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The Borat backlash

Americans turned Sacha Baron Cohen's spoof documentary into a massive box-office hit. But with many of his victims now turning to the courts, who will have the last laugh? By Patrick Barkham



Patrick Barkham

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Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan

Production year:
2006

Country: USA

Cert (UK): 15

Runtime: 83 mins

Directors: Larry

Sacha Baron Cohen's altar ego, mentioned in the article below, is actually an alter ego.

It began with outrage in Kazakhstan, followed by the strangulated sound of forced laughter from the nation's diplomats, who realised they should pretend to get the joke. It may end in a procession of costly trips to court. While Kazakhs have meekly come to an

Charles

Cast: Ken Davitian,
Pamela Anderson ,
Sacha Baron Cohen
[More on this film](#)

accommodation with the blockbusting power of Borat Sagdiyev, it appears that Sacha Baron Cohen's alter ego did not learn one important lesson during his travels across the United States: when they are offended, Americans sue.

The ker-ching of box office cash registers for Borat: Cultural Learnings of America for Make Benefit Glorious Nation of Kazakhstan has been matched by the wails of the offended and the murmur of American lawyers who believe that they, too, can make benefit from the movie. After the film was released, Baron Cohen confirmed, as every cinema-goer had already realised, that of course the joke was not actually on Kazakhstan, but on those whom he had set up during the course of the film. Borat, he said, was a tool for exposing racism and anti-semitism.

Indeed, the homophobic rodeo organiser and the boorishly drunk college kids whom Borat took advantage of may not elicit much sympathy in any bid to receive compensation. But that is not necessarily true of all his victims, and the putative lawsuits that have emerged so far have thrown new light on the extraordinary methods used by Baron Cohen's production company to fool members of the public (while, the company hoped, evading costly legal claims). In the case of the Romanian village persuaded to take the place of Borat's Kazakh home in the film, the small sums of money allegedly paid - when compared to the amount of humiliation undergone - have led to accusations of exploitation.

Baron Cohen's sting was similar for most of his US targets. The subject would be cold-called by representatives of a front company, usually called One America Productions. Linda Stein, for example, an artist and feminist baited by Borat in the film, had a pre-interview with a woman with the false name of Chelsea Barnard. Because the Kazakhstan angle would be familiar to those watching Ali G and Borat's adventures on US cable channel HBO, Baron Cohen's people usually claimed to be working with a

Belarus TV station.

Stein searched for One America on the internet and found nothing. Fearing it could be a cover for an extreme right group, she interrogated Barnard, who told her funding for the "documentary" came from Belarus Television. Baron Cohen was shielded from Stein, and others, until the last minute, presumably to give people less time to see through his act.

The unwitting stars of Borat were offered modest sums, from \$150 to \$400 (£80-£210) for their time. And, just as the crew were setting up the shoot, the victims would be handed consent or release forms, in complex legalese. Media lawyers who have looked at the forms say they are unusually long, with some unique clauses. But the victims invariably signed them without even looking at them properly.

In one such form, published by Slate magazine, the project is described as "a documentary-style film" that the producer "hopes to reach a young adult audience using entertaining content and formats". Clause four states that the participant waives the right to bring any claims against the producer. At first, its subclauses include standard terms such as "damages caused by 'acts of God'". Then they go further, demanding that the subject agrees not to bring any claims over "false light (such as any allegedly false or misleading portrayal of the Participant)" and "fraud (such as any alleged deception or surprise about the Film or this consent agreement)". Stein admits she barely read the form but she questions its validity given that hers was signed by Chelsea Barnard - a made-up name. And, as she wrote in Manhattan's Downtown Express, "While I'm no legal expert, I can't believe that you can agree to be defrauded."

Do these clauses protect Baron Cohen and his producers from legal action? According to Phil Sherrell, a media lawyer at international law firm Eversheds, the clause waiving the right to seek redress against the producers would be struck out under English law. "If this was playing out in England, the subjects would have a good claim that the nature of the project had been fraudulently misrepresented, and that the agreement was

therefore void," he says. "If you look at clause four, there are constant references to the subjects being falsely or misleadingly portrayed. The producers might think that it flags up their intentions and makes it clear that emotional distress may be caused, but none of that would matter if the producers did completely mislead the victims about what they were letting themselves in for."

At least one US entertainment lawyer believes the forms are watertight, however.

"Generally, these releases will hold up in court unless the person suing can prove that he signed the agreement under false pretences or while incapacitated," says Aaron Moss, an entertainment lawyer for LA-based Greenberg Glusker. "Even if a participant was lied to, a court may find that the person should have read the contract and that if he didn't, it's essentially his own fault."

Nevertheless, etiquette coach Cindy Streit has asked California's attorney general to investigate the film. She claims the company that approached her, "Springland Films", put it in writing that the second of her two sessions with Borat would be "filmed as part of a documentary for Belarus Television and for those purposes only". Twentieth Century Fox, the studio behind Borat, has dismissed this claim as "nonsense".

Baron Cohen is far from the first prankster to fool the public on film. Nine years ago in Britain, Chris Morris's Channel 4 show Brass Eye devised similarly elaborate ruses to induce its subjects to believe satirical guff such as the existence of the deadly drug Cake, or the "fact" that paedophiles and crabs share the same genes. The Tory MP David Amess was fooled into asking a question in parliament - it was answered, too - about the perils of Cake. Amess took his case to the Independent Television Commission, which ruled in his favour. "If there are individuals who have been duped as I was about a serious subject, my advice to them is not to let it drop," he says. "It is out of control. If these ordinary people in America feel their rights have been violated [and go to court], I say good luck to them."

Amess points out that while Morris's oblivious stooges were MPs and celebrities, many victims of Borat complain that they are ordinary folk and not public figures at all. (The only "victim" of Baron Cohen's who was a well-known public figure was Pamela Anderson, and she claims she knew about his antics in advance.)

Baron Cohen is a brave man to take on probably the most litigious people in the world. But he might not have expected the Romanians to get in on the act. On Monday a \$30m (£15m) lawsuit was filed in Manhattan's federal court on behalf of Nicolae Todorache and Spiridom Ciorebea, two residents of Glod, the Romanian hamlet where scenes in Borat's "home town" were filmed. The men claimed they were told the film was a documentary about extreme poverty in Romania that would accurately depict their lives. "Nothing could have been further from the truth," the lawsuit says. "The project was intended to portray the plaintiffs ... and other villagers as rapists, abortionists, prostitutes, thieves, racists, bigots, simpletons and/or boors."

Nicolae Staicu, leader of the Roma in the area, accused the producers of paying locals just \$3.30-\$5.50 (£1.72-£2.87). But Gregg Brilliant, a spokesman for Twentieth Century Fox, said that locals were paid twice the going rate for extras, while the production team and Baron Cohen each donated \$5,000 (£2,600) to the village, paid a location fee and bought it computers and school supplies. He said the movie "was never presented to anyone in Romania as a documentary".

In turn, lawyers for the villagers argue that the producers deliberately exposed the victims to ridicule without allowing them a proper chance to give their consent. "This case is not about money but about dignity," says lawyer Ed Fagan, who helped win victims of the Holocaust an out-of-court settlement of \$1.25bn (£653m) after filing lawsuits against Swiss banks that had allegedly failed to repay money belonging to the victims. The Romanians' legal team argues that, unlike participants in the US, they were not asked to sign any agreement or consent forms.

Baron Cohen's use of the people of Glod is more about morality and media ethics than law. Sherrell believes this negative publicity could increase the chances of Baron Cohen's backers pragmatically settling out of court: "If the stories are true, it appears that the villagers are impoverished and were treated very poorly. That casts the producers in a bad light. Picking on Romanian peasants for laughs isn't great PR. But legally the issues are the same: did the villagers give consent and, if they did, was it meaningful and based on a proper understanding of the project?"

Can there be a happy ending for those who feel ridiculed or exploited? Mocked for being fooled over the fake drug Cake, Amess was pleased to win the ITC ruling. Now though, he says, all people remember is the joke - no one recalls his victory. "It's amazing that young people still mention the thing about Cake," he says. "They've never, ever forgotten it".

'People's lives have been ruined by his comedy'

From Roma villagers to etiquette coaches - the victims bite back

Linda Stein Artist and feminist

In the film Borat goads her into storming off by telling her that women must walk behind men in his country and asking how he can contact Pamela Anderson. Stein boots Borat out.

She now says "He was very, very clever in the way he warmed up to his outrageous behaviour. At no point did I feel that there was an actor in the room."

Action "I'm keeping my options open," she says. "Sacha Baron Cohen should buy one of my sculptures. He owes me one."

Nicolae Todorache and Spiridom Ciorebea Villagers, Glod, Romania

In the film Todorache, who has lost an arm in an accident, was filmed with a rubber sex toy attached to the stump. Ciorebea played the "village mechanic and abortionist".

Todorache now says "Our region is very poor, and everyone is trying hard to get out of this misery. It is outrageous to exploit people's misfortune like this - to laugh at them."

Action A \$30m (£15.5m) lawsuit has been filed in Manhattan's federal court.

College students Known only as John Doe One and John Doe Two

In the film On a road trip, the frat boys from South Carolina University give Borat a lift. Shown drinking together, they are contemptuous of women and tell Borat that America is ruled by minorities. They also show him the sex video Pamela Anderson made with Tommy Lee.

They now say The film caused them "mental anguish, humiliation, physical and emotional distress and loss of reputation".

Action They are suing for fraud, breach of contract, invasion of privacy and distress. A spokesman for Twentieth Century Fox has said the legal action "has no merit".

Dharma Arthur TV producer

In the film Borat appears on the lunchtime news show on the WAPT network in Jackson, Mississippi. Anchorman Brad McMullan gamely struggles to rein in Borat, who then interrupts a live weather forecast, causing the weatherman to laugh hysterically. Arthur was the producer.

She now says "Because of him, my boss lost faith in my abilities and second-guessed everything I did thereafter," she wrote in Newsweek. "I spiralled into depression, and before I could recover, I was released from my contract early. It took me three months

to find another job ... How upsetting that a man who leaves so much harm in his path is lauded as a comedic genius."

Action None so far.

Bobby Rowe Rodeo manager, Tennessee

In the film Rowe is filmed venting prejudice against homosexuals and Muslims. Borat addresses the rodeo crowd, offering support for George Bush's "War of Terror". His calls for Iraq to be bombed "so only the lizards survive" are cheered; his rendition of the Kazakh national anthem to the tune of the Star-Spangled Banner is booed.

He now says "I got out there [when Borat sang the anthem]," Rowe told Newsweek, "and I say, 'Get the hell outta this dadgum building! Half the sumbucks in there are probably packin' heat, and they'll put you in front of the firing squad.' Boy, they got in their trucks and hauled boogie."

Action None.

Patrick Haggerty Public speaking and humour coach

In the film In a tutorial on American humour, Borat talks about his "retard" brother and tells a few popular Kazakh jokes, such as the one about having sex with your mother-in-law.

He now says "I think he's a comic genius. About 15 or 20 minutes into the filming I really started to smell a rat. I went up to the director and I said 'Why don't you let me in on the gag? I know there's a gag'. He said 'No, no, no, no, you misunderstand. You're doing fine. This guy needs your help'."

Action As a humour coach, Haggerty probably cannot afford to have a sense of humour failure over his appearance in Borat.

Joe Behar Bed and breakfast owner

In the film Borat is shown throwing money at computer-generated cockroaches in the bedroom, saying they are the Jewish couple who have changed shapes and become insects.

He now says "The director said I was a good actor. If they want to be equitable about it, though, I think they should compensate everyone involved in a more decent way."

Action None.

Sally Speaker Guest at Magnolia Springs Manor in Helena, Alabama

In the film Borat asks Presbyterian minister Cary Speaker whether another guest is his wife. Mr Speaker replies: "No, that is my wife", pointing at Sally. Borat says: "In my country they would go crazy for these two," pointing at the hostess Cindy Streit and Sarah Moseley. Pointing at Mrs Speaker, he says, "You ... not so much."

She now says "Lives have been ruined by his comedy. I realise some people will watch the movie and find it funny, but for the people who were duped into appearing, what happened was anything but humorous."

Action No plans to sue.

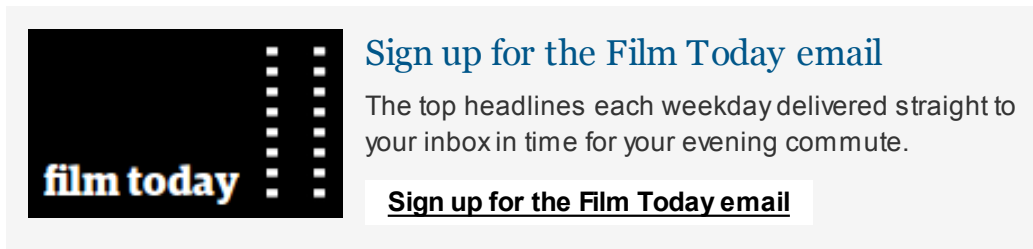
Cindy Streit Etiquette coach and host of Magnolia Springs Manor dinner party

In the film Borat gives her a bag of excrement after a visit to the bathroom. She shows him how to flush it down the toilet. He is asked to leave when he invites a black prostitute - played by an actress - to the dinner.

She now says She claims that her business, Etiquette Training Services, has been ruined.

Action Has asked California's attorney general to investigate possible violations of the Unfair Trade Practices Act.

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