MIDLANDS STATE UNIVERSITY

FACULTY OF ARTS

DEPARTMENT OF FILM AND THEATRE ARTS

AN INVESTIGATION INTO THE ORIGINS AND MANIFESTATION OF PIRACY IN THE ZIMBABWEAN FILM INDUSTRY

BY

VINCENT TINOTENDA DIKITO

R124631H

A DISSERTATION SUBMITTED TO THE FACULTY OF ARTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE DEPARTMENT OF FILM AND THEATRE ARTS STUDIES HONOURS DEGREE AT THE MIDLANDS STATE UNIVERSITY, ZVISHAVANE ZIMBABWE

JUNE 2016

DECLARATION

i

Student number: R124631H

I, Vincent Tinotenda Dikito declare that **AN INVESTIGATION INTO THE ORIGINS AND MANIFESTION OF PIRACY IN THE ZIMBABWEAN FILM INDUSTRY** is my work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

Signature.../...../......./2017............... (Student)

Signature.../......./......./2017............... (Supervisor)

CERTIFICATE OF SUPERVISION

I, Dr. U. Rwafa do hereby declare that I personally supervised this dissertation in accordance with the department regulations and the university's academic general regulations for undergraduate degrees. On this basis, I confirm that this dissertation is examinable.

Dissertation Title: An investigation into the origins and manifestation of piracy in the Zimbabwean film industry.

Name of student   :   Vincent Tinotenda Dikito

Name of Supervisor :   Dr. U. Rwafa

…………………………   ………………………….

Signature   **Date**

DEDICATION

Firstly and foremost I would like to dedicate this report to my mother, Mrs. Violet M. Dikito. I am who I am because of you, thank you for your continued support and encouragement in my academic endeavours. Not forgetting my grandparents, Sub-Chief and Queen Svosve for a lifetime of encouragement and emphasis on the importance of academic studies. Special dedication to my brothers, Bright and Clever Dikito, without whose financial support all this would not have been possible. I dedicate this to you, I hope to prove to you a worthy investment. Last but not least, Film and Theatre Arts Studies Department I dedicate this to you for making me who I will be in future, both career wise and social wise, I dedicate this study to you.

ACKNOWLEDGEMENTS

ABSTRACT

The Zimbabwean film industry is a troubled industry and one of the factors hindering its growth and development is piracy. The proliferation of this practice has resulted in the underdevelopment of the industry to the extent that some critics now believe that there is no film industry. This study critically investigates the origins and manifestation of piracy in the Zimbabwean film industry. Most people have a shallow understanding of the term piracy and they have little knowledge of its forms. As a result, a number of people practise and promote piracy without knowing it. The study discusses a number of forms in which piracy manifests itself in in the Zimbabwean context as well as its history. Factors exacerbating this anomaly were analysed and probable solutions to the problem were presented.

TABLE OF CONTENTS

AN INVESTIGATION INTO THE ORIGINS AND MANIFESTATION OF PIRACY IN THE ZIMBABWEAN FILM INDUSTRY

CHAPTER 1

1.1   INTRODUCTION

The introductory chapter encompasses the background of the study, statement of the problem, research aims and sub-objectives, research questions/hypothesis, and justification of study, research method, theoretical/conceptual framework, scope of the study, definition of terms and conclusion.

1.2   BACKGROUND TO THE STUDY

Zimbabwe, just like many other developing nations is fast growing on the cyber scene. Boasting of over ninety per cent literacy rate, this underlines the academic status quo of the citizens. Being a third world country, Zimbabwe has, however, its disadvantages. Notably, the economic environment is not conducive for proper cyber growth as evidenced with the country's poll position on the world's software piracy rank together with Vietnam. This can be attributed to the fact that the country is a Less Economically Developed Country (LEDC) and having a larger population living under the poverty datum line most people cannot afford to buy original software or films/music. This has had adverse effects on the development and growth of the film industry. Critics have argued on whether or not there is any film industry in Zimbabwe to talk about but that's an argument for another day. Industry or no industry, there is film production in

Zimbabwe but these productions are under serious threat because of piracy. Piracy is a drawback to the country's film production as it intercepts revenue from consumers before it can get to the film producers thereby rendering film production fruitless.

1.3   STATEMENT OF THE PROBLEM

The entertainment sector is one of the most lucrative sectors, provided everything is intact, and arguably one of the most important in any country. People in the entertainment sector make a living from selling their intellectual property. Players in this sector such as the hilarious comedian Safirio Madzikatire of the *Mukadota Family* fame, talented actor, scriptwriter and screen writer Aaron Chiunduramoyo and the popular musician of the nineties, Leonard Dembo made fortunes from their films and music which they produced.

In Zimbabwe, very little academic writings pertaining piracy in the Zimbabwean film industry have been forwarded. Most writings about piracy have been on music. Hence, this study seeks to cover this gap in the film industry. The study will trace the historical background of piracy, its roots and its emergence in the Zimbabwean film industry. Previous academics have covered music hence this study will add to the body of knowledge already in existence concerning piracy but centralising film. The gap which the study will cover include the manifestation of piracy in the Zimbabwean film industry and suggest solutions to players in the industry on how they could survive the onslaught of piracy. In film, piracy manifests itself in various forms including peer to peer/media, end user and internet/international piracy. These forms will be looked at in greater detail in chapter two.

1.4   AIMS OF THE STUDY

The study is aimed at evaluating the historical background of piracy in the film industry and suggests possible measures to counter it. By studying piracy's manifestation in the film industry, feasible counter measures will be brought to the fore. The reader should expect to get general ideas on countering piracy after going through this study. The study also aims at evaluating a number of hypotheses brought forward pertaining piracy. The most believed in hypothesis on the manifestation of piracy in film is that piracy is due to technology. The study aims to evaluate such hypotheses. A number of scholars have written vastly about such claims, the likes of Dahlstrom, D et al (ibid), "this easiness of reproduction is both a virtue and a drawback…"

1.5   OBJECTIVES

The objectives of this study are to:

⇨ Investigate origins of piracy in Zimbabwe's film industry

⇨ Identify forms in which piracy manifests itself in Zimbabwe's film industry

⇨ Explore components that make up piracy

⇨ Conscientise consumers on the effects of piracy on the film industry and consequently to them as consumers

⇨ Suggest ways in which piracy in Zimbabwe's film industry can be countered

1.6   RESEARCH QUESTIONS

This research will address the following questions:

⇨ What factors contributed to the astronomical rise of piracy?

⇨ What are the motivational factors behind piracy in the film industry?

⇨ In what forms do piracy in Zimbabwe manifests itself in the film industry?

⇨ Have the policy makers implemented adequate policies to fight piracy and are the law enforcers doing enough to curb piracy in the film industry?

⇨ Are new media technologies really the chief culprits of pioneering piracy in Zimbabwe?

⇨ Why do customers opt for pirated copies of films in lieu of original DVDs?

⇨ Why are Zimbabwean laws pertaining piracy lenient?

1.7   SIGNIFICANCE OF THE STUDY

This study is essential in providing an understanding of piracy in its various forms and how it operates in Zimbabwe's film industry. Since piracy is a major threat to the film industry due to its parasitic nature it is vital to fully understand it in order to counter it. The film industry is being crippled by piracy due to loss of revenue to pirates resulting in players in the film industry failing to sustain themselves. The government too is losing a lot of revenue due to tax evasions by this unscrupulous informal sector of pirates; failure of the film industry means no taxes from the industry to the government and the pirates who actually benefit from the business do not pay any tax to the government. This study, henceforth, is important because it explores chances of sustainable livelihoods for the legitimate players in the industry. It will explore measures implemented by other countries in dealing with piracy and evaluate if they are applicable in Zimbabwe. This study, henceforth, will suggest possible solutions to fight piracy.

1.8   DELIMITATIONS

The study centralises the effects of piracy in film (although there are mentions and references to other art forms) and is only limited to Zimbabwe though the origins of piracy covers mostly the

European countries since they are the pace setters in media technologies. The scope of the study is the Zimbabwean society. However, the study can be adapted to most third world countries and other countries with emerging economies.

1.9 RESEARCH HYPOTHESIS

There are many hypothesises/ assumptions on the origins of piracy in Zimbabwe and the nature in which it manifest itself in the country's film industry. Artists and film consumers alike propounds several hypothesises as to explain the phenomenon of piracy on the local arts industry. The following are the assumptions the researcher had in conducting his researches.

⇨ Technological advancements are the major promoters of piracy and as such the film industry has been put into shambles because of technological growths in Zimbabwe.

⇨ Lack/ absence of proper film distribution channels have opened up avenues for pirates to capitalise on the gap.

⇨ Piracy is evident amongst college/ university students.

⇨ Lack/ poor marketing strategies have created a loophole through which piracy is flourishing

1.10 SCOPE OF STUDY

This study focused on tracing the origins of piracy. The earliest media technologies were looked at since the earlier times when the media industry made use of analogue representations in physical or mechanical media then later followed by analogue representations in magnetic

media, and finally most recently digital representations in the forms of MPEG 1, 2, 3 and 4 popularly known as MP1, MP2, MP3 and MP4s.

1.11 CONCLUSION

This research will basically give an explicit account on the origins of piracy. The major objective is to try to defeat it or come up with acute measures which will see filmmakers accumulating revenue from their work even in the existence of piracy. Media technologies advancements were also given as chief culprits in promoting piracy. Piracy is a plague in the Zimbabwean arts industry, in the film industry to be precise.

CHAPTER TWO: LITERATURE REVIEW

2.1   INTRODUCTION

This chapter explores some studies that have been done in the particular field of film and piracy. It is a summary and explanation of key studies relevant to proposed projects that are relevant to research questions (Cooper 1988). As already stated, in Zimbabwe academic literature pertaining to film is very scarce hence, the literature review will dwell on any form of literature available on the study including other theses, blogs and newspaper articles. Further relevant studies done outside of Zimbabwe will also be reviewed. This study will add to the already existing body of knowledge within the Zimbabwean film industry.

2.2   DEFINING PIRACY AND PIRATES

As used in this study, a pirate is one who illegally duplicates CDs/DVDs or burns CDs/DVDs and sells them or one who illegally uploads content (films, music, books or software) on the internet and distributes them for profit or for free. Piracy, also as used in here, refers to the illegal duplicating of CDs/DVDs or the putting of such content on CDs or DVDs by unlicensed and mostly unauthorized personnel for the purpose of re-selling.

2.3   FORMS OF PIRACY

It is then of utmost importance to note the forms in which piracy manifests itself in the Zimbabwean film industry. Piracy in the country manifests itself in these forms; media piracy, localised (end-user piracy as it is commonly known in some circles), international (internet

piracy) and counterfeiting amongst many others. The four named forms will be discussed and made reference to in this study.

2.3.1   COMPUTER/MEDIA

One can talk of computer/media (public) piracy as one form in which piracy manifests itself in the film industry which uses a peer-to-peer network. It is caused by a low income especially in emerging markets. This form of piracy is an illegal file sharing practice of software, music or films from one computer to another through media storage devices such as memory sticks. The technological advancements have seen people divert from ordinary traditional entertainment of going to cinemas because mostly people cannot afford it and file sharing of films has provided a cheaper alternative. Computer/media piracy is heavily dependent on new media technologies such as Bluetooth™ enabled devices, which includes laptop/desktop/tablet computers, mobile phones amongst others. Hence, although technological advancements are good for emerging markets, the pros of this technological advancement in Zimbabwe far outweighs the cons as far as the film industry and the entertainment sector at large is concerned. This practice is done overtly as most people are ignorant of the fact that this is a form of piracy. A recent study carried out in the U.S concerning piracy showed that this form of piracy is common amongst college students between the ages of 16 and 24, Karaganis (ibid).

2.3.2   INTERNET

Internet piracy involves the infringement of copyright or intellectual property (IP) rights and it is an illegal practice that has been in existence for a long time. To that effect, in 1996, in Europe, the Digital Millennium Copyright Act was passed to protect intellectual property in member

countries. This act was made effective in 1998 and it closed some unanticipated loopholes in existing copyright policies. The act protected various digital media by criminalizing acts of malicious unauthorized access to or distribution of copyrighted materials such as movies, music amongst others. It was passed to implement a treaty called World Intellectual Property Organisation (WIPO) which protects intellectual products from cooperating countries. This is problematic in the case of Zimbabwe since it is not a member country hence it does not cover Zimbabwean filmmakers. It is also called international piracy because content is circulated on the internet; world wide web (www) and can be done anywhere in this world. This is more of a covert form of piracy since the distributors (pirates) might not be located in Zimbabwe & catching those who download the content is next to impossible since there are no jurisdictions covering that hole of internet piracy.

2.3.3   LOCALISED/ END-USER

Localised piracy, which some experts have dubbed end-user piracy is piracy done by the customers, knowingly or unknowingly. The purchase of pirated material either online or physically constitutes end-user piracy. This simply means buying DVDs/CDs from the outlaws, the street vendors is a form of piracy in itself & they will be committing a crime since they will be promoting the illegal practise. The circulation through exchange or lending of films on DVDs or any other media also constitutes localised/ ender user piracy.

2.3.4   COUNTERFEITING

Counterfeiting is the most popular and serious form of piracy. This is the unauthorised duplicating & distribution of proprietary content such as films, music, literature (textbooks or

novels) or software. The discs are even written that "all rights reserved. Unauthorised public broadcasting or copying is a violation of applicable laws." This form of piracy has three parties, these are the pirates, movers and customers.

2.4   ORIGINS OF PIRACY IN BRIEF

This ability to reproduce digital media started in Europe sometime in the 20th century. The following evolution of media technology is an adaptation from a study entitled *Piracy in the Digital Age* conducted by Dahlstrom, D., Farrington, N., Gobera, D., Roemer, R. and Schear, N. (2006) from the University of California, San Diego.

The first technologies used analogue representations in physical or mechanical media, followed by analogue representations in magnetic media, and finally digital representations that are largely medium-independent. At each stage, the newest technology was first made available to and affordable only by those in the business of producing and distributing content, and subsequently became less expensive and more widespread. The means of production, reproduction, and distribution became easier, cheaper, faster, and more widely available; and the results of higher quality. In the 1880s, the first motion-picture cameras enabled what would later come to be called video recording. The technologies thus far were complex and expensive enough to limit the content bearing artefacts — books, records, and motion pictures — to centralised production and commercial distribution.

Recording sound magnetically became practical in the 1920s, once it was possible to amplify weak electrical signals with good quality. These magnetic recordings were important not only

because they were easier to duplicate, but also because the linear medium enabled its users to edit by cutting and splicing. Motion pictures, or "movies," had no sound at the turn of the 20th century but in the 1920s, enabled again by magnetic recording and electrical amplification, filmmakers began to release motion pictures with synchronized movie soundtracks including music, speech, and effects. Equipment that could play and record audio on magnetic tape was widely available to consumers in the 1960s, but the release of home videocassette recorders (VCR) in the 1970s prompted a legal challenge that would take nearly a decade to resolve and would set wide-reaching precedent affecting the commercialization and use of later technologies. VCRs allowed people to record television broadcasts to which the studios owned copyrights. Recognizing that it would be impossible to pursue each infringing VCR owner, the studios instead sued the manufacturer, Sony."

The 1980s saw the first popular medium for distributing digitally encoded content to consumers, the digital video disc or digital versatile disc (DVD) and the compact disc (CD). Though the century-old phonographic disc had dominated this market for most of its existence, the DVDs and CDs would make it obsolete by the end of the decade. But this was only the beginning of the changes brought about by the popularization of digital media. Until recently, digital video could be stored and transported only in specialized high-capacity media, like video cassettes for VCRs and DVDs for computers and DVD players, due to the large amount of space they needed. As an example, a full length movie (that is, a movie ranging from 11 minutes to 1 hour 30 minutes) with DVD quality uses about 2-4 GB, and the average DVD capacity in the late 1990s was about 4.7 GB, making it impractical to store more than a couple of movies there. Also, the average internet connection at that time was via 56 kbps modems, which would make it impractical to

download them over the internet. As technology advances, these restrictions have become less and less relevant. Storage capacity of current hard drives is typically measured in the hundreds of gigabytes, and in the mid millennium decade almost half of the American population had broadband internet access. The increasing capacity for storing and transferring digital media files on computers and networks has opened new opportunities for content creators, distributors, consumers, and of course, pirates! Soon after the release of the MP4 codec, people began to rip movies they owned from DVDs to MP4 files on the hard drives. MP4 files are small enough to transfer via internet connections, so users started sharing movies using many different kinds of services, like FTP, Web pages, IRC and even e-mail. As the original DVD designers did not anticipate this scenario, movies on DVDs were unencrypted and lacked any content protection mechanism. Even the invention of DVD encryption software did not do much in alleviating the damage inflicted by these digital media technologies. It did not take a long time before computer geeks found their way around these barriers and started cracking these security measures.

2.5   **ORIGINS OF PIRACY IN ZIMBABWE**

Piracy in Zimbabwe spawned at the turn of the twenty-first century. Prior to the year 2000 (in the millennium decade (1991-2000) to earlier times), piracy was not rampant as people could afford to buy original video/audio cassettes, phonograph records, compact discs and DVDs but the country's economy nose-dived at the culmination of the millennia (late 1990s) due to political instabilities. Over the period, 2000-2006, the country's economy experienced a significant downturn characterised by hyperinflation, multiple exchange rates, persistent fiscal deficit, low foreign exchange reserves, falling international terms of trade, negative interest rates and a build-up in external debt arrears. Unfortunately, the (American) dollarization of the economy towards

the later years of the decade (period after 2008) did not help matters as far as averting piracy was concerned. The internet and the streets had become sources of easy access for pirated films, music and novels for the struggling Zimbabwean masses. As a result, people had developed a tendency of not wanting to buy CDs, DVDs or novels since they could download them at very cheap costs or even for free on the internet. In addition, before the year 2000 piracy competent equipment was not accessible to many in Zimbabwe, only a few well-off people and business people owned it.

Then came the age of "*burning*". Prior to 2008 CD or DVD burning was a phenomenon not acquainted with many people but during the turbulent economic period people had fallen in love with the CD/DVD technology which they had also learnt that they could easily "*burn*" for low costs. This saw the rise to fame of the "*pirate*". This became rampant and people were desensitized about piracy and intellectual property rights since "burning" was now so ordinary that people could not see the wrong in what they were they doing. Globally, as Karaganis, J. (2011) observed in his study *Media Piracy in Emerging Economies*, *media piracy* has been called "a global scourge", "an international plague". This is the assassination of film and music.

2.6   <u>AGE BEFORE PIRACY IN ZIMBABWE</u>

In Zimbabwe, media houses as well as artists who managed to make a living out of their intellectual property are those that plied their trade before the turn of the 21st century when duplicating technologies where not yet a phenomenon. This was the era of films and music videos on VCR tapes, audio music on records & audio cassettes. The mid nineties saw the invention of the DVD-writers which allowed even ordinary people to burn films onto DVDs. Complemented by the invention of Blue-Ray DVDs which have a capacity of up to 16GB, film

piracy began to take its toll. In Zimbabwe, it began as innocent peer to peer piracy, sharing films between close friends but it later escalated when the Zimbabwean economy began to deteriorate and when it soon took a nosedive in the years 2006-2008. Due to the economic hardships, people saw this burning as a viable means to make ends meet and consequently piracy escalated since a lot of people now owned these DVD-writers. Since then up to now, many film makers have released many films that have been popular with film lovers but sales of their film sales have been done more in the streets illegally than in legal retail outlets hence there are no records of actual sales & the film makers are not enjoying royalties from the sales of their work.

2.7   PROBABLE EXECERBATING FACTORS

In such a raging economy, the silver lining is certainly not yet in the horizon. One major contribution of the exacerbation of piracy is that of the struggling economy which has seen people struggle to get by. Speaking at the launch of Microsoft's Windows 8, Office 2013, Windows server 2012 amongst other Microsoft products in Harare in February of 2013, the then Zimbabwe's ICT minister, Nelson Chamisa and the ICT ministry permanent secretary Sam Kundishora reiterated the problem of piracy in Zimbabwe & urged Microsoft "to come up with friendly pricing terms for emerging market countries like Zimbabwe." Although they were speaking on software piracy, the same effects on software also goes for other sectors such as the film industry which is also an emerging market. As the ICT minister out rightly pointed out, low budget incomes of Zimbabweans does not allow quite a good number of them to buy original films, music or software hence a major limitation to the study as most people would argue that it is better to continue using pirated copies since they are cheap. One film viewer even had the audacity to remark that, "as long as I get what I want, the solution to the disadvantaged is left to

those affected. I can't be concerned by things that affect others. This is economic sense (read the book *Freakononics*, it covers how it works in drugs, cheating etc)". Such sentiments are drawbacks to the study. In such an environment where piracy is now considered the norm this study is likely going to be an unwelcome development since almost everyone is practising piracy consciously or unconsciously.

2.8   ONLINE NEWS AND PRINT MEDIA

Dzoma, G. (2013), a news reporter with TechZim (a leading techno-website in Zimbabwe) wrote a blog titled *Arguments for piracy*. He argued that, "…it makes very little sense for artists to sell a DVD at a cost of $5 considering the average Zimbabwean has about $757 to spend per year in terms of GDP per capita unlike in first world countries such as America where an average American has about $42 000 to spend." His argument was that local artistes should not try to emulate prices charged in first world countries because the economies have great disparities. He further went on to point out that pirates have proven that profit can be made from selling DVDs at small prices such that street vending can be said to be a viable market. Indeed, this was a very enlightening study by the reporter. However, the reporter left out pertinent issues such as rules and regulations pertaining street vending and it is going to be covered in this study. The reporter was also silent on the issues of marketing, distribution, overhead and production costs encountered by artistes in producing and distribution of their films. As stated in the blog, street vending has indeed proved to be a viable market but this can prove to be a shaky ground if not practised properly since it is a hub for piracy. Quite a number of film makers have engaged in this practise too, the likes of the popular comedian David Mubaiwa, affectionately known as Sabhuku Vharazipi in the film circles but still it is informal and illegitimate. Many other

filmmakers have taken to the street to counter piracy and selling their productions such as the production team of the local drama, *Fidelis*, using their private mobile vehicles as vending cars. Conversely, street vending in Zimbabwe, according to legislative laws street vending should only be practised by the physically disabled to help them make ends meet. Artistes who intend to take this stride will find this study very helpful as it will explicitly inform of how to go about it so that they do not risk clashing with judicial laws in the process of selling their works of art. The study will cover this gap left out in the report.

2.9   PIRACY IN RETROSPECT

Guldberg and Sundén (2004) study on piracy titled *"Pirates and merchants –An ongoing struggle on the hightech seas"* clearly traces the history of piracy within the music and software industry and it briefly introduces film piracy. The targeted group for this master study was the Swedish public and other European countries but some portions can be adapted into Zimbabwe's case. The following paragraph is from the study concerning piracy within the film industry:

> "Since the release of DVD-writers and the possibility to make
>
> perfect copies of DVD movies one can understand the fear of
>
> piracy within the movie industry. With DVD writers becoming
>
> commonplace like has been the story of CD writers one can only
>
> suspect that history will repeat itself. Full versions of DVD
>
> movies with complete menus and chapters are available over the
>
> internet but haven't gained the momentum of MP3 downloading
>
> yet. DVD movies available on the Internet are large in size,

usually around 4.7 gigabytes, which makes it hard for people to

download without high speed Internet connections. With the

release of dual layer DVD writers it will be easy to create copies

of DVD movies without having to either download a large

amount of data or using sophisticated programs to compress dual

layer DVD's so they can be fitted to a single layer DVD. In 5

years, downloading a new movie in DVD-quality won't probably

take more time than it takes to download a song in MP3 format

today. The film industry can either fall into the same trap as the

music industry or create marketing schemes involving the

internet as a means of distribution."

As correctly predicted in the study above, film sizes available on the internet have become

increasingly small. One can now easily download a new complete movie of high quality in a

matter of seconds using high-speed internet connections and a few minutes using medium speed

data connections. Internet piracy, by its very nature, is a very difficult issue to deal with.

However, this study will also juxtapose legislative policies in first and second world countries

and their booming film industries such as Hollywood and third world countries, Zimbabwe to be

specific. In as much as Zimbabwean artistes are victims of piracy so are artistes of first and

second world countries but the later are well better off than the former. Hence, the study will

scrutinize this factor, which might give the local film industry a lifeline.

2.10 EFFECTS OF PIRACY

Furthermore, fears expressed in the above study are real and Enock Chihombori can attest to that. During a very emotional speech at the 2014 NAMA awards held at the Rainbow Towers in Bulawayo, Chihombori narrated the hardships he encountered during the making of the popular comedy *Gringo Troublemaker* only to have pirates 'milk' all that hard work leaving him unable to even recover his investment money. Such is the effect of piracy on artistes.

2.11 FACTORS AFFECTING MEDIA PIRACY IN SOUTHERN AFRICA

Primo and Lloyd (2011 : 99) articulated that as in many other countries, media piracy in South Africa is shaped by poverty and social inequality. The same can also be said of Zimbabwe, although not so much for social inequality. Low incomes—some one-third of the population lives on less than $US1 a day— high media prices and a pervasive advertising culture create high demand for media goods but very limited legal access for the great majority of South Africans. Inevitably, pirated cassettes, books, discs, and now digital formats fill the gap. Although this dynamic is commonplace in low- and middle-income countries. In as much as the pair's research is relevant and informative, this study is going to look at current media prices against the economy and try to understand if media piracy in Zimbabwe is justifiable in terms of consumer spending power and media prices.

2.12 MEDIA LAWS PERTAINING TO PIRACY

UNESCO's piracy study titled World Anti Piracy Observatory conducted in Zimbabwe in 2009 explicitly highlighted the then current piracy legislative laws and penalties for pirates. It touched on several vital aspects such as legislation, measurements and remedies, enforcement, public

awareness, capacity building amongst others. Below are some key issues addressed quoted from the study,

> "Any person found guilty of infringing the provisions of the copyright law is punishable by imprisonment for a period of two years or a fine not exceeding level ten or both…"

> "ZIMCOPY was established in 1992. The organization has not been collecting since inception due to initially absence of an enabling legal environment. There was no legal basis for licensing institutions that use copyright protected material. After the law was passed, the challenge has been one of negotiating licensing agreements with various institutions under a harsh economic and political environment."

> "The Copyright Society conducts copyright sensitization workshops in different areas of the country educating the general public on the copyright laws as they apply in their country and encouraging the general public to desist from infringing on copyright."

> "The Police also work hand in hand with the Zimbabwe Music Rights Association and the Anti-piracy of Zimbabwe in all efforts to curb piracy."

It is the intention of this study to discover why it appears to be an impossible task to curb piracy in the Zimbabwean environment with well-articulated legislative laws.

According to the UNESCO study, the decision to submit a case before the Magistrates Court or the High Court depends on the monetary value of the goods that have been infringed. Magistrates Courts are located in each of the ten provinces of the country and there are circuit courts every month in each of the districts of the country. The High Court is located in the Harare and Bulawayo which are the major cities in Zimbabwe. The courts have the power to make any such order that will compensate the owner of the copyright for loss of profits and damage caused by the infringement. They also have the power to order seizure or destruction of the infringing goods and order interim relief to stop the infringement.

Interestingly, TechZim carried an article by Garikai Dzoma on the 12th of November 2014 titled "Two people convicted for the piracy of local drama Sabhuku Vharazipi". The pair "were convicted for pirating the local Shona drama Vharazipi 2 and fined $300 each by Harare Magistrate Tendai Mahwe." According to the report in the local press the two where to serve a sentence of six months in lieu of the fine should they fail to pay. The article further elaborates that "this conviction marks a very rare event indeed in our country where piracy is not only prevalent but has become accepted as part of the norm." Nowhere in the ruling does it mention anything about compensating the infringed party for loss of profits and damages caused yet the infringed party is the one who made the citizen arrest and the infringing parties were convicted of the crime, an acknowledgement that his work was subjected to infringements. Indeed, this occurrence speaks volumes on the aspect of piracy in Zimbabwe. In light of the above, it can be

argued that on the piracy war front the pirates are winning. This is so because the policies against piracy are practiced on paper not on the actual ground. Also, the legislative policies in place are not that deterrent to pirates.

2.13 <u>CONCLUSION</u>

This chapter focused on pre-existing literature in the study of piracy in Zimbabwe. It is the objective of this study to add more equally valuable literature in the already existing body of knowledge. The next chapter will concentrate on research methodologies to be used in collecting information in this study.

CHAPTER 3: RESEARCH DESIGN

3   <u>METHODOLOGIES</u>

3.1   <u>INTRODUCTION</u>

Research can be defined as the movement from the known to the unknown. The Concise Oxford English Dictionary defines methodology as a system of methods used in a particular field. Research methodologies, therefore, is a way of systematically solving a problem. At the start of any research study, it is important to consider relevant theory underpinning the knowledge base of the phenomenon to be researched, Sinclair (2007:39). This chapter will examine the research approaches that were used in information collection and analysis in this study. These are techniques and procedures used in the investigation process. The study will make extensive use of primary and secondary data collection methods.

3.2   <u>RESEARCH DESIGN</u>

Referred to as master plan that specifies the methods and procedures for collecting and analysing information by Crasswell (1998). In this study, the researcher is going to employ both, the Qualitative Approach and Quantitative Approach. This type of approach is what Johnson & Onwuegbuzie (2004: 17) termed mixed research. This is the third methodological paradigm—alongside qualitative and quantitative research—involves "mixing or combining quantitative and qualitative research techniques, methods, approaches, concepts or language into a single study". The choice to combine qualitative and quantitative research methods is premised on their

distinctive and yet complementary nature. By general definitions, qualitative research refers to qualitative phenomenon, that is, phenomena relating to quality or kind. On the other hand, quantitative research is concerned with quantities/ numbers or measurements of some sorts. It is the researcher's intention to employ both these strategies in a rather complementary way in spite of their contrast with each other.

3.3 **QUALITATIVE APPROACH**

Qualitative approach refers to the understanding of human behaviour and the reasons that govern their behaviour, Hillema (2005). Qualitative research is characterised by its aims, which relate to understanding some aspect of social life, and its methods, which – in general - generate words, rather than numbers, as data for analysis, Patton and Cochran (2011). Corbin and Strauss (1942) also define qualitative research as the process of examining and interpreting data in order to deduce, have an understanding and develop empirical knowledge. Interviews, observation methods, open-ended questionnaires, open discussions on social media and conceptual-analytical methods were used as data collection strategies.

3.3.1 **INTERVIEWS (TELEPHONE AND FACE TO FACE)**

When discussing qualitative research, people often talk of "motivation research". It is an important style of qualitative research that aims at discovering the underlying motives and desires, using in-depth interviews for that purpose. The researcher intends to conduct both telephone and face-to-face interviews. The telephone interviews will be done for those stakeholders that the researcher could not manage to visit to conduct face-to-face interviews. The interviews will be conducted on stakeholders within the film industries; comprising of but not

limited to actors, producers, directors as well film students and lecturers. This is a primary data method collection that entails direct contact with respondents.

3.3.1.1 <u>JUSTIFICATION OF DATA COLLECTION METHOD</u>

1. Direct contact with respondents allows gathering of first-hand information.

2. Data is collected from the primary source hence issues are investigated in an in-depth way

3. They inform decision making , strategic planning and resource allocation

4. The method of interviewing is flexible and allows one to collect large amounts of data.

5. Interviewers can use illustration of the things discussed about such as pictures or images and observe the reactions of the responded and their behaviour.

6. Allows probing and posing of follow-up questions by the interviewer.

3.3.1.2 <u>LIMITATIONS OF DATA COLLECTION METHOD</u>

1. Respondents have a habit of lying for varying reasons, for example those who promote piracy by buying counterfeits might lie that they always purchase original copies of films.

2. In-person interviews usually are expensive and time consuming in terms of travelling and also buying airtime for telephone interviews.

3. Reactive effects, for example, interviewees may try to show only what is socially desirable.

4. Data analysis can be time consuming for long varying response items.

3.3.2   QUESTIONNAIRES

These are, as defined by Leedy (1997: 27), a technique of collecting information through a process of asking people same questions in a predetermined order. As a qualitative research tool, questionnaires to be used here will be open ended in order to not limit respondents' responses. This is a secondary data collection method that seeks to get empirical evidence in clarifying available information gathered through conceptual-analytical methods mostly as well as other data collection methods. Respondents will be the general public, university students and film students. Mail and printed questionnaires will be made use of. The research will use this method also because its effectiveness in double checking results yielded from the other research methods.

3.3.2.1   JUSTIFICATION FOR RESEARCH CHOICE

1. They are good to collect factual information in order to clarify assumptions.

2. Direct contact with respondents allows for an understanding of people's behaviour and the research will discover why do they what they do.

3. The information gathered through questionnaires can be revisited from time to time to see if there are any changes that may have occurred.

4. Open-ended items can provide detailed information in respondents' own words.

5. Good for measuring attitudes and eliciting other content from research participants.

3.3.2.2   LIMITATIONS OF SELECTED RESEARCH CHOICE

1. Open-ended items may reflect differences in verbal ability, obscuring the issues of interest.

2. Data analysis can be time consuming for open-ended items.

3. Response rate may be low for mail and email questionnaires.

3.3.3   CONCEPTUAL-ANALYTICAL RESEARCH

This method seeks to acquire knowledge from previous researches that have been done in the same field. This is a secondary data collection method that focuses on existing researches that have been done on the topic as well as other materials available that discusses the subject matter. Several articles have been written about piracy and this research seeks to patch up gaps within the study. For instance, a lot is said about the concept of piracy yet very little is known concerning its various forms. Hence the study will explore these various forms explained above. A significant number of articles from Zimbabwe and beyond will be the focus of study in acquisition of knowledge concerning the manifestation of piracy in the film industry in its various forms.

3.3.3.1   JUSTIFICATION FOR RESEARCH CHOICE

1. Gathering of existing knowledge material on the subject is very informative.

2. Saves time since one would already have gathered some information needed and will not need as much time in field research as starting a research from scratch.

3. Can be collected for time periods occurring in the past, for example, historical data on the origins of piracy and how it has been affecting the local as well as the international film industry.

4. Provides useful background and historical data on people, groups, and organizations.

5. Useful for corroboration.

6. Ease of data analysis.

3.3.3.2   LIMITATIONS OF SELECTED RESEARCH CHOICE

1. Information available might be outdated.

2. Available information might be biased, subjective or outright falsehoods.

3. May be representative only of one perspective.

4. May not be available for the population of interest to you.

3.3.4   OBSERVATION METHOD

This is a primary data collection method. It is a non-contact method with the respondents since all data will be collected through observing their actions and re-actions within the film industry parameters. Instances to be observed are arts awards, buying trends and places (legitimate retailers or illegitimate streets) of customers & the general lifestyle led by artists within the film fraternity. Many of them will be quote verbatim from industry press releases or reports on industry press events. Of interest are prominent people within the film industry, the likes of actors, directors, screenplay writers to mention a few, legitimate and illegitimate film distributors such as authorised retailers and street vendors and the ultimate end-users, the customers. These are the relevant people of interest for this data collection method. The researcher is going to make use of outcomes from market researches, responses of questionnaires from quantitative research to complement collected data.

3.3.4.1   JUSTIFICATION FOR DATA COLLECTION METHOD

1. Allows one to directly see what people do without having to rely on what they say they do.

2. Provides firsthand experience, especially if the observer participates in activities.

3. Can provide relatively objective measurement of behavior (especially for standardized observations).

4. Provides moderate degree of realism.

5. Observer may see things that escape the awareness of people in the setting.

6. May provide information on things people would otherwise be unwilling to talk about.

7. Good for descriptive purposes.

3.3.4.2   LIMITATIONS FOR DATA COLLECTION METHOD

1. Reasons for observed behaviour may be unclear.

2. Reactive effects may occur when respondents know they are being observed, for example, people being observed (for behavioural patterns, for instance) may behave in atypical ways.

3. Collection of unimportant material may be moderately high.

4. Data analysis can be time consuming.

3.3.5   SOCIAL MEDIA QUESTIONNAIRES AND OPEN-DISCUSSIONS

The choice to use social media questionnaires and open-discussions was a rather peculiar one in the sense that it is not a well-recognised or even used method of data collection. Initially, mail questionnaires were supposed to be used but the very nature of their low response rate discouraged their use for this study and in its place, social media took over. The choice was mostly influenced by Zimbabweans' extensive use of social media platforms hence, in an attempt to reach many people as possible; the researcher reached out over these various platforms.

3.3.5.1 JUSTIFICATION FOR RESEARCH CHOICE

1. Cost effective in terms of travel.

2. Time efficiency.

3. High response rate.

3.3.5.2 WEAKNESS OF RESEARCH CHOICE

1. Cyber personalities. People have a tendency of having a different, especially sophisticated and learned personality on social media than what they really are in real life.

3.4 QUANTITATIVE APPROACH

The following definition, taken from Aliaga and Gunderson (2000), describes what this study mean by quantitative research methods very well, "Quantitative research is explaining phenomena by collecting numerical data that are analysed using mathematically based methods (in particular statistics)." In order to answer the questions, "how many" and "how much" in this study, a quantitative approach will be used, for instance, the researcher needs to find out how many original copies film and theatre arts students have purchased in their lifetime viz-a-viz duplicates or free-to-download copies. This will establish a trend or a behavioral pattern in film acquisitions by knowledgeable individuals in the subject matter. This approach will employ questionnaires/surveys as a data collection method.

3.4.1   QUESTIONNAIRES/ SURVEYS

Closed ended questions are going to be used because they expose participants to the same response categories and allow standardized quantitative statistical analysis (Johnson & Christensen 2010). Surveying is another primary data collection method and it will be used to supplement and confirm findings from the conceptual-analytical research. Answers on a structured questionnaire, for quantitative research, are usually closed –in other words, they require respondents to choose from a specific selection of answers and do not allow for the respondent to qualify their answer or elaborate.

3.4.1.1   JUSTIFICATION FOR DATA COLLECTION METHOD

1. They gather information direct from people that concern their behavior

2. Allows standardized answers since questions are closed ended.

3. Saves time since people just chose from provided responses

4. Allows for an understanding of demographical behavior.

5. Closed-ended items can provide exact information needed by researcher.

3.4.1.2   LIMITATIONS OF DATA COLLECTION METHOD

1. Respondents tend to lie in cases involving moral or legal grounds.

2. Nonresponse to selective items.

3. Usually must be kept short.

3.5   ETHICAL CONCERNS

As defined by Baran (2000: 474), ethics are rules of behaviour or moral principles that guide our actions in given situations. It is the researcher's intention to respect all possible ethical concerns in conducting and presenting his researches in ways that will not wrongfully present situations or implicate people in criminal or immoral deeds. The respondents' participation is extensively appreciated and their reputation and right to privacy will be protected at all costs. Researcher discretion was practised; some information which the researcher deemed compromising and or sensitive was either altered or disposed of in order to protect respondents, individuals and or organisations. Some of the responses where used only to inform the researcher and were not included herein. The researches done were specifically for academic purposes and the information gathered was used thus.

3.6   CONCLUSION

This chapter looked at the approaches that were used in this study to research and amass data on piracy in Zimbabwe. The research made use of the mixed research approach that combined qualitative and quantitative approaches in a complementary manner. Under the qualitative approach, conceptual-analytical research, face to face and telephone interviews, open-ended questionnaires, observations and open discussions were used. Quantitative results can also be deduced from these. Closed ended questionnaires were used for quantitative researches, although some of the information therein can be used for qualitative purposes since the questions were purposefully structured with a dual function in mind. The chapter concluded with the ethical concerns taken into cognisance during the course of the research and results presentations.

CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS

4   INTRODUCTION

Data analysis is a body of methods that help to describe facts, detect patterns, develop explanations and test hypotheses, Levine (1996). Data analysis is a body of methods that help to describe facts, detect patterns, develop explanations, and test hypotheses. It is used in all researches in order to get a better understanding of a particular phenomenon. In this study, the researcher used the tool that brings together various quantitative and qualitative data analysis (that is, mixed analysis) techniques into one, Johnson, R., & Onwuegbuzie, A. (2004). This method of mixed analysis is very effective in data presentation and analysis although it can be really cumbersome.

4.1   QUALITATIVE APPROACH

To gather qualitative data, the study made use of open-ended questionnaires, face to face and telephone interviews and social media questionnaires and open discussions. The open-ended questionnaires were distributed to film students at the Midlands State University. Interviews were conducted on stakeholders within the film industry.

4.1.1   OPEN ENDED QUESTIONNAIRES

For film students, the researcher used open ended questionnaires. This was also done for qualitative purposes since film students possess a more in-depth knowledge pertaining to the research topic than non-film students and the general public. The researcher primarily targeted forth year students at the Midlands State University for the simple reason that they had gone for

work-related learning and they had more knowledge on the status of the local film industry. For purposes of taking as little time from respondents as possible and utilising as many respondents as possible, the researcher recorded audio clips of the respondents' responses and typed them afterwards. All the respondents' answered in English, which made documenting relatively easier. This whole process proved laborious but it yielded satisfactory results and it proved insightful to the researcher.

4.1.1.1 IS THERE A FILM INDUSTRY IN ZIMBABWE?

As alluded to earlier, the question on whether there is a film industry in Zimbabwe is a contentious one as some are of the opinion that there is none while others think that it may be small or in shambles but it is definitely there. Of all the students interviewed, only one thinks that there is a film industry. Nyasha Kandengwa thinks that there is a film industry, though, it is largely a private industry in that there are a lot of individuals who make films. Jerulah Muchiuro shared the same sentiments but in his opinion, there is no film industry, "there are filmmakers but there is no strong and solid structure. There are independent filmmakers but there is no structure of a film industry. Making films does not mean there is a film industry." Progress Moyo also shared similar sentiments, "everyone knows that there is no film industry in Zimbabwe. This is because not all structures are functioning at all." Of all the three respondents, only one thinks there is a film industry.

However, industry or no industry, they all concur that filmmaking in Zimbabwe is an individualistic practise with no recognisable structures. Muchiuro went on to say that local filmmaking is "too uptown", implying that there is no connection with the film viewers whom,

he says, do not know what the filmmakers are up to. He gave an example of the local film festivals, which he says resembles elitist functions in that ordinary people are seldom part and parcel of them. He blamed this on lack of marketing of the festivals. Consequently, even if ordinary people and television enthusiasts want to attend such festivals they are not able to because they would not be aware that there are festivals going on. The failure in publicising these festivals alienates the ordinary man. This goes back to what Kandengwa said about the filmmaking being a privatised entity. He (Kandengwa) added that "The reason why people think there is no film industry in the country is that filmmakers venture into private filmmaking. Marketing becomes difficult in that they are an individual/ small group unlike Hollywood which is a big and diverse industry where they support each other and they have learnt preventative measures against drawbacks such as piracy."

4.1.1.2   <u>EFFECTS OF PIRACY ON ZIMBABWEAN FILMMAKERS</u>

Piracy is negatively affecting filmmakers and growth of a structured film industry. Some of these effects are summarised below:

- ⇨ It deprives artists of remuneration from their work since it is their source of livelihood.
- ⇨ Not only does it affect them economically, it also affects them mentally and it demotivates them, this brings them down.
- ⇨ Piracy confines filmmakers to be small and consequently a stunted growth within the industry
- ⇨ Big negative gap between returns from filmmaking and capital used in the filmmaking production.
- ⇨ Artists getting nothing in terms of economic sustenance but just fame for their efforts.

⇨ Lack of royalties to filmmakers is leaving them destitute and incapable of funding future productions.

⇨ Filmmakers now reluctant to make films because they get nothing out of it. As a result, reduced number of film productions.

4.1.1.3   ARE THE JUDICIARY AND LAW ENFORCERS DOING ENOUGH IN THE WAR?

In the past, artists have criticised the judiciary for not doing enough in the fight against piracy. Moyo also feels that the policymakers are not doing enough to curb piracy and that they have also given up the fight because they feel fighting it is a lost cause and it seems they have adopted the general saying that "if you cannot beat them, join them", which, according to her, implies that they have joined the bandwagon of promoting piracy. In support of this is one disc street vendor who was quoted saying that if they get arrested for selling pirated discs, they just go and pay a fine of $100 and be back in business in the streets. At times they just pay off bribes to the police for them to continue selling in the streets.

Kandengwa, however, feels that they are trying by all means to prevent piracy but the problem is that they are just preventing they are not educating people and the pirates on the effects of piracy. "I've witnessed the seizure of pirated discs from vendors by the law enforcers," says he. He went on to state that it all starts with education and awareness and that it would really help if films with piracy as their central theme could be produced even adverts that educate people on piracy since they affect the filmmaker and his family. That's his source of income. He also suggested that the law should evolve with the current time. "Technology is changing and when people think of piracy, they only think of CDs and DVDs but there other media technology that promulgates

piracy such as USB flash sticks, external hard drives, Bluetooth™ and the internet but the law does not take these into cognisance."

Muchiuro is of the opinion that there are no laws to deal with piracy, the whole arts industry is in shambles. On the judiciary, he feels that "they do not care about the arts industry so why should they care about piracy?" For this abnormality to be corrected, he proposed that there has to be a firm arts industry. There also has to be a ministry that truly stands for the film industry and the arts industry in general in deed not just in name that will enforce piracy deterrent regulations.

On the part of the law enforcers (the police), Kandengwa also commented that they partially enforce the law. They selectively enforce the statutory laws when the victim is a well-known and influential artist or when the victim is being financially backed by donors or sponsors do they act to protect them. As such, the little known and upcoming artists are left vulnerable because they are less prioritised by the law enforcers.

Contrary to Kandengwa, Muchiuro, believes that there is nothing the police can do because after all there are no proper laws, there are no regulations to follow. He lamented that, "it has to start with the constitution then implementation." This goes back to his earlier sentiments that the legislature does not prioritise the arts industry the way they prioritise other industries. In his view, the police are law enforcers, they enforce existing laws and in the aspect of piracy, those laws are non-existent hence they have no basis to incarcerate piracy perpetrators.

These debates underlines the importance of the legislature and the law enforcers in the war against piracy. These two have a bearing in the war because their actions can nip piracy in the bud while their inactivity can allow proliferation of piracy and without the policy makers and the police on board, the war would be a lost a cause.

4.1.1.4 <u>TECHNOLOGY: VICE OR PRO?</u>

Technology has been blamed for bringing more than good in various aspects of Zimbabwean societies. This also includes the arts industry. To note is that, the origins of piracy can be attributed to advanced media technological advancements. However, the improvement in art products quality, marketing and distribution can also be attributed to advanced media technologies.

As Muchiuro said, it really is a 50/50 situation. It truly depends on how it is used because technological advancements allowed tremendous strides in the filmmaking processes but then again it has also proliferated piracy because duplicating is now easier and everyone is now able to do it. So to say that technology has brought more harm than good or vice versa would be an understatement. On the other hand, Kandengwa believes it has brought more harm than good. He, however, goes on to clarify that the abuse of technology has had adverse effects on the local film industry. In a way, he is blaming the abuse of technology not the advancements of technology themselves.

4.1.2   INTERVIEWS OF STAKEHOLDERS IN THE FILM INDUSTRY

The researcher took time to interview stakeholders within the film industry. Amongst them are filmmakers and film lecturers. The first interview was of the legendary theatre guru, Daves Guzha of Rooftop Promotions. An actor-come-theatre and film director/producer synonymous with Theatre in the Park and Creative Native, theatre and film branches, respectively, of Rooftop Promotions. The second interview was of the honourable, Dr. Vhutuza, chairperson of the Film and Theatre Department at the Midlands State University. Asked on the contentious issue of whether there is a film industry in Zimbabwe, Guzha is the opinion that there is no film industry in Zimbabwe. His argument is premised on the lack of proper structures in place that would determine an existing film industry. Vhutuza, however, contended that there is a film industry in Zimbabwe.

Guzha had a rather interesting viewpoint, he claimed that piracy was actually an advantage to filmmakers because it exposes them to markets out there. In a way, pirates are actually advertising the filmmakers and their films to potential markets. This, however, is debateable since at the end of the day the filmmakers will be destitute. Maybe for upcoming artists this exposure would make them known but piracy would not stop because they have become famous.

Ironically, the play written by the father of Zimbabwean theatre, Stephen Chifunyise, directed by Eunice Tava and produced by Rooftop Promotions lamented the destitution of local artists. This destitution is as a result of various factors such as the lack of support to the arts industry, harsh economic environment and the ultimate vice, piracy. The play centralises on the private life of

the artist outside the limelight, off the screen or stage. Fame is all they get but most lead sorry lives.

Vhutuza is of the opinion that there are two main factors that motivates piracy. First one being that of the price. He said that there is need for filmmakers to reduce the prices of their films to affordable ranges of the consumers and he also said customers say pirated products are cheap hence they opt for them in lieu of original copies. They often complain that the prices should go down to a $1 or $2 and they would buy the original copies. The second one is that of sheer greed. The second one being greed. With a country with more vendors than workers people are increasingly becoming selfish and greedy to amass wealth and try to make a living.

4.1.2.1 FACTORS CONTRIBUTING TO THE RISE OF PIRACY

"The problem is a rather a macro problem not a micro problem, there is need to address the economy", Vhutuza alleged. In as much as the war against piracy might rage on, there are other factors at play that need addressing in order to create a conducive environment that might defeat piracy. He, however, was quick to suggest that there is need to emulate other countries' models, be it marketing, for example, but there is also need to emulate applicable solutions because what worked in some counties might not work in Zimbabwe.

4.1.2.2 ARE THE JUDICIARY AND LAW ENFORCERS DOING ENOUGH IN THE WAR AGAINST PIRACY?

On the issue of the judiciary and the police, Vhutuza said, "I don't think so. There is supposed to be the anti-piracy unit just like there is the anti-stock theft and so on." He also lamented the lack

of conscientising people on the effects of piracy. People are seldom convicted or even arrested for perpetuating piracy. He further added that one hears that someone has been arrested for piracy today and would have to wait for another year to hear it again yet piracy is being proliferated everyday everywhere. "The laws are not 100% foolproof. I remember back in the day it was difficult to see a pirated disc because the anti-piracy unit was functional and quite strict on piracy," he added. Just like most artists and critics, Vhutuza is of the opinion that the judiciary and the police are letting the arts industry down.

4.1.2.3   <u>TECHNOLOGY: VICE OR PRO?</u>

In the context of Zimbabwe, Vhutuza said, "yes it has, all along we did not know about piracy but it was there but it was manageable somehow. Now everyone owns a laptop but long back how many of us owned laptops? How many of us knew of these various softwares?" Now local recording companies are struggling and the challenges they are facing emanates from technology. The mushrooming of backyard studios and media companies is encouraged by technology and it has pushed traditional record labels as well as media companies to their graves. "But we cannot entirely blame technology but companies and individuals who refuse to embrace change because when you refuse to embrace change change will change you", said Vhutuza. As Kandengwa also said, the world is changing, media and technology are changing but the judiciary laws are stagnant and this stagnation will be the death of the local media.

If one were to go to America, United Kingdom or South Africa, they would discover that they too have got technology (more advanced than in Zimbabwe) but their arts industries are

booming. This is because they have embraced technology and used it to their advantage and one would also find that that they put measures to safeguard exploitation using the same technology.

Vhutuza concluded by asking if the war on piracy will ever be won and to those who have won, how where they able to do it? "And as Zimbabweans, can we take a leaf out of that? Because others, the same technology we blame for increasing piracy they have taken it and used it to deal with issues to do with piracy."

4.2   QUANTITATIVE APPROACH

4.2.1   CLOSED ENDED QUESTIONNAIRES

For quantitative purposes, the researcher distributed closed ended questionnaires to gather information from non-film students at the Midlands State University's Zvishavane campus and the general public, mostly in the town's central business district where there are diverse people in and around Zvishavane. The questionnaire was also distributed to various individuals across the country via social networking sites such as Whatsapp™, Facebook™ and Viber™. The researcher opted for these social platforms in lieu of distributing mail questionnaires because mail questionnaire have a low response rate and currently social networking sites are the in thing in Zimbabwe and almost everyone can be reached on these sites and the response rate is satisfactory. The questionnaire was distributed to individuals within Zimbabwe only but those outside Zimbabwe as well as other people from various countries were engaged in open discussions especially on Facebook™ and Whatsapp™ groups. This was an attempt to make sure the research covered as much diverse areas of the country as possible and also involve foreign

voices for comparison purposes. These, however, will be discussed much deeper under open discussions which fall under qualitative research. Below are the questions asked and tabulated results acquired from the closed ended questionnaire which was distributed to fifteen university students and fifteen members of the general public from Zvishavane and across Zimbabwe. Please note, most of the questions allowed respondents to choose more than one answer except the ones that required a "yes" or "no" answer. The provided responses are on the left of the table and the respondents are the ones classified as students and public. The numbers represents the amount of respondents against their chosen responses.

Qn 1) Do you think there is a film industry in Zimbabwe?

		Respondents		
		Students		Public
Responses				
	Yes	14		15
	No	1		0
	Who cares?	0		0

Qn 2) How familiar are you with piracy?

		Respondents		
		Students		Public
Responses				
	Not a clue	0		4
	A little	10		8
	Well informed	5		3

Qn 3) Of the sources below, which one(s) do you use to get/ watch movies/ films?

Responses   **Respondents**

	Students	Public
Streets	5	12
Retail Shops	3	2
Download from the internet: for example, YouTube™ or Torrents	12	6
From computers via USBs (Flash disks)	11	4
Satellite television	10	11
Local broadcasting station (ZBC-TV™)	6	5

Qn 4) Are you aware that purchasing or acquiring films from anywhere that is

not retail shops or legal online sites is a form of piracy?

Respondents

Responses

	Students	Public
Yes	13	5
No	2	10

Qn 5) If yes, why do you do it?

Respondents

	Students	Public
Because it is cheap	9	10
That is the only supplier readily available	4	8

Responses	Who cares?		1		0

Qn 6) Will you purchase an original copy of a movie or legally purchase a movie online if it costs more than a duplicate or if u can download it over the internet for less or even free?

Respondents

Responses			Students		Public
	Yes		6		5
	No		9		10

Qn 7) Are you aware of the effects of piracy on the local film industry/ maker?

Respondents

Responses			Students		Public
	Yes		12		4
	No		2		8
	I really do not care		1		3

Qn 8) If asked, will you do anything to fight piracy?

Respondents

		Students		Public
Yes		8		6

Responses

It benefits me, so NO		3		7
It is not my problem		4		2

Qn 9) Why do film viewers purchase pirated movies or why they indulge in peer to peer, internet or duplicating piracy?

Responses   **Respondents**

		Students		Public
Because it is cheap		15		12
They do not know they will be promoting piracy		5		8
Because pirates provides more convenience in terms of distribution of films/ movies		1		8

4.3   DATA ANALYSIS

The study found out that the majority of people promote piracy unconsciously and those who promote it consciously complain of the pricing of the local film and convenient availability. These are the gaps which the pirates have discovered and utilised. In Zimbabwe, piracy is an activity that is now so common and flourishing such that people practise it overtly such as seen in the picture below of an actual pirate selling pirated discs along an unidentified street in Harare.

Through research, the researcher found out that the issue of having a "film industry" is a debateable issue in Zimbabwe. Quite a number of film critics, students and makers are of the opinion that there are filmmakers and films are being produced in the country but that does not suffice to say that there is a film industry in the country. Their argument is that there is not a proper film structure to call an industry. As a result of this discovery, in drafting the questionnaires, both closed and open ended, the researcher posed the first question, "Is there a film industry in Zimbabwe?" Initially, the researcher assumed that it was a simple question but in the course of filling out the closed-ended questionnaire, most respondents proved not to know what constitutes a film industry. Those who ticked "yes" based their response on the fact that there are film productions in Zimbabwe. However, the film students, lecturers and filmmakers gave more detailed accounts on the issue.

Artists are crying out for protection from the legislature through action of enforcing heavy deterrent measures against piracy. Other industries and sectors are well protected that perpetrators are deterred from committing crimes related to those sectors. To cite but a few, if a Zimbabwean is convicted of being or associated with sea pirates they would be incarcerated for periods as long as fifteen years in prison and in the agricultural sector, stealing livestock can attract a penalty of nine years per animal stolen. If such deterrent sentences could be passed for infringement of copyright material then the film industry and the arts industry in general could be resuscitated. Currently, seizure and destruction (through incineration as shown below) of pirated copies are the only measures taken to control piracy as well as occasional arrests that do not account for anything more than a petty fine or a maximum of six months incarceration.

The responses from the closed ended questionnaires confirms the assumptions that piracy is providing cheaper entertainment alternatives as most people claim that purchasing original copies is too expensive and out of their reach. By their own admission, peer to peer (public) and

internet piracy is rampant amongst college students who owns laptop and desktop computers and have unlimited access to high speed internet connectivity. Lack/ absence of proper film distribution channels have opened up avenues for pirates to capitalise on the gap as well as lack of/ poor marketing strategies have created a loophole through which piracy is flourishing.

The open-ended questionnaire proved to be an eye opener for the researcher. The participants shared various thoughts and experiences on the subject matter. Many of what the students said was also cited by a number of stakeholders within the arts industry.

For college students, they only download foreign movies from the internet on sites such as YouTube™ and many other torrenting sites such as Kickass Torrents™. As one remarked, "we get foreign movies from streets and torrents since it is expensive to buy American films online or in retail shops." Another also added, "Zimbabwe is a pariah state hence accessibility to foreign productions is limited because the country's relationship with western countries is sour." Thus, the available options left for the students are internet and peer to peer piracy.

By virtue of having studied the compulsory Information Technology and information Literacy studies, almost all the students are able to download movies from the internet and most own computers which enable them to practise peer to peer piracy. Coupled with unlimited high speed internet access at colleges and universities students can easily download movies in a short space of time. For example, the researcher observed a 700 megabyte movie being downloaded through Local Area Network (LAN) connection in less than five minutes.

In the communities, people have a habit of exchanging or lending one another movies on DVDs or on any other media formats. This is also another form of piracy since it is an infringement of copyrights which prohibits this circulation. This form of piracy, people indulge in it unknowingly, whether the copy being circulated is original or a duplicate, it is an infringement to circulate it.

4.4   **CONCLUSION**

This chapter dealt with the actual field study of information gathering. The information was gathered through various methods in order to get the best and dependable information. As stated earlier, the research used the mixed research approach. Although, strenuous in nature, this method is the best method available to gather, quantify and analyse information and end up with more accurate accounts of events and circumstances.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

5   SUMMARY OF THE STUDY

This study focused on investigating the origins and manifestation of piracy in the Zimbabwean film industry. The primary goals were to explore solutions and ways that Zimbabwean filmmakers could make use of in order to make a living in spite of piracy and what relevant players within the film industry and influential people could do to minimise piracy. Through the research, the researcher discovered that there is a heated debate amongst film critics and players within the film industry concerning the existence or non-existence of a film industry in the country. Some are of the opinion that it exists but it is small and is facing difficulties while others believe that it is non-existent premising their argument on the fact that there are no recognisable structures to justify existence of a film industry. Those who believe that there is no film industry, however, acknowledge production of films in the country but they argue that that does not suffice to establish that a film industry exists.

Piracy, as much as the film medium itself originated in Europe. The continuous advancements in media technology enabled easiness in the production and distribution of films as much as it enabled easiness in the illegal reproduction and consequent distribution and redistribution of copyrighted film products. Perpetrators and promoters of piracy do so either consciously or unconsciously. Reasons for those who consciously practise it vary from economic gain to covering distribution gaps of films on the market. In Zimbabwe, piracy became a problem a few years after the millennium decade when the country's economy took a nose-dive. It (piracy)

manifests itself chiefly in four main types in Zimbabwe, namely computer/media/peer to peer, internet, localised/end user and counterfeiting.

Research done and advice given by participants clearly shows that piracy can never be wholly defeated but local filmmakers should find ways to survive in the presence of piracy. Chapter one of the study focuses on the introductory part which comprises of background, statement of the problem, aims, objectives, research questions, significance, delimitations, research hypothesis and scope of the study. Chapter two centres on the literature review which encompasses the origins, history, types, definition of pirates and piracy, age prior to piracy in Zimbabwe, probable exacerbating factors, effects of piracy on Zimbabwean filmmakers, factors affecting media piracy in Southern Africa and media laws pertaining to piracy. Chapter three deals with the research design used in this study. The research was structured in such a way that made use of a mixed research approach that involves mixing or combining quantitative and qualitative research techniques, methods approaches, concepts or language into a single study. Advantages and disadvantages of research methods used were discussed in this chapter. The following chapter dealt with data presentation and analysis. All the data gathered from the research was tabulated and articulated in this chapter. The data was then analysed to get a more in-depth examination of the piracy phenomenon, its effects and propagation. Chapter five is the concluding chapter that summarises the whole study and gives recommendations to filmmakers, the legislature and the academia.

5.1   RECOMMENDATIONS TO FILMMAKERS

⇨ Due to the economic hardships in the country, filmmakers should try to produce low budget films. They can emulate the Nollywood filmmakers who produced a plethora of films with shoe-string budgets until their film industry grew to where it is today.

⇨ In as much as donations come with strings attached, filmmakers should bear being dictated to by donors as long as they get funding for their films.

⇨ Reduction of film prices to suit the economically troubled local market. Film consumers opt for pirated film copies mostly because they are cheap hence the need to have consumer-friendly pricing of films.

⇨ There is need for filmmakers, marketers and distributors to do more on marketing and effective distribution of films to reach wider markets. A lot of people purchase pirated copies because those will be the only copies readily available to them. Partnering with retail and clothing stores for distribution purposes is one good example of effective distribution of films by filmmakers.

⇨ Reaching out to the rural community and some remote areas of the country can help filmmakers to get returns through selling of their films in those areas. With the proliferation of solar use in these areas, people in these communities now own televisions, radios and DVD players and they also enjoy watching local productions but they do not know where to get them.

5.2   <u>RECOMMENDATIONS TO THE LEGISLATURE</u>

⇨ There is need for the policy makers to enforce more piracy deterrent measures so as to make people desist from indulging in the practice.

⇨ Educating people on piracy and its effects on the local film industry and the country's economy can help in the fight against piracy.

⇨ On the part of the police, they need serious monitoring because they work in cahoots with the pirates by not arresting them and or getting bribes from them so as to let them practice piracy. The anti-corruption unit should heavily punish such corrupt law enforcers.

⇨ There is supposed to be an operational anti-piracy unit just like there is the anti-stock theft and so on in order to effectively fight against piracy. If the legislature does not do anything in the fight against piracy, the war will be won by the pirates.

5.3   RECOMMENDATIONS TO THE ACADEMIA

⇨ There is need to study more on the marketing and distribution of films as a way to counter piracy.

⇨ There is also great need to do market research on rural and remote areas of the country to ascertain viability of them being potential markets for films

⇨ Comparison of foreign film models would be advantageous in that the local film model might take a leaf out of those models for its growth and development.

⇨ Experts should research and write academic writings that teach local filmmakers how to package and market their products on a global scale to increase their market base.

DEFINITION OF TERMS

Burning   -the writing of data (for example movies, music, text documents)

on CDs and DVDs.

Cyber   -a combining form meaning computer or computer network

Digital media   -electronic means of communication, as radio and television and the

internet that reach or influence people widely.

Intellectual Property   -intangible assets resulting from one's creativity, such as films, books or

music

Media   -the means of communication, as radio and television, newspapers, and

magazines, that reach or influence people widely.

Millennium decade   -period between the year 2000 and the year 2010.

Piracy   -the illegal copying or reproducing and distribution of intellectual property

such as film.

Pirate   -a person who illegally copies or reproduces and distributes intellectual

property such as film.

ACRONYMS

IP	:	Intellectual Property
DMCA	:	Digital Millennium Copyright Act
WIPO	:	World Intellectual Property Organisation
MEDC	:	More Economically Developed Country
LEDC	:	Less Economically Developed Country
UNESCO	:	United Nations
ZIMCOPY	:	Zimbabwe Reproduction Rights Organisation
MP1, 2, 3 and 4	:	Mpeg layer 1, 2, 3 and 4
MPEG	:	Moving Picture Experts Group
CD	:	Compact Disk
DVD	:	Digital Video Disc (formerly Digital Versatile Disc)
VCR	:	Video Cassette Recorder
TechZim	:	Technology Zimbabwe
www	:	World Wide Web

BIBLIOGRAPHY

Cooper, H. (1998), **Synthesizing research: A guide for literature reviews**, Thousand Oaks, CA: Sage Publication

Combs, P. and Onwuegbuzie, J. (2010), **Describing and Illustrating Data Analysis in Mixed Research**, International Journal of Education, Vol. 2, No. 2: E13, Macrothink Institute

Dahlstrom, D., Farrington, N., Gobera, D., Roemer and R., Schear, N. (2006), **Piracy in the Digital Age**, University of California: San Diego

Denzin, N., and Lincoln, Y. (eds.), (2005), **Handbook of Qualitative Research** (3rd Ed.), Newbury Park, CA: Sage Publishing.

Dzoma, G. (2013), "**Arguments For Pirates**", TechZim, 13 April 2013

Guldberg, G., and Sundén J.'s (2004), Thesis: **Pirates and merchants –An ongoing struggle on the hightech seas**, Växjö University

http://piracy.ssrc.org**. [Online] Accessed on 22 April 2014**

http://www.gpntb.ru/win/interevents/crimea94/report/prog_27e.html **[Online] Accessed on 03 March 2016**

Johnson, R., & Onwuegbuzie, A. (2004). Mixed methods research: A Research Paradigm Whose Time Has Come, Cited in Combs, P and Onwuegbuzie, J. (2010), **Describing and Illustrating Data Analysis in Mixed Research**, International Journal of Education, Vol. 2, No. 2: E13, Macrothink Institute

Levine, J. (1996), **Introduction to Data analysis: The Rules of Evidence**, Macintosh HD:DA:DA XI:Volume I:006

Primo, N. and Libby Lloyd, L. (2011), "**South Africa**", in Karaganis, J. (ed**), Media Piracy In Emerging Economies**, California : Social Science Research Council

Sinclair, M. (2007), **A guide to understanding theoretical and conceptual frameworks,** in Sinclair, M. (ed), **Evidence Based Midwifery**, The Royal College of Midwives.

Appendix 1: Closed-ended questionnaire for non-film students and the general public

NB: You can tick more than one option except for questions that require a "yes" or "no"

1. Do you think there is a film industry in Zimbabwe?

   1.1. Yes ☐

   1.2. No ☐

   1.3. Who cares? ☐

2. How familiar are you with piracy?

   2.1. Not a clue. ☐

   2.2. A little. ☐

   2.3. Well informed ☐

3. Of the sources below, which one(s) do you use to get/ watch movies/films?

   3.1. Streets ☐

   3.2. Retail shops ☐

   3.3. Download from the internet: for example, YouTube or Torrents ☐

   3.4. From friends' computers via USB ☐

   3.5. Satellite television ☐

   3.6. Local broadcasting station (ZBC-TV) ☐

4. Are you aware that purchasing or acquiring films from anywhere that is not shops or legal online sites is a form of piracy?

4.1. Yes ☐

4.2. No ☐

5. If yes, why do you do it?

   5.1. Because it is cheap. ☐

   5.2. That is the only supplier readily available. ☐

   5.3. Who cares? ☐

6. Will you purchase an original copy of a movie or legally purchase a movie online if it costs more than a duplicate or if u can download it over the internet for less or even free?

   6.1. Yes ☐

   6.2. No ☐

7. Are you aware of the effects of piracy on the local film industry/ maker?

   7.1. Yes ☐

   7.2. No ☐

   7.3. I really do not care ☐

8. If asked, will you do anything to fight piracy?

   8.1. Yes ☐

   8.2. It benefits me, so NO ☐

   8.3. It is not my problem ☐

<u>Appendix 2: Questionnaire for film students</u>

1. Do you think there is a film industry in Zimbabwe?

   a. If no, can you elaborate?

2. What do you understand by the term piracy?

3. Where do you purchase/ acquire your films/movies?

   a. (If it is a propagation of piracy) Are you aware that is a promotion of piracy?

4. Do you consciously practise or promote piracy in any way?

   a. If yes, why?

5. Are you aware of the effects of piracy on the Zimbabwean film industry?

   a. If yes, can you briefly tell me about the ones you are most familiar with?

6. Is the judiciary or the policy/ lawmakers doing enough in the fight against piracy?

   a. If not, please elaborate.

      i. So we can safely say, Zimbabwean media laws pertaining piracy are not deterrent as far as curbing piracy is concerned, it is actually lenient on perpetrators?

   b. If lenient, how can this abnormality be corrected?

7. Are the law enforcers, the police that is, doing enough to enforce the legislative laws pertaining piracy?

8. Has technology brought more harm than good?

    a. If yes, can you elaborate?

9. In your own opinion, what can be done to defeat piracy?

10. What would you suggest filmmakers should do to make a living in spite of piracy?

11. What do you think are the reasons why film viewers purchase pirated movies or why they indulge/ promote piracy?

12. Anything further you might want to add?

Appendix 3: Questionnaire for filmmakers

1) In your own opinion, is there a film industry in Zimbabwe?

2) What do you think is the major cause of piracy or what do you think are the motivational factors behind piracy in the film industry/sector?

3) In what forms does piracy in Zimbabwe manifests itself in the film industry/ sector?

4) Why do you think customers opt for pirated copies of films in lieu of original DVDs?

5) When do you think piracy became a huge problem in Zimbabwe?

6) Are there any noticeable/ specific factors you would say contributed to the rise of piracy and why during that period?

7) Is the judiciary or the policy/ lawmakers doing enough in the fight against piracy?

8) Are the law enforcers doing enough to curb piracy in the film industry?

9) Are Zimbabwean media laws pertaining piracy deterrent or lenient on perpetrators?

10) If lenient, how can this abnormality be corrected?

11) Has technology brought more harm than good? Can you elaborate?

12) Can we out rightly conclude that new media technologies are really the chief culprits of proliferating piracy in Zimbabwe?

13) How can filmmakers make profit from their work in spite of piracy?

14) Lastly, do you have any other comments, suggestions or questions on my topic?