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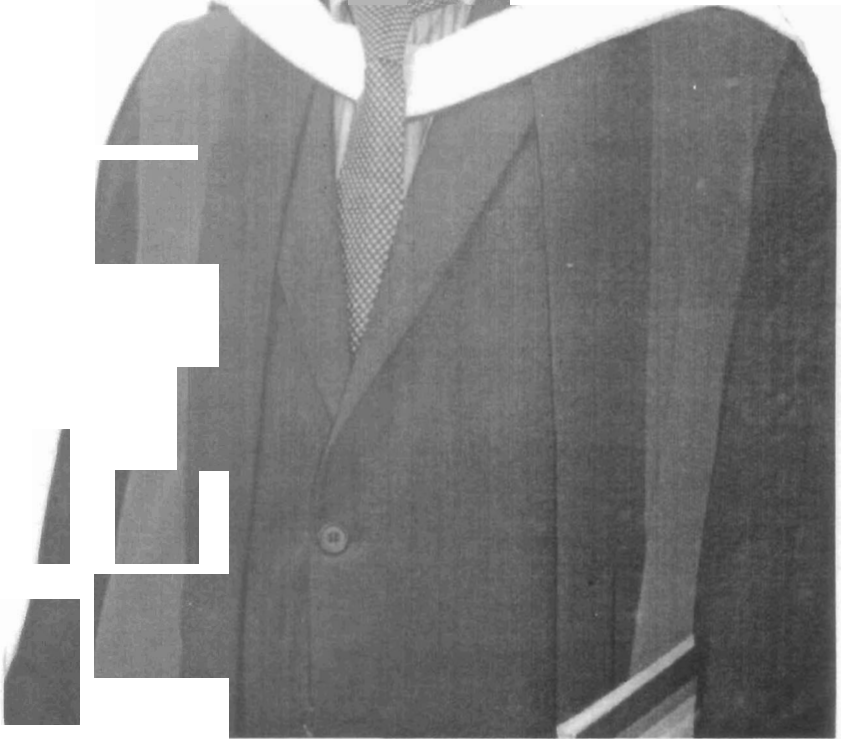
**FROM LITERATURE TOWARDS A  
LAW-CULTURE DISCIPLINE:  
An Unending Quest For Justice**

By

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Studies*



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**An Inaugural Lecture delivered at Oduduwa Hall  
Obafemi Awolowo University, Ile-Ife  
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# FROM LITERATURE TOWARDS A LAW-CULTURE DISCIPLINE:

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## PART I - OPENING

### An Event

Mr. Vice Chancellor, Sir, in the last week of July 1990, I received a letter from the Office of the Vice Chancellor deploying me from my Department of Foreign Languages to be the Acting Head of the Department of Dramatic Arts. When I accepted the offer, I doubled there over the next thirty-nine months as the Acting Head of the Department and the Executive Director of the Awo Varsity Theatre. The latter was, and still is the laboratory to the former. Till now, I regard that Department and the Theatre as important parts of me and my career.

More important, within the first year of my service there, an event occurred. I was approached as the Executive Director of the Theatre for a collaboration with a renowned dramatist, playwright, producer and director of Yoruba plays. The Theatre was to perform on stage a play written and to be directed by the eminent playwright. At the discussion, I sought to know the terms of the collaboration. As at that time, I was already a full-fledged lawyer. I took out my notepad, made jottings of the runs: the commencement date, the number of shows per day and their timing. The general welfare of the Theatre staff was paramount on my mind. I sought after the interest of the University as well.

As for the actual performances, I was at the opening and at the one scheduled for the following Sunday. By my calculation, the Theatre staff would be taking some rest on Sunday before the evening performance. I could therefore socialize with them, inquire into their welfare, especially what challenges they faced, if any.

Lo and behold! When I got to the place, an afternoon performance was on. Such a performance did not form part of our collaboration. Even my Theatre Manager agreed that there had been much breach of our contract and a lot of risks and injustice to the Theatre and the University. I immediately expressed the Theatre's displeasure to our other party, we had a re-negotiation and I left nobody in any doubt that the new terms would be enforced, to achieve justice.

However, Mr. Vice Chancellor, Sir, it was the Theatre staff themselves that later came to appeal to their Executive Director to kindly let us overlook the matter and keep to the old terms. Such performance opportunities were rare and the Theatre might not be invited to participate again within the trade if we insisted on the rigours of some performance contract then. In any case, when this outsider Director would have served his term and returned to *his* Foreign Languages and/or to *his* Law, *they* would be the ones to remain to suffer the consequences of an inevitable ostracism within *their* trade.

How was the matter resolved? Ask rather: what were the consequences of the incident? I re-formulated the problem more comprehensively and re-orientated my course of action. I asked new questions: What constitutes fairness to the theatre practitioner? How far can he demand or compromise his welfare and other rights? At what point does the sympathizer weep more than the bereaved? Where is justice for the culture practitioners generally- fiction writers, non-fiction or academic writers, artists, artistes, etc.? The outcome is the story of justice and cultural productions which engages us in this Inaugural Lecture. From that incident, I have reviewed my findings in my study of Literature - in French - and added action for justice in all matters cultural. That is why my title today is: **FROM LITERATURE TOWARDS A LAW-CULTURE DISCIPLINE: An Unending Quest For Justice.**

## **Introduction**

Mr. Vice Chancellor, Sir, I feel blessed by God that I am alive today to give this Inaugural Lecture. I also appreciate the Obafemi Awolowo University - 'Great Ife' - for providing this forum for academics who attain Professorship, the highest status in our chosen profession, to profess to the academic community, and perhaps also now to the public at large, what their career has been, what it is and what it will be. I am happy to join my two hundred and forty predecessors on this rostrum, as mine is the 241<sup>st</sup> in the Inaugural Lecture Series at Ife.

I am a Professor of French and Francophone Studies in the Department of Foreign Languages of this University. I am the fourth Professor to give the Inaugural there, following the footsteps of Professors Femi Ojo-Ade, Martin Bestman and Remi Sonaiya. I salute them all.

In this Inaugural Lecture, I intend to trace my itinerary from a focus on imaginative writings called Literature, with a capital L, to a proposal for the recognition of and support for a Law-Culture Discipline. In the course of the exploration, we shall identify the substantive commitment of the authors - seeking justice in their world. From this point on, issues of Law are introduced as we query whether the society reciprocates 'the writers' concern. If it does not, what actions can we take or have we taken? What is or what has been the role of each of us in this auditorium with regard to this quest for justice for writers, for literature and literary pursuits? How does this extend to culture generally and the Law-Culture discipline that we are proposing?

Let us begin with a statement of my approach to Literature.

## **PART II - LITERATURE AND THEME STUDY**

### ***Litera*, Literatures and the Literary Texts**

My work in the academics is situated in the field of Literary Studies. The word 'literary' derives from the Latin, *Litera* meaning the written word. It is the root of words like "literature", "literary", "literacy", "literate" and also "illiterate". It is easy to understand

then that "literature" covers materials of different categories and on varied subjects. The "literature" on a subject, refers generally to the written, printed or other materials available on that subject. It is in that vein that "Review of Literature" is an important chapter in any academic project, dissertation or thesis.

However, "Literature" with a capital "L" has become a technical term. It refers to an academic field in which creative works in prose, poetry and drama are the subject of consideration. That is our own field. The adjective 'literary' here describes or qualifies different words and concepts to have expressions like "literary style", "literary characters" or "literary theory" and "literary criticism".

Two quick observations then. First, from the foregoing explanation of *litera* and its derivatives, it is clear that we have to be kind and do justice to others and to ourselves in our words or concepts, particularly in comparative terms. The adjective or noun "illiterate" simply means: not able to read or write. But general thinking attributes to the *illiterate* (person or community) much stupidity, lack of civilisation, culture or refinement. This is unjust. A person who cannot read or write in any language may be wise, deeply cultured and highly refined, even in a lot of ways, more than the most highly or widely schooled person. Furthermore, a person literate in one language may be an absolute "illiterate" in another.

Second, if *litera* is already the "written word", is it not superfluous or tautological to speak of "written Literature"? Is it not also contradictory to speak of "oral Literature"? The truth is that the field of Literature is a wide and widening one, dynamic in accordance with the evolving world. For a long time now, in Literary Studies, we have been speaking of "Orature". With the advancement in ICT too, there is already today "virtual Literature" i.e., the text that is not yet made permanent by printing or by saving, but only just created floating on the computer's screen, and which may be lost if not saved or auto-recovered if the Power Holding Company or (NEPA) suddenly



cuts the supply of electricity. And, as we shall emphasise later in this Inaugural Lecture, all that is written, including scientific materials in the Humanities, Sciences and Technologies are "literary works". Note also that the computer software, at least for the purposes of the law, is a "literary work".

What is most practical today in referring to Literature, i.e. the works of creative imagination, is to speak of **texts**, specifying also the various media - e.g. written text, oral text, performance text, e-text, film text, etc

### **Literary Criticism**

To us in Literary Studies, criticism is not a negative statement about any person or matter. It is an evaluation which brings out both the strong and the weak points of a work. Each of the three genres - prose, poetry and drama - has its own sub-genres. The prose text, for example, may be a novel, a letter, a short story or a journal. Again, the novel may be biographical, autobiographical, historical, social, political and more. A letter can be formal, informal or non-formal or epistolary. A similar break-down can be had for poetry and drama.

Approaching the three genres and their details academically and for exposition in pedagogy also takes various forms. Texts may be studied together according to the ages, schools, movements or theories with which they are identified. We think of the 19<sup>th</sup>, 20<sup>th</sup> and now 21<sup>st</sup> Century Literature of any people, nation or continent. We discuss the Classical Age of French Literature, the Age of Enlightenment. There are also transnational subjects like Romanticism, Realism, Modernism, Post-Modernism, Colonialism, Post-colonialism, Neo-colonialism, Absurdism and Feminism.

### **Theme Study**

There are however approaches that cut across ages, periods, schools and theories, without ignoring those dimensions. One of them is the Theme Study which has been one of our own preferred approaches. In the first place, those literary subjects that cut across national boundaries as listed above may be studied as "themes". Among

other concerns, the critic may trace the origin and evolution of each theme, the different manifestations in each nation, the peak, the waning and the outgrowths. This is why Theme Study is sometimes considered a part of Comparative Literature.

There is also "Theme Study" in the sense of considering specific subject matters in a single text or group of texts. A subject found to be significant in a national Literature or that of an age may be explored. Thus, Oladitan (1993) examined "suicide" in *L'aventure ambiguë* and *Vehi-Ciosane* of two Senegalese novelists, Cheikh Hamidou Kane (1961) and Sembène Ousmane (1965) respectively. These works may also be compared with our own Nigerian novel *Things Fall Apart* by Chinua Achebe (1958), where the same phenomenon features. It is with respect to issues like these, among others, that we repeat to our students like a refrain that **a literary text or even a whole national Literature determines the critical approach most suited to it.** For, the content of the text largely guides the choice of the theme. It is this determinant stake of the text in literary criticism that has led to our study of the theme of violence in the African novel of French expression.

The single-theme study has its own approach. Here, the critic who identifies a subject looks at it from various disciplines, dimensions and perspectives. The subject may be a major concern in History, Science, Politics, Philosophy, Psychology, Law, Religion, etc. All the knowledge garnered is then applied to the analysis of the occurrences in Literature, in any of the genres, within restricted limits, as we have done, working mainly on the novel of Africa, and in the French Language.

Apart from allowing insight from other disciplines, Theme Study also permits the application of other approaches to the study of the texts identified as relevant. For instance, the joint authors, René Wellek and Austen Warren in their *La théorie littéraire* (1968) list the various areas of literary criticism as divided into Intrinsic Study and Extrinsic Approaches. We have always simplified the two orientations to our students by stating that the intrinsic looks into the text with the knowledge deriving from examining the text itself,

applying almost strictly canons from the literary field, whilst the second, the extrinsic, examines the text with some knowledge deriving from outside the text.

Under the intrinsic study, there are : Le mode d'existence de l'oeuvre littéraire ; Euphonie ; rythme et mètre ; Style et stylistique; Image, métaphore, symbole, mythe; Nature et modes de la fiction narrative; Les genres littéraires; L'évaluation; L'histoire littéraire. Under the extrinsic approaches, there are Littérature et biographie; Littérature et psychologie; Littérature et société; Littérature et idées; and Littérature et les autres arts. The lists of the studies, approaches and perspectives are much longer today.

A merit of the Theme Study is that the scholar is enabled to apply both the intrinsic and the extrinsic approaches. To the theme scholar then, reconciling the unreliable dichotomy between *form* and *content* becomes easy. The intrinsic would emphasize the structure or form whilst the extrinsic would focus on subject matter or content. With this combination, Theme Study becomes a comprehensive and enriching study of Literature. It then becomes an appropriate "scientific" approach not only to the fictive world presented in the texts, but also to the aesthetic or artistic vehicle conveying it. Both aspects are kept constantly in view by the critic. Formulated by me in French, this would propose : "*Tout fond, comme toute vie, est dans la forme; et toute forme, comme toute beauté, est dans le fond.*" (i. e. All content, like all life, is in the form; and all form, like all beauty, is in the content.). This principle has been one of those guiding me in my approach to any of the many texts and subjects I have explored in my career over the past thirty-seven years, i.e. since 1974 when I assumed duty in Ife.

What does Theme Study translate into, in practical criticism? Let us give just one example.

### **PART III - THE EXAMPLE OF VIOLENCE**

#### **Violence and Myth-Making**

My subject for the doctoral which I completed in 1975 was "*The Theme of Violence in the African Novel of French Expression.*"

Without being an apologist of violence, this involved theoretically exploring aspects of the phenomenon in reality before analysing it in the text of the African novels written in French. This theoretical quest was interdisciplinary, bringing us to the fields of Myth, Psychology, Biology, Religion, Politics, etc.

Violence, we should recall, is a phenomenon related to aggression. Aggression in turn has been explained both mythically and scientifically. Note particularly that Literature is the domain *par excellence* for subjectivity and myth-making. Subjectively, violence has been freely associated with individuals, families, groups, peoples and races. More specifically, Oladitan (1975) has shown how the black Africans have been described as a violent race - given to theft, killing, robbery, roguery and rape. He highlights how on the basis of *The Holy Bible*, for example, the blacks have been seen as the descendants of Cain, son of Adam, the brother of Abel. They are also alleged to be the children of Esau, the son of Isaac, the brother of Jacob. Concerning the brother of Abel we recall Genesis, Chapter 4 v. 8 which states:

"Cain said to his brother Abel: "let us go into the open country". While they were there, Cain attacked his brother Abel and murdered him". (*Our emphasis*)

Going by the biblical or Adamic version of the origin of man, Cain by this incident became "the first killer". Please note that in this incident, Cain is not simply said to have *killed* his brother; he is said to have *murdered* him. A judgment of guilt of the highest order is pronounced already in the verb and the punishment is grave. No consideration or trial for manslaughter is allowed!

As for Esau compared to Jacob, the latter is painted as the innocent victim of Esau, who is proverbially described as having compromised his birthright for a "pot of porridge". The conspiracy between the mother and her favoured younger son, against the older toiling one is generally overlooked, forgotten, or even so partially interpreted as to arrive at a "will of God".

The issues of justice and injustice against the blacks, as we can see, started a very long time ago. Nwaezeh (1978) too has drawn attention to stereotypes to similar effect in the European Literature and religious fiction.

Studies tracing the origin of man to the East African *Australopithecus Africanus* would probably tempt us to proudly beat our chest as being the first man. But it is quickly added that that first man, a black, broke the skull of all the others and sucked their brain, in the war for the "survival of the fittest". Only those descendants of his who migrated north to Egypt and beyond to Europe built or experienced developed civilization, including a change of skin colour, to white! The negative stamp of violence on the black race is still not yet removed! And, is it ever removable from the skin colour?

### **Violence, "Scientifically"**

Looking scientifically at violence, seeking to know its contexts, causes, processes, consequences and effects, we are instructed in other disciplines of the Humanities, the Natural and Social Sciences that violence may be predictable for man as for other animals. Its situations include those of relative deprivation (RD), real or unreal, actual or threatened. It may be a situation of loss, present, past or in fear of the future.

Thus, when a person is confronted by a thief trying to rob him, he fights back. In the popular game of football i.e. a competition where opponents vie for victory, each team is fighting with a future gain or loss of a trophy in mind. In the fixed-sum situations of competition for political power, much aggression and "violence" are involved. In many cases, it becomes a matter of "do-or-die", as we were told here in Nigeria very recently. The language and vocabulary of violence are also distinct - attack, foul (play), rough, infringement, injury, assassination, murder, etc.

However, violence is not every time a negative phenomenon. Even where it could become negative or destructive, the society by systems of control like law regulates its

emission or use. With proper management, it becomes a great weapon for the effective running and protection of the organised society. That is the role played by security institutions which are expected to deal with threats to the integrity of the state - like all "Boko Harams" of this world, terrorism and war. Finally, as Oladitan (1995) has shown, the functions of and the attitudes towards violence depend on the positions taken by the diverse parties involved. We shall now illustrate.

### **Violence in the Francophone African Literature**

What do we find in the African Francophone Literature of the colonial, nationalist and post-colonial periods up to the era of the military? Take these two poems of the progressive Négritunist, David Diop<sup>v</sup>(1973) to start with :

#### *Le temps du martyre*

*Le Blanc a tué mon père*

*Mon père était fier*

*Le Blanc a violé ma mère*

*Ma mère était belle*

*Le Blanc a courbé mon frère sous le soleil des routes*

*Mon frère était fort*

*Le Blanc a tourné vers moi*

*Ses mains rouges de sang*

*Noir*

*Et de sa voix de Maître*

*"He boy, un berger, une serviette, de l'eau!"*

#### **Time of martyrdom**

The White killed my father

My father was proud

The White raped my mother

My mother was beautiful

The White bent my brother under the sun of the roads

My brother was strong

The White turned towards me  
His hands red with black blood  
And said in his Master's voice  
"Boy! An easy-chair, a towel, water!"

*Défi à la force*

*Toi qui plies toi qui pleures  
Toi qui meurs un jour comme ça sans savoir pourquoi  
Toi qui luttas qui veilles pour le repos de l'Autre  
Toi qui ne regardes plus avec le rire dans les yeux  
Toi mon frère au visage de peur et d'angoisse  
Relève-toi et crie : NON !*

**Challenge To Force**

You who bend you who weep  
You who die one day just like that not knowing why  
You who struggle and stay awake for the Other's rest  
You with no more laughter in your look  
You my brother with face of fear and anguish  
Rise and shout: NO!

Reading these two poems together, the poet stresses the violent oppressions and injustice done to the blacks. They are made to suffer for every good gift of nature. The poet also recalls the negative European myths or stereotypes on Africa and violence. He summons the oppressed and exploited blacks to violent, revolutionary action against the varied forms of continuous relative deprivation in the colonial situation. Thus, violence of the African is defended, justified in and by the objective colonial reality, negating thereby the European stereotypes.

Concentrating more on novels of the colonial period, we find that there are many of them dealing with actions which differ in intensity, direction, focus, results and consequences. Many violent events are spontaneous and circumstantial, barely hitting at the "enemy", with only lucky escapes from suppression if successful

at all. This is the case for example, in *Ville cruelle* of Eza Boto (1954). But such actions have no sequel. Others that focus on the enemy consciously, with open confrontation and clear justification, are also soon overcome by the enemy - the colonial administration and the commercial exploiters - with their greater capacity for violence. Such is the case of *O Pays, mon beau peuple* of Sembène Ousmane (1957) where the young African combatant works vigorously towards the economic and political liberation of his people. However, as soon as he becomes a threat to the foreign colonial order, he is assassinated.

In fact, the constant defeat of the African in revolt makes the francophone novel, or Literature generally, one in which the greater and vicious violence of the colonial power is evident. This defeat obtains even where the African does not resort to violence to confront the enemy. For example, although a cerebral African in France hides himself away from trouble to write a novel in *Le docker noir* of Sembène Ousmane (1956), the text still terminates in blood and tears. His manuscript is rejected simply because it is signed by a black person. When the author, Diaw Falla, gives it to a friend, a French lady, it is quickly published and it wins a prize. Stereotypically, the blacks lack the imagination, knowledge, creativity and language to write such an award-winning work. In the ensuing discussion on the passing-off, passions rise and the lady loses her life. Subjectively, the trial court returns a verdict of murder. However, in the context of the copious details on the deprivation and stereotypes given in the novel, a decision of manslaughter would have been correct and the sentence should therefore not have been death. The injustice is patent.

Also, by choosing the path of education in *L'aventure ambiguë*, a whole community tries to eschew violence. It charges its Prince and brightest brain, Samba Diallo: "*Il faut aller chez eux apprendre à vaincre, sans avoir raison*" (Go and learn from them the art of winning without being just). The novel still ends in suicide because the brilliant African, understanding the essence of his own culture and that of "the other", cannot prefer one to the



other. The non-brilliant ones like the hero of Mongo Beti's *Mission terminée* (1957) fails on both sides and becomes derailed, ending up as a violent son beating up his father, a disorientated social person forever in wandering.

In all these works, our writers portray the Africans as victims of the deprivation of the colonial situation and their resort to violence is an expression of frustration or in self defense. It is as Fanon (1970) proposes: the violence of the colonized person in the colonial situation arises as a result of the greater violence of the colonizer, and much greater violence is employed to suppress all attempts at revolt.

Yet, there is a work that stands out in the francophone novel of the colonial period. In it, action is deliberate - carefully worked out, sustained over time and executed with diligence and determination. Others are brought in to share the ideas, views, perspectives or even the ideologies involved. This is *Les bouts de bois de Dieu* of Sembène Ousmane (1960). Here, the details of deprivation justify action, and the details of the action in its long-suffering justify the full blown revolutionary victory at the end.

In the post-colonial era, works featuring violence based on deprivation abound, but the deprivation here is one of disillusionment of the morning after independence. The works include *Les soleils indépendances* (1970) and *Le cercle des tropiques* (1973). It is not only a question of the loss of what one had before, but also a frustration of the hope built on the future, the joys or "dividends" of independence, to use the Nigerian parlance of today. There are fits of passion in Kourouma's *Les soleils indépendances* (1970), *des* with little or no violent physical action against the new African leaders. They are in any case inaccessible, so distant, and virtually invisible, even when so much is said about them. In the end, the victim of the "fires of independence," Fama, dies, violently mauled by crocodiles raised in the pool of water marking the boundary between the two new African nations into which his traditional royal territory had been split.

Texts that present violent action against the new African leaders are marked by defeats similar to those of the colonial situation. The bold efforts, the careful, detailed and long planning in Alium Fantouré's *Le cercle des tropiques* (1973), leading up to a military take-over, result in a round of loud ovation, soon to be drowned in a deep deception by the military. We await yet an age of victorious revolution beyond the military in the independent Africa.

We should mention here a trend in the African womanist writings, many of whose texts are (auto) biographical as Bestman (2007) has confirmed. There is a lot of negative picking-up from the past - the portrait of female genital mutilation and other traditions of female oppression - physically, materially, sexually and socially, as we have in Fatou Keita's *Rebelle* (1998). This descent into the ugly past of Africa in violent acts follows the tradition of Kourouma's *Les soleils des indépendances* and Ouologuem's *Le devoir de violence* (1968). These narratives reflect also the ugly present and the demand for a better future by the authors.

One ray of hope though: a resort to traditional, spiritualist and non-violent sanctions, in *juju* or *gris-gris* against the new political leaders and other negative forces brings triumph, in Sembène Ousmane's *Xala* (1973).

### **Form Conveying Content**

With the theme study of the phenomenon of violence, it has been possible to place elements of various texts within the intrinsic literary critical categories. Thus, within the Négritude movement, we have identified the revolutionary Diop, who camps also with Aimé Césaire for violent action, if need be. On the other hand, reconciliatory and pacifist President-poet Leopold Sédar Senghor (1964) recalls the heroism of the African tradition (in the poem "Chaka"). He spots also the colonialists' violence against the blacks; but he refrains from calling for any violent

action against the oppressors. Rather he seeks reconciliation (in the poem "New York").

On **characterisation**, Theme Study of violence allows us to clearly identify in the anti-colonialist revolution, the men of ideas, the men of words and the men of action. The psychological traits of the sanguine, phlegmatic and others are also discussed in relation to the disposition to violence.

It is in the study of **literary modes** in particular that Theme Study of violence and its uses profitably elucidates the texts of the African writers. The dominance of the heroic mode in the portrait of Africa's traditional past has a strong blend of moral uprightness in the employment of violence, be it in sacrifice or in war, as we have in the historical prose *Soundjata* of D.T. Niane (1969) and the dramatic text *L'exil d'Albouri* of Cheikh N'dao (1969). We note again that military victory eludes the relatively innocent heroic figures, but their moral status remains exemplary.

The outcome of violence, particularly in the persistent confusion and defeat of the African in the colonial situation emphasises the preponderance of the tragic mode. Here, the source of the tragedy of colonisation is traced to violence from outside; and the identifiable outsider, the "Other", is the white colonialist. In the post-colonial period of disillusionment, the tragedy is from within, the violence of the African on the African. The revolutionary violence and of the victory the masses in *Les bouts de bios de Dieu* constitutes the triumphant **epic** in the colonial setting. That feat remains unattained yet in the post-colonial period.

We emphasise too that the African **context** in which the characters and the text are set is generally public and social, not individual, private or intimate. So, the Shakespearean tragedy of the inner flaws of man is rare and the tragedy of existence itself; obtaining in the French literature of the Absurd, is yet to come.

As for **language**, the expression of profound truths about violence and life can be firm and pungent, sharp and blood-soaked. Hear this from *Les bouts de bois de Dieu*:

Il ne sert à rien de contempler nos feuilles de paie et de dire que nos salaires sont insuffisants; si nous voulons vivre décentement, il faut lutter. (p. 25)

... Celui qui a peur du sang n'est pas capable d'égorger et si on veut de la viande, il faut égorger (p. 38)

It serves no purpose contemplating our pay slip and saying our salaries are insufficient; if we want to live decently we must fight.

... He who is afraid of blood is not capable of slaughtering (an animal) and if you want meat, you have to.

### **The Nigerian Cross-References - The Comparative**

For a specialist in Foreign Languages, operating, teaching and researching in an Anglophone setting, the risks of isolation and irrelevance are very high and they are really not worth taking. Part of the utilitarian or even philosophical grounding for engaging in the study of French in Nigeria is that we are surrounded by Francophone countries.

What is not known, however, is that in the meantime those of us in the field have to deliberately cultivate either English or our mother tongues, or all of them, to remain relevant to our immediate *milieu!* How would a Nigerian be versed on violence in the Francophone world and fail to be alert to the many *coups d'état* and the long Civil War in his own country? Our own master, Abiola Irele, the first Nigerian Professor of French, remains today one of the most perceptive critics of Wole Soyinka who writes mainly in English. The same applies to all of us in the field, including the students that we teach. Almost all of us are comparatists, one way or another. At many points, we have to look comparatively at the Nigerian Literature.

We all know that hardly will a student pass through the Nigerian secondary school without reading Chinua Achebe's *Things Fall Apart* (1958). The Nigerian lecturer discussing violence in the Francophone novel to Nigerian students of French would most

probably draw attention to the suicide of Okonkwo at the end of Achebe's novel. At the postgraduate level, one would refer to the Nigerian Civil War and the literature that it gave rise to.

Thus, as far back as 1978 and 1979 in two studies, we examined in their relative freshness various prose writings published between 1971 and 1976. The multitude of texts considered included: John Munonye's *A Wreath for the Maidens* (1973), Chukwuemeka Ike's *Sunset at Dawn*, (1976), Elechi Amadi's *Sunset in Biafra* (1973), Wole Soyinka's *The Man Died* (1972) and *Season of Anomy* (1973), Samuel Ifejika's *The New Religion* (1973), Kole Omotoso's *The Combat* (1972) and Femi Osofisan's *Kolera Kolej* (1975). We set up various categories of relationship between the facts of history and their fictional versions. The emphasis was that literature as a re-creation of history did not in simplicity reflect item by item, the experiences of the Nigerian nation. It made significant contributions to our national consciousness by re-interpreting the chosen aspects. There, I set up various categories of relationship between the facts of history and their fictional versions. The emphasis was that Literature as a re-creation of history did not in simplicity reflect item by item, the experiences of the Nigerian nation. It made significant contributions to our national consciousness by re-interpreting the chosen aspects. Among the important subjects, even at that time were justice, fairness, probity, law and order in our national consciousness. As a matter of literary theory therefore, Theme Study of violence in that context enabled me to make significant contribution to the eternal issues of realism and Literature, already in the 70s.

#### **PART IV - THEORY OF LITERATURE**

Theory interests the scholar in several ways: recognising existing ones, adopting or applying them, taking them further or rejecting them. He may also formulate and illustrate new ones, adapt or modify others to perfect his own. The list is

inexhaustible. In our case, over the decades, we have been able to move in several directions, particularly in elucidating texts to our students. Also, all true young scholars naturally grope for some theory to start with. At that point, they learn to recognise several of them and their different shades. We did so too. I summarize here five of those that are relevant to our theme study of violence and by which we identify the focus or preoccupation of our writers.

### **Art for Art's Sake**

Early enough, we recognised in particular, the "Art for Art's Sake" theories, particularly in contradistinction to the sociological theories. Art for Art's Sake proposes that art is enough reason for its own creation, justification and appreciation. As for me, holding to the principle that texts largely dictate the criticism suited to them, it did not take me time to recognise and reject Art for Art's sake.

### **Sociological Theories – Genetic/Significance**

On the contrary, I embraced, fairly early too, the sociological theory, but because of the multiplicity of the schools within it, I exercised caution in adopting any. Finally, I got attracted to the Lucien Goldman's genetic sociological position which enabled me to move smoothly to that of my Supervisor and Mentor, Professor Abiola Irele, insisting among other things, on the significance of texts. I have since taken the resultant genetic/significant hybrid further in my application of it to Theme Study. For, each theme has a way of manifesting both its own "genesis" and its "significance". I have since come to the point of recognising that initially, texts, particularly committed texts, derive from, function in, have their significance in and affect identifiable societies. Indeed, authors themselves may target specific societies; they cannot determine the final audience of their works, with distances in time and space. The texts can

therefore assume even unexpected significance in other places and ages.

### **Fanonian Theory of Literature**

Third, my extensive theme studies on violence led to the happy discovery of the theoretical importance of Fanon's position on national culture and national literature. Fanon, I recall, is that great apologist of violence and author of *Les damnés de la terre*, (*The Wretched of the Earth* (1970)). His positions on violence, national culture and national literature derive from his active roles in the Algerian revolution. I have been able to recognize, like many others, that his positive affirmations on violence are liberation-bound. I have, however been the pioneering theoretician on his position on culture and literature. I have carried his "liberatio" focus further; his "national" has translated to 'nationalist' and "revolutionary"; and his commitment is transported beyond the merely political to the cultural, in a comprehensive sense. His three phases of Cultural Revolution and four moments of literary movement are not only clarified but also illustrated and expanded. I have also proposed that his propositions as I have construed them are applicable outside liberation struggle contexts. Indeed, younger scholars have since applied our Fanonian theory of literature in their works. Among them are Arowolo, Ph.D. (1997) and Omidire, Master's (1999).

### **Applied Literature**

Fourth, in terms of theory, my foreign language teaching and research in French whilst remaining domiciled in my own immediate environment, so distant from the French metropolis, have compelled me to formulate and illustrate a theory of '**Applied Literature**'. The full import of this third theoretical position is only tangential to our Lecture of today, suffices it to say here that it enables the critic to grant that Literature of distant lands and ages can assume startling immediacy when applied in other contexts. Thus, Oladitan(2001), demonstrated how the poem of Victor Hugo, a French poet of

(1970) France captured the activities of the Oodu'a People's Congress (OPC) of Nigeria in the 1990s.

### **Law-Literature**

Finally, for my purpose here, my forages into Theme Study have firmly established my work in the field of Law - Literature. I have discussed such topics as "The Merging of Natural Law Into Human Rights: A Juristic Pattern in Literary Creativity". I have discussed also "Theatre in Defence of Human Rights". Equally, I have examined subjects like "affidavit", "No-case Submission", "Contended Cases" and others (1998 & 1999), particularly on the matter of justice as raised by our authors. Indeed, justice as a major concern identified for our authors is in the same field of Law-Literature.

### **Writers' Quest for Justice Framed Legally**

By applying a combination of my own construction of Fanonian theory and my furtherance of Irele's insistence on the significance of texts, coupled with my findings in the field of Law-Literature, I hold that writers have painted in literature a sorry state of the African situation, from colonisation and post-independence, to neo-colonisation and beyond; that specific entities are specifically accused of the misfortunes and that the texts of the Literature studied raise matters of human rights denial in every area of life. We hold that the indictment of specific entities is patent, and that everyone stands accused.

Interpreting the charges in terms of human rights, virtually all rights are infringed - right to life, right to dignity of the human person, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought, conscience and religion, right to freedom of expression, right to peaceful assembly and association, right to freedom of movement, right to freedom from discrimination, right to property. It is as if a whole national constitution like that of Nigeria or an abridged version of the Universal Declaration of Human Rights were put before the public.



Everybody stands condemned. The authors call for a redress of the injustice. The struggle for liberation is then a permanent cause, even till today, half a century after the lowering of the colonial flags. Its scope extends beyond and away from the Fanonian battle field, to the sweat of the writers themselves at their desks.

## **PART V - ANY JUSTICE FOR THE AUTHORS?**

### **Authors' Intellectual Property - Copyright**

After establishing the quest for justice by the authors for their people, the next issue that has engaged me is that of justice for the writers themselves. Here it is a question of human rights of the authors, specifically their right to property.

In the United Nations' Universal Declaration of Human Rights, (UDHR) (1948), Article 17 provides that

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

The issue for us is to find out if and how the outside world, where Literature circulates and functions, recognizes and remunerates the proprietary rights of authors. Do the users of their works compensate them for their efforts and make for further creativity? Do they not deprive the authors of their rights?

As a writer prepares his manuscript, there accrues to him property of which he the first owner and over which he has a number of rights. The property here is Intellectual Property (IP), specifically copyright, in the same category as inventions and industrial designs, which are not tangible, but which we can dispose of as effectively as we do the tangible possessions.

### **Cultural Productions and Copyright Protection**

The relevant law in Nigeria is the *Copyright Act*, Chapter C28 of the Laws of the Federation of Nigeria (LFN), 2004. Section 1 specifies six primary works that are eligible for protection:

- a. Literary works;
- b. Musical works;
- c. Artistic works;
- d. Cinematograph films;
- e. Sound recordings; and
- f. Broadcasts.

Note that the first works on the list are, incidentally, literary works, such as those of our writers. The Act also protects two neighbouring rights, i.e. the Performance Rights and Expressions of Folklore. Jenö Bobrovsky refers to the works and rights as **cultural productions**. Many times too, those who make, create or execute them are referred to as **authors, artists or artistes**. We set out in APPENDICES I, II and III national and international definitions of “literary” and folklore to show how clear and detailed law can be to ensure understanding, certainty and justice, even in cultural matters.

As first owners of copyright in their different ways, authors of the eight works and rights are empowered to exercise exclusive rights on their works over specified periods of time. The rights include those of reproduction, translation, adaption and distribution for commercial purposes. Specifically for the literary works, the authors and their heirs/representatives exercise these exclusive rights over the works until seventy (70) years after the end of the year in which the author dies. This is the same term for musical or artistic works other than photographs. As for cinematograph films and photographs, sound recordings and broadcasts, the term is 50 years after the end of the year in which they were first published or made. The term for Performer's right is fifty years from the end of the year in which the performance first took place.

After the expiration of these terms, the works fall into the public domain. It is then, and only then, that users may take for free, without any reference to the authors or their representatives for permission or authorization. For, the works

then cease to be copyright-protected. Any act done before then by others without the authorization of the authors would be an illegality.

## **PART VI - WRITERS' PREDATORS**

Who and what have been the enemies of the writers and therefore responsible for their deprivation during the subsistence copyright protection? To cite only a few but startling examples, we have first, the authors themselves, followed by their publishers, then the pirates, the libraries and finally, all of us in this auditorium, who had at one time or another engaged in photocopying and mass mailing of other people's works!

### **Authors Themselves and their Ignorance or Recklessness**

The first enemies of authors (including academics) of literary works are the authors themselves. Largely, they do not know, they refuse to find out and they do not care to protect or defend their rights. They even treat with levity and almost disdain efforts to highlight their rights or to stand for them in their assertion and protection.

### **Publishers and Royalties**

Second are the Publishers. They are the best friends of the authors, but they can also be their worst enemies. They package and produce the works in acceptable or exciting forms. Depending on contract, publishers also market the works of the authors. In that case, the publishing contract provides for so many things including royalty, that is, the proportion to be paid to the author from the returns on the sales of copies of the work. We are familiar with the unending quarrel between authors and publishers on this subject. Many publishers do not give adequate records or accounts of the number of copies of works printed or sold. Many do not remit royalties on time, adequately or at all. Complaining about royalties and other rights in an article published two years after he wrote it, Femi Osofisan (1999) states in a postscript:

It is now almost two years since I wrote the above. I am happy to report that not a single penny in royalty has been received for *The Engagement*. The publisher, a good friend of mine, graciously explains to me, each time I bring up the subject, that he is unable to pay because, even though the book is on the official reading list for schools in Lagos State, his gains have been eroded by pirates. And so, a couple of months ago, I started my own print, the 'Opon Ifa readers'.

### **Pirates: Out-There and In-Here**

Almost everyone in this auditorium has heard about book piracy. The term "piracy" is a highly charged one which originally relates to armed robbery on the high seas. This label is deliberately applied in cultural circles for effect, to emphasize the gravity of the act of depriving the "authors" of all cultural products - books, films, records, broadcasts - of their rights.

More serious, publishers or producers of all categories of cultural products have the capacity to produce more than the agreed or declared number of copies. In addition, modern ICT devices enable pirates to produce unauthorised copies of works. The pirated copies may even be better and cheaper than the original, since pirates do not invest on or incur liabilities relating to the preparatory steps for the production of the works.

### **Plenteous Libraries, No Public Lending Rights (PLR)**

In the fourth place, government institutions and private individuals or organisations set up libraries for the use of their educational and other institutions or even for the general public. The fact is that libraries make copies of any work in their holdings available to more than one user, over long periods, to the detriment of sale and royalty to the authors. This is true of all libraries, information centres, rental shops-clubs, for books, musical records, film/video and all other cultural products. Even if these are not pirated copies - many are indeed pirated - the number of uses - whether

commercial or not, requires that the authors get compensated. We are aware that certain government bodies, like the Film and Video Censors' Board, do register (for fee) some of the clubs and/or rental shops. It is not certain that any proportion of the registration fees gets to the "authors".

### **Photocopying**

There is, however, an illegality that goes openly but most quietly and most biting too, with consequences perhaps more sinister than the loud acts of piracy, against the interest of authors, specifically in the literary field. This act perpetrates injustice against authors of works particularly in the literary field, and similar versions are found in other areas of cultural production. This is the wide-spread use of photocopying. Certainly at the mention of this word, almost everyone in this hall would remember at least one occasion when they made or sponsored the making of a photocopy of copyright-protected work. As stated earlier, authors of works of creative imagination and authors of textbooks, articles, notes and other educational materials share the same fate as victims of photocopying. The person who takes a book to the photocopier operator pays between three naira (N3) and twenty naira (N20) per page. All the money goes to the photocopier operator, to meet his costs and make his gains. Nothing whatsoever goes to the author who has taken the initiative of writing the book.

Because of the intangibility of the intellectual property (IP) which we mentioned earlier, the person who submits a text for photocopying and the accomplice operator of the machine may argue that the work they photocopy belongs to an owner who purchased the book. They will then submit that if the owner of the book does not make a demand on them or is not angry, it is not the business of anyone else, including even the author of the work to raise any finger. The truth is that "the book" consisting of sheets of paper is just the medium carrying the printed material i.e. the words on the sheets of paper. It is those words in the way they are arranged that constitute the "true book" and they belong to the writer who

should under the law be properly remunerated when reproduced. Photocopying is a reproduction of the work in contravention of the law. The person requesting the photocopy is depriving, without authorisation, the writer of his property. The number of the printed books that would have been bought is reduced. Losses in royalty are therefore incalculable.

## **PART VII – ACTION CONCERNING PHOTOCOPYING**

### **Duty to Remunerate Authors for Photocopying**

The duty to compensate authors apart from being a legal one, is also a moral, social or even religious obligation. A new entrant into the university relying partly on photocopied materials for his degree course normally graduates at the end of four sessions. Before the admission, he may be worth just a little above the minimum wage. However, on graduation, his salary and status skyrocket. Meanwhile, he and the parents take the authors for granted; he is not acknowledged and he is not remunerated.

Some even plead that once photocopying is used for educational purposes, the user must be spared all payments destined to revert to the author. Freedom of information for education is being wrongly and unjustly equated to free information, without costs. We are therefore not surprised that authors of works are rather few, poor and discouraged.

### **Collective Administration and Photocopying**

The wide comprehensive rights guaranteed in copyright are difficult to manage by individual authors, owners or holders of rights. Following the processes allowed by the Nigerian law a body known as “collecting society” is set up to act on behalf of the authors who form themselves into associations and are represented on that body. In Nigeria that body is known as REPRONIG. It licenses users of photocopying to collect remuneration for authors and distribute to them via associations. Thus the collecting society is also a distributing society.

This is what I have vigorously worked to do in Nigeria, in collaboration with eminent personalities like Late Justice Akinola Aguda and Late Professor Oyin Ogunba to midwife REPRONIG - the Reproduction Rights Society of Nigeria. The principles, processes and history of this organisation are set out in my book (1996), *WHAT AN RRO IS*.

### **REPRONIG – An Attempt at Licensing**

The constituent associations of REPRONIG are:

- 1) Academic and Non-Fiction Authors' Association of Nigeria (ANFAAN)
- 2) Association of Nigerian Authors (ANA)
- 3) Nigerian Association of Translators and Interpreters (NATI)
- 4) Photographers' Association of Nigeria (PAN)
- 5) Society of Nigerian Artists (SNA)
- 6) Nigerian Publishers' Association (NPA)
- 7) Newspapers Proprietors' Association of Nigeria (NPAN)

This list indicates those authors (1-5) and publishers (6&7) whose interests may be identified on a photocopied page, and who are therefore concerned in the work of the collecting society. It is interesting to note that authors and publishers work together and closely in this body. After series of activities including survey of photocopy and its use, the society agreed to limit its first focus of action to the Nigerian tertiary educational system (Universities, Polytechnics and Colleges of Education) where the highest level of photocopying is perpetrated. The objective is to grant licences to institutions for photocopying. The procedure adopted is one of contact with the institutions through correspondence and direct visitation. A grant of licence was proposed to them on the basis of student and staff population.

## **Demand For Licensing**

APPENDIX IV sent out the “Demand For Licensing” sent out to tertiary institutions in Nigeria on photocopying. Very striking, this demand is for only a token sum of 45kobo per page. If a student makes 1,239 copies and a member of staff makes 523 copies, as a survey conducted by repronig in the case, the licensing fees are just N557.55k per student and N235.35k per member of staff per annum to compensate the authors. In its data collection, REPRONIG secured the student and staff populations in most Nigerian tertiary institutions as at 2004-2006 and invited each of them to take a license.

## **The Responses**

We set out below sample responses from five institutions. The responses have been very shocking. The first sample institution trivialises the issue and refers REPRONIG to ASUU and the Student Union Government (SUG) of the university.

### **Case 1.**

This is to inform you that the Management Committee at its 398<sup>th</sup> meeting held on 28<sup>th</sup> May, 2008, considered your request on the above subject matter and directed that you liaise with the Academic Staff Union and the Students' Union Government for the presentation of your product.

The second institution requires that licensing be first accepted by the Committee of Vice Chancellors (CVC) to become a norm for implementation.

### **Case 2.**

Your demand will become generally accepted if the idea contained in your letter dated 3<sup>rd</sup> August 2006 is approved by the Committee of Vice-Chancellors and consequently becomes a norm as implementing it only by our own University may be out of tune.



The response of the third sample institution is the most detailed. It argues law on the issue of vicarious liability and refuses any responsibility for the photocopying done by third parties - students and staff - if any. Second, it categorically denies the practice of photocopying on its premises. Third, it refuses to serve as facilitator for REPRONIG in collecting licensing fees.

### **Case 3.**

(i) Please be informed that the content of your letter has been considered. The comments of the Management are stated below.

It fails to appreciate the provision of S32B of the Copyright law which your society relies on as empowering provision for the licensing cover being demanded. This is because the said section does not in any way grant your society the right to demand for license cover.

It is Management's position that the College cannot be held liable for any infringement of Copyright committed by a 3<sup>rd</sup> party, be it the students or lecturers. The College Management cannot be vicariously liable for their action as they should be accountable for their action, hence your demand with due respect is not tenable.

(ii) The Management of the Allege has considered the contents of your letter and reiterates its earlier position as set out in its letter of 26<sup>th</sup> April, 2006, which is to the effect that the College does not indulge in photocopying of copyrighted materials, and as such is not accountable for copyright infringement by third parties.

It is therefore management's directive that your organization should disabuse its mind from the request it seeks in your said letter.

We wish your organization the best in your future business endeavours as we return the Photocopying Licensing Agreement.

(iii) However, as regards paragraph six (6) of your said letter, we fail to see how feasible it is for management to act as a facilitator between your organization and students who can become restive at the slightest instance and thereby lead to a breakdown of law and order.

The fourth institution claims to be young and therefore not ripe enough for photocopying; it however recognises the importance of photocopying to the educational system as well as the right of authors.

#### **Case 4**

I have to refer to your letter of demand dated 10<sup>th</sup> February 2006 and to inform you that [... our...] University is a new institution. We began operation only in January 2006.

As at now, we do not operate photocopying facilities for students and/or staff on this campus, and our library collection is strictly for reference purposes. In other words, the library books can only be used within the walls of the library. Furthermore, our students are residential. As such, we do not have cases of unauthorized photocopying of copyright materials in this University. However, we shall keep the issue raised by your letter in mind.

We appreciate your concern about intellectual output. We are well aware that the University community is a great user and at the same time producer of such output.

The fifth institution denies any infringement of the Nigerian copyright law, stressing that there is no evidence of engagement in photocopying in the university which, in any case, had banned the sale of hand-out.

### **Case 5**

I am directed to inform you that [... our ...] University has not infringed the Nigerian copyright Law. There is no evidence that any academic staff or student of this University is engaged in photocopying of copyright protected materials. Please note that the University has since banned the sale of handouts and any lecturer involved in that does so at his/her own risk.

### **The Sword Tears Its Sheath**

Thus, the tertiary institutions and those who run them reject licensing which could have been a way of validating the illegal and unjust commercialization of the authors' intellectual property already being widely perpetrated. The institutions are the ones who produce and use most literary works. They are the ones who appreciate Literature most. But they are also the ones who have refused just treatment to the men and women of Letters. We emphasised the gravity of this suicidal situation as recently as at the end of May 2011, in our paper "**Academic Institutions and the Challenges of Copyright**", presented at the workshop on the theme of "Commercialization of Intellectual Property in West Africa: The Way forward", organised by WARIMA in honour of the immediate past Vice Chancellor of OAU.

### **A Singular Ray of Hope**

The injustice done to the authors by way of photocopying persists, at least for now. We say "for now" because the failure is only temporary. For, in fact, one university in Nigeria has stood out. It agreed to take its license and it did so in 2008 and it has continued to renew that license faithfully since then. There is thus already a model of legal compliance, an indication that authors are not doomed forever.

## PART VIII - OTHER CULTURAL PRODUCTIONS

Our story of action in the area of cultural creativity would have been less hopeful if photocopying in the literary field were the only area of culture in which we had, in our research and practice, sought law and order, fairness and justice for the practitioners. Let us point at some of the other areas here.

### **Folklore**

Expressions of folklore were indeed the first cultural productions to which I applied the provisions of law for a better understanding of the rights of the owners and to determine to whom returns are due when exploited. This was as far back as 1992. At the invitation of the Nigerian Folklore Society (NFS) to its conference, I delivered a paper titled "**Of Folklore and the Law in Nigeria: The Copyright Decree, 1988**". The folklore community was quite pleasantly surprised that the subject of folklore was also a concern of law. Professor Oyin Ogunba, our late erudite expert in the field, recognised the new insight brought into the study of folklore. For instance, members were struck by the clarity of the definition offered by law, as reproduced here in APPENDIX III.

Also, in Literary Studies generally, folklore is regarded as part of a society's patrimony, seen mainly as belonging in the past and property of no one in particular. It could then be exploited without any reference or returns in compensation to anyone. Under the copyright law however, whilst folklore truly belongs to a community, an identifiable body, the Nigerian Copyright Commission, now holds the property in it, in trust for the community. The implication is that the Commission is empowered by law to act on behalf of every Nigerian community to enforce all rights in folklore, including demanding full compensation for its exploitation.

Our exposition of the law on this subject has since been a major reference internationally. Certainly, Nigerian communities need to be more conversant with the provisions of the law and take advantage of them to secure just treatment for themselves.

## **Traditional Knowledge**

We must say also that folklore has been internationally recognised and broadened to include Traditional Knowledge (TK) from which many modern “inventions” or “novel” procedures are extracted or discovered. This is particularly so in Pharmacy and Medicine where many drugs traceable to traditional materials and procedures have been developed. The international community has since devised conventions on the protection of this folkloric, traditional property.

## **Gelede And World Heritage**

Many of us in this hall know that in 2007 the Osun grove at Osogbo was adopted as a World Heritage by the UNESCO. Earlier, in 2001, the Gelede oral culture had been made a universal protégée. The Yoruba people, say "*Oju t'o ti ri Gelede ti ri opin iran*", meaning that Gelede is the ultimate of all spectacle.

Knowing my interest in the exploration of culture from legal perspectives, the Gelede communities in Yorubaland across borders in three countries - Nigeria, Benin Republic and Togo - invited me under the auspices of the Association Internationale Groupe Gelede to work on the appropriate legal framework for the actualization of the new status of Gelede as a World Heritage.

Beyond my paper titled "Law and the Protection of Gelede" delivered here in Ife on the Nigerian side, at the Symposium on Gelede in 2005, I was also part of "*La Réunion Régionale des experts et juristes sur les mesures de protection du patrimoine oral Gèlèdè*" (The Regional Meeting of Experts and Jurists on the Protection Measures on Gelede Oral Patrimony) which, at the Centre Ayifa, Abomey, Calavi in the Republic of Benin, 12-14 June 2006, drafted the executing legal document. In view of my linguistic experience, I was the only Anglophone that participated.

Certainly, Gelede has many artefacts and performances that are visible. More important, it is a whole culture with its

philosophy, principles, religion, morals and other elements that truly constitute the essence of life and living. Today humanity continues to sacrifice our age-old values to money economy which incidentally is crumbling universally. We are to take advantage of international legal recognition to secure our heritage.

### **Model Contracts**

I collaborated a lot with the then Nigerian Copyright Council. I developed with them a culture-related project: Model Contracts On Creative Works (Owners/Users Agreements). The outcome has been the issuance by the Council of Model Contracts in the various areas of cultural productions — the print medium, artistic works, broadcasts, music, film industry, etc.

I headed the sub-committees on literary and cinematographic model contracts and contributed to the formulation of model contracts in the other areas. The resultant document in the literary field is *Model Contracts in the Publishing Industry*. It provides, among others, for proper documentation of royalties between the publisher and the author. Various limitations are proposed to the holdings of the publisher e.g. in the duration of the publishing contract, since the author may grant specific terms that are far less than the whole duration of copyright protection. There are also geographical and linguistic limitations, particularly in the grant of translation rights. In all this, the author is given sufficient indications to maximize his rights as the first owner of his works. He is thus guided against those predators discussed earlier on.

This is a document that every academic should have while still engaged in the business of "publish or perish".

### **The Theatre**

In the years that I served at the Department of Dramatic Arts, I did not act as a mere administrator posted to oversee a unit. I saw my posting as a call to duty to offer leadership also in teaching, research and service. Specifically, I taught the course Theatre of the Absurd, a genre *par excellence* of the French Literature of the 20<sup>th</sup> century. I

brought into the course Theatre Management specific statutory consciousness and emphasized the relevance of legal awareness to the welfare of the theatre practitioners. I stressed the importance of adequate contractual provisions not only in the running of the theatre, but also in ensuring the welfare of the practitioners - concerning financial remuneration and other conditions of employment. My studies of the rights of the performers under the law in the Francophone and Anglophone countries (2000 and 2001) are today significant references. As for my practical action in pursuing the rights of OAU Theatre staff, a Dean of the Faculty of Arts during my tenure in Dramatic Arts, Prof. Femi Omosini, who ensured the university's acceptance of my submissions on their improved material condition and status, has since constantly referred to me as the "Advocate of the Oppressed". The Theatre staff themselves acknowledged later that I symbolised their *Hopes of the Living Dead*, as Ola Rotimi would put it.

### **The National Troupe of Nigeria**

In the same vein, I served the National Troupe of Nigeria and gave it professional advice which led to a just resolution of a dispute between the actors of the Troupe and the Management. Our intervention confirmed that theatre practitioners are generally not aware of their rights and how to secure minimum conditions for themselves at their workplace. They did not count the risk that they took at locations. The hours, days, weeks or months were not properly remunerated by their employers, producers or financiers. However, with the proliferation of media organisations, competition has made for some improvement of the conditions of service of those practitioners who are bold enough to negotiate beyond the poverty-level stipends offered to them in the past.

### **Professional Associations of Authors And Producers**

In the course of our work to bring together culture practitioners for the just protection and assertions of their rights, I had the opportunity to identify core professional organisations in the field. It

was from among them that we screened for the copyright owners and holders in the print medium to constitute REPRONIG.

Culture producers are mainly in two groups: the "authors" and the "publishers", as listed earlier on. Among the authors are the fiction writers whose texts constitute "Literature" as already discussed. There are also non-fiction, academic authors, including all published academics - in their textbooks and other "scientific", academic publications. Whereas authors of literary texts in Nigeria had operated their own Association of Nigerian Authors (ANA) for a long time, by 1994, the non-fiction authors had none. It was in these circumstances that we helped in establishing the Academic and Non-Fiction Authors Association of Nigeria, (ANFAAN) in 1995.

After this, we persuaded the publishers and the authors that in spite of their "cat and mouse" suspicions, they were bound together in one common cause and should come together in one collective body as a collecting society. Indeed, a fairly close "author-publisher" cooperation is inevitable in all sectors of cultural production, even if the parties have different appellations depending on the product, e.g. performer/producer, musician/producer, etc.

### **Librarians and Copyright**

It is important to recognize a third force, called the "librarian" in the print medium. He is the custodian and interface between the authors and publishers on the one hand, and the users on the other, for all cultural productions Oloosun (2007). Broader terms are now used to cover the modern larger scope of libraries. They are now referred to as resource or information centers, etc. They are the heart-beat of any educational system all over the world. They do not have copyright in works but they are the greatest holders of copyright-protected works. They are the barometers for the use of works. "Authors" and "publishers" of all kinds in the cultural productions are yet to fully recognize that librarians may ultimately unravel the myriads of riddles now virtually out-playing them.



## **Translators and Interpreters**

For a foreign language expert involved in cultural creativities and legal issues, translation and interpretation should be part of the subjects considered very early. Indeed, many do not realise that a **translation** of a text is a separate work on its own, protected separately too by law. Once the translator obtains the appropriate translation right from the author of the original, either freely or for a fee, he has full legal rights on the translation like those that the author has on the original. He is therefore the only person who can publish, reproduce and distribute for commercial purposes his translation; for he is the first owner of it.

**Interpretation** too is like a performance or a broadcast in the eye of the law. If it is recorded by the producer, that is, the client of the interpreter, for use outside or beyond the first interpretation, the interpreter has the right to demand further compensation. Similarly, if the interpretation is printed and distributed, it then assumes the status of a translation. We clarified these issues at various fora to the Nigerian Association of Translators and Interpreters (NATI) here in Nigeria. Furthermore, at the International Forum for Language Workers in Africa, held in Pretoria, South Africa, June 1997, organised by the South African Translators' Institute (SATI) and the Fédération Internationale des Traducteurs (FIT), we made this point very explicit in our contribution titled: "Copyright, Collecting Societies and-Language Workers in Africa: A Call for Solidarity in Action". Our submission was warmly appreciated.

In terms of legal structure, I persuaded NATI to properly register their association under Part C of the *Companies and Allied Matters Act*, Chapter C20 of Laws of the Federation of Nigeria, 2004. This would enable them function as a legal entity in all their activities. Second, after my exposition to them of the issues involved, the NATI accepted the need to set up legally the Nigerian Institute of Translators

and Interpreters (NITI). Whereas NATI has been successfully registered, NITI's bill is still being processed or 'pushed' through our National Assembly. When finally enacted, the professions of translating and interpreting in Nigeria would have their own charters too, just as we have the *Legal Practitioners Act*, Chapter L11 of LFN, 2004 and the *Medical and Dental Practitioners Act*, Chapter M8 of LFN, 2004 for the Legal and Medical professions respectively.

In short, I have for long consistently argued and laboured for systems that are fully legally regulated and standardised in the field of culture. The dignity of professions is built partly on such foundations.

### **From Film Policy to Legislative Activism**

In May 1991, the Nigerian Film Corporation (NFC) in Jos organised the National Workshop on Film Policy to formulate a Film Policy for Nigeria. My theoretical participation was titled "Beyond Policy Perfectioning: Towards a Dynamic Legal Environment for the Film in Nigeria". Far beyond mere policy formulation targeted by the workshop, I called for "**legislative activism**" to achieve order in the film industry. I stressed the need for substantive enactments on Film Funding, Film Institute, Film Censorship, Film Practitioners' Association, etc.

After the workshop, I was a member of the small group constituted to formulate the first Film Policy ever for this country and indeed, the only legal practitioner (legal draftsman), apart from the in-house lawyer. That policy subsists till today.

### **Film Development Fund and Film Institute Bills**

We collaborated further with the NFC on other legislative proposals. In a group of two consisting of Dr. Hyginus Ekwazi (Film expert and Consultant to the NFC) and myself, (literary person, serving as legal draftsman), we produced for enactment by the Nigerian Legislature, (the military then), the *National Film*

*Development Fund (draft) Decree* and the *National Film Institute (draft) Decree*. The two bills are still being "pushed" through the Nigerian Legislative processes by the NFC and the Federal Ministry of Information till today. Hopefully one day, both of them will become substantive statutes.

Meanwhile, we can state that the Film Institute has already been established since 1996, operating on the basis of our document and under the NFC in Jos, with Dr. Ekwazi as the pioneer Director (1996-2000). Only the Funds bill is yet to know any form of actualization.

### **Motion Pictures Practitioners Council Of Nigeria.**

Finally, in connection with the NFC, we also prepared a *Film Practitioners Council of Nigeria (Draft) Decree*. As for its enactment, that bill is also yet to pass through our National Assembly. However, a body has been established, implementing our document, again under the NFC, but with the appellation "Motion Pictures Practitioners' Council of Nigeria".

Mr. Vice Chancellor, Sir, many of those who operate or practise under the various film legal documents which we have promoted hardly know us today. That is partly the role or indeed the fate of the intellectual in the society. He may be condemned to anonymity; but he remains contented with the realisation of his ideas.

### **National Film and Video Censors' Board Act**

Perhaps we should end our examples of practical action to encourage law, order, fairness and just treatment in the field of culture by citing the one law which affects many of us in this auditorium today. Hardly does any day pass in most urban homes in Nigeria today without viewing one of the many "African Magic" DSTV/film stations. All these video/films screened must have gone through the processes established by the Nigerian Film and Video Censors Board. That Board operates under the

*National Film and Video Censors' Board Decree* No 85 of 1993. That Decree was conceptualised and formulated by the present Inaugural Lecturer and drafted by a team of two led by him (with a younger lawyer named Mr. Dare). This was done under the auspices of the Production Department, Federal Ministry of Information and Culture in 1992 as a fresh modern enactment, beyond a mere review of the *Cinematograph Act, 1963*. The Decree of 1993 subsists till today, with amendments and Regulations, as Chapter N40 of the Laws of the Federation of Nigeria, 2004.

## **PART IX - SUMMARY / CONCLUSION**

Mr. Vice Chancellor, Sir, my itinerary has been in three phases. The first has focused on my engagement with Literature almost by itself, in practical criticism and theory of literature. Here, via Theme Study and a combination of theoretical propositions I have been able to identify justice as a major concern of the authors, justice particularly for their society, before and after independence.

The second phase is a transition to seeking justice for the authors themselves. I confront the society to which the authors have committed themselves on the subject of justice. This second period has also been a period of practical mobilisation, not only for writers of Literature (with capital L) but also for writers of all literature, including academic and non-fiction authors. This touches on the publishing practices by us all in the academia. This period is also marked by studies of law-related themes in our Literature (with capital L). The first engagement thus runs into the second, and the second takes its root from the first. Meanwhile, our exploration at this point has been limited to aspects of the field of Law-Literature.

The third phase of our action covers all cultural productions. It gives practical indications of the possibilities offered by the Law-Culture discipline which we are proposing

and which now requires systematic formalisation and structuring. At this level, justice is sought within the framework of law, in the sense of statutes and doctrines. It is not just a question of exploring for justice for the practitioners alone. It is particularly an exploration for legal structures that will ensure certainty and clarity in defining the rights and obligations of creators and even of users and abusers of their creations. In those cultural practices, productions and societies where there exist no structures to review or rebuild, we have mobilised for new ones.

In this respect, the experience in the action on photocopying poses the question as to the implementation of law where available. We have shown that compliance by users of cultural products can be very low and discouraging. Yet there is room for hope. More important, we cannot give up.

Finally, of all the cultural sectors with their different productions, we have found that the literary sector is the least viable economically, particularly for the authors. In all others, the artists or artistes and their producers do make a living solely on the returns of their trade or business. Even the publishers in the literary field are able to stand on their own financially. Many of them are even prosperous as individuals or as corporate bodies. It is only the writers, i.e. the authors in the literary field, fiction and non-fiction alike, that cannot live wholly or only on their literary productions. It is even the publishers that fight pirates for them. They also have to depend on some other paid employment to be able to maintain themselves and sustain their writing. Many of the reasons for their impoverishment have been raised in this Inaugural Lecture. On our part we have spent time and energy combating a few of them. This is because we are convinced that with proper and determined efforts ensuring that justice is done to them, the writers too should be able to live on the fruits of their creative labour.

↳ In this respect practitioners of culture may note a development fast gaining ground in the practice of Law. This is

the resort to arbitration, rather than to the court of law, for the resolution of disputes. This is an alternative dispute resolution process away from the glee, noise and awe of the court. The proceedings are informal, private and confidential. It is faster and even cheaper in the long run in terms of expenses. It is particularly best suited to the circumstances of the writers. It is a new direction towards which authors can be properly guided in a Law-Culture orientation. For our part, we still look forward to that day when writers would be able to stand, feed and live well on the basis of their writing.

### **We are not alone**

Mr. Vice chancellor, Sir, we have not been alone in the journey so far, and we will not be alone in the rest of the way. The theoretical antecedent for our practical criticism and theoretical propositions has been adequately stated and we continue to hold our supervisor and mentor, Professor Abiola Irele in the highest esteem. We have also had encouragement from colleagues and particularly our students in the classroom and also in research. I have supervised several Master's candidates apart from numerous student projects over decades. With the greatest humility, Sir, the Department of Foreign languages established in 1968 produced its first Ph.D. candidate in 2007 in the person of Dr. (Mrs) R.F.Bestman. I have had the greatest honour to have supervised this first student.

I have served as the Head of my department three times now, covering a period of about ten years. It was during my last tenure that the second Ph.D., now in German matured. The third Ph.D. candidate and the second in French completed his work in May this year. Again Mr. Vice Chancellor, I humbly and proudly glorify God for making me also the supervisor of that second Ph.D. candidate. The two candidates are already taking "Theme Study" further than me. Dr. (Mrs) Bestman has explored feminism and its womanist tendencies in Africa whilst Dr Adewuyi is already introducing the dimensions of Stylistics in Naratology.

Concerning intellectual property and the rights of our authors, I worked with, among others the Eminent Jurist Dr. Justice Akinola Aguda and Professor Oyin Ogunba. Both of them served successively as Presidents of ANFAAN and Chairmen of REPRONIG.

From the private sector there have also been the publishers Otunba Lawal-Solarin and Mr. Bodunde Bankole. We also had within the Law-Culture mobilisation in REPRONIG, practitioners in the various areas represented as already mentioned in the course of this Inaugural Lecture. Specifically, in the "Law-Culture activism", the publishers have been quite active. Among the many bodies that I have collaborated with are The Nigerian Copyright Commission, The Nigerian Film Corporation and an upcoming film body REMDEL in Akure.

Obafemi Awolowo University contributed immensely in serving as the base for my theoretical studies and mobilization activity in the field of culture. It even offered me a research grant in the 1970s. I have also enjoyed the goodwill which the University has built all over the world and to which in all humility I have contributed my own quota. Among others, I enjoyed Fellowships from the International Institute of Human Rights, Strasbourg, France and Salzburg Seminar in Austria. I have served as the emissary of the International Federation of Reprographic Right Organization (IFRRO), particularly touring the Francophone countries of West Africa. I have served as facilitator to the Association of European Performers Organization (AEPO), International Federation of Musicians (FIM) and the International Federation of Actors (FIA). I have on several occasions been a guest at the Zimbabwe International Book Fair and a speaker at the Indaba. I also served the World Intellectual Property Organisation (WIPO) in its African sub-regional program held in Mali, and Burkina-Faso. These activities involve such other bodies as the Governments of France, Mali, and Burkina-Faso. I am a member of the Nigerian Book Fair Trust organizing various book fairs in this country. I remain also a

member of the Association of Nigerian University Teachers of French (ANEUF) as the Legal Officer.

## **PART X - BOUND TO CREATIVITY**

Commitment to the Arts and Culture is an act of faith in a world that races irredeemably towards the material or even the mercenary. With the structures for promoting the lot of writers properly in place in REPRONIG, with its own staff in 2004, I decided to rededicate myself to creativity. From that year on, I picked up my loose ends in poetry which had interested me all my life. In this regard, Professors Akinwunmi Ishola and Femi Osofisan never stopped recalling my earlier potentials. A former classmate in the secondary school, and now a former Dean of the Faculty of Law, Professor J. Anifalaje recalled my poetic productions at Kiriji Memorial College, Igbajo in Osun State where we both passed out in 1964.

Since these '*remembrancers*' awakened me, I have not ceased to act. I have now a greater commitment to the works of creative imagination, Literature. I should now be more directly involved as a subject of what I have been mobilizing for. I should be part of those for whom the quest for justice knows no end. Writers do not relent in their quest justice. I have since then published two volumes of poetry: *Boolekaja: Lagos Poems 1* (2005) and *The Fire This Time!!!* (2006).

More deliberately challenging, I have since 2006 set myself the task of sending out to the OAU community via internet a poem a week. The series is titled "POEM OF THE WEEK". This is the sixth year of its running although with perhaps less than average regularity. But that task remains standard-setting for me, constantly reminding me that I am, if not daily, at least weekly, bound to creativity. Also with the encouragement of Professor Adeyanju of the Department of Educational Technology, Faculty of Education, I started broadcasting the reading of my poems on the University's own radio-station - GREAT FM 94.5 about two years ago with the collaboration of Dr. E. T. O. Babalola and Mr. C. Uwasomba who



add critical comments. The Department of Dramatic Arts too has added the performance dimension. Please have a taste of what goes on now, with these two poems.

The first chronicles the tanker fire accident that occurred at the Toll Gate here in Ile-Ife on a fateful Sunday evening, sometime in 2006.

### **Scars on the tar, our tombstone**

Just before the Fallen Toll Gate  
on the road  
to the-Dawning-of -the-World  
scratches and patches  
the roughages of road  
burnt

Scars...

of the fire that raged  
ash-ing tens and scores  
of limbs and heads  
consuming the newly wedded  
the bride in her gown  
the groom in his suit  
the maids in their gloves  
the boys in their socks

Burnt...

as the full tanker emptied..  
its liquid bowels  
of fuming flames  
on chance followers  
for Sunday evensong  
to us for sorrow-up

Scars...

of the smoke that rose  
the scars of hearts and mind  
yet unhealed  
of the hurt and strife of kith and kin

....

Scars...

mother of the mass-grave  
of ashes  
scorched limbs  
now over-grown  
in woods  
as if nothing ever happened here  
as if fire never burnt them

Scars...

Only these scars  
on the tar  
recall  
them  
burnt dead then  
and us  
burning...  
...still

Scars...

Our scars...  
burning us still  
dead-alive  
daily  
on our roads  
on our graves  
our memories  
our memorials  
over-grown in woods  
as of pristine graves...

The second was released as a celebration of the New Year 2007. The title is "Mounds for sharing" I composed with my first two grandchildren, Iyi-Oluwa and Moyin-Oluwa Ajayi.

## Mounds for sharing

*Iyan ti mo gun...*

Baba, ma je n nikan je

*Amala ti moro...*

Baba, ma je n nikan je

*Obe ti mo se...*

Baba, maje n nikan je

*Adura ti mo gba*

*Muu se, Edumare muu se*

Mound of pounded yam,  
Smooth warm and 'lastic,  
Placed ready in my plate,  
*Baba*, not for me sole to consume !

Mound of hot *amala-laafun*  
Turned, twisted smooth and light  
Deep-dished in *gbegiri* and *ewedu*,  
*Baba*, not for me sole to consume !

Bush meat pieces in stew, hot scents  
Seven spirits in seven condiments  
*Iru* in drawing soup too  
*Baba*, not for me sole to consume !

Mounds of praises in words or hymns  
Mounds of requests in sighs and signs  
Raised up daily now as ever,  
All burdens turned over to you !

Not me sole, Baba !  
Not You sole, either !  
My diligence, Your gift  
Your perfection, Your fulfilment too

The whole year through !

*Iyan ti mo gun...*

*Baba, ma je n nikan je*

*Amala ti moro...*

*Baba, ma je n nikan je*

*Obe ti mo se...*

*Baba, maje n nikan je*

*Adura ti mo gba*

*Muu se, Edumare muu se*

*Odun a y'abo !*

*(With: Iyi and Moyin, 30/12/06)*

Mr. Vice Chancellor, Sir, a Literature (with capital 'L') that is committed to its people serves its people. I add that literature in the broader sense, (with small 'l') is the engagement of all of us in academia. Like the creative writers, we are all deprived of our intellectual property rights. Unfortunately, we too, participate actively as administrators of tertiary institutions denying those rights, even when we are prompted or directly required by law to recognize and grant them. On my own oath, however, Mr. Vice Chancellor, Sir, I am not discouraged. I have gone too far to resile. I shall continue to seek redress for our creative authors, for ourselves and for cultural producers generally. I am so fully deeply and actively involved.

I propose that a whole discipline of Law-Culture be vigorously pursued at Ife. A Professorial Chair in this respect may be funded in the Faculty of Arts and in the Faculty of Law. Other Universities will follow suit. Such establishments will be a rallying point for scholars, practitioners and users of cultural

productions. This is towards making creativity and culture more organised, better recognised, better honoured, better rated.

Finally, I want to thank God for this Inaugural Lecture, I thank the University, I thank the large Oladitan Family of 27 children, and innumerable grandchildren, my All Souls' Chapel in Ile-Ife and Holy Trinity Anglican Church Igbajo. In particular, I thank my wife and our children for the great support I have been enjoying from them. I lead them in thanking God Almighty for His mercies towards us.

This Lecture is dedicated to culture practitioners, academics, artists, artistes and those who are prepared to ensure justice to them.

In the mean time, Mr. Vice Chancellor, Sir, we sing and dance

Iyan ti mo gun

Baba, maje n 'nikan je

Obe ti mo se o

Baba, maje nikanje

Adura ti mo gba o

*Mu se, Edumare mu u se*

Thank you all...

for listening...

and for participating...

singing and dancing...!

## **APPENDIX I : Definition of “literary” Under the Nigerian Law**

“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 and broadcasting scripts;
- (c) choreographic works;
- (d) computer programmes;**
- (e) text-books, treatises, histories, biographies, essays and articles;
- (f) encyclopaedias, 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 compilations.

*Copyright Act, Section 39*

## **APPENDIX II : Definition of “Literary” Under the Berne Convention**

- (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 dramatico-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; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations,

maps, plans, sketches and three dimensional works relative to geography, topography, architecture or science.

(2) ...

(3) Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

(4) ...

(5) Collections of literary or artistic works such as encyclopaedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations shall be protected as such, without prejudice to the copyright in each of the works forming part of such collections.

(6) The works mentioned in this article shall enjoy protection in all countries of the union. This protection shall operate for the benefit of the author and his successors in title.

(7) Subject to the provisions of Article 7(4) of this convention, it shall be a matter for legislation in the countries of the union to determine the extent of the application of their laws to *works of applied art and industrial designs and models*, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in another country of the union only to such special protection as is granted in that country to designs and models; however, if no such special protection is granted in that country, such works shall be protected as artistic works. (*Our emphasis.*)

*Berne Convention for the Protection of Literary  
and Artistic Works*

### **APPENDIX III: Definition of “Folklore” under the Nigerian Law**

For the purpose of this section, “folklore” as “a group-oriented and traditions-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 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, paintings, carving, sculptures, pottery, terracotta, mosaic, woodwork, metalware, jewellery, handcrafts, costumes, and indigenous textiles.

*Copyright Act, Section 28(5)*

### **APPENDIX IV : Demand to Obtain License to Cover Unauthorised Photocopying of Copyright-Protected Materials by Staff, Students and Stakeholders of (....)University / Polytechnic**

**Reproduction Rights Society of Nigeria (REPRONIG)** is a collecting society licensed by the Nigerian Intellectual Property Commission under the Nigerian Copyright Act as amended by the Copyright Amendment Decree No.98 of 1992 (Section 32B) to protect and collectively administer the reprographic rights of its members in the literary print medium. REPRONIG licenses the use of copyright-protected materials in the area of photocopying and distributes sums collected to the rights owners through its Member-Associations.

REPRONIG recognises that large-scale photocopying is being made in institutions of higher learning in Nigeria by students, academic staff and stakeholders. To document this, REPRONIG



conducted a national survey entitled “National Survey on Photocopying in Nigeria’s Tertiary Institutions” in the third quarter of 2004. Copies of the report of that relevant information materials on REPRONIG are enclosed for your attention.

By way of summary, the survey found the following data relating to copying made by each student and each academic staff per session in Nigeria’s tertiary institutions:

| Category       | Annual Copy Volume | Volume protected by copyright (pages per person) | Licensing fee p. a. |
|----------------|--------------------|--|---------------------|
| Students       | 1,516              | 1,239  | N557.55k            |
| Academic staff | 731                | 523  | N235.35k            |

These data lend credence to the incidence of large scale photocopying of copyright-protected materials in tertiary institutions in Nigeria.

It is important to point out, at this stage, that the photocopying of these materials without authorization is illegal under Nigeria’s Copyright Law, and therefore, liable to prosecution.

However, REPRONIG recognizes the crucial role played by photocopying in promoting learning and instructional communication and for this reason does not intend to prohibit photocopying in the institutions. Rather, REPRONIG issues licenses to cover the illegal photocopying of literary works in tertiary institutions in Nigeria. These make it possible for beneficiaries to photocopy these materials without fear of prosecution.

In view of the foregoing, REPRONIG demands that your institution should obtain license from the Society to cover the illegal photocopying being made by students, academic staff and

stakeholders of your institution. Normally, the amount of money to be paid for license is based on per-price page of 45kobo multiplied by the volume of copyright-protected materials made by your students and academic staff, being 1,239 and 523 copies per person respectively. This amounts to N557.55k per student and N235.35k per academic staff per academic session.

We would be most pleased to receive an invitation from the management of [...your...] University/Polytechnic to discuss the modalities for the implementation of the scheme in your institution. We have taken the liberty to attach the draft of your license for your close study.

We look forward to working closely with you and your institution in ensuring that right's owners are accorded their entitlement under the Copyright Law.

Thank you for your anticipated co-operation.

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