

Research Article

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Evolution of film policy in Kenya

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Abstract: This paper examines attempts by Kenyan governments to put in place policies or law that control and promote film industry right from the colonial era. Taking a historical approach, this article identifies trends in film policy and by extension media policy in Kenya across different political regimes. The trends show there is no consistency and documentation of film policy. Trends show that the legislations are prohibitive in the manner they were written with deliberate efforts to curtail film production and often interference by executive powers in the day-to-day regulations of the film industry. This paper relies on legal documents for data collection. The article concludes that although some strides have been made in drafting film policy, the draft is yet to be signed even as the film industry continues to struggle under a prohibitive colonial policy.

Keywords – Evolution, Film, Film censorship policy, Political regime

1. INTRODUCTION

The Kenyan film policy stems from the colonial administration that was characterised by racial discrimination. Since 1930, film was a very powerful weapon for propaganda. British government therefore used it to manipulate Kenyans to advance their interests. Thus, the laws governing media and other regulatory frameworks during this time were crafted to advance the interests of the colonial government due to their interests in the socio-economic and political factors (Mbeki, 2008). As Peris (2002) puts it, the British colonies used simplistic films to spread propaganda, and glorified heroes to promote ideologies of the British colonial rule. During this period, films were used to push government agenda by shaping public opinion. However, during World War 2, Africans came to the realization that they were being taken for a ride and thus protested. This led to the formation of the Colonial Film unit to avert the situation. The unit was meant to foresee the production and distribution of films in the country. Thereafter, the entry of American film raised jitters to British's political and commercial interest that led to perceived censorship and subsequently guidelines on film operations in Kenya, Tanganyika, Northern and Southern Rhodesia (Smyth, 1979).

After independence, more Kenyans started going to the cinema. A policy was then developed to guide the operations of indigenous Kenya's film industry which had suffered during colonial times (Nyoike, 1979; Diawara, 1987), a move that was not received well by American companies (Nyutho, 2015). When the Kenyan government was denied an opportunity by the vice president of Motion Picture Association of America (MPAA) to distribute films, it gave an ultimatum to the 20th Century Fox Group to collaborate with the Kenya Film Corporation (Nyutho, 2015). It was clear to the government that the 20th Century Fox organization and Anglo-American Co.

The entry of Kenyans into the mass media space was accompanied with restrictions in a way that they were not allowed freehand in broadcasting even after independence (Mutullah, Mudhai & Mwangi, 2015; Mbeki, 2008). Kenya gained her independence in December 1963, with Jomo Kenyatta as the first president. It was hoped that Mzee Kenyatta being an acknowledged intellectual, a renowned cultural activist and a film actor would pay attention to film industry and facilitate the formation of film policies but according Nyutho, (2015) he did not. At independence, there were no Kenyans engaged in the film production and distribution industry. In 1967, when Kenyan government thought of venturing into film business, importation and distribution of film in Kenya, the industry was still in the hands of a South African company mandated to do the business. The South African company had signed a contract with Motion Picture Export Association of America (MPEAA) to distribute films in Kenya (Gachathi, 1967). This led to the establishment of the Kenya Film Corporation (KFC) on 14th July 1967 which was owned by Commercial Development Corporation, a government financial parastatal.

KFC was given some rights to import and distribute films throughout Kenya. The then CEO of Kenya Film Corporation, Mr Nyoike, wrote to the president of MPEAA to allow Kenyans do the production and distribution of films and take over ownership of theatres in the country. He further stated that Kenyans were not given equal opportunities in the film industry and could no longer be kept out. These views provoked MPEAA and foreign cinema owners in the country. This threw the film industry into a crisis that led to the closure of cinema houses for some time. However, the government compelled the cinema owners to reopen the films or lose their businesses (Nyutho, 2015). After independence, the President took control of the media by developing laws and policies. The policies focused on national development. The government continued to keep Kenyans away from information related to governance by enacting the Official Secrets Act in 1968. Thus, it had a hand on the media content to be shared with the public (Mutullah, Mudhai & Mwangi, 2015; Ochola, 1993; Mbeki, 2008).

The government of the second president of Kenya, Daniel Arap Moi, restricted and limited political freedom, making Kenya a one-party system. Opposition was criminalized and there was explicit clampdown on media. The media was harassed and some critical magazines were banned (Mbeki, 2008). The coming in of the multiparty system in Kenya, in 1992, opened up media space. The government received pressure from different agencies to review media law. The Constitution of Kenya, Kenya Information and Communication Act, 2008, The Copyright Act, 2001, Film and Stage Play Act (Cap 222) are some of the laws that govern the film industry in Kenya both as business and socio-cultural and political institutions. This paper is premised on the argument that for the film industry, like any other industry, to thrive or be self-sustainable, it needs to operate within a system that provides support that is consistent and reliable. Lack of this support decreases the industry's potential to flourish and develop a robust growth strategy and therefore the support by the government to the film policy would help the realization of the industry's full potential (UNESCO, 2011; Olsberg, 2012). However, most of the policies formulated in various countries are not specific to the film industry, they are media or communication policies that are general, hence film as an industry struggles to operate under them. According to Matumaini (2010), media policy comprises all strategies employed by the government, media corporations and international policy organizations and media companies. Matumaini (2010: 7) argues that communication policy includes all aspects of policy system including "media, interpersonal communication, traditional communication channels, content of the message, and type of audience. It also includes the socio-economic, political and technological factors". This view overlooks the fact that as much as film is a form of media, it should not be generalized under media and communication. As an industry, it has its unique requirements (in terms of production, distribution and consumption) that are different from other forms of media; its requirements and demands have to be addressed by a specific policy that will create an environment that supports the film industry.

The issue is that even though communication policies exist in many countries, most do not have a holistic communication policy document that guides the operations of the sector. According to Bofo (1986) quoted in Matumaini, (2010: 2), no African country, including Kenya, has a well elaborate communication policy. The

researcher observes that there are only various pieces of laws, regulations and guidelines to regulate communication and media industry. However, it is noteworthy that the film industry in some countries, has thrived in an environment without a film policy. The Nigerian film industry is a good example. It is celebrated for doing well, despite copyright abuses, not just locally but even on the global market. 'This booming industry does features in discussions in global cinema because of its informal operations and copyright infringements. The sector is controlled by small entrepreneurs, pirates and marketers and has yet to meet the standards of Euro-American models (which are considered formal with clear guidelines) (Lobato, 2012)'. This is as a result of gross violation of copyright law that portrays it negatively on the global market. Oh (2014) points out, international co-productions have shied away due to persisting high rate of piracy, its informality and has deterred international co-productions, thus scaring potential investments and distribution opportunities for Nigeria in the global platform. Uche (1989) opines that the success of the film industry greatly rely on how the African states will develop policies that are 'inclusive, transparent and which include views of all the stakeholders so that public interests are promoted as well as economic development.

Opubor, Akingbulu and Ojebode (2010: 61) argue that communication policies are basically the products of government and do not favor the individual film makers, even in developed nations where commercial and other interests have room to contribute to policy making. They argue that "the final document as well as its tilt and biases in most cases mirror the ideas and interests of the ruling group in power" (Opubor et al., 2010: 61). If the group in power is visionary and wants to propel the industry to a higher level, it will definitely achieve this. Chibita (2010: 85) holds a similar view that government should think about the media when developing media policies; their role, the limits and who should set those limits". Chibita (2010: 85) observes that although policy should ideally be formal, it is usually doesn't happen that way and that not articulating a policy is in itself policy. Mutere decries the fact that policy making in Africa always leaves out beneficiaries in the decision-making process. He argues that this weakness is the reason why communication policies have failed to take root in Kenya and the rest of Africa (Mutere, 2010). Ugangu further states that political changes, usually, influence media policy to favour the ruling (Ugangu, 2015).

2. OVERVIEW OF KENYA'S FILM INDUSTRY

With the introduction of film in Kenya in early 1900s, the film industry has been dominated by western film companies, more so those from Hollywood. According to Smyth (1979), from 1932, film supply in Kenya was done through a contractual arrangement by the colonial government through suppliers from South Africa and they mostly supplied US films. The establishment of British United Film Producers Co. Ltd was thereafter established to deal with film distribution and exhibition in the country from 1931 (Smyth, 1979).

2.1. Film viewing during the colonial period

The British colonial government established a mobile cinema in 1930s as an experimental education enterprise (Mwaura, 1980). Propaganda and pacification of African population during the British rule in Kenya were evident in the mobile cinemas shown in 1940s. This continued in 1950s when Kenya was plunged into a new era of Nationalist struggle against the British colonial rule. The mobile cinemas were disbanded in 1959 through to 1960 when colonial government announced the end of the state of emergency in the country (Mwaura, 1980).

The construction of cinema halls in the major cities promoted the screening of Hollywood movies in Kenya. People went to enjoy the latest releases from Hollywood, Bollywood and United Kingdom (Simiyu, 2015). However, immediately after independence in 1963, the government inaugurated the Kenya Institute of Mass Communication and one of its main objectives was to train African film makers. This was a big boost to Kenyan film makers and as a result, the first Swahili film Mlevi was released in 1968 (Okioma & Mugubi, 2015; Simiyu, 2015). Despite the establishment of the laboratory infrastructure and training of film producers and directors for

local film industry at Kenya Institute of Mass Communication, the celluloid film market was already threatened by video technology in the 1980s and 1990s. In fact, the celluloid technology was being phased out elsewhere (Nyutho, 2015). The mobile cinema was reintroduced in 1966. A film making unit within the Ministry of Sports, Arts and Culture was reorganized and later became part of the documentary Film Unit to produce films to be used in mobile cinema (Nyutho, 2014). By 1980, the Ministry had 15 mobile cinemas and had acquired the technical facilities required for making, processing, printing and dubbing films to be used on mobile cinemas.

2.4. Film production during colonial era

The first film to be shot in Kenya can be traced back to 1909 when an American president, Theodore Roosevelt, came on a wildlife safari in Kenya. A Hollywood movie by the name *Theo in Africa* was made and screened in 1910 (Okioma & Mugubi, 2015; Simiyu, 2015). Thereafter, Hollywood shot its first films in Kenya in 1930. These included *African Holiday*, *Stanley and Livingstone*, and *Trader Horn*. Other memorable films such as *The Snows of Kilimanjaro*, *King Solomon's Mines*, and *Mogambo* entered in international market in 1950s. It displayed major Hollywood stars on Kenyan beautiful landscape. (Kenya Film Commission, 2013). The discourse of these films was firmly enclosed in British colonial ideology and targeted pre-independence era Western audiences; visualizing their desire to explore territory, experience adventure and allow white perspective to indulge in privileged social, individual and hegemonic interpretation of collective imaginary of white dominance over inherently chaotic African contexts (Okioma & Mugubi, 2015). The inherent superiority of white characters in such plots served to legitimize the colonial enterprise, which was understood as an unalterable socio-political and economic status that enabled the region to participate in the European- dominated world market.

The Eurocentric fascination with representations of landscapes played an integral role in the discovery of landscapes by foreign audiences who were trapped in rapidly growing industrial economies in dense European and US cities, faced by two World wars and their aftermath. As a result, the economic success of escapist films that presupposed an unchallenged colonial perspective for narrative simplicity and audience satisfaction reinforced the positioning of the African population as merely secondary, minor actors in a space requiring European management. The powerful landscape motif in colonial productions thus overrides any potential on narratives of Africans, and left African stories as an untapped reservoir for future film making within the continent (Simiyu, 2015).

In 1929, the British government sought to find out how films could be used in the education of Africans as teaching resources and for propagating health and economic general knowledge and education for a labor reservoir to escape the wider open spaces. Dr. Peterson from the Medical and Sanitary Services department became the first to produce education film; *'Harley Street in the Bush'* which was used to campaign against hookworms in coastal Kenya. The films were meant to make Africans happy and healthier and to prepare Kenyans for the anticipated Western capitalist society (Smyth, 1979).

2.5. Film control during colonial era

The inception of the film in Kenya, had a strong connection with the British colonial government which involved a lot of racial segregation. The British government's mission, in 1930, was to use film as a propaganda tool in advancing their interests using the legal, regulatory and policy frameworks (Mbeki, 2008). According to Peris (2002), the British films was used in spreading propaganda as the preliminary films incorporated stories that simply reflected the heroic moments in the empire. The author observes that the films seemed to promote monarchical philosophies and glorified the British administration.

The study observes that these films that emerged during this period were used to nurture the government's propaganda campaigns. The film makers were persuaded that patriotism was profitable, and that the cinema would shape public opinion (Peris, 2002), and propagate official policies (Nyutho, 2015). However, during the 2nd

World War, Africans realized that the high-handedness of the colonial administration had started to reflect in the British cinema despite the administration justifying that its presence in Africa was not meant to exploit Africans but to benefit both sides (Peris, 2002). The Film Unit seemed to propagate these fabled perceptions and, therefore, introducing American films may have posed a threat to the Britain's obsession which could have resulted in a need for censorship. Thus, this threat may have led to the introduction of a framework in the operation of films in Kenya, Uganda Tanganyika, Zanzibar, Northern and Southern Rhodesia.

2.6. Political change to President Jomo Kenyatta era

After Kenya became independent in 1963, it had a growing population of middle-class citizens going to the cinema halls. The first president, Jomo Kenyatta, developed a policy to establish an indigenous Kenyan film industry that would replace the one that was previously dominated by Europeans (Nyoike, 1979). Diawara (1987) observes that film production and distribution in Africa suffered in the hands of American, European and Indian film companies. However, the American companies were not ready to allow Kenyans to do film distribution (Nyutho, 2015). The attempt by the Kenyan government to persuade the vice president of MPEAA to allow them into the acquisition and distribution of films business in the country did not bear any fruits. The Kenyan government then gave an ultimatum to the 20th Century Fox Group to open their cinemas, failure of which, the cinemas would be seized and given to groups who were willing to collaborate with the Kenya Film Corporation (Nyutho, 2015). The Kenyan government was aware that the 20th Century Fox organization and Anglo-American Co. (Kenya) were owned and controlled by South Africa which had been given the franchise for the African market (Gachathi, 1968). Allowing Kenyans into the film business would enable Kenya to earn \$ 1.5 million per year in importation and distribution of American films. There was no need therefore for MPEAA to refuse to collaborate with the Kenya Film Corporation (Nyutho, 2015). Although this strategy finally managed to reopen the closed cinemas, Kenya did not manage to get the franchise from MPEAA to import and distribute films thereafter as agreed (Nyutho, 2015).

2.7. Film control and censorship during President Jomo Kenyatta era

The window to allow Kenyans into the mass media operations came with strict control and censorship making sure that locals do not use radio to broadcast their own views (Mutullah, Mudhai & Mwangi, 2015; Mbeki, 2008). According to Mutullah et al. (2015), these restrictive measures instituted by colonial governors continued even after independence. The first president, Jomo Kenyatta, realized how powerful the media was and thus set to take full charge. Unity of the nation, ideologies surrounding the media ownership and political rivalry were some of the issues that shaped the media laws and policies. His government therefore co-opted the media into narrowly defined area that contributes to national development. The government continued to keep Kenyans away from information related to governance by enacting the Official Secrets Act in 1968. The government chose what to communicate and what not to communicate to the public (Mutullah, Mudhai & Mwangi, 2015; Ochola, 1993; Mbeki, 2008).

2.8. Film production during President Daniel Moi era

More Kenyan filmmakers joined the film industry by producing films, especially documentaries, which addressed topics such as health, agriculture and national unity. Thereafter, in early 1990s, there were efforts by Kenyan filmmakers to produce local feature films which included *The Battle of the Sacred Tree* (1995), *Saikati* (1992) and *Saikati Enkabaani* (1998) which were based on Kenyan stories (Kenya Film Commission, 2010).

With the growth of technology from shooting on celluloid to digital platforms in early 1990s, films were now increasingly shot on digital formats other than celluloid which was expensive compared to digital formats. Films were shot and stored on different materials like video tapes and DVDs and were not watched only in the cinema halls but also on VHS and DVD players, television sets at home and on different gadgets like tablets, laptops and

even smart phones. These platforms enabled Kenyan filmmakers to produce digital quality feature films from early 2000. The country saw increased digital quality feature film productions from early 2000, including Njeri Karago's *Dangerous Affair* (2002), Judy Kibinge's *Project Daddy* (2004), and *Money & the Cross* (2006), Christine Bala's *Babu's Babies* (2006), Albert Wandago's *Naliaka is Going* (2001), Jane Murago-Munene's *The Price of a Daughter* (2003), and *Behind Closed Doors* (2004), and Brutus Sirucha's *The Green Card* (2004). Other feature films made by Kenyans within the same period include *Malooned* (2007) directed by Bob Nyanja, *All Girls Together* (2007) directed by Cajetan Boy, and *From a Whisper* (2008) by WanuriKahiu. Jitu Films have also done several feature films, the most popular of which are *Mob Doc*, *R2 Security*, *Zeinabu Rudi Nyumbani*, *Chasing Moses*, *Selfish*, *Me, My Wife and Her Guru*; and their censored horror film, *Otto the Bloodbath* (Kenya Film Commission 2008). Local media houses were also actively producing programs mainly targeting local audiences with various program genres. Most programs were locally produced capitalizing on local creativity. The Kenyan film industry has thus gone through various stages right from the introduction of the first film in 1900s to the distribution and consumption of the film products by Kenyans.

2.9. Film control and censorship during President Daniel Moi era

The Daniel Arap Moi imposed limitations on freedom, rendering the country a one-party political system. Dissent was criminalized and there was overt clampdown on media. The media through seditious trials was harassed by the government and the independent magazines were also banned. (Mbeki, 2008). The coming in of the the multiparty system in 1992 came with the liberalization of the media and communication sector. The donors and civil society put more pressure on the government to review media laws in the 1990s. An institution was, thus, established to promote and regulate the communication and media industry in Kenya. Some of the laws that govern the film industry in Kenya both as business and socio-cultural and political institutions include, the Film and Stage Plays Act (Cap 222), the Kenya Broadcasting Corporation Act (Cap 221) and The Copyright Act, 2001.

2.10. Technological influence on Kenya film industry

Technological developments in the film industry have had a great impact on the Kenyan film industry in different ways. These developments involve both the mechanical and digital innovations that now shape how films are made, distributed and consumed in the market. The introduction of Video Cassette Recorders (VHS) in the Kenyan film market took the industry by storm in the late 1980s and 1990s. As Nyutho (2015) points out, cinema had been a major family entertainment where the middle and upper classes went to cinema halls for entertainment. The introduction of video thus gave consumers a means to watch a variety of films without going to the cinema halls. This led to the decline of cinema attendances globally which later led to closures of most cinema houses. Most cinema owners in Kenya sought the best way to stop the penetration of VHS in the market by launching advertising campaigns in the media (Sicherman, 1989). They further petitioned the Kenyan government to legislate laws that would stop the penetration of VHS in the market as this would lock them out of business. This later led to the gazettelement of the Video Act 1985 (Nyutho, 2015). However, as Kenyans were struggling to stop the proliferation of the VHS, Nigerians were embracing the new technology that led to the birth of Nollywood (Onuzulike, 2009).

The worsening economy experienced in the 1980s and 1990s, caused by poor management, led to the closure of a number of cinema houses. They included Fox drive-in cinema, Odeon cinema, Nairobi cinema, and Globe cinema among others (Kimani et al, 2014). According to Gacheru (as quoted by Nyutho, 2015), the political climate was unfavorable. The Kenyan government imposed too many restrictions and taxes on foreign movie distribution companies in Kenya. This gave rise to makeshift video theatres in the informal settlements, estates in the main towns and shopping centers. The Hollywood and Hong Kong movies which were now popular with young audiences were screened with deejay commentators in Kiswahili who helped them in dialogue translations and

made it available for those who hardly understood English (Nyutho, 2015). Consequently, local producers started making local simple comedy movies in Nairobi's River Road on VHS equipment in 1990s.

According to Nyutho (2015), most video film producers started film making after failing to secure employment and opted to hawk music videos and music CDs dubbed for mass distribution in River Road. The scholar states that film making was done without formal film technical knowledge (Nyutho, 2015). What mattered to them was to record picture and sound, and sell the story that their audiences would identify with, in terms of culture and entertainment. Quality to them did not matter. As Lee (2005) puts it, film is a cultural product that is interwoven with social practices where people are able to identify with in their social environment. The complexity of the industry is also brought about by technology and the relationship between culture and technology. Onuzulike (2009) talks about technological and cultural hybridity where technological hybridity in film production involves the fusion of or the mixing of two different conceptions/concepts such as montage, mise-en-scene and cinematography.

Cultural hybridity is the synthesis of different distinct cultural identities including, but not limited to, language, beliefs, religion values and artifacts, norms and values as each element has multiple cultural dimensions (Onuzulike, 2009). These have led to the growth of other related businesses like handy cams, DVDs and VCDs, film editing, packaging and mass distribution services all operating under one roof of film industry.

3. THE CONSTITUTION AND LEGISLATION THAT INFLUENCE THE KENYAN FILM INDUSTRY

Promulgated on August 27, 2010, the new constitution is the supreme law and it addresses a wide range of issues in the media industry. It has several provisions that directly or indirectly touch on film production. Article 11 acknowledges and identifies culture as an important basic component of a country, and the obligation of the state to promote all forms of national and cultural expressions through art, communication and mass media. Articles 32, 33, 34 and 35 guarantee media freedom and freedom of expression but this right to expression is limited which then extends to limitations to film production. Kenyan film makers can exercise their constitutional rights by freely making films. Kenyan films are protected by Article 40 which talks about intellectual property as an essential human right in Kenya, attracting the protection of the Bill of Rights that puts responsibility for promoting, protecting and supporting intellectual property on the state (The Constitution of Kenya, 2010). Kenya did not have laws specifically addressing media freedom before the promulgation of the 2010 constitution (Mwangi, 2015). Media freedom was derived from section 79 which states that everyone is free to express himself or herself and hold his/her opinions without interference from anywhere. He/she has the freedom to receive ideas and information freely (Constitution of Kenya, 2010).

4. THE FILMS AND STAGE PLAYS ACT (CAP 222)

This is an Act by the parliament of Kenya (2012) puts in place checks and balances in regards to film production and exhibition as well as licensing of stage plays, theatres and cinemas as well as films. Some section in the Act discourages the production of films. The Act allocates the responsibility of issuing licenses as well as the licensing procedures to an individual who has substantial power of veto through controlling the licensing process that may be subjective unless there are detailed procedures and auditing requirements. Although the law is silent about the background, exposure, experience and academic qualifications of the licensee, these factors are key in licensing process. Other than subjectivity, the procedures appear to delay the film making process. According to the Act, applications to acquire a license are made to the licensing office where the applicant has to give full description of scenes, dialogue and where the film will be made. Whether in the country or outside the country. It is then the

discretion of the licensing officer not to issue the license if more information is needed. (Film and Stage Play Act (CAP222: 6).

The above section subjects filmmakers to a lot of work and at the same time limiting creativity. In practice, scripts keep changing as new ideas are injected in the production, in such a way that, if the film makers wished to add or make alterations on the script, he/she has to apply again to the licensing officer who according to his/her discretion accepts or rejects the application. The Act goes ahead to give the officer more powers to stop a production if new ideas have come up during the process of production and the film makers has not had time to inform the the licencing officer. In some instances, the act gives the licensing office to bring on board police officers to oversee the production (Film and Stage Play Act (CAP222: 7).

This section of the Act undermines the professionalism of filmmakers and the presence of the police officers thus limits creativity. The licensing officer may also enter a bond by some amount. Thus, the licensing officer makes sure that the film is made in accordance with the conditions. The mandate and responsibility of the Kenya Film and Classifications Board were initially exercised by the Department of Film Services which was established in 1982 by the government of Kenya, with the aim of formulating, coordinating and administering policy in the Film Department. However, enactment of the Kenya Information and Communication Act and the Film and Stage Play Act cap 222 transferred this mandate to the Kenya Film and Classification Board. The Department of Film Services was left to deal with only government film productions. The institution has the responsibility of producing films about the government's development policies and programs, and also promoting Kenya's cultural identity, diversity and nationhood. The department is furthermore expected to establish modern film studios and to decentralize film services to all regions. So far, there is no documented evidence of how the department has performed.

The Kenya Film Classification Board's (KFCB) a state corporation whose main aim was to control the development of content, how the content is broadcasted, possession of the same content and how it is distributed through rating so that public order is maintained as well as upholding national values. It regulates public performances through the examination of films and posters that are submitted for classification. It further imposes restriction on age viewership and advising consumer as well as well as making sure that children and women are not sectionally exploited in cinematography. The body further issues licenses and certificates to distributors of films and, finally, prescribes the procedures in case anyone wants to apply for a license of distribution and exhibition of films (Kenya Film and Classifications Board, 2013).

5. ESTABLISHMENT OF THE KENYA FILM COMMISSION

The establishment of Kenya Film Commission in the 2005, was due to pressure from lobby groups to the government to set up a body that would provide funding to local film producers in a transparent and competitive process. The main aim was that Kenyan film makers would be armed with skills that were relevant in film making. This would be achieved through internships, seminars and workshops (Ondego, 2013). The body was also supposed to come up with strategies of marketing and distribution of Kenyan films. Under normal circumstances, for such institution to be established, the minister in charge was supposed to table a bill in the parliament to be discussed by the legislature and thereafter accented to become an Act of parliament. It is this bill that provides for the establishment of the Commission. Ondego (2013), explains that the Minister for Information and Broadcasting, fast-track the setting up of Kenya Film Commission. He took the proposal straight to the president, who set up the Kenya Film Commission under executive Order No. 10 of 2005. The Commission is mandated to advise the government on how films should be developed, coordinated, regulated and promote. It should also play the role of facilitation of content development, provision of funds and investment of films. Further, it is expected to play a role in archiving Kenyan films as well as marketing Kenyan films globally (Kenya, Kenya Film Commission Order No. 10 of 2005, 2005).

6. KENYA BROADCASTING CORPORATION (CAP 221)

The Kenya Broadcasting Corporation Act 1989 (Revised in 2012) led to the establishment of the Kenya Broadcasting Corporation (KBC). The period leading to the formation of the Kenya Broadcasting Corporation Act saw the push for independence in Kenya reaching its final stages and thus independence was inevitable. Up to this point, radio had been used by the colonial government to suppress the nationalist movement and promote the colonial agenda. The colonial government did not want to pass on this important mass media organ to an African government after independence (Nyutho, 2015). Between 1959 and 1961, the administration hired a consortium of eight companies to look at the establishment and operation of a Television service in Kenya; seven of which were from Europe and North America. The firms established KBC as an autonomous public organization. By 1962, television broadcasting was introduced in Kenya.

Initially, the programming of KBC was managed by the former colonial administration. However, being cautious of the threat to national sovereignty by foreign ownership of the broadcaster, the new government of Kenya rushed to nationalize KBC and it was moved to the the Ministry of Information Broadcasting and Tourism after changing the name to Voice of Kenya (VoK) in the year 1964. KBC then became the government's mouthpiece and was charged with the responsibility of providing information, education, and entertainment (Kareithi, 2003). Broadcasting under the second regime, was strictly controlled because of his highly autocratic leadership (Nyutho, 2015). Film was used for propaganda especially in documentary making to highlight his national building activities (Nyutho, 2015). For 26 years, television and radio in Kenya were state owned and controlled and they exercised caution in reporting politically sensitive news (Nyutho, 2015). As Kareithi points out, television in Kenya has had a lot of political interference and frustrated by government.

7. KENYA INFORMATION AND COMMUNICATION ACT, 2008

The Information and Communication Act of 2008 establishes the Communication Authority of Kenya, a commission which facilitates the development of the communication sector. While the act covers a very wide scope, there are sections that affect the production and distribution of film. For instance, the act proclaims that any person with natural or legal capacity who involves in composition, packaging and distribution of both radio and Television programs is defined as a broadcaster. In this case, a film maker is therefore bound by the requirement of the act. Subsection 46A (d) of the Act stipulates that the broadcasting station is mandated to uphold diversity and various views of a competitive market. Thus, this can be achieved through film. The commission should facilitate electronic commerce and eliminate barriers.

The act further empowers the Kenya Film and Classification Board to regulate content by broadcasting stations, it defines and makes provisions for local content quotas for broadcasters. Secondly, the act establishes the broadcasting Content Advisory Council which later establishes a fund to boost the development of the Kenyan Film production industry (Kenya Information and Communication Act, 2008).

8. CONCLUSION

This paper has examined the attempts by Kenyan government to develop a film policy through different regimes. It has established that although the Kenyan film industry has a lot of potential to contribute to the growth of Kenyan economy, attempts have been made by different governments to develop a film policy and by extension media policy, but the film industry is still controlled by pieces of legislations. The draft policy was initiated in 2005 captured major issues affecting the operations of film industry in Kenya and how to deal with those issues. To date it has never seen the light. This has hindered the growth of Kenyan film industry since the existing laws are prohibitive and unfavorable to Kenyan film makers and the film industry at large.

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