The Kenyan Recording Industry in the Digital Age

Preliminary notes and findings from research in Nairobi

This paper represents an early attempt at pulling together ethnographic data collected during a year of fieldwork on digital music production and distribution in Nairobi, Kenya. An early version was presented at “Popular Expression in the ‘Silicon Savannah’: Perspectives on the Digitisation of Art and Life in Kenya,” Goethe Institut-Nairobi, Kenya, July 10, 2012. Though it contains a bit of academic jargon, I have attempted to write for a general audience, as this is meant in part for my interlocutors in the Kenyan recording industry.

The digital revolution has fostered massive transformations in Kenya’s music recording industry. I have been exploring these transformations as they relate to production and distribution, under the auspices of the European Research Council Music and Digitisation Project based at the University of Oxford (Georgina Born, Principal Investigator). My methodology is ethnographic, which is to say I use interviews, conversation and observation to collect my data. To analyse this data, I have developed an approach geared toward addressing the thematic concerns of the Music and Digitisation Project while offering findings of the most relevance to scholars and stakeholders of the Kenyan recording industry and African recording industries more broadly. Centred on the idea of enactment, this approach sets aside assumptions about the typical structure of a recording industry and how such industries in the ‘Third World’ are supposed to ‘develop’, beginning instead from an understanding of Kenya’s recording industry as a complex and shifting assemblage of established and emergent modes of production, commoditization and patronage.

I find the idea of enactment particularly useful for avoiding the trap of teleology (the tendency to explain a present situation by reference to a supposed obligatory outcome), which is all too common in academic and popular discussions of economies, legal systems and industries in the Third World. I believe that the promise of in-depth qualitative research—particularly in an under-researched area like the Kenyan recording industry—lies in the possibility of posing new descriptions of the world and opening up new questions for examination. Such possibilities are forestalled by taking the West as a ready-made model of how things are supposed to work. And so I begin from a relatively neutral position, based on the following two propositions:

1. The Kenyan recording industry has always been highly multifarious, in the sense of operating upon multiple models of production, distribution and propertisation.
2. The advent of digital technologies has made the industry even more multifarious, by introducing new ways of creating, marketing and distributing music, and new ways of imagining and constituting the musical subject (artist, producer, consumer, entrepreneur, etc.) and object (song, track, video, etc.).
My central concern is with the various ways in which the Kenyan recording industry is enacted—put into practice and thereby brought into being—in and through relations between digital technologies, individual human actors, corporate entities and legal regimes.

Domains of Enactment
I have begun to organise my data around five domains in which digitisation seems to have had, or to be having, the greatest impact on the ways in which Kenya’s recording industry is enacted:

1. Studio practices
2. Engagements with music as intellectual property
3. Engagements with music as cultural identity
4. Configurations and reconfigurations of audiences and markets
5. Mobilizations of capital around the digital music commodity

These domains intersect and interact, but each is comprised of its own particular sets of relations. In plainer English, one could describe them as, simply, the primary areas in which the Kenyan recording industry has been, and continues to be, transformed by digital technologies. But I find abstract language of domains and enactments helpful, because my ultimate aim is to offer textured accounts of the relations in and through which the Kenyan recording industry comes into being in the digital age. These five domains serve as thematic areas within which to tell such stories. In the present paper I leave the stories aside, however, offering instead a brief discussion of each domain and, as such, a sketch of the Kenyan recording industry in the digital age that I will seek to draw in better (ethnographic) detail in the future.

1. Studio practices
Personal computers became standard equipment within Kenyan recording studios by the early 2000s, and have been instrumental to the development of Kenya’s youth-oriented, urban popular music genres. When positioned as the central component of an audio recording studio, a personal computer serves as a Digital Audio Workstation, or DAW. The DAW affords a particular approach to sonic manipulation, by virtue of its word-processor-like interface. With a DAW, one ‘cuts’, ‘copies’ and ‘pastes’ sound objects literally at the click of a mouse. More importantly, one can ‘undo’ any action at the click of a mouse, allowing for a ‘non-destructive editing’ process that breaks down the barriers between the conception, planning and execution of the other functions.

The DAW-based recording studio in Kenya (and beyond) is an assemblage of human and nonhuman actors with its own attendant creative practices. These practices produce more than music; they also produce—that is to say, enact—conceptions and subject-positions that give shape(s) to the Kenyan recording industry.
One of the essential subject-positions produced within Kenya’s DAW studios is that of the ‘producer’. This is not the ‘producer’ of the analog days, i.e. the entrepreneur who turns musicians into recording artists by handling the logistics and funding for recording projects as well as the marketing, distribution and sometimes more in exchange for a significant percentage of the revenue generated. This older definition of ‘producer’ is still current within some areas of the industry—indeed, it is still the primary way in which the term is used within the River Road-based, vernacular music (i.e. benga) sector—but it now exists alongside another notion, which, following the Music Copyright Society of Kenya (MCSK), we can refer to as the ‘creative producer’.

MCSK coined the term ‘creative producer’ in order to account for what has become a very common role within the Kenyan recording industry in the digital age: a recording engineer who takes on the tasks of composing and arranging in the process of digitally programming (or ‘sequencing’) the accompanying instrumental tracks for the songs he or she records. I have adopted it, at least for the moment, because it has the virtue of clarity.

The work of the creative producer is, in a word, mediation. He (it is an almost exclusively masculine role, at least in Nairobi) uses digital technologies to mediate not only sounds and musical works but also social relations and, by extension, industry standards and practices. Hence the popular image that emerged in the Kenyan press in the late-nineties of the creative producer as a genius innovator and pivotal figure in the industry is accurate to a certain extent. But I would stress that the agency of the creative producer is more ‘distributed’ (Gell 1998) than this image suggests, being interwoven with that of other human and nonhuman actors. The creative producer’s genius lies precisely in how he inserts himself into the networks of sociomaterial relations within which music and the music recording industry are enacted.

Apropos, the role of the creative producer is enacted in relation to other roles, including that of the ‘artist’. In interviews, a number of creative producers who work often with inexperienced musicians described their own role as one of helping to develop the style and talents of ‘clients’, who they must transform into ‘artists’. All of them described virtually the same process: 1) speak with the client about what she envisions for the project and her career; 2) listen to the client perform her song to get the key and ideas about style; 3) determine the proper style for the track, with input from the client if she has any; 4) put together the ‘track’ (minus vocals) on the DAW; 5) send the client home with the track to rehearse; 6) have the client return to lay down the vocal tracks; 7) mix and master. Through such standardized practices, roles like (creative) producer and artist take shape every day in studios across Nairobi.

2. Engagements with music as intellectual property
Many of my interlocutors in the Kenyan recording industry have noted a significant increase in interest in issues of intellectual property over the past five to ten years
in the Kenyan music economy. John Katana, who has been working in the industry for four decades as an artist and producer, believes that the main reason for this is the recent tenfold increase in the membership of Music Copyright Society of Kenya (MCSK), which MCSK engineered in an effort to forge more international memberships and partnerships. MCSK achieved this remarkable feat largely through promises of guaranteed public performance royalty payouts to new members. As Katana argued in a recorded interview (Aug. 1, 2012), many of the thousands of new members of MCSK began right away to ask questions about royalty collection, thereby sparking discussions and debates about copyright across the industry. Such discussions and debates were heightened by the emergence during the same period of two other ‘collective management organizations’ (CMOs), the Kenya Association of Music Producers (KAMP) and the Performers Rights Society of Kenya (PRiSK), which are mandated to collect royalties on behalf of master recording owners and music performers, respectively. The reason these two ‘neighbouring rights’ CMOs came on the scene at this time had to do with the passage of the Kenya Copyright act in 2001, which was itself a result of Kenya becoming a signatory to the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1995. The Copyright Act created the Kenya Copyright Board (KeCobo) to register and oversee CMOs in Kenya. Under the leadership of Dr Marisella Ouma, KeCobo offered logistical support to help get the neighbouring rights CMOs up and running.

While it is certainly true that the increased interest in copyright issues among Kenyan recording industry stakeholders has to do with increased activity in the realm of royalty collection, it also has also to do with the rise of digital music distribution platforms—particularly mobile phone platforms, as I will discuss below—which has seen artists, producers and other industry stakeholders bombarded with formal licensing agreements and promises of transparent (if not always lucrative) royalty payments, both novelties in Kenya.

In investigating the contemporary state of musical property rights in Kenya, I have noted the existence of two competing conceptions of these rights. One is grounded in the idea of ‘the artist’ as the primary subject of intellectual property rights (IPR) in relation to music, the other in the idea of as the ‘the right holder’ as the primary subject of IPR. The latter conception conforms to the letter and spirit of Kenyan intellectual property law, which, as a result of TRIPS, follows international norms in comprehending multiple classes of rights corresponding to multiple forms of authorship and ownership in a musical work. The former conception stands in tension with Kenyan copyright law and international norms, but is nonetheless more commonly held. There are historical reasons for this situation, including the dearth of powerful record labels in Kenya since the early 1990s.

The digitisation of music production and distribution in Kenya has opened arenas in which these different conceptions of musical property rights rub up against each other. The conflation of composing, editing and recording in DAW recording, for example, brings the different conceptions into tension by complicating the determination of authorship. The issue of authorship is often sidestepped in Kenyan DAW studios through the use of work-for-hire arrangements, whereby creative
producers grant blanket licenses to artists for any original contributions they (the creative producers) have made to an artist’s song in the recording process.[5] But Nairobi’s creative producers are increasingly becoming interested in securing their rights through contractual agreements. Such agreements stand in tension with the notion that every recorded work has a single owner called ‘the artist’. In some cases, this tension has led to misunderstandings or disputes between artists and producers.

Conceptions of musical property rights are also colliding in the arena of licensing for digital distribution platforms in Kenya. MCSK had already gotten deep into the business of negotiating licenses digital music distribution using a ‘mechanical licensing’ scheme before KAMP and PRiSK came on the scene. Hence for years only authors’ rights (the rights of composers, arrangers and lyricists) were taken into account in licensing agreements for digital music distribution platforms. Since KAMP and PRiSK have come on the scene, neighbouring rights (the rights of master recording owners and performers) have entered into the discussions around new and existing business models in digital music distribution. But while the General Managers of KAMP and PRiSK express optimism that things will change soon, digital music royalties in Kenya are still being paid out according to a notion of a single right holder (‘the artist’) for each recorded work.[6]

What is so interesting about this case is that it reveals that the tension between different conceptions of musical property rights in Kenya is not simply a result of the recording industry’s lack of ‘formality’. Individuals and firms involved in the legal and regulated distribution of music as digital content in Kenya operate with a model of IPR that situates the artist as the sole right holder for a musical work. Two Kenyan entrepreneurs working in mobile-phone music distribution and one CEO of an established Kenyan digital content provider told me that the lack of attention to neighbouring rights in digital distribution in Kenya has to do with both a general confusion over the proper way to license music in Kenya and an ethical/moral understanding of Kenyan music artists as a class of people at risk of being exploited. The latter reason suggests an active resistance to the idea of introducing the ‘right holder’ as the primary subject of musical property rights. In other words, we are not simply seeing a clash of understandings of IPR, but also a politics of these understandings, an ‘ontological politics’ (Verran 1998, 238; Mol 2002; Law 2010; Born forthcoming; Eisenberg forthcoming) in which those who take part unconsciously and/or strategically promote a particular notion of the ways in which musical compositions and recorded performances can be owned as intellectual property.

3. New engagements with music as cultural identity
Popular music on the African continent has always served as a medium for engagement with questions of ethnic, racial and national identity, both for music makers and music consumers. The advent of digital music sequencing—which enables faster and easier stylistic borrowing and invention, and the possibility of an individual having unilateral control over these processes—has sparked new (or
renewed) questions about Kenyan musical identity, which have been productive of new enactments of the Kenyan recording industry.

A recent article in The East African articulates these questions nicely. Reflecting on the nomination of the youthful Kenyan hip-hop group Camp Mulla for a BET (Black Entertainment Television) International award, seasoned music journalist Clay Muganda, writes, ‘what remained unanswered is what exactly is Kenyan music or whether it exists, and if it does, has it really grown and do the musicians make money from it?’ (Muganda 2012).

One response to such questions has come in the form of new genres like ‘Afro-fusion’, which draws upon local ethnic traditions to invent new sounds. Kenyan Afro-fusion is aimed at the global ‘world music’ market as well as local consumers, but it survives in large part on patronage from European embassies and transnational cultural organizations that find value in supporting a Kenyan cultural rebirth. Though grounded in a ‘live’ aesthetic, Afro-fusion is very much a child of digital technologies. Drawing on the nonlinear techniques afforded by the DAW, pioneering Afro-fusion producer Tabu Osusa invented, almost singlehandedly, the unique hybrid sound of the Nairobi City Ensemble, which, in two Kenyan critics’ estimation, achieves a poignant representation of the ‘cosmopolitan nativism that defines...contemporary Kenyan urban identity’ (Nyairo and Ogude 2003, 397). This project launched Ketebul Music, now a highly productive Afro-fusion label that has on-going partnerships with the Ford Foundation, Alliance Française de Nairobi and a music non-profit in London called Abubilla. In Osusa’s case, at least, the same digital technologies that have lent impetus to questions of identity have provided the conditions for a powerful response.

Clay Muganda’s example of Camp Mulla represents another common response to questions about Kenyan musical identity. Linguistically and stylistically as American as they are Kenyan, Camp Mulla are seeking success with a ‘global’ rather than ‘world’ style, aiming for an international audience without getting stuck in what members of Afro-soul group Sauti Sol like to call the ‘world music ghetto’. Camp Mulla, like Sauti Sol, enacts the Kenyan recording industry as an industry bound up in various transnational networks of corporations and creatives.

4. Reconfigurations of audiences and markets

As the foregoing suggests, Kenyan recording industry stakeholders are increasingly interested in positioning themselves within transnational networks. Digital technologies may not have introduced this sort of globalism to the Kenyan recording industry, but they have opened new possibilities for enacting the industry as one that crosses national and continental borders. One striking example is the role of the Internet in positioning ‘Kenyans in the Diaspora’ (i.e. non-resident and expatriate Kenyans in Europe, America, South Africa, and Australia) as a market for music produced in Kenya.

A number of industry stakeholders have told me that diasporic Kenyans, who number in the millions, are hungry for Kenyan local content and much more willing
to pay for ‘original’ (not pirated) music recordings than are Kenyans back home. Until the advent of the Internet, Kenyan music entrepreneurs were unable to take advantage of this large, insatiable market. But the past ten years have seen the emergence of a handful of Internet-based distribution platforms for Kenyan music geared toward the Diaspora (most founded by Kenyans in the Diaspora); and now a number of Kenyan artists and producers have begun to see the Diaspora as their primary audience, to the extent that they even neglect to make their music available to consumers in Kenya (one gospel producer told me that he and his artists sell their music solely on iTunes, a platform not available to Kenyans).

But there is actually more here than a story of the Internet opening a new market for Kenyan music and thereby spawning new enactments of the Kenyan recording industry. My data suggests a complex relationship between the Kenyan Diaspora and Internet-based music distribution—a relationship of mutual enactment. Empirical research on the Kenyan Diaspora is lacking, but even a cursory glance at online community building among diasporic Kenyans suggests that the Internet has become a, if not the, primary site of diasporic subject formation—the ‘context of Diaspora’ (Axel 2004)—for younger non-resident and expatriate Kenyans. As such, online music distribution (both of the ‘sharing’ and commercial varieties) has been part and parcel of the enactment of a new generation (perhaps a regeneration) of the Kenyan Diaspora in the digital age.

Another example of how digital technologies have opened new possibilities for globalizing the Kenyan recording industry is the role of digital production in enabling Kenyan artists and producers to collaborate with artists and producers in other parts of the world. The mobility of music as digital data and the malleability of digitally recorded music tracks on the DAW make certain kinds of transnational collaborations relatively simple to carry out, at least from a logistical standpoint. The majority of transnational collaborations that I found going on during my fieldwork in Nairobi involved Kenyan artists and European (and in one case, South African) producers, and were all geared toward using digital techniques of remix to transform Kenyan music that featured in an acoustic or ‘live band’ sound into electronic dance music.

Viewed in the light of now-canonical ethnomusicological critiques of Paul Simon’s Graceland and other North-South ‘world music’ collaborations (Meintjes 1990; Feld 2000), one might see something troubling in this enactment of the Kenyan recording industry as a store of content waiting to be mined and curated by producers in the First World. Of course, the foreign producers in these particular cases are all far less powerful than Paul Simon, David Byrne or Jan Garbarek, and all have forged personal relationships with the Kenyan artists they are producing—two important factors that limit the potential for economic exploitation in these cases. But there still exists the potential for the kind of soft domination that ethnomusicologists have decried in their critiques of world music collaborations, whereby signs of collaboration embedded in the music itself and its associated discourses mask unequal power relationships and processes of appropriation. Bearing this in mind, the one transnational collaboration I found that broke the North-South mould, a
collaboration between Kenyan Afro-soul band Sauti Sol and South African avant-garde artist/producer Spoek Mathambo, could be seen as an implicit critique of the others. The fact that Mathambo and the members of Sauti Sol worked together in the studio from start to finish, and the way in which Mathambo is placed very much in the background in the packaging of the final product (an EP titled, simply, ‘Sauti Sol’), make this collaboration a novel play on the idea of remaking African music for foreign consumption.

5. New mobilizations of capital around the digital music commodity

There has been an explosion of music m-commerce (mobile phone commerce) in Kenya over the past seven years. Among the obvious reasons for this are the fact that Value Added Services (VAS) have become a vitally important revenue generator for Kenyan mobile network operators, as an increasingly difficult regulatory environment, a weakening Kenyan Shilling and vicious price wars have made voice and messaging services unprofitable (Mbuvi 2011).

Kenyan mobile phone users are now confronted by an array of music-centred VAS. Kenya’s largest mobile network operator, Safaricom, alone, runs three separate music portals, each geared toward a different type of service. The most profitable is Skiza, which offers ‘caller ringback tones’ (i.e. the sounds that a caller will hear when they dial the customer) at Ksh 5 per song per week. With close to 4 million subscribers, this service grosses around $10 million per year.

Driven by a need for high quality, low cost content to fill their platforms, and by competition among themselves and new entrants from Asia, Kenyan firms involved in music m-commerce are mobilizing capital in ways that are dramatically reshaping (re-enacting) the Kenyan recording industry. A number of companies have been seeking to gain exclusive access to content by getting into production and even management. Returning to the example of Camp Mulla, the story of Nigerian content provider MTech in Kenya is illustrative. Headed by a dapper Nigerian man by the name Ikechukwu Anoke, MTech has gotten some media attention for having helped to connect Camp Mulla and other Kenyan artists to the Nigerian music industry and market. MTech paid for Nigerian video producer Clarence Peters to shoot Camp Mulla’s ‘Party Don’t Stop’ video, which has been featured on BET International. The investment was part of a long-term strategy, which is now paying dividends. Anoke now manages Camp Mulla through his own management company, and Kenyan artists are coming to him every day ready to sign exclusive contracts.

But it is Kenya’s telecom giant Safaricom that has delved the furthest into the Kenyan recording industry. The company routinely sponsors concerts, award shows, and the annual recording industry trade fair. There are clearly a number of reasons for Safaricom’s deep interest in the Kenyan recording industry, including the many opportunities music affords for branding. But a rather more cynical reason was suggested recently in one of Kenyan writer Binyavanga Wainaina’s characteristic Facebook rants, in which he expressed that his frustration at
Safaricom’s services was matched by his frustration with fellow writers who warn him not to denounce a company that may one day decide to sponsor him. In the numerous complaints I heard about the tiny sliver of the m-commerce pie that is given to artists, Safaricom is generally cast as the culprit. And yet, criticism of Safaricom remains fairly muted among Kenyan music industry stakeholders, perhaps due to the always-lingering possibility of another sponsorship on the horizon.

**Coda: Interrogating Agency**

There can be no conclusion here, as my work is still beginning. But I would like to end with a word about how I intend to move forward. As I continue mapping the enactments of Kenya’s recording industry in the digital age, one concern that will always remain in the forefront will be *agency*, by which I mean the capacities of various human and nonhuman actors-creative producers, DAWs, mobile communication networks, artists, entrepreneurs, firms, collective management organisations, legal regulations, etc.-to (en)act.[7] Interrogating agency is essential to mapping enactments of the Kenyan recording industry, because these enactments are processes whereby multiple actors construct and maintain networks of relations. Though the term itself comes from philosophy, I will approach agency in my work less through abstract theoretical reflection than through *narration*. As I stated above, there lies a host of stories—some imparted during interviews, others garnered through participant-observation in recording studios and other locations-behind the general discussions I offer in this paper. Narrating those stories will be an essential task as I continue to analyse my data (such is the nature of ethnographic work), and each and every account that I write will mean working through questions of how different entities (are made to) act in relation to others.

**References**


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[1] Primary fieldwork was undertaken from July 2011 to August 2012.
[2] I borrow the enactment heuristic from John Law, Annemarie Mol, and other proponents of Actor Network Theory who have placed it at the centre of a ‘radical constructivist’ approach to social research (see inter alia Law 2004; Law and Mol 1995; Law and Urry 2004; Mol 2002). Grounded in an ontological commitment to
sociality and materiality as intertwined ‘relational effects’, this approach seeks to move away from the classical project of examining subjects’ perspectives in relation to an assumed underlying reality (i.e. epistemological critique) in favour of engaging, and potentially ‘interfering’, with reality construction itself (i.e. ontological politics). Enactment, as John Law (2004) explains, is ‘the claim that relations, and so realities and representations of realities...are being endlessly or chronically brought into being in a continuing process of production and reproduction, and have no status, standing, or reality outside those processes’ (159).

[3] Alex Perullo’s 2011 ethnography of Tanzania’s ‘music economy’ begins from a similarly anti-developmentalist, anti-teleological position. I do not follow Perullo, however, in eschewing the term industry. Unlike in Tanzania, this term is commonly used in Kenya; and while I don’t want to adopt any particular model of industry, I do want to stay attuned to all the various understandings and imaginations of industry that I encounter on the ground in Nairobi.

[4] This image emerged especially around the figure of pioneering Kenyan reggae and hip-hop producer Tedd Josiah, who was successfully promoted (by himself and his business associates at Sync Sounds) as a creative genius out to transform Kenyan music.

[5] These sorts of agreements may be written or verbal; they may even be implicit, with no discussion about authors’ rights taking place before the work is done. Many times the artist is required to perform the name of the producer or production house in each track (a ‘signature’, as it’s called) in exchange for the creative producers’ work.

[6] June Gachui (KAMP) is hopeful that this change will come with the introduction of new legislation, akin to the recently proposed amendment to the 2001 Copyright Act that clarifies performers’ right to equitable remuneration for public performances.