

South Africa: FIFA forbids free speech at World Cup

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FIFA's attempts to silence anti-xenophobia activists hits the headlines in Durban.

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July 7, 2010 — Acting against our alleged “ambush marketing” and “incitement” (sic), the South African Police Service, newly augmented with 40,000 additional cadre for the World Cup, detained several of us here in Durban last weekend. We were simply exercising freedom of expression at our favourite local venue, the South Beach Fan Fest, whose half-million visitors is a record.

Wearing hidden microphones so as to tape discussions with police leadership, what we learned was chilling, for they have received orders from Durban city manager Mike Sutcliffe that the property rights of the world soccer body, the Fédération Internationale de Football Association (FIFA), overrule our foundational constitutional rights.

“We can charge you and detain you until the 11th of July, [when] FIFA is over!”, a top officer shouted at me during my second interrogation, on Saturday, July 3.

Sutcliffe is preparing a draft bid for Durban to host the 2020 Olympics, to present to the International Olympic Committee soon after the World Cup final in Johannesburg on July 11. Durban is the lead candidate from South Africa due to its warm August winter, sea-level location and recent construction of athletic facilities throughout a sports precinct stretching across from the new \$390 million Moses Mabhida Stadium to the “Golden Mile” beachfront.

The Durban Social Forum has come out against an Olympic Bid “which will create yet more debt and inequality”, given how much damage FIFA has done to the city’s poor and working people, the economy and the environment – damage not successfully offset by high national pride and profits for a few South African elites.

Democracy, solidarity and sovereignty

One barrier to a successful Olympic bid, we hope, is the perennial, growing concern about the city’s commitment to democracy, solidarity and sovereignty.

To illustrate, my University of KwaZulu-Natal colleague Baruti Amisi, a Congolese refugee, received this email reply from Sutcliffe to a polite request for use of City Hall steps for an July 3 anti-xenophobia rally: “It appears you are not a South African and are clearly uninformed about the role of Fifa. In brief, we are an independent country and except for the stadium precinct, Fifa have no

role in running the city.”

That’s not true, because even before the World Cup began in June, South African police were investigating an extraordinary 50,000 incidents of “ambush marketing” well beyond stadium areas. FIFA’s copyrighted protection even of place names (e.g., “Durban 2010” on merchandise) was used to charge non-sponsors penalties in the range of \$30,000 in the event that for-profit product sales mentioned FIFA’s monopolised terminology.

But this “protection” also extends into non-profit terrain, as we learned on July 2. Indeed, several incidents illustrated the clash of society and police authority that night.

In Johannesburg, ten hawkers were arrested near Soccer City: “Some were trading in goods that they did not have permits to sell while others had no permit at all to sell at the stadium”, according to a police superintendent. These survivalist-entrepreneurs now will pay \$200 (half their typical monthly earnings) to have confiscated goods released.

Here in Durban, the July 3 anti-xenophobia rally was considered an important way to generate consciousness, networking solidarity and concrete plans for safety in the event of a repeat of the May 2008 xenophobic attacks. We thought that because Ghana was playing Uruguay later that night, the Fan Fest was an excellent place to draw upon African ubuntu spirit and welcome soccer fans into solidarity activism.

Getting Sutcliffe’s permission for the rally was, as ever, like pulling teeth. The police were informed in writing on June 19 but it was only on Friday [July 2] afternoon before rally approval was granted to a coalition that included the KwaZulu-Natal Refugee Council (which Amisi heads), the Diakonia progressive church alliance, the Durban Social Forum and our Centre for Civil Society. A group quickly brought 1000 fliers to the beach to let people know, handing out the information at half-time during the Netherlands-Brazil game. Minutes later, visiting doctoral candidate and filmmaker Giuliano Martiniello, research student Samantha Sencer-Mura and I were accused of “ambush marketing” and incitement, and dragged off to the nearest police station.

Indeed, I was detained for hours during both Friday’s and Saturday’s early games’ half-times, missing (thank goodness) the pain of seeing my favourite Latin American teams clobbered by Europeans. The top-heavy security force included police generals, crime intelligence, the commercial branch and even the National Intelligence Agency.

I’d gone back the next day [July 3] with a pamphlet about free speech, to test whether the police really would lock me up for days simply for exercising constitutional rights.

FIFA directives against free speech

All of us are, of course, lovers of World Cup soccer and haters of FIFA, like most people who give this distinction a moment’s consideration.

The Zurich crew will take home \$3.2 billion in profits, pay no taxes, ignore exchange controls, trickle nothing down, commercialise all aspects of the game, copyright words like “World Cup”, overcharge for everything, declare “exclusion zones” that stretch for kilometres, muffle journalists with no-criticism accreditation requirements, and trample on our freedom of expression.

(If you don’t care about these issues because you’re a soccer purist, never mind, you’ll still join the many bitter players and fans who believe FIFA president Sepp Blatter’s main legacy is the quaint

refusal — or, hinted Lord David Triesman of the English Football Association a few weeks ago, bribe-friendly tactic, following which Triesman was forced to resign — to adopt “goal-line technology”. Photographic and communications equipment is direly needed to correct repeated and often egregious referee errors, nearly every observer agrees. Blatter instead, apparently, focuses all FIFA’s camera power on potential ambush marketers in the crowd.)

Illustrating how constrained our rights are, I asked one police superintendent (name withheld), “What if I say ‘Viva Argentina!’ in the fan park? No problem? What if I say ‘Phansi Fifa phansi!’?” [Down with Fifa!]

“Then you’re wrong”, the policeman answered. “You can’t say, ‘Phansi Fifa phansi’.”

Sutcliffe’s control fetish appears to be the central barrier. As a police superintendent put it, “He’s the one who has instructed us that we must enforce. He comes in our meetings.”

“And what does he say?”, I asked. “He says he doesn’t want any anti-xenophobia?” Replied the police superintendent, “No distribution of pamphlets, especially which mention xenophobia.”

Ah, the underlying problem had emerged. The reason the pamphlet was banned was not just procedural, it was political.

The police superintendent continued: “You are reminding [people] of xenophobia. Even myself I had forgot about that thing, but now you write it down.” (He was referring to Friday’s pamphlet.)

“Do you think it is not a problem?”, I asked.

Surely Durban police know that a city councilor — Vusi Khoza of the ruling African National Congress (ANC) — is among those still being tried for the January 2009 murders of a Tanzanian and Zimbabwean, and that the streets and worksites are thick with tension and insults against immigrants and refugees. (In November 2009, during one of the injured victims’ testimony, Khoza reportedly laughed as the Zimbabwean described a fall of six floors from a window he was pushed from, landing on his two friends’ corpses, for they had not survived the attack.)

The senior police officer’s rebuttal: “It happened. Then government stopped it there.”

“I’m sure you know that [South Africa’s President] Jacob Zuma said xenophobia’s a problem”, I rebutted. After all, when meeting his ANC national executive in May, “President Zuma said the ANC branches must work against xenophobia”, I reminded the superintendent.

“There is no xenophobia”, he insisted -- but nervously.

Xenophobia denial

Such denialism parrots leading ANC spokesperson Jackson Mthembu’s extraordinary written statement earlier that day: “The reported xenophobic attacks by South Africans on foreign nationals, particularly from the African continent, after the conclusion of the 2010 FIFA World Cup in South Africa, is baseless and without any rational” (sic).

Added ANC national chairperson Baleka Mbethe, “These reports are irrational have no basis whatsoever” (sic).

And yet the army is now occupying the town of Denoon not far from Cape Town, precisely because threats could explode into 2008-type xenophobic violence. A steady stream of new refugees has been pouring out of many Cape Town and Pretoria townships in search of safety over the past week, fearful of what may happen on July 11 at 10:15pm, when the last game comes to an end.

Corporate rights trump human rights

Aside from xenophobia, an overarching problem of civil and political rights for South Africans was also evident from our discussions with police. For behind Sutcliffe's arrogance in declaring such a large constitution-free geographical zone was the constitution drafters' own ambiguity: our Bill of Rights -- considered amongst the world's most progressive -- is potentially interpreted as allowing corporate property rights to trump human rights. Section 8(4) gives foundational rights to "juristic persons", i.e., institutions including for-profit businesses like FIFA.

In 1996, alongside former ANC member of parliament Langa Zita and sociologist Darlene Miller (at the Human Sciences Research Council), and aided by US citizens' advocate Ralph Nader, we formally warned a Constitutional Court certification hearing that this provision could "undermine the constitutional rights of natural persons to freedom of expression, freedom of association in organs of civil society, access to information, the rights to life, security of the person, and a safe environment".

So it seems we were right, sadly. Likewise, in the US, a similar degeneration of political rights occurred this year when the Supreme Court lifted limits on corporate spending to influence elections. In the US, the increasingly important group Nader cofounded, Public Citizen (led by Robert Weissman), is tackling the "Citizens United" case and its implications, but we have not yet developed such strong anti-corporate sensibility here in South Africa.

Indeed, according to professors Chris Roederer and Darrel Moellendorf -- in their 2004 book *Jurisprudence* -- our 1996 case against corporate rights is an example "of the law serving to stabilize capitalist property relations" because "the final Constitution contains no assurance that when the rights of juristic persons conflict with those of natural persons, the rights of the latter shall prevail". On the other hand, the 1996 Constitutional Court ruling against us did at least concede that section 8(4) "recognises that the nature of a juristic person may be taken into account in determining whether a particular right is available to such a person or not".

That's why the stance of the Durban city manager and his police honchos is so counterrevolutionary, against the ANC's professed democratic values. The right to inform South Africans and visitors about a municipally approved xenophobia rally during a half-time break surely should be declared a "particular right" overriding FIFA's exclusions, given how much is at stake.

If they don't come to their senses, will we again face police detention as we leaflet the Fan Fest and stadium crowds demanding, first, our constitutional rights restored; second, that FIFA finance some new township soccer pitches before they leave town with all that cash; and third, that it adopt goal-line technology, already!?

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P.S.

* From Links:

<http://links.org.au/node/1779>

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