

Regulatory Framework of Community Radios in Kenya in Reference to the Development Agenda of Slum Areas

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Abstract

This study sought to scrutinize the regulatory environment of community radios in Kenya with specific reference to the development agenda of slum areas. The study specifically focused on Pamoja FM that serves Kibera slums in Nairobi. This case study utilised a descriptive design using qualitative approaches. The study utilised interviews, observations, and review of documents as the strategies of collecting data. Data was collected from a census sample of five newsroom staff and thirty regular listeners of Pamoja FM together with key informants who were interviewed and also participated in focus group discussions to provide information on the regulatory framework of community radios in Kenya in reference to the development agenda of slum areas. Data was analyzed using thematic analysis and presented in narrative form and direct quotations. This study established that regulatory restrictions greatly limit the income of community radio stations, thus hindering them from effectively carrying out their mandate. It emerged that community radios really try to effectively deliver information and knowledge about development to members of their communities despite the strict regulatory restrictions. The study recommends that the government should make the regulatory framework and environment friendlier for community radios and that community radios should find sustainability mechanisms to help them promote the development agenda of the communities they serve.

Keywords—regulatory framework, community radio; development agenda; slum areas;

INTRODUCTION

Slum areas such as Kibera slums in Kenya are usually populated by people living in extreme poverty and earning very little income. They are characterized by high unemployment rates and diseases such as HIV/AIDS are quite common [1]. Cases of crime, rape, assault and insecurity are also the order of the day. Many education institutions in these slum areas like Kibera are categorized as informal [2]. Clean water is hard to come by, thus diseases caused by poor hygiene and overcrowding are prevalent [3]. The Food and Agriculture Organisation (FAO) [4] estimates that close to 900 million people in the world, particularly those living in developing nations do not have adequate access to information, knowledge, and communication for development. FAO posits that the situation is worse in slum areas where more isolation and lack of access to knowledge for development is experienced. This has been cited as one major contributor to the low development rates witnessed among slum communities in developing

nations such as Kenya. Kibera is among the most marginalised urban slums in Nairobi Kenya when it comes to development. Many attempts have been made by various stakeholders such as community radio stations to bridge this development gap in the area.

Community radio stations have been on the forefront in providing information, knowledge, and communication that is necessary for development in slum areas [5]. One such station is Pamoja FM in Kibera. However, regulatory restrictions have the potential to greatly hinder the effectiveness of community radios in promoting the development agendas of the communities they serve. For that reason, it is important to scrutinize the regulatory framework of community radios in Kenya to determine whether it promotes or hinders the effectiveness of community radio in promoting development in slum areas. This can be achieved by critically analysing the prevailing regulatory environment for community radios in Kenya.

Marginalised communities are groups or communities within the larger society that have been side-lined in terms of social amenities and development. Slum areas are usually exposed to human distress and social injustices. The concept of marginalisation has been interchangeably used with that of social exclusion to mean the same thing. Kenya's development agenda can be fast tracked by reaching out to these slum areas [6].

PROBLEM STATEMENT

Social provisions such as proper educational facilities, adequate security, good roads, reliable electricity, clean water supply and quality healthcare are usually readily available in developed areas but are often not readily accessible or available to the slum populations. However, slum communities have to a great extent been relegated to the periphery of the regular political and socio-economic development conversations. Their voices remain unheard and their core political and socio-economic concerns largely excluded from the mainstream resource planning and allocation. The magnitude of this exclusion is quite significant in Kenya where a significant number of persons live in the slum zones of the country [7].

The media can be a unique tool in promoting the development agenda of any society because of its ability to highlight daily happenings and provide direction for future development goals. Driven by their profit-making agendas, commercial radio stations may neglect to address the unique localised problems faced by members of certain communities, especially slum ones. This gives community radio the opportunity to step in and respond to the needs of the members of such communities that it serves, thereby contributing to development and positive social change within the community [8].

LITERATURE REVIEW

Regulatory Framework of Community Radio in Kenya

Government control over the media mostly through the use of stringent legislations, as noted by [9], has been blamed for impeding communities from freely expressing their views. This has been slowing down the development process, more so among slum communities. For equal development to be realised, Paolo Mefalopulos, a development communication expert from the World Bank suggests that participatory communication is a prerequisite for the success of development projects among communities. In fact, he cited participation and communication as two key ingredients in the development equation [10]. Current media regimes have been focusing on commercialising their operations, thus, threatening to destroy the media that was

originally focused on ensuring the participation of the public in issues that affect them directly. The commercialisation of media by influential interest groups has led to changes in media laws and regulations that have ensured that only the interests of these groups are well taken care of. In most instances where the government or business organizations have been known to control and operate the media, slum groups have remained disadvantaged because there has been little or no participation from them in development issues.

The information and communication sector became liberalised when the Communications Commission of Kenya (CCK) was established to oversee and regulate the industry in the country. CCK is today the Communication Authority of Kenya (CAK). In the broadcasting category, CAK has designated three main broadcasting types: public broadcasting services; private/commercial broadcasting service; and community broadcasting services.

According to section 46 of the Kenya Information and Communication Act (KICA) of 2009, the following details need to be provided to the CAK when seeking a community broadcasting license:

- i. “Information on the service for which the community broadcasting license is sought for;
- ii. The minutes of the meeting in which it was decided that a community broadcasting station be established;
- iii. Proof of sustainability mechanisms and sources of funding;
- iv. Weekly programme schedules for the broadcasting services which the license is sought; and
- v. Such other requirement or information that the Commission may prescribe from time to time.”

The Act further outlines that community broadcasting services, radio included:

- a) Are not run for profit or as part of a profit-making entity;
- b) Funding is mostly from donations, grants, membership fees;
- c) Are provided for community purposes;
- d) Represent a community interest;
- e) Encourage members of the community served to participate in the operations of the service and the selection and provision of programmes; and
- f) Are prohibited from carrying advertising, but may broadcast sponsorship announcements and limited adverts specifically relevant to the community (CCK, 2009).

In appreciating the place of community radio in the cultural, economic, political and social development of society, the Communications Commission of Kenya in its Kenya Information and Communications (Broadcasting) Regulations, 2009 (Part III; article 13) envisages the mandate of community radio stations in the country thus:

- a) Reflect the needs of the people in the community including cultural, religious, language and demographic needs;
- b) Deal specifically with community issues which are not normally dealt with by other broadcasting services covering the same area; and

c) Be informational, educational and entertaining in nature; provide a distinct broadcasting service that highlights community issues.

In the words of James Wolfensohn, former President of The World Bank Group, “To reduce poverty, we must liberate access to information and improve the quality of information. People with more information are empowered to make better choices. For these reasons, I have long argued that a free press is not a luxury. It is at the core of equitable development.” This ideally means that the regulatory environment of community radio in any democracy should not be inhibitive to such an extent that it hinders access to information. Community radios should be allowed to operate freely as long as they put the interests of the communities they serve first.

Community radio can be an effective and interactive platform through which slum communities can be heard and informed. Community radio should not be confused with vernacular radio. There have been numerous arguments about the purpose of vernacular stations in Kenya ever since the country experienced the post poll skirmishes of 2007. Many people interviewed by the Truth Justice and Reconciliation Commission (TJRC) accused vernacular stations of fuelling the violence. These vernacular stations were also accused of having the potential of spreading divisive messages and politics [7].

The media has slowly evolved to become a very influential means of determining people’s behaviours. Reference [8] argues that depending on the agenda that the media is out to set, the voices of the people can either be neglected and undermined, or promoted and supported. This means that the media has a noteworthy influence on the lives of people. Reference [8] further posits that controlled media has dominated the world for a long time now, thus causing slum communities to inadequately partake in decision making activities on matters that touch on them directly. Their opinions, ideas, and interests have for a long time not been considered in making decisions about development [8].

In Africa, Kenya is said to have enjoyed the privilege of being the first country to have a community radio station in 1982 which was known as Homabay Community Radio [9]. Despite this, the pace at which Kenya has experienced growth in the community radio sector has been very slow and wanting. On his part, reference [10] notes that this situation can be blamed on previous regimes which feared promoting the development of community media because they thought that it would lead to ethnic tensions. Some well-known community radios in Kenya include Pamoja Radio in Kibera, Koch FM in Korogocho, Mathare FM in Mathare Valley, Radio Maendeleo in Rarieda, and Mang’etele in Makueni among others [10].

Development Agenda in Kenya

Ideally, as enshrined in the Universal Declaration of Human Rights (UDHR) of 1947, all humans are entitled to rudimentary human rights such as the right to security, water, public service, information, education, rest, leisure, work, social security, and healthcare among many others. According to the UDHR, granting these basic human rights to all human beings regardless of their differences is the foundation of justice, freedom, development, and peace in the universe. This declaration must be respected by all individuals and nations as a common standard for the achievement of human rights and development [11]. The UDHR set the pace for all other development agendas such as the Sustainable Development Goals (SDGs), Millennium Development Goals (MDGs), Kenya’s Vision 2030, and the most recent big four agenda launched by the Kenya government in 2018 that focuses on manufacturing, food security, universal healthcare and affordable housing.

Kenya's pursuit to join the league of developed nations is evident through the numerous concerted efforts being put in by various stakeholders. A good instance is Kenya's Vision 2030, which is spearheaded by the Kenyan government, is aimed at giving Kenya a lasting development blue-print to produce a universally viable and flourishing nation with a great standard of life by 2030, that aims to convert Kenya into a new industrializing, middle-income nation giving a good quality life to all its inhabitants by 2030 in a hygienic and safe environment [12]. In 2018, the Kenyan government launched its big four agenda that aims to improve manufacturing, food security, universal healthcare and affordable housing.

Also, Kenya knows that the Millennium Development Goals (MDGs) provide a good prospect to cater for human wellbeing in the country. The implementation of the MDGs and Millennium Declaration by the United Nations Assembly in September 2000 was a commendable initiative by the universal community to quicken human development, eliminate poverty, and simplify the steady, but more effective incorporation of the developing world, especially Africa, into the universal economy. The re-affirmation of the MDGs in successive worldwide symposia was an added sign of the commitment of the international community to deal with inequality and poverty, and to finish the marginalization and segregation of the disadvantaged and poor. Kenya has been part of this process since inception. So far, Kenya has made some notable progress towards the realization of the MDGs. This can be seen through initiatives such as the Free Primary Education (FPE) and low cost maternal health care among others.

In Kenya, the problems of achieving rapid and sustainable socio-economic development, eradicating poverty, and integrating the country into the world economy are increasingly being treated seriously as evidenced by some of the latest significant development measures and initiatives such as Vision 2030 and Kenya's efforts towards achieving the MDGs [12]. Many countries are on the forefront in working towards the realization of the SDGs. Even though most of these goals are interrelated, each has its own target to accomplish. However, they all seek to achieve growth in financial and social development issues. Community radio can play a vital role towards the realization of these development agendas because they can be used as mouthpieces to call to action efforts to end poverty, protect the earth and ensure that everyone enjoys prosperity and peace.

Through community radio, civic education to empower the community on development matters can be easily accomplished because of the language used. Community members are more likely to better understand messages conveyed to them through their local language and by members of their own community that they can relate with. Community radio encourages community participation in decision making hence contributing to development of society, and overall, towards the realization of the SDGs. They can contribute towards the development agenda by mobilizing trained broadcasters to engage different sections of the community in social dialogue and to come forward with their developmental needs. They also have the potential to raise awareness and knowledge among the rural or slum communities on their basic rights thereby acting as a bridge between the local authorities and community members.

METHODOLOGY

This case study adopted a descriptive research design. A qualitative approach was followed. The study was conducted in Kibera, Nairobi County, Kenya.

Sampling

This study used the census sampling method where all 5 media staff of Pamoja FM and 30 members of the listeners' clubs together with interns were studied. The sampling frame for the respondents in the focus group discussions consisted of regular listeners of Pamoja FM.

This was provided by the radio station, which has a data base of its regular listeners generated from numerous sources including listener clubs associated with the radio station as well as membership of common interest groups which have grown out of the listener clubs. These community listeners' club comprised of a group of people who listen to radio programmes actively and systematically with a view to discussing the content and above all putting into practice the lessons learned.

The respondents who participated in the focus group discussions were randomly picked from three clusters of older men, women and youth (18 - 35 years). For key informant interviews, a list of potential respondents was drawn beforehand comprising of the media staff and those listed were interviewed through the use of questionnaires.

Data Collection Methods and Tools

Data was collected from multiple sources because a good case study seldom relies on a single source of data. Primary data was collected through interviews of key informants, select listeners, local opinion leaders, as well as focus group discussions. 5 questionnaires were also given to the 5 media staff to obtain information about the history of Pamoja FM. For these reasons, secondary sources in form of documents and findings of previous similar studies as well as information that was relevant to the subject and location of the study.

The instruments used to collect data in this study were questionnaires, focus group discussion guides and key informant interview guides.

Data Analysis

The qualitative analytical process was used to analyse the data that was collected. Data was categorised and compared in preparation for analysis and interpretation. Thematic analysis was employed because it is the most appropriate method of identifying, analysing and reporting patterns and themes within qualitative data. Analysis was geared towards identifying patterns and differences as well as relationships between and among various sets of information. This explained the contribution or otherwise of Pamoja FM to the development of its listening audience/community. The analysis adopted the explanation building approach which examines the dependent variables and assigns causal attributes with a view to disapproving any plausible rival explanations. This procedure was preferred because it is quite appropriate to explanatory case studies, which approach this study adopted. Through explanation building, this study sought to identify a supposed set of causal links between the social, economic, cultural and political developments in Kibera and the operations of Pamoja FM.

RESULTS AND DISCUSSION

This study sought to scrutinize the regulatory environment of community radios in Kenya with specific reference to the development agenda of slum areas. The study specifically focused on Pamoja FM that serves Kibera slums in Nairobi.

This research was able to establish that The Communications Authority of Kenya (CA) is the official regulatory agency for the communication sector in Kenya whose parent body is the

Ministry of Information Communications and Technology. It was established by the Kenya Information and Communications Act (KICA) in 1999. At its onset, it was known as the Communications Commission of Kenya (CCK) before rebranding to Communications Authority of Kenya (CAK) in June 2014. Being a state-owned corporation, it is responsible for ensuring fair play in the airwaves. Its core mandate is to license and regulate radio communication/broadcasting, postal and courier services, electronic commerce and telecommunications in Kenya. Licenses to internet service providers, as well as other communication devices that utilise frequencies are also issued by the Communications Authority. Strategies and policies that relate to the development and operation of all forms of telecommunication services in Kenya are developed by the authority as well.

According to the Communications Authority website (2018), its responsibility entails:

- a) Licensing all systems and services in the communications industry, including; telecommunications, postal, courier and broadcasting.
- b) Managing the country's frequency spectrum and numbering resources.
- c) Facilitating the development of e-commerce.
- d) Type approving and accepting communications equipment meant for use in the country.
- e) Protecting consumer rights within the communications environment.
- f) Managing competition within the sector to ensure a level playing ground for all players.
- g) Regulating retail and wholesale tariffs for communications services.
- h) Managing the universal access fund to facilitate access to communications services by all in Kenya.
- i) Monitoring the activities of licensees to enforce compliance with the license terms and conditions as well as the law.

With this in mind, it is now evident that the Communication Authority is the sole controller and regulator of the radio broadcasting sector in the country. This section seeks to reveal how the regulatory framework of community radio in Kenya as set forth by the CAK may promote or hinder the effectiveness of community radio in promoting development in slum areas. This research was able to establish that the regulatory framework for community radio in Kenya has the ability to hinder and promote the role played by community radios in promoting the development agenda of slum communities. In other words, the regulatory framework in Kenya, to some extent, hinders and also promotes the role of community radios in promoting the development agenda of communities they serve.

Political interference

According to the station's director of operations, (Respondent 1), Pamoja FM has experienced regulatory challenges caused by political interference even before it existed. Firstly, he explains that the station had to overcome substantial resistance from the government which perceived it to be supporting the opposition at that time when it was being founded in 2007. He explained:

“The fact that we were in Raila Odinga's constituency seemed to hinder our relations with the Communications Commission of Kenya.” (Respondent 1)

Raila Odinga was the leader of the official opposition when the station was being set up in 2007. He led the Orange Democratic Movement and was also a presidential aspirant who took part in the 2007 elections that led to the ill-fated post-election violence. He was also the Member of Parliament for Kibera Constituency at that time where the station is based. According to Kioi, the government would frustrate all their efforts to set up the station because it felt it was affiliated to Raila Odinga. He expressed concerns that the bureaucratic hurdles put forth by the regulatory body under instructions from the government cost Pamoja FM more than two and a half years to clear before being allowed to operate. Governments world over are known to use state-owned corporations to fight battles with individuals or other corporations that they are not in good terms with (Power & Wilson, 2000). This may be done through tough regulations and rules that are set to frustrate the efforts of any person a government wishes to fight.

Kioi further explains that the two and a half years that were wasted when Pamoja FM was trying to overcome the bureaucratic hurdles set forth by the regulatory body would have made a big difference to the residents of Kibera. This is because the station's main aim was to tackle issues that affect the community of Kibera directly such as community awareness, drug abuse, women's rights, and environmental issues among others. He adds that it was ironic that despite the regulatory restrictions they had to go through because of being assumed to be associated with the opposition leader at that time, they did not receive any financial support from him though he expressed verbal support severally. The station's management feels that they should have received the necessary support since they were also working to improve the living conditions of residents of Kibera. Such political interference has made it difficult for the station to attract funding to run its operations since the government initially perceived it as an affiliate of the opposition. Community radios are strictly not-for-profit and therefore cannot engage in commercial activities such as advertising to generate income.

Stringent regulations

According to the programming code for free to air broadcasting covering radio and television services in Kenya published by the Communication Authority in March 2016, the Communications Authority is required to prescribe a Programming Code for free-to-air radio and television services setting out standards for the time and manner of programmes to be broadcast by licensed broadcasters under the Act (KICA). Section 46H (d) of the Act mandates the Authority to ensure compliance to the Programming Code prescribed under the Act. While this programming code is meant to ensure that radio broadcasting strictly adheres to standards that are acceptable to Kenya communities, some regulations of the code were explained to hinder their effective operations. For instance, Section 5 stipulates the documents that need to be provided to the Communication Authority by a person applying for a community radio broadcasting service. One such requirement is proof of funding sources and mechanisms for sustainability. At the onset, the management confessed that it did not know how it would be receiving funds because it was entirely focused on improving the lives of the people of Kibera. This caused unnecessary delays in getting a license from the Communications Authority to begin its operations.

According to the station's management:

“Such regulations make it difficult to cross the initial stages of licensing because it is difficult to establish reliable sources of funding at the initial stages of launching a community radio

station. Such regulations also make it difficult for other promising community radio stations to set up shop.”

Another case in point that was mentioned was the fact that community radio stations are required to promote the use of English and Kiswahili as national languages. For community radio stations operating in rural areas, their choice of broadcasting language has always been the local dialect which is understood by the greater majority in the communities they serve. However, because of this regulation, some community radios have seen their licenses revoked because they are usually confused with being vernacular radio stations. A good example is Homa Bay Community Radio which was shut down by the Kenyan government on claims that it was violating the official policy of making English and Swahili the official and national languages respectively because its broadcasts were aired in Dholuo [13].

Community radio stations need to have uninterrupted access to airwaves for them to exist and broadcast. This being the case, they need to have frequencies reserved for them by the CAK and licenses issued to the community radio stations for them to operate legally. The National ICT policy however leaves the licensing of community radios to a free market approach. This means that all prospective radio service providers make applications to the CAK and await approval. Community radio stations therefore face difficult challenges since they are forced to compete with commercial radio stations that are better placed to financially fight for the few available frequencies. The CAK has failed to have a policy framework that designates broadcasting frequencies to community radios.

Further to this, the broadcasting regulations of 2009 have stipulated requirement such as mandatory documents that should be furnished to the CAK when applying for a community radio license. These documents should contain:

- a) Weekly schedules for programmes that the station will be broadcasting
- b) Minutes of the meeting where it was decided that a community radio be established
- c) Information regarding the service for which the community radio license is being sought for
- d) Sustainability mechanisms and proof of the sources of funding
- e) Any other relevant requirement and information that the CAK may prescribe from time to time

The station’s management explained that it is difficult to identify sources of finance and sustainability mechanisms at the onset even before the station begins its operations. It feels that the CAK should first allow stations to begin operating as this can be away of attracting donors to finance their operations once they prove that they can have a positive impact to the communities they serve.

Positive sides of the regulatory framework of community radio in Kenya

Having discussed how the regulatory framework on community radio broadcasting hinders their operations and dedication towards the promotion of development agenda in slum communities, this research also established that the regulatory framework on community radio broadcasting in has some positive impacts towards making community radio stations promoters of the development agenda as discussed below:

Policy framework (National ICT Policy)

The Ministry of Information Communication and Technology in Kenya released the National Information & Communications Technology Policy in 2006 to act as the main policy document for the development of ICT in the country, including broadcasting services such as radio and television. The policy clearly stipulates the crucial role played by broadcast media in development. It states that one of the most authoritative tools of communication in the 21st century is broadcast media since it has transformed interactions and communication between individuals and societies.

The National ICT Policy is aimed at creating an enabling environment for the three categories of broadcast, namely; community broadcasting, private broadcasting and public broadcasting. It also provides signal distribution services to all the three categories of broadcast services. One of the most supportive objectives of the ICT policy is to ensure that broadcasting services echo a sense of Kenyan cultural diversity, character and identity by developing local appropriate content. It also seeks to promote diversity in control and ownership of broadcasting services in the country. The policy requires community broadcasting to focus on providing programmes that concentrate on community issues such as developmental issues, local cultures, peace, cohesion, environmental issues and general/basic education. This, in a way, according to the station's management, has helped them to stay on course in promoting the development agenda of the people of Kibera as they are bound by the law to do so.

Kenya Information and Communications Act (KICA)

The Kenya Information and Communications Broadcasting Regulations of 2009 also help ensure that community radio services remain focused on promoting the development agenda of the communities they serve by stipulating that community broadcasters have to:

- (a) reflect the demographic language, religious and cultural needs of the people in the communities they serve;
- (b) deal explicitly with community issues which are not usually dealt with by other broadcasting services found in the same area; and
- (c) be informational, educational and entertaining in nature; Provide a distinct broadcasting service that highlights community issues.

Further to this, the Communications Authority also helps community radio stations to promote the development agenda of the communities they serve by stipulating that:

- i. a frequency plan exists to ensure that a fair number of channels or frequencies are reserved for community broadcasting services
- ii. a community broadcaster shall ensure all the funds generated from the operations of a community broadcasting station are reinvested in activities benefiting the Community.
- iii. community broadcasters shall be monitored by the Communications Authority to ensure that the funds generated from operations of a community broadcasting station are reinvested in activities benefiting the community.
- iv. the Communications Authority shall allow community broadcasting licensees to advertise, on their stations, adverts that are relevant and specific to that community within the broadcast area.

The above regulations, to a large extent, have helped community radio stations to remain on course and focused on serving the interests and development goals of the communities they serve.

Lower application, licensing and annual operating fees for community broadcasters

In a bid to promote the establishment of community broadcasters such as community radios, the Communications Authority significantly lowered the application, licensing and annual operating fees for community broadcasters in comparison to commercial broadcasters. As it stands, the application, licensing and annual operating fees that community radio operators need to pay to the Communications Authority stand at Kshs. 1,000, Kshs. 15,000 and Kshs. 15,000 respectively compared to commercial radios which pay Kshs. 10,000, Kshs. 100,000 and Kshs. 100,000 respectively. This has been an incentive to community radios to begin operations in areas where there is need to have such services. However, the station's manager explained that the license for a commercial radio station lasts for 5 years whereas the license for a community radio station like Pamoja FM lasts for only 3 years. He was of the opinion that consideration should be given by the Communications authority in terms of extending the period of licensing so that it can match the 5 years given to commercial radio stations.

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