



CAPACITY BUILDING AND EVALUATION OF THE CULTURAL AND CREATIVE INDUSTRIES LEGISLATIVE FRAMEWORK WORKSHOP FROM 14TH TO 19TH JULY 2019, AT THE MOMBAS BEACH HOTEL

RAPPORTEURS REPORT

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Official Opening ceremony

Welcoming Remarks by the Director of Culture

The Director of Culture, Dr. Kiprop Lagat welcomed the participants to the workshop. He pointed out that the workshop would focus on three main issues.

The 2016 draft culture bill, which was yet to be tabled in parliament. He noted that issues arose concerning roles of the national council for culture Vis a Vis those of the ministry. He hoped that the workshop would clearly delineate the roles of the council and those of the ministry

The second major focus would be the creative economy. It was important that the creative economy get a strong voice in the culture policy. A way forward on structuring the sector was also an expected output of the workshop

The third critical area was the Sports Arts and Social development fund. He noted that the culture sector had not accessed much from the fund. He hoped that the workshop would address some of the gaps to enable the arts and cultural sector access the fund.

He further informed the participants that the ministry had set aside Kshs6millionfor research on the creative economy to facilitate acquisition of clear statistics on the sector

Remarks by the Principal Secretary, State Department of Culture and Heritage, Ms Josephtha Mukobe, CBS

The PS welcomed the Cabinet Secretary, Ministry of Sports Culture and Heritage to the workshop and thanked her for finding time to officiate the workshop. She noted that the workshop was an important forum for cultural and creative sector and that the forum had the capacity to solve the many issues that were challenging the implementation of the mandate of the state department. One such challenge was the finalization of the culture policy and culture bill. She pointed out these legislations should **create an enabling environment in the culture sector**. She however noted that the policy and the bill are not the only impediments and challenged the stakeholders that they ought to do 70% of the work. She observed that draft Culture bill proposes the creation of a national culture council yet Culture is a devolved function. ‘How do we create another institution in between?’ She paused.

The PS also acknowledged that the Sports Arts and Social protection fund was a new creation serving the sector and therefore the draft and other policies in the ministry should not create any more funds.

She observed that there were numerous funding proposals from all over the country reaching her office. The proposals ranged from Counties,Community festivals to individual practitioners seeking assistance and would at times be overwhelming. She proposed that the forum considers creating a structure, a kind of a clearing house that would clear the Proposals before they get to her office and establish a criteria upon which such proposals would be considered.

The PS further observed that the sector was not speaking in **one voice**. She proposed the formation of an umbrella organisation in which all actors in the sector can be represented and which would bring some order in the industry. She expressed her joy with the beads industry noting that the beads sub sector was making efforts to organise itself but was sad that the other crafts remained invisible because they are disjointed. She called on participants to talk about these issues in the industry and come up with a clear way forward.

Official opening by the cabinet Secretary for the Ministry of Sports, Culture and Heritage; Dr. Amb. Amina C Mohamed, EGH,CAV

Dr. Amina began her address by appreciating that the workshop was her First meeting with the stakeholders in the culture sector. She pointed out that their contributions were very necessary as the sector cannot continue operating in a fragmented manner. From her experience at the world trade organisation she noted that the economic contribution of the cultural creative industries in

the world economy cannot be underrated and thus called for the concerted efforts of all stakeholders to enable the country tap the potential of the creative economy.

The legislative framework

The CS emphasized that the workshop was necessary to evaluate the legislative framework for the sector before the presentation of the documents to the cabinet and parliament. She challenged the participants to ensure that by the end of the workshop there would be documents that covers the basics for everyone in the sector noting that it was going to be a difficult task and there has to be compromises. She acknowledged that there was a good team leading the process who would guide the sector well.

She pointed out that there would be **another 11 day session** with all the stakeholders before the documents are presented.

The Fund

The CS informed the participants that the Sports, Arts and Social development fund has resources that covers Arts, Sports and Social protection. She noted that though the sports sector had benefitted, she had to do a lot of pushing for the arts and culture. She emphasized that the proposals for funding must **to adhere to the format and they must also meet the requirements of the act and regulations.**

Dr. Amina proposed that instead of having proposals for funding from every body, the sector should form umbrella bodies. She advised the sector to work with the ministry to come up with competent proposals noting that there was a supportive team to help.

Cultural activities in the counties

The CS observed that Cultural activities have the potential to create wealth and at the same time enhance values and national cohesion. It happens in other parts of the world and it should also happen in Kenya. She suggested that there should be one activity in each county that is purposeful and brings together all the 47 counties- **47 counties 47 days of cultural festivals.** Such an activity would make 47 days that become the event of the year in each county and also create a tourism circuit in the country. To accomplish this it would be necessary to have modalities and agree on what the county will contribute so as to make it the greatest event.

Structuring the sector

Dr Amina also noted that there has not been proper structures in place, from policies, and more and by working together the sector could deliver proper structure. If this would be done, it would make it possible to have a Kenya house in every international event. Unity would be key to achieve such structure. Understanding because we. She called for the **institutionalization of the meeting** with the stakeholders and tasked the director of Culture to organise meeting every three months to take stock.

She invited the participants to discuss key issues and identify gaps;

Q & A

A participant observed that the creative sector was not only disjointed but also loud. He observed that the USANIFU conference which was held sometimes back was preceded by a tour to all counties and culminated in an event that brought creatives from all counties and that is where Creative economic council- a body to represent the creatives was formed. He pointed out that there were efforts last year to bring some regulations including that such a body must have a national outlook. The main problem with the associations in the sector is lack of capacity. He mentioned that last year the president tasked him to organise the creative industry to meet him but identifying them was a challenge. He however noted that the industry was willing to work with the ministry.

Another participant was of the view that the Principles underpinning the policy sounded more like objectives and suggested that there was need to have a clear overarching picture of what the ministry wanted to achieve for the creative cultural industries. Questions such as ‘how do we develop the people in the creative sector?’, ‘how do we enhance access to improve consumption of arts?’ should be the focus of the policy. Subsidized cultural sector

Another participant suggested that there should be a representation of the sector in the sports, Arts and social protection fund board so that all the voices are represented. He noted that the proposed National Culture Commission would be a solution to the disjointment in the sector.

Another participant remarked that the Creative industry is an invisible employer since it is not documented he called on the ministry to explore the kind of data mines which would be used to acquire data on the sector. In addition, he observed that sometimes to bring order, people needed to be guided on how to put their thoughts forward in a meaningful manner and this was necessary in the sector. He also felt that the industry needed compassion, support and practical solutions.

Another participant added that the Cultural and Creative Industry in Kenya was organised in different sub sectors and thus the proposed larger platform must be informed by the subsectors. In regards to the proposed National Culture Commission he suggested that it should draw from Counties, Practice and the National Government

He added that top Priority should be given to the collection of data. However, he noted that Cultural and Creative industries have economic, social and functional characteristics and therefore collecting data in this sector must be sensitive to these intricacies.

The Director General, National Museums of Kenya, Dr. Mzalendo lauded the idea of 47 days of culture as a wonderful proposal that can create a tourism circuit. He added that in addition to the resources available for the sector from the fund, we should not lose site of the national budget and there was need to engage the national treasury to increase allocation to the ministry.

He recommended that the fund should not be spread too thin but instead there can be one national project that would have lasting impact on the economy.

The CS, Dr Amina, noted that it was important to have a council with 9 members. She advised that the criteria for representation must be clearly thought. The Council she noted could become

the clearing house and be the one to give guidance to the sector and it would be facilitated to do so.

As to the implementing agencies, she proposed that such agencies don't have to be formed afresh but we could work with existing agencies so that we get value. She gave an example of funding during the Constitutional reforms where the EU funded a government agencies because of the proposal that was put forward. The Ministry was working with local CBOs that didn't have capacity but had potential.

On Documentation and data she reiterated that the ministry had set Kshs 6 m aside to collect data which if well utilized, the Ministry could seek for more funding. Such additional funding could also be accessed from the fund as acquiring data was critical. The CS tasked the director of Culture to put forward a proposal for the same to the fund as well as proposals to improve capacity and create more awareness on the creative economy.

The PS challenged the sector to critically think about the proposals – the council in relation to the constitution and the devolved functions so that we do not contradict ourselves. She urged the stakeholders to come up with recommendations that would take the industry forward.

The director Art at work, Roy Gitahi, wondered why we should have talented youth and yet speak about unemployment. He informed the participants that his organisation was organising a conference dubbed 'unconference' from 13th and 15th December 2019 to demystify careers in Arts and Sports. His organisation has identified and profiled between 150-200 careers options in the creative sector.

REPORT OF THE DISCUSSIONS

Mandate and functions of the state department for culture and heritage

Deputy Secretary State Department of Culture and Heritage; Mr Maritim

Mr Maritim welcomed the participants to the workshop. He outlined the purpose of the workshop as building capacity and evaluation of the legislative framework in the state department. He made a detailed presentation on the establishment, structure, mandate, mission, vision and strategic goals and objectives of the state department. The state department is composed of six departments and three semi-autonomous government agencies. The departments include the Department of Culture, Permanent Presidential Music Commission (PPMC), Kenya National Archives and Documentations Services, LibraryServices, Public Records and Information Management and General Administration. National museums of Kenya, The Kenya Cultural Centre and the Kenya National Library services are the semi-autonomous agencies. He observed that the state department had made several achievements including research and

documentation of intangible cultural heritage associated with four communities in Kenya; the Kaya forests among the Mijikenda, three male rites of passage among the Maasai, Traditions associated with Kit mikayi among the Luo and Isukuti among the Luhyas. Other notable achievements were automation of records at the ministry headquarters, documentation and preservation of Music, Promotion of national cohesion and honoring of heroes and heroines.

Policy review for the State Department of Culture and Heritage: A presentation of the Manzoni recommendations

Christine Mangwana; Legal Officer

Introduction

Ms Mangwana informed the participants that the state department held a retreat in February 2019 with the objective of improving performance at the state department by creating a bonding session and aligning legislative framework including policies, bills and Acts of Parliament. She reported that the following legal instruments were discussed;

1. National Culture Policy
2. Records management policy
3. Language Policy
4. National Policies on libraries
5. Public records and information management Policy
6. National Music Policy
7. Natural Products Industry Policy

Bills

1. Culture bill
2. Kenya heritage authority bill
3. Kenya National Library Services bill

Acts of parliament

1. Public Archives And Documentation Service Act, Cap 19
2. (2) Kenya Heroes Act, 2014
3. (3) Kenya Cultural Centre Act, Cap 218

The retreat made the following Recommendations

- 1) Records management policy

Harmonization of public record and information management policy with one of the records management policy

2) National Culture policy

The Policy was at an advanced stage of enactment. It was recommended that the policy should be fast tracked to be presented to cabinet.

3) Language policy

The Policy management had earlier been transferred to ministry of ICT but was now domiciled at Department of culture. It was thus proposed that further stakeholder's engagement and public participation be carried out to enhance understanding of the policy.

4) National policy on libraries

It was proposed that the state department should jump start the formulation of a national policy on libraries to cover all categories of libraries both public and private bearing in mind that Libraries is a devolved function

5) National Music Policy

It was recommended that a memorandum be drafted to forward the policy to cabinet.

Bills

1) The culture bill

The retreat recommended that the culture bill be fast tracked to forward it to the Cabinet and parliament since it was at an advanced stage.

2) Kenya National Library Service Bill

It was recommended that the Bill be finalized

3) Kenya Heritage Authority Bill

It was recommended that the Ministry makes a follow up with the Attorney General's office to avail copies of the Bill for signing by the current Cabinet Secretary and re-submission to the Cabinet Office.

Acts of parliament

1) Public Archives And Documentation Service Act, Cap 19

It was recommended that the Revised Act Cap 19 should be relooked by the Ministry and if in concurrence be submitted to the Attorney General for publication.

(2) Kenya Heroes Act, 2014

The Act was ready for implementation once funds were provided for the Implementation of the Act in the F/Y 2019/2020

(3) Kenya Cultural Centre Act, Cap 218

It was recommended that the review of the KCC Act be finalized

Current status

She informed the participants that currently the status of the legal instruments was as follows;

- The Records And Management Policy & Public Records And Information Management Policy was yet to be harmonized
- National Culture Policy- The Cabinet Memorandum & Policy was ready to be tabled to Cabinet
- Language Policy – Preparation for Stakeholders engagement workshop was on course
- National Policy on Libraries- The Policy had been developed and was awaiting concurrence from the CS & PS
- National Music Policy- the cabinet memorandum and the policy were ready for tabling to cabinet.
- Culture Bill- The Culture Bill was being reviewed to incorporate fresh input before being tabled to Cabinet
- Kenya National Library Service Bill- The Bill was approved by the Cabinet Sub-Committee on Legislation, and was awaiting to be tabled at Cabinet for transmission to Parliament
- Kenya Heritage Authority Bill- the State department was engaging the Senate Committee on Labour And social welfare to harmonize The National Museums (Amendment) Bill and The Kenya Heritage Authority Bill

Plenary; Policy Review for the state Department for Culture and Heritage:

A participant enquired as to what was involved in fast tracking the culture Bill asking if there were technicalities required so as to move the bill it can get to the next level. He wanted to know what exactly was needed before the tabling of the bill to cabinet.

In Response- participants were informed that the bill has to go through PS's committee and then would progress to the cabinet. It was reported that the bill was scheduled to be presented by the PS to the committee in the coming week

Another participant observed that an overarching principle was needed to clarify what the bill intends to address. She also challenged the stakeholders to think as to how the art and culture sector in Kenya linked with the global sector as well as the Strategy and planning for infrastructure, research and policy development

She also enquired on the would be the measure of success for the strategies, noting that such a measure should also measure the quality and the value afforded by such strategies.

With only two signature missing and noting that the Maanzoni retreat was held in February a participant felt that the Signatures should be secured, by finding out which CS has not signed and have the matter expedited. In response it was noted that the matter was being pursued. It was reported that one of the missing signatures was that of the Ministry of Sports Culture and heritage

Language Policy

On the language policy a participant reported that some work was being done in the continent and in the region in the languages sector. He further noted that it was important to make sure that Kiswahili was recognized as an official as well as a national language within the Policy.

It was observed that there was need for legislation that anchors Kiswahili as a national language. Division of labour between the national government and the County Governments on Kiswahili and the Indigenous Kenya languages was important.

Ms. Elizabeth Nasubo reported that the Ministry was relooking at the language policy because there were changes that were brought in when the policy was at the ICT ministry and that they looked forward to engaging the stakeholders on the same. She also noted that the Kiswahili Bill now ready and the Kiswahili commission was expected to take prominence in the language policy. The ministry needed about 6 months to finalize some of the documents.

A representative of the Ministry of Foreign Affairs observed that there were opportunities to promote Kiswahili as a national and continental language. There had been Cultural exchanges promoting use of Kiswahili and gave an example of Botswana, a southern African country where Kiswahili was being taught.

A representative from ministry of Tourism also observed that Kiswahili is a language that can be packaged and exported as tourism product. She added that historical sites that can also be used in tourism such as colonial houses in Laikipia. She called for more public awareness and mapping of such historical sites.

The CEO of KECOBO advised that the documents be properly titled to give clarity as to the level at which the documents were. The Policies should be titled 'Draft Policy'. He noted that the Music policy kept mutating with every stakeholder engagement and enquired as to which the valid document was. It was reported that the 2015 draft is the most current and is ready for tabling at the PSs committee. He also observed that many policies related to the same area may have unintended consequences such as Silo management of the sector

A participant recommended that a Collective management organization should be agreed by all the sub sectors involved in culture and arts.

Another participant enquired whether due to the mushrooming organizations that collect royalties on behalf of the artists, this mandate could be transferred to the department to ensure that contributions get to the artists. It was noted that the Music policy addressed the issue and safeguarded the interest of the artist.

Another participant enquired if the National Policy on Culture was subjected to stakeholder engagement and if the Council of Governors was involved. It was noted that the draft policy had sufficient public participation including Council of Governors and the senate.

The culture bill; background and proposed revisions

Dr Kiprop Lagat, Director of Culture

The director of Culture started his presentation by informing the participants that the Ps, state department of heritage had reiterated that the expectations at the end of the workshop included a roadmap on the contribution of the creative economy to the big four agenda, Structuring of the creative economy and a focus on talent development noting that the president had shown concern for talent development including setting up of incubation centres and theirs linkage to the industry. She pointed out that she expected tangible deliverables at the end of the workshop.

The draft Culture bill

The director informed the participants that the draft National culture and heritage policy had had stakeholders' validation and is in the process of presentation to cabinet.

The draft Culture bill was informed by article 11 of the constitution and provides legislative framework for the sector, commits the government to promote all forms of national cultural expressions and provides for the establishment of the National Culture Council.

He noted that the process had been rigorous and involved technical workshops with experts and validation by national stakeholders in 2015. It was then forwarded to the cabinet in 2017. The bill had not been tabled in parliament due to various issues. He hoped that the workshop would finalise on the issues and have the bill presented to parliament.

The Director pointed out that the draft culture bill delineated the functions belonging to county and those of the national government, provided for cultural data base, payment of compensation or royalties to communities for the use of their cultural expressions and provided guidelines for export, import and transfer of inventoried cultural expressions.

The National council of culture

To allow for a discussion on the council for culture, made a presentation of the roles of the national council of Culture as provided for in the proposed bill. He advised that the participants clearly delineate functions of the ministry and those of the council. He further advised that since **the document had had AGs input, revisions could only be forwarded as annexes.**

He outlined the following Proposed Revisions

1. Addition of Objects of the bill

The object and purpose of this Act is to—

(a) Give effect to Article 11 of the Constitution to promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage;

(b) Ensure that communities receive compensation or royalties for the use of their cultures and cultural heritage;

(c) Provide a framework to guide national cultural development

2. Part 1 preliminary pages proposed interpretation of additional terms such as;

a) Artist-**Artist**” includes authors, creators, performers and interpreters working in the following fields:

- Literature and publishing;
- Performing and dramatic arts (including puppetry, circus and mime);
- Dance;
- Music (composers, musicians, singers, choirs, arrangers, conductors, etc.);
- Visual arts (painting, sculpture, graphic arts, photography, multimedia, etc.); and
- Audiovisual media (cinema, televisión, radio, interactive multimedia, etc.).

b) “**Council**” means the National Council for Culture established under Section 18

c) “**Creative cultural industries**” means the cycles of creation, production and distribution of goods and services that use creativity and intellectual capital as primary inputs; [constituting] a set of knowledge-based activities, focused on but not limited to arts, potentially generating revenues from trade and intellectual property rights; [and comprising] tangible products and intangible intellectual or artistic services with creative content, economic value and market objectives.(delete interpretation of cultural industries)

d) “**Cultural statistics**” means data illustrating the extent to which the creative cultural industries contribute to the livelihood of communities and to the Gross Domestic Product (GDP) of the nation.

e) “**Fund**” means Sports Arts and Social Development Fund as per the Public Finance and Management Act (Sports, Arts and Social Development Fund Regulations, 2018)

3. Part II Management of culture

Proposed addition to the responsibilities of the cabinet secretary to include;

P4. (1) The Cabinet Secretary shall be responsible for:

(j) Implementing bilateral and multilateral agreements on culture, including UNESCO Conventions.

(k) Promoting national values, social cohesion and national identity

It was also proposed to move article;

- (g) Registration of cultural practitioners to the counties or the National Council of Culture
- (i), Promotion of indigenous languages, to the National Council for Culture

4. Proposes addition of a new section 9

On exceptions and Limitations(NEW)

1. In complying with the obligations set forth in Article 8, Contracting Parties may, in special cases, adopt justifiable exceptions and limitations necessary to protect public interest, provided such justifiable exceptions and limitations do not unduly prejudice the implementation of this Act or mutual supportiveness with other instruments. Such circumstances could include:

a) Does not restrict or impede the normal usage, development, exchange dissemination and transmission of cultural heritage, cultural expressions by members of a particular community within its traditional realms and in accordance with the cultural norms of the particular community.

b) Use for non-commercial purposes, including teaching and research, exhibitions, reporting of current events and judicial determination c) Making of recordings and reproductions for inclusion in a public archive or inventory for the safeguarding of knowledge or cultural expressions, and incidental uses.

2. A user of culture or cultural heritage must obtain free and prior informed consent and sufficiently acknowledge the owners of the cultural expressions by mentioning them and the geographical place where that culture or cultural heritage is practiced or occurs. 3. The use of culture and cultural heritage shall be compatible with fair practice and is not offensive or derogatory to the beneficiaries.

Expresses situations in which use of a communities cultural expressions and culture will not attract compensation from the user

5.Part III The National Council for Culture

It was proposed to have additional functions to the council to include;

q) Register arts, culture associations, federations and professional artists

Proposed an addition to article 35 sources of funds and set a criteria for accessing the funds;

Funds of the Council

(1). The Funds of the Council shall consist of:

b) Such monies as may be sourced from the Sports, Arts and Social Development Fund c) all monies from any other lawful source provided

(2) Any funds sourced from the Fund shall be used in accordance with the provisions of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018, based on the following criteria:

- i) support the identification, nurturing and development of talent in arts;
- ii) Facilitation of training and capacity building programmes for persons involved in recreation, creative arts, artistic production, contemporary and cultural practitioners;
- iii) Facilitation for the identification, development and capacity building of technical personnel involved in artistic and recreation activities;
- iv) Support for the promotion and development of artistic production of contemporary or cultural goods or services;
- v) Facilitation of marketing and promotion of artistic productions and contemporary or cultural goods and services
- vi) Support linkages with domestic, regional and international markets for artistic productions and contemporary or cultural goods and services;
- vii) Facilitation for exhibition and promotion of contemporary or cultural artistic production of goods and services for national identity and pride;
- viii) Financing the acquisition, development and preservation among others, heritage sites, cultural centres, national monuments, tangible and intangible heritage and culture and heritage equipment and tools; and ix) facilitate innovation, research and documentation in arts, culture, the creative industry and heritage.

It was proposed that a new addition of article 36.

36. Proposals to the Fund (NEW)

Article 36 refer to the criteria as established in the arts fund as follows

- i) Is duly registered by the National Council for Culture and/or any other government entity.
- ii) Request must be aligned to the strategic plan of the Ministry and work plan of the Arts and Culture Department.
- iii) Applicant must provide a work plan and itemized budget for operationalization of the funds provided.
- iv) In case of a group/institution minutes of a properly constituted meeting of the governing body of the organization containing the resolution to apply for funding from the Fund.
- v) A statutory declaration of programmes funded through other sources.
- vi) The details and signatories of the bank account in the name of the organization where the funds shall be channelled.
- vii) In case of request for international cultural exchange there must be:
 - a) Letter of invitation with valid contact addresses of the invitee.
 - b) Valid travel documents

The director then welcomed participants to respond and give views on additional revisions.

Reactions

A participant corrected the National council of council to read National Council of Culture and asked that the participants address areas of overlap of functions with the Ministry

Another participants recommended that the qualification bracket for the appointment of the board of the Council of Culture be expanded to include persons who have significantly contributed to the growth of the sector.

A participant observed that the National Council of Culture seemed to take all the work of the department of Culture and wondered what the role of the Department of Culture would be.

Another participant proposed that the stakeholders consider management of indigenous language delineated to county

Another participant observed that permissions and exceptions to community in reference to compensation for use of a community's culture needed a structure defining the use of these privileges, who will give these exceptions and who will receive royalties to avoid conflict

It was also observed that membership of the board only had representatives from the national government yet Culture being devolved required a representation from the County as well as from the sector.

It was also recommended that the Protection of Traditional Knowledge Act should communicate to the culture bill.

It was also noted that inclusion of provisions from an existing legislation may not be necessary but may mentioned as reference.

A participant recommended that the collection of data role be expand to include research and advocacy

Another participant noted that the department was underfunded and understaffed while the Council may attract funding and capacity and there was therefore no harm in establishing a council. He also proposed that the bill should proceed for enactment as it is and may be amended through the omnibus.

The director of Culture clarified that the ministry was not opening up the bill and any amendments would only be forwarded to the attorney general as annexes.

Plenary: The Culture bill; proposed revisions

Moderator; Prof Kimani Njogu

Prof Kimani Njogu guided the participants in evaluating the draft culture bill. The following revisions were proposed.

He guided that the session must delineate clearly the division of labour between the Department of culture and the national council of culture

1. It is a cabinet Memo 2019. Change to read; CABINET MEMORANDUM BY THE CABINET SECRETARY FOR SPORTS, CULTURE AND THE ARTS ON THE CULTURE BILL,2019
2. The naming of bill- it was agreed to name the bill- The Culture Bill 2019
3. Object of the bill- an addendum of the regional instruments including the East African creative economy Act and the AU's agenda 2063.

4. Item 4 and 5 missing from the hard copy – should be included-4. Contents of the bill and 5. Financial considerations
5. Item 6 Recommendations. Revise the amount to -Kshs 300 million
6. The Current Cabinet Secretary to sign the bill
7. On arrangement of the clauses
 - a) There were questions on whether guiding principles are needed in the bill in that they are included in the policy.
 - b) Domicile the Traditional Knowledge Act in the Culture bill
 - c) Remove full stops from all sub headings
 - d) Funds of the council not authority(article 35)

Recommendations / proposed revisions

Objects of the bill

It was agreed that the object of the bill proceed as is and await guidance from the AG as to whether to include it in Preamble. Act of parliament to give effect to Article 11, not 3

Interpretation

Definition of the Artist- replace the definition to reflect the definition of an artist by the UNESCO 1980 recommendation concerning the status of the Artistdefinition

Creative cultural industries- change to Cultural and creative industries- definition from the UNCTAD, UNESCO

Remove the guiding principles and retain them in the policy or/ and regulations

Management of culture

Replace the role of the cabinet secretary with.....’ the role of the national government in the management of Culture...’.

4 (1) should thus read

‘The national government shall be responsible for.....’

It was recommended that Care be taken to ensure national government does not encroach into the roles of the county governments. The role of the national government should include matters regarding national data, international and regional instruments

4 (b) To read 4th schedule function 32 of the constitution

(c) Rephrase to include reference to national, international and cross county culture and cultural heritage

(d) Rephrase to read undertake quality assurance

(e) add retrieval to read ‘seeking retrieval, restitution.....’

(g) Move to The National Council of Culture

(i) Move to the National council of Culture

Add (j) Implementing bilateral and multilateral agreements on culture including UNESCO Conventions

Add(k) role of national government to include identification, initiating and planning for national cultural infrastructure (add national cultural infrastructure to the interpretation

County government functions

It was agreed that the section offers standardization of as well as guidance on performing the cultural function in the Counties The bill will go through the National assembly and Senate.

It was agreed to adopt no. 5 as is.

Delete (b)

Replace (6) (1) and (2) to read the national government not the Cabinet secretary

(7) (1) add Authorised to read ‘any authorised person.....’

Add in (7) (2) to read prescribed requirements (delete reasonable fee)

(8) Compensation

(8)(2) rephrase it to read the determination of compensation or royalties of the culture or cultural heritage shall be guided by, among others;....., thus remove culture and cultural compensation in subsequent sub articles- (a-h)

(8)(5) The national government in consultation with the County governments shall.....(Removed departments and cabinet secretary)

(9)(2)(e) Change to read Its not it's

(9) (2) (a) is item but subsequent is the word Property change to read 'security of such property'

Add aesthetic value separately as (c)

(9)(4) No person shall export an inventoried cultural property which has been unlawfully acquired or recovered

(10)(1) Cultural property not property

(11)(3) Remove prescribed fee add prescribed requirements. Ensure consistency in flow start with National government then County Government

Agreed to leave 11 as is and double registration be informed / solved by the guidelines

(12) Introduce a and b where

(a) Cabinet secretary or County government shall provide reasons for refusal

(b) Provide guidelines for appeal against such refusal

(13) Introduce (d) and (e)

(d) There shall be provided mechanisms for appeal **51. Cancellation of certificate (1) The Registrar may cancel a certificate of registration issued to a sports organization under this Act if the Registrar is satisfied that— (a) the registration was procured through misrepresentation or nondisclosure of material facts; (b) the terms or conditions attached to the certificate of registration have been violated; or (c) the sports organization has breached the provisions of this Act or any other law. (2) The Registrar shall before cancelling the certificate of registration of a sports organization, notify the sports organization of the intended cancellation, giving reasons for the intended cancellation and give the sports organization an opportunity to be heard.**

(e) Notification of the cancellation shall be provided in the prescribed manner

(16)(3) A person.....with it, add without requisite licences. Delete provided that

(17)(b)

Add cultural heritage documents and property retrieved, restituted

Day 3

Plenary; Proposed revisions on the culture bill

Prof- Njogu guided that the plenary focus on the function of the National council of Culture and those of the department culture. He paused the question 'Is the council a semi-autonomous agency?'

There was a concern that 70% of the function of the council were similar to the functions of the Kenya cultural Centre which also is an agency in the state department. Another concern was that the functions assigned to the council in the Act looked bulky and it was proposed that they should be fewer, clear and concise.

The plenary suggested that the functions of the proposed council be looked at in a deeper way by a smaller subcommittee. The functions could include areas of;

- Development
- Fund raising
- Research

It was suggested that since the establishment of the Council was a major purpose of the bill, and the bill was an umbrella bill for culture function, the subcommittee should list all functions under the bill, out of the functions it should be determined who will do what.

Another suggestion was to define the objective of the institution we are creating then define its function based on the objective. The bill was defined as giving life to all the government institutions in the sector. Participants were in agreement that there was need for an umbrella body that would act as national coordinating body in the sector. It was agreed that a subcommittee of 5-7 people be formed to interrogate the functions of the Council and those of the different agencies in Culture. The Functions of the Council were pushed to the subcommittee who would report back to a plenary on Thursday afternoon at 3.30. Members of the committee were ;

1. Metrine Wakhungu NMK,
2. Kenya Cultural Centre,
3. Bomas of Kenya,
4. Department of Culture,
5. PPMC,
6. Cs Office,
7. Dr. MshaiMwangola representing the Creative sector ,
8. Dr. Mwaniki- university of Nairobi
9. Ministry of Tourism,
10. Prof Fredrick Ngala-

The director of culture remarked that members of the board, powers of the board and such matters are prescribed by a standard government document – Mwongozo and may not be discussed in the meeting.

Introduction to creative economy in Kenya; Prof. Kimani Njogu Chair Dr. Mzalendo Kibunjia

Dr. Kibunjia introduced the topic by observing that there was need to mainstream the creative economy in the nation's development plan and other strategies such as exports promotion. He noted that some major issue in the past in the creative sector has been the KIKOI and Nyatiti

which were Kenyan cultural items but have been patented by the people who exposed them. He welcomed professor Njogu to make his presentation.

Professor Njogu informed the participants that the Creative Economy Working Group comprised of various institutions in the creative economy, in the whole spectrum of the creative sector. The caucus main focus was policies in the sector and works closely with different government agencies to see the sector grow. Members also facilitate training. His presentation focused on giving a basic understanding of the creative economy and the trends in the sector.

He defined the Creative economy as the intersection between the cultural industry and the creative industry with global and modern economic sectors such as advertising and marketing. It is driven by creators, entrepreneurs, software companies and media. It's a sector that is difficult to quantify though it has high value. He identified intellectual property as a critical component that transforms creativity to creative industry.

He identified the sectors of CCIs in Kenya as including;

1. Visual Arts- sculpture, painting, photography, installations
2. Performing Arts, Ceremonies and Celebrations
3. Crafts and Curios
4. Design
5. Digital media- software development, gaming
6. Audio Visual Arts/Interactive
7. Heritage
8. Fashion

Prof Njogu pointed out that to unlock the creative economy in Kenya, there was need to enact policies and legislative framework that advance the sector, make investments in the infrastructure for the creative sector, build capacity of practitioners, enhance the image and prestige of the sector and gather data about the sector to support development. He opined that some of the practical ways of promoting the sector included strengthening partnerships among stakeholders. As way forward Professor Njogu proposed the creation of a Kenya federation of Arts and Culture.

Advancing creativity for Development, Judy Ogana UNESCO Region Office

Ms Ogana's presentation focused on the UNESCO perspective on the creative cultural industries. She informed the participants that there were six (6) Unesco conventions in the field of Culture including the 1954, 1970, 1972, 2001, 2003 and the 2005 Convention. She observed that the 2005 convention and the 1980 recommendations on the status of the artist are central to the creative and cultural industries.

The UNESCOs 1980 recommendation on the status of the artist seeks to improve professional, social and economic status of the artists through policies and measures related to; mobility, training, social security, income and tax conditions while the **2005 Convention for the protection and the promotion of the diversity of cultural expressions** is an international

standard setting instrument providing framework for the governance in the fields of culture. It Provides opportunity for artists to create, produce and disseminate and enjoy their art work.

The 2005 convention has four goals;

1. Supporting sustainable systems of governance for culture- this focuses on cultural policies, partnership with civil society, media diversity and the digital environment;
2. Achieving balanced flow of cultural goods and services and increase mobility of artists and cultural practitioners with a focus also on treaties and agreements;
3. Integrating culture in sustainable development framework and
4. Promoting human rights and fundamental freedoms

The convention also requires the preparation of a global report to monitor the development and implementation of public policies that are adapted to the evolving needs of the cultural sector. The report also analyses trends in the sector, tracks progress, identifies challenges and monitors the implementation of the 2005 convention.

Reactions

Participants noted that federation of arts and Culture was a great way of consolidating the sector though the challenge would be bringing together different genres. It was suggested that the National Culture council could draw its membership from the federation. It was also suggested that the federation should be concerned more with professional development of the artists. It was however noted that the government cannot organise the sector and the cultural practitioners and artists must organise themselves

A participant challenged the players in the sector to build capacity, create visibility and exposure for the artists, create linkages with other players, and root for sustainable career in the arts noting that there were marketing gaps in the efforts to connect artists to the global market and the creative value chain.

Participants also agreed that mobility of artists is critical. One participant reminisced that Kenyans participated in 2017 in Biennale which was a good platform for artists though the criteria for participation was not clear. She observed that this pointed to the need for a council that would address the questions such as the criteria for decisions made in cases of international participation.

Another participant inquired the difference between the creative economy, creative industry and the cultural industries. It was noted that the term Creative economy came in 2008 after the economic meltdown as this was the only sector that was not struggling after the meltdown. The three terms are used interchangeably and not always referring to the same thing. The distinction is a global problem. They are connected but are different.

The creative Economy; Global trends and emerging issues; Garnette Olunya

Ms Olunya's presentation focused on the trends in the sector. Her first area of focus was on identity of the sector. She noted that majority of Kenyans earn a living from what is labelled as informal sector or 'juakali'. How does this continue to be labelled as informal yet the majority of the population are making a living in this way. She observed that there was a shift in the cultural sector as witnessed in the current repatriation of cultural and heritage artefacts.

She observed that Creativity is not new and that it is powerful. She gave an example of the work of Michelangelo from 16th century which still makes sense today. She also gave another illustration of the paayapaa gallery which has been operational since 1985. She pointed out that artists had organisations and that they have traction.

The current trend was a re-focus on entrepreneurship, an alternative she felt if optimised would address the youth bulge. Entrepreneurship, she noted was offering great opportunity for people to create wealth. With this trend power is becoming diffuse where non state actors are exerting influence on a global scale. There is also remarkable growth of institutions that has seen a reclamation of cultural power such as the rebuilding of the go down art centre, the refurbishment of the National theatre and the revamping of the National Museum of African American history and culture. There is new energy in the sector, a cultural renaissance.

She observed that there were opportunities that were presenting on the global stage that could be tapped by the country such as the lion king movie that premiered in July whose signage included a backdrop with 'magical Kenya'. This was a development Kenya could take advantage for example in Co – production agreements and promotion the country as filming destination. Another example was the amazon competition on animation where a Kenyan won in the emerging markets category of the cane animation prize.

She noted that the future is digital as all major sectors were moving to digital platforms. She added that leadership was also taking centre stage and the place of culture and values more elevated.

Reactions

A participant pointed out that Culture was very important as it makes us human separates us from the rest of the animal kingdom. She added that scholars should publish books on values that can be used for school curriculum. Areas of interaction between culture and the new competence based curriculum (CBC) ought to be interrogated

It was also noted that for connections between government departments and the private sector to be effective, all players must be brought on board as ambassadors of culture as the foundation of transformation

Another participants noted that Kenyan products in creative industries expensive compared to imports thus not competitive.

It was felt that the creation of environment for the sector to flourish was more important than funding and that if the environment was right artists and other creatives can find ways of funding by themselves however the greatest fear was that the creation of a new institution would bring another additional licence. This would be limiting institutions to matters that are not very critical.

A participant pointed out that the industry must get organised to access government facilities. The industry must agree to a unified mould that will be recognised by the government. It was felt that sector development should be based on institutions.

The need for the authentic Kenyan story was addressed. It was felt that the Kenyan story as currently told was derived from colonial mentality. If this was addressed the question of our identity would not come up.

Another participant suggested that the support to artists must not necessarily be monetary giving an example of Docubox an institution where artists got support that wasn't monetary. However when artists come to government it is with the idea that the government has money

Cultural Diplomacy; Ministry of Foreign Affairs

The presentation pointed out that the country's domestic policy was linked to the foreign policy. She noted that the discussions were key in shaping strategies since Kenya was not well known on the basis of its creative and cultural industries. She noted that artists such as Wangeci Mutu, Lupita Nyong'o were Kenyan personalities in the arts that were well known globally who could be used to project the Kenyan creative cultural industries. She added that there were success stories in other jurisdictions in the management of creative cultural industries where Kenya could learn from such as India.

She also suggested opportunities that could be utilized such as African continental free trade area. She observed that branding would help make Kenya culture visible giving an example of how emirates was popularizing the 2020 Dubai expo

Reactions

A participant enquired how culture would help in negotiating economic agreements. It was observed that the MFA engages the Department of Culture in negotiating instruments and that the bilateral agreements included agreements on cultural cooperation. There are also multi-lateral agreements such as the UNESCO conventions that have a clause on funding

Another participant pointed out that challenges of turnover of staff at the foreign affairs office affecting the flow of the process.

Adoption of the culture bill provides an opportunity because the ministry cannot deal with individual non-state actors

A participant also observed that there was a disconnect between the Kenyan foreign envoys in the foreign countries and the foreign envoys in this country as far as the culture function was concerned. He enquired if Kenya had cultural attaches.

Devolution: perspectives from the counties on the cultural; Ms Zipporah Muthama

The presenter started by giving an overview of the establishment, mandate and the structure of the Council of Governors. She outlined the roles of the COG which include; sharing of information, dispute resolution, building capacity, providing a common voice and attending matters of common interest among Counties.

She pointed out that Culture is one of the devolved functions as outlined in the fourth schedule of the constitution and that three (3) counties had enacted legislation on culture. She outlined some achievements and challenges faced by the counties in implementing the culture function. Some notable achievements included establishment of cultural infrastructure such as cultural centres and amphitheatres, building capacity of cultural practitioners and talent development programmes. Some of the challenge cited included inadequate resources both human and financial and lack of prioritization of the culture function in the development agenda and policy and legislative framework gaps in many counties.

She recommended that the Culture bill should include a clause requiring County legislations on culture to be in conformity with the national law.

Reactions

It was observed that Piracy was one major challenge facing artists and participants recommended the inclusion of a clause to address piracy. It was also noted that capacity in the counties need enhancement including the assemblies. It was recommended that COG should work with the Department of Culture and other partners to realize this.

A participant challenged counties to explore more on what would be cultural heritage in specific counties as some of the valuable heritage remained unexploited such the granite stones in Kitui and Machakos that are useful in sculpture. He further suggested the establishment of inter county symposiums for visual artists to grow the subsector.

Another participant observed that the cultural infrastructure in counties can spur development of the creative cultural industries. They proposed the establishment of congress of cultural centres to support the development of all the domains in the creative and cultural sector. It was reported that sixteen cultural centres had been established by the National government before devolution. Participants emphasized that cultural spaces should be protected against grabbing and conversion of the spaces to other uses. COG reported that the intergovernmental relations committee was carrying out an audit of the infrastructure that was transferred to counties.

There was an outcry on the double taxation of artists and performers in the counties especially where events run across a number of counties. Participants proposed that the council of Governors consider one licence for performers that would suffice across all counties like is the case with lawyer and doctor.

It was also noted that the national government had invested in facilities for talent development in the counties known as Studio mashinani-. This was intended to be an enabler for youth production. The project used old KBC studios in Komarock, Karen and Kisumu and the productions aired on an independent channel on KBC- Y254.

Employment opportunities for the youth in the creative sector; Roy Gitahi

Mr. Gitahi pointed out that there had to be results that the policies and the structures that were being created intended to achieve. He noted that to achieve such results, there was need to build institutions that would support 'the future of work'. He gave an example of the trends in technology that were linking technology to every sphere of life such as artificial intelligence medicine where robots are used in performing surgeries. There must also be investments to build value chains that discover, nurture monetize and sustain creative careers as well as partnerships and structures that support sustainability in the arts as opposed to competition. The creative cultural industries must also be supported to create products locally that are globally competitive.

For this to be actualized, he noted that there was need for mind-set change concerning careers in the creative cultural industries. This would only be achieved if there was information on the potential of arts and the creative sector. He informed the participants that his organisation in partnership with other private sector players had organised a career fair conference with the intention to unpack over 170 career paths in the creative cultural sector as a follow up to the art and finance conference which was held earlier in the year. The art and finance conference explored financial solutions for the creatives. The solutions included mobilization of savings and credit and education, institutional development, value chain development, infrastructure development, incubation of SMEs in the creative sector, credit rating for creative enterprises and securities trading in creative products

Reactions

A participant echoed that careers in arts and creative sector were sustainable noting that she had trained dancers and acrobats at the sarakasi trust for 18 years.

Another participant added that the people to target in mind-set change is the parent not the children while another noted that Clustering of disciplines in creative sector was an impediment to change mind set. It was however noted that change happens slowly and the disruption by technology was changing the landscape.

There was a candid discussion on career paths in the creative sector and the arts where participants observed that a firm foundation in the primary skill stands the test of time. A participant added that a creative entrepreneurship course at the go down art centre had revealed that there were skills gap among the practising artists that was standing in the way of them achieving their aspirations as entrepreneurs.

Another participant pointed out that there was need to be focus on the demand part of the market for creative products in Kenya and not just the supply. This would be achieved by making creative products visible and thus improving demand for art products. Another participant however added that demand must be supported by interconnections in the economy noting that people cannot appreciate art if they are hungry. He called for elimination of structural poverty.

From Culture To Enterprise: Emerging Business Models In The Creative Economy; The Kenyan Experience; George Gachara- Heva Fund

Mr. Gachara gave an overview of HEVA fund noting that it was the first specialised Creative Cultural Industries investment vehicle in Africa .The fund was working in Tanzania, Kenya Rwanda and Ethiopia. He informed the participants that the fund was using hybrid models tailored for specified needs of investments in the sector and supported enterprises at different levels including seed capital, early stage and growth levels with emphasis on technical assistance and training

Some of the Achievements the fund had accomplished included direct business support and technical assistance to more than 400 entrepreneurs, investment in 25 companies in diverse creative cultural sectors and the prototyping rolling out of four investment instruments. Other outstanding accomplishments included the rolling out of a USD 1 million facility in partnership with the Goethe institute, the British Council and the AFD and the signing of an agreement for cooperation with the government of Kenya to support micro and small textile enterprises in Kenya in line with the big four agenda. Healso gave an outlook of the period of 2018-2022 as focusing on the most promising sectors in the industry that is fashion, Music, TV, digital content and gaming. In addition they would also explore investment strategies on value chain development and looked to intensify entertainment circuits in East Africa (integration within the portfolio). He noted that this strategy was working well in the music industry where musicians are signed within a circuit of events. Investments in spaces and live music events

He challenged the participants to invest in partnerships that were creating value for the industry. He observed that some of the solutions that were sort were within reach for example creating data set from our daily interaction with the industry to acquire crucial data on the sector

He shared reports on the ease of doing creative business and gave a brief overview of the reports in music and fashion subsectors. The reports reflected state of the different creative business sectors including opportunities for more purposeful investment and policy intervention. He proposed Zoning of areas of high consumption of creative products such as live music that can have targeted and purposeful investments

Towards a robust creative economy; Prof. Fredrick Ngala

Professor Ngala defined the creative economy as the state of a country in terms of production, distribution and consumption of creative and cultural products as well as the supply of the money

related to the activities. He gave an overview of the creative economy and the concepts constituting it noting that it is an evolving sector. He identified the nature and attributes of the creative economy as 3 pillared interconnecting culture, economy and technology. He noted that the sector had huge potential within its value chain. He cited some of the challenges facing the creative economy in Kenya as lack of data on the sector, lack of a pricing mechanism for creative products and inadequate institutional capacity. He proposed measures that would propel a robust creative economy in Kenya including; inter agency mapping of the creative cultural industries, developing a pricing system for sector products, establishing of a quality vetting authority, improving the capacity of artists, fiscal support to artists including tax rebates, encouraging international investment and benchmarking with best practices. He added that the establishment of professional body for artists would bring order in the industry.

Reactions

A participant indicated that artists are categorised as I under unskilled labour due to the requirements for formal qualifications in the labour market and there was thus need to find ways of valuing the work of an artist and institutionalizing the sector. It was noted that the competence based curriculum (CBC) as well as TVET offered opportunities to enhance creative talent. Further foras such as the workshop were found to be avenues of informing government of such needs and for providing justification for compensation for artists. It was further emphasized that certification of artists would go a long way in adding value to quantifying the value of artists. The Director of Culture added that there was an ongoing discussion with the Salaries and Remuneration Commission (SRC) on compensation of artists. In addition the HR pointed out that if the professionals in the sector organised themselves and provided a criteria that can be used by the public service commission then placement of artists as new cadre could be pursued

Another participant raised a concern as to the mechanism that would be used to compensate a community for use of their cultural expressions while respecting their intellectual property. It was observed that pricing of community owned cultural property would involve mapping of community cultural property as a first step and performance rights rather than blanket compensation would be a better avenue to pursue with copy right authorities.

A concern was also raised concerning complex importation of film equipment especially by the youth and it was proposed that there should be interventions to make this easier. Equally, the cost of production of film was very high due to stringent licensing regimes by the counties and other agencies such as the Civil Aviation when using drones. The participants were informed that the film policy was addressing the harmonisation of licensing for film production

It was emphasized that mapping of the creative and cultural industries should be multi agency to ensure inclusion of all genres and sub sectors. Further it was suggested that Mapping should start with data that the various agencies were interacting with on routine basis such as the number of applications for funding received.

A participant enquired if the financing of start up by HEVA fund was effective. In response, Mr. Gachara explained that HEVA fund has financial products that respond to specific levels of growth and are tailored to meet specific business needs. Seed level financing involves a hybrid fund comprising of 50% technical support and 50% commercial fund.

Proposed policy framework on the promotion of the cultural and creative economy in Kenya; Mr Julius Manzi

Mr. Manzi Pointed out that the framework was anchored on the constitution of Kenya and the UNESCO 2005 convention on the protection and promotion of the diversity of Cultural expressions. The main objective of the framework was to promote the creative cultural industries to support sustainable management of the cultural sector in the country. He described the various areas/domains that the framework would impact on including Music, Cultural Festivals, Cultural spaces, Performing Arts, Visual Arts, Crafts, Film, Media, Design, Books and Publishing and Fashion .

He outlined policy interventions and strategies for each domain that the policy framework proposes. The framework also proposes procedures for review to align it with emerging issues and provides for implementation mechanisms including partnerships between public and private sector, monitoring and evaluation

Structuring the creative economy-Polycentric and self-governance approaches; *from monolithic systems to systems thinking* ;Joy Mboya

Joy observed that the creative cultural sector comprised of many sub sectors that are complex but interconnected. She highlighted the Kenya creative industry framework that was based on the UN model. She noted that the subsectors of the creative industry in Kenya were organised in a myriad of ways with some being formal while others are informal and with structures of different complexities, resulting in a polycentric ecosystem. She defined a polycentric system as one having more than one centre of organising. She emphasized that each of the subsector no matter the manner in which it was organised was equally important in the creative cultural eco system. She noted that each subsector had individual governing structure and were self organised but there was thus need for an overarching unified governing structure for the entire creative industry in Kenya. She challenged the participants to explore what bodies would be necessary to organise the sector both at the macro environment level where a National Agency for Culture and Creative industries would spearhead partnerships and coordination of national regional and international issues supported by a three pillar Micro environment comprising of the Private sector to spearhead industry growth and economic prosperity, public sector that would spearhead enrichment and access of the sector through research and infrastructure development and the artistic and creatives who would spearhead training and development knowledge sharing and research.

Joy observed that our way of thinking needed to be sustainable and the knowledge exchange between generations sought to build the future more.

Reactions

A participant indicated that some two subsectors had been left out in describing visual arts in the Kenya creative industry framework – prints and pottery.

Another participant observed that the future the Kenyan creative industry would be defined by a strong role on research, data collection and leveraging on technology

It was suggested that Auditing performances, publishing and the information put in public domain that can be used to create a database.

It was also suggested that the sector should not work in isolation but rather utilize the existing assets noting that with the roll out of CBC, art teachers will be required.

Another participant reiterated that the private sector would engage government more meaningfully if they first collaborated among themselves.

A concern was raised that the proposed policy framework on the promotion of the creative economy in Kenya fails to take cognisance of devolution of the culture function and does not outline the role of each level of government. It was however observed that the proposed legal instrument was a policy framework not policy and therefore counties could anchor their laws on the framework.

A participant called for setting up of standards for the sector that would measures success of the institutions that would be set up.

The Director of Culture challenged the participants to examine how the proposed structure would be operationalized and how it would be funded.

Subcommittee meeting report

The report of the subcommittee on the roles of the National Council for Culture was tabled and it included;

Objectives of the council

- a) to develop and promote different cultural and creative components through cultural interaction at national and county governments; mobilize resources and advise on matters related thereto;
- b) to develop, coordinate and promote culture, cultural heritage and creative industries of Kenya at national, regional and international levels

Functions of the Nation Council for Culture

- a) advise the government on matters relating to culture and arts;
- b) conduct, build capacity and offer advice on matters relating to culture, cultural heritage, and cultural expressions.

- c) conduct research relating to culture, cultural heritage and cultural expressions as the council may determine;
- d) mobilise resources for cultural development at the national and international fora;
- e) develop and implement strategies for the enhancement of access to international markets for cultures, cultural heritage and cultural expressions;
- f) **register** and maintain an integrated national database on culture, cultural heritage and expressions as prescribed in the regulations;
- g) Issue certificates, permits or licences of imports and exports of cultural property and cultural heritage;
- h) Promote national cultural festivals;
- i) Foster networking between cultural practitioners and cultural institutions at the national, regional and international level.
- j) Committees
- k) Perform such other functions as may be assigned to the council under this Act and any other written law.

Board of the Council

- a. The Principal Secretary in the ministry for matters relating to Culture and Heritage or a representative.
- b. A chairperson appointed by the president through an open and competitive process. (A chairperson nominated by the CS and appointed by the President)**
- c. The principal secretary for the National treasury or a representative
- d. A representative from the Kenya Private Sector Alliance
- e. A representative from the Council of Governors
- f. 1 outstanding personality on matters relating to cultural development appointed by the cabinet secretary.
- g. AG
- h. 2 independent persons nominated by cultural organizations and appointed by the Cabinet Secretary

Reactions

A participant enquired if in order to lessen the bureaucracy the mandate of appointing the chairperson could be moved from the president to the cabinet secretary. It was suggested that the best practice is the cabinet secretary nominates the chairperson and the president then appoints

Participants enquired if there would be a mechanism to include voices not represented in the board such as an advisory council. It was reported that the council can have sub committees that would take care of the missing voices in that Mwongozo allows formation of up to 4 sub committees but it has to be provided for in the bill.

It was also noted that under the proposed functions of the council (f) should be checked against article 11 of the bill

Sport arts and social development Fund; Mr mark Wambugu

Mr. Wambugu elaborated on the establishment of the Sports, Arts and social protection fund under the Public Finance Management Act and the regulations therein which succeeds the National Sports Fund. He highlighted sources of money for the funds including betting levies and the apportionment of the fund as including;

- Universal health care- 60%
- Development of sports-35%
- Promotion and development of arts- 20%
- Strategic government interventions- 5%

Some of the Objectives of the fund were identified included development of sports and arts, identification, nurturing of talent in sports and arts ,production of contemporary goods and services and creating linkages in domestic and regional markets for sports and art products.

Mr. Wambugu further highlighted the governance structure of the fund including the composition of the board and its functions.

He also outlined the eligibility criteria for funding as including;

- Sports organisations
- Professional sports men
- Ministries/State department/State Agencies

he explained that the reason sports organisations and sports men are well defined as eligible applicants is because there is a clear mechanism for identifying such organisations and persons under section 45 of the sports act that establishes the office of the sports registrar . He challenged the Creative and cultural sector to explore having such a clear definition mechanism.

He outlined the requirements that a proposal must meet to attract funding. These include a matrix having description of each area and how it meets/ points to a specific provision in the regulations. In addition to this, applications must be received 6 months before the commencement of the financial year. The boards had a waiver on this for the first 2 years . For the year2020/2021 any application must be received between September 2019 and December 2019

The regulations also provide for penalties under the fund.

Plenary; Sport arts and social development Fund

A participant enquired on which artists were eligible for the fund now that the fund was a Sports, Arts and Social Protection development fund- which artists?.it was observed that this had to be a government recognised registration as this was the best practise.Mr. Wambugu further clarified that there are 3 categories of eligible applicants. The first 2 are well defined. The answer lied in the industry setting out clear definitions under a law and establishing a code of conduct.

Another participant noted that the youth form the majority in the sectors covered by the fund and their thinking is disruptive. How does the fund cater for such disruptive environment?

It was observed that the fund had very stringent rules especially on timelines but Mr. Wambugu informed participants that there would be no leeway in timing since it was important to have time lines for effective management

Another participant enquired if the board can have different time schedule other than the government's fiscal year since the fund has money from diverse sources.

A participant enquired if the Fund would now consider funding Culture and arts upon review of the Culture bill which would embed the fund as a source of funding and also define an artist noting that the National council for culture will include clear registration and criteria for artists and cultural practitioners. Mr. Wambugu explained that the board would adopt the definition once the Act was in place.

Some participants felt that the fund was dismissive of the arts a matter that Mr. Wambugu dispelled and reiterated the funds commitment to fund the Arts.

There was also a concern if it was possible especially for government institutions to apply for funding before the enactment of the bill. It was explained that the PS Culture and heritage had engaged the board on the same and was in charge.

There was also an enquiry as to whether the fund was a grant and the monitoring and evaluation mechanism for such grant. It was clarified that the funding was not purely a grants but it funded projects and programs in the sectors in addition the fund constituted public fund and public fund management criteria applied including evaluation.

A participant enquired whether there had been any funding to the creative and culture sector. Mr. Wambugu mentioned that the fund had funded NMK, Kenya film classification board and was reviewing funding for Vasco da Gama pillar.

Closing Ceremony

Mr. Noor Hassan Noor ; CAS Ministry of Sports Culture and Heritage.

Mr Noor noted that there were eligibility gaps when it came to accessing the Sports Arts and Social development fund by the cultural sector. He advised that culture had to learn from what sports have done noting that funding was a critical area and the sector must be keen in. He added that it was important to anchor the fund on the legal system of the sector.

He observed that the country needed opportunities for the youth, robust and huge opportunities, and art and culture was best placed to provide these opportunities. He noted that it was crucial to define an artist for purpose of giving support.

He added that festivals such as the drama festivals and music festivals were full of creativity and displayed the values of a nation .They also reminded us of issues affecting the country. Such messages ought to keep being passed to enhance our value system. He noted that some of the festivals like the Lake Turkana festival were celebrated across the worl.Such festivals should be enhanced. He lauded the proposal of 47 festivals noting that this would bring the nation together. There were festivals that are annual in the country such as Loyangalani, uragate, Lamu, which should be escalated. He noted that in some communities they fight but the festival brings them and their leaders together. He proposed that this should be pursued is with COG as it provided a great platform to propagate national cohesion.

Mr. Noor pointed out that art had immense power to transcend any boundaries. He reminisced how the redykyulas comedy made the former president Moi closer to the people and made him look human like any of us. Such art should be encouraged and supported. He noted that to get adequate support the forum should concretize the ideas discussed and escalate them to the sports fund.

He also suggested the creation of a small committee which would go through the deliberations made by the workshop. He then declared workshop officially closed.

Way forward

The following issues were identified as the outcome of the workshop.

1. Effective mapping
 - multi agency mapping
 - cover all sub sectors
2. Definition of an artist
1980 recommendation on status of the artist
3. Convening a wider spectrum of stakeholders to align expectations to the requirements of the fund

4. Committee to fast track enactment of the bill
 5. Registrar of arts and culture- one point of definition
 6. Structuring the sector
- Proposed structure?



Proposed subcommittee to fast track deliberations and provide timelines

Terms of reference

- Fast track enactment
- Structuring the sector
- Funding
- Mapping

Membership of 7 (steering committee)

Institutions

1. Department of Culture
2. PPMC
3. Legal Officer
4. Council Of Governors

5. Creative Economy Working Group
6. The presidency, Director of Youth Programs
7. Sarakasi trust

Timelines

- Give Bi weekly progress
- Report within 21 days.
- The first meeting be convened on Tuesday 23rd 10.00 am at the department of culture boardroom

