

International report focuses on film copyright barriers

A report and film on copyright barriers to documentary filmmaking in South Africa will be simultaneously released at a film screening and workshops with filmmakers 10-12 December 2009, in Johannesburg and on the web.

Sponsored by the Ford Foundation and the Gauteng Film Commission, the City of Johannesburg, Underdog and most recently the NFVF, this workshop will feature the launch of *Untold Stories in South Africa: The Creative Consequences of the Rights Clearance Culture for Documentary Film*, the final report of a year-long study of rights clearance and documentary film in South Africa.

The study report is produced as a partnership between the Ford Foundation, South Africa filmmaker organisations, Program on Information Justice and Intellectual Property (PIJIP) from the Washington College of Law (WCL), American University and the university's Centre for Social Media (CSM), which has worked with PIJIP since 2004 to clarify and expand access to fair use within US law.

Documentary premiere

The workshop will begin on 10 December, as an official launch from 7pm - 10pm at the Laager Theatre at the Market Theatre - Newtown, with the public premiere in South Africa of *The Order of Myths*. This is a multi-award-winning documentary that explores race, class, music and celebration at Alabama's Mardi Gras, and which benefitted from a project in the US working with filmmakers to understand users' rights under copyright law. The film will include a discussion with the director, Margaret Brown, who is a guest of the workshop.

Workshop speakers

On 11-12 December from 9:30am to 5:30pm, workshops will discuss how South African filmmakers can use and expand users' rights under South Africa's copyright law, based on the report. These workshops will take place at the SAB World of Beer in Newtown. It features:

- Peter Jaszi, professor of law, WCL, author of *Copyright Law* (2006) and director of the Fair Use and Public Media Project
- Sean Flynn, associate director, PIJIP
- Andrew Rens, intellectual property Fellow, Shuttleworth Foundation, legal lead for Creative Commons South Africa, co-founder and director of The African Commons Project
- Marc Schwinges, national treasurer for the Documentary Filmmakers' Association, national board member and head of communications for the South African Screen Federation & independent producer - Underdog Productions
- Eve Rantseli, executive officer: Women Of the Sun and vice chairperson: The South African Screen Federation
- Margaret Brown, independent filmmaker from the US
- Freddy Ogterop, of the Visual History Archive, University of Cape Town, author of *Audiovisual Audit Report: The South African Liberation Struggle*

Report highlights

In South Africa as in other countries, documentary filmmakers need to quote other material—including music, still images, news footage or even images from commercial films—in order to tell their stories, which material is normally copyrighted.

Copyright laws in South Africa and around the world allow for the use of such material by filmmakers and others to create new expressive works, but filmmakers often do not know their rights.

The report found that nearly 70% of South African filmmakers do not know they have rights to use copyrighted material in their films to review or critique copyrighted work, as a “fair quotation,” or under other circumstances. As a result, filmmakers often avoid the use of such material, restrict the distribution of their films, especially from international markets and do their work under an assumption that they are frequently breaking the law.

Professor Peter Jaszi of WCL, one of the project's principal investigators, explained: “A key finding of the project is that South Africa's law contains many important rights for filmmakers and others who use copyrighted material without license to create new works. However, widespread ignorance of these rights has fuelled the creation of a ‘clearance culture’ in which distributors and broadcasters demand that every use of copyrighted material in a new film be licensed.”

Concrete solution

Eve Rantseli, director of Women of the Sun, a South African filmmaker's organisation commented, "Documentary filmmakers' ability to make films they want to make is being restricted by an overly rigid approach to copyright compliance. In South Africa, most women producers are making documentaries and archive material is used. Therefore, the prohibitive expense of clearing copyrights is yet another direct obstacle that restricts women from expressing themselves fully, and restricts distribution of their work. These problems often cause producers to give up on projects.

“This project is exciting as it points to a concrete solution - that filmmakers have rights that we can learn to use. This workshop will show how South African filmmakers can move towards achieving the basic principles in law to which ‘Fair Use’ applies and how these can be achieved in a similar way to what has been achieved in the USA.”

The report summarises a set of concrete recommendations that were adopted by leading documentary filmmaker organisations in South Africa at the final meeting of the year's research.

Government study, best practice

The report arrives several weeks after a meeting between President Jacob Zuma and his cabinet on copyright in the creative industries and in the midst of a five-year study of copyright law reform initiated under the previous administration.

Marc Schwinges, an independent film producer in South Africa, treasurer and national board member of the Documentary Film Association, which is a partner in the project, explains. “This report comes at a key moment in South Africa's deliberations over copyright reform. Filmmaking industries have been actively engaging on issues of copyright policy and its effect on filmmaking for some time and now we have the ear of the administration. However, until this project we were not actively engaged on the issue of users' rights in the copyright law. Many of us just did not know that they existed or that they could be expanded and shaped by our industry.

“Perhaps the most exciting aspect of this project is that it has led to local filmmaking organizations pledging to create best practices statements, generating copyright law reform proposals, building a legal advice network and creating ethical standards for the use of traditional stories and personal narratives in their films.”

International co-operation

Professor Patricia Aufderheide, director of CSM, explained, “We've learned in the US that people need to understand their rights to use copyrighted material better and that when they do, they make better work, different work, and more of it. We are delighted to see documentary filmmakers in South Africa undertaking the same process of self-help.”

Sean Flynn, Associate Director of PIJIP and a principal investigator on the project, describes the project's partnerships between international copyright experts and South African filmmakers and legal experts as “a model example of how groups in the north and south, academics and practitioners, can work together.”

“South African filmmakers are now taking action themselves with PIJIP's technical assistance, and that is great news. As our projects have found elsewhere, practitioner communities often don't have the resources to execute the research, survey local and international laws, and facilitate the process of learning the law and asserting consensus over interpretation needed to fully take advantage of their rights. That is where collaboration between the academy and the practitioner community is so fruitful for both sides.”

More information on the project at www.wcl.american.edu/pijip/go/internationalfilm and registration information at www.docfilmsa.com/rights/.

For more, visit: <https://www.bizcommunity.com>