



From the Communal Music Making to Deep Learning: AI, Copyright, and the Soul of Kenyan Music

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Abstract

This paper critically examines the impact of the Generative Artificial Intelligence (AI) on the legal, economic and cultural integrity of Kenyan music. It discusses the reciprocity of intellectual property (IP) functionality and undermining of culture in the backdrop of algorithmic datafication. Based on the Postcolonial theory (more specifically, data-colonialism framework), the research analysis focuses on the process in which Global North technology corporations harvest cultural information of Global South producers through the expansion of AI. Through the legal-ethnographic triangulation of legal analysis of the copyright regimes, together with extensive interviews of Kenyan creative professionals, the study reveals a structural imbalance between western standards of IP laws and African epistemology of oral traditions. Although AI is a source of universal precarity in the global community of creators, the results have shown a particular danger of ontological obliteration of African idioms, which occurs in the form of rhythmic flattening and digital orientalism. Additionally, the analysis also records the techniques Kenyan counter-movements, also known as digital resistance, use to deconstruct algorithmic quantisation and demand creative sovereignty. The paper concludes with an urgent appeal for decolonized IP frameworks, such as communal data trusts, to safeguard the essence, or sovereign intentionality, of African music.

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Introduction

The advent of generative artificial intelligence (AI) has triggered a radical change in the global music industry, shifting the way artistic works are created, distributed, and consumed. Although the technology presents impeccable democratising possibilities for creators around the globe, it also heightens precarity and triggers industrial conflict between artists in the European Union and the Global North. In the Global South, these challenges take a more pernicious form, as they no longer end up as a process of economic displacement, but merge with the long-term processes of extraction and marginalisation. This paper examines this intersection within the specific context of the Kenyan music industry, analysing how the algorithmic logic of AI interacts with the communal soul, defined here as the embodied oral epistemology, ancestral timbre, and sovereign intentionality of indigenous musical idioms. In concrete terms, the broad data sets that form the groundwork of modern machine learning modalities have led to the underrepresentation or misrepresentation of African musical



genres. This systemic bias is also intensified by the common practice of training AI systems on copyrighted content obtained from the internet without proper authorisation or compensation (Lucchi, 2024), which, as reported by Dugeri (2024), has attracted considerable legal and ethical debate. Such disruptive innovations can be regarded not just as a more recent event but as the latest chapter in a long history of Africa's cultural encounters with external forces that have often been detrimental (Pereira & Couldry, 2023). Therefore, it deserves careful review regarding the preservation of the continent's rich musical heritage through new technologies.

From the talking drums of West Africa to the griots of the Mandinka Empire, the value of music has been directly linked to the social function, spiritual significance, and role as a vessel for collective memory (Mapaya, 2014; Nzewi, 2024). For instance, the talking drums of West Africa have not served merely as accompaniment instruments but have served as the primary means of inter-village communication (Agha et al., 2021). This has also made the griots of the Mandinka Empire to function as the oral library of their history (Diop, 2024), thus preserving culture. The evolution of African music, which is usually transmitted orally, exemplifies a profound interconnection with social life. This orality-based system of epistemology, which is manifested and embodied through live performance, is a complete contrast to the statistical logic that underpins AI training. The latter is based on disembodied, decontextualised information drawn from fixed archives, which is characteristic of Western epistemologies and poses a danger of flattening African traditions and dislocating them from their own sociocultural backgrounds (Dugeri, 2024; Ficsor, 2005).

The collision between the embodied epistemics of African music and the statistical logic of AI creates what this study terms a dual crisis. The major crisis is legal, rooted in the failure of Eurocentric copyright regimes, including the Berne Convention, adopted in 1886, to account for African musical ecosystems. These frameworks place paramount importance on individual authorship, thereby creating a legal loophole that permits the unpaid use of communally owned, orally transmitted traditions (Ficsor, 2005; Netshitenzhe, 2013). The second is a cultural crisis. This is where AI's capability to produce music may devalue human creativity and yield culturally flattened, context-free synthetic music. This phenomenon, digital orientalism, as this study terms it, is one form of digital neo-colonialism that enables technology companies in the Global North to extract cultural content from the Global South without tangible compensation to the community (Dugeri, 2024; Mahoney, 2022). This directly imitates classical colonial activities, in which colonial powers hitherto reaped material goods to fuel industrial production. In modern technology, multinationals harvest immaterial cultural data to furnish the AI manufacturing database. This very simple way of reaping raw materials from the Global South for the manufacturing of profit-driven digital tools in the Global North continues, with the material only shifting from the physical to the digital (Couldry & Mejias, 2019).

This paper argues that the rapid deployment of generative AI in African music, particularly Kenyan music, could lead to a new phase of colonialism. This calls for the development of *sui generis* (unique) legal protections and proactive strategies of digital resistance that will safeguard the cultural sovereignty of the African continent and the very soul of its music. To build this argument, the study first frames its research within current discourses in the domains of technology, law, and African music, thereby identifying salient gaps. It then frames the analysis through the theoretical lenses of postcolonial theory and data colonialism, drawing on work with Kenyan musicians and other interested parties. Finally, the research critically evaluates the overall implications of these results and explicitly provides recommendations to policymakers, technology companies, and the cultural industry.



Methodology

This study employs a qualitative phenomenological approach to explore how AI, copyright law, and musical practice intersect in the Kenyan context. The given methodological decision enables a comprehensive analysis of the lived experiences of stakeholders caught in the "glitch" between communal tradition and algorithmic extraction. Kenya was chosen because it is the so-called Silicon Savannah of East Africa, has a rich digital music economy, and has specifically sought to enact legislation protecting Traditional Cultural Expressions (TCEs) through the Protection of Traditional Knowledge and Cultural Expressions Act (2016).

Semi-structured and in-depth interviews with twelve (**n=12**) purposively selected participants were conducted to collect the primary data between January and February of 2026. The sample was stratified to have creatives, legal experts and technologists, which guarantees a multi-stakeholder approach. Professional networks and industry associations were used to recruit the participants in Nairobi. Purposive sampling was conducted using strict eligibility criteria to ensure the data were relevant and reliable (see Table 1).

Table 1: Inclusion and Exclusion Criteria

Criterion	Inclusion criteria	Exclusion criteria
Experience	Minimum of 4 years professional experience in Kenyan music, law, or tech sectors.	Hobbyists or creatives with no commercial footprint or verifiable professional history.
Engagement	Direct engagement with digital music production, IP litigation, or generative AI development.	Artists working exclusively with analogue media (acoustic live performance) with no digital supply chain interaction.
Geography	Primarily based in Nairobi to ensure relevance to the country's central legislative and technological hub.	Stakeholders whose primary jurisdiction, legal focus, or market operations lie outside East Africa.

To protect participants from potential professional backlash regarding sensitive IP and economic disclosures, all identities have been anonymized using alphanumeric codes (e.g., P1, P2), as detailed in Table 2.

Table 2: Participant demographics and roles

ID	Category	Age	Experience	Specific role / background
P1	Creative Practitioner	40-50	15+ Years	Musician (Benga & Traditional)
P2	Creative Practitioner	20-30	5 Years	Musician (Afro-pop)
P3	Creative Practitioner	30-40	10+ Years	Music Producer / Audio Engineer
P4	Creative Practitioner	40-50	12 Years	Instrumentalist (Nyatiti)
P5	Creative Practitioner	20-30	5 Years	Multimedia Artist
P6	Legal & Policy Expert	30-40	12 Years	IP & Copyright Lawyer
P7	Legal & Policy Expert	30-40	8 Years	Gov. Official (Culture)
P8	Legal & Policy Expert	50-60	20+ Years	Academic (Ethnomusicology)
P9	Legal & Policy Expert	40-50	15 Years	Label Executive
P10	Technologist	20-30	6 Years	AI Audio Developer
P11	Technologist	20-30	4 Years	AI Researcher (NLP)
P12	Technologist	30-40	7 Years	Tech Entrepreneur

Document analysis was conducted to complement the interviews. The research utilised a doctrinal legal study to question the compatibility of Kenyan law with the ontology of AI-driven music. This included a set of stress tests on three sets of documents. The first is the Copyright Act (Cap 130): the interpretation singled out the statutory definitions of a material fixation and originality and contrasted



these concepts with the fluidity and oral character of the Kenyan musical traditions to discern the exclusionary triggers and applied the living archive framework suggested by Rens (as cited in Beiter et al., 2022). The second is the Protection of Traditional Knowledge and Cultural Expressions Act (2016): the Act was assessed using the criteria of community ownership, as used by Nwauche (2017). The elements of analysis focused on enforcement mechanisms to ascertain whether the Act enables communities to assert rights over training data or reverts to state-centric bureaucratic control. The third is the AI Terms of Service (ToS) & Licensing Agreements: we have audited the Terms of Service and Data licensing agreement of prominent generative AI platforms (in this case, OpenAI and Suno AI). The asymmetrical clauses and legal language in these texts, which use standard open licensing to circumvent local customary restrictions, were analysed through the prism of 'inequitable openness' (Okorie & Omino, 2025).

The researchers also performed sonic analysis and algorithmic prompting. This entailed a controlled sonic analysis of the results of two large commercial AI music generators, Suno AI and Udio, to assess the aesthetic and cultural effects of generative AI on African music. During January-February 2026, targeted text-to-audio prompts were applied to these platforms with descriptors of Kenyan and regional genres (a Kenyan Benga track with complex guitar lines, an *Ohangla* traditional rhythm, and a Zimbabwean *Mbira* melody). The total number of generated tracks (10 per platform) was 20. The researchers then critically analysed these outputs and cross-calibrated them against the expert auditory feedback from the music producers in our sample (e.g., P3) to determine rhythmic quantisation, melodic stereotyping, and the decontextualisation of ancestral timbre.

Thematic analysis using the six-phase framework developed by Braun and Clarke (2006) was used to interpret the qualitative data, namely the interview transcripts. This started with an extensive familiarisation process, reading transcripts repeatedly to grasp the holistic story of each respondent. This was followed by open coding, in which raw data points (e.g., references to loss of soul, unpaid labour, or community theft) were synthesised into candidate themes. These codes were grouped to reveal clear patterns in the experience through an iterative review process. As an example, economic fears of the technologists (e.g., P4, P11) about market changes were collated into the theme of universal precarity, and the existential fears of creative practitioners (e.g., P1, P9) of erasure into the theme of ontological erasure.

These thematic conclusions have later been subjected to triangulation with findings from critical legal analysis to reveal the structural glitch under study here. This was a legal-ethnographic triangulation carried out by cross-referencing certain statutory failures with the participants lived experiences. Indicatively, the legal ruling that the unfixed works were placed in the public domain under the Copyright Law was directly overlaid onto the narrations of classical instrumentalists, who explained that they could do nothing when AI reproduced their unique, unrecorded beats. This theoretical move confirmed the incompatibility theory of Nwauche (2017), which explicitly addresses the tension between formal legal frameworks and their material fixity and the informal reality of African practices of creativity that are fluid, oral, and communal.

Literature review

Theorising the glitch within law, technology, and African music

While the impacts of technology on music and the failures of intellectual property (IP) law have been well documented, the specific intersection with AI, analysed through the lens of data colonialism and centred on African epistemologies, remains underexplored. The current fear of AI is the latest case of technological anxiety African music has faced; however, history reveals a consistent pattern of struggling with new technology, usually proceeding from initial fear to creative borrowing. This



capacity, as alluded to by Oloko (2023), has led to aesthetic reconstitution, a state in which artists appropriate foreign technologies, such as the electronic musical instruments used by *The Hykkers* for Afro-rock or the synthesisers used in South African *Kwaito*, to create new culture. Varshney (2024) argues that the current glitch differs, as AI alignment risks epistemicide by imposing Western values that exclude IKS, which, according to Kizhner et al. (2021), form a digital cultural colonialism. Consequently, the fear of cultural appropriation risks domineering creativity by enforcing rigid boundaries, as alluded to by Omaki (2023). This, therefore, provides a critical counter-narrative to the ideology of technological determinism.

The emergence of AI has created a general atmosphere of precarity across the creative industries worldwide; however, this specific source of menace differs significantly across geopolitical borders. In the Global North, an area defined by concerted advocacy and strong opposition from European and North American musicians, anxiety is mainly expressed through labour strikes and high-profile copyright lawsuits (Smith, 2025). The argument against this has mostly been focused on the economic displacement and the free use of copyrighted material. Artists in the Global South, in turn, face a threat that goes far beyond the realm of economic thought and approaches the existential. Whereas the creators in the North worry mostly about the loss of livelihood, the African artists are dealing with the threat of ontological erasure, an elemental loss of cultural essence whereby indigenous knowledge is translated into statistical noise by algorithmic games. This is a structural asymmetry; open-licensing models are often blind to infrastructure deficits and capacity limits, thus institutionalising exclusionary relations. Therefore, what is a labour dispute in the North becomes a digital colonialism in the South. Cultural resources are robbed without any mutual value or appreciation (Birhane, 2021). In this regard, the nature of African music is not just a storage of copyrighted information to be licensed; it is a social archive that is threatened by a new type of epistemic violence.

Regulatory voids and the AI glitch

The glitch within the intersection of law, technology, and African music is not merely a technical error but a structural incompatibility between Western IP frameworks and the ontology of African creative practice. The IP systems that exist today primarily rely on an individualistic approach to the creation of IP, and this approach, according to Nwauche (2017), is fundamentally unequipped to defend the IP expressions generated by communities. He identifies a twofold failure: customary norms are underestimated, preventing communities from asserting their rights, while state-centric heritage laws often displace community control. This separation is exacerbated by global treaties such as the Berne Convention, which bases protection on material fixation, which, as Odeke and Kirui (2025) posit, is inconsistent with the living archives of African oral tradition. This introduces an ambiguity gap in which existing laws struggle to balance IKS with the non-human agency of algorithmic output. Consequently, Dahal et al. (2025) describe this era as a meta-crisis of generativity, where Western-centric standards threaten epistemicide, necessitating a shift toward context-dependent moral frameworks or *visesa-dharma* (Varshney, 2024).

This legal trap is further complicated by the international forces of data colonialism and the economic ineffectiveness of the training data supply chain, in which the value of creative inputs is neither traced nor compensated (Lutes, 2025). While recent litigation, such as *The New York Times versus OpenAI*, puts the precarious nature of using copyrighted materials as the basis for Retrieval-Augmented Generation (RAG) models in the limelight, the situation of African creators is unique. According to Okorie and Omino (2025), typical licensing frameworks often reinforce exclusion and result in inequity by treating African dataset owners the same as well-resourced Global North entities. According to them, this inequity has been characterised as an injustice arising from treating unequally situated actors as equals, noting that standard open licences do not account for unequal infrastructures



and capacities. This dynamic facilitates an extractive logic where cultural data is harvested without reciprocal value, effectively subsidising global AI development through the unremunerated labour of human creators (Okorie & Omino, 2025).

Technology in the African context

The introduction of media technologies in Africa has a long historical context, which allows us to see AI not only as an instrument but also as a social and cultural bargain. African interaction with technology has always been characterised by agency, as Haupt (2008) notes that locally acquired instruments have been adapted to accommodate indigenous stories. The use of radio, cassettes, and mobile telephones has, in the past, served as a space for negotiation in cultural production (Jedlowski et al., 2025). But with AI, a different paradigm is presented through the concept of Machine Learning (ML). Compared to past technologies, which captured or broadcast sound, ML models are trained using large datasets, essentially cannibalising the digital archive, to produce new works. This presents a dual reality. On the one hand, AI presents immense possibilities for innovation and the democratisation of production, as evidenced by successful examples such as M-Pesa in Kenya. However, such dependence on the archive has some unspoken threats. Unbalanced training datasets pose a risk of being Eurocentric and digitally orientalist, resulting in dehumanising and generalising multifaceted cultures (Odeke and Kirui, 2025). Additionally, these gaps are compounded by the lack of infrastructure and digital divides, which pose a threat not only to cultural integrity but also to the economic survival of African creatives.

Case studies

Nigerian artist Eclipse Nkasi depicts a pragmatic adaptation paradigm in the sphere of sonic innovation. Unlike visual artists who tend to create their own data, Nkasi has utilised commercially available options to produce his AI-generated album, *Infinite Echoes*. He has bypassed the gatekeepers of the economic establishment inherent in the traditional studio system by applying AI to lyric writing and voice synthesis, effectively cutting both production costs and barriers to entry (Umahi, 2025). Nevertheless, Nkasi retains a human-in-the-loop approach; to him, the emotional resonance and ultimate structure should be left to humans, even though AI provides the raw materials (digital clay) thereof. This example illustrates how African artists are recapitalising extractive technologies to generate economic sovereignty in an industry constrained by resource endowments.

The Nigerian music industry also demonstrates the dualities inherent in the adoption of AI. Whereas small-scale artists like Nkasi feel liberated, larger organisations like Mavin Records are testing the limits of AI. Nkasiobi Chukwu of Mavin is an advocate of the democratizing power of AI, where he says, "Any idea you have, you can make it a reality. That is radical (Eleanya, 2025). On the contrary, traditionalists claim that AI-produced Highlife or Juju songs tend to lack ancestral timbre, the spiritual reverberation achieved through live performances. Such tension reveals a gap between digital natives, who see music as content, and cultural purists, who see music as lineage (Eleanya, 2025).

Conversely, the music production industry in Kenya is marked by a rhythmic resistance approach. According to interviews with producers of the *Benga* and *Ohangla* genres, the intentional subversion of AI model quantisation is already evident. P3 (Music Producer) explained a method of sonic re-humanisation, in which the AI-generated stems are de-quantised and then re-recorded with live percussion to restore the micro-timing details of African polyrhythms. These Kenyan artists create a cultural shield by treating AI output as a sketch rather than a final product, thereby preventing algorithmic erosion of their culture. This method is similar to the resistance of visual artists and focuses on the time and groove element of music, stating that the soul of the rhythm is not subject to automatization.



Theoretical framework

In order to analyse the intricate interaction between artificial intelligence, copyright law and the African music industry, the paper assumes the prism of digital colonialism. This theoretical prism is essential to the analysis of the unequal power relations that shape the interaction between Global North technology conglomerates and cultural producers in the Global South. The analysis is anchored in the concept that the ubiquitous extraction of data from human life constitutes a new colonial project (Kwet, 2019). This new social order is founded upon what Zuboff (2019) terms 'surveillance capitalism', an economic logic centred on the appropriation of human experience as a free source of raw material for profit. Similar to how historical forms of colonialism acquired land and raw materials, digital colonialism steals social interactions, behavioural patterns, and creative products, converting them into exploitable datasets (Couldry and Mejias, 2019). The commercial extraction of online information, even digitised musical heritage, to feed generative AI models, is an expression of this reasoning in the present day. These practices are a novel type of data grab, in which cultural artefacts are annexed, often against their communities' will, to create proprietary technologies that reinforce power disparities in the Global North, thereby perpetuating algorithmic injustices (Birhane, 2021). This framework thus elevates the analysis beyond a critique of bias to a materialist examination of an extractive system. It reveals how emerging technologies have the potential to recreate what Ndlovu-Gatsheni (2018) refers to as coloniality, the logic and the persistence of colonial control, and exacerbate historical inequities in the digital era.

Findings

The doctrinal analysis of legal and policy documents reveals a multi-layered legal architecture that, overall, enables data colonialism. International structures enforce a hegemonic logic that is ill-suited to African cultural traditions; regional organisations offer a disjointed response; and new sui generis national laws offer a central but jurisdictionally limited mode of resistance.

The inadequacy of international frameworks

The basic tenets of the international copyright law, as expressed by the Berne Convention, are quite inapplicable to the overwhelming majority of African musical traditions. The right to protection conditions of originality, individual authorship, and fixation in a tangible form of expression systematically excludes a mass of cultural expression that is oral, communally created, and evolutionary in character (Ficsor, 2005, n.d.; Netshitenzhe, 2013). P2 noted that "*most of the copyright laws do focus mostly on individual ownership... this arrangement makes it difficult to protect traditional songs as they do not have a single author.*" This creates a dangerous legal vacuum. As P6, an IP Lawyer, noted, "*you know, modern copyright laws focus mostly on the individual ownership and fixation. This makes it nearly impossible to protect African music such as Benga... AI companies exploit this exact loophole.*" Because it does not meet the strict requirements of Western IP law, African musical heritage is usually considered to be in the public domain. P1, a veteran traditional musician, expressed the resulting vulnerability, stating that "*when I see a producer actually generating an AI song, a song extracted from my community, it is confusing how the laws will deal with that...*" This legal status allows them to be integrated into the massive datasets that drive generative AI models. Such a chronic problem is not a mere oversight; it reflects a legal construct that favours one form of creativity over another and leaves those vulnerable communities vulnerable to exploitation.

The ambiguity of regional frameworks (ARIPO vs. OAPI)

The main intellectual property institutions in Africa, including the African Regional Intellectual Property Organisation (ARIPO) and the African Intellectual Property Organisation (OAPI), offer different protection modalities that hinder a cohesive response to generative AI and data security. ARIPO, which covers English-speaking countries, has a flexible system of designation, but its



scattered protection and reliance on local courts are unlikely to be sufficient for complex transnational generative AI violations (Mlambo, 2017). To underline the jurisdictional nightmare, P9, Label Executive, observed that *"you know, the regional legal frameworks such as ARIPO are actually badly fragmented, very slow, and in most cases do not support African music... I wish we had a stronger continental cooperation and recognition of community ownership."* We must have the enhanced pan-African collaboration and acknowledgement of community ownership. OAPI, in turn, offers a single system among its Francophone member states that provides simplified enforcement within its bloc (Tran & Attorney, 2025). This lack of harmonisation between the two parallel systems leaves the continent vulnerable to the borderless operations of global tech companies. A single respondent has mentioned that the legal systems are divided, slow, and do not represent cultural realities, and that more effective cooperation, acknowledgement of community ownership, and artist support could be implemented.

The promise and peril of *sui generis* legislation

In response to the inadequacies of international law, several African nations have developed *sui generis* legal frameworks. One of the initiatives rolled out by the Kenyan government, for instance, is the Protection of Traditional Knowledge and Cultural Expressions Act, 2016. This Act is meant to decolonise intellectual property law by vesting communities with exclusive rights over their traditional knowledge and cultural artefacts, music, and dance. It stipulates the requirement of prior informed consent for commercial utilisation and defines ownership collectively, thereby transcending the individualistic Western copyright paradigm. Practitioners easily feel the limits of localised legislation. P4, a Nyatiti player, observed with frustration that *"we actually have the Traditional Knowledge Act here in Kenya, but it is shocking that the big tech companies in the developed economies are actually using our cultural artefacts for free. A local law cannot easily stop a global algorithm."* One of the research respondents underscored the necessity of community education on their rights, simplified registration and support systems, stringent enforcement of benefit-sharing regulations, and public pressure and advocacy to ensure corporate accountability, so that the law can effectively safeguard Kenya's traditional music and culture. Another respondent also observed that the *"big companies still use our (African) culture freely."* Nevertheless, there is a substantial limitation to localised legislation restricted to Kenya, which poses difficulties for enforcement, especially when data appropriation occurs internationally. To effectively combat data colonialism, a unified pan-African strategy is crucial. This framework, alongside national legislation, would enable African nations to negotiate with global technology corporations on an equal footing.

The emerging global response

In May 2024, WIPO established the treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge, which obligates covert disclosure among patent candidates whose inventions involve the use of genetic materials or related traditional knowledge (Noe, 2025; Syam and Correa, 2024). The direct effect of generative AI on music is relatively small, since there are no distinct approaches to transparency. The reason is that the new laws focus primarily on patents, not copyright, which is more relevant to the question of music and data scraping (Noe, 2025). P9 noted that *"nothing has really changed since 2023, when they passed global rules...by the way, my indigenous music is still vulnerable to unauthorised use, and companies profit while communities get nothing. If you ask, I will tell you we need action, not just treaties"*. The limits of localised legislation are keenly felt by practitioners. P4, a Nyatiti player, observed with frustration: *"you know here in Kenya we already have the Traditional Knowledge Act; I wonder why the big tech companies in the Global North still use our culture freely without any consent or compensation. Do you mean that the local laws cannot easily stop these foreign algorithms? The treaty does not in any way support the creation of new legal protections for traditional knowledge or cultural expressions like music. It does not fully cover digital sequence information (DSI) or its*



derivatives, creating potential loopholes (Noe, 2025; Syam & Correa, 2024). However, there is a huddle concerning ultimately ratifying and executing these new laws' safeguards. Noe (2025) reports that, as of December 2024, 38 treaties had been signed but were never ratified in Malawi. This has resulted in an overriding belief that little has changed so far regarding the vulnerability of traditional music. This is indicative of broader issues with the weaknesses in established intellectual property regulations and the continued necessity of specialised legal tools. Syam and Correa (2024) conclude that the treaty is now considered an important yet insufficient step towards equity.

The sound of algorithmic bias

The interplay of African music and generative AI is fraught with pitfalls of algorithmic bias and epistemic injustice, largely due to non-representative training sets and the constraints of existing generative AI models (Kirui et al., 2025, p. 20). Upon inputting terms such as Benga, Afrobeats, or Zulu war chant, generative systems exhibit some of the most significant gaps, which can be attributed to the so-called Rhythmic Flattening. This is where the polyrhythms and overlapping timelines of many African musical cultures have been reduced to generic 4/4 dance beats. This lowered the tension and feel of the original styles, as nuanced syncopations and multi-layered percussion were removed. P10, an AI Audio Developer, explained the technical mechanics of rhythmic flattening, stating that *"the AI models are generally trained predominantly on Western 4/4 metres. When you prompt Suno for an African polyrhythm, for instance, the algorithm automatically quantises the rhythms to the conventional ones... Which, you know, of course, erases the human swing because its statistical baseline treats those syncopations as something like mathematical errors... Another problem that AI poses is Melodic and Harmonic Stereotyping. The AI tends to simplify into pentatonic scales or rudimentary melodic patterns more frequently, in a kind of shorthand for African-ness, rather than acknowledging the variety of musical systems across the continent. An example of this is a "Kenyan Benga track" that could create a generic guitar tune lacking the characteristic complex lines and harmonic patterns of the genre. Lastly, and most significantly, was the Decontextualisation of Timbre."* Chatterjee observed, "AI tools like Udio replicate *Mbira* melodies but strip them of cultural context" (2024, p. 1). Generative AI could mimic the sound of a Zimbabwean *Mbira*, yet it remained an empty signifier, devoid of its connection to ancestral veneration, storytelling, and spiritual purpose within Shona culture. The sound was present, but its soul was absent.

Digital orientalism

Building on Edward Said's theory of Orientalism as a hegemonic discourse of representation (Said, 1978), Digital Orientalism has often resulted in the algorithmic production of cultural stereotypes. Digital Orientalism is defined as the process where generative AI systems, mainly trained on biased, incomplete, and decontextualised datasets, generate and perpetuate essentialised, exoticised, and often inaccurate representations of non-Western cultures (Mahoney, 2022). P2, an Afro-pop musician, described the stereotyping inherent in generative AI outputs, noting that *"wherever you actually prompt Suno for an Afrobeat track, it just gives you the most generic, watered-down pentatonic melody. It sounds like a Hollywood movie's idea of Africa, not what is actually happening in the streets of Nairobi"*. This is actually an automated form of stereotyping that functions to reinforce a monolithic and ahistorical view of Africa. Just as 19th-century European writers crafted a textual 'Orient' to suit their ideological purposes, 21st-century generative AI models and algorithms risk entrenching similar biases by producing a sonic Africa. P8, an academician, while discussing the decontextualization of timbre, alluded that the *"AI can actually mimic the acoustic signature of a traditional instrument just perfectly, but it at the same time completely strips away the cultural context of the music."* This AI-generated African sound may echo the biases of its developers and data sources, rather than genuinely representing the diverse African musical idioms.



Resistance and adaptation

Far from African artists being just passive victims, some are now actively engaging with AI, formulating tactics of resistance, appropriation, and co-creation. Nigerian artist Malik Afegbua, for instance, perceives AI as a co-creation instrument, actively shaping the final artistic outcome rather than letting the technology dictate it (Heugas, 2024). P3, a Music Producer, detailed a strategy of 'sonic re-humanisation' stating that *"I always use AI to generate stems for padding, but you know, they are not enough, I must always de-quantise them and add a layer, especially for traditional percussion over it."* In other words, AI gives producers the digital clay, but they have to enforce a cultural firewall. The soul of the *Ohangla* groove can never be automated as it must always be played. This viewpoint aligns with the AI's perspective as a creative partner. P12, a Tech Entrepreneur, while highlighting the potential of AI for independent creators, noted that *"AI can never be rejected, you know... it is now saving, for instance, upcoming Kenyan artists who cannot afford to record in a high-end studio in Nairobi..."* AI extractive tools are being repurposed to achieve economic sovereignty for the Kenyan artists. This includes the decolonisation of AI tools through training to primarily overcome biases in datasets. This will guarantee the precise cultural representation, as exemplified by Afegbua's "The Elder Series" (Heugas, 2024). P11, an AI researcher, alluded to structural solutions, stating that *"the goal towards this resistance is not just about tweaking the audio but actually building our own African AI models that understand our music"*. Moreover, initiatives such as the San Code of Research Ethics (2017) and the Maasai Intellectual Property Initiative (MIPI) showcase African communities' proactive assertion of data sovereignty and cultural preservation against potential exploitation by AI systems (Dugeri, 2024).

Comparing the idea of Digital Orientalism with approaches to decolonising the Digital Audio Workstation (DAW), an important point emerges: the soul of African music in the age of AI is not inherent in a sound wave but manifests in the creator's intentionality. Generic AI models make sonically attractive but soulless music and produce a statistical recombination of data without lived experience. van Schaik (2025) argues that listeners believe computers are not yet able to outperform humans in creating sensitive and emotionally stimulating music. After all, the attempts of Nkasi and the Kenyan producers are what they can be called "soul": an intentional, autonomous exercise of cultural self-representation mediated by technology, but not through it. The battle against soulless AI music, then, represents a broader struggle for artists to retain control over narrative, context, and cultural production methods.

Discussion

The section synthesises results from legal research and semi-structured interviews to present an empirical argument on how AI affects African music. It challenges the relationships among legal systems, cultural representation, and resistance, thereby explaining its general applicability to postcolonial theory and associated cultures.

The vicious cycle and the virtuous resistance

By applying the data colonialism analytic framework, the current cycle of algorithmic extraction is identified as repeating past colonial dispossession, and accordingly, the artists' digital resistance can be seen not only as a technical workaround but also as a necessary postcolonial praxis of reclaiming sovereign agency. The empirical data reveal that there has always been a tension in the African music ecosystem. The legal regimes that have become part of the hegemony have created structural incompatibilities, fostering an environment that has enabled the large-scale mining of cultural information by technology companies. Rather than merely restating the mechanics of algorithmic bias, it is important to consider the ontological implications of music. The resulting misrepresentations of algorithms are not only economically dangerous but also contribute to pre-existing system injustices (Kirui et al., 2025). However, in the fieldwork, Kenyan artists have been shown to be active



participants in this cycle. Sonic re-humanisation and other actions of Digital Resistance are examples of a relevant counter-movement to adopt alienating technologies in an active, subversive, and decolonising way to realise creative sovereignty.

Implications for digital colonialism theory

The study is a significant extension of the digital colonialism theory, offering a modern and aesthetic example of the case. It shows that the influence extends beyond economic or surveillance aspects to shape cultural memory and artistic expression. The cultural identity artefacts are the extracted raw materials. This paper will challenge the deterministic account of technology by tracing how African artists actively resist digital dispossession. The creation of sovereign datasets and intentional sabotage of quantised algorithms are both actual forms of data decolonisation. Such practices outperform critique by creating other technological infrastructures (Walter et al., 2020) that destabilise the pillar of the extractive model of digital colonialism and re-establish narrative authority. These results push the digital colonialism theory beyond the realm of economic surveillance and into the realm of systematic cultural memory theft and homogenization, showing how algorithms can imbue the soul and ancestral timbre of indigenous music.

Broader implications

Although the challenges posed by AI to intellectual property and ownership are universal, i.e., they affect every musician across the globe, the data-mining trends, algorithmic stereotyping, and legal deficiencies described herein pose an acute threat to oral traditions, i.e., communal traditions. Such weak points are likely to recur in other areas with strong indigenous cultures, especially in Latin America, Southeast Asia, and among First Nations communities in the Global North. The tension between the extractive logic of generative AI and the need to protect cultural sovereignty is the main conflict. The basic questions remain: who is the owner of culture? Who has the right to be its legitimate representative? What can be done to ensure that the democratising effects of a datafied world are distributed equitably to build a fairer digital future? Ultimately, the postcolonial analytical prism shows that the particular Kenyan resistance to generative AI is a micro-reflection of broader, more global algorithmic control, which risks the ontological preservation of collective cultural practices globally.

Conclusion

This study has explored the two-fold crisis that generative AI has brought to the Kenyan music industry. This crisis spans from the inefficiency of existing legal frameworks to the ensuing risk of ontological erasure. These reveal these challenges as modern manifestations of data colonialism. This analysis shows that communal heritage is not safeguarded by Western-centred copyright laws, thereby allowing uncompensated data mining that supports extractive algorithmic patterns. As a result, the models often produce culturally flattened forms of music that destroy the art's ancestral context. However, strong counter-movements can also be predicted by the research. By utilising digital resistance strategies, Kenyan artists act as sovereign agents in a postcolonial ecosystem, thus repurposing these tools to decolonise the digital audio workstation. The determining elements that give music its nature in the algorithmic paradigm are the artist's sovereign agency, lived experience, and intent.

To safeguard African digital heritage, this study suggests a multi-stakeholder approach. The policymakers, especially in the African Union (AU), must develop pan-African sui generis law and communal data trusts. The technology companies would need to seek radical transparency in data sourcing, shift to moral licensing, and invest strategically in cultural competence. Lastly, an artistic empowerment initiative based on digital literacy will foster collective advocacy, increase bargaining power, and influence the culture toward adopting the human-in-the-loop paradigm, which focuses



on genuine creative production. Cross-continental and longitudinal studies are still urgently needed to examine the future, as well as a dedicated investigation into the development of a community-owned, open-source AI system trained on ethically curated, sovereign continental information.

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