

**~~IBA/IJUBA IN SCHOLARSHIP IN LAGOS STUDIES.~~The Place of  
Intellectual Property and Copyright**

**~~A PAPER PRESENTED~~**

**~~BY~~**

**~~PROF. SAMUEL JIDE TIMOTHY ASOBELE~~**

**~~DEPT. OF FOREIGN LANGUAGES~~**

**~~(FRENCH UNIT)~~**

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## ACKNOWLEDGEMENTS (Iba/Ijuba)

Charity, they said begins from home.

I therefore acknowledge our amiable Vice-Chancellor, Professor (Mrs.) Ibiyemi Ibilola Olatunji-Bello for giving me this academic space in the French Unit of the Dept of Foreign Languages in LASU. I say thank you Dean of School of Postgraduate Studies, Prof. Joseph Olagunju for availing me some of the policies Publications relevant to Plagiarism, Literature Review in his School. I express here the gift of LASU research policy last year 2021 in the month of November to me by Dean Prof. Tayo Ajayi. To my new Dean of Faculty of Arts articulate Prof. Moshood Taiwo Salisu for his Sagacity in “washing” his research focused as well as sourcing an international Research focused Toyin Falola to feed us with academic meal only two weeks after his appointment.

I say thank you to LASU University Librarian who led me to Prof. Joseph Olagunju for some of the materials I need for this Seminar paper.

To my late Father and Mother and my Wife and Children. He, my Father, used to teach me: A little thing is a little thing faithfulness in a little thing is a great thing. Therefore, I list the following LASU main Library staffwho went from Shelf to Shelf to bring some needed books to my table since April 2022. I say thank you to Miss Adebimpe Adeyanju of Marketing Dept and Mrs. Christiana Aguda of the French Unit of LASU (they typed the manuscript). I say thank you to LASU librariystaffmembers:

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Dayo Akanmu and Joy Odewunmi of Lagos State University of Education Ijanikin.

Let the following LASU Lecturers I taught at UNILAG in the 1980<sup>s</sup>, 1990<sup>s</sup>, who are flourishing academically join me to say thankyou to LASU authority for granting me this academic space since 10<sup>th</sup> of March 2022 to wit: Prof (Mr.) M. O. Ogunbiyi (Education Faculty); Prof Abolade Adeniyi (Dept of History and International Studies); Mrs. Aduke Shabi and Mrs. Dorcas Oyawole and last but not the least, Dr. (Mrs.) Olujare Adetola Oye of Dept of Foreign Languages (French Unit).

# **Iba/Ijuba in Scholarship in Lagos Studies: The Place of Intellectual Property and Copyright**

## **Preamble**

In this preamble to our topic:

Iba/Ijuba in Scholarship in Lagos Studies: Time to give back to the peoples of Lagos State; Lagos The Academic beacon of Nigeria, we shall use *Langbasa* and *Cultural Quiz for Lagos State pupils and Students* as our case Studies.

Let us start by using *Lagos State University, Ojo Research policy* to strengthen our research work on Iba/Ijuba.

Professor Olanrewaju Adigun Fagbohun in his 2019 foreword to University of Lagos Ojo *Research Policy* pamphlet defined research in this term:

“Research is Central and key to attaining the goals leading Universities all over the world. Such world class Universities are at the forefront of developing and advancing new knowledge in all areas of human endeavor. Research is also of paramount importance in TEACHING, LEARNING and delivery of community service. World class universities not only pay attention to the research efforts of its academic staff but in addition, develop and implement policies to guide and regulate research activities.”

One then may ask what is the scope of the Lagos State University research Policy.

Let us quote 2019 LASU Vice-Chancellor again for effect:

“The Scope of the Research Policy is broad, encompassing principles of research, ethics, funding, INTELLECTUAL PROPERTY, (with copyright as a core element), capacity building and commercialization of research findings. We are committed to supporting the highest Level of research and research ethics (which I interpret to mean frowning at *plagiarism*), ---- We want to impact our society through research and through this policy we hope that the quality of research will improve, that the research skills of our staff will be better and that our

university will sustain and improve its ranking (not only in Legal Studies) within the global University Community.

LASU research Policy is to warn budding Scholars of the ills of *plagiarism*. They are to pay homage to Senior Scholars from whose fountain of academic wealth they are drinking. Just as junior Lawyers drop wig to a SAN in court as a sign of owing fealty to their Senior and elders and a captain in the Army pay homage to their general.

On pages iv and v of the policy such topics as academic *authorship*, *Intellectual Property* as well as *copyright* were thoroughly defined. Thus, authorship implies responsibility and accountability for published work". The manual also stated: While the University imposes no formal mechanisms for determining authority, it is the responsibilities of researchers to ensure *that contributors who have made substantive intellectual contribution to a publication are given credit as authors*. Substantive contributors or other collaborators must be acknowledged in the publication. This to be interpreted to me they must be acknowledged or homage must be paid to them as a Civilized Yoruba Minstrel Iba and Ijuba which is the kernel of this paper.

Lagos State University Research Policy further defined Intellectual Property and ownership of any creation or invention developed during an internship or research Project performed as part of a relationship with an outside entity should reflect the relative role and contributions of the student, the outside entity and Lagos State University to the creation of the work or the development of the invention.

On page 26 of the *LASU Research Policy* Copyright is defined as the ownership and control of the Intellectual property in original works of authorship which are subject to copyright protection. The Policy made an inventory of works that are eligible for copyright protection.

VIZ: as Literary works, musical works, artistic works, cinematograph works, sound recording and broadcast: All these works shall be the object of our investigation in this paper.

### **Iba/Ijuba: A definition**

Let us attempt to define Iba/Ijuba (Homage, praise, acknowledgements, commendation etc.) within the Yoruba Civilized Cultural Patrimony.

In their paper title: “Iba (Homage): A Compulsory Ritualistic Performance for the Yoruba Oral Artists” published in *11S Univ JA* vol 10 (3) 388-410 (2022), Dayo Akanmu and Joy Odewunmi wrote:

“Iba (homage or Salute to authorities) is a quintessential mandatory ritualistic phenomenon in the traditional programme structure of the Yoruba Oral literature”

In their study: Eight Yoruba Oral performances imbued with sufficient usage of Iba were purposely selected. To stake a balance, four oral performances in texts from the work of Akinwunmi Isola (Sango Pipe), T.A Ladele and Dejo Faniyi (Ekun Iyawo), Lawuyi Ogunniran (Esa in Eegun Alare, Prose) and Oludare Olajubu (Esa) were considered for analysis. The other form includes Iba in the musical works of Sir Sina Peter (Juju); King Wasiu Ayinde (Fuji), Ogunare Foyanmu and Alabi Ogundepo (Ijala).

The duo of Dayo Akanmu and Joy Odewunmi further opined that Iba is not a mere “homage” but traditional mandatory ritual which connotes *respect, Obeisance, submissiveness* and *acknowledgement* of all supernatural being (dead or alive) before any performance, the absence of which is responsible for social disorder in Yoruba contemporary society of today”

The duo almost make Iba into a Law by asserting “Iba is a very prominent aspect of Yoruba Oral literature usually observed with utmost spiritual motif by the oral poets before any performance, unlike what is obtainable in the contemporary Yoruba society today, no traditional oral artist would embark on any artistic performance without appeasing the existing authorities be it seen or unseen in the ancient time.

Quoting Adeleke (2009) and (2020) who avers that the exhibition of Iba in Yoruba proverbs is the most outstanding form of acknowledgements. He avers that a proverb is often marked by some type of introductory formula like *Yoruba bo or awon Agba bo* (Yoruba elders say) and a closing formula like *toto se bi Owe* or *Ko we maa je teyin agba* (Regards since it is typically a proverb or may the proverb credited to you elders \_\_\_\_ previous Scholars.

Samuel and Adekola(2018) hold the elders in honour because their approval of the performance of a novice show the elders favour to the novice performance in which they enjoy the delight and pleasure. Thereby a sign of promotion for the novices. Isola (1976) for his part

avers that Iba is the Yoruba way of acknowledgement of artist state and status of inferiority before the elder artist.

And finally, the duo cited Orimogunje (2004) who attached spirituality to Iba. Iba he avers will make the desire of the artist to come to pass immediately.

## **Iba/Ijuba: In Yoruba Civilization**

The Ijuba in Yoruba Civilization Academic Society: A treatise. The term Ijuba (Iba) in Yoruba oral literature and academic society goes beyond the English translation: Acknowledgment. Ijuba (Iba) in ancient Yoruba society shows the communality of Yoruba academic tradition. Hence our decision to thoroughly flog the term in order to show young academic the reason for Ijuba (Iba) in Yoruba academic society.

The purpose of Ijuba (Iba) is to eschew self- commendation which is tantamount to pride. The act of commending people will continue to exist as long as man lives. The society in which we live in creates a lot of room for self- commendation.

It becomes a normal thing to publish one strength, sing one's self praise. Let others praise you.

Do not do it yourself and never ask for it. That is why the civilized Yoruba approves of Ijuba (Iba) that sings the praises of the first creator of any cultural oeuvres.

In the ancient Yoruba civilized society a literary creator pays homage to his predecessor. Here in lies the Ijuba (Iba) to an a sun rara, *Ijala chanters* that first created a Dirge, Eleagic poetry for a long line of dead forebears.

This treatise made, we shall proceed to acknowledge the works of authors and writers who have written on the peoples of Lagos State.

We pay homage to Sierra Leonians and Brazilians how have amply contributed to the academic glory of 19<sup>th</sup> century Lagos as Prof Michael Echeuroin his work on giving visibility to opera, writers, paintersarchitects, *Lagos of the 19<sup>th</sup> century* has demonstrated.

In the 20<sup>th</sup> century we have Uthman Sodepo, Kunle Akinsemoyin, L.K. Jakande with his book: *A Case for a Lagos State*, published in 1966, Alhaji H.A.B Fasinro's work on the cultural and

political history, LASU *Centre for Nigeria General Studies with the contributions of young Lagos State academics* to wit: Prof Akinpelu, Adeniyi, Elias, Dr Habeeb Sanni and Animashaun.

The list of the 21<sup>st</sup> Century Lagos State academics who have contributed to the growing list of well researched publications is legion. We have in our Bibliography done justice to this aspect of our seminar paper.

### **Iba/Ijuba: In All Ramifications Church, University, Plagiarism etc.**

Ijuba (Iba) can connote in the spiritual realm thanksgiving for God for a mightier gift from God Almighty. When you say Thank you God by appreciating Him, He says Thank you back in 2 Chronicle. 16 -7 Solomon offered a thousand burn offerings to God to say Thank you Lord for making me king. In return, God visited him at night and said, “Ask for whatever you want and I will give it to you.”

In Genesis 8:20-22 Noah offered a sacrifice to God in appreciation for sparing his life and those of his family members. God responded by making a promise never to destroy the earth with water again and that seed time and harvest would never cease.

If you can just learn to say Thank you for all that God has done for you in the past, then you will get more in the future. If you are wise, you can even thank God for what He is yet to do. You can be sure that His response will be very big indeed. Psalm 107: 22 talks about sacrifice of thanks giving. Open Heaven 2022 13<sup>th</sup> June.

### **Iba/ Ijuba: Gains/Benefits**

What you gain when you raise praises. Even in the house of God, God inhibits the praises of his people. This is, because praises promote worshippers.

In whatever field or profession, you operate in, if you know how to really praise God, He will raise you to be number one. Pastor Enoch Adebayo testified that one day a pastor came to him and said, Daddy, I think I have discovered the secret of your tremendous success in ministry when you get to the Alter to preach, before you start at all, you first sing praises to God and then you EULOGISE Him. Until his presence comes down mightily, then you go ahead and preach.



Oh, you got it. Go back home and start doing the same. I know if I can praise God nonstop then he will keep lifting me higher.

Blessing, glory, wisdom, thanksgiving, honour, power and might be unto God forever and ever Re. 7:12.

Like novice in the entertainment profession, we need to give IBA/IJUBA to higher authority as you do to God, Praising Him the way He really should be praised, just keep praising Him and like Sina Peter you will discover that doors that were erstwhile shut will begin to open unto you and soon, you will be number one in your field. *Open Heaven 2022* Tuesday August 30<sup>th</sup>.

### **Iba/Ijuba in the University System**

Iba/Ijuba in the AcademicCommunity is an important ingredient to the holy order” of commending higher authority in all academic writings. Thus,in page 5 of Lagos State University Pamphlet titled. *The postgraduate school guideline for Writing Project Reports for Diploma and Theses for higher Degrees for Lagos State University 2019* it was stated in:

#### **Review of Literature**

This section shall highlight the work of previous researchers/workers in the student’s area of research carried out anywhere in the world. At the end of the *literature review*, a student should be able to clearly indicate the exiting gap in knowledge which he/she intends to fill with the research work he/she has embarked on. *Review of literature* is therefore tantamount to *homage, acknowledgement of senior researcher* whose works are guiding the direction of new innovation, scientific breakthrough the young scholar is seeing as model to emulate and follow.

In this era of *plagiarism*, Lagos State University frowns at academic borrowings not acknowledge.

In Lagos State University, Ojo Postgraduate School Internal Memorandum Ref LASU/PGS/SEC/22 dated 9<sup>th</sup> August, 2022 addressed to me by the Principal Registrar/Ag. Secretary Postgraduate School it was stated:

## RE: PLAGIARISM POLICY

I have been directed by the Dean, Postgraduate School to respond to your request on Postgraduate Policy on *Plagiarism* as follows:

- It is imperative to subject all postgraduate theses, Dissertations and other research reports to *plagiarism* checker.
- The *plagiarism* level on any research work should not be more than 20%
- The *PLAGIARISM* checker approved for use at the Lagos State University is: Get it Right [LASU PLAGIARISM CHECK].

Thank you, Sir,

ODUYOMI. O.A.

Unilag Academic planning Unit Internal Memos of 9<sup>th</sup> January 2014 and 18<sup>th</sup> March, 2014 eloquently paid homage to my work titled.

Finalisation of Entire word-list of Entries for the Kabba – Yoruba Dictionary thereby encouraging young academic to undertake award-winning research work. Just as this Unilag Radio broadcast to Nigerian listeners our year of academic fecundity and blossoming academically.

One of the greatest Iba/Ijuba in the Protestants Hymn books is this: paying homage to God Almighty: Hymn *Ancient and Modern* 185

Praise to the Holiest in the height,  
And in the dept be praise;  
In all his words most wonderful,  
Most sure in all his ways

Other Iba/Ijuba first lines in *Ancient and Modern* go thus:

Praise, my soul, the king of heaven (365)  
Praise o Sion, praise they master (622)

Praise o Praise our God and king (481)  
Praise the Lord of heaven, praise Him  
In the Height (381)  
Praise the Lord, yea heaven adores him (368)  
Praise to God immortal praise (485)  
Praise to the Lord, the Almighty the  
King of creator (382)

*In Methodist Hymn Book (548) we have:*

All things are possible to me.

We can in addition add:

In Christ alone my hope is found  
He is my light, my strength, my song  
The cornerstone, this solid ground  
Firm through the fiercest drought and storm  
What height of love, when depths of peace  
When fears are stilled, when strivings cease  
My comforter, my all in all  
Here in the love of Christ I stand.

Ebenezer Obey and Sunny Ade have exploited these protestant Hymns and adapted them for good use in their album: The Album *Iba to God Almighty* attests to this: *Iba fun EledumareBaba, so is his Omode Ilu mojuba, Agbagba ilu mo juba o. kiba kiose iba o. Iba re Jesu Iba re o Baba.* His album Board member is a masterpiece of Iba.

### **Iba/Ijuba in Yoruba Cultural Patrimony**

There are several layers of Iba/Ijuba in Yoruba cultural patrimony.

## **Iba to Kings**

We have explored the Ijuba/Iba to ancient Alafin of ancient time which led to the gift of Princesses to the chanter to the point of pledging half of his vast Oyo Kingdom to the chanter, before the Alafin subjects asked for the exile of the chanter. His eloquence has turned to national security risk.

## **Iba/Ijuba by an apprentice.**

We have listed the homage of an apprentice to his famous mentor to elicit promotion to the rank of great Ijala chanter for example

## **Iba by Apprentice Babalawo to the forces of the universe for protection.**

The example of late Pa Ojo Osanaiye Obarokan of Kabba at the start of his divination which he used to start in those good old days:

Ile ogere afoko yeri  
Mo juba Akoda  
Mojuba Aseda  
Mo juba Olorun Eledumare  
Akoda Aseda

## **Iba/Ijuba in Oriki (Praise names)**

We have for example detailed out family Orikis in *Langbasa* V 12

Oriki (Langbasa – Okun l’olori omi

Oriki o loto, oriki Oba O loto, Oriki Oloye Ojora, Oriki Aro Ojora, Oriki Oba Oyekan, Rilwan Oriki Egungun Akirijagiri Bi Ogun, Salami Smith, Oriki Pa Kinyomi, Shinaba Oriki Eko, Oriki Igun nu etc.

## **Ijuba/Iba of artists in N.E. Yorubaland the Kabba example**

In the important Yoruba town of Kabba, musical minstrel like Emmanuel Oliye an Odo-Aganmo district Sakara musician tutored his apprentice of OMO ALAGODO Group in the art of Iba Ijuba

in the 1950<sup>s</sup>/1960<sup>s</sup> in their chant that goes thus: Paying homage to their leader they entone the name of Emmanuel thus:

Emmanu Oni moto yen

Lo ko wa lere.

The Aworo Oko Ijeni (Janet's husband) and Mr Bimbim of Odo-Akete also have their apprentices chant homage to Aworo thus:

Aworo Oko Ijeni

Oun lo kowa pe

Okoko e do ko

Lai ma sise

Mari temi se

Another artist at Oke koko district of Kabba led by Kolade chant homages to their leaders too.

Olule re

Mojuba o

Iba Olule

2ice

### **Iba/Ijuba by The All-Women Woro Musical ensemble of Kabba**

We have written extensively on Kabba *All Women Woro Musical ensemble* in our works: *Historical Trends of Nigerian indigenous and contemporary music*, *Kabba: A Play*, *Nigerian Dances and Theatre*, *Essays in World Theatre*, *Cultural Quiz for Kogi State pupils*, and *St Esther Ibirewo (The Biography of One of the leaders of Kabba All Women Woro musical Ensemble)*.

One of their master pieces is Ope, thanks giving melody.

Ope emo seun o

Omo selika

Omo seun o

Ope emo seun o

Thus, during the funeral obsequies of Late Ma Esther Ibirewo the Matriarch of Odo-Aganmo district of Kabba in December 1989 they eulogized her with this melody.

OLAJIDE thus:

Ohiye rimirim

Ohiye tegbeduru

Olajide mo muye

Kee hon hi

To be interpreted to mean. Lajide's last homage to Ma Ibirewo was one in town.

### **Iba/Ijuba in Langbasa**

Right from the preface of Langbasa, through Acknowledgements pages, Langbasa is strewn with Iba/Ijuba to H.E. Professor Oluyemi Oluleke Osinbajo (GLON, SAN); Lagos State Governor: Babatunde Aremu Osuolale Akiolu 1; Prof Ibiyemi, Ibilola Olatunji – Bello mni, fphysiol (uk) FPSn, FEnv, Vice chancellor, Lagos state University, Ashiwaju Bola Tinubu and Babatunde Raji Fashola HE Ambode former Governors of Lagos State, Prof Ekundayo Simpson former commissioner of Public Transport/Education, Engineer Anthony Olufunso Williams, Honourable commissioner for Works; Dr Babatunde Julius St Mathew-Daniel former commissioner for Commerce and Industry, Pa Babatunde Kinyomi, Board member of Lagos State library Board (1995-1999) Dr Oladepo Alaka, a LASU Legal Luminary, Dr Habeeb Abiodun Sanni, one of the foremost Lagos State history Scholar, Bernaderie Evaresto, Britain Yoruba Literary Colossus; Dr Simisola Olayemi Onibuwe-Johnson, former Federal Ministers. Mrs. Eniola Fadayomi former attorney – General and Commissioner for Justice, Lagos State, Mrs. Modupe Folashade Adeogun, former Commissioner for Information and Culture, Mr. HAB. Fashinro and Governor Ambode; Brazilians and Sierra Leonia Education and Cultural Artists of 19<sup>th</sup> Century Lagos, Prof G.O.Olusanya for his portrayal of Herbert Macaulay and Educationist Henry Carr.

Homage was made in Langbasa of kings of Lagos 1630-1997, members of Lagos State Council of Obas and Chiefs, The Last Governor-General of Nigeria: Sir James Robertson (1955 - 1960), Lagos State House of Assembly members, Lagos State Attorney-General since 1967 – to date, Alhaji Lateef Kayode Jakande former civilian Governor of Lagos State (1979-1983) Muhammadu Ribadu 1<sup>st</sup> Republic minister of Defence and Lagos Affairs, Akinwumi Ambode

Lagos State Governor 2015 -2019, Dr Idiat Oluranti Adebule former Deputy Governor, Lagos State (2015-2019); Homage by Oriki to some Lagos families, Oriki of Adamu Orisha, Omo Balogun Ajikobi a foremost Scholar and Research on the history and culture of Lagos who was until his death 2019 on the state of Unilag Department of African and Asian Studies, of Tunji Dare, a Professor Emeritus and the first, First class graduate of Unilag department of mass-com in December 1974, Sir Dr Claduis Afolabi Alaja- Brown (KCW, Ph.D Music) Organist of Methodist Church Lagos. Chief Olufunsho Akinyemi Akindele, Deputy General Manager Daily Times 1979. Mr Tani- Olu, General Manager perpetual at Kakawa street Daily Times Late Madam Omofemi Obatolu of Agbole Ojunrin Lagos, Prof Paul Omo-Dare Deputy Provost College of Medicine Idi-Araba Lagos, Late Rt Rev T.E Ogbonyomi concentrated Bishop of the North Anglican Communion at Christ Cathedral June 1976.

Mazi Asonye Mba-Ugbemena a foremost Scholar on Igbo Studies at Unilag Dept of African and Ascaian Studies – University of Lagos was roundly acknowledged in this monumental work for giving me employment in the Department of European Languages in 1981.

### **Iba/Ijuba in Cultural Quiz for Lagos State Pupils and Students.**

Most of the Iba/Ijuba in this cultural and Political Quiz for Lagos State pupils and Students focused on the works of eminent authors of books we read and consulted when compiling this Quiz books. Most of them, their names have appeared in the large bibliography to this work.

*The authors of the Peoples of Lagos State edited by Prof Ade Adefuye, Jide Osuntokun, Agiri-Johnson, Prof Abayomi Akinyeye for his work on the architectural Brazilian wonders in Lagos, Institutional works on peoples and culture of Eko, Lagos culture Traditional arts/crafts, Books by Lagos government parastatals on Tourism and Tourist attraction in Lagos chambers of commerce in Lagos, HAB Fashinro's book on Politics and history of Lagos, Uthma Sodipe book 30 years of Governance in Lagos State from Johnson to Marwa. Books on Lagos Colony in the 1800 as well as colonial Lagos, The National Theatre, Yoruba cinema of Nigeria written by me; Who are the Lagosians by Akinsemoyin, Books on Brazilian Cultural Presence in Lagos in the 1850s, the Press in 19<sup>th</sup> Century Lagos, Lagos Scene in the 19<sup>th</sup> Century Lagos intellectuals by Michael Echeruo Lagos Musical Culture book, the Religion and Culture of Lagos, the oldest kingdom of Lagos.*

### **A general outlook of Yoruba belief system: The place of Iba, Ijuba, respect, homage, etc.**

Iba/Ijuba is one of the greatest Yoruba belief systems and is one of the Yoruba contributions to culture and ethical practices of the Yoruba. It is also one of the Yoruba's contributions to world civilization. An infraction to his cultural imperative is tantamount to disrespect of elders and it is called a wayward behavior which is usually met with punishment because it is a display of lack of belief in what the Yoruba call *Iwa Omoluabi*.

For example, in ancient Palestine in the book of Genesis 47:29-31, Israel, (Jacob) had made Joseph to swear solemnly to bury him in Canaan.

In Genesis 49:29-50 this request was repeated. In Yoruba nation, it is a generally accepted custom that people should be buried in their home towns. This is a cultural norm of olden days Yoruba. That is part and parcel of Yoruba belief system. In late 1950s the *Orimolusi*, the paramount ruler of *Ijebu Igbo* was involved in aircraft mishap and he lost his life. It was reported he resorted to the spiritual 'Egbe' to transport him back home to no avail. But the elders and witch doctors of *Ijebu Igbo* did the needful and his remains was brought home. Because the Yoruba belief system is that the remains of an Oba cannot be left in a foreign land. An album was even waxed in late 1950s to celebrate this mishap to wit:

Ijebu Igbo Eseun seun

Ema ku eto, eto ti ese

Tie fi gbe okure wale

Ema ku eto

Wolori Oba kin ma un

Sungbo won gbede

Won lori Oba kin ma un

Sun odan wongbe bo.

Fulfilling a father's wish is the hall mark of an *Omoluabi* in Yoruba belief system. *Omoluabi* is a core value system the Yoruba child rearing. It points to the civility which is the Yoruba civility or call it the civilized Yoruba mode of behavior.



In (Timothy – Asobele 2014:75-76) the child, for example in Kabba is a reflection of his home. If he behaves badly the elders will ask *Omolaunlo?* whose child, is he? Those children who respect young and old particularly when placed in position of authority over them, transparent, accountable, eschewing stealing, are called *Omoluabi*. But alas! Western norms and values have crept into our culture and created a class of culture thus destroying our concept of *Omoluabi*. The child rearing moonlight oral narratives session on our moral values in an informal education home setting are gone.

In Kabba language, onomastic: science & names, the concept of *Omoluabi* is the foundation of child christening in the olden days. Thus, we have a recurrent tradition of *Iwa* coming into pre-eminence in child baptism in Kabba to wit:

Aderewa, Iwalewa, Omolewa, *Iwaginle*, Iwalaiye, Iwamide, Ibirewa, Obahunwa, Obanewa, Ojulewa, Omoniwa, Onihunwa, Ewohunwa. In Timothy A Awoniyi (1975: 357-384) he asserted in his paper: *Omoluabi*: “The fundamental basis of Yoruba Education” the principles of Yoruba Education are based on the concept of *Omoluabi*. The end product of education is to make an individual *Omoluabi*. To be an *Omoluabi* is to be of good character in all its ramification. Good character in the Yoruba sense include respect for old age, loyalty to one’s parents and local tradition, honesty in all public and private dealings, devotion to duty, readiness to assist the needy and the infirm, sympathy, sociability, courage, and itching desire for work and many other desirable qualities.

German to our topic is the fact that Yoruba child is taught to respect the past: it is a cardinal element, according to (Timothy A. Awoniyi 1975:381) of Yoruba education to honour the past before embarking on a new assignment. Thus, a Yoruba person acknowledges all precedent and all higher authorities before any undertaking.

Mo juba

Mo juba Akoda

Mo juba Aseda

Ibaa pete owo

Iba pete ese

Iba ate lese ti ogbodo hu irun  
Ewure wole ko juba, ni wonba mun so  
Aguntan wole ko juba ni won bam un so  
Agba to ba wole ti ko juba odi mi mu so bi eran  
Mojuba kin ma baa denimimu so  
I pay my respect and honour  
I pay my honour and respect to Akoda  
I pay my respect to Aseda

**Oriki: source of Ancestral Ijuba, Iba and forebears achievements in Africa.**

Let us first and foremost draw our example of the delight or pleasure derivable from the chart of Oriki in faraway Guinea Conakry: in the work of Camara Laye titled: *African child*.

In the passage where an influential woman of worth and self-esteem visited Camara Laye's father in his workshop to fashion out her gold earring for the *Tabaski's* celebration, (Ileya) in Yoruba language, the little boy affirmed the delight he received when the griot, the praise singer, the influential woman brought. He tuned his Cora, natural guitar and reeled out praises of Camara Laye's forefathers, their achievements. Little Camara Laye was elated to hear such great deeds and exploits of his descendants.

Professor Bolanle Awe and professor Adeboye Babalola in their papers titled: "*Notes on Oriki and warfare in Yoruba land*" and "*The delighg of Ijala*" respectively on pages (258-291) and pages (630-675) respectively aver that: For the Oriki constitute an oral source whose significance within the context of Yoruba culture extends even to Yoruba warfare. According to the traditional bards, the purpose of the Oriki is to preserve a record of the past (like Camara Laye example quoted above) and to spur listeners by such recital to greater achievement in emulation of their ancestors. Professor Awe cited instances of recitation of the god of iron and war Ogun's Oriki, Oranmiyan's Oriki, Obokun's Oriki, Balogun Ogunmola's Oriki Aare Latosa's Oriki, Balogun Ibikunle's Oriki of Ibadan, Ogedengbe of Ekiti Oriki, Arinnioro and Ogunmodede of

Ilesha Oriki, Fajembola of Oye's Oriki ele. They are men for whom were reserved the allegiance, admiration and respect and influence given to the leaders in a given community.

In his own paper; Adeboye Babalola stated: what do the Yoruba enjoy in Ijala or what are the delights of Ijala. Camara Laye whose father is a worker in Ogun iron furnace workshop in Guinea Conakry town of Kourouso explained that the recital by the griot the achievement of his great forebears was pleasurable to him and was his delight. The session of Oriki therefore by either the griot or Yoruba chanter detailing the Oriki of warrior ancestors of the Ibadan, Ekiti was an occasion for spiritual pleasure and delight.

In my book "Langbasa" we have detailed that the Oriki of many influential citizens of Lagos from page 1 to page 2 of 2001 edition of *Langbasa* from page 141 to 155 of 2022 edition.

In his book "*Features of Yoruba Oral poetry*" Olatunde O. Olatunji detailed the following as constituting Yoruba Oral poetry: Oriki: Yoruba praise poetry; Ese Ifa: Ifa divination poetry; Ofo: Yoruba incantation; Owe and Alo Apamo, Owe: proverbial expressions (Olatunde O. Olatunji: 1984: 67-189) Ulli Beuer in (Adebisi Afolayan 1982:57) classified Yoruba poetry as including: Oriki, Ese ifa, Owe, rara, Ijala, ewi, ekun iyawo, and alo apamo. Babalola added the following as genre of Yoruba poetry: Ofo or Ogede, Esa and Iyere Ifa. (Olatunji 1982:57-58) wrote that Rara is chanted by men and wmen, old or young for entertainments on social occasion. Ijala is performed by hunters and devotees of Ogun (Yoruba divinity of Iron. Ewi or esa is chanted by masquerade while Ekun Iyawo is sung by brides on the eve of their marriage. Iyare Ifa is chanted by devotees of Orunmuila, the Babalawo when they come together on festive occasion.

In Egband Ege is popular much more akin to rara. Alamo among the Ekiti, Olele among the Ijesha. Several Yoruba researchers such as Adeboye Babalola, Olusoji, Ogunbowale on Egba oral poetry, William Bascom and Wande Abimbola on Ifa literary corpus. Others are Afolabi Olabintan, Oludare Olajubu.

Adeboye Babalola (Adebisi Afolayan 1982:71) avered that in honour of each progenitor of the Yoruba people. There is a traditional verbal salute called "Oriki Orile" which is suitable for performance in more than one style of Yoruba spoken art. When performed by Ijala artists, these verbal salutes become Ijala chant.

## **Training of Oral Tradition/ folklore artist**

(Timothy- Asobele:2021: pp93-94) we also learnt that it takes the Yoruba Ijala chanter twelve years to train the young, six years old apprentice and that memorizing and the use of *Isoye*, a medicinal herb helps the young student to have a retentive memory while the main mnemonic device used by the Ughoro (Edo court poets) to facilitate remembrance was the figures of kings which were molded in clay and preserved in a special chamber according to their order of ascension. (Isedore Okpewo 1992:2022) avered that the piece of oral folktales had passed through so many generations of transmission that it was no longer possible to speak of one single author. He opined that training does not always happen in a conscious or formal way, but in many cases a well-organized training will lead to art of truly professional excellence. Let us quote Okpewho and Babalola on training of oral tradition of folktale artists.

## **Training and preparation**

To be an accomplished oral artist, some form of apprenticeship or training is necessary. Essentially two kinds of training are involved in the development of the African oral artist: informal and formal. Informal training entails a kind of loose attachment whereby future artist happens to live or move in an environment in which a particular kind of oral art is practiced and simply absorbs the skill in it as time goes on. It is possible, of course, for a person to live forever in such an environment and not develop the skill; one's mind or nature has to be predisposed toward art before the skill can successfully take root.

## **Training in Yoruba society**

Two examples come from the Yoruba of Western Nigerian. The first relates to the training in Ijala, or hunter's poetry, and we may best cite the description of the process by the authority in the subject, Adeoye Babalola. We are first told that for the training to be successful the pupil has to show a deep interest in the chanting of Ijala poetry, even if he is going to be taught by his own father. This apprenticeship begins, in most cases, in early youth (about the age of six) and lasts about a dozen years. Babalola describes the major stages of this training.

“The first stage of pupillage is a period of merely listening to the Ijala chants performed by the teacher in his own house as well as at every social gathering where he entertains people

with Ijala. The pupil first imitates his teacher when he, the pupil, is on his own and thus he praises Ijala-chanting. Subsequently, when he is at a social gathering as the *asomogbe* or *elegbe* (pupil) of his master, he is able to repeat the words of his master's chant almost simultaneously and the sound of the Ijala performance then resembles that of choral chanting. The third stage is when the master orders his pupil to give solo performances of Ijala chants at social gatherings to which he has taken him. This is obviously a sort of promotion, for the pupil ceases to provide merely an accompaniment to his master's chanting voice. (1966: 41-42).

After he has gained confidence as a performer, the Ijala poet ultimately sets up on his own, parting ways with his master either with the latter's consent or without notice (fearing that his master may not voluntarily release him). Babalola concludes his discussion of the training of the Ijala poet with a question: how is the poet able to retain so much text in memory and perform steadily without faltering? To this question there is usually a twofold reply. First, practice makes perfect: constant repetition helps the artist to master the text so well that the chances of error are drastically reduced. Second, the chanters admit that they make use of various kinds of medicinal charms (called *Isoye*) which aid in the retention of memory. These charms come in the form of magical chants, which are said to instill retention, or of powder taken with food and drink or incised into the poet's bloodstream with a barber's knife. Through these various forms of preparation- i.e., the more practical steps of careful apprenticeship and the less obvious powers of traditional magic – the future Ijala poet is equipped with the skills he needs for the rather complex demands of a public performance.

### **The Griot as a Musician, Poet and Actor**

Let us look at the griot in his roles as a musician, poet, and actor. The griot is not a simple musician. He is a dynamic person whose strength of character has an influence on the people around him. With his cora or harp, he can compel the unaware to give him as gifts not only their dresses, houses, wives but also their land (perhaps figuratively). He can therefore very easily pass for a magician by way of his dynamic behaviour, with the aid of his sweet tongue.

Lilyan Kesteloot alludes to this magical trait of the griot's in *Dan Monzon de; Segou Epopee Bambara*: "While the griot, from the historical subject, just wants to narrate: his aim is aesthetic: his qualities are not precision or exactitude, but flowery language. That is why he develops in his

story, what strikes the imagination... he seeks to capture the intelligence of his listeners by allusions concerning them or their daily lives... he finally chooses the words that flatter the ear and the mind; imagery, repetition, comparison, onomatopoeia, on a sustained rhythm hammered and accompanied by the guitar and the assonance of stanzas.” We have cited little Camara Laye’s encounter with the griot.

This dynamic role of the griot musician and official praise singer is depicted in the, second chapter of *African Child* by Camara Laye. In this scene, Camara Laye talks of the women who bring gold to his father. Since these women are aware that they are neither the first to be served by Camara Laye’s father, they use the services of a griot, the master singer in the pejorative sense of the term. On the tricks of these women, Camara writes: “in order to improve their chances of being quickly attended to, in order to make my father interrupt in their favour, the job in progress, they use the services of an official praise-singer, a griot, in accordance with how much his services are worth to them.”

Here we touch on an aspect of Guinean etiquette. The reward being discussed here has nothing to do with that caste of “professional musicians who live off the backs of others” which D.T. Niane mentioned in his foreword; neither with “those numerous guitarists who populate our cities and sell their music in recording studios of Dakar or of Abidjan.” This etiquette also exists among Yoruba praise singers (two Yoruba panegyric genres) to whom a powerful ruler of the ancient kingdom of Oyo suddenly gave his daughters, land and gowns, when the praises went to his head. The griot had to be exiled by the citizens so that he would not pauperise the king by the force of his words. It is important to note that the prosperity of a Yoruba griot depends on his mastery of the panegyric genre. This is what Mr. Olajubu wants us to know when he writes:

His prosperity as an artist also depends largely on its as Yoruba tradition enjoins an individual whose “Oriki” including the “Orile” is being chanted to react promptly by giving the artistes gifts of money and materials according to the strength of his purse.

Camara Laye did the same thing when he paid a visit to the master of the word in May, 1963. He says in the *Master of the Word*, an important personality, recommends that “we offer to our Fadama host ten white colanuts, important currency in Guinea hospitality, and a sheep or its price.” The role of the griot in the workshop of Camara Laye’s father is, before anything else, as

it is with Moliere, *to please*. This is done by singing praises of the forebears of the goldsmith. The style chosen fits the occasion. He uses, in an indiscriminate manner, mythology, history, legends and praises, while talking of real heroes who performed exceptional feats and from whom descends Camara Laye's father.

“The Griot sat down, strummed his cora, which is our harp and began to sing praises of my father. For me, this singing was always a great moment. I heard the feats of the ancestors of my father being narrated in a chronological manner. As each stanza ended, it *was like a great family tree that stood tall with its branches here and there with its hundred leaves and leaflets in my mind. The harp sustained this vast nomenclature trimmed and cut in low and high notes.*”

It is proper that Camara Laye loves “this great moment” and that his father is well pleased. It is rather sad that the reader cannot taste the joy of the griot's chants with Camara, who had a firsthand experience of it. If performance is the substance of the griot's art, the written version faces problems among which is this: the author has been unable to transcribe the text of songs of the griot, neither has he been able to set them out separately.

Indubitably, the griot is a dynamic element of this peaceful Malinke society. He is a storehouse of knowledge. This realization makes Camara Laye pose the question: “Where does the griot get his knowledge from? From a well and assuredly exercised memory, particularly fed by his predecessor and which is the foundation of our oral tradition.”

To the above question, Camara Laye gives a plausible answer in his work *The Master of the Word*, which he wrote more than 16 years (1978), after *The African Child*, written in 1963. Because the author states that the knowledge of the griot is the foundation of our oral tradition, this means that it was passed down from one griot to another and from one generation to another. Tingui, the occupier of the history chair of the whole Kouroussa Region, Camara Laye writes:

There is no doubt that he derives his knowledge from his father, who in turn had it from his father. The forebear of Babou Conde, Fremorei Conde was the griot of Imouraba Keita, son of Manden Bory, founder of Hamana, Kouroussa, Guinea. He came from Manden with his griot. It is from this distant past that the males of the Conde tribe of Fadama became well versed, from childhood, in art of speech.”

The author knows that it is the job of the griot to flatter because he has overpriced the women's trick to bring a griot's father's workshop. This trick of flattery has paid off. Camara's father gives in favourably to the request of the women. Camara Laye has asked a very important question concerning the maintenance of this oral tradition. He asks whether the griot "will add to his story. It is possible. It is his job as griot to flatter! He must not however mislead tradition too much." The answer to these multiple questions. For the Yorubas, according to Professor S.A. Babalola, the god of war, Ogun, is the patron of the poetic genre."

*"No hunter can validly claim the authorship of an Ijala piece which he is the first to chant. the god Ogun is the source and author of all Ijala chants: every Ijala is merely Ogun's mouthpiece. Certainly, there are new Ijala chants created by hunters from time to time."*

The above quotation is authoritative, because professor S.A. Babalola is by right the most knowledgeable in the Ijala genre. If there is an absence of diverse versions, it is because oral tradition seldom lends itself to several interpretations. The griot can still afford the luxury of leaving his mark on the performance of his art, with the aid of gestures, musical instruments and hand clapping. All these additions highlight the dynamism of the griot in his community. It is this dynamism that makes the work of Camara Laye's father easy, because both he and the griot participate effectively in the job. The griot appears to us as a possessed person:

"He picked his guitar in an inspired manner; he warmed himself as if he were the artisan himself; even my father, it was as if the jewel were born from his hands. He was no longer the hired flatterer, he was no longer the man whose services could be hired by just anybody; he was a man who created his chants from an all interior need."

The atmosphere is charged, because poetry has given way to dance as engendered by the "douga", that song, that is sung only for great men and danced only by these men. It is the griot who is master in this genre called douga. *We are now therefore in the domain of theatre where song, music (of the cora) and dance (the douga) take the lead.* It is a dance of supernatural being and it never fails to unleash malevolent spirits. To dance it, Camara's father is armed with charms and amulets in order to make himself invulnerable to evil djinns. Thus, he dances the glorious dance: hence, *the Ijuba of the Yoruba poets to principalities and powers.*



“No sooner had he finished, when workers and apprentices, friends and clients while waiting for their turn including the woman who owned the jewel, all gathered around him, complimenting him, showering praises on him and at the same time saluting the griot who was showered with gifts which are almost his only possessions in a nomadic life comparable to minstrels of old times. Beaming, warmed by the dance and praises, my father offered every person colanuts, the small change of Guinea hospitality.

These scenes show, in an indubitable manner, the dynamic roles griots played in Mandingo society. The fact that he is rewarded shows that he is very much appreciated in his social milieu – where he is by turns, he is the occupier of the history chair, official praise-singer, singer, “hired flatterer”, “talking documents” and a great musician and mobile troubadour.

In modern Nigeria for example, Sunny Ade and Ebenezer Obey enjoy the same popularity that the griot *halcyon* days enjoyed.

### **Copyright in Traditional African Society**

The big question now is:

Does the notice of copyright exist in traditional Yoruba oral literatures? Yes, this is done through Ijuba which means homage, acknowledgement of the first creator of the chanted piece.

### **What is Oral Literature?**

(Timothy – Asobele 2013: 14-15) quoting prof. B.O Akporobaro’s book titled: *Introduction to African Oral Literature*, Timothy – Asobele asserted that oral literature or folk literature refers to the heritage of imaginative verbal creations, stories, folk-beliefs and songs of pre-literate societies which have been evolved and passed on through the spoken word from generation to another. Prof. Akporobaro offered more insight into oral arts. This includes the following:

1. The corpus of artistically significant verbal expressions evolved by a group of people and transmitted orally from one generation to another.
2. The creative expressions (such as folk tales, myths and legends, proverbs and songs) composed in traditional or primitive societies and pass on from one generation to another by word of mouth.

3. The totality of verbal expressive forms and beliefs evolved in tribal societies for social entertainment and for the ordering of society and pass on orally from one generation to another. (Here Victoria Ezeokoli's *Tales by Moonlight* is a series of such adaptations for the NTA for the purpose of education and entertainment of our children – some sequences teach morality, good conduct. The rural areas societal norms are taught to our children during such moonlight role playing model of moonlight marriage. They are part of sex education, part and parcel of child socialization process. Prostitution is frowned at, so divorce, adultery, fornication while virginity is highly esteemed. So, through this societal behavior modelling plays the community assures a generation of CHASTE, and morally upright youths. Sugar-Dadism which amounts to adult delinquency is unknown in the rural areas where in order to forestall such evil polygamy is enthroned to keep lecherous tendency at bay.

### **Masking Tradition in Kabba City**

Our mask/masquerade tradition of Egunrodo WABO by the Idamoris in Kabba are aspects of total theatre that help in the socialization of Kabba children.

Our medium of Mask is also intended to improve the cohesion and maintain standard of morality and behavior handed down from generation to generation in Kabba. They are behavior modelling device for Kabba children to prevent witchcraft which are antisocial behavior, probity in sex and chasteness.

4. Songs, stories, beliefs and legend which have artistic marks and cultural values and which form the cultural traditions of a people and are usually handed down from one generation to another.
5. The unwritten traditions of a nation, their religious beliefs, stories, myths and legends which express their artistic use and more beliefs of the people.

The basic genre (forms) of folk literature according to Akporobaro include such forms as: Folktales, folklore, ballads and songs, epic narrative like the *Agbolapeni Saga* of Kabba, myths and legends, songs, riddle, Enigma, proverbs, recitation, oral narratives, chants, oration, opelu, Aruta, saga orations, Ogun festival dance and ritual performances by Oloseun, Ogun and Ofosi

as well as Eborá devotees songs and incantations, Oriki, praises names, Genealogies and esoteric language of Oloseun and Ule Ushin devotees.

### **Intellectual property & copyright worldwide and in Nigeria**

The next question is what is copyright in relation to intellectual property. Let us start by defining the term intellectual property as well as copyright. (W.R. Cornush 1999:3) defined intellectual property as a title, the term may sound rather grandiloquent but then, at its most serious, this is a branch of the law which protects some of the finer manifestation of human achievement. Type of conduct which may not be pursued without the consent of the right-owner (Dana I. Bainbridge 1994:1, 2009:3) defined intellectual property law in the following terms.

#### **What is intellectual property law?**

Intellectual property law is that area of law which concerns legal rights associated with creative effort or commercial reputation and goodwill: the subject matter of intellectual property is very wide and includes literary and artistic works, films, computer programs, inventions, designs and marks used by traders for their goods or services. The law deters others from copying or taking unfair advantage of the work or reputation of another and provides remedies should this happens. See overleaf for my major translation of Ogunmola, Ladipo, Wale Ogunyemi for which UI Institute of African Studies granted me copyright. There are several different forms of rights or areas of law giving rise to rights that together make up intellectual property. They are:

- Copyrights
- Rights in performance
- The law of confidence
- Patents
- Registered designs
- Unregistered design rights
- Trade marks
- Passing off
- Malicious falsehood (trade libel)

This list is not exhaustive and there are other rights, for example, the rights associated with plant and seed varieties protection, but these will not be dealt with in detail in this paper.

### **What is copyright?**

(Copyright is a property right that subsists in certain specified types of works as provided for by the copyright, designs and patents Act 1988). Examples of the works in which copyright subsists are original literary works, films and sound recordings. The owner of the copyright subsisting in a work has the exclusive right to do certain act in relation to the work such as making a copy, broadcasting or selling copies to the public. These are examples of the acts restricted by copyright. The owner of the copyright can control the exploitation of the work, for example by making or selling copies to the public or by granting permission to another to do this in return for a payment. A common example is where the owner of the copyright in a work of literature permits a publishing company to print and sell copies of the work in book form in return for royalty payments, usually an agreed percentage of the price the publisher obtains the books.

(If a person performs one of the acts restricted by copyright without the permission or license of the copyright owner, the latter can sue for infringement of his copyright and obtain remedies, for example damages and an injunction). however, there are limits and certain closely drawn exceptions are available, such as fair dealing with the work. An example would be where a person makes a single copy of a few pages of a book for the purpose of private study. Other acts may be carried out in relation to the work if they are not restricted by the copyright, for example, borrowing a Rolling Stones recording to listen to in private.

A broad classification can be made between the various types of copyright work. Some such as literary, dramatic, musical and artistic works are required to be original. As will be seen later, this is easily satisfied and the work in question need not be unique in any particularly way. Other works such as (films, sound recordings, broadcasts, cable programmes and typographical arrangements can be described as derivative or entrepreneur works and there is no requirement for originality; for example, repeat broadcasts each attract their own copyright). copyright extends beyond mere literal copying and covers acts such as *making a translation of a literary work*, performing a work in public and other acts relating to technological developments such as

broadcasting the work or storing it in a computer. My translation into French *Eda, Obaluaye, Langbodo, Lanke Omu, Obakoso*.

(Fundamentally and conceptually, copyright law should not give rise to monopolies and it is permissible for any person to produce a work which is similar to a pre-existing work as long as the latter work is not taken from the first). It is theoretically possible, if unlikely, for two persons *independently to produce identical works, and each will be considered to be author of his work* for copyright purposes. My version of *Aba Women War* and Prof. Okanlawon version is a good example.

**Berne convention for the protection of literary and artistic works of September 9, 1886, completed at Berne on march 20, 1914, revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971, and amended on October 2, 1979**

The countries of the Union, being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works, recognizing the importance of the work of the Revision Conference held at Stockholm in 1967, have resolved to revise the Act adopted by the Stockholm Conference, while maintaining without change Articles 1 to 20 and 22 of that Act. Consequently, the undersigned Plenipotentiaries, having presented their full powers, recognized as in good and due form, have agreed as follows:

#### Article 1 Establishment of Union

The countries to which this Convention applies constitute a Union for the protection of the rights of authors in their literary and artistic works.

Article 2 Protected Works: 1. "Literary and artistic works"; 2. Possible requirement of fixation; 3. Derivative works; 4. Official texts; 5. Collections; 6. Obligation to protect; beneficiaries of protection; 7. Works of applied art and industrial designs; 8. News

- (1) The expression " literary and artistic works" shall include every production in the literary, scientific, and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatic-musical works; choreographic works and

entertainments in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing ; painting, architecture, sculpture, engraving and lithography; photography; works of applied art; illustrations, maps, plans, sketches, and three-dimensional works relative to geography, topography, architecture or science.

(2) It shall, however, be a matter for legislation in the countries of Union to prescribe that works in general or any specified categories of works shall not be protected unless they have been in some material form.

The following are the conversion for the protection of literary and artistic works as they appeared in (Andrew Christie and Stephen Gare 1992:255-277)

Article 6 Moral Rights: 1. To claim authorship; to object to certain modifications and other derogatory actions; 2. After the author's death; 3' Means of redress

1. Independently of the author's economic rights to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honour or reputation.
2. *The rights granted to the author in accordance with the preceding paragraph shall, after his death, be manifested, at least until the expiry of the economic rights, and shall be exercisable by the persons or institutions authorized by the legislation of the country where protection is claimed. However, those countries whose legislation, at the moment of their ratification of or accession to this Act, does not provide for the protection after the death of the author of all the rights set out in the preceding paragraph may provide that some of these rights may, after his death, cease to be maintained.*
3. The means of redress for safeguarding the rights granted by this article shall be governed by the legislation of the country where protection is claimed.

Article 7 Term of Protection: 1. Generally; 2. For cinematographic works; 3. For anonymous and pseudonymous works; 4. For photographic works and works of applied art; 5. Starting date of computation; 6. Longer terms; 7. Shorter terms; 8. Applicable law; "comparison" of terms.

1. *The term of protection granted by this convention shall be the life of the author and fifty years after his death.*
2. However, in the case of cinematographic works, the countries of the Union may provide that the term of protection shall expire fifty years after the work has been made available to the public with the consent of the author, or, failing such an event within fifty years from the making of such a work, fifty years after the making.
3. In the case of anonymous or pseudonymous works, the term of protection granted by this convention shall expire fifty years after the work has been lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, the term of protection shall be that in paragraph (1) the countries of the Union shall not be required to protect anonymous or pseudonymous works in respect of which it is reasonable to presume that their author has been dead for fifty years.
4. It shall be a matter for legislation in the countries of the Union to determine the term of protection of photographic works and that of works of applied art in so far as they are protected as artistic works; however, this term shall last at least until the end of a period of twenty-five years from the making of such a work.
5. The term of protection subsequent to the death of the author and the terms provided by paragraphs (2), (3), (4) shall run from the date of death or of the event referred to in those paragraphs, but such terms shall always be deemed to begin on the first of January of the year following the death or such event.
6. The countries of the Union may grant a term of protection in excess of those provided by the preceding paragraphs.
7. Those countries of the Union bound by the Rome Act of this Convention which grant; in their national legislation in force at the time of signature of the present act, shorter terms of protection than those provided for in the preceding paragraphs shall have the right to maintain such terms when ratifying or acceding to the present Act.
8. In any case, the term shall be governed by the legislation of the country where protection is claimed; however, unless the legislation of that country otherwise provides, the term shall not exceed the term fixed in the country of origin of the work.

**Article 7<sup>bis</sup> Term of protection for works of joint authorship**

The provisions of the preceding Article shall also apply in the case of a work of joint authorship, provided that the terms measured from the death of the author shall be calculated from the death of the last surviving author.

**Article 8 Right of translation**

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works. I have attached UI Copyright Letters to me on some works I have translated into French since 1985.

**Article 9 Right of Reproduction: 1. Generally; 2. Possible exceptions; 3. Sound and visual recordings**

1. Authors of literary and artistic works protected by this convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.
2. It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.
3. Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.

**Article 10 Certain Free Uses of Works: 1. Quotations; 2. Illustrations for teaching; 3. Indication of source and author**

1. It shall be permissible to make quotations from a work which has already been lawfully made available to the public, provided that their making is compatible with fair practice, and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries.
2. It shall be a matter for legislation in the countries of the Union.



Special agreement existing or to be concluded between them, to permit the utilization, to permit the utilization, to the extent justified by the purpose, of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided such utilization is compatible with fair practice.

3. Where use is made of works in accordance with the preceding paragraphs of this Article, mention shall be made of the source and of the name of the author if it appears thereon.

#### **15. Duration of copyright: General saving**

(1) Copyright in an existing copyright work shall continue to subsist until the date on which it would have expired under the 1988 provisions if that date is later than the date on which copyright would expire under the new provisions.

(2) Where paragraph (1) as effect, section 57 of the 1988 Act (anonymous or pseudonymous works acts permitted on assumptions as to expiry of copyright or death of author) applies as it applied immediately before commencement (that is without the amendments made by Regulation 5(2).

#### **16. Duration of copyright application of new provisions**

The new provisions relating to duration of copyright apply-

(a) To copyright works made after commencement

(b) To existing works which first qualify for copyright protection after commencement

(c) To existing copyright works subject to Regulation 15 (general saving for any longer period applicable under 1988 provisions), and

(d) To existing works in which copyright expired before 31<sup>st</sup> December 1995 but which were on 1<sup>st</sup> July 1995 protected in another EEA state under legislation relating to copyright or related rights.

#### **17. Extended and revived copyright**

In the following provisions of this Part-

“Extended copyright” means any copyright which subsists by virtue of the new provisions after the date on which it would have expired under the 1988 provisions, and

“revived copyright” means any copyright which subsists by virtue of the new provisions after having expired under the 1988 provisions or any earlier enactment relating to copyright.

18. Ownership of extended copyright

(1) The person who is the owner of the copyright in a work immediately before commencement is as from commencement the owner of any extended copyright in the work subject as follows.

160. Duration of Copyright and Rights in Performance Regulations 1995

19. Ownership of revived copyright

(1) The person who was the owner of the copyright in a work immediately before expired (the “former copyright owner”) is as from commencement the owner of any revived copyright in the work subject as follows.

(2) If the former copyright owner has died before commencement or in the case of a legal person has ceased to exist before commencement the revived copy shall vest

(a) in the case of a film in the principal director of the film or his personal representative and

(b) in any other case in the author of the work or his personal representatives

(3) Where revived copyright vests in personal representatives by virtue of paragraph (2) it shall be held by them for the benefit of the person who would have been entitled to it had it been vested in the principal director or author immediately before his death and had devolved as part of his estate.

20. Prospective ownership of extended or revived copyright

(1) Where by an agreement made before commencement in relation to extended or revived copyright and signed by or on behalf of the prospective owner of the copyright the prospective owner purports to assign the extended or revived copyright (wholly or partially) to another person, then if on commencement the assignee or another person claiming under him

would be entitled as against all other persons to require the copyright to be vested in him the copyright shall vest in the assignee or his successor in title by virtue of this paragraph.

(2) A license granted by a prospective owner of extended or revived copyright is binding on every successor in title to his interest (or prospective interest) in the right, except a purchaser in good faith for valuable consideration and without notice (actual or constructive) of the license or a person deriving title from such a purchaser and references in Part 1 of the 1988 Act to doing anything with or without the license of the copyright owner shall be construed accordingly.

(3) In paragraph (2) “prospective owner” includes a person who is prospectively entitled to extended or revived copyright by virtue of such an agreement as is mentioned in paragraph (1)

21. Extended copyright: existing license agreement &c.

(1) Any copyright license, any term or condition of an agreement relating to the exploitation of a copyright work or any waiver or assertion of moral rights which-

(a) Subsists immediately before commencement in relation to an existing copyright work and

(b) is not to expire before end of the copyright period under the 1988 provisions shall continue to have effect during the period of any extended copyright subject to any agreement to the contrary.

(2) Any copyright license or term condition relating to the exploitation of a copyright work imposed by order of the copyright Tribunal which-

(a) Subsists immediately before commencement in relation to an existing copyright work and

(b) Is not to expire before the end of the copyright period under the 1988 provisions shall continue to have effect during the period of any extended copyright subject to any further order of the Tribunal.

## **22. Revived copyright exercise of the moral rights**

(1) The following provisions have effect with respect to the exercise of moral rights in relation to a work in which there is revived copyright.

(2) Any waiver or assertion of moral rights which subsisted immediately before the expiry of copyright shall continue to have effect during the period of revived copyright.

(3) Moral right is exercisable after commencement by the author of a work or as the

### **Brief History**

Dating back almost to the beginnings of civilisation there have been those eager to profit from the work of others. In ancient times, the idea that the author of a work of literature had economic rights to control dissemination and copying was not particularly well established and yet those who falsely claimed a work were considered contemptible. Most authors were primarily teachers, hence the emphasis on moral rights. The word plagiarist; meaning one who copies the work of another and passes it off as his own, is derived from the Latin ‘plagiarius’ meaning kidnapper. The problems of unauthorized copying of works produced by others stretch back into antiquity.

Copyright law has a relatively long history and its roots can be traced back to before the advent of printing technology, which permitted the printing of multiple copies quickly and at relatively little expense. The first record of a copyright case was the Statutes of the University of Paris in 1223 which legalised duplication of texts for use within the university. However, two factors limited the importance of protecting literary works before the late fifteenth century, works of literature were mainly religious and were written by scholarly monks who would work painstakingly for considerable periods of time preparing their gloriously illuminated books. Obviously, because of the substantial human labour and skill required to produce such works plagiarism of books was not usually a viable consideration. Additionally, there was not a market for books due to the general illiteracy of the population at large. The religious books which were produced were made mainly for use within monasteries or churches.

Two inventions in the late fifteenth century changed everything. It could be claimed that printing has had a greater impact on civilization than any other single invention Gutenberg

invented moveable type, first used in 1455, and Caxton developed the printing press and published Chaucer's Canterbury Tales in 1478 the first bestseller' An Act

### **Rights in performance: *Obaluaye* example See Appendix 1**

Wale Ogunyemi Letter to me on the French translation of *Obaluaye*. Live performance give rise to two different rights: the performer's right and a recording right. Unit recently, the former was restricted to a right not dissimilar to the author's moral right in copyright whilst persons with whom the performer had an exclusive recording contract acquired a right similar to the copyright owner's economic right. However, as a result of the Copyright and Related Rights Regulations 1996<sup>8</sup> bolstered by the copyright and Related Rights Regulations 2003 "the performer now also has a true property right relating to making copies, the issue of copies and the rental and lending of recordings of his performance now also have mortal rights to be identified as the performer and to object to a derogatory treatment of the performance.

The need for specified rights in live performances is that they give the performer, and the person having exclusive recording rights a means of protecting live performances from persons making illicit ('bootleg') recordings of such performances. Of course, the work being performed may be protected by copyright but the copyright owner may not wish to take action. These rights are directly enforceable by the performer and the recording company in some cases the work on which the performance is based may be an old work in which copyright does not subsist such as an operatic aria by Mozart.

### ***Intellectual Property and Copyright in the Nigerian Context Drawing from the Following Works by Nigerian Legal Luminaries and Scholars to wit:***

1. ***Bankole Sodipo's Copyright Law, Principle, Practice and Procedure*2<sup>nd</sup> edition.**
2. ***Intellectual Property Law and Practice in Nigeria by Chudi Nwabachili***
3. ***Jide Olakanmix Co, Intellectual Property Cases and Materials Copyright Acts etc.***
4. ***F.O Babafemi, Intellectual Property: The Law and Practice of Copyright etc. in Nigeria***

(Chidi Nwabachili 2017): defined intellectual property thus:

## **Meaning of Intellectual Property**

Intellectual property rights, under the law in Nigeria, are an area of Law that have yet been fully explored. This is not because the law is not known but because the law is so reluctant to deal with the law and also the awareness has not so much been canvassed. The primary function of intellectual property right under the law is to protect from exploitation the fruits of a person's work. This protection is of relevance to actors, playwrights, performers and other artists, to musicians, authors, publishers, to broadcasters, to makers of cinematograph films, photographers, producers of computer systems, manufacturers of goods and products, those who trade in goods and products using specified trademarks and trade names, engineers, lecturers, artists, lace designers, designers of other types of products, etc. In a country such as Nigeria, the importance of intellectual property right can hardly be over emphasized. This is a country where book piracy, film piracy, music piracy still reigns supreme. We now see so many fake products with marks imitating the trademarks and names of the genuine foreign manufacturers being smuggled into the country from foreign countries. Apart from these fake products which are imported, many other fake products which are produced within the country also carry marks which imitate often times the trademarks and names of the genuine Nigerian manufacturers. There are also those that copy the inventions and design of others. Effective laws to combat these malpractices and other problems are therefore imperative.

Intellectual property, like many other legal words or phrases, does not lend itself to a quick and or precise definition no matter how hard one tries. In recent times, however, some form of acceptable description is emerging for this important branch of law.

## **Nature and Scope of Intellectual Property**

1. The term intellectual property has been used for almost one hundred and fifty years to refer to the general area of law that encompasses copyright, patents, designs, and trademarks, as well as a host of related rights.
2. Intellectual property law creates property rights in a wide and diverse range of things from novels, computer programmes, paintings, films, television broadcast and performances through to dress designs, pharmaceuticals, genetically modified animals and plants.

3. While there are number of important differences between the various forms of intellectual property, one factor that they share in common is that they establish property protection-over intangible things such as ideas, inventions signs and information. While there is a close relationship between intangible property and the tangible objects in which they are embodied, intellectual property rights in distinct and separate from property rights in tangible goods} For example, when a person posts a letter to someone, the personal property in the ink and parchment is transferred to the recipient. If the recipient is pleased with the letter, they can frame it and hang it on the wall; if they are unhappy with the letter, they can burn it or if it is a love letter, they might store it away in which case it will pass under the recipient's will when they die. Despite the recipient having personal property rights in the letter as a physical object, the sender (as author) retains intellectual property rights in the letter. The author will be the first owner of copyright in the letter, which will enable them to stop the recipient (or anyone else) from copying the letter or from posting it on the Internet.
4. For many, the fact that intellectual property rights are separate from the physical object in which they are embodied may be counterintuitive. For example, if someone owns a recipe book, why should they not be able to photocopy a couple of recipes to send to a relative? Similarly, if someone owns an animal should they not be able to buy and sell seeds from the plant or offspring of the animals? Or if someone purchases bottles of perfume in "Singapore, should they-not be able to sell them in 'Nigeria? One of the consequences of intellectual property rights being separate from property rights is the legal answer to these questions 'might well be 'no'. As rights over 'intangibles, intellectual property. rights limit what the owners. of Personal Property are able to do with the things which they own.

The subject matter of intellectual property is very wide and includes literary and artistic works, films, computer programmes, inventions, designs and marks used by traders for their goods or services. The law deters others from copying or taking unfair advantage of the 'work or reputation of another and provides remedies should this happen. In other words, there are several different forms of rights area of law giving rise to rights: that together make up intellectual property.

- 1) Copyright: which is for the protection of literary and artistic works and associated products;
- 2) Trademarks: which is for the protection. of goodwill attaching to marketing products;
- (3) Patents: which is for the protection of inventions;
- (4) Industrial design: which seeks to protect the design of industrial products

## **Copyright**

### **Meaning of Copyright**

Copyright is the term used to describe the area of intellectual property law that regulates the creation and use that is made, of a range of cultural goods such as books songs, films and computer programme.

Copyright is a property right in an original work of authorship (including literary, musical, dramatic, choreographic, pictorial, graphic, sculptural and architectural works; motion pictures and other audio-visual works and sound recording) fixed on any tangible medium of expression, giving the holder the exclusive right and display the work.

Copyright is an intangible property right it consists of the exclusive right to reproduce in any form those works defined in section 1 (1) of the Copyright, Designs and Patents Act 1988. These are original literary, dramatic, musical ‘or artistic works, ‘sound recording, films, broadcast or cable programme and the ‘typographical arrangement of published editions.

According to W.R. Cornish? “copyright is a right given against the copying g of defined types of cultural, informational and entertainment productions.”

Copyright is a property right that subsists in certain specified types of works as provided for by the Copyright, Designs and Patent Act 1988.

Section 5 Copyright Act provides that copyright in a work is the exclusive right - to ‘control the doing of certain specified acts in respect of the whole or a substantial part of the work either in its original form or in any form recognizably derived from the original subject to certain statutory exception.



From the foregoing, copyright is the right given to artists, literary men, musicians and performers to exclude, others from substantial copying of the material form of their works.

### **Nature and Scope of Copyright**

The intangible property protected by copyright law is distinctive in that it arises automatically and-usually for the benefit for the benefit of the author. Various right is conferred on the owner of copyright, including the right to copy the work and the right to perform the work in public. (Work is a term used to describe the various objects. that are protected by copyright). The rights vested in the owner are limited, notably in that they are not infringed when a person copies or performs a work that they have created themselves. The rights given to copyright owner last for a considerable time: in many cases for seventy years after the death of the author of the work.

The basic framework of Nigeria copyright law is largely to be found in the Copyright Act Cap C28 Laws of the Federation 2004.

The primary function of copyright under the law is to protect from annexation the fruits of a person's work. This protection is of immense importance to actors, playwrights, performers and other artists; to. musicians and composers of music to authors, publishers' newspaper proprietor and librarians; to architects, designers, lawyers, doctors, pharmacists, engineers and other professionals; to editors of law reports, lecturers, professors and institution of higher learning; to broadcasters; to makers of cinematograph films, photographers, producers of computer systems, laptops and their numerous software, etc.

In Nigeria and indeed in Africa, the importance of the law of copyright can hardly be over-emphasized. Their book piracy, film piracy and music piracy still reign supreme with attendant losses of income to authors, Publishers, makers, musicians and many other copyright problems i is very important.

However, in copyright law, the important element is that the work must be in medium communicated either directly or technologically enabled. In international law or international relations parlance, artist and literary works include the following: (1) literary Works; (2) musical works including and accompanying words; (3) sound recordings; (4) pictorial, graphic and sculptural works; (5) dramatic, including any accompanying music; (6) pantomimes and

choreographic works and (7) motion: pictures including audiovisual work. It follows therefore that copyright will only protect a category of works which have satisfied the conditions of eligibility for registration and or protection and such rights can only be exercised by the owner or someone deriving title from or under him.

If a person performs one' of the acts restricted by copyright without the permission of license of the copyright owner, -the latter can sue for infringement of his copyright and obtain remedies for example, damages and an injunction.

However, there are limits and certain closely drawn exceptions are available such as fair dealing with the work for research purposes for private use criticism, etc.

### **Works Eligible for Protection**

Eligible works means Works of copyright which the law will protect. However, it is not all works that enjoy statutory protection. In contrast with some other jurisdictions where the subject matter protected by copyright is defined by statute toad and open-ended terms, the Copyright Act of Nigeria provides a detailed and exhaustive list of the types of works protected by law. In order for a work to be protected by law it must fall within the categories of the works. The first question is usually what a “work” is section 51 of the Copyright Act defines a “work” as any translations, adaptation, new versions or arrangements of pre “existing works, and anthologies or collection of works which, by reason of the selection and arrangement of their context, present an original character.

Before looking at the categories of work that afford protection under the law, is necessary to make some preliminary points. The first is that the Copyright Act? provides an exhaustive list of the protected subject -matter, there is little opportunity for the courts to recognize new forms of works, other than through the creative interpretation of the existing categories. The closed nature of the categories has meant that at times copyright has been ‘stretched to give protection to creative talents and activities the protection of which was never in the contemplation of those who from time to time have been responsible for the framing of the successive statutes.

A notable feature of the Copyright Act is that all of the subject matter that 1s protected by copyright are called ‘works’. This is in contrast to the UK Copyright Ac here a distinction was

drawn between part works' (literary, dramatic, musical or artistic works) and part II 'subject matter' (sound recordings, films, broadcasts, cable programme, and Topographical arrangements). It is also in marked contrast to the position in civil law system such as in France, which distinguish between author's (or droit d'auteur) and 'neighboring rights' or entrepreneurial works (droit voisins) Author's typically cover literary, 'dramatic, musical, and artistic work, neighboring rights are afforded to sound recordings, broadcasts, and performers of The distinction is also reflected in the international Conventions, with the 1886

Berne Convention protecting 'author's right' and the 1961 Rome Conventions protecting 'neighboring rights.

However, in the Nigerian Copyright Act, the term work under section 1(1) embraces films, sound recordings and broadcasts, Although the distinction was not mentioned in the categories of work, protection of performer's rights and folklore otherwise known as 'neighboring rights were recognised in part II section 26 -30 and section 31-33 respectively, we shall now take them in turn.

### **Literary Works**

"Literary work" includes, irrespective, of literary quality, any of the following works or works similar thereto:

- (a) Novels, stories and poetical works
- (b) plays, stage directions, film scenarios and broadcasting scripts;
- (c) Choreographic works;
- (d) Computer Programme;
- (e) Textbooks, treaties, histories, biographies, essays and articles;
- (f) Encyclopedias, dictionaries, directories and anthologies;
- (g) Letters; reports and memoranda;
- (h) Lectures, addresses and sermons;

- (i) Law reports, excluding decisions of courts;
- (j) Written tables or compilation.

However, in the United Kingdom, the Copyright, Designs. and' Patents Act: 1988, section 3 (1) defines a literary work as any work, other 'than a dramatic or musical work, which is written, spoken or sung and includes a table or compilation other than a database, a computer programme preparatory design material for a computer programme and a database.

In University of London Press Ltd Peterson J. said:

“it may be difficult to define literary work as used in the Act (Copyright Act 1911) but it seems to be plain that it is not confined to literary work' in the sense in which that phrase is applied in any view the words “literary works” cover work' which is expressed in print or writing, irrespective of the question whether the quality or style is High. The word “literary” Seems to be used in a sense somewhat similar to the use in a word "literature" in political or electioneering literature and refers to written or printed matter.

## **Duration of copyright according to Nwabuchi**

### **6.3 Time limit for copyright**

The Copyright Act provides that in respect of literary, musical or artistic work other than photographs, copyright in the work will expire seventy years after the end of the year in which the author dies.

In the case of governor or a body corporate, copyright in literary, musical or artistic work will expire seventy years after the end of the year in which the work was first published.

In the case of cinematograph films and photographs the copyright with expire fifty years after the end of the year in which the work was first published.

In the case of could recordings the copyright will expire fifty years after the end of the year in which the recording was first published.

In the case of broadcast the copyright will expire fifty after the end of the year in which the broadcast first took place.

Section 2 (3) of the Copyright Arts provides that in the case of anonymous or pseudonymous literary, musical or artistic works, the copyright therein shall subsist until the end of the expiration of seventy years from the end of the year in which the work was first published provided that, when the author become known, the terms of copyright shall be calculated schedule to this Act.

Furthermore, section 2 (4) of the Copyright Act provides that in the case of a work of joint authorship, a reference in the first schedule to this Act to the death of the author shall be taken to refer to the author who dies last, whether or not he is a qualified person within subsection 1 of this section<sup>121</sup>.

Section 3 (2) of the copyright Act also provides that where the work was first published in Nigeria or being sound recording is made in Nigeria, then the duration specified above all shall apply to such works.

In all the above case, copyright automatically expires at the end of the period specified. There is no provision for renewal.

However, in respect of performer's right, section 27 copyright Act provides that the right shall subsist in relation to the performance, until the end of the period of fifty years from the end of the year in which the performance first took place again, copyright automatically expires at the end of fifty years, there is no provision for renewal.

Unfortunately, the Art was silent on the time limit in respect of expressions of folklore. It is recommended that it should be included.

#### **6.4 The nature of the right conferred upon an owner of copyright**

Generally speaking, the nature of rights conferred by a copyright is a function of the thing sought to be protected. As a general rule, however, it confers the right to the control and the doing of certain things. We shall then take them in turn.

#### **6.4.1 Literary works and musical work**

Section 6 (1) of the Copyright Act provides that subject to the exceptions specified in the second schedule to this Act, copyright in a work shall be the exclusive right to control the doing in Nigeria in any of the following acts that is.

- (a) On the case of a literary or musical work to do and authorize the doing of any of the following:
- (i) Reproduce the work in any maternal form;
  - (ii) Publish the work;
  - (iii) Perform the work in Public;
  - (iv) Make any cinematograph film or a record in respect of the work;
  - (v) Produce, reproduce, perform or a record in respect of the work; Distribute to the public, for  
Commercial lease, hire, loan or similar arrangement. Broadcast or communicate the work to the public by a found speaker or any other similar device;
  - (vi) Make any adaptation or work;
  - (vii) Do in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-paragraphs (i) to (vii) of this paragraph

#### **6.4.2 Artistic works**

In the case of an artistic work to do or authorize the doing of any of the following acts, that is:

- (i) Reproduce the work in any maternal form;
- (ii) Publish the work;
- (iii) Include the work in any cinematograph film;
- (iv) Made any adaptation of the work.

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- (iv) Do, in relation to an adaptation of the work in sub-paragraphs (i) to (ii) of this paragraph.

### **6.4.3. Cinematograph film**

In the case of cinematograph films, to do or authorize the doing of any of the following, flowing acts that is:

- (i) Make a copy of the film;
- (ii) Cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;
- (iii) Make any record embodying the recording in any part of the soundtrack associated with the film by utilizing such soundtrack;
- (iv) Distribute to the public, for commercial purposes, copies of the work by way of rental, lease, hire, loan or similar arrangement.

### **6.4.4 Sound recording.**

In the sound recording, copyright in sound recording shall be the exclusive right to control in Nigeria.

- (a) The direct and indirect reproduction, broad casting or communication to the public of the whole or a substantial part of the.  
Recording either in its original form or in form recognizably derived from the original.
- (b) The distribution to the public, for commercial purposes, copies of the work by way of rental, lease, hire, loan or similar arrangement.

### **6.45 Broadcasting**

The copyright in a broadcast shall be the exclusive right to control the doing in Nigeria of any the following acts, that is:

- (a) The recording and the re-broadcasting of the whole or a substantial part of the broadcast;  
The communication to the public of the whole or a substantial part of television broadcast, either in its original form or in any form recognizable
- © The distribution to the public for commercial purposes, of copies of the work, by way of rental, lease, hire, loan or similar arrangement.

#### **6.46. Other rights**

In addition to the right conferred upon the copyright owner as enumerated above, the copyright act also allows the copyright owner to restrict importation of printed copies of his work. Thus, the owner of copyright in any published literary, artistic or musical work or sound recording may give notice in writing to the Department of Customs and Exercise

#### **6.4.7 Performers right**

A performer shall have the exclusive right to control, in relation to his performance, the following act;

- (a) Performing;
- (b) Recording;
- (c) Broadcasting live;
- (d) Reproducing in any material form; and
- (e) Adaptation of the performance.

#### **6.4.8 Expressions of folklore**

Expressions of folklore are protected against:

- (a) Reproduction
- (b) Communication to the public by performance broadcasting; distribution by cable or other means.
- (c) Adaptations, translations, and other transformation

#### **6.5 limit to the rights of copyright owners**

We have highlighted the various rights accorded to the various works of copyright owners; we will now look into the limits to their rights. There are acts which should not in the interest of the public be regarded as an imperilment of the right of the copyright owner. Also, sometimes a person may be given an authority to exploit a work which ordinarily would



## **Bern Convention (1886-1971)**

The most important international influence on the development of the Nigerian copyright has been the Berne Convention on the protection of literary and Artistic work. The Bern Convention was drawn up in 1886 as a small treaty allowing for mutual recognition of rights amongst a few largely European countries. Since then, the treat has been revised on a number of occasions and the membership expanded to.

In its earliest form, there were two key provisions of the Berne Conversation. The first was the adoption of the principle of national treatment. This meat that with certain exceptions a country of the union should not discriminate between its own nationals and those of other countries of the union. For example, under the principle of national treatment, French law was obliged to confer the same rights on British author as it conferred on French authors. In addition to the principle of national treatment, the Berne Convention has long required that the enjoyment and exercise of copyright in the works of the convention should not be.

### **8. Administration of Copyright**

Until 1988 when the copyright act was passed into law, there was no administrative infrastructure for copyright act this trend was reserved. We will now look into the administrative structure of copyright in Nigeria subject to any formality. This means that registration or notices cannot be made prerequisites for protection. because international protection is to be automatic, there is no need for international bureaucratic regimes to simplify registration processes.

Over time the Berne Convention has come to demand that members of the union provide certain minimum standards of protection of copyright owners and authors. These include the right to reproduce the work, to perform the work publicly, to translate the work, to adopt the work and to broadcast the work. Members of the union are also to give authors (rather than copyright owners) the moral rights of attribution and integrity in recognition of the need for the public to be able to utilize works without payment, there is limited scope for members of the union to create exceptions. In relation to the reproduction right these exceptions must satisfy the so-called three-step test. This requires that exceptions must be limited to certain special cases, not conflict with a normal exploitation of the work, and not unreasonably prejudice the

legitimate interest of the author. Moreover, protection is to last at least for the life of the author, plus fifty years thereafter.

### **Rome Convention (1961)**

The coverage of the Berne Convention is limited to literary and artistic work which includes cinematographic works. It does not include provisions for the protection of performer's producer of sound recordings, broadcasters, publishers and many others. Despite several attempts to expand the coverage of the Berne Convention to include performers and sound records, these were resisted on the ground that they are non-creative and derivative in character and that recognition of performers' rights might reduce the royalties available for authors. They also resisted sound recordings on the ground that they are seen as industrial, not literary or artistic and that there are difficulties in identifying an author of a sound recording.

Eventually it became clear that international recognition of the right phonogram producers, performers, and broadcasters would need to be sought under a separate instrument in 1961 an international agreement on the neighboring right was reached at the Rome Convention (which now has sixty-seven signatories) with the Berne Convention, the central principle of the Rome convention is national treatment national treatment must be provided to performers that take place in a Convention country.

The Rome Convention also requires that phonogram producers, performers and broadcasters be granted certain substantive rights. Producers of phonograms and broadcasting organizations receive better treatment producers of phonograms are to be granted the right to prevent the reproduction of those recordings for twenty years.<sup>195</sup> Broadcasting organizations are to be given place, to authorize or prohibit the rebroadcasting of their broadcasts, the fixation of their broadcasts, and the reproduction of fixations of their broadcasts broadcasters were also given the right to control the showing of television broadcasts in places accessible to the public (against payment of an entrance fee).

### **T.R.I.P.S**

T.R.I.P.S otherwise called the trade-related aspect of intellectual property rights provides that all members must implement Articles 1-21 of the Berne Convention (but not Article 6 dealing with

moral rights) T.R.I.P.S makes general the Berne principle confirming the extend of exceptions in natural legislation to the reproduction rightTRIPS Agreement contain certain new elements to Borne convention for example computer programmes are required to protect as literary works under Berne convention TRIPS. Also has its own rule of obligations relating to performers sound recording producers and broadcasting organization.

W.I.P.O. Copyright Treaty (1996) in December 1996, two treaties were agreed at Geneva; the WIPO Copyright Treaty and the WIPO performance and phonograms treaty in part, these grew out of the frustration at the inability to produce a revised version of the Berne convention and subsequent attempts to produce a protocol to the Berne convention (possibly in co-operating the rights of record producers and performers within a single treaty). Both treaties are intended to supplement the existing conventions to reflect in particular.

### **The Nigeria Copyright Commission**

Section 34 (1) of the copyright act provides that there is hereby established a body to be known as the Nigerian copyright commission (“in his Act referred to as the commission”). Thus, the commission shall be a body corporate with perpetual succession and a common seal and many sued in its corporate name.

The Commission shall

- (a) Be responsible for all matters affecting copyright n Nigeria as provided for this Act.

### **Appointment of the director general and other stuff of the commission**

There shall be for the commission, a director general who shall be the chief executive and shall be appointed by the president on the recommendation of the minister. The director general shall be responsible for the day-to-day administration of the commission. Thus, the commission shall have power.

- (a) To appoint such other staff as it may determine;
- (b) To pay its staff such remuneration and allowances as it may, from time to time, determine

- (c) As regards any staff in whose case it decides so to do, to pay to or in respect of such staff such pensions and gratuities as are payable to persons of equivalent grade in the public service of the federation.

### **Other functions of the Commission**

The commission shall have the power to grant compulsory licenses in accordance with the provisions of the Act. Thus, in exercise of its power to grant compulsory licenses, the commission shall in any case in which an application is made to it constitute a copyright licensing panel. The panel shall consist of five persons, at least three of whom shall be member of the panel if he has any interest in any matter which is required to be determined by the panel. The commission may make regulations providing for the procedure of the panel and providing generally for the execution of the functions of the panel. Any person aggrieved by a decision of the panel shall have a right of Appeal to the Federal court.

The commission may appoint copyright inspectors as it may deem copyright inspectors shall have power to;

- (a) Enter, inspect and examine at any reasonable time any building or premises which he reasonably suspects are being used for any activity which is infringement of copyright.
- (b) Arrest any person who he reasonable believes to have committed an offence under the Act
- (c) Make such examination and inquiry as may be necessary to ascertain whether the provisions of the Acts are complied with
- (d) Require the production of the register required to be kept under section of the act and to inspect, examine or copy it;
- (e) Require any person who he finds in such building or premises to furnish such information as it is in his power to give in relation to any purpose specified in the Act.
- (f) Carry out such examination, test or analysis within or outside premises as is required to give effect to any provision of the Act and make instant photographs where such examination, test analysis photographs is carried out within the premises, and such examination, analysis.

- (g) Photograph shall be required to be endorsed by the occupier of premises or his agent but a refusal by an occupier to endorse any document containing the result of an examination, test, analysis photograph; and
- (h) Exercise such other powers as the commission may delegate to it to effect to the provisions of this Act.

A copyright inspector may prosecute, conduct or defend before of con any charge, information, complaint or other proceedings arising under Act Any person who obstructs a copyright inspector in the performance of his duties is guilty of an offence and liable on conviction to fine exceeding 500 or to imprisonment for a term bit exceeding three month or to both such fine and imprisonment. Copyright and privileges of Bankole Sodipe based on econometric methods, conclusions derived from a particular data by one research can often be refuted by another researcher who either proves that no such claim is established by the data or that a completely opposite conclusion can be drawn from the data. It is difficult in practice to estimate the value of the system as there is a difference between the goods and services protected by each intellectual property right.

## **1.6 Nigeria’s Copyright-Based Industries without the Copyright System**

Notwithstanding the dearth of a study that suggests the importance or otherwise of the copyright system, it is safe to postulate on the viability of the industries without the copyright system. *For example, Hubert Ogunde, the doyen of Nigerian theatre, in 1988, said he did not mind the use of his songs by third parties, since he regarded theatre practitioners as his “children.”* He however, stated that his first film “Aiye” could not be pirated because he had some “religious/metaphysical” security which would prevent this. Arguably, the reason for being magnanimous with his other works is because the unauthorized use of his songs or plays by third parties may not affect the economic gains from his performances, that is, they did not constitute direct competition. To corroborate this, Ogunde objected to third party production of counterfeit tickets for his lays in the 1950s. *This suggests that his magnanimity did not extend to allowing third parties to earn undue economic benefits even where the activities of such third parties increase Ogunde’s audience.*

The doyen of Yoruba comedy theatre, Baba Sala and the leading musician Bongus Ikwe alluded to the fact that they abandoned their creative instincts because of weak copyright protection. The NCC/Ford Foundation Study on Piracy in Nigeria demonstrates the high incidence of piracy in Nigeria and the negative effect this has on the local industry and foreign investments in Nigeria. The study suggests that copyright piracy leads to loss of tax revenue to government, it discourages investment, it damages or creates negative or bad image to the nation and damages cultural values. It is therefore submitted that piracy, that is, the absence of copyright will hamper the growth of Nigeria's copyright industries. There will be no industry if third parties including members of the public can copy the works of Nollywood, musical talents, literary giants, computer software developers, sculptors, painters, fashion designers, and comedians without permission or without paying compensation.

### **1.7 Western Copyright-Based Industries without the Copyright System**

Western legislative history commends the copyright system as a wheel to oil the engine of creativity hence the system was replicated by many countries in the West. The assumption that the system had a positive influence on development remains logical at least, until some new and reliable historical material which refutes (and not just challenges) the assumptions are published

### **1.8 Alternatives to Encourage Creativity outside the Copyright System.**

Today, the most viable system in operation aimed at encouraging creativity is the copyright system. Prominent among options. canvassed to replace copyright include: the lead time.

## **PART 1**

### **2.1 Copyright in Nigeria Prior to Colonization**

*The recognition and protection of proprietary rights in intangibles akin to copyright and other intellectual property rights protection n traditional societies prior to western influence must not be ignored. Copyright is therefore not a completely "foreign" concept in Nigeria. Traditional knowledge is vested in groups such as families, clans, age or sex groups, cults,*

*professional guilds, or individualssuchasparticularelders, orthe kings.* The enforcement of these rights was based on magical or religious beliefs, or punishments administered by the groups.

## **2.2 Traditional Copyright Works**

Culturally, works which could be susceptible to modern copyright protection were and still are prevalent in Nigeria. Literary “works” including drama sketches are common, and drama is linked to rituals, religious festivities and activities. Folklore (folk songs and tales) are particularly important because they are used to build the African character – virtues like loyalty honesty, industryetc.

Musical works are used in rituals and festivities. Musical

### ***Evolution of Copyright***

Works preserved and recorded history giving information about past important events. It served as a medium for communing with dead ancestors and spirits; as a palliative in healing mental or physical illnesses by preparing the mind for healing acts; to provoke riots, or prepare for fights and battles; and as a social commentator, to criticize, or check abuse of the government. Dance formed a basis of other performing artsand had strong links to religion.

Artistic works including sculptures, drawings; designs on pots, clothes, leather wood, calabashes and those done with raffia, were common. Wall paintings, rock paintings were a common feature and they were often symbolic.

Indeed, there is evidence that many old societies had concepts of literary property.However, sound recordings.

### ***Bankole Sodipe***

#### **2.4.1 Traditional Knowledge and Modern Copyright Compared**

It is arguable that traditional knowledge in traditional societies enjoyed stronger protection than the modern intellectual property system.Traditional knowledge was based on communal or group ownership. This differs from individual ownership that characterizes the

modern copyright. The printing press was a catalyst for the modern copyright system. Had writing and the printing press been present in traditional knowledge.

Copyright is an economic right but it did not attain that function in traditional Nigeria. For instance, most artistic works were not produced for sale or export in pre-literate Nigeria, thus, it was not until the first contact with the Portuguese in Benin that the blacksmiths and sculptors began to make goods for sale. Before then, it was customary to make such only for the king, or for religious festivities or rituals and protection was largely shrouded in magical beliefs. Further, Christian and Islamic beliefs against idolatry led to the decline in the existing or potential forms of protection for most pre-literate forms of copyright work.

#### **2.41. Traditional Knowledge and Modern Copyright Compared**

Traditional societies and proponents of traditional knowledge must challenge the non-recognition of communal property in intellectual property by the common and civil law. communal ownership of real property is recognized in Nigeria. Owners of traditional community to the recognition of communal intellectual property ownership.

The existing copyright system that evolved later than traditional knowledge is a new wine skin incapable of accommodating traditional knowledge and cultural rights of indigenous peoples. To this end the move by some nations to create a right of folklore is to be commended

#### **PERFORMERS AND THE EXPRESSIONS OF FLOKLORE**

Whilst in the preceding chapters of this Book we examined “works” which are eligible for copyright and those who may claim copyright over such works, including their right to sue infringers of their works, we shall in this chapter, examine the right of a performer over his performance.

We shall also examine what act constitutes an infringement of the performer’s right and the actions which are available to a performer. Finally, we shall examine the statutory protection granted to expressions of folklore.



## **A. PERFORMERS**

### **(1) What is a performance?**

#### **Performers And the Expressions of Folklore**

Whilst in the preceding chapters of this Book we examined works” “which are eligible for copyright and those who may claim copyright over such works, including their right to sue infringers of their works, we shall in this chapter, examine the right of a performer over his performance.

We shall also examine what act constitutes-an infringement of the performer’s right and the actions which are available to a performer. Finally, we shall examine the statutory protection granted to expressions of folklore.

## **A. PERFORMERS – See Wale Ogunyemi’s 1985 Letter to me – See Appendix 1**

### **(1) What is a performance?**

A performance! under the Act, includes the following - viz

- (a) a dramatic performance (which includes dance and mime)
- (b) a musical performance and
- (c) a reading or recitation of literary act or any similar presentation which is or so far as it is, a live performance given: by one, or more individuals.

### **(2) Nature of a Performer's Right - See Wale Ogunyemi’s Letter to me 1985**

The Act’ provides that a performer shall have the exclusive right to control, in relation to his performance the following acts that is:

- (a) Performing,
- (b) recording,
- (c) broadcasting live,
- (d) reproducing in any material form and

(e) adaptation of the performance.

(3) What Constitutes an \_ infringement of a Performer's Right?

A performer's right is infringed' by a person who without the performer's consent or authorization in writing does any of the following, that is -

- (a) makes a recording of the whole or substantial part of a live performance provided that - where the consent sought is to make a recording of the-work for research, private or domestic use, such consent shall not be unreasonably refused
- (b) broadcasts live, or includes live in a cable programme, the whole or a substantial part of the live performance
- (c) performs in public the whole or a substantial part of the performance
- (d) shows or plays in public the whole or a substantial part of the performance for commercial purposes
- (e) broadcasts or includes in a cable programme, a substantial part of the performance by means of recording which is, and which that person knows or has reason to believe was made without the performer's consent.
- (f) imports is to the country otherwise than for his private or domestic use, a recording of a performer's work which is an infringing recording or
- (g) in the course of trade or business, sells or lets for hire, offers, distributes or displays for sale or hire a recording of a performer's' work which is an infringing recording.

## **2) Action for Infringement**

There are provisions under the Copyright Act for both civil and criminal proceedings where a performer's right has been infringed:

Thus, the Act provides' that an infringement of the right a performer is actionable by the person entitled to the right as a breach of statutory duty and the performer will be entitled to damages, injunction, account of profit or - conversion.

The Act further provides? that where a person has in his possession, custody or control, in the course of trade or business or otherwise than for a private or domestic use, an unauthorized recording-of a performance, a person having the performer’s right or recording rights in relation to the performance under this section shall be entitled to an order of the court that the recording be forfeited and delivered up to him.

As regards criminal liability in respect of the infringement of performer's right, the Act provides that a person who does any act set out in section 28 shall, unless he proves to the satisfaction of the court that he did not know that his conduct was an infringement of the performer's right be liable to conviction.

- (a) in the case of an individual, to a fine not exceeding ₦10,000.00 (i.e., ten thousand naira)
- (b) in the case of a body corporate, to a fine of ₦50,000.00 (i.e., fifty thousand naira) in other cases, to a fine of ₦100.00 (i.e., one hundred naira) for each copy dealt with, contravention or to imprisonment for twelve months or to both such fine and imprisonment.

The Act further provides’ that a court before which an offence under this section is tried shall order that the recording or any other part thereof be delivered to the performer.

### **EXPRESSIONS OF FOLKLORE**

**(1) What is a Folklore? See my list of Kabba Folklore in the List of Publications in the Bibliography.**

“Folklore”” means a group — oriented and tradition-based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by invitation or by other means including:

- (a) folklore, folk poetry, and folk riddles
- (b) folk songs, and instrumental folk music
- (c) folk dances and folk plays

- (d) Production of folk arts in particular, drawings Paintings, carvings, sculptures, pottery, \_terracotta, mosaic, woodwork, metal ware, jewelry, handicrafts, costumes and indigenous textiles. Months or to both such fine and imprisonment and
- (b) in the case of body corporate to a fine of ₦500,000.00 (five hundred thousand naira).
- (c) A court before which an offence under this section is tried may order that the, infringing or offending article be delivered to the commission.

## **(2) Protection of Expression of Folklore**

Expressions of folklore are protected” against

- (a) reproduction;
- (b) communication to the public by performance, broadcasting, distribution by cable or other means;
- (c) adaptations, translations, and other transformations, where such expressions are made either for commercial ‘purposes or outside their traditional or customary context.

The right to ‘authorize acts referred to above vests Commission. Accordingly, any person who, without the consent of the Nigerian Copyright Commission, uses an expression of folklore in a manner not permitted by the provisions of this Act shall. be in breach of statutory duty and will be liable to the Commission in damages, injunction and any other remedies as the court may deem fit to award.

## **(3) Statutory Exceptions**

The right conferred in this statutory provision does not include the night to control

- (a) the doing of any of the acts by way of fair dealing for private and domestic use, subject however to the condition that if the use is public, it shall be accompanied by an acknowledgement of the title of the work and its source
- (b) the utilization for purposes of education

- (c) utilization by way of illustration in an original work of an author, provided that the extent of such utilization is compatible with fair practice
- (d) the borrowing of expression of folklore for creating an original work of an author, provided that the extent of such utilization is compatible with fair practice
- (e) the incidental utilization of expression of folklore.

As regards criminal liability in respect of the infringement of folklore the Act provides as follows:

- (1) Any person who
  - (a) does any of the acts set out in section 31 of this Act without the consent or authorization of the Commission or
  - (b) does not comply with the requirement of subsection (4) of section 31 of the Act, or
  - (c) willfully misrepresents the source of an expression of folklore or
  - (d) willfully distorts an expression of folklore in a manner prejudicial to the honour, dignity, or cultural interests of the community in which it originates.

commits an offence under the Act.

- (2) A person convicted of an offence under subsection (1) of this section is liable on conviction in the case of an individual to a fine not exceeding ₦100, 000.00 (one, hundred thousand naira) or to imprisonment for a term of 12

**Jide Olakanmi 2009: 5-7-8-16-19-22**

Dwelt on works eligible for copyright infringement of copyright, anti-piracy measure, performer's right, duration of performer's right as well as protection of expression of folklore.

## **Neighboring Rights**

### **26. Performer's right - See Wale Ogunyemi's 1985 Letter to me**

(1) A performance shall have the exclusive right to control, in relation to his performance; the following act

- (a) performing,
- (b) recording;
- (c) broadcasting live;
- (d) reproducing in any material form; and
- (e) adaptation of the performance

(2) In this section, "performance" includes:

- (a) a dramatic performance (which includes dance and mime);
- (b) a musical performance; and.
- (c) a reading or recitation of literary act or any similar presentation which is or so far as it is, a live performance given by one or more individuals.

### **27. Duration of performer's right**

The right conferred by section 26 of this Act shall subsist in relation to the performance until the end of the period of fifty years from the end of the year in which the performance first took place.

### **28. Infringement of performer's right**

A performer's right is infringed by a person who, without the performer's consent or authorization in writing, does any of the following, that is:

- (a) makes a recording of the whole or substantial part of a live performance.

Provided that, where the consent sought is to make a recording of the work for research, private or domestic use, such consent shall not be unreasonably refused;

(b) broadcasts live, includes live in a cable programme, the whole or a substantial part of the live performance;

(c) performs in public the whole or a substantial part of the performance;

(d) shows or plays in public the whole or a substantial part of the performance for commercial purposes;

(e) broadcasts, or includes in a cable programme, a substantial part of the performance by means of recording which is and which that person knows or has reason to believe was made, without the performer's consent;

(f) imports into the country otherwise than for his private or domestic use, a recording of a performer's work which is an infringing recording; or:

(g) in the course of trade or business, sells or lets for hire, offers, distributes: or displays for sale or hire, a recording of a performer's work which is an infringing recording.

**29. Infringement of a performer's right actionable:**

(1) An infringement of a right protected under section 26 of this Act shall be actionable by the person entitled to the right as a breach of Statutory duty and the performer shall be entitled to damages, 'injunction, account for profit or conversion.

(2) Where a person has in his possession, custody or control, in the course of trade or business or otherwise than for a private or domestic use, an authorized recording of a performance; a person having the performer's right or recording rights in relation to the performance under this section shall be entitled to an order of the court that the recording be forfeited and. delivered up to him.

**30. Criminal Liability in respect of infringement of performer's right**

(1) Notwithstanding the provisions of section 28 of this Act, a person who: does any of the acts set out in the said section 28 shall; unless he proves to the 'satisfaction' of the court

that: he did not know that his: conduct was an: infringement; of the performer's right, be liable on Conviction

- (a) in the case of an individual, to a fine not exceeding: ₦10,000
  - (b) in the case of a body corporate, to a fine of ₦50,000
  - (c) in all other cases, to a fine of ₦100 for each copy dealt within contravention or to imprisonment for twelve months or to both such fine and imprisonment
- (2) A court before which an offence under this section is tried shall order that the recording or any other part thereof be delivered to the performer.

### **31. Protection of expression of folklore**

- (1) Expressions of folklore are protected against
  - (a) reproduction;
  - (b) Communication to the public by performance, broadcasting, distribution by cable or other means
  - (c) adaptations, translations and other transformation, when such expressions are made either for commercial purposes or “outside their traditional or customary context.
- (2) the right conferred in Subsection (1) of this section shall not include the right to control:
  - (a) the doing of any of the acts by way of fair dealing for private and domestic use, subject to the condition that, if the use is public, it shall be accompanied by an acknowledgment of the title of the work and its source:
  - (b) the utilisation for purposes of education;
  - (c) utilisation by way of illustration in an original work of an author; Provided that, the extent of: such utilisation is compatible with fair practice;
  - (d) the borrowing of expressions of folklore for creating an original work \* of an author;

Provided that, the extent of such utilisation is compatible with fair practice;



- (e) the incidental utilisation of expressions of folklore.
- (3) In all printed publications and in connection with any communications | to the public, of any identifiable expression of folklore, its source shall be indicated in an appropriate manner, and in conformity with fair practice, by mentioning the community or place from where the expression utilised has been derived.
- (4) The right to authorise acts referred to in subsection (1) of this section shall vest in the Nigerian Copyright Commission.
- (5) For the purpose of this section, “folklore” means a group-oriented and tradition based creation of groups or individual reflecting the expectation of the community as an adequate expression of its cultural and social identity, -its standards and values as transmitted orally, by imitation or by other means including
  - (a) folklore, folk poetry and folk riddles;
  - (b) folk songs and instrumental folk music;
  - (c) folk dances. and folk plays;
  - (d) productions of folk arts in particular drawings, ‘painting, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, Jewelry, faye. handicrafts, costumes and. indigenous textiles...

### **32. Infringement of folklore**

Any person who, without the consent of the Nigerian Copyright Commission, uses an expression of folklore in a manner not permitted by section 31 of this Act, shall be in breach of statutory duty and be liable to the Commission in damages, injunctions and any other remedies as the court may deem fit to award in the circumstances.

### **33. Criminal Liability in respect of infringement of folklore**

- (1) A person who –

- (a) does any of the acts set out in section 3 of this Act without the consent or authorization of the Commission.

## **Conclusion**

### **What I owe Lagos from Mother to Son Since the 1950<sup>s</sup>**

In this concluding part of our research in Yoruba oral literature and civilized Yoruba society, we shall end by eulogizing the peoples of Lagos by saying we owe Lagos a debt of gratitude, which is another way of paying homage to Lagos because it is better to give than to receive. In this concluding part of this research we therefore elicit the support of our readers that this is a two-way pattern of giving and receiving. We have shown in this research that Iba/Ijuba (homage, acknowledgment) is a cultural ritual to pay homage to every power and principalities in everything we do. Iba/Ijuba is also mandatory for a traditional literature artist or musician for first of all delivery the eulogy to principalities and powers for safe-landing during the performance.

The Spiritual Importance of Obey *Iba fun Eledumare baba* his album dedicated to *Eledumare* confirms this. So did Sina Peters 1993 Album *President* rendered a salutation to Senior Kings of Juju Music.

This is a way of “*Copyrighting*” so to say, that is seeking permission from Juju exponents to favour him and grant him success and Promotion.

Iba/Ijuba is rendered to appease powerful human beings and supernatural forces.

We have done that in this research. We have given homage to our forebears, chiefs, kings, princes alike in this research.

We have paid our dues to LASUs, main Library, Faculty of Arts as well as Centre for Nigerian General Studies. Individual lecturers have benefited from our spree of well researched book donation. We have written a play titled: *Paradise Ni Paradise (A drama of Change)* to

Wit change of Costumes and Names in Victorian Lagos of the 1880s, this way immortalizing this cultural phenomenon in the heart and mind of theatre goers in modern day Lagos was our way of making 21<sup>st</sup> century Lagocians to Rendez –Vous with History.

We also wrote another play titled *SENSIn* in which the opera going tradition of 19<sup>th</sup> century Lagos was given visibility with a taste of the works of Mozart, Handel, Ravel, came to the fore.

In Lagos Since 1981 when I joined Unilag it has all been more 40 years of academic fecundity with a flurry of more than 100 literary, historical, cultural works. This productivity was greeted by the student of Faculty of Arts Unilag academic Award bestowed on me in 2014 – the most published lecturer in the humanities. This is what I called a pattern of give and take. All to the glory of God.

We have as a rule search lighted the city of Lagos as the beacon of Education of Nigeria with such works as *Langbasa* and *Cultural Quiz for Lagos State pupils and Students*. In these works, late Papa Ogunde “*Yoruba Ronu*”, a play devoted to political tinkering in Nigeria of early 1960s. His Cinematographic works such as *Seranko Senia*, other dramatists like Baba Sala (Moses Olaiya) Ade Love were given visibility not forgetting Obey and Sunny Ade. His cinematographic works such as *Seranko Senia*, other dramatists like Baba Sala, Moses Olaiya, Ade Love were given visibility not forgetting Obey and Sunny Ade. The place of the National Arts theatre at Iganmu as the cultural nerve Centre and External publicity was given visibility. It was a place where the whole of Africa both black and the Diaspora Rendez-vous with cultural Jamboree in the months of January to February 1977 during Festac 77. Lagos suddenly became the Athen and Nigeria the Greece. The 1970s, 1990s were the golden era of the unity of the National Arts theatre Lagos for cultural promotion.

Lagos became the centre of Arts Exhibition in the 20<sup>th</sup> century with the National Museum Onikan taking the lead in conjunction with such Arts, fine and Applied Arts exhibition centers like Didi Museum, Victoria Island Aarogon Gallery at Obanikoro, Geobi museum where the works of the masters Ben Enwonwu, Bruce, Osinowo, Dele Jegede, Yusuf Grillo etc were exhibited.

In the realm of music promotion in Nigeria Lagos takes the lead with Caban Bambos owned by Bobby Benson. Where Bala Miller held sway as CMS Grammar School neophyte. Roy Chicago, Tunde Nithingale, Victor Olaiya. All these cultural artists we gave visibility in our researched works on *Nigeria Music, Arts and Artists* etc.

In boxing Hogan Kid Basse, Dick Tiger made Lagos and Nigeria proud by their boxing prowess. In Commerce and Industries, Lagos is the undisputed industrial Capital (New York) of Nigeria Lagos are well documented for Posterity in *Langbasa* and *Cultural Quiz for Lagos State Pupils and Students*.

In sport Lagos hosts ECN, Railways, Stores, where Thunder Balogun, Haruna Elerika, Christian Chukwu, Dele Odegbami held Sway. In commerce and Industries, Lagos is the Undisputed industrial capital (New York) of Nigeria. All these spectacular outings and visibility given to Lagos are well documented for Posterity in *Langbasa* and *Cultural Quiz for Lagos State pupils and Students*.

Iba re Eko Akete  
Ile Ogbon  
Mojuba O  
Ki ba mi  
Kio Se.

Justly speaking: Now is the time to give back to Lagos State that found me fit to be appointed *Chairman Lagos State Library board (1995-1999)* and appointed me a Lecturer in the Department of Foreign Languages (French Unit) since March 2022. Merci Beaucoup. Thank you, the good people of Lagos, for the double honours done me.

Agbagba ilu mo juba o  
Ki ba ki o se Iba o

Iba in Obey religious Chants/Album

Iba f'Eledumare o  
Baba  
Komo wa maku lewe o  
Baba  
A mi be o baba

OR

Iba re Jesu  
Iba re Baba

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Sodipo, Bankole, *Copyright Law*, Lagos Swan publishing 2<sup>nd</sup> Ed. 2017.

### **B. Copyright Letters**

University of Ibadan, Institute of African Studies Letter dated 23<sup>rd</sup> July 1985 granting me copyright for *Obakose* and *Eda* in French

University of Ibadan, Institute of African Studies Letter of 11<sup>th</sup> October 1985 by Chief Wale Ogunyemi titled French Version of *Langbodo*, grant me permission to Translate *Langbodo* into French and to do a performance, but noting that Copyright of the French Version will be cleared with the publisher. *We are to pay performance right also.*

Prof. Bolanle Awe, Director of Institute of African Studies, University of Ibadan letter to me dated 4<sup>TH</sup> November, 1985 informing me of the need for further consultation before she can grant me copyright for the French Version of *Obaluaye* by Wale Ogunyemi.

***Lagos State University, Ojo Postgraduate School letter dated 9<sup>th</sup> of August 2022, LASU/PGS/SEC) 22 tagged Plagiarism Policy.***

### **C. Ife African Language and Literature No 1 Work on Oral Tradition Yoruba Oral Tradition Policy in Music, Dance and Drama**

Dept of African Language and Literatures, University of Ife, Ile-Ife edited by Wande Abimbola 1975.

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Powered by offset Lithograph at Ibadan University Press Nigeria 40/78/5000

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### **D. Works on African Oral Tradition**

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### **Articles on Yoruba Oral Artists**

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#### **E. PhD Theses/Inaugural Lecture**

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#### **F. Other Source**

Isola, A. (1976) "Article Aspects of Sango Pipe" *Odu* 13, pp 80-103.

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Samuel, K. and Adekola E. (2018), "*Philosophical Elements in Agidigbo Music and their Dialectic Value for Promoting Effective Educational System for Africa*", *Journal of Pan African Studies*, Vol1 No5, PP 56-6>

#### **G. Prof. S. J. Timothy-Asobele Works Relevant to Ijuba/copyright Acknowledgment**

*Kabba: A Play*, Promo Comms Ltd, 2001.

*Kabba Language and Linguistics*, Lagos Upper Standard Publication, 2013.

*Kabba Oral Narratives, Customs and Traditions* Lagos, Upper Standard Publications, 2013 Pb-Bamgbose.

*Translation Studies in Africa*, Lagos Promo Comms, 2016.

*Nigerian Dances and Theatre*, Lagos, Latdery Printing, 2021.

*The Sociology of Kabba Kingdom*, Lagos City gate Mentor Gold Ltd, 2021.

*A Dictionary of Modern Kabba Language* PFL Press, 2021.

*The Anatomy of Kabba*, Lagos Upper Standard Publication, 2014.

*The National Theatre As the Nerve Centre of Nigeria's Cultural Diplomacy and External Publicity*, Lagos, Upper Standard Publication, 2016.

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Inaugural Lecture delivered at University of Lagos Auditorium on Wednesday, 20<sup>TH</sup> June, 2007.

*Cultural Quiz for Kogi State Pupils*, Lagos, USE Press (Nig) 2007.

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#### **H. Corporate Author (Publication of Institutions)**

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#### **I. Informants**

Informants on Ijuba in Kabba Babalawo Poetry, High Chief Michael Ojo Osanaiye Oba Aladugbo of Ayewa District of The Ancient City of Kabba and Pternal grandfather of the Author

who was schooled Ifa divinatory Poetry at Afin Olubuse in the 1920<sup>s</sup> where he gave birth to the Authors mother, Late Bamidele Aya Timothy Asobele, son of the Obaja of Kabba Kingdom in 1925. Excerpt of the poetry starts with Homage to Ile- The Spirit of mother earth and the Universe. Thus: Ile Ogere Afoko were before he starts his incantatory poetry, we have dwelt on the Kabba Onomatological (Science of Name) Prefise: Ale for Ile in Yoruba and Osha for the Spirit world of Orisha.

Ile Ogere Afoko were. Mojuba re o

Ki ba ki o se.

Pa Osanaiye will retork to;

Mo juba Akoda

Mo juba Aseda

#### **J. Secular Music and Musicians (Artists) The Obey example**

Obey in his Album chant;

Omode Ilu mo juba o

Ki ba ki o se Iba o

## CULTURAL NATIONALISM IN 19<sup>TH</sup> CENTURY LAGOS COLONY

But the truth must be told, that we are not the pioneers in this Cultural nationalism in Nigeria. We must slate here that Nigeria has, all along its colonial history, been blessed with far-sighted nationalists of all hues: in political, cultural and what have you. To put the record straight cultural nationalism fervor did not dates back to Herbert Macaulay, Awe, Zik, Ojike, the boycott kings days, nor to Festac77. Cultural Nationalism dates back to the 1880s, that is to say, more than a century ago. **The Lagos Observer**

“That a country should rise with a literature entirely foreign almost assumes to me the form of impossibility. It only means that all our legends connected with our race, some of the brilliant exploits of our ancestors as handed to us by tradition, must for ever be consigned to Oblivion. The Legends of Troy, it must be admitted, for interest, stand preeminent; but what can equal for beauty and poetical embellishments the legends of Ile-Ife (Kabba I must add those of Ule Usin) that cradles of mankind as tradition relates. Their oratorical powers have immortalized the names of Demosthenes and Cicero but their orations in many points cannot be said to excel those that have been delivered in the house of Ogboni at Abeokuta or those in the palace of the Alafin of Oyo or those that have moved the soldiers to deeds of bravery in the Camp of Field-Marshal Ogedengbe of Ilesha? (And I to add those of Obamila of Kabba vs the Nupe). If the world had got only the English translation of the Iliad and the Greek of the **Paradise Lost** or if the English edition of **Divine Comedy** were all that is available, what little lustre would they have shed on the genius of Homer or Milton arid of Dante! It is in their native languages that most vigorously a habit of boasting in borrowed plumes: otherwise the fate of the Jackdaw in the fables of Phaedrus would soon be ours”

The main point of this long quotation is this: Unless we are prepared to put on paper for posterity our traditional hymns and folk tunes, unless we are prepared to create, then we might as well rule out the word progress from our dictionary. If some Africans with the initiative wilt volunteer to back up a revue then we, the younger men, will supply the talent. This is Daily Times of 1950.

It is this urgency that made D. O. Fagunwa, author of most of classics of the oral narrative genre of the Yoruba to write:

“Take up your pen and paper and write down the story which will now tell. Do not delay it till another day lest the benefit of it pass you over. I would not myself have come to you today, but I am concerned about the future and there is this fear that I may die unexpectedly and my story die with me. But if I pass it onto you now and you take it all down diligently even when the day comes that I must meet my maker, the world will not forget me”.

This is on pages 8 of Wole Soyinka’s translation of **Ogboju Ode**.

The fact must be stated that other genres of Yoruba oral arts have been given studied attention to wit: Oriki, Rare, Ogede, Ofo, Ijala, Ese ifa, Esa, Egungun, Dundun Talking Drum, Poetry, Ewi, the myths of Sango, Obatala, Ogun, Iyemoja, Obaluaye, Osun are even known in far away French West Indies: Haiti, Cuba and Brazil.

### **The Discipline of Oral Tradition**

Oral tradition as a discipline in Africa Faculties is a recent phenomenon, although our writers have drunk from the fount of our oral traditionalists and griots. D, O, Fagunwa is no exception. His **Ogboju Ode ninu Igbo Irunmale** is a master strike of an ingenious folktale narrator and that is why the efforts of J. I. Abioye’s French translation will enlarge the readership in the Francophone world.

### **Polemicist: Andrzejewski on Oral African Arts**

In his article: **Emotional bias in the Translation and Presentation of African Oral Art**, B. W. Andrzejewski wrote in **African Language Review 4**, University of Sierra Leone in 1965:

‘So far, however, the Oral Cultures of Africa are little known in the world outside, and have made as yet hardly any contribution to a better understanding of man in his African aspect.

African Sculpture, music and dancing have made their impact outside Africa, but they are in this respect much more fortunate than oral art: they appeal directly to the eye and the ear and need no-one to translate them”.

Mr Andrzejewski opined:

“The reason why the artistic worth of African Oral art has not yet met with the appreciation it deserves, lies (...) in the dearth of good translation and insufficient research”.

The polemicist of note, continued:

“In conversation with otherwise well-educated people one may be asked questions like: Can Africa have literature if some of their languages are still unwritten or if they have very little printed materials? If one replies that oral art is a type of Literature and refers to examples from old English, Ancient Greek, Iceland or Provencal literatures, the reaction is at best skepticism at worst horror as if the comparison were somehow blasphemous.”