What is the role of film in society? Who decides what films to be produced? These questions are discussed in this chapter. Film can be much more than mere entertainment. By touching people’s hearts, films can change their feelings and beliefs in a more effective way than legislation and education that speak to the mind. This kind of manipulation is tempting to exercise, and the strong market position of the US films has a strong impact on conveying American values around the world.

A strong national film policy can strengthen the reflection of national values, and it is important to recognise independent production to ensure cultural diversity. Films can show us the path to the future or fight the battle of yesterday; it is up to the policymakers to choose.
Presentation of the Malaysian Situation:
The Legislative System to Support Cinema: Instruments and Policies

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Snapshot of the Malaysian Situation

Malaysia is known as a land of tropical contrasts, a melting pot of cultures of three great civilisations: the Middle East, China and India. It has a colourful history dating back to when the Portuguese and English ruled the land and Arabian, Chinese and Indian seafarers traded spices, cotton and porcelain. With a population of about 25 million people of various ethnic origins, Malaysia is truly a cultural potpourri. It has a multiracial, multicultural and multi-religious society. Its system of government is parliamentary democracy and it has an open economy and actively promotes free trade.

Films from United Kingdom, France, Japan, India, Indonesia and China were first screened in Malaya (later called Malaysia after independence in 1957) in the early 1900s and the first Malay film “Laila Majnun” was produced in 1931. Today, foreign films dominate cinemas, television and home videos. In 2004, Hollywood films accounted for 53% of box-office takings while Malaysian films took 22%, Hong Kong films, 17% and other films, 8%. However in the last decade, Malaysian films have improved their box-office takings from below 10% to 24% in 2003 and 22% in 2004.

Presently there are about 230 screens with 65,000 seats throughout the country. The exhibition sector is dominated by two cinema operators, Golden Screen Cinemas (79 screens with 21,000 seats) and Tanjong Golden Village (48 screens with 10,000 seats).

Malaysia produces on average 13 films a year with an average production cost of RM 0.8 million to RM 1 million (approx. €170,000 - €217,000). In 2004, a record of 24 films were screened and box-office revenue totalled RM 27 million (approx. €6 million). The annual number of films produced is expected to hit 30 in 2005. There is no studio system in the production sector. Most films are shot on location and produced by the independent sector.
**Introductory Chapter: Presentation of the Malaysian Situation**

### TOTAL CINEMA ADMISSIONS AND GROSS TAKINGS

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<thead>
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<th></th>
<th>2002 (mil.)</th>
<th>2003 (mil.)</th>
<th>2004 (mil.)</th>
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<tr>
<td>Total Admissions</td>
<td>10.24</td>
<td>12.83</td>
<td>16.69</td>
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<tr>
<td>Total Box Office</td>
<td>RM75.93</td>
<td>RM96.75</td>
<td>RM124.62</td>
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<td></td>
<td>€16.56</td>
<td>€21.10</td>
<td>€27.18 (approx)</td>
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### GROSS TAKINGS

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<thead>
<tr>
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<th>2003</th>
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<tr>
<td>Local Films</td>
<td>23.37 (24%)</td>
<td>27.24 (22%)</td>
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<tr>
<td>English Films</td>
<td>55.02 (57%)</td>
<td>66.25 (53%)</td>
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<tr>
<td>Chinese Films</td>
<td>13.17 (14%)</td>
<td>21.76 (17%)</td>
</tr>
<tr>
<td>Indian and Others</td>
<td>5.19 (5%)</td>
<td>9.37 (8%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>RM96.75 mil.</strong></td>
<td><strong>RM124.62 mil.</strong></td>
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**National Film Development Corporation Malaysia (FINAS)**

The National Film Development Corporation Malaysia (FINAS) was established in 1981. FINAS is a statutory agency under the Ministry of Culture, Arts and Heritage as of 2004. Previously it was under the purview of the Ministry of Trade and Industry from 1981, and the Ministry of Information from 1985.

The main objective of FINAS is to promote, nurture and facilitate the development of the Malaysian film industry. On a broader level, it ensures the creation and availability of Malaysian screen content. It also aims to enrich the Malaysian national identity internationally by making available Malaysian screen content and culture to all and developing a national collection of moving images.

In the initial stages of its formation, the Regulatory Function was given prominence. Licenses were issued for the three main activities of film production, distribution and exhibition to curtail and control illegal activities like pirating and illegal video distribution. Licensing was one of the main sources of revenue to cover the operational cost of the organisation and for financing film projects. However, this revenue was insufficient and, as a result, from 1981 to 2002, FINAS was severely handicapped in carrying out its Developmental Function.

**National Film Policy**

In 2005, a National Film Policy was proposed by the Minister of Culture, Arts and Heritage and approved by the Government. The National Film Policy is considered as the catalyst and prime mover towards reviving and reinventing the development of the local film industry and making Malaysia an international centre for filmmaking.
the National Film Policy, some of the measures being undertaken to develop the industry are:

**Feature Film Funding Scheme**
This scheme was launched on 16 March 2005. The Government has extended a RM50 million (approx €10.9 million) loan facility, managed by FINAS and a local bank, to provide funding to Malaysian film producers. Eligible film producers will be able to apply for a maximum loan of RM3 million (approx €654,520) to produce a feature film. This is a serious funding commitment by the Government to support feature film production and to spur the production of films that have the potential to be both commercially and internationally successful.

**Incentive Assistance Scheme**
Under this scheme, grants, loans and other financial or non-financial assistance are made available to individuals or organisations whose activities can contribute towards the development of the local film industry. Activities by the various film associations promoting professionalism in the industry will be eligible for assistance, and funds will also be used for sending award-winning and talented filmmakers and artists abroad to gain new experiences and exposure through attachment and training programmes. This scheme also provides assistance to young talented filmmakers to compete in International Film Festivals and widen their creative talent and horizons through exploring, networking and sharing experiences with others in the global village of filmmaking.

**Film Trust Fund**
This fund provides assistance to individuals or companies to produce short films and documentaries with the potential to participate in regional or international film festivals.

**Entertainment Tax Incentive**
Entertainment Tax on the screening of local films (25% of ticket price) is paid back to the respective local film producers to encourage the production of more local films.

**Compulsory Screening of Local Films**
Cinema operators are legally bound to screen local feature films as scheduled by FINAS. Failure to comply is a breach of the Film Exhibition Licence Condition and cinemas are liable to a compound and/or revocation of the licence issued by FINAS.

**Production and Post Production Facilities**
FINAS has also made available the following facilities at very competitive rates to spur the development of film production activities:
- Finaspost - Post Production Facility
- Studio Sound Stage
- Production Equipments Rentals
Introductory Chapter: Presentation of the Malaysian Situation

• Production Studios
• Theatrette
• Film Appreciation Events
• Event Management-festivals, seminars, forums and promotions
• Film Resource Centre and Library

Long-Term Plan
FINAS will embark on setting up a dedicated National Film Complex, which is estimated to cost RM100 million (approx €21.8 million), to be built under the Ninth Malaysia Plan (2006 - 2010).

Training and Human Resource Development
FINAS will organise more Master Class Trainings, Workshops, Seminars and Conferences with Experts and Resource Persons - Directors, Cinematographers and Scriptwriters - under the guidance of international experts. Local film practitioners can benefit from these workshops through learning, sharing experiences and networking with experts who are leaders in their respective fields.

Study Loans and Grants
FINAS will source public funds to provide study loans and grants to deserving, creative and talented young people who want to make filmmaking their career.

Promotion and Marketing
More emphasis will be placed on facilitating the promotion and marketing of Malaysian films through International Film Festivals and Film Markets.
Colonial Policies, the Marketplace and the Malaysian Film Industry

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Introduction

John Hill (1986) argues that cinema is not simply an economic industry. In his work on British cinema, he emphasises that we need to understand the idea of the relations of production or the political economy of the industry in which the products are produced. This perspective looks at how film, as the product of political-economic relations, was influenced by the event of May 1968, a massive students’ and workers’ movement in France in 1968. In the aftermath of May 1968, film theory re-emerged with the incorporation of critical ideological discourse. It caused most of the influential film journals, for example “Cahiers du Cinéma,” “Tel Quel,” “Cinéthique” and later “Screen” in the United Kingdom, to undertake and re-evaluate the theoretical paradigm necessary for understanding the subject of film and its relation to the larger context of social relations, politics and economics of late capitalism.

Influenced by the work of Louis Althusser, film is no longer seen simply as a product. Althusser’s notion of ‘ideology’ had influenced the way films are investigated and understood. The consequence of repositioning the theory of ideology in understanding film resulted in the need for films to be investigated not just by examining the ‘idea’ and ‘knowledge’ behind the subject matter, but also, more importantly, to understand the process by which these knowledge and ideas had come into being. Therefore, the most important element that needs to be addressed is the structure in which the meanings of these ‘ideas’ and ‘knowledge’ are produced and appropriated by the people. According to Rodowick (1988:69), the ideological role of cinema is not just on the level of form or content, it also involves “the spectator’s way of seeing images on the screen.” The whole project of the theory of ideology in film is basically to understand cinema and its relationship with the larger framework of the capitalist system. This is important in understanding Malaysian cinema.
The most essential task is to locate and understand the relationship between the capitalist social and market structure, and the ruling elite in Malaysia. It is on this axis that the ruling elite’s ideology is produced and then disseminated through the superstructure of society. The Malaysian film industry, therefore, can no longer be seen only as an artistic and aesthetic practice. It has to be considered in terms of its relationship to the economy. Thus film is always political and ideological. It functions as ideology in which the individual is ‘hailed’ and then ‘assimilated’ in the “vague, unformulated, un-theorised, un-thought-out world of dominant ideology.” (Rodowick, D.N, 1988:76). This is part of the ruling ideological discourse in which individuals in society perceive their relationship to the real world.

The studio system of yesteryear

The film industry we had earlier (circa 1930s – 1977) was one of the main cultural industries in Malaysia. The industry however is a structure that comes out of a competitive liberal market, which in turn is due to the expansion of capitalism and the process of colonialism. The early studio system in Malaysia had many characteristics of the Hollywood studio system in which we had a rank of stars and studios equipped with all the filmmaking facilities. The conduct and the business practice of the industry were almost similar to the ‘Big Five’ in Hollywood especially when the two major studios, Shaw Brothers and Cathay Organisation, created an oligopolistic market structure in which they took control of everything from producing, distributing to exhibiting the films.

The film industry was (and still is) a popular national cinema. It is created by capitalist enterprise with the purpose of accumulating greater capital. It is a third world cinema that has the influence of capitalism which is equipped with a complex industrial structure. However we cannot simply apply the notion of ‘Third Cinema’ as formulated by Teshome H. Gabriel (1982) to explain the Malaysian film industry in general. Malaysian cinema is not a ‘revolutionary cinema’, it does not use the tactic of ‘guerrilla warfare’ in which “the camera is likened to a rifle as the inexhaustible expropriator of image weapons and the projector likened to a gun that can shoot twenty-four bullets a second” (Solanas, F and Getino, O. in Nichols, B. ed. 1976:58). According to Gabriel (1982: 3):

“Chiefly film in a third world context seeks to;
1. Decolonise minds
2. Contribute to the development of radical consciousness
3. Lead to a revolutionary transformation of society
4. Develop new film language with which to accomplish the tasks”

On the surface, the Malaysian film industry can never be comfortably placed within these categorisations. However, there is a possibility that there are certain meanings and codes, which suggest or criticise the existing social order but never try to provoke radical consciousness among the people.
The industrial environment as suggested by Gabriel was an environment in which the national film industry worked very similarly to the practice of Western film industry, in particular Hollywood. The main objective of the industry is to provide entertainment to the masses and “the sole purpose of such industries is to turn out entertainment products which will generate profit” (Gabriel, T.H in Willeman, P and Pines, J. eds. 1989:31). The Malaysian film industry is a popular national cinema and to a certain extent this industry is a popular ‘Malay’ cinema, an indigenous film industry which concentrates on the making of monolingual films in a multi-ethnic society. This is because, apart from the language, most of the subjects and themes of the films are concerned with the life and social condition of the Malays, the biggest ethnic group in Malaysia, while other ethnic groups are well underrepresented.

Gabriel’s suggestion, that the thematic concerns of third world national cinema during this era are very much like Hollywood’s (which is to provide entertainment), is not really the case in the context of most early films produced by the industry. The concept of entertainment had become an ‘absurd’ term. Early films voiced strong criticism against a certain conduct and behaviour of the middle class and ruling class and these films often reassessed the relationship between the working class and these classes. However these films still possessed a certain commercial element, which drew large numbers of audience. What we can derive from this phenomenon is the fact that the owners of the studio were not really concerned with the subject matter of these films; they were capitalist entrepreneurs who put profit above everything else and they did not exercise any form of censorship as long as their profit-making activities could be ensured.

**Independent film culture**

The late 1960s and early 1970s were the darkest period for the Malaysian film industry. Artists and studio workers had to work long hours. Workers lived in dilapidated houses and their well-being was not properly taken care of by the management. There was no easy solution in sight as the film industry was also facing other problems. (Ahmad Idris. 1987: 29-31). The market was saturated with imported films that were far superior in production quality and this contributed to the decrease in the popularity of Malay films. Production costs were also rising. It was cheaper to import films rather than to produce one.

Technological developments that had taken place abroad were not taking place in the industry. Filmmaking equipment was increasingly outdated and there was a drought of lively subject matters that could engage the audience. (Ahmad Idris. 1987: 34-37). Stylistically, Malay films were also inferior as compared to imported films. All sorts of problems contributed to the downfall of the industry. In 1967, Shaw Brothers closed down their Malay Film Production (MFP) studio in Singapore. This closure was followed by the mass retrenchment of film artists at the studio. Cathay-Kris followed the Shaw Brothers’ move not long after the MFP was closed. The economics of production and
the logic of capitalism forced these studios to be closed forever. Malay films had lost their popularity with the audience and stiff competition from other cinemas made it impossible for these studios to maintain their output. Several demonstrations by the workers also weakened the industry and there were no possibilities for the industry to revive itself.

The closure of these studios also left the Merdeka Studio in Kuala Lumpur as the only company that produced Malay films well into 1977 when it finally bowed to the pressure of the logic of capitalism. The Malaysian film industry at this moment was having so many difficulties. Apart from the production process, which involved a large amount of capital, the industry also had to deal with the two giants (Shaw and Cathay Organisation which had left the production sector) that still controlled the distribution and exhibition sector. There were a few independent companies in the 1970s trying to venture into film production and they often encountered many barriers set up by these giants. Thus, this did not encourage them to increase their production. This blockade left the market open for cheap imported foreign films, which guaranteed the highest possible profits for Shaw and Cathay. In 1977, Merdeka Studio in Kuala Lumpur came to the end of its journey and its last production was a film called “Loceng Maut”. The closure of this studio ended the golden era of the studio system and to some critics it signalled the end of the Malay film industry itself. The glorious years of a productive Malay film industry in Malaysia ended and became history. Small film companies started to emerge in the 1970s but this positive development could not elevate the Malay film industry from the slump and failed to revive the industry to its golden era of the 1940s, 1950s and 1960s. This, however marked the dawn of the new film culture which I loosely term here as the independent film culture which became the very basis of the existing film industry today.

This new film culture needs to be understood within a larger social context. As part of the larger communication industry in Malaysia, the film industry is very much under the constraint of the whole interplay between the capitalist social system and the state. The capitalist social system provides the artists, critics and academics with subjects which enable them to produce and write about films, while the state functions as a body of legality that provides the industry with a certain degree of control through the extensive use of laws and regulations.

From another perspective, the state and the ruling class are involved indirectly in the business of communication, thus creating a public sphere in which the imbalance in the flow of information creates a public which is deprived of information. Because of this rigorous control, the communication industry has ‘enjoyed’ only a limited sense of ‘freedom’ and this freedom is to produce ‘meanings’ that go hand in hand with the ‘flow’. In this sense, the communication industry in Malaysia functions as an ideological state apparatus in which its very existence is very much dependent upon the social system that has been created by the state. It leaves a very shallow and narrow room for communication to breathe and function as the ‘fourth estate’ and most of the time, because of the external pressure, the communication industry has to comply and
obligingly provide 'safe materials' that will not question the existing political and social system and the status quo. The film industry also is subjected to this kind of control and it is very much reflected in the subject matter of the films produced by the industry.

**Politics, economics and the film industry**

Analysis of cinema as an industry and institution should provide a holistic view which will explain the phenomenon as a whole, not merely as an industry with autonomous social and economic power. Thus, this paper argues that the film industry is an economic institution and in the case of the Malaysian film industry, the economy was a crucial factor which determined its development. Another essential factor is the function of the state in regulating and controlling the industry.

In a neo-capitalist state like Malaysia, the interplay between capitalism and its forces, the function of the state, and the legacy of the dominant ideology are important and should not be underestimated and I would argue that any analysis of Malaysian cinema must be located within and grounded on a wider analysis of the capitalist economic and social system, politics and the role of the state. Hence, the whole historical process of Malaysian cinema needs to be addressed beyond the more superficial questions, such as technological development, its superstars, and the films produced. As part of the larger cultural industry, the surrounding issues of the economic, political and social contexts are much more imperative and must be explored before we can proceed to examine the products of the industry.

At first instance, this basic underlying argument seems to bury the subject of cinema under the vague and vast sphere of the economic and the social. However given the fact that the industry was first developed and then declined because of the logic of capitalism, it is crucial to place cinema under a close examination within the economy and its related features. Furthermore cinema is not an autonomous institution. It operates within a larger social system of the society and not in a vacuum. The product of cinema is also partly a reflection of the social system and the norms, values and ideas that exist in society. Hence, it is essential for us to look at cinema as a mode of communication and cultural expression determined by the structured relations of the economic and the social.

Before turning the discussion towards the idea of politics and economy, it is necessary here to provide some ideas about capitalism. According to Garnham (1992:21), "capitalism is a model of social organisation characterised by the domination of an abstract system of exchange relations". It is abstract in the sense that the working class has to sell its labour power to the capitalist class "in exchange for the means of their livelihood". (Giddens, A. 1980:33) These are the exchange relations which, according to Garnham (1992:22), will provide the society with "a concrete material reality". Under capitalism, the working class or the labour is reduced from an integral human being to the status
of a commodity. Class domination is a preordained characteristic in capitalism and through domination of one class over the other, the whole social relationship is constantly being reproduced. At the same time it widens the gap between classes by enhancing the unequal distribution of wealth and more importantly the distribution of power in society.

Capitalism is an economic and social system which is based largely on class relations. However, it is also important to say that the class who dominates and controls the realm of the economic might not be the ruling class. Hence the class who controls political power i.e. the ruling class, might need to formulate policies which will either run parallel with capitalist interests or are manifestly supportive of the activities of the capitalist class. Giddens (1980:34) has argued, "capitalism depends upon the negative reciprocity of economy and polity, the domination of the bourgeoisie as a class is secured by political freedoms", and therefore, capitalism needs a market sphere which is free from any form of political control. That is why a ruling class and a state that can determine this sense of freedom are needed in order for capitalism to develop. Briefly this is the system in which Malaysian cinema exists.

What we need to understand about the film industry in Malaysia is the fact that it is part of the larger capitalist system and therefore films or the products of this industry can only be explained in terms of how they contribute towards the development of capitalism itself. We can never understand why Shaw Brothers had to close its operations in 1967 or why they started their business if we do not see film industry as part of capitalist system. It is interesting enough to know the fact that early Malaysian cinema had been developed in what was a real, commercial, industrial arena. Film companies and their Hollywood-like studio systems were set up and financed by capitalists with motives to enhance greater capital accumulation and these capitalists were 'outsiders' and 'foreigners' to the culture of the society. In this sense, we can argue that without doubt their involvement was merely commercial and in so doing they managed to capture the attention of the audience, successfully formulating a 'popular formula' for their films and drawing a large audience to their chain of outlets.

It also needs to be stressed that in order to explain the decline of the industry in the 1970s we need to understand that the whole processes of production, distribution and exhibition are very closely linked to the logic of capitalist business which is based on manipulation and exploitation of the market. The shifting of the function of production in the context of capitalism played an important role in developing the industry and the process of its decline. Indeed, there are other factors which contributed to the decline of the industry but the main reason was because the market was no longer expandable and the industry was not generating enough profit for capitalist enterprise to continue its operations. In other words, failure to generate profit had forced the capitalists to withdraw from the industry in order to prevent more losses in their investment.

In this situation, the idea of film as a cultural artefact is put aside and, according to
Garnham (1992: 32), because cultural production is a direct result from capitalist revenue, they directly occupy a subordinate status to the laws of development of capital. That is why when capitalist logic has signified and determined a certain limit for the production of culture in relation to capital, cultural production has to be stopped at this limit. In other words, the film industry is also a cultural industry which falls within the capitalist mode of production. Garnham (1992: 32) defines cultural industries as “institutions in our society which employ the characteristic modes of production and organisation of industrial corporations to produce and disseminate symbols in the form of cultural goods and services, generally, although not exclusively as commodities”. What is more important in analysing the cultural industry is to realise how the production process and the control of distribution and dissemination of these symbols help to make dominant ideas emerge along with cultural products.

Competition in the marketplace is one of the essential mechanisms of the capitalist production system and in order to understand its nature, we have to examine the structure of the industry. We also need to establish a linkage between the production process, distribution and exhibition. In short, we need to look at the economics, control and ownership of the industry. We need to understand that film production is a risky business, financial risk is the major concern and as part of the capitalist industry no one would invest in such a project if it cannot guarantee a fruitful outcome. According to Allen and Gomery (1985:132) “no national cinema, however large or small, has escaped the need for enormous cost associated with production, distribution and exhibition”. We have to accept the fact that filmmaking is a business, thus the main objective is to generate profit in the process of larger capitalist capital accumulation.

An analysis of the film industry must start with an analysis of a specific historical moment with capitalism as the mode of economic and social production and, inevitably, class conflict, which symbolically has been conditioned to suit the needs of a certain class in society. This kind of analysis “distinguishes itself from a neo-classical or marginalist approach first by placing its emphasis on production or supply rather than consumption or demand as the determining moment” (Garnham, N. 1992:7). This approach “never takes the social construction and maintenance of the given system of material production for granted. It recognises that system for the “unstable human achievement that it is, and thus stresses the problem of disequilibrium, the constant threats to the smooth working and continuity of the system, rather than assuming equilibrium” (Garnham, N. 1992:7). Therefore, the importance of looking at the politics and the economics is to provide an analysis of the social structure of the society and its relationship to the social power of capitalism. In other words the production process is the crucial factor which needs to be examined before any analysis on the product can be undertaken. The social system in which the industry exists is a very complex system and constantly at risk. The system is always under threat and unstable and it is moving in a disequilibrium which can be challenged rather than stressing its stability.

Capitalism in this sense is a complex system of social integration and because of its own
intricacy it is potentially exposing itself to crisis. Marx (1964:67) has underlined a very important proposition in his book 'The German Ideology' - the question of control of the economics and the distribution of ideas which formed the basic philosophy of analysis of the control and ownership of the mass media. Murdock and Golding (1977:15) have suggested that "control over the 'production and distribution of ideas' is concentrated in the hands of capitalist owners of the means of production," thereby the idea that becomes dominant in this distribution system is the one that belongs to this class and, as a final result, the shape of thinking of the oppressed class can be made compatible with the ideas of the dominant class. In this complex relation, ideology or the symbolic condition of social life that has been passed to the subordinate class plays an important role in maintaining the very existence of the whole social system.

**Film and ideology**

While this paper has much sympathy with the interpretations made by Golding and Murdock, there are several other questions and problems that need to be clarified. In the first place, Marxist critics tend to blame and put every explanation behind the heavy curtain of ownership and control or the economy, thus creating and reducing the dynamics of Marx's proposal to a merely economic one. In a neo-capitalist state, the dynamics of Marx's proposition need to be seen beyond the relationship between the class who owns and controls and the class who is being dominated. In many cases, the state and the ruling class are the main actors in ensuring the system of distribution of ideas is under their control.

Marx (1976:425) argues that the superstructure which exists in our society is determined in its existence by the base. The mode of production or economic relationship is the base or the determinant element in our social life, even though the relationship between our social life and society is very complex in nature. The base, as described by Marx, is the economic system in society. For many, it influences the superstructure or institutions and values of the society in a very complicated way. Therefore, what is needed in any analysis of cultural production is to examine the way in which the dominant class exercises control through the extensive use of laws and regulations, and the general economic condition in which this control takes place.

This leads us to the question of ideology and its relation to the base/superstructure metaphor. According to Marx and Engels, (1964:67) the class who owns and controls the mode of production of a given era at the same time has control over the production of ideas and their ideas are the dominant ideas of the society. Film as a part of the larger capitalist economic and cultural enterprise plays an important role in disseminating 'ideas' in society, regardless of whose ideas they are and how these ideas affect the people. The Malaysian film industry is part of the society's superstructure and through an understanding of the structure of the industry we will be able to develop a link between the industry and the social system. The industry exists as part of the larger social system that governs the existence of society. Rules and regulations...
churned out by this social system provide a framework in which the industry exists and Malay films are produced. In the above situation, the ruling elite and the capitalist class might or might not be the same. Even if they are not the same, the ruling elite still has a variety of strategies to control the distribution of ideas. Because of this obvious connection, any analysis of the Malaysian film industry should position the industry within the wider context of the dominant ideological system in Malaysia.

Such an ideological system tries to popularise perspectives such as nation building, national integration, modernisation and rapid physical development. As a system of representation, films or any works of art dwell within a particular ideological framework and this cannot be denied even though the concept of ideology is so ambiguous. As Zizek (1994:3) has argued:

"Ideology can designate anything from a contemplative attitude that mis-recognises its dependence on social reality to an action-oriented set of beliefs, from the indispensable medium in which individuals live out their relations to a social structure to false ideas which legitimate a dominant political power."

What exists in society is a mystification of real social relations and this very real relation is represented in so many cultural forms including films. The complexity of social relations, political and economic systems, and cultural and religious systems determines the construction of dominant ideology.

In a country like Malaysia, ideology can no longer be seen merely as false consciousness. It is a system that mystifies the logic of social relations. Hence, any values and practices that we inherit in this social system are real things. It is when society is divided by class, it is also true that this division is held for so long so that the existing social structure will continue to be seen as legitimate. It is also true that the mass representational system works to uphold a specific ideological framework which functions to legitimise the hegemony and the status quo held by the elite. Thus ideology in Malaysia is not merely about who controls material production but also the mental production of society; it involves a complex web of cultural forms, the political system, economic system and religious and social system of the society.

**Colonial policies linger**

From the 1940s to the 1960s, the film industry in Malaysia was a very successful business and one of the major contributors to the popular culture of Malaysia. Even though the movie business was a lucrative capitalist enterprise, its activity initially was restricted to importing, distributing and exhibiting Western products. As part of its vast empire, British colonial administration in the Federated Malay States believed that films and cinema had a particular impact and negative effects on the audience. They were concerned with how their image as a superior ‘white race’ would be tarnished when the natives were shown films that revealed their weaknesses. Therefore films especially from Hollywood were heavily censored. For them this “Hollywood-dominated cinema is
a threat because of its educative role" (Lent, J.A. 1990:186). What the British authorities were concerned with was that their status quo would be in jeopardy as these Hollywood products:

"showed Asians the weaker aspect of white people and that the European women’s wanton image as reflected on the screen was in marked contrast to the traditional ideals in Asia about the role and status of women." (Lent, J.A. 1990:89)

The British also believed that Hollywood products which flooded the market had a far greater impact on politics. They argued that these films espoused communist propaganda and therefore undermined the power of white colonial powers. This negative attitude and perception towards cinema made the British authorities formulate laws and regulations to control the influx of Hollywood movies and their content.

Thus, in 1910, the Theatres Enactment was made law, whereby all cinema outlets needed to be licensed and furthermore granted cinema censorship rights by the local authorities. This enactment was followed by another law in 1923, Ordinance No. 200 (Cinematographic Film). This law gave power to censorship officers to examine all films that were imported. In 1925, as a result of these rigid controls, "12 percent of all films entering what are now Malaysia and Singapore were prohibited, while objectionable portions were censored from 90 percent of all others" (Lent, J.A. 1990:187). These laws were followed by the Cinematograph Films (Control) Enactment in 1927 which empowered colonial officials to approve or ban everything related to films, from posters to still photographs. If laws before this 1927 enactment only banned films, this particular enactment however empowered the authority to fine up to USS 500 (approx €409) for every film that failed to meet the censorship standard and furthermore granted the police the right to search any premises without warrant and seize equipment and arrest those who were responsible for illegal exhibition. As a direct result, more Hollywood films were banned and in October 1927, 128 films were banned as they showed:

"immodest dress of Western women; the portrayal of gambling and criminal behaviour; and the depiction of inter racial marriages and attachments. (the British were afraid this would lead to “intimate intermingling” of whites and natives, resulting in a “lack of respect” for whites)." (White, T.R 1997:2)

It is interesting to see that these laws functioned as a ‘filter’ to ‘purify’ the content of films entering the Federated Malay States and furthermore these laws were only applied to Hollywood products. It was very rare to see British films having to go through this rigorous censorship. What is more important about all these laws is how they shaped the present situation that governs and controls the communication industry in general and the film industry in particular. In this sense the British have succeeded in laying the foundation of censorship and control and its legacies linger long after Malaysia became independent in 1957.

The industry continued to prosper in spite of all the restrictions and control by the British administration. By the end of the 1930s, the number of cinema outlets across the country had increased to around 40. This development inspired some business people
and film artists to venture into film production. As I mentioned earlier, all this while the activity of the industry was limited to distribution and exhibition. Therefore, in 1933, the first Malay film was produced. It was during the 1930s that more important developments took place when two film studios emerged in Singapore, and for the next 25 years these studios were prolifically producing and churning out Malay-language films. Both studios were owned by Chinese businessmen, Loke Wan Tho who founded Cathay Production, and Run Run Shaw and Runme Shaw (the Shaw Brothers from Hong Kong) who founded the most famous Shaw Brothers Productions and its Malay Film Production Unit which in later years saw the emergence of P. Ramlee as its biggest film artist.

The legacies of these colonial policies and rigorous control over the film industry are still very much felt today although most of the laws are no longer in effect. The most interesting thing is that some of the most important laws, that are still being strictly applied to control the film industry, were enacted in 1952, five years before Malaysia gained its independence. The Films (Censorship) Act 1952, as it is aptly named, was rigorously and strictly applied during the colonial era. Film censorship is seen as very important because of a few reasons, mainly on the grounds of national security and to protect public morals. (Mansor Ahmad: Unpublished: 15). This act requires all films to be submitted to the board before they can be exhibited to the public. This act accords the Film Censorship Board, set up in 1973, quite a substantial amount of power to control the content of both imported and locally produced films although the guideline on what kind of content is prohibited was not clearly stipulated. The censorship process covers a much bigger area, whereby all other related materials especially publicity materials for a particular film which include “a picture, photograph, poster, figure, handbill, slide, newspaper advertisement and any other form of advertisement” must be submitted for screening and censorship (Film (Censorship) Act 1952).

The continuation of colonial policies in the present state of laws governing the film industry can be clearly seen. The main link is the concern of the ruling elite with how undesirable images and representations of issues depicted in films can be dangerous to the nation’s security and society’s morals. It can be argued that the existing act takes its basis from the 1927 Cinematograph Films (Control) Enactment. The latter was enacted because of the colonial power’s concern with the ‘subversive’ nature of some of the films being imported into the country, especially images depicted by those of Hollywood. In other words, the concern here is with the security of the empire, while the existing act is more concerned with the security of the nation against corrupt morality and subversive ideologies. However the 1927 enactment had very little impact on the local film industry as the production culture at that particular moment was really weak. When the industry was in full bloom, the enactment was hardly used against local films because the subject matter of the early films was never really critical of the colonial administration. The impact of such laws on the development of the film industry at that particular moment can be considered as positive as the lack of control resulted in a prosperous and successful industry. It encouraged producers and capitalists alike to venture into the business, thus ensured the expansion of the industry. The post-war
economy that was booming also boosted the development of the industry until it reached saturation point in the late 1960s. The existing law however has a different impact on the film industry although it was formulated way back during colonial times. The 1952 act can be considered a reaction to the post-war social, political and economic conditions. The nation was struggling with the real class struggle in the form of communist insurgency in the 1950s and the 1960s. The equilibrium in society and the booming post-war economy were disrupted by communists' armed struggles, which lasted for a few decades until 1990.

Like the earlier enactment, the 1952 act has several objectives: to safeguard the security of the country from subversive ideology, to uphold moral values against values which are seen as corrupt and incompatible with Eastern values and to protect the racial harmony among ethnic groups in society. The main element that must be considered in the censorship process is the overall effect of a particular film on the public, whether the film can influence the public in aspects of ideology, religion, society, culture, and morality. The emphasis in the censorship process is on the 'effect' of the film, for example if the film contains too many violent and gory scenes or if the subject matter is about a particular ideological discourse that is deemed subversive, hence it might influence the audience to think or behave violently, thus the film must be censored or at worst banned from public exhibition.

The idea of how the media affects people is a reverberation of the early effect studies. Effect studies in communication research were highly regarded way back in the 1940s and 1950s but since the emergence of critical research in communication and culture the assumption that media messages and images directly affect the behaviour of the audience is seen as rather naïve and very much influenced by the behavioural perspective. Early scholars believe that violent images shown by the media have effects on audience behaviour. They believe that prolonged exposure to media violence could influence the audience especially children to imitate the violent conduct. Their views then are supported by a series of research, mainly laboratory research with strong empirical data without looking at, say for example, the social structure of the audience, the class relation and the imbalance of distribution of wealth and power within one society.

Another group of scholars, who are mainly from the critical perspective, argued that violent images in media are ideological in nature. They are ideological because these images especially in film and television programmes are only trying to build a consensus among the audience that law and order are greater than the violent threat posed by terrorists, robbers and murderers. The impact of such an interpretation is to show us that media with its close connection to the state and the ruling elite can be used as an ideological weapon to maintain and reproduce the existing social order. From this kind of position I would like to argue that the existing practice should not be too contained in itself by assuming the position of the moral police, trying to protect society from whatever it sees fit to be labelled as corrupt and subversive. The audience can no longer
be regarded as naïve and totally accepting, this whole idea that media messages and images can directly affect the audience has been dismissed, and more importantly now is to look at how media messages and images are constructed to uphold the existing social values. I am not suggesting that this practice be stopped, what it needs is probably a reform that takes into account changes that are happening in society, to be more proactive in its approach towards what is bad and what is good. From some interviews I conducted, it is interesting to know that many filmmakers in Malaysia regard the censorship practice as a benchmark for their creativity, and others do not even bother about the practice as they have many creative ways of saying things and they could go around it in order to make their films pass the censorship board. Probably the practice is intended more for the imported films entering Malaysia rather than local films.

The future of Malaysian film

For the past 30 years, the study of film and mass communication in Malaysia has been regarded as an autonomous field. The aim of the enterprise, then as now, was to produce media professionals who would fill positions in the ever-expanding media and communication industries in the country. To meet this demand, facilities and massive financial assistance were provided by the government through various higher learning institutions. The approach to studying communication initially was dominated by a mainstream functionalist paradigm which regards communication as part of the social system. Communication in this context functions as a system which helps the existing social system to maintain its equilibrium. This kind of shallow and naïve approach undermines the question of power and conflict within the society and assumes that society is always stable and the mass media is required to sustain this stability.

Like other communication fields, film studies in Malaysia also suffer from an ‘inadequacy’ of theoretical paradigms. It is only recently that the debate in film theory began seeping into film courses in some universities in Malaysia. Before, the objective of producing media professionals determined the policy that practical film courses should be given most emphasis. Thus, it left the larger context of the film industry virtually devoid of activities such as film appreciation and film criticism. The idea of the film industry as a place where critical concepts, ideas and theoretical debate get nurtured and discussed is virtually non-existent in this country. Just like the rest of communication media, the film industry in Malaysia is only an industry where ‘safe products’ get churned out, products that will never question the existing social system.

Furthermore the training that is given to film professionals also neglects, indeed ignores, theory. In other words and in relation to the overall approach to film studies in Malaysia, the film industry currently lacks the ability to produce better films because the professionals involved in it basically lack the ability to view things critically. They fail to realise that the film industry is not simply an economic activity. What is more important is to emphasise the importance of film as a medium where critical awareness can be nurtured. Film criticism and appreciation is another related field that has suffered theoretical
inadequacy. What has been happening so far is that the film industry and film studies are under-theorised, and popular and journalistic film criticism dominate the scene. Film production is also seen as a highly risky business venture, and with only a handful of production companies and producers it is difficult to see the film industry in Malaysia being revived to match the golden era of the 1950s and 1960s. The Malaysian film industry is also not worth exploring because the industry is virtually ‘dead’. What we have at the moment are some ‘remnants’ of a solid film culture which a handful of film artists try to hold onto (for example Aziz M. Osman, U-wei Hj. Shaari and Suhaimi Baba, Yasmin Ahmad, etc.). These are film makers who are brave enough to venture into the film business and produce a couple of films a year. Even with this kind of production rate, film should be seen as a communication medium that needs a proper theoretical framework in order for any critic to produce constructive analyses.

We have reached the point where we should encourage a new film culture which incorporates both production activities and film criticism and appreciation. This is one of the ways for the industry to develop as it will foster a more sophisticated way of thinking not just among writers and critics but also among film artistes. It is also extremely difficult to produce a really outstanding film in Malaysia especially when artistes and policymakers are taking other film centres as their mould to shape the form, genre and style of contemporary Malaysian film. This is the result of a highly regulated industry.

**Conclusion**

The recent development of capitalism poses new kinds of challenges to a neo-capitalist state like Malaysia. New kinds of control, regulations and business practices are taking shape in the global capitalist system, increasing the power of corporate institutions over the old state-regulated business bodies. However, the trend in Malaysia can be understood as a process of total social control that is increasingly dependent on state power, the ruling elite’s decisions, and the state capitalist corporate structure which commands and controls the existence and well being of society.

The implication of this globalisation process for a highly regulated society is varied. Apart from widening the social gap between the rich and the poor, it also creates an imbalance of power between the dominant group and the subordinate group. In terms of cultural industries, the threat of globalised culture and homogenous cultural values stemming from this globalisation process is seen as a negative aspect of capitalist expansion. Globalised cultural products are seen as a threat to local cultures, but at the same time the ruling elite is promoting what can be termed as undemocratic cultural policies that undermine the development of alternative ideas. Film, in this context, is always seen as a medium with powerful social influence. Thus, like other mass media it has to be controlled and regulated. While controlling the content of the mass communication industry, the state also promotes cultural products and practices which do not question the existing social system, safe products that will ensure the continuity of the existing system.
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The Cultural Context of Malaysian Film Policy

The New Malaysian Cinema

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This paper is an attempt to provide cultural contextualisation to the understanding of Malaysian film policy as a way to complement the other presentations by Malaysia. This paper is a discourse on the Malaysian National Cultural Policy (NCP). It is impossible to discuss the development in the field of arts and culture in Malaysia without reference to this particular policy. To date, directly or indirectly, the policy remains a crucial reference point to the question of national and cultural identity in Malaysia, and a social charter by which to understand the permitted social spaces and boundaries of creativity and popular culture (including films) in the modern nation-state. National culture and national identities are essentially grand narratives of the nation-state which are primarily homogenising and essentialist, while cinema (especially the new Malaysian cinema) often engages in the question of nationhood as one that articulates the “counter-narrations of the nation” (after Hommi Bhabha), dealing with symbolism, including the deconstruction of dominant meanings, consciousness, and representations of nationhood. While the Malaysian Censorship Board as part of the Ministry of Internal Affairs is the actual body and instrument that technically regulates the social spaces permitted for Malaysian filmmakers to express their representations of identity and “counter-narrations of the nation,” at the heart of the problem is a civilisational notion of culture which has historically been embedded in the NCP, and which in the current global era is ripe for a constructive review.

Background to the Formation of the Malaysian National Cultural Policy of 1971

Malaysia is a land of cultural and ethnic diversity, a legacy of British colonialism which had transformed the once pre-colonial indigenous forms of multiculturalism characterised by “flexible ethnicity,” “canopied pluralism” and elements of “cultural mobility and hybridity” into a “plural society” (after the Dutch scholar, Fumivall). The “plural society” represents a new type of political economy serving the new economic colonial imperatives based on a “cultural division of labour” in which economic and occupational roles were re-arranged to
coincide with the earlier ethnic/cultural divisions in society. Economically, the creation of the Malaysian "plural society" was part and parcel of the expanding British industrial capitalism via the midwifery of imperialism which ended in the subjugation of Malaysia as a colonial state. Historically, the process led to the ethnicising of both the institutional polity and civil society of the Malaysian nation-state to be, which in 1957 (then consisting only of Peninsular Malaysia and Singapore) was granted political independence by Britain. The stability of the new nation-state was grounded primarily on a delicate "ethnic bargain" between the economically more dominant non-Malays (especially the Chinese) and the economically weaker but politically stronger indigenous Malays for whom certain privileges were constitutionally provided (what is now termed as a policy of "affirmative action") in exchange for the former's rights to citizenship and economic wealth. In 1963, with the entry of Sabah and Sarawak into Malaysia, the "bargain" was further extended to grant similar provisions to the position of the Sarawak and Sabah indigenous populace (which includes the Iban, Bidayuh, Melanau, Orang Ulu, Kadazandusuns and Bajaus), and together with the Malays, they constitute the "Bumiputeras" (sons/daughters of the soil), which differentiates them from the "non-Bumiputeras" – this new dichotomy subsequently forming the new basis for defining and contesting identity among citizens in the Malaysian nation-state. 1965 saw the expulsion of the Chinese-dominated Singapore from Malaysia and four years later, the first major racial riot broke out in Malaysia.

The 13th May 1969, racial riots were the first indication of the fragile nature of Malaysian multiculturalism. As an economic measure, the well-known New Economic Policy (NEP) was launched in 1970 in order to redress the economic imbalance between the Bumiputeras and Non-Bumiputeras for the next 20 years empowered by the double-pronged objectives of creating a Bumiputera capitalist class and eradicating poverty irrespective of race. Parallel to the above economic strategies of ethnic management is also the formulation of the NCP in 1971 which represents the first "official" attempt to regulate the so-called features of "unregulated multiculturalism" in Malaysia, deemed to be at the root of the May 13 racial riots.

**The NCP of 1971 as a Civilisational Representation of 'Malayness'**

The notion of an official NCP is conceptualised to transcend the heterogeneity of multiculturalism and provide an overarching national identity, which integrates all the different ethnic/cultural communities into a Malaysian nation-state. The 1971 resolutions from the National Cultural Congress outlined the following principles of the NCP:

1. The NCP of Malaysia must be based on the cultures of the people indigenous to the region;
2. Elements from other cultures which are suitable and reasonable may be incorporated into the NCP; and
3. Islam will be an important element in the NCP.

Further reading into the terms of reference and contextualisation of the NCP reveals that the term "the region" or *rantau ini* as used in the context of the NCP actually means
'the Malay World' (alam Melayu or dunia Melayu) – a pre-colonial region which apparently covered the areas of Malaysia, Indonesia, Singapore, Philippines, Thailand and a part of Indochina and the South Pacific islands.

The Malay world thus refers to both a geographical as well as cultural area inhabited and defined by peoples who were indigenous (asal or original) to the region and who apparently shared a common Malay stock (rumpun), being part of a wider tradition, transcribed in the text as the Malay-Polynesian civilisation (tamadun). As it evolved from its initial pagan base to Hinduism, it finally peaked with Islam and with the Malay language as the lingua franca of the region. Both Islam and the Malay language became the defining parameters of the civilisation, expressing, as it were, the different artistic and cultural manifestations of Malay keperibadian (connotating ‘essence’ or ‘character’). Indeed in the series of seminars presented as part of the National Cultural Congress, there was an attempt towards contextualising how such keperibadian would be articulated in the various fields of arts and culture, including literature, music, dance, painting, interior décor, drama, industry, architecture and handicrafts. Conceptually, the NCP concept is too essentialist in its approach, based on a civilisational (high culture) version of Malay culture rooted in the traditional Malay world, and one which idealises the notion of Malay keperibadian or essence as it manifests itself in the different fields of arts and culture of the ‘region’.

If we follow the logic of the NCP, elements of what constitute NCP happened via a selective process. Hence Malaysian culture has subsequently become restructured into a kind of hierarchy. Thus only cultural elements of the NCP will be deemed “official” (rasmi) suitable to be performed or expressed for “national” (kebangsaan) ceremonies and occasions. In contrast, those not recognised as “national” may remain as “tribal” (suku) or “ethnic” (kauman), at the level of the “non-official;” (tidak rasmi). Yet the NCP also promises “flexibility” insofar as it allows “other cultural elements” (unsur-unsur budaya lain) to be incorporated into or elevated to NCP status, on the condition that they are deemed ‘pertinent’ (sesuatu). They must be in harmony with the indigenous elements of the region, projecting a Malaysian ‘essence’, and not contrary to Islam and national interests. Aspiring cultural elements must reflect and symbolise national characteristics (sifat-sifat kebangsaan), and not tribal or ethnic features. The latter can be freely practised at the level of the community, as provided for by the Constitution and the national ideology (Rukun Negara). Whilst the NCP recognises the contribution of positive and universal values as espoused by the non-Islamic religious traditions, principle 3 of the NCP remains ambiguous as to whether Islam is the final arbitrator of NCP.

The NCP was formulated in 1971, one year after the NEP, but 20 years later, by the end of the NEP period, after the above economic policy has transformed and reconstituted ‘Malay culture’ in many diverse ways, the whole representation of ‘Malayness’ as embodied in the NCP has become even more problematic.

Firstly, how adequately would an ethnicised notion of NCP deal with the fluidity of the emerging multiculturalism and its attendant hybridisation of identities in the context
of present day Malaysia in the era of globalisation?

Secondly, how would it handle the emerging instances of cultural contestation from within the Malay world, and Malay society in Malaysia itself?

The Malay world, as we know, thanks to colonialism, has been replaced by new nation-state entities and political boundaries, hence the notion of a ‘Malay world’ based on ‘culture’ is problematic. On the other hand, it is also true that the NEP, since its inception, has radically reconstituted Malay society into different social classes and ‘modernities’, represented by the presence of diverse Malay cultural and sub-cultural forms, which in the upper and middle echelons range from the corporate group, the “New Malay” (Melayu Baru) to the middle classes. Among the Malay lower classes, new sub-cultural variants have also emerged, be it in the rural or urban setting, and cutting across gender differences, or articulating their specificities. Social change has also been observed to occur in the culture of urbanised Malays and FELDA land development settlers. Indeed, even in the representation of ‘Malay values’ in the discourse on Malay underdevelopment, from the writings of Abdullah Munshi to Mahathir’s well-known treatise “The Malay Dilemma,” the debate continues. Among Malay youth, the globalisation of the cultural industry and “cultural supermarket” has also created new sites of identity formation and contestation via popular music and culture.

While the NCP formulators may recognise that cultures may change, it is fair to say that they do not view culture as a terrain of ongoing contestation where new meanings are continuously being negotiated and reconstructed. Driven by a functionalist notion of society and change, they fail to anticipate that even in their representation of Malay culture, there may emerge new sites of contestation of identity which have to be addressed by the existing NCP concept. A civilisational notion of Malay culture has to come to terms with the radical transformation of Malay society brought about by the NEP. Because the NCP was drawn up before the NEP and the new globalisation processes, its formulators did not have the hindsight of experience to reflect upon the reconstituted cultural forms of Malay society. Tested against the dynamics of social transformation and a practical notion of culture which allows for difference and contestation, the NCP remains a tenuous concept. In the Malaysian case, it is its inability to grapple adequately with the new questions of “culture” in the everyday-defined realities of contemporary social transformation and identity formation, which renders the representation of NCP based on a unitary past of Malay civilisation rather incomplete and outdated.

By Way of Conclusion: Engineering Creativity in Malaysian Cinema

Creativity to herald a new Malaysian cinema in a globalised society is the key to developing the film industry after the era of P. Ramlee and Ampas Studio. The post-P. Ramlee generation of creative filmmakers such as Rahim Razali and Nasir Jani who pioneered the way were soon followed by the so-called New Wave filmmakers
exploring various “counter-narrations” of identity in the likes of U-Wei Haji Saari (who won the first best foreign festival award for Malaysia with “Kaki Bakar” (The Arsonist), Adman Salleh, Mahadi J. Murad, Erma Fatima and Suhaimi Baba. These have also been recently joined by the national award-winning Malaysian Chinese director Saw Teong Hin of the RM 20 million (approx. €4.2 million) epic, “Puteri Gunung Ledang”, and Yasmin Ahmad, the internationally award-winning director of “Sepet”, a cross-cultural love story set in contemporary multicultural Malaysia. Now with the rise of the “Indies” in a global era of democratising digital technology, the newer wave of younger Malaysians with a more multicultural Malaysian representation (such as Amir Muhammad, James Lee, Yu Huang, Deepak, Tan Chui Mui), free expression across nation-state borders is where the action is, especially at global film festivals. Having won awards and rave reviews abroad, they now want to come home to an ambience which is more understanding of their new expression and needs. In this respect, both the New Wave filmmakers and “Indies” have something in common – both groups are committed to exploring themes of representation and identity in a Brave New World where the question of “national culture/identity” is more fluid and negotiable in the context of an emerging Malaysian nation (Bangsa Malaysia) and current globalisation. The time is perhaps appropriate for a constructive review of the 1971 Malaysian National Cultural Policy.
Chapter 1:
Role and use of legislation on film industry: different perspectives from Asia and Europe

This chapter underlines the importance of having a national film agency/council. For instance, Korea, France and Denmark are examples of countries where the establishment of a central film entity provides the countries with a foundation for a pro-active and decisive film policy. The following will give an overview of the organisation of these national film bodies, their objectives and the way they work.

LF
Introducing Korean Film Council (KOFIC)

Mr Kim Hong-Joon
Former Commissioner, Korean Film Council, Korea

Overview

The Korean Film Council (KOFIC) is a specialised organisation that, as part of the wider State sector, has been entrusted by the Ministry of Culture and Tourism to promote and support Korean films both in Korea and abroad. While KOFIC receives its budget from the government, its ability to make its own policies and conduct its activities independently makes it a semi-autonomous entity (as defined by the Organisation for Economic Co-operation and Development- OECD), or what is more widely referred to as a Quango or 'quasi-autonomous non-government organisation.'

The government oversees KOFIC’s activities, and the National Assembly, as the representative organ of the people, conducts an annual audit of its finances. KOFIC’s appropriate degree of distance from the government allows it to forge highly efficient film policies that are designed to develop the Korean film industry.

KOFIC consists of nine commissioners, the Secretariat, the Namyangju Studio, and the Korean Academy of Film Arts (KAFA). Under the command of the Secretariat are the General Affairs Department, Domestic Support Department and International Promotion Department. The KOFIC Namyangju Studio consists of Studio Management Department and A/V Technical Departments.

Legally, KOFIC is an heir to the former KMPPC (Korean Motion Picture Promotion Corporation), a state-controlled agency which was transformed into KOFIC in 1999 according to the newly-revised Film Promotion Law. The total restructuring of the organisation and reshaping of policies and activities followed, and the first three-year term of the KOFIC commissioners (1999-2002) concentrated on (re)-inventing film promotion policies by channelling the film industry’s ideas and proposals. The second term, or the second ‘phase’, started in May 2002, and since then KOFIC has been playing a major role especially in the domains of support for public, non-commercial filmmaking and for higher recognition of Korean films abroad at both film festivals and markets.
Chapter 1: Role and use of legislation on film industry

KOFIC's main activities

1. Establishment of plans to promote the film industry
2. Management of film production facilities, including the KOFIC Namyangju Studio
3. Establishment of criteria used to determine whether co-productions should be deemed Korean films or not
4. Management of the Korean Film Promotion Fund
5. Research and development
6. Education and re-education of film-related human resources
7. Provision of support for the production, distribution and screening of films in order to ensure the quality of films as well as greater diversification
8. Support in the form of overseas marketing and the promotion of international exchange

Some key points among promotional and support activities

KOFIC is engaged in a variety of film-related activities. KOFIC is not only a state-funded film promotion agency, but also a private-sector enterprise which operates its own studio, laboratory and other post-production facilities. It also functions as an educational institution with its subsidiary organisations such as the Korean Film Academy (KAFA) and Media Centre (MediAct). The following are some key points among KOFIC's promotional and support activities which may deserve more attention and understanding from foreign observers of Korean film industry and culture. (All the figures are as of 2004).

1. Korean Film Investment Union Financing Project: To create stable access to the investment needed to invigorate the production of Korean films and other forms of motion pictures, KOFIC selects five qualified investment unions and provides each with approximately US$ 2 million (approx €1.6 million).

2. Support for the operation of ArtPlus Cinema: To provide opportunities for the screening of artistic/ diversified films and support the establishment of a production-to-distribution screening system for such films, KOFIC selects 10 theatres nationwide which specialise in screening artistic films and provides them with management subsidies and programming expenditures.

3. Asian Film Industry Network (AFIN): KOFIC has established a cooperative network with other public organisations across Asia that is designed to invigorate co-production, and educational programmes; to design joint film-related measures in Asia; and to increase the understanding of Asian markets through the exchange of information on other Asian countries' film industries.

For more information, please refer to the Korean Film Industry Guide at www.kofic.or.kr an annual report published by KOFIC in English, which also contains more detailed descriptions and statistics on KOFIC and the Korean film industry.
New phase, new challenges

The second ‘phase’ of KOFIC ended in May 2005, and nine new commissioners, recommended by diverse sectors and groups in film industry and culture and then ‘asked to be committed’ by the Ministry of Culture and Tourism, launched the third phase of KOFIC. The commissioners are not civil servants but common citizens, and the Chairperson is elected among the commissioners at their first meeting. The elected chairperson is the only full-time member of KOFIC, and the chairperson functions both as the chairman of commissioners’ meetings and the president of the KOFIC as an organisation.

The constitution of new commissioners, with diversity in their backgrounds and current careers, signifies the challenges and opportunities that lie ahead of KOFIC for the coming years. The nine members include a film journalist, a film director, two film producers, an actress and educator, an independent filmmaker/activist, a professor specialising in broadcasting and media policy, an animation producer and a new media producer. In short, they represent the widest spectrum of the Korean film scene.

The short history of KOFIC coincides with the rapid development of Korean cinema, on both industrial and cultural levels. But the remarkable growth of the film industry in such a short period of time has also produced many problems, and at the same time there is a growing concern over the lack of support for such ‘underprivileged’ areas as independent or non-commercial filmmaking, recognition of film as a cultural heritage, and maintenance of diversity of films screened at cinemas. The new commissioners face a difficult task of keeping the balance between industrial and cultural spheres in KOFIC’s support activities, and creating new opportunities out of various ‘crises’ that are expected to come inevitably to Korean film industry in the near future.

Q&A

About the great achievement of the Korean film system and its funding system: where does the money come from?

In Korea, the money for the film industry comes mostly from private industries and very little from subsidies (free market). The system has however changed from personal funding to new investors and distribution companies. There are no tax incentives for filmmakers. Until five years ago, film was regarded as entertainment, and today more as an industry. 30% of films screened are Korean and correspond to 55% of market share.
Focus on the “Sub-Degree on the Management of Arts and Video-films”

HE Mr Som Sokun
Under Secretary of State, Ministry of Culture and Fine Arts, Cambodia

It is worth mention that during this current era of globalisation, people seem likely to realise that the world is actively moving towards a homogenised culture, causing the loss of so many nations’ traditional cultures. The development of Information and Technology has recently helped to accelerate this tendency throughout the world, causing all levels of national identity crisis. Undoubtedly, within this inevitable period of globalisation, both big and small countries are all positively and negatively influenced by all kinds of global tendencies. Consequently, we have to prevent the occurrence of its negative impact, and also to encourage its positive effects as well.

This seminar’s agenda, especially its first session on the “Role and Use of Legislation on Film Industry” is a very critical theme for Cambodia. I would like to briefly describe the situations of the Film Field of the Ministry of Culture and Fine Arts of the Kingdom of Cambodia.

As you might be aware, within the current post-conflict period, Cambodia has to rehabilitate all development fields from scratch, and this also includes the Film Field. In Cambodia, the film institution belongs to the Government, i.e. under the authority of the Ministry of Culture and Fine Arts, and is formally overseen by the Cinema-Video and Cultural Diffusion Department. As specifically defined by the Ministry, the department is responsible for encouraging film creation (the 7th Art productions), directing cultural and arts broadcasts through video-film and multimedia, and supporting stakeholders to further enhance their film products.

Owing to our young experience in managing the field, there has been a substantial flow of foreign culture, both good and bad, into Cambodia through VCD and Video-films. This strongly affects Cambodian culture and tradition and has led a number of young people, who lack adequate educational thinking, to forget their own identity and
national soul, to disobey their ancestral tradition and social virtue, to ignore preserving their traditional culture as required by the government’s policies. This requires very tough control over every business and over services and activities such as production, projection, exploitation, and sale of all video-films within Cambodia.

As mentioned above, the Royal Government of Cambodia (RGC), in order to comply with the role of film in Cambodia, and so as to further encourage local and foreign producers, has vigorously enacted a Sub-Degree on the Management of Arts and Video-films having legal coverage over the management of the Realm of Films.

This sub-degree aims at managing and controlling video and film as well as providing incentives to local video and film productions in order to preserve and protect national culture and ensure respect for social morality. Effectively, the sub-degree is also to manage and crack down on illegal videos and films in order to control producing, broadcasting and business practices of the seventh Art including film and video in any form, such as film, video cassette, laser disc, video CD, DVD, and CD-ROM.

Through our practical experiences, the Sub-Degree has earned, after its approval, remarkable public respect, and has been properly implemented by film producers and businessmen. It has, consequently, reduced to a minimum level the offences. In other words, Cambodian movies have become better produced and publicly received within the country and abroad. Concurrently, there have been a large number of illegal film activities due to the development of technology at the beginning of the 21st century. This has caused much worry among honest producers and businessmen. In a swift response to these illegal activities, the RGC has afterwards enacted another Law on Copyright and Related Right to guarantee the authors' rights, and to protect cultural products such as movies and video-films, so on and so forth. As a result, the enforcement of this law helped assure a legal business environment and contribute to the development of culture in all fields. For sure, the success in this law implementing activities has won international support for Cambodia to be integrated into the World Trade Organisation (WTO) in 2004.

Furthermore, I would like to stress that all legal instruments relating to the Film Field as mentioned earlier are of substantial benefit to producers and businessmen both in Cambodia and abroad; and since we are lacking so many more legal instruments, our country, therefore, will continue to enact more legal instruments so as to provide legal protection and oversee our film industry and its stakeholders.

We are strongly convinced that legislation plays a very important role in promoting the development of the film industry, and is substantially useful for the development of world film culture. With law enforcement and people's respect, countries not only in Asia and Europe, but also in the world over will greatly develop their cultural films.
Additionally, in Asian and European countries, the role and use of legislation are wholly dedicated to completely eliminate all offences committed by wrongdoers and to protect honest people.

I strongly believe, eventually, that the lessons learnt, experiences acquired and knowledge obtained through this two-day seminar would be put to good use in Cambodia and in other Asian and European countries as well.
The French Support for Cinema: Focus on Cultural and Economic Objectives

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The French support system for cinema was built up after the Second World War. Even though its basic principles have not changed since then, it has evolved in order to take into account economic and technological changes in the cinema world (including the development of television and, more recently, the rise of video).

Because cinema is a cultural industry, and a rather expensive one, compared to others, the main objectives of the French support system are both cultural and economic:

To promote cultural diversity in cinema:
- By enabling the maximum number of film-makers to create their own feature films
- By enabling the largest audience to access the greatest variety of French and foreign films

To develop and strengthen the cinema industry in France:
- By correcting market failures
- By collecting money from the market itself, then re-allocating it on a different basis.

It is certainly not the purpose of this system to “fight against” or to restrict access to French market to any other cinema, including American cinema. France has always been open to cultural exchanges, and French cinema directors and producers have a long history of dialogue and collaboration with foreign filmmakers. The support mechanisms aim at ensuring that French films may have a chance to be financed, produced and released in good condition, and that people in France and abroad may have a chance to see them. A significant part of the support system is even dedicated to foreign movies, aiming at supporting their production (for example in the case of co-production with France) and their distribution in France.

The fact that this system still exists after 60 years is nothing but the result of chance.
Many artists (directors, producers and other professionals in the cinema business) have constantly fought in order to guarantee that the system survives and develops. All political leaders in France have always considered this system as a key to the very existence of French cinema and have therefore given priority to its protection and enhancement.

International trade negotiations, notably within the World Trade Organisation (WTO), have always posed a threat to this support system, which France and the European Union have been able to resist so far. It is very important to understand that, from a legal point of view, a support system is generally discriminatory as it tends to treat more favourably national films than foreign films. Therefore, in order to comply with international trade principles set up by WTO, it is necessary for a given country not to take any liberalisation commitment in the audiovisual sector if this country wishes to set up or to maintain a support system for cinema and audiovisual. Such a system would actually be considered illegal by WTO in the absence of such legal provisions and a third country could legitimately ask for its suppression. The same problem also exists within bilateral trade agreements. A support system therefore needs cautious protection in trade negotiations.

The Centre National de la Cinématographie (CNC) was founded in 1946. It is a public administrative organisation with a legal entity status and financial autonomy. It operates under the authority of the Ministry of Culture and Communication and is managed by a Director General.

Its role is to:
- Define the regulatory framework
- Ensure public funding in the cinema/audiovisual sector
- Preserve and enhance cinema heritage.

The CNC runs the state support Fund for cinema and television industries, which amounted to €475 million in 2004. Apart from this Fund, a smaller part of CNC’s budget (approximately €28 million) is a grant from the Ministry of Culture. This latter part is fully dedicated to the implementation of cultural policies such as cinema heritage or education.

The Fund does not depend on State budget at all but is based on three different taxes:
- A tax on cinema admissions: approximately 11% of the price of each cinema ticket sold in France (for all movies: French, American, others) goes into the Fund.
- A tax on TV revenues: 5.5% of all television revenues (licence fees, advertisements, subscriptions) go into the Fund.
- A tax on VHS and DVD sales and rental: 2.2% of retail and rental revenues go into the Fund.