources, the reports of respected NGOs (such as Human Rights Watch), and the writings of specialists in this area. In 2003, 53% of the active mining companies in Africa were Canadian. Their levels of investment are forecast to reach 14 billion dollars by 2010.
- The Quebec newspaper *Le Devoir* wrote about the book in its edition of Saturday 19 and Sunday 20 January 2008 (see the article at [www.ledevoir.com](http://www.ledevoir.com)).
- The launch of the book was planned by the publisher for Friday 11 April 2008; on Wednesday 9 April, the publishing house received a court injunction from the Canadian mining giant Barrick Gold<sup>2</sup>, implicating the authors, the publisher and the members of its Board of Directors. The court injunction was clearly intended to prevent the publication of the book.
- Despite this, the publisher Écosociété decided to publish the book the following week. It was available in bookshops from Tuesday 15 April 2008.
- Following this decision, on 29 April 2008, the publisher Écosociété was issued with a strategic lawsuit against public participation<sup>3</sup> from Barrick Gold. The mining giant claimed 5 million

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<sup>1</sup> Call for action coordinated by the Alliance of Independent Publishers – [www.alliance-editeurs.org](http://www.alliance-editeurs.org)

<sup>2</sup> Barrick Gold is the world's largest gold producer, with a portfolio of 27 operating mines, many advanced exploration and development projects located across five continents, and large land positions on the most prolific and prospective mineral trends. The Company also has the largest reserves in the industry, with 124.6 million ounces of proven and probable gold reserves, 6.2 billion pounds of copper reserves and 1.03 billion ounces of contained silver within gold reserves as at December 31, 2007. In addition, Barrick has many more projects at various stages of exploration and development. This robust and unrivalled reserve of projects is due to the Company's ongoing commitment to exploration, even in times of lower gold prices. Barrick is actively exploring for gold in more than 15 countries around the world. Barrick has the gold mining industry's strongest and only "A" rated balance sheet, which positions the Company to take prompt advantage of attractive development, exploration and acquisition opportunities as they arise without needing to pause for financing. Barrick shares are traded on the Toronto and New York stock exchanges.

<sup>3</sup> A concept in North American law, a **strategic lawsuit against public participation** is a lawsuit designed to block political participation and activism. It most often takes the form of a civil libel action, instigated against an individual or organisation taking a stand in the context of a public issue. The concept also includes **the threat of legal proceedings**, as the success of such an action is derived not so much from winning a case in court but from the process itself, which aims to intimidate the defendant, or place such a heavy financial burden on them that they are forced into silence. The plaintiff usually therefore attacks isolated individuals or small organisations, and will use the threat of damages which are completely excessive in relation to the harm that

Canadian dollars (or approximately 3.2 million euros and just over 5 million US dollars) in compensatory damages and one million Canadian dollars (or approximately 640,000 euros and just over 1 million US dollars) in "punitive damages". Barrick Gold's lawyers also requested a permanent injunction to prevent the authors from repeating "their allegations", both verbally and in writing.

## Preamble

As publishers from all the continents of the world, from 30 different nationalities, we wish to express our great concern and extreme consternation regarding the unacceptable pressures currently faced by the publisher Écosociété, which threaten its very existence. These pressures are clearly intended to silence the not-for-profit publisher and the authors of the book *Noir Canada – Pillage, criminalité et corruption en Afrique*.

We would like to strongly and formally express our complete solidarity with the Quebec publisher, with its board members and with the accused authors. These practices place unacceptable limits on the freedom of the press in general and that of publishers in particular – despite the fact that democratic balance implies unconditional acceptance of freedom of expression.

As stated in the *International Declaration of Independent Publishers*, signed in Paris in July 2007 by 75 publishers and publishers' collectives (directly or indirectly representing 380 publishing houses of more than 50 nationalities): censorship remains alive and well in our societies<sup>4</sup>, even if it appears in highly varied forms.

## Call for action

Canada is a powerful country; it is in a position to accept criticism unconditionally, and to defend freedom of expression at all costs. Canadian society cannot allow one of its publishing houses, which is internationally recognised and respected, to have its very existence threatened by this affair. This situation is intolerable. Because we are convinced that this matter directly challenges the ability of our societies to accept the debate of ideas, and in this it goes well beyond a context specific to Canada, we are today calling on the different protagonists in this affair to take urgent action:

- A lawsuit is under way – without expecting to influence its outcome, the **Canadian government and Quebec authorities** would at least bring credit to themselves by loudly proclaiming their support for freedom of expression and publication. Censorship must not be allowed to win this battle, at the risk of establishing a legal precedent that will have a lasting effect on the world of publishing;
- In addition, we join the publisher Écosociété in respectfully asking the **Government of Quebec and its Minister of Justice, Jacques Dupuis**, to suggest that the National Assembly of Quebec provides better protection for individuals and civil society organisations from "strategic lawsuits against public participation". These proceedings cannot under any circumstances be tolerated in the case of *Noir Canada*.

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the plaintiff has allegedly suffered. If the threats do not have the desired effect, legal proceedings are instigated, with the result that a public issue is transformed into private litigation. All the financial and emotional resources of the defendant will therefore be monopolised in their defense, to the detriment of promoting the socio-economic, environmental or cultural cause they have been fighting for (source: Wikipedia).

<sup>4</sup> Extract from the Declaration (see the complete version on [www.alliance-editeurs.org](http://www.alliance-editeurs.org)): "*First and foremost, we strongly denounce all forms of censorship, whether direct, indirect or whether in the form of self-censorship. We openly declare our solidarity with all of our publishing colleagues, with authors, and with all other book professionals who today still suffer forms of intimidation (...)*".

- We call on **the mining company Barrick Gold** to immediately abandon the proceedings taken out against the publisher Écosociété, its board of directors and the authors of the book *Noir Canada*. Such a powerful company, and a leader in its sector, is also harming itself with such practices. Your company has a Code of Business Conduct and Ethics and a Social Responsibility Charter; your communications emphasise your exemplary approach in this area. How should we therefore understand the unjustified, aggressive and disproportionate legal attack that you have instigated? Might we not think, in light of your actions, that the values you lay claim to are nothing more than crude strategic posturing?
- We call on **all the other companies cited in the book *Noir Canada*** which have not instigated proceedings against Écosociété and the authors of the book, to provide undivided support to the Quebec publisher. This support would at least show their civic commitment to freedom of expression and publication, and would help to marginalise and discredit the disproportionate actions of Barrick Gold.
- Finally, we call on **the publisher Écosociété** to relentlessly pursue their extremely high-quality work and initiatives; we reassert our complete solidarity with the Quebec publisher. We know all about the harmfulness of isolation; you can rest assured that we are with you - you are not alone.

It is certainly not our goal, through this call for action, to set ourselves up as "sermonisers". Freedom of expression is under threat everywhere; this is not something specific to Canada. At the very least, we want to contribute an external point of view and legitimate questioning, to engage in dialogue. Our professions are fragile; and our social and civic actions, which result from our role as "agitators and distributors of ideas", often go unrecognised. They are, however, very real.

In addition to our professional solidarity, we are sure of one thing: censorship and its new forms always end up doing disservice to those who implement them, who use and abuse them. And this also applies to those who simply turn a blind eye.

## Signatories

*Silvia AGUILERA, Lom Editorial, CHILE*

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