



## Nigerian Popular Films: Copyright and Originality

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### Abstract

This essay attempts to examine the effect of copyright activities on Nigerian popular films. To an extent, it is to show how these activities have affected the distribution of films produced by Nigerians and the rising wave of returning to the cinema halls. Movie producers have expressed disappointment in the loss of their investments caused by piracy. Thus, the place of administration of copyright law in Nigeria, as the law that protects originality of arts product and the producer is called to question, in the sense that pirates have become more committed to their illegality. This leaves Nigerian popular film producers in between the fight against copyright producers and the originality of their works.

**Key words:** Nigerian films, Nigerian popular films, Cinema, Piracy, Copyright, Originality

### Introduction

Nigerians became fascinated by home video films in the 1980s and that fascination stretched into the 1990's marking the era Nigerian popular films overwhelmed the Nigerian audience and beyond. The driving force for this development could be ascribed to the ability of the films to promote both social and cultural significance. It can also be attributed to the fact that, at that time, the video technology had filled the entire world with its overwhelming artistic elements that reeled out beautiful narratives to the admiration of the audience.

Since then, the video films have continued to be popular among Nigerians with its fascinating elements. To Paul Ugor, it is challenging cultural, Anthropological, sociological, religious and linguistic experts on new dimensions (70). This is affirmed in the argument that "film has been, and remained a veritable medium of culture. Film preserves, transmits and even transforms a people's culture (Ugor et al, 63).

As a popular art form, the Nigerian video films emerged to satisfy the Nigerian audience. Thus it attracted and made use of cultural, religious, political and economic features as basic materials for production. The earliest form of Nigerian films which came from the Yoruba sociological background were consciously produced on the cultural milieu of the Yorubas. An instance, is the first major feature film “Kongi’s Harvest” which was produced in 1971. The film portrayed cultural impact projecting African heritage beyond derogatory stereotype and was felt within and outside the national borders (Arulogun 29). Although the film was not commercially popular, its original cultural resource impacted heavily on the orientation of the audience. This encouraged other films that came after to depend on local culture for production.

Film audience survey indicates that apart from the Hollywood of the United State of America and Bollywood of India, Nigeria popular films are the third most watched in the world. It is believed that Africans especially Nigerians in Britain and America compete favourably with those from the Hollywood and Bollywood due to the crude nature and originality of the culture they present. Their popularity thus provokes Onoomoke Okome to state that their distribution do not need huge marketing strategies (nigerianvillage square.com).

However, due to the craze to satisfy audience interest in the films, which Okome described as “a crude zeal to satisfy the audience’s clamour for its own face and cultural avatars” (94), film makers have fallen victims of piracy. Majorly, pirates replicate new films that have been promoted and distributed and sell them even at reduced prices making money more than the producers of those films. What then happens is that the original copies suffer in the market, while those ones by the copyright dealers selling at rock bottom prices are rushed for. Film patrons keep their attachment to the video films even when sound and picture qualities are glaringly poor, and could continue to get copies until a better and original one is seen.

This dimension spurs the interest into the issue of copyright and originality in the Nigeria film industry. This is typically a qualitative study that depends on inference technique from observation and interview. Agenda setting theory was used to discuss this paper. This theory suggests the power of the media to guide and focus government and public attention on key issues that affect the people (Maxwell McCombs virtualrhetoric.com). McCombs and Sebastian Valenzuala further add that it is only the things that affect the people whether news or any other development issue that is prioritize by the media

for attention (redalyc.org). by implication, the activities of pirates are of concerned to film producers as well as the audience, and based on the fact that government agencies have the authority to curb such challenge, the media therefore are to set the agenda in this regard.

### **Historical Perspective of Film Industry in Nigeria**

The Nigerian film industry is widely contended to be a precipitate of colonialism. Most of what has developed into Nigerian films today began as documentaries that were promoted by colonial effort. By the production of newsreel, documentary and other television productions of colonial heritage, the urge for filmmaking in Nigeria was stimulated. On the other hand, documentaries at that time affected negatively the modes of indigenous cultural production of Nigerians.

Onookome Okome explains that:

Film came to Nigeria in the context of colonialism instituted a process of the negation of indigenous social and political institutions as well as discouraging the possibilities of indigenous discourse (43-44).

This drives the point that colonial officials employed films to dismantle the social and cultural status of Nigerians, and therefore perpetuated their authority throughout Nigeria. Okome further clarifies this position.

Colonial cinema affected all modes of indigenous cultural production negatively delayed advancement in film production (and in film studies) because its chief motive was the hegemonization of its own discourse of the colonies (43).

On this account, a strong zeal to develop the Nigerian film industry became necessary, as cinema was seen as the most dangerous form of colonialism, and only the encouragement of indigenous filmmakers could stop it (Adesanya 13). Nigerians started developing television dramas in the early 1960s that were more acceptable to the Nigerian audience than the foreign or colonial production. These television dramas such as “My Father’s Burden” by Wole Soyinka further culminated into the development of film in Nigeria. Other television dramas that provoked the development of Nigerian film

industry, according to Segun Olusola, include *The Trials of Brother Jero*, by Wole Soyinka, *Song of a Goat* and *Masquerade* by J. P. Clark and “The Village Headmaster” which original film-stock is still lying in the archives of the Federal Film Unit (379).

Of note-worthy is the involvement of Yoruba traveling theatre in the evolution of Nigeria film industry. Their main concern was to project the culture of the Yoruba folkloric mode, and ensure its popularity. Such attempt as carried out by the Alarinjo and Ogunde Theatres had emphatically expressed an unwavering cinematic potentials, which has transcendental effect on the film industry in Nigeria. Paul Ugor corroborates this notion by quoting Nwanchukwu:

Indigenous filming and film production in Nigeria has largely been the preserve of the Yoruba of the South-West they have had a long cinematic tradition, popularized by such Yoruba traditional theatre practitioners as Hubert Ogunde, Duro Ladipo, Moses Adejumo and Ade Folayan (228).

From this perceptive, the first feature film to herald the film industry in Nigeria, was the shooting of Wole Soyinka’s *Kongi’s Harvest* in the 1970s. Okome describes this beginning as staggering because Nigerian audience responded equivocally (44). It goes to say that Nigerian film did not receive the needed welcome that would have given the industry the popularity at the time. Distribution and exhibition, so to say, were hampered as the desired impact that could provoke constant market demand was not feasible.

The industry in the 70s, could not be said to be too vibrant although it was promising. While Francis Oladele produced *Kongi’s Harvest*, Ola Balogun’s *Ajani Ogun* traveling theatre composition in the 70s became a box-office hit that projected the development of film industry in Nigeria. It proved a good transition into the creation of Yoruba film. Adesanya recounts that:

Ola Balogun’s *Ajani Ogun* which opened the flood gates, gave the much-needed impetus to local film production and led to a new career for traveling theatre troupes within a twinkle of the eye, traveling theatres were, in droves, abandoning their itineraries for film locations (14).

But the management and production cost of indigenous films stood as a bane for the speedy growth of the industry. In the 70s production cost and post production cost were expensive and has to be paid in strong currencies. With such attending factor, not many films could be produced in the 70s, and this was further aggravated with the burden of outrageous entertainment tax and lack of native distributors for indigenous films (Adesanya, 15). This is, therefore, a case of thwarting the commerciality of indigenous films, which portends low audience patronage consequent upon high-cost of production.

The spate of growth of film industry around the 80s was somehow instrumental to the development in the following decades. About four to five films was produced per year in the decade with the existence of the Nigerian Film Corporation. Such a few number fore-told the decline in the production of films, as well as to show the effect of economic standard on the film industry in Nigeria. Such permeated the advancement of the film industry in Nigeria during the 90s. Adesanya is of the view that an average of four feature films per year produced in the 80s, as caused by the economy; also affected the production of films in the 90s in the sense that:

Production plummeted to one feature film in 1990, raced up to four in 1991 and dropped a notch to three in 1992 when Brendan Shehu's *Kulba Na Barna*, the first feature film by the Nigerian Film Corporation, was released. The record for Ladebo shot and released the only celluloid feature film of the year, *Pariah*, not until two years later did another feature film, *Oselu* by Bankole Bello, hit screen (15).

Paul Ugor et al corroborates the above assertion about the influence of economic value on the film industry in Nigeria. Their assertion agrees accordingly that: "With a crippled economy and devalued Naria, cinema production had become increasingly, (if not completely) impossible for an industry heavily dependent on western technical hands (65)"

To further proof that only Bankole Bello's film *Oselu* in the mid 80s gave a little hope to film industry in Nigeria, Jonathan Haynes unequivocally states that: "The video boom is, paradoxically, consequence of general economic collapse, and the videos reflect the ambient poverty mad eon tiny budget (9)".

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The essence of this assertion is that even though filmmaking was developing popularity, and *Oselu* having got a hit box office record, the economy of Nigeria counted for the low production quality of films. Cinema film production started becoming moribund as the Nigerian audience could not identify with its visual ability to impact strongly due to poor production quality. The foregoing suggests that popular video films started emerging to douse the appetite of the Nigerian audience. Although in 1903, when film audience sprang up in Nigeria due to the popular urge and love for the moving image, film was not as popular as it assumed popularity in the 1990s. Ushang Ugor posits a comprehensive claim to popular films in Nigerian.

The late 1990s presents a curious and fascinating trend in the Nigerian home video film industry. This period inaugurates the emergence of a novel narrative structure and content in some of them films milled out of the industry (227).

This direction can be said to project a deliberate and desperate alternative to make-up for the indigenous cinematic approach, which was becoming moribund, due to economic value with a popular mode that can captivate the Nigerian audience as at when it started in 1903. Recently, the Nigerian popular films have attained a height serving as a qualitative entertainment menu for and international Nigerian audiences, yet still being criticized for some production quality. The film industry has become a huge asset to the Nigerian economy and have permeated the boundaries of not only Nigerian but other African countries, Europe and America (Ugor et al, 65). Pirates have capitalized on this to make copies of original productions against the rights of producers.

### **The Nuances of Popular Films**

Popular films fall under the category of popular art forms. In Nigeria, the Yoruba travelling theatre of the 50s and 60s and the Onitsha market literature of the same period marked cultural aspects that accounted for

popular arts. From the evolution of an authentic film culture in Nigeria, the Yoruba travelling theatre gave more impetus to this course by its popularity. The productions of Alarinjo theatre as popularized by Joel Adedeji, the works of Hubert Ogunde, Duro Ladipo, Moses Adejumo and Ade Folayan projected the popular art of the Yorubas; which share a link with the film phenomenon. According to Onookome Okome:

Popular arts in Nigeria are essentially conservative. Their code of reference are based on that which is topical. Topicality is itself based on a further set of references anchored on a moral universe of a new urban life that often looks back to a dim historical past when caught in the unexplainable world of the modern society in which they flourish (48).

Following this assertion, popular art forms like the Yoruba popular travelling theatre which metamorphosed into film are rather operated in the cities with concerns on topical issues that have relationship with an audience. Okome adds that:

Responding to the needs of the audiences, popular video films in Nigeria are often structured as dialogue with society in which discursive voices compete with each other to gain key position in topical issues (47).

This view therefore lends support to Karin Barber's position that:

Popular art can be taken to mean the large class of new unofficial art forms which are syncretic, concerned with social change, and associated with the masses. The centers of activity in this field are the cities, in their pivotal position between the rural hinterland on the one hand and the metropolitan countries on the other (23).

The Nigerian popular films, from this angle, can be said to be overwhelming expanding on account of its eclectic adoption of the earlier popular art forms and the contemporary situations in Nigeria and other parts of the

world. Such situations are attempts to redefine the socio-cultural and economic formation of the Nigerian society. This position poses a dialectical approach to appraising the actual Nigerian characteristics and forge a paradigm for social change. The change, although may be limited can stir up appeal from the larger audience. Evidently, popular films in Nigeria are based on the major ethnic nationalities – Yoruba, Igbo and Hausa. The Yoruba films as historical as they are would tend to draw an appeal on the Yoruba audience as the Igbo and Hausa films will do on their ethnic audiences. So non-Yorubas, Igbos and Hausas are prone to be culturally and socially excluded from the entertainment and educative menu of the respective films. However, with cognitive evaluation and intuitive reasoning, a non-ethnic national can gain some source of edification from such films.

For such effective appeal to be achieved easily by any popular film, it is contended thus:

it must be simple in language and technique, it must be brief, and it must be cheap simplicity and accessibility go hand in hand to ensure a base on which topical issues about people's everyday lives are anchored. Brevity is important because the mass of people have to content with more serious economic and social issues and therefore would not ordinarily spend a great deal of time pouring over the complicated and elaborately told stories or events (Obiechina, 3-4).

Okome adds:

Totality is also essential. This is because the mass of the people will always be interest in debating and discussing itself and existing social institutions as a way of making personal commitment to each other and to the society at large (47).

Although the basis for the above argument is rested on popular art, it is not extinct from the conditionalities of popular films especially as popular films are synonymous to popular art. Therefore, around the late 80s when video films began with late Sola Oguniola's "Aje Ni Iya Mi" which was produced by Kenneth Nnebue and Ayorinde and Okafor "Rave 29" by the Yoruba traveling theatre artists, Nigerian films had started articulating social, cultural, political



and economic nuances. The relative financial involvement and gains in which the video film can be produced stirred up the essence of popular films. This is clearly started below:

It was the Igbo businessmen who understood that a larger market could be opened up by the retail sale of video cassettes. Kenneth Nnebue, then an electronic dealer and film promoter, led the way. He produced a Yoruba video film...it was made as cheaply as possible, shooting with an ordinary VHS camera and using a couple of VCRS to edit. Few of the actors were paid anything at all. His investment was a mere ₦2,000 and he made hundreds of thousands back Yoruba artists like Jide Kosoko, Adebayo Salami, Gbenga Adewusi and Muyi Aromire, seeing the money to be made and unhappy with the pittance they were being paid by Igbo producers, soon rented video equipment and launched into their own productions. A deluge of films followed (Haynes and Okome, 24).

Popular films thus became a paradigm status in contemporary Nigeria, yet not losing its essentialities, to conjure social change. Popular films such as "Cover Pot", "Red Matchet", "Ritual", "Mayor", "Living in Bondage", "Blood Money" have expressed thematic sentiment mostly on the Igbo culture and also a touch on urbanized life, thus attempting to project a cross-cultural sentiment. The situations in these treatments of socio-cultural issues portend a profound dimension for popular film culture. Such step with intent, purpose and conception coupled with the economic enablement is instrumental to the popularity of Nigeria films. On the grounds that economic standing predicated the financial involvement in film production, the distribution, exhibition and advertising of films are based on this factor to stimulate the popularity of films. The Igbos have shown tremendous contribution in financial and material sponsorship of popular films (Ugor, 227); and that is instrumental to articulating the popularity of the film industry in Nigeria.

Given the foregoing, Nigerian films can be said to gain popularity among the Nigerian audience, and other parts of the world. In this case more than ten films can be produced in a year and more than a two hundred thousand

copies of these films serve local consumption and thousands are equally exported.

### **THE THREAT OF COPYRIGHT**

The popularity of home video films has suffered the challenge of getting original copies to its audience. High rate of copyright and piracy compete with original copies of production in the market. Films patrons in Nigeria hardly or perhaps rarely get original copies of the product they need. Local retailers find it difficult to compete with copiers, who sell the films at a cheap rate, and so retailers' challenge is the slow pace of getting copies of films to the audience. The issue is that when these films are distributed, pirates make copies of the films regardless of copyright law and the quality of films. They sell pirated copies before the original copies of the films. It is known that only poverty gives aid to this kind of activity, and Nigeria is without doubt a developing country that is considered poor.

Popular film producers agree that pirates are almost killing the movie industry in Nigeria. Sunny Collins Nwatu, a movie producer contends that although the industry is growing successfully, "video club operators are now eating up the industry by indiscriminately renting our movies out without any royalties or financial reward to us" (nigerianfilms.com). This implies that apart from the selling of these films by retailers, these films are also rented and consumers (audience) may prefer renting the films. Sometimes quite a number of the rental copies turn out to be pirated copies (nigerianfilms.com).

Film piracy did not emerge from the oblivion. Copyright activities may be traced to the time when films companies exhibited the films and distributed them to other exhibitors. Francoise Balogun thinks that at this time companies worked independently and anybody could do anything with the films because all the Censorship Board could do was only to give approval that all available film should be distributed (31). The board had no precise criteria to monitor films and censor them appropriately. Even in the present, Nwatu insists that the video censors Board should be blamed for granting operational licenses to rental clubs, thus giving them the authority to invade original works (Nigerians.com). Before the prevalence of copyright activities, more than 200,000 copies of popular films used to be sold in Nigeria. As the statistics of potential audience rose to 15 million, the number of copies sold equally rose (Aderinokun, 2). In Europe and America, between 10,000 and 20,000 copies used to sell. Today, an original movie hardly sells up to 100

copies in America, London and Canada (nigeriafilms.com). This is attributed to the activities of the pirates and these have so much affected marketing potentials of film and drop the sales of films. According to Nwatu:

It has so much dropped that the unusual demand for Nigerian movies have suddenly become saturated. From the records, we are losing a lot. Our loss is at the rate of five dollars per copy. In fact, we are losing millions to them (nigeriafilm.com).

In affirmation to this, Chioma Nwagboso says that pirates have hijacked and robbed Nollywood, Nigerian movie industry of all its professionals and investments without creativity, time, work and effort and little input (allafrica.com). Hope is committed to the Nigerian copyright commission and the Nigerian film and Video Censor Board.

The copyright (Amendment) Decree No. 12 of 1999 states in section 18A that:

Any person who sells, rents, hires or offers for sale, rent or hire any work in contravention of the prescription or any other anti-piracy device on, in any work which copyright subsists commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment for a term not exceeding 12 months or to both (Nigeria-law.org).

The law further states that:

A person who without the permission of the commission in possessing; or reproduces or counterfeits any anti-piracy device commits an offence and is liable on conviction to a fine not exceeding N50,000 or imprisonment to a term of 5 years, or both (Nigeria-law.org).

The 1999 Copyright Law is the amendment of three previous versions, 1970, 1988 and 1992. The 1970 version is the one criticized to have been

encouraged piracy. Moses Ekpo argues that cultural and intellectual development were negatively affected by the growing phenomenon of unauthorized reproduction, which, robbed the creators of potential income, and the 1970 copyright law did not provide strong sanctions to deter piracy (109). In the amended version, the law stipulates express protection of producers and manufacturers of works of arts as well as the rights of performance.

Government agencies in Nigeria have recorded some attempt to reducing the activities of pirates. An instance of this was reported in a national newspaper that pirated copies of movies and music especially Tuface's latest album were caught with illegal pirates (nigeriafilms.com). But the producers of Yoruba popular video films have developed a strategy to protect the originality of their works. The conviction of this group could be likened to that of Nwatu, who thinks government is not doing enough to fight piracy in the film industry. Thus he says "I have waited enough for intervention of the government or a joint umbrella of movie producers to fight the war but all to no avail" (nigeriafilm.com).

To summarize the exploit of Yoruba film producers against piracy, Paul Ugor explains that the strategy was experimented during the trans-atlantic distribution of their films in West Africa by the mobile cinema prototypal of the Yoruba traveling theatre.

To beat the increasing threat of piracy and the general lethargy of government to the film industry in the country, the producers have revamped the old mobile cinema tradition to ensure safe and profit-yielding distribution format (75).

This strategy is being implemented by the Association of Yoruba Marketers and Distributors of films, who have since 2009 been engaged in a battle with Nigerian popular films pirates. The battle is aimed at terminating copyright activities. Today, many producers of films are taking their films to cinema hall for premiere for fear of what pirates can do to outsmart and shortchange them in making proceeds from their production. Cinema going culture had long ceased in the country with the advent of home video films, and those halls became worship centres and others were used as shopping malls. The reason, according to Arnold Udoka in an interview, is to cut short the activities of those who copy their works and make money from them than

the original owners of idea. The MUSON centre in Lagos and other public theatres around the country are the spaces where films are premiered. When film producers cry out using the media to complain the menace caused by pirates, they are simply using the media to focus and direct government as well as the public's attention to the problem facing. It, therefore, of interest to state that agenda setting is key to announcing important issues that affect the people such as copyright and piracy of Nigerian films which has made producers and audiences blinded against original copies of films produced in Nigeria.

### **Conclusion**

The originality of popular films in Nigeria is being threatened by the high rate of copyright piracy. Attributively, this is as a result of the fact that the quality of Nigerian popular films is accepted as the third best in the world with more than 15 million audiences alone in the country. This large market interest supposedly stimulates the thinking of pirates to apply illegal reproduction, sells and rentals of original works to make money. The laxity of the censorship board in the earliest days, and the absence of an institution with a provision to carryout civil litigation seems to have made it impossible for pirates to be arrested. Thus pirates made more money with their cheap production of original works at the instance of the producers who suffered the loss.

Attempt has been made to proof that copyright activities inhibit development in the movie industry. Even with the copyright law that has passed through three amendments, on that protection because of ineffective enforcement of the law. The Yoruba film producers and distributors have designed the strategies of taking their films to everywhere so that people see and know the original. By this step, they distribute and exhibit their films themselves and not through any outlet. This could be effective, though, as it will maintain originality. However, it may take a bit of patience to make full sales and count the profit.

Producers of home video films should be committed to the fight to promote original films and liaise with Nigerian Copyright Commission (NCC) and the Nigeria Film and Video Censors Board (NFVCB) to create modern distribution network that could monitor negative activities

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