Journal of Education, Humanities, Management & Social Sciences

JEHMSS

The podium for scholars of human, cultural and social phenomena

Vol. 1, No. 1, April-May 2023 Issue

Journal of Education, Humanities, Management & Social Sciences

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Volume 1, Number 1, April-May 2023

Published by

Klamidas Communications Ltd
No 42 Ajose Adeogun Street, Utako District, Abuja
Tel: (+234) 08033370200
Website: https://klamidas.com/jehmss
Email: jehmss@klamidas.com

in partnership with

The Division of General Studies
Chukwuemeka Odumegwu Ojukwu University,
Anambra State, Nigeria

Journal of Education, Humanities, Management & Social Sciences

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Journal of Education, Humanities, Management and Social Sciences (JEHMSS) is an international, open-access journal published every two months (January, March, May, July, September, and November) by the Division of General Studies, Chukwuemeka Odumegwu Ojukwu University (COOU) and Klamidas.com, a notable academic publisher and webhost. It is published at the end of the month. The publishers' goal is to enhance and encourage cross-fertilization of ideas among educationists, scholars in the humanities, management and social sciences. Other benefits include: life-time archive of published papers on JEHMSS web pages and on Google Scholar, free plagiarism check and paper amendment advisory services, free proof-reading/editing services, and availability of share buttons on every paper contributor's JEHMSS journal page. Website: klamidas.com/jehmss. Submit paper to jehmss@ klamidas.com.

CITING ARTICLES IN THIS JOURNAL

APA

Edu, E.V. & Nwakoby, C.B. (2023). Medical Negligence in Nigeria: A Critical Analysis. *Journal of Education, Humanities, Management & Social Sciences*. 2(2), 7-28. https://klamidas.com/jehmss-v1n1-2023-01/.

MLA

Edu, E.V. & Nwakoby, C.B. "Medical Negligence in Nigeria: A Critical Analysis". *Journal of Education, Humanities, Management & Social Sciences*, vol. 1, no. 1, 2023, pp. 7-28. https://klamidas.com/jehmss-v1n1-2023-01/.

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Medical Negligence in Nigeria: A Critical Analysis

Ezinne Vivian Edu & Chidinma Blessing Nwakoby

Abstract

Medical practice encompasses a variety of healthcare practice evolved to maintain and restore health by prevention and treatment of illness in human beings. The basic understanding of prehistoric medical practice is from the study of ancient pictograms that show medical practice procedure, as well as the surgical tools uncovered from anthropological sites of ancient societies while giving answers to whether doctors work within the existing framework guarding their medical practice and the ways of proving negligence against such erring medical practitioners, the difficulty in proving it and the need highlight whether the Fundamental Rights (Enforcement Procedure) Rules 2009 is reliable in securing a redress in cases of medical negligence other than under tortuous liability, likewise the challenges or difficulties encountered in proving same through tortuous liability. The aim of this study is to establish the origin of medical negligence and to outline the frameworks within which the medical doctors operate and negligence generally as regards medical practice and ways of proving negligence against medical doctors. It goes further to examine the involvement of medical practitioner in medical negligence and the scope of this work is limited to Doctors in Nigeria. This work recommends that proving medical negligence by way of enforcement of fundamental rights is a way forward through the Fundamental Rights (Enforcement Procedure) Rules 2009 and adopted the doctrinal, descriptive and analytical form of research because the study describes and analyses the state of the law in Nigeria as it relates to the area of focus in this work. In conclusion, a combination of punitive measures and infrastructural improvement of our country's healthcare system will provide a holistic response to the prevalence of medical malpractice in Nigeria.

Keywords: medicine, negligence, medical practice, duty of care

1. Introduction

Negligence is part of the common law tradition. It first showed up as a tort in its own right in a case from 1850 called Brown v. Kendall[1]. In that case the defendant accidentally hit the Plaintiff with a stick when he was using the stick

to try to break up a fight between he and the Plaintiff's dog. The court held that when a defendant injures another unintentionally while doing something lawful, the plaintiff must prove that the defendant was acting without due care in order to recover for his injuries. A century ago Oliver Wendell Holmes, Jr., examined the history of negligence in search of a general theory of tort. He concluded that from the earliest times in England, the basis of tort liability was fault, or the failure to exercise due care[2]. Liability for an injury to another arose whenever the defendant failed to use such care as a prudent man would use under the circumstances[3]. A decade ago Morton J. Horwitz re-examined the history of negligence for same purpose and concluded that negligence was not originally understood as carelessness or fault[4]. Rather, negligence meant neglect or failure fully to perform a pre-existing duty, whether imposed by contract, statute or common law status[5]. Because the defendant was liable for the breach of this duty regardless of the reason for his nonfeasance, Horwitz argues, the original standard of tort liability was not fault but strict liability. He maintains that the fault theory of negligence was not established in tort law until the nineteenth century by judges who sought to create immunities from legal liability and thereby to provide substantial subsidies for those who undertook schemes of economic development[6]. The modern notion of negligence, then, was incorporated into tort law by economically motivated judges for the benefit of businessmen and business enterprises.

1.1 History of Medical Practice

The practice of medicine dates back to time immemorial which is why medical practice is often regarded as a profession of great antiquity. Thus, Ackerknecht[7] notes that the progress of medicine could be traced from grasping attempts of primitive man to fight diseases with magic and stone knives, then to the accomplishments of the great authorities of classical antiquity from Hippocrates to Galen, then to the stagnation of the middle ages and the progress that followed the renaissance of medicine in the sixteenth century in the USA and other developed countries of the world like Germany, France, USSR, Canada etc.

Medical practice has attained sufficient status to the extent that principles of law that are relevant to medical practice can now be examined under the concept of Medical Law. Medical Law can therefore be described as the branch of law dealing with medical practice or medical profession[8]. The functions of medical law therefore relates to identification of issues relating to or regulating the practice of medicine. The essence of medical law or the kind of conduct required of a medical doctor can be traced as far back as the sixth or fifth century B.C. Hippocrates of Kos also known as Hippocrates II, was a Greek Physician of the age of Pericles (Classical Greece) and is considered one of the most outstanding figures in the history of medicine; he is referred to as the

'father of modern medicine'. Hippocrates is commonly portrayed and credited with coining the Hippocratic Oath, still relevant and in use today.[9] While the development of medicine is not a mono-cultural affair, the Greeks are generally credited with the origin of modern medicine. This is because in the Modern Greek era, diseases were no longer regarded as a supernatural phenomenon. Rather, it was approached from a rational, naturalistic and scientific point of view.[10]

Hippocrates recognized the need for a code of conduct for doctors of the act of healing and laid down the statement of code of medical ethics known as the oath of Hippocrates. This is a simple and modern declaration which a medical doctor makes and which he must adhere to in practice. It is meant to enable Medical and Dental Practitioners maintain a universally acceptable professional standard of practice as well as meet the demands of the Medical and Dental Council of Nigeria with regards to ethics of professional practice.[11] Ever since, medical practice has witnessed systematic and considerable growth and it has, for a very long time, been carefully regulated by statutes. To ensure professional competence, formal training in approved institutions is now a sine qua non for persons seeking to be admitted into the medical profession. Thus, before the advent of a science oriented and regulated medical practice, the field of medicine was covered by a medicine-man[12] who is said to be a practitioner of healing art and cognate mysteries in a primitive culture, dealing with multifarious and multi dimensional and medical conditions.[13]

The predominant statute regulating medical practice in Nigeria is the Medical and Dental Practitioners Act[14] which provides all the necessary framework for the establishment of the Medical and Dental Council of Nigeria for the purpose of registration of medical doctors and dental surgeons and to provide for a disciplinary tribunal for the discipline of members. Apart from the Medical and Dental Practitioners Act, a medical doctor may be liable criminally and may be asked to pay damages by way of civil remedy where it is discovered that the act or omission of the medical doctor falls below expectation. Indeed in Denloye v Medical Practitioners Disciplinary Committee[15], the court in this case pointed out the fact that where the nature of the act or omission of a medical doctor amount to a crime, the regular law court must determine the criminal aspect of it before liability is determined under the Medical and Dental Practitioners Act with respect to misconduct or infamous conduct. It must be noted that it is the act of registration and not the medical qualification which confers on the practitioner the legal right to practice medicine.

2. What is Negligence?

In *Blythe v. Birmingham Waterworks Co*[16] Anderson, B said:

> *"Negligence is the omission to do something which a reasonable man guided upon those considerations which ordinarily regulate the conduct of human affairs would do or doing something which a prudent and dreasonable man would not do. It is not for every careless act that a man may be held liable in law."*

It is important to examine what a plaintiff who alleges negligence would have to prove. In *Hazel v. British Transport Commission*,[17] Pearce J said:

> *"The basic rule is that negligence consist in doing something which a reasonable man would not have done in that situation or omitting to do something which a reasonable man would have done in that situation."*

2.1 Medical Negligence

Medical Negligence as a tort is the breach of a legal duty to take care which results in damage undesired by the doctor to the patient. Like every tort, there are certain critical elements that must be established in order to succeed in an action against a negligent doctor.

The ingredients of the tort of medical negligence are not any different from the elements of the tort of negligence generally. Medical negligence also means the failure, on the part of a medical practitioner, to exercise a reasonable degree of skill and care in the treatment of a patient, such that if a doctor treats a patient in a negligent manner causing harm or worsening the existing health condition, the patient can bring an action on negligence against the doctor claiming damages for the harm suffered. In the case of *Dr. Laxman Balkrishna Joshi vs. Dr. Trimbark Babu Godbole and Anr*.[18] and *A.S. Mittal v. State of U. P*[19], it was laid down that when a doctor is consulted by a patient, the doctor owes to his patient certain duties which are: (a) duty of care in deciding whether to undertake the case, (b) duty of care in deciding what treatment to give, and (c) duty of care in the administration of that treatment; see also *First Bank Nigeria Plc. V. Banjo*[20]. A breach of any of the above duties may give a cause of action for negligence and the patient may on that basis recover damages from his doctor. The principle of "duty of care" was first raised in 1883; in the case of *Heaven v. Pender*[21], Brett M. R stated thus,

> *"Whenever one person is placed by circumstances in such a position in regard to another that every one of ordinary sense who did think would at once recognize that if he did not use ordinary care and skill in his own conduct with regard to those circumstances, he would cause danger of injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger."*

The principle of duty of care would be half baked with the popular care of *Donoghue v. Stevenson*[22] where Lord Atkin found the general rule of duty of care. In the case, a lady had a drink of ginger beer from a bottle in which was a decomposing snail at the bottom owing to which she took ill. She sued the ginger beer manufacturer for negligence. The court held that the company owed a general duty of care to the woman even though the ginger beer was not directly purchased by the woman but by her friend.

The issue of medical negligence is found on the absence of duty of care owed to a patient. As commented by Michael Jones[23],

> *"Normally, there will be no difficulty in finding a duty of care owed by the doctor to his patent, at least where the claim is in respect of personal injuries, and this is true even where there is a contractual relationship. The practitioner may also owe a duty of care to the patent in respect of pure financial loss. In addition, there are a number of circumstances where a doctor may also owe a duty of care to a third party arising out of the treatment given to the patient, but the incident and extent of such duties is more problematic."*

In *Cassidy v Ministry of Health*[24], Denning LJ stated thus;

> *"In my opinion, authorities who run a hospital, be they local authorities, government boards, or any other corporation, are in law under the self-same duty as the humblest doctor. Whenever they accept a patient for treatment, they must use reasonable care and skill to cure him of the ailment. The hospital authorities cannot, of course, do it by themselves. They must do it by themselves. They have no ears to listen through the stethoscope, and no hand the knife. They must do it by the staff are negligent in giving the treatment they are just as liable for that negligence as is anyone else who employs others to do his duties for him. Is there any possible difference in law, I ask, can there be, between hospital authorities who accept a patient for treatment and railway or shipping authorities who accept a passenger for carriage? None whatever. Once they undertake the task, they come under a duty to use in the doing of it, and that is so whatever they do it for reward or not."*

A duty of care owned to a patent can be described as a legal obligation levied on an individual requiring adherence to a standard of reasonable care while performing any act that will possibly or foreseeable occasion harm to another. Where an injury is suffered owing to a failure to observe the duty of care, there is said to be a breach. Injury could be physical, fiscal or emotional and they are remediable through various remedial alternatives as prescribed by law. Every medical practitioner is expected to take the appropriate steps available to make the right diagnosis, provide treatment and follow-up on their patient's progress. In the case of *Chin Keow V. Government of the Federation of Malaysia &*

Anor[25], a doctor failed to make any inquiry about the medical history of a patient, which led to her death within one hour of being injected with penicillin. The lords of the judicial committee of the Privy Council overturned the decision of the federal high court of Malaysia and noted that the doctor failed in his duty to make an appropriate inquiry before causing the penicillin injection to be given which was the cause of the death of the deceased. Had any inquiry been made, he would have been aware that the deceased had previously suffered an adverse reaction due to an injection, which led to an endorsement of her out-patient card of the warning 'Allergic to Penicillin'. The doctor was held liable for negligence.

Furthermore, in the case of *Ojo v. Gharoro & Ors*,[26] a needle got broken in the abdomen of a patient during a surgery. In that case the appellant had fertility problems which made her approach the University of Benin Teaching Hospital (UBTH), Benin City. The 1st Respondent, a lecturer at the UBTH examined the appellant. The appellant was diagnosed of uterine fibroid, secondary infertility and menorrhagia. She was informed that she had a growth in her uterus and that she needed a surgical operation to enable her become pregnant to which she consented. After the operation the appellant felt pains and it was confirmed through x-ray that there was a broken needle in her abdomen. This necessitated a second operation which succeeded in removing the broken needle. The appellant sued claiming the sum of ₦2,000,000.00 as special and general damages for negligence. The court dismissed the appellant's claim on the ground that the respondents rebutted the presumption of negligence raised by the appellant. The Supreme Court agreed that the surgeons exercised their best surgical skills and as such not negligent.

Dada[27] put it more aptly when he posited that medical negligence, as well as any kind of negligence to be proved, three ingredients must be established by the plaintiff. These are:

i. that the doctor owed a duty of care to the patient

ii. that the doctor was in a breach of that duty; and

iii. that the patient suffered damage as a result of the breach of duty.

The three elements above will be examined. However, that the separation of the three elements is only for convenience of writing. The three elements are however inseparable as will be seen in the course of this work. Also other concepts that are closely knit or are necessary parts of the three elements will be discussed.

3. The Duty and Standard of Care

According to the Black's Law Dictionary,[28] duty of care is a legal relationship arising from a standard of care, the violation of which subjects the actor to liability. This duty of care determines as a matter of policy in all cases of negligence, whether the type of loss incurred/suffered by the plaintiff in the particular manner in which it occurred can ever be actionable. It must be stressed that it is not every careless act that a man may be held responsible in law, nor for every careless act that cause damage. He will only be liable in negligence if he is under a "legal duty" to take care and duty of care as a concept connotes a relationship between two persons because a duty of care concept cannot exist between strangers. A man is said to be entitled to be as negligent as he pleases towards the whole world if he owes no duty to anybody.[29] One cannot judiciously deal with the issue of duty of care without mentioning the case the primacy of the *locus classicus* case of *Donoghue v Stevenson*[30] in the case, the plaintiff's friends bought her a ginger beer in a café, she drank some of it and as she was helping herself to a second glass, the remains of a decomposed snail floated to the top of the glass. The nauseating sight of this and the impurities she already drank resulted in shock and severe gastroenteritis. The case went all the way to the House of Lords on the preliminary issues as to whether a duty of care existed. The question for the House of Lords to decide was: if a company produced a drink and sold it to a distributor, was it under any legal duty to the ultimate purchaser or consumer to ensure reasonable care that article was free from defect likely to cause injury to health?

The question to ask on the "neighbour" and "duty of care" principle is whether between the wrongdoer and the person who has suffered damage there is sufficient relationship of proximity or neighbourhood such that in the reasonable contemplation of the former, carelessness on his part may likely cause damage to the latter in which case a prima facie arises.[31] This principle was also followed in the recent case of *Owigs and Obigs Nig Ltd v Zenith Bank*[32].

3.1 Breach of Duty of Care

The second element of the tort of negligence is the misconduct itself, the defendant's improper act or omission normally referred to as the defendant's breach of duty, this element implies the pre-existence of a standard of proper care to avoid exposing other persons and their property to undue risks or harm, which revert back to duty.[33]

To succeed in action for negligence, the plaintiff must show that the defendant owes him duty of care[34] and that he has suffered damage in consequence of the defendant's breach of duty of care towards him and in law, the proximate and not the remote cause, is what should be considered.[35]

The test for deciding whether there has been a breach of duty of care was laid down by Alderson Baron in *Blyth v Birmingham Water Works & Co*.[36] where he stated that:

Negligence is the omission to do something which a reasonable man guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent and reasonable man would not do.[37]

Many examples of duty of care abound. Situations where the required duties have been breached are but are not limited to the following: Failure to Take Medical History, Retention of Objects in Operation Site, Failure to Attend and or Give Prompt Attention, Causing an Injury to a Patient in the Course of Treatment, Error in Treatment, Improper Examination of Patient, Failure to Obtain Consent of the Patient, Incorrect Diagnosis, Failure of Communication, Incompetent Assessment of a Patient, Errors in Treating Patients, Improper Administration of Injection etc.

3.2 Damages Arising from the Breach

The third ingredient of the tort of negligence is that the plaintiff's injury or damages must have been caused by the defendant's breach of duty and must not be too remote a consequence of it.[38] It is not enough that a medical doctor owes a duty of care to the plaintiff and that he breached that duty of care, it is also important to show that there is consequential damage as a result of the breach, otherwise, the claim of the patient will fail. The burden is on the plaintiff. One case that illustrates this principle is the case of *Barnett v Kensington Hospital Management Committee*,[39] where although the doctor was held to have breached his duty of care to the patient, the deceased's widow's action was dismissed because she failed to prove that the death was caused by the doctor's negligence and evidence showed that the deceased would have died in any event, even if he was treated with care.

3.3 Causation and Remoteness of Damages

The need to show causation constitutes the link between the defendant's fault – the breach of duty – and the harm suffered by the plaintiff.[40] Causation is concerned with the physical connection between the defendant's negligence and the plaintiff's damage. This is also known as factual causation. As Jones[41] rightly noted, no matter how gross the defendant's negligence, he is liable if, as a question of fact, his conduct did not cause the damage. Thus, there must be a causal link between the defendant's breach of duty and the damage sustained by the plaintiff.

4. Criminal Negligence

It should be noted that apart from civil liability for negligence, a medical doctor may also be criminally liable for negligence. This legal position was well articulated in the case of *R v Bateman*[42] where it was held that a medical doctor may be criminally liable if his negligence passed beyond a mere matter of compensation between subjects and showed such disregard for the life and safety of others as to amount to a crime against the state and conduct deserving punishment. Therefore 'criminal negligence' refers to a gross deviation from the standard of care expected of a reasonable person that is manifest in a failure to protect others from a risk deriving from one's conduct and renders one criminally liable.[43]

The degree of negligence required to establish criminal responsibility is higher than that required for establishing civil liability because gross negligence or recklessness must be proved. Both the Penal Code[44] and Criminal Code[45] provides sanctions for criminal negligence especially on the part of doctors and other health practitioners.

5. Proof of Medical Negligence

The issue of proof is always the key to the success of every action before a court of law. A particular cause of action will fail to be regarded as a cause of action properly so called, if the action is not capable of being proved. Every contested case, civil or criminal, must give rise to at least one contested issue of fact, but many cases of both kinds – civil or criminal – give rise to several issues of fact to be decided between the parties.[46] These issues or disputes of fact can only be resolved by credible evidence from each party seeking to establish a particular fact or claim before the court. The issue of evidence is therefore at the heart of litigation.

5.1 Burden and Standard of Proof

According to Allen,[47] the 'burden of proof' is the obligation which rests on a party in relation to a particular issue of fact in a civil or criminal case, and which must be 'discharged' or 'satisfied', if that party is to win on the issue in question.

Burden of proof is of two-folds, viz:

a) The first is the liability of a plaintiff to establish and prove the entire or reasonable portion of his case before a court of law that can give judgment in his favour. This is always constantly on the plaintiff.

b) The other type is related to particular facts or issues which a party claims exist. It is this burden of proof that oscillates from one party to the other.

While the first type of burden of proof is called legal burden of establishing a case, the second one is called evidential burden.[48]

Generally, the Evidence Act 2011 makes copious provisions on the burden of proof in cases. It provides in Section 132 that the burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side. The Act further provides that whoever desires any court to give judgment as to legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist,[49] and that when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Also, Section 134 of the Evidence Act further provides that the standard of proof in civil cases shall be discharged on the balance of probabilities in all civil proceedings. It follows from the above, that in a medical negligence suit, it is for the patient-complainant to establish his claim against the medical doctor and not for the doctor to prove that he acted with sufficient care and skill. If the initial burden of negligence is discharged by the claimant, it would be for the hospital and the doctor concerned to substantiate their defence that there was no negligence.[50] Oho, J.C.A aptly puts it in the case of *Julius Berger Nig. Plc v. Ugo*,[51] that "in an action for negligence, it is the duty of the plaintiff to prove that which he asserts and not the defendant to disprove it". This was further corroborated by the decision in the case of *Julius Berger Nig. Plc v. Ogendehin.*[52]

5.2 Expert Evidence

The plaintiff in a medical action is ordinarily required to produce, in support of his claim, the testimony of qualified medical experts. This is because the technical aspect of his claim will ordinarily be far beyond competence of the court, whose duty it is to assess the defendant doctor's conduct.[53] The plaintiff must hence, by expert witness, establish the ingredient of breach of duty of care among other ingredients. An expert does this by giving his professional opinion as to the standard expected of a doctor in the circumstance of the defendant and whether the defendant had met this standard. Opinion evidence refers to a witness's belief, thought, inference, or conclusion concerning a fact or facts.[54]

Finally, where a party in a medical negligence action intends to rely on the presumption of *res ipsa loquitur*, the party must specifically plead the doctrine either by specific reference to that maxim or by pleading facts which justify the application of it. This was the holding of the Supreme Court in the case of *Adebisi v, Oke*,[55] where it was held that the trial court did not travel out of the pleading when it relied on the doctrine of *res ipsa loquitur* in holding the

defendant liable despite that the maxim was not specifically mentioned in the plaintiff's statement of claim. The court held that it was sufficient that the said pleading contains facts that support reliance on the doctrine.

Under the provision Section 63 of the Evidence Act, the fact that a person has been convicted of a criminal offence is admissible evidence in civil proceedings of the offence having been committed. The application of this provision has a long history of controversy from its application under the Common Law, the English Civil Evidence Act and under the Nigerian Law of Evidence.

6. Defences to Medical Negligence

Apart from a denial of the actual occurrence of negligence, even when the fact of damage is proved, there are defences which a defendant may raise in negligence action and they are as follows:

a) Negligence:

Often, medical professionals aren't the only ones responsible for an injury. A medical professional who can demonstrate that the injury would not have occurred if the patient had not acted negligently may have a valid defense against a malpractice claim. For instance, suppose a patient fails to disclose key details of their medical history or mixes prescriptions against the doctor's orders. In that case, the doctor is not responsible for any injuries that result. There was an argument about whether the standard of care owed by the defendant and the plaintiff should be the same or a different standard. The common law has treated the standard differently because the failure by a defendant puts others at risk, whereas the failure by the plaintiff impacts on only them. However, the civil liability legislation states that they are the same. This idea has also found support from *Callinan and Heydon JJ* in *Vairy v Wyong Shire Council*, where it was stated that the plaintiff's contributory negligence involves a breach of one's duty to society not to become a burden on it by exposing oneself to risk where, at 483, their Honours said:[56]

"The 'duty' to take reasonable care for his own safety that a plaintiff has is not simply a nakedly self-interested one, but one of enlightened self-interest which should not disregard the burden, by way of social security and other obligations that a civilised and democratic society will assume towards him if he is injured. In short, the duty that he owes is not just to look out for himself, but not to act in a way which may put him at risk, in the knowledge that society may come under obligations of various kinds to him if the risk is realised."

In *Adams by her next friend O'Grady v State of New South Wales*,[57] the Court held that it was entitled to come to a view that the contributory negligence

should be assessed at 100 per cent of the cause of the injury.[58] But this has not happened in medical negligence cases and, considering the expert knowledge involved, it is difficult to imagine such a case.

b) The Good Samaritan Law:

"Good Samaritan" laws protect people who come to the aid of those in medical distress. Physicians, nurses, and other medical experts are often specifically covered by such laws. If a doctor assists someone in an emergency situation, they will be protected from civil liability if anything goes wrong during the rescue. The general rule is that a medical professional who voluntarily helps someone owes that individual the same duty of care and treatment as that of a reasonably competent doctor under similar or the same circumstances.

Legal Framework for Medical Practice

Law exists for the common good of the society. There are many regulatory agencies in Nigeria for the protection of end users of medical products and for the enhancement and preservation of standards. The objectives can be achieved by means of rules and regulations made pursuant to enabling legislation. These existing agencies have the rules of professional ethics guiding practice and discipline of practitioners but only these regulations/rules will be examined namely:

(a) The Constitution of the Federal Republic of Nigeria, 1999 as amended.

(b) The Medical and Dental Practitioners Act, Cap. M8 Laws of the Federation of Nigeria 2004.

(c) The National Health Act 2014

(d) The Criminal Code Act, CAP. C38 Laws of the Federation of Nigeria 2004.

(e) Federal Competition and Consumer Protection Commission Act

(f) Torts Law cap 140, Revised Laws of Anambra State 1991

(g) The Code of Medical Ethics in Nigeria 2004

(h) The Nigeria Medical Association 1960

7.1 The Constitution of the Federal Republic of Nigeria (C.F.R.N.) 1999 as amended.

The Nigerian Constitution is the supreme law of the country and its provisions is binding on every authority and persons.[59] It is the mother law from which all other and legislations flow. It is the grund norm. This position of it makes it imperative that it should be the first to be discussed.

To this end, chapter IV of the constitution recognises absolutely the fundamental rights of all citizens in Nigeria**.** Section 33 of the 1999 Constitution as amended guarantees the right to life. The law is that every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of a sentence of Court in respect of a criminal offence for which he has been found guilty in Nigeria.[60]

7.2 The Medical and Dental Practitioners Act

Medical and Dental Practitioners in Nigeria are regulated by the Medical and Dental Practitioners Act[61] which set up the Medical and Dental Council of Nigeria for the registration of medical and dental practitioners to review and prepare a code of conduct for the regulation of both professions.[62]

The Medical and Dental Practitioners Act has 22 Sections in Succession, which is important to the medical practice in Nigeria

7.3 Federal Competition and Consumer Protection Act 2018

Federal Competition and Consumer Protection Act repealed the Consumer Protection Act, Cap C25, Laws of the Federation of Nigeria 2004. This Act established the Federal Competition and Consumer Protection Commission and Consumer Protection Tribunal for the development and promotion of fair, efficient and competitive markets in the Nigerian economy to facilitate access by all citizens to safe products and secure the protection of rights for all consumers in Nigeria, penalise other restrictive trade and business practices which prevent competition and contribute to the sustainable development of the Nigerian economy.[63]

Federal Competition and Consumer Protection Act have 18 Parts in Succession.

7.4 National Health Act 2014 (NHA)

The National Health Act is the first comprehensive legislation on health in Nigeria which was passed by the Nigerian National Assembly in 2014, and was signed into law by the President Ebele Goodluck Jonathan on 9th December, 2014 which provides a framework for the regulation and provision of national health with the purpose of providing the people living in Nigeria with the best health services within the limits of available resources.[64] The link between the right to health and core components of a health system is dependent on the fact that the right to health does not exist in vacuum but relies on a functional health system for its realization.[65]

The NHA is committed to ensuring availability in sufficient number of functioning public health facilities in Nigeria, as well as complementary goods

and services.[66]

7.5 Criminal Code Act (C.C.A.)

The practice of medicine is also regulated by criminal law system particularly the Penal Code which is Penal Code[67] (Northern States) applicable in the Northern States and the Criminal Code[68] applicable in the Southern States which provides as follows:

a. Section 343 (1) (e) (f) (g):

b. Section 344

c. Section 300

d. Section 305

e. Section 228

f. Section 230

g. Section 303

However, Section 297 of the Criminal Code Act protects from criminal liability, the medical doctor who reasonably performs for the benefit of another, a surgical operation in good faith with reasonable care and skill, having regard to the patient's state at the time and all circumstances of the case.

7.6 Torts Law of Anambra State

Negligence as civil wrong shall consist of breach of a legal duty to take care which results in damage, which may not have been desired or even contemplated by the person committing the breach, to the person to whom the duty is owed.[69] Going by this provision, every person shall have a duty to take reasonable care to avoid any act or omission which he is reasonably expected to foresee as likely to injure persons who are so closely and directly affected by his acts or omissions that he ought reasonably to have them in contemplation as being so affected when he is directing his mind to any such act or omission.[70]

Finally, where a person possesses special skill or holds himself out as possessing such skill, it shall be his duty to exercise such care as a normal skilful member of his trade or profession is reasonably expected to exercise, and where he is alleged to have been negligent in so exercising it, his performance shall be judged in the light of the normal standard reasonably expected of an ordinary person with the requisite skill in a similar profession or business.[71]

7.7 Code of Medical Ethics

The word, ethics is derived from the Greek work ethos which means custom and habits. The word relates to the precepts which should control moral behavior. Ethics is that science of knowledge which deals with the nature and grounds of moral obligations, distinguishing what is right from what is wrong. Just like all professions in Nigeria, medical practitioners and practice are regulated and guided by the Hippocratic Oath and Code of Ethics and no medical practitioner could practice medicine without subscribing to the Hippocratic Oath although the efficacy, status and usefulness of the Hippocratic Oath are suspicious in that it is not subscribed to before a recognized Commissioner for Oaths and contains no sanctions or provisions for enforcement, it is at best a love letter containing so much pious declarations[72].

We also take the liberty to reproduce in extensor the Declaration which is now known as the Physician Oath at the time of being admitted as a member of the medical profession:

"I solemnly pledge myself to consecrate my life to the service of humanity; I will practice my profession with conscience and dignity; the health of my patient will be my consideration; I will respect the secrets which are confided in me; even after the patient had died; I will maintain by all the means in my power, the honour and the noble traditions of the medical profession; my colleagues will be my brothers; I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient; I will maintain the utmost respect for human life from the time of conception; even under threat. I will not use my medical knowledge contrary to the laws of humanity. I make these promises solemnly, freely and upon my honour."[73]

7.8 The Nigerian Medical Association Constitution 1960

Just like all professions in Nigeria, medical practitioners and practice are equally regulated and guided by the Nigerian Medical Association Constitution of 1960. The said constitution has 28 Articles in succession which is important to the medical practice in Nigeria.

8. Challenges / Impediments to Enforcing of Medical Rights

Litigations against medical doctors for negligence are not common in this country. This is so notwithstanding the fact that very grave consequences may result from the act of the doctor. Why then do we have few cases bordering on medical negligence, unethical practice or incompetence in Nigeria? This question is not only relevant but important in relation to medical practice where a patient may not only lose a limb, tooth or an eye but his life. The reasons for

the paucity of cases against medical doctors are not far-fetched. These reasons which are cultural, social and legal in character can be briefly examined as follows:

a. Cultural Factor,

b. Social Factors,

c. Legal Factors

9. Recommendations

Medical negligence which could be in form of wrong diagnosis, defective treatment and dereliction of required duty of care from medical doctors has continued to increase in Nigeria. It is unfortunate that cases on medical negligence are rare in Nigeria and in a way has contributed to very few judicial pronouncements on the liabilities of medical doctors.[74] One of the major reasons for this situation is the loss of confidence in obtaining justice considering the rigorous procedure of proving medical negligence. This advocacy stems from the fact that there is an existing right to health. Since this is not in doubt, cases of medical negligence should come by way of a special procedure considering its delicate nature. We therefore recommend that proving medical negligence by way of enforcement of fundamental rights is a way forward through the Fundamental Rights (Enforcement Procedure) Rules 2009.

We will briefly discuss the salient procedural innovation in the Fundamental Rights (Enforcement Procedure) Rules 2009 which made it endearing to lawyers. These innovations which ensure the expeditious disposal of fundamental right cases, and medical negligence is one of them, are as follows:

i. One of the notable innovations is that it expanded the scope of legal instruments (which recognize the right to health) that can be relied on or cited in the enforcement of fundamental rights. It is expected that patients whose rights have been violated by medical doctors can seek redress through fundamental rights enforcement under the Rules, as an alternative to civil claims under tort.

ii. The Rule has also dispensed with the burdensome requirement of locus standi which denotes a legal capacity of a person to institute an action. The Rule has expressly mandated the court to proactively pursue enhanced access to justice for all classes of litigants especially the poor, the illiterate, the uninformed, the vulnerable, the incarcerated and the unrepresented who appears to the court to be a proper party to be heard will be heard whether or

not the party have been served with any relevant processes and whether or not the party has an interest in the matter.

iii. The Rule has abolished leave as a precondition for enforcement hence an application for the enforcement of right may be made by way of originating and there is no need to serve leave of the court before filing the application for enforcement of fundamental rights in Nigeria.

iv. One of the primary aims of the Fundamental Rights (Enforcement Procedure) Rules 2009 is to expedite the hearing of an application for enforcement of fundamental rights and failure of any proceeding to comply with the requirements as to time, place or form shall be treated as irregularity and not a nullity.

v. In this Rule, limitation of period of time has been dispensed with like an action for negligence must be instituted within 3 years of occurrence of breach of such right or be statute barred but in application for enforcement of fundamental rights shall not be affected by any limitation statute whatsoever.

Therefore, patients who suffer any of the categories of injuries may apply to enforce their rights through the Fundamental Rights (Enforcement Procedure) Rules 2009 instead of tortuous actions in negligence. The advantage of doing this is that it will remove the need to search for medical experts as witnesses which in most cases is difficult to get. It will also ensure that the matter is quickly heard and resolved since it will be battled strictly on evidence and there will be no room for technicalities. Other recommendations include but not limited to the following:

a. Incorporate Medical Law and Ethics in the Curriculum of Prospective Medical Practitioners

b. The Establishment of Health Courts or Medical Malpractice Expert Determination Tribunals

c. Increase Legislative Backing for Healthcare Rights

d. Establish Institutional Checks

e. Nigeria to Adopt A No Fault System

f. Problem of Experts Evidence

g. Documentation of Treatment Given by a Doctor

h. Compulsory Insurance Policy

i. Medical Law as a Course of Study for Lawyers

j. Creating Awareness

k. Amendment of Rules of Professional Conduct

l. Improvement of Healthcare System

10. Conclusion

The aforementioned recommended reform efforts are proffered with the overall aim that Nigeria's healthcare system would be made more efficient. A combination of punitive measures and infrastructural improvement of our country's healthcare system will provide a holistic response to the prevalence of medical malpractice in Nigeria. Indeed medical practitioners are not perfect and the law does not require them to be infallible. It would be absurd and idealistic to impose on them such a herculean standard. Mistakes and some undesirable outcomes are bound to occur. Nonetheless, in order to limit draconian judicial and legislative oversight, the medical profession should endeavour to recognize and accommodate patients' expectations and demands in order for its social contract to function well for quality of healthcare.

It is the responsibility of health regulatory bodies to show more diligence in the delivery of their services and to continue to educate their members on their responsibility in practice. The profession should not be cavalier and lenient in policing itself. Doctors and other healthcare providers must endeavour not to sacrifice ethics and care on the altar of financial gain. The era of greater accountability in medical practice and patient rights has come to stay. It is expected that our courts and legislators will adapt to this shift from protectionism. Medical doctors and healthcare providers will do well to align their practice to suit this emerging trend.

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Human Rights, Democracy, Development and Cultural Pluralism*

Duve Nakolisa

Abstract

Since the end of the Cold War, the world has not known as much instability as it is currently facing. The Russian invasion of Ukraine and the conflagrations arising therefrom have brought the world to the brink of a 3rd World War and to the possibilty of a nuclear showdown. The effects are multifarious, ranging from widespread military outbursts to economic, social and political upheavals. While the Russian-Ukraine war seems to be the immediate trigger of the worsening volatility, there are a number of remote causes, not the least of which are unsettled post-Cold War issues bordering on human rights, democracy, development and the quest for a multi-polar world order. This paper asserts, via critical examination of the relevant matters, that politicization of issues of human rights, democracy, development and cultural autonomy has for long posed a threat to global understanding and would continue to do so unless an attitude of mutual respect and impartiality is adopted towards these issues. It asserts that unbiased and principled approach to such matters would enhance their inherent capacity to serve as veritable basis for peaceful co-existence among nations.

Keywords: human rights, democracy, development, cultural diversity

Introduction

Across the world, no issue attracts emotional response more than the issue of human rights. Other issues, such as democracy, development, and culture gain credence as far as they are seen to enhance the enthronement or defence of human rights. According to Alston (1988):

> It is now widely accepted that the characterization of a specific goal as a human right elevates it above the rank and file of competing societal goals, gives it a degree of immunity from challenge and generally endows it with an aura of timelessness, absoluteness and universal validity.

In the West, nothing is perceived as threatening "the universalization of Western liberal democracy as the final form of human government" (Fukuyama, 1988) as deeply as the denial or abuse of fundamental human rights. Whatever guarantees the individual's rights is presumed to guarantee Western democracy since the latter, in principle, is founded on universal suffrage. Whatever threatens individual rights, even when in favour of social stability and communal harmony – in favour of the overriding good of the public – stands censored by the West. The neo-conservative scholar, Michael Novak (1987), offers an explanation:

> The capitalist conceives of the common good as being rooted not in intentions but rather in the freedom of persons to have their own individual visions of the common good. And these visions, taken together, produce a higher level of the common good that was previously possible.

In Montesquieu's view, individual rights were of fundamental importance because their exercise enabled commerce to flourish. His Doux-commerce postulation was captured in this well-known sentence: "It is almost a general rule that wherever manners are gentle (moeurs douces) there is commerce; and wherever there is commerce, manners are gentle." (Hirschman, 1987)

Having linked human rights with profit, the West appears reluctant to accept any model of democracy other than Western liberal democracy. It does not matter how unsuitable that model might be for a given culture or people. Western human rights aristocrats believe that only Western liberal democracy can guarantee the presumed superiority of "individual" rights over "collective" rights. The question is: Is one really superior to the other? To assist us in determining that, we must first answer the question: Whose heritage are human rights?

Human Rigts: Western or Universal Heritage?

> *Let the kite perch, let the eagle perch. He who says another should not perch, let him be hunchbacked.* – A Nigerian traditional adage

Is the concept of human rights indeed a Western heritage? The Reagan administration once traced the idea of human rights not simply to the West but specifically to the United States. A State Department country report (1982 issue) tracked "the human rights movement in world politics" to 1776 America:

> It is this historical movement that democratic countries owe their possessions of rights, and because of it that other peoples express their yearnings for justice as a demand for rights.

The heritage question is very important because how a country conceptualizes human rights can be a function of how much of their relevance it is able to locate in its traditional ethos. Each country's faith in the Universal Declaration of Human Rights may sometimes conflict with its faith in its own peculiar human rights heritage.

President Reagan, for example, showed more faith in the American Declaration of Independence than in the Universal Declaration of Human Rights when his administration rejected the concept of collective human rights. The philosophical underpinnings of the American Declaration embodied the concept of natural rights as primarily the rights of individuals. The notion of collective rights as human rights – as opposed to the rights of states and organizations – was therefore unacceptable to the Reagan administration. We shall return to this debate later.

For now, we need to examine the claims of the Reagan administration that "democratic countries owe their possession of rights" to the United States and that "other peoples express their yearnings for justice as a demand for rights" because of an 18th century American movement.

That the American Declaration of Independence influenced the global quest for freedom is not in doubt. But the State Department's claim denied other vital contributors due credit. A United States NGO, Americas Watch, has effectively attacked this official attempt at rewriting history:

> Nazism and its effects do not appear in this account, nor is there a single mention of the Universal Declaration of Human Rights, the worldwide concern that led to its drafting, or the contributions to human rights law and history made by any other nation. Nor is there any suggestion that international law of human rights owes much to powerful anti-colonial movements in the pre- and post-World War II period emanating from what are now called Third World countries. There is a point at which chauvinism becomes misinformation, and this putative history presents the cause of human rights as American property, as un-codified, and therefore malleable and above all as non-neutral, aligned, thoroughly political.

Besides the salient points made by Americas Watch, let us note that if human rights were drawn from the "Laws of Nature and of Nature's God" (in the words of the Declaration of Independence) – and nature is a global reality – it then means that each nation must have imbibed certain human rights concepts from our common nature. If nature can speak to one, it can speak to all.

Nature might have spoken to some group of Nigerians in the words of the saying quoted at the beginning of this section. “Let the kite perch, let the eagle perch” probably dates back to a time preceding 1776 as it is a saying generally considered to be almost as old as the ethnic group itself. For the Igbo, it is the oral encapsulation of human right codes and the basic guide for interpersonal relationships. “He who says another should not perch let him be hunchbacked” recognizes the need for sanctions as a deterrent against human rights violations while implicitly condemning partiality in the application of sanctions.

Other groups of Nigerians have their own equivalence for “Let the kite perch, let the eagle perch.” And in the rest of Africa, one will find similar pointers to human rights awareness in pre-historic times. The indigenous traditions of Asia, an aspect of which is examined in the next section, have always embodied a credible concept of human rights. Human rights, therefore, are neither native to America nor to any other part of the West.

Defending the cause of human rights as if they are, for instance, American property can make such a defender behave like an overbearing landlord rather than a co-tenant in the universal house of common rights.

Of Democracy, Human Rights and Cultural Differences

Back to Francis Fukuyama who considered Western democracy “the final form of human government” (Fukuyama 1988). There is a fundamental problem in this viewpoint. Unless Western democracy, as we know it, is dead, it can and must evolve into something better. The dynamics of the system will ultimately change it from within or force it to extract change from without. Yes, there is a without. There are other models of democracy. If the ideologues of the Western model insist that this model is democracy’s final logical form, they will be subjecting Western democracy to the same unbalanced diet which malnourished and finally exterminated Soviet communism.

Western civilization cannot abandon eclecticism without risking its own death. And if it must be fed by forces outside itself, then it must tolerate the existence of civilizations other than itself. It must be ready to acknowledge that the sun can be viewed from other sides of the planet.

This point is very valid because unless other models of democracy are deemed not only respectable but durable, attitudes towards human rights will continue to be mixed up with the optional question of Western democracy. Many human rights groups have already muddled up the two, and while both may be inseparable in Europe and America, they don’t have to be necessarily so in Africa, Asia and Latin America. Packaging human rights and Western democracy into one campaign may make the exercise unpopular in some non-Western countries, thereby tempting the West to use force of whatever nature

to enthrone its own model.

This will amount to arrogance and intolerance. It is like saying there may be other models of this thing called democracy, other viewpoints, but (in the words of Fukuyama, earlier quoted), "it matters very little what strange thoughts occur to people in Albania or Burkina Faso, for we are interested in…the common ideological heritage of mankind."

The world has become smaller and smaller, yet it has not produced a global dialect. Clans of ideological persuasions still persist. It does not have to be communism or capitalism. Even within capitalism interpretations differ. The world might have become a global village but it can still do without a village head. No single nation, no matter how powerful or influential its military or propaganda arsenals, should usurp that role. Talks about "the common ideological heritage of mankind" make uncommon, therefore destroyable, other heritages.

Human rights should not be made inseparable from Western democracy and individualism. Currently, it is more universally acceptable to deal with human rights outside the West as a separate issue. Why is it difficult for the West to do so? I think it is chiefly because of the following Western assumptions:

1. Economic development promotes the flourishing of human rights.

2. Western democracy is the stimulant for economic development.

A former US ambassador to Nigeria once wrote:

> I think everyone here will recognize a correlation between economic prosperity and enduring democratic governments. By and large, those nations that have the longest continuing democratic governments are also among the world's most affluent countries. (Carrington, 1995)

The basic question is: are assumptions (1) and (2) above necessarily true? To dismiss (1), one simply has to look at the United States. It is the leading economically developed country but has the worst record in the West for violent crimes and murders. We can use this index of illegal termination of life because it is the worst form of human rights abuse. Russia, still groping in the backyard of capitalism for a way out of its communist hangover, may not be marked off by the core West as having achieved EU-standard economic development. Yet, "the murder rate in Mosow in 1993 was around a third of that of New York" (Gray, 1994).

Statistics available from sources within America also indicate a reversal of assumption (1): with economic development, crime has increased to erode the human rights of Americans. The paradox is that America has the largest

number of human rights groups in the world. Like the United States itself, some of these groups are specially dedicated to monitoring the rest of the world.

Assumption (2) is made ridiculous by the industrial miracles of Asian countries such as Japan, Indonesia and Singapore where, as Gray (1994) noted:

> The model of economic and political development draws on indigenous traditions such as Confusianism and candidly rejects Western ideals of individualism, human rights and democracy. Its track record in delivering prosperity and social stability is so outstanding that we would expect their achievement to be an object of sympathetic interest in the West.

The Asian model, in spite of that region's stock market meltdown in late 1997 and the currency crises which continued to beset it into 1998, remains a proof that although democracy may be about freedom, freedom is not necessarily about Western democracy. In the United States, "more than 1.25 million Americans (are) subject to some form of imprisonment." To frame the question in Gray's own words,

> If the US has been unable to protect the ordinary liberties of its citizenry even with a Draconian policy of mass incarceration, by what right does it judge the Asian countries, among which Japan and Singapore stand out in their success in assuring security from crime for ordinary people?

The dynamics of each society should be allowed to dictate for it what mattered most: security and communal harmony (via collective rights) or insecurity and individualism (via over-emphasis on individual rights). Has the West ever paused to consider why in Africa one-party democracies had engineered stability more than multi-party ones? The philosophical currents of indigenous African political systems are more centripetal than centrifugal. From what this writer knows of the West, the opposite appears to be the case there.

The political philosophy of many traditional African societies is defined by the seemingly contradictory binary pairs: disagreement/consensus, division/unity, and submission/rotation. In other words, in spite of disagreement and division, a modern African polity reflective of this traditional model would most likely stand as long as it goes by consensus; and to consensual leaders the people would be loyal as long as leadership opportunities are made rotational among the constituent groups. The zero-sum nature of Western democracy is alien to this traditional model of governance and this probably explains why Western democratic practices in Africa are generally so acrimonious, violent and unstable.

Conflagrations between ethnic groups are better not promoted in Africa in the name of anything because once disagreements over-stretch the cultural pool of

consensus, armageddon is unleashed. Any wonder Liberia or Somalia proved more disastrous than Bosnia. This writer does not believe in romanticizing Africa's past. Of course, there were ethnic wars but they generally came after extensive peace moves.

Conversely, the cultural underpinnings of the West are characterized by a conflict/conquest ethos: conquer to rule; rule to dominate. This cultural lust for conquest often breeds artificial conflicts. It was the ethological inspiration behind colonialism. This principle propelled Hitler who provoked wars just for the fun of winning them. It made Fukuyama talk about the end of history out of the unnecessary anxiety that the end of the great conflict (the Cold War) might result in the absence of another winnable conflict of that magnitude. Life itself and political systems are energized by conflict. But conflict for conflict's sake appears to be a subconscious attribute of the West and, by extension, of Western democracy.

Western individualism waters this lust for conflict. In the West, human rights, in themselves desirable, now provide easy excuses for conflict multiplication. Agitations for new human rights have proliferated in the West, especially in the United States where every conceivable deviant publicly demands for rights. In Africa and Asia, the situation is different. Here, individual rights have traditionally sucked nourishment from the collective. The individual owes his self-expression to the harmony of the community. The common good is a guarantee for the individual good and, where necessary, may supersede the latter.

Japan can be used to illustrate this point. There, the driving principle is group loyalty and accommodation. According to a *Time* (1983) investigation, "although the Japanese have a highly developed sense of individual rights, social harmony, not personal justice, is the basis of their law…" Equality to the Japanese is tempered by deference, by the Confusian "system of social ethics based on five relationships: father and son, older brother and younger brother, ruler and subjects, friend and friend, husband and wife…the Japanese find it easier to deal with one another as unequals than as equals" (Time, 1983).

According to Time, the Japanese emphasize the stability of these relationships over individual claims to human rights:

> The American civic principle is freedom and equality. The Japanese civil logic is mutual obligation, hierarchy and the overriding primacy of the group. Japan is governed by *on*, by an almost infinitely complicated network of responsibility and debt and reciprocity: what each Japanese owes every other, and what each owes the entire group…

Many a Japanese company, reflecting this bond, can truly be called, in the

words of Sony's Aiko Morita, a "fate-sharing vessel". This is true not only because of widespread factory-worker ownership of a substantial percentage of the shares but because of, in comparison with the United States, the insignificant level of litigation brought against the company by the workers.

The American emphasis on individual freedom and equality often invites confrontation and disharmony to ensure the enthronement of these rights. The Japanese enthrone both individual and collective rights by doing exactly the opposite: avoiding confrontation and social discord. This is a case of the same human rights crossing cultural boundaries leading to marked differences in interpretation and application.

A typical Western-style human rights campaigner (or his Third World colleague), without appreciable sensitivity to the cultural peculiarities of a given society, will attempt, with the cultural needle of the West, to inject into that society the universal commonwealth of rights. The Universal Declaration of Human Rights and all the international covenants leave room for accommodation of cultural differences. The bottom line is the dignity of the human person or group as enshrined in the provisions: each nation must mould its own cultural shape or perspective with the settled clay of the codes. But no nation or group should impose, by whatever guise, their own preferred shapes on others.

Many African and Asian countries are, very often, victims of selective criticism by the West for their human rights records. Human rights questions are used to camouflage political and economic self-interests. One thing that must be said here is that when the Universal Declaration was adopted by the United Nations these countries were not independent. The dominance of Western countries at the time ensured that its provisions were largely individualistic.

One notices this tendency most in the West-styled "first generation" rights (Civil and Political Rights) and the "second generation" rights (Economic and Social Rights). Individualism is generally minimal in the "third generation" or so-called new human rights (Collective Rights). It is more than mere coincidence that the "generational" ladder became more collective as African, Asian and Latin American countries, now independent, lent their emphasis on the collective to the debate.

Some of the collective or solidarity rights which now enjoy some force of law include the "Right of Peoples to Peace" adopted by the United Nations General Assembly in 1984, and the "Right to Development," adopted by the General Assembly in 1986. The African Charter of Human and Peoples' Rights (1983) specifically recognizes the right to development, and we will shed more light

on this later. The right to humanitarian assistance and environmental rights have also won broad sympathies.

The collective rights movement, at present improperly coordinated, will ultimately drive the world to a fresh consensus on human rights in general. Many Western intellectuals are opposed to the adoption of these rights as human rights because they know such a move may query more formally the role the West has played and is playing to perpetuate the underdevelopment of the Third World.

If "the Right of Peoples to Peace" and "the Right to Development" are treated strictly as human rights, then the Structural Adjustment Programme of the IMF and the Word Bank in Third World countries will automatically amount to gross violations. These two agencies have masterminded the implementation of economic downsizings which have led to massive enslavement (devaluation in official parlance) of currencies, collapse of local industries, massive unemployment, erosion of living standards, social disruptions and political instabilities.

It is high time the world embraced cultural pluralism, a phenomenon behind what Huntington (2011) called "intercivilization" conflicts. In his seminal work, *The Clash of Civilizations and the Remaking of World Order*, Huntington argued that cultural distinctions over issues such as democracy and human rights would dominate politics in the post-Cold War world.

Within the scope of this discourse, we have looked at cultural differences as they touched on democracy and human rights. But there are other debates we have left untouched. For instance, where human rights conflict with religious injunctions, will it amount to a violation if the latter is given the upper hand? In circumstances of endemic and recurrent military interventions, as used to be the case in Nigeria, where civilians themselves have at times openly invited the military and where calls for what might be called militocivilian democracy have been made by some members of the political class, will it amount to human rights violation if such a unique system gains popular acceptance and workability?

Space constraint hinders us from exploring these questions here, but Walter B. Wriston (1987), former President of Citicorp, once spoke a word fit for a preliminary response: "When all is said and done," he said, "the maximizing of human liberty is the most important moral imperative."

The International Bill versus the New Rights

The International Bill of Human Rights is composed of the Universal Declaration of Human Rights and the international human rights covenants.

The covenants include International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), and the two optional protocols to the International Covenant on Civil and Political Rights.

The Universal Declaration, which has become an essential guide to the interpretation of the UN Charter, is mainly concerned with human rights emanating from "the inherent dignity and of the equal and inalienable rights" of the individual, which rights it declares as "the foundation of freedom, justice and peace in the world." The international covenants mainly focus on the duties of States towards the undertaking parties, and assurance by the States to each other that they will respect "all peoples" exercise of the rights contained in the Covenants.

The new rights, so-called, which are also known as group or people's rights, cover such rights as the Right to Self Determination, Right to Development, Right to a Safe Environment, Right to Democracy and the Rights of Minorities. These rights, in reality, are not new as some provisions of the Universal Declaration had already mentioned them, albeit without elaboration, or recognized the principles from which they derive validity.

Many Western human rights philosophers, however, have consistently refused to acknowledge them as human rights in the context of international law. When they shift from insisting that they constitute mere principles, they grudgingly concede that while they may serve as rights, they should be cordoned off as group or *people*'s rights – as distinct from human rights. This is not mere sophistry: the aim is to elevate the "personal" rights of the Universal Declaration over and above the collective claims of the new rights.

The new rights appear to subvert the philosophical roots of the Universal Declaration which largely could be traced back to 18th Century Western concept of natural or moral law (*Lex Aeterna*). The natural rights model considers the Universal Declaration as "clearly and unambiguously conceptualized as being inherent to humans and not as the product of social cooperation. These rights are conceptualized as being universal and held equally by all; that is, as natural rights" (Donnelly, 1982). This argument, a foretaste of which we saw earlier in this discourse, implies that the individual draws his rights from nature, that is, from the mere fact of being a human being; while the group or "people's" rights derive validity not primarily from nature but from the decisions of individuals within the polity – that is, from social mediation.

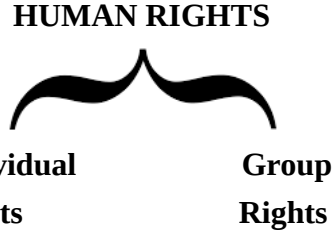
This reasoning is persuasive but misleading: never at any time has Nature or the inaudible winds of morality attributed any set of rights to human beings.

Rather, human beings themselves conceptualized, derived and coded the rights of the Universal Declaration. And since self-preservation is the first law of nature, it is not surprising that most of the provisions of the Universal Declaration seek to ensure personal freedoms. But this should not be reduced to the absurd conclusion that any right which deals with groups of individuals or social concerns is not a human right.

The word, "human," is not controversial; neither should the rights, whatever rights, which it defines or qualifies. All rights derived by humans for the freedom and security of humans in their relationship with humans, nature or human institutions are human rights. Being thus definitively and equally human, all of these rights, for practical purposes, can be sub-divided. They can, as human rights (as defined above) and according to the content of their provisions, be sub-divided into subsidiary categories such as, among others,

- the rights of the individual
- the rights of States or institutions
- the rights of minorities
- the rights of children
- the right to development.

All of these sub-divisions, for ease of reference, can be consolidated into two broad categories:



Outside these two sets, we have the non-human rights, such as the rights of animals or animal rights. When consensus is reached on it, animal rights may be defined as rights derived by humans for the freedom and security of non-human animals in their relationship with humans, nature and human institutions.

Hence, this writer posits that human rights, as distinct from non-human rights, constitute or should constitute one body of rights in international law context. Admittedly, making actionable the right to development, peace or self-determination poses extraordinary jurisprudential challenges. How do you define and enforce some of their terms, such as the frequent recourse to

"people" rather than "person" or "everyone"? We know who a person is; the question as to who constitutes "people" in the light of a given provision entails sorting out potentially controversial issues of identification and differentiation. These are real problems but we need not run from the desirability of codifying these rights as intrinsic parts of international human rights law or from the harder task of making them justiciable.

Elevating the personal or so-called natural rights over the collective or "people's" rights on the grounds that the personal rights are "above and prior to the state and would continue to exist regardless of action by the international community to revoke their recognition" (Alston, 1988) is overlooking the operative clause of Article 29(1) of the Universal Declaration. This provision states that everyone owes duties to the Community "*in which alone* the free and full development of his personality is possible." (Italics mine)

The implication: everyone, for all their individual rights, is in a crucible called the Community or the State in which alone he can experience the exercise of his rights. The Community or State is the crucible, the arena of play. The question of human rights arises basically because people are in interaction with people in society. Human rights are about how *homo sapiens* (thinking human beings) can relate with one another in society. This is why only humans and human institutions – not domestic or wild animals, and not trees – are required to respect human rights.

But human rights are not simply about people, not simply about the Community or the State. Human rights are about people *in society*. Societal interaction generated the need for recognition and observance of these rights. So, there is a social mediation to every human right. Therefore, freedom to exercise individual rights within the framework of social justice should be the directive principle.

On the Right to Development

The UN Declaration on the Right to Development, like other so-called "Collective Rights", is often wrongfully given subsidiary importance by governments and human rights activists of the developed countries. Western scholars hail the UN Declaration on Human Rights and the International Covenant on Civil and Political Rights as "the basic human rights instruments" (Steiner, 1997). Western human rights defenders sometimes behave as if this is true.

Classifying the development of human rights into generations, an acceptable practice in the West, leads to the erroneous order which ranks rights as follows:

First Generation:	Civil and Political Rights
Second Generation:	Economic, Social and Cultural Rights
Third Generation:	Collective Rights

The first two generations involve rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) respectively. The so-called Collective Rights, so named to deprive them the personal force accorded the first and second generation rights, include the right to development, the right to safe environment, the right to self-determination, and the right of minorities, among others. Neither the Universal Declaration nor the Vienna Declaration and Programme of Action support this view of compartmentalizing rights into hierarchies or generational classes.

The Universal Declaration of Human Rights simply called itself "a common standard of achievement for all peoples and all nations" (UDHR, 1948) while the Vienna Declaration clearly emphasized that "All human rights are universal, indivisible and inter-dependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis" (VDPA, 1993).

Chapter IX of the UN Charter, titled "International Economic and Social Co-operation", supports the pursuit of "higher standards of living, full employment, and conditions of economic and social progress and development; solutions of international economic, social, health and related problems; and international cultural and educational co-operation."

In Article 22-27, the Universal Declaration on Human Rights clarifies the agenda of the Charter by naming a specific list of economic, social and cultural rights. These rights are expanded in scope and force in the International Covenant on Economic, Social and Cultural Rights. The covenant obligates state-parties to enforce these rights. Both the ICCPR and ICESCR were adopted at the same time in 1966 and indeed could as well have been one document if not "because of the different nature of the implementing measures which would generally be involved, and not so as to imply any divisibility or hierarchy among the rights concerned" (Diller, 2012).

If the society or community "in which alone", according to the Universal Declaration , human beings realize their rights is accorded the right to develop, such a right cannot be any less human than the aggregate rights of the persons in the community. The right to development is driven by the need of human beings in any given society to realize their right to personal freedom and

pursuit of happiness. Underdevelopment dehumanizes as much as sustainable development humanizes. The right to development, therefore, is the right of humans to realize their full human potentials. Just as, analogically speaking, the right pertaining to the protection of the womb (in which alone the unborn person can exercise other rights) can be said to encapsulate the right of the unborn person, the right to development, in sustaining the flourishing of human rights, can be said to be a human right.

Some Western governments tend to de-emphasize this linkage because intrinsically the right to development challenges certain Western practices and approaches that undermine the economic and social aspirations of the developing countries. In 1997, during the 53rd Session of the UN Commission on Human Rights, Western countries demonstrated this attitude in voting against the drafts which later became resolutions 1997/7, 1997/10 and 1997/103.

The first resolution, on human rights and unilateral coercive measures, called on all states to desist from implementing economic measures of "a coercive nature with extraterritorial effects, which create obstacles to trade relations among states, thus impeding…the right of individuals and peoples to development." Developing countries, according to the resolution, are particularly victims of such measures because of the "negative effects (of the measures) on the realization of all human rights of the vast sectors of their populations, *inter alia*, children, women and the elderly."

Resolution 1997/10 on effects on the full enjoyment of human rights on the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development was also critical of the negligent attitude of the developed nations. The resolution called for the establishment of a just and equitable international economic order which will guarantee developing countries the following:

- Better market access
- Stabilization of exchange rates/interest rates
- Access to financial and capital markets
- Adequate flow of financial resources
- Better access to technology

These constitute *bona fide* rights of developing countries under the principles enunciated in the UN Declaration on the Right to Development. But Western countries, preferring to parrot other rights which do not question the global lopsidedness in development, ganged up to vote against not only the resolution

but the related one (1997/103) on the effects of structural adjustment policies on the full enjoyment of human rights.

Structural adjustment policies failed woefully in many developing countries because they were addressing cosmetic economic issues rather than the fundamentals. Globalization is a buzzword in today's economy. It spells profit for Western multi-national companies wading into so-called emerging markets. But unless it also spells responsibility for Western governments, the global stock market crash of 1987 and similar economic catastrophes may continue to occur from time to time.

That crash that saw the Dow plunging 22% on October 22, 1987 should have opened the eyes of Western nations to the need for mutually beneficial economic co-operation among nations, including developing nations. The mini crash of 1997, ten years later, emphatically illustrated this point. The latter crash started with currency devaluations in Thailand – and from there it spread to the rest of Asia, including Hong Kong, and then extended its impact to London and New York. The West, fearing that the economic crisis will hurt their investments in South Korea, quickly favoured that country with a $60 billion World Bank loan. Although there were other factors responsible for that crisis, one might opine that if the West had responded to early signs of distress in the economies of the Asian tigers, that economic crisis could have been averted or its impact significantly reduced.

An evidence of the bad policies of the West towards the development of the developing countries is the US' exit from the United Nations Industrial Development Organization (UNIDO) in 1996. Its exit diminished the impact of that organization in developing countries. It also gave a wrong signal leading to the exit of key UNIDO contributors such as Australia (1997), United Kingdom (2012), New Zealand (2013), France (2014), Belgium (2015), and Denmark (2016).

Germany, who joined UNIDO in 1985, had threatened to pull out after the US' exit but Mauricio de Maria y Campos, who was UNIDO director-general at the time, reportedly reminded Germany that German industries cooperating with UNIDO were receiving orders worth $10 million a year – "an amount more or less equivalent to Germany's contribution to UNIDO" and which also demonstrated the kind of reciprocity the protection of the right to development of developing countries will engender for all nations, including developed countries. Interestingly, Germany opted to remain a member of UNIDO.

In his so-called "Africa Initiative", President Clinton emphasized the kind of economic reciprocity we are talking about when he noted that "although the US accounts for only 7% of African imports today, the continent already supports

some 100,000 US jobs" (D+C, 1997).

The UN Declaration on the Right to Development and the International Covenant on Economic, Social and Cultural Rights, if treated with the kind of global support – in terms of expedited policy implementation – accorded the ICCPR, will enhance the human rights of everyone across the world. The right to development is a human right. Implementing instruments such as UN Commission on Human Rights resolutions 1997/7 and 1997/10 (highlighted above) and similar resolutions passed by the Commission will enhance the improvement of the economic condition of billions of poor people across the world, most of whom reside in the developing countries.

No human right, including the right to development, should be de-emphasized or ignored. As former UN Secretary-General, Kofi Annan, put it:

> One cannot pick and choose among human rights, ignoring some while insisting on others. *Only as rights equally applied can they be rights universally accepted*. Nor can they be applied selectively or relatively, or as a weapon with which to punish others. (UN Press Release, 1997) (Italics mine)

Conclusion

There is need to reiterate the importance of fairness in the application of the Universal Declaration and international human rights covenants within and amongst states. The Universal Declaration called itself "a common standard of achievement for all peoples and all nations."[122] The UN should ensure that human rights questions are settled "in the light of applicable international standards or international norms, or both" (UDHR, *art*. 29 (1)). As the Vienna Declaration (1993) has said:

> While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of states, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

In other words, rights should remain rights but one should be sensitive to the peculiarities of the community where they are being exercised.

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* Taken from the author's longer work, *The Politics of Human Rights: A Discourse on the Theory and Practice of Human Rights*.

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Odinani: A Discourse in Philosophy of Culture

Innocent C. Ngangah

Abstract

The main goal of this paper is to examine *Odinani*, the cultural belief system of Igbo people of south-eastern Nigeria. The spiritual, social and cosmic tenets of *Odinani* are felt through *Omenani*, the cultural practices this cultural philosophy generates. This paper is not about the latter; its scope is restricted to *Odinani*, the indigenous philosophical grail by which the Igbo people live, consciously or unconsciously. This study is an exploration of *Odinani*, its key components, analysed in terms of their epistemic, ontological and ethno-philosophical implications. A significant outcome of this study is the realization that, contrary to popular belief among a section of the Igbo elite and the media, *Odinani* is not a corpus of religious practices but the traditional belief system or worldview of the Igbo people.

Keywords: philosophy of culture, Odinani, metaphysics, ontology, Igbo, eternalism, presentism

1. Introduction

Odinani is the governing belief system of the traditional Igbo society. It can be defined as the cultural beliefs and spiritual blueprint of the people. The term "Odinani" means "inherent in the land". *Ani* or *ala* (land) is the place where the monotheistic God, *Chukwu* (the Supreme Being), in His pantheistic manifestations, created and domiciled humans, animals, spirits and the elements. In Odinani is rooted the Igbo people's worldview, and the rationale behind their worship of various deities, veneration of ancestors, as well as their masquerade phenomenon.

It is important to distinguish, from the onset, *Omenani* (whose many manifestations are outside the scope of this paper) from *Odinani*, the belief system of the Igbo and our main focus here. *Omenani* (literally meaning

"Practices of the land") is the practical expression or dimension of *Odinani*, the Igbo cultural belief system.

It is tempting to equate *Omenani* with *Odinani*; while both may seem synonymous, *Omenani*, strictly speaking, refers to the customary *practices* of the Igbo (such as their social organization, occupational inclinations, architecture, customary ceremonies, festivals, rituals, rites of passage, arts and craft, etc) whereas *Odinani* is the Igbo cultural belief *system* – its customs, mores, spiritual laws and cosmological ethos – that inspires and directs the above cultural practices. Simply put, *Omenani* is the practical manifestation or expression of *Odinani*. This paper is restricted to the philosophical examination of *Odinani*.

Odinani as a holistic, interwoven, traditional belief system has inter-generationally been transmitted by oral tradition for hundreds of years. The custodians of *Odinani*, in pre-colonial times, were usually elderly men and exceptional women of integrity whom age, the gods of the land, and their long involvement with culture and tradition had given the privilege of serving as "tradition-bearers" (Ben-Amos, 1997, p. 802-3) and overseers. Being non-literate, they committed nothing to writing but faithfully passed on their traditional knowledge to successive generations largely by word of mouth and by their own acts of cultural observance which their mentees imbibed and practised. This is how *Odinani* has survived in Igbo land over the ages.

Although a number of publications have documented some ethnographic information about the Igbo, very few have strictly centred their enquiries on Odinani. This paper is dedicated solely to Odinani, not merely to fill the gap but to properly position Odinani as the philosophic belief sysytem of the Igbo, and not merely its spiritual canon.

2. The Igbo Cultural Belief System

The Igbo people's traditional belief-system is embodied in *Odinani* (tonally written and pronounced as *ọ̀dị̀nànị̀* in Igbo). Odinani consists of the cultural, spiritual, and cosmic beliefs of the Igbo, and these three are interlinked and almost inseparable. However, for the purposes of this paper, we will try to discuss some aspects of these in separate sections. Ani or Ala (land) holds great spiritual significance for the Igbo people; hence, their entire belief system is symbolically tagged *ọ̀dị̀nànị̀*" (Isichei 1997, 246-247). Though Odinani literally means "inherent in the land", its elements include extra-terrestrial forces. To understand the philosophical dimensions of Odinani, we shall discuss these elements in greater detail since the "philosophical categories" of the Igbo peoplde can be "identified through language, culture and metaphysical attributes of their lives" (Nkulu-N'Sengha, 2017).

2.1 Four Core Aspects of Odinani

The four core aspects of the Igbo belief system consist of *Okike* (Creation), *Alusi* (Deities), *Mmuo* (Diverse spirits) and *Uwa* (the visible physical world). Since supernatural and natural forces are interlinked in Igbo cultural belief system, these four aspects are necessarily inter-connected. They can be graphically represented as follows:

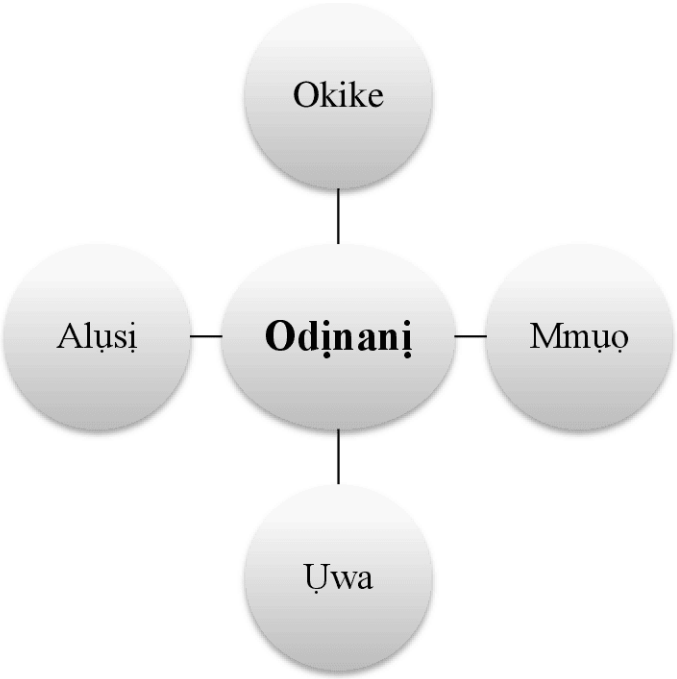

Figure 1

As you can see from the above tetracyclic belief structure, between Creation (Okike) and the created world (Ụwa) are deities (Alụsị) and diverse spirits (Mmụọ). We need to clarify the philosophical significance of each of these four core aspects of Odinani. Since the Igbo concept of existence is fundamentally anthropocentric, we will begin our discussion of these four aspects of Odinani with *Ụwa*, where created human beings physically dwell and round up with *Okike*. But, first, let us briefly discourse the cosmic qualities of Odinani.

2.2 The Cosmic Quartet of Odinani

The Igbo cosmic quartet consists of Sun, Moon, Fire and Air, and Earth and water. According to traditional Igbo belief, the world (*uwa*) was created by *Chukwu* (the Supreme Being) who divided it into four paths, with two parts in the upper hemisphere and two paths in the lower hemisphere. The upper hemisphere is called *énú ígwé*. It consists of the sky (*ígwé*) and the rest of the heavenly bodies. The twin rulers of the upper hemisphere are the Sun (gendered masculine) and the Moon (gendered feminine). The lower

hemisphere is called *énú àlà*. The lower hemisphere consists of two masculine elemental forces (fire and air) and two feminine elemental forces (earth and water). (*See Figure 2*)

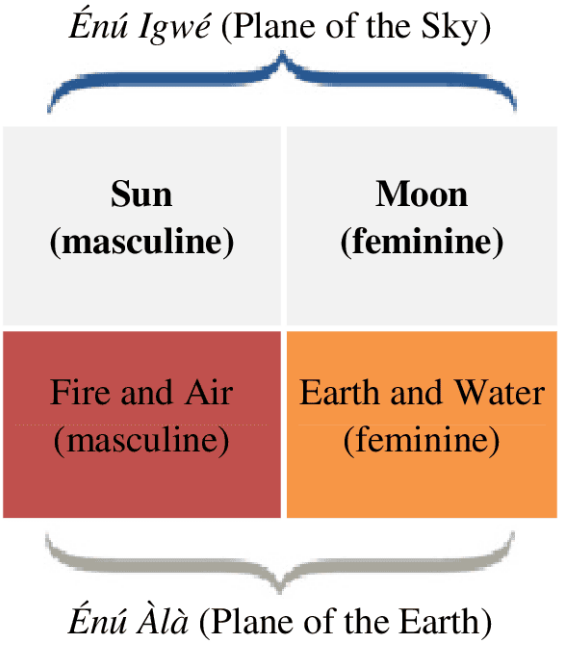

Figure 2

These two hemispheres are governed by the Great Spirit (*Chukwu*) who dictates and moderates the activities of the quartets and ensures that they behave in characteristic ways in accordance with their assigned nature and seasons. The four cosmic paths and the two cosmic hemispheres are some of the reasons the numbers "4" and "2" are sacred to the Igbo.

3. *Ụwa*: Matter, Metaphysics and Time

Uwa is not merely the physical world of people, animals, plants and the elements. In Odinani, it has material and immaterial, visible and invisible dimensions across time and space. In this section, we will examine the foundation and governance of Uwa and the metaphysical nature of its time and space.

3.1 Foundation and Governance of Uwa

The foundation upon which *Ụwa* (the world) stands is *anị* or *ala* (land). *Ala* is physical and can be touched, farmed on, and built upon, but it is governed by a metaphysical being called *Ala*. She is revered as "the mother goddess of the earth, ruler of the underworld and goddess of fertility in all living things" (Praise 2018) and the goddess of morality and nemesis (Oraegbunam 2010). She is the consort of *Amadioha* (the Sky god), the latter ruling the heavens while she rules the earth. An imposing female figure and the python are some

of the notable symbols of *Ala*.

Ala is frequently invoked in Igbo land but nothing celebrates her towering place in the hall of Igbo pantheons better than *Mbari* house artistically built and dedicated to her. Although there are some which feature the carvings and sculptures of other gods (such as those of thunder and water) and some other beings, Mbari houses, typically constructed over a number of years, are mainly built to celebrate *Ala*, the most powerful deity of the Igbo.

The art theorist and cultural philosopher, Herbert Cole, describes Mbari as "a merging of architecture, sculpture, bas relief, and painting". Mbari, in physical and aesthetic terms, is a work of art, but it is essentially "a major offering to…the goddess of the very Earth upon which people walk, the source of food, plants and animals, and the main arbiter of tradition and moral law". Notably, an Mbari house is never renovated after its official consecration by the spiritual elders of the community. No matter its state of dilapidation in subsequent years, it is a taboo for anyone to attempt to repair it, as it must be allowed to decay. So, beyond art and spirituality, Mbari is chiefly a philosophical construct, one that demonstrates that the end of every beginning is an inevitable death and that whatever gives life also contains the seed of death. Cole, in his "Mbari: Art as Process in Igboland", highlights this ambivalence:

> Larger than life-size, Ala dominates the most accessible side of houses dedicated to her. Like other Igbo deities, she is ambivalent, considered good—she peels yams for her "children" (villagers) with the knife she holds aloft—and potentially evil—"dark Ala, who kills those who offend her." …As Earth, she opens "to swallow people" in graves, the same Earth that provides yam, the main prestige food, plus other plant and animal life. Despite being an older woman of high status…she is a principal font of human, animal, and agricultural fertility and productivity.

3.2 Uwa: Metaphysics of Time and Space

In his *General Philosophy of Science: Focal Issues*, Kuipers (2007) dissected various issues centred on "eternalism" (the opinion that all times are real) and "presentism" (the opinion that only present time is real) and the "cumulative" opinion that "all past and present events are real" (326). Uwa is construed in Odinani as a planetary realm in which time and space constitute an endless present-past-future continuum. Okagbue (2013) puts it this way:

> The Igbo universe is perceived as being made up of three planes of existence: the planes of the dead, the living, and the unborn. These planes correspond to the past, present, and future. Crucially, Igbo religious thought espouses an essential dualism based on a notion of mutual dependence and affectivity between spirit and matter. Every object or

> phenomenon has both spiritual and material aspects that are mutually complementary and dependent.

Both time and space are seen in objective as well as in metaphysical terms, and this is why the days of the Igbo 4-day week have equivalents in the four cardinal points.

In Igbo land, a week is called *Izu* and it has 4 days (*ubochi ano*). Each day is a spirit saluted by Eri, the sky-born progenitor of Nri Kingdom (a spiritual centre of the Igbo), when he went on a voyage of discovery beyond physical time and space. During that trip, he encountered four spirits – *Eke*, *Oye*, *Afọ*, *Nkwọ* – and named the days of the Igbo week after them (Isichei 1997, 247). Apart from the first two months which are serially named, the 13 months of the Igbo year are named after spirits or spirit-related ceremonies. Those ceremonies or events ensure that throughout the year, the tenets of Odinani are kept alive in the rituals and cultural acts of the people (Udeani 2007).

In Fig. 3 below, we see another important quartet of Odinani. *Ani* or *ala* (the earth) is divided into four equal parts corresponding to the four cardinal points.

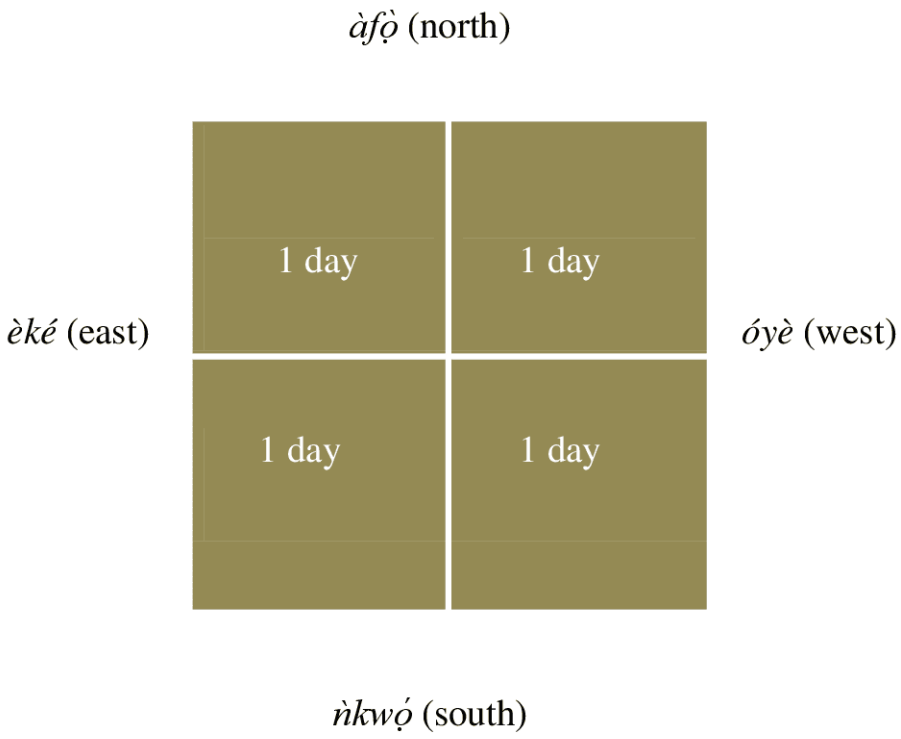

Figure 3

For the Igbo, Figure 3 represents a cosmic quartet with each "cardinal point" corresponding to a market day, as named and indicated in the diagram. There are four days between two same market days, thus corresponding to the Igbo belief that the world is divided into four parts and the four days symbolize these four parts (Ukaegbu 1991, 60).

4. Power as Common Denominator of Igbo Ontological Beings

The traditional Igbo person's concept of being can be summarized in the singular word, *ike* (power). In Igbo ontology, a being, be it animate or inanimate, is that which has power, and that which has power exists. The power to exist is the proof of existence. It is the power a living person exhibits (the power to move, talk and do things) that makes him a being. And this power is not merely physical power, it includes spiritual power, and this is why the ancestors, though deaf, are deemed to be alive. They are alive because they can communicate with the living and have the power to protect their living kinsmen and women. Rivers, mountains, and the elements are all beings because without their inherent power they would not be in existence and can have no effect upon other beings, animate or inanimate.

Though power is inherent in all beings, beings differ in the degree of power they possess and in their attributes and use of their power. The four core aspects of Odinani (see Fig. 2), with Alusi and Mmuo grouped together, reflect the three broad categories of beings in Igbo ontology, and these categories, in their order of power and influence, are as follows:

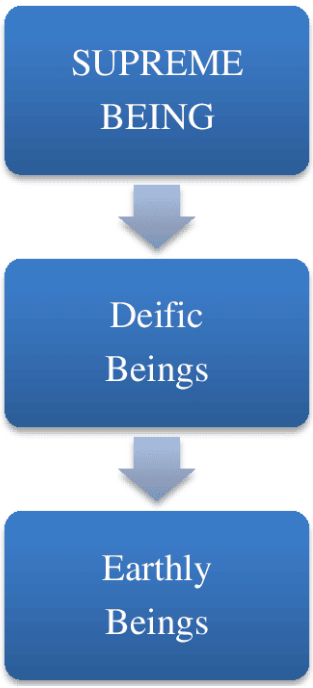

Figure 4

The Supreme Being is *Chineke*, about whom we will discuss later in this paper. Deific beings are comprised of *alusi* (deities) and *mmuo* (diverse spirits) while earthly beings, the most multifarious of the three broad categories, include human beings and all animate and inanimate, living and non-living, beings.

5. Deities and Diverse Spirits

Deities (*Alụsị*) and diverse spirits (*Mmụọ*) constitute the second broad categories of beings in Igbo ontology. 1)eities are seen as powerful agents of the invisible God. They are venerated and their intervention is sought for all manner of spiritual, physical and material issues.

The commonest deity in Igbo land is *Ikenga*, which literally means "power (*ike*) of going somewhere (*nga*)". Ikenga symbolizes, for the Igbo person, the power of his life's journey or the strength of his destiny. That is why it is kept by the traditional Igbo man as his personal god, as a conduit of the spiritual support of his ancestors, and as the strength of his right hand.

Basden (1921), writing about the Igbo in the early 20th century, notes that ikenga occupies "the position of honour" in a typical Igbo compound. More than 40 years later, in the 1960s, Herbert Cole, re-echoes the significance of ikenga in the traditional Igbo person's estimation and offers the following explanation: Ikenga, he notes, is "a male altar or shrine dedicated to a person's right arm and hand, which are considered instrumental to his personal power and accomplishment." Various types of ikenga are produced by master carvers and Cole describes some of their physical features as follows:

> Horns, as seen on…*ikenga*…are their diagnostic attribute. Many feature a seated warrior holding a knife in the right hand and a trophy head in the left, symbols, respectively, of decisive action and success. Others…show a horned head above a geometric, spool-like carving that stands for a body.

Cole notes that the standing carving may be "a variant of full figure, warrior versions" of ikenga and may include "the image of a turtle who in folktales is a crafty trickster and…a symbol of wisdom".

An ikenga must be consecrated before it can work for its owner. It becomes spiritually activated when the blood of an animal, typically a fowl, is poured on it by the head of a man's extended family or some other spiritual leader. Thereafter, a man sacrifices and prays to his ikenga daily or every four days.

Mmuo or diverse spirits, in comparison with deities, are relatively less powerful spiritual beings. The inhabitants of the world (earthly beings) and diverse spirits constantly interact, though most people are not conscious of this interaction. Human beings living in the physical world interface with the Creator through deities and diverse spirits. The commonest deities and spirits among the Igbo are ancestral spirits and these are symbolized by *mmanwu* (masquerade). Masquerades, "in their ritualistic or theatrical functions" (Enekwe 2009), demonstrate the Igbo belief that there is an unbroken communion between the dead, the living and the unborn.

Ancestral spirits refer to spirits of the ancestors of a given family, group of families or community. The ancestors, it is believed, though dead, hover in the spirit realm from where they oversee the affairs of living members of the extended family. Hence, prayers and libations are frequently offered to them. Every day in traditional Igbo settlements, as many times as families receive visitors and offer them kolanuts, the ancestors are called upon for provision, protection and guidance.

Not all the clan's dead are ancestors. To qualify as an ancestor, the dead must have lived a noble life worthy of emulation, a life credible enough to be respected by the living. As an informed commentator put it:

> Death is not a sufficient condition for becoming an ancestor. Only those who lived a full measure of life, cultivated moral values, and achieved social distinction attain this status. Ancestors are thought to reprimand those who neglect or breach the moral order by troubling the errant descendants with sickness or misfortune until restitution is made…serious illness is thus a moral dilemma as much as a biological crisis. (Britannica 2019)

Ancestral veneration is rooted in the conviction of the Igbo that life is not terminated by death but continues thereafter in the realm of the spirit world. This is reinforced by the Igbo belief in reincarnation, that is, in the re-emergence of the dead, as a new-born baby, into the world of the living to live another life. A baby believed to be a reincarnation of a dead relative has the soul and some characteristic qualities of that dead person but otherwise is a baby in every other respect. Such a baby, however, may be given a curious name. If it is believed that it came as a reincarnation of either of its father's dead parents, the baby may be called "Nnanna" (meaning, "The father of his father") or "Nnenna" (meaning, "The mother of her father"), whichever is appropriate. Thus, the belief that the living and the unborn are inextricably connected to the dead is reinforced even in the naming of a new-born baby.

Just as some Christians believe in the intercessory powers of saints, the Igbo, through ancestral worship, appease the ancestors and seek their intervention in the affairs of the living and the unborn (Elochukwu 2014, 184). For the traditional Igbo, existence is essentially cyclical across the realms of the dead, the living and the unborn.

To conclude this section, it should be noted that there is no independent existence in the Igbo cultural belief system. Mortal and immortal beings are spiritually and cosmically connected. Although the High God (as *Chukwu* or *Chineke*) is not directly accessible to the Igbo traditional devotee, there are deities (*alusi*) and diverse spirits (*mmụọ*) through whom He can be reached. Every *alusi* is believed to be an incarnation of *Chukwu* who is considered too

complex and too sacred for direct interaction with the ordinary traditional worshipper. So, a traditional priest called *Dibia* (a word which, depending on the context, also means seer, herbalist or healer) interfaces, using the medium of an *alusi*, to offer help to anyone in need of the deity's spiritual intervention.

Dibia has two main methods of mediating between the people and the deity, namely,

1. Through *ígbá áfà*,[7] an inquisitious divination from which the dibia usually emerges with "answers" – answers as to what or who caused a given problem; "answers" regarding what must be brought or sacrificed to *alusi* to appease the gods and access solutions to the problem.

2. Through offering sacrifices, which usually includes slaughtering of an animal whose blood is sprinkled upon the *alusi* or totemic objects in its shrine, the *dibia* (traditional priest) appeases the gods and pleads with them to release the supplicant's desired remedy or revenge.

6. *Okike*: Creation and the Creator

Okike or Creation is directly under the control of the Supreme Spirit, Chukwu or Chineke. Chukwu is invisible, immortal and inaccessible to mortal beings. As such, no altar or place of worship is built for him.

In Igbo cultural belief system, God is popularly conceived in terms of His creative essence. And in this sense, the Igbo call Him *Chineke*, a closed compound word pronounced as a single unit of meaning but which, morphologically, is made up of three words, *Chi* (Supreme Force), *nà* ("and") and *ékè* ("create" but, in this usage, "[one who] creates"). These two keywords are joined by the preposition *nà* ("and") because neither *Chi* nor *ékè* is adequate enough as an independent noun to express the Igbo concept of "The Supreme Force who is Creator."

The duality in "*Chi na eke*" is a gendered one. *Chineke* as the progenitor of all things is conceived as embodying the timeless womb from where all things emerge. Hence, "Chi" is regarded as a masculine or father-figure force while "Eke" is perceived as a feminine, life-mothering, essence. In "*Chi na eke*" (compounded as *Chineke*), therefore, the masculinity and femininity of God, as conceptualized by the Igbo, is given singular expression.

It should be noted that "*Chi*", in the above contexts, is a corporate Being. But every individual has got his or her own "*Chi*" – an earth-bound personal god or guardian spirit which *Chukwu* assigns to every individual before their birth and which guides them throughout their lifetime. Every one's destiny is a delicate balance between the dictates of their personal *Chi* and the resilience or feebleness of their own will. Hence the saying, "*Onye kwe, Chi ya ekwe*"

(meaning, "If someone says yes, his or her *Chi* would say yes").

The duality in Chineke is, perhaps, the foundation for the pantheistic aspect of Igbo religion and the pantheon of gods spurned by this attribute. But in Odinani the Igbo religion is also monotheistic and God is primarily conceived as the Supreme Being before being a being of dual or multiple essences. In reflection of this monotheistic aspect of Igbo spirituality, God is called *Chukwu* (the Greatest Being or the Greatest Spirit). God as the Ultimate *Chi* is a singular Being distinguished from other Igbo conceptualizations of God by the superlative adjective, "ukwu" (meaning "greatest" or "highest"). Chukwu (*Chi ukwu*), therefore, is the timeless Supreme Being who, as Chineke, created all things. Chukwu is the Supreme Deity in Odinani as He is the Head of the pantheon of Igbo gods and the Igbo people believe that all things come from Him and that everything on earth, in heaven and the entirety of the spiritual world, is under His control (Onwuejeogwu 1975, 179).

Identified as the Creator of the planets, principally the earth, Chukwu is also known as *Chikeluwa* (*Chi kelu uwa*), which means "God who created the earth." As *Chikeluwa*, Chukwu is regarded by the Igbo as a solar (masculine) deity while *Ani* (land) is a feminine "being" who provides sustenance for human beings, animals and plants.

7. Conclusion

The major aspects and elements of Odinani explored in the foregoing have shown that Odinani is not just the spiritual belief system of the Igbo but their overall cultural and philosophical canon. All the cultural practices of the Igbo, spiritual and temporal, collectively called *Omenani*, and their overall perspectives on diverse aspects of life (family values, success drive, and burial rights) spring from the tenets of Odinani they have consciously or unconsciously imbibed.

The view in some quarters, which has gained currency in some sections of the media, that Odinani is "the traditional spiritual practices of the Igbo people" needs to be revised. And if this paper has succeeded in raising awareness in this regard, it would have made a significant contribution. For long, the overall body of Igbo cultural beliefs has been taunted as the religious practices of the group. This is not true. And probably the confusion arises because, in the words of Okagbue (2013), "For the Igbo religion is a way of exploring, understanding and coming to terms wth both the natural (material) and the supernatural (spiritual) aspects of their world". Odinani conceptually includes the material and spiritual aspects of the Igbo world. It is the Igbo worldview, not its religious practice. The Igbo religious practice is called "Ịgọ mmụọ" (worship/appeasement of or appeal to deities and diverse spirits).

We conclude by re-asserting the position of this paper: Odinani is not a cultural practice (religious or otherwise) but a cultural belief system. Although it is not exactly what Nwala calls "Igbo Philosophy", it has certain elements of Nwala's characterization of "that philosophy":

> That philosophy is unwritten and unsystematic. It was at the same time personalistic, highly ritualized and full of myths…It was pragmatic, meant to solve practical problems of food, security, peace and the general welfare of the community. It was thus non-systematic, less abstract in content, a bit conservative…Its ontology emphasized their belief in the spiritual nature of things and a type of cosmic harmony in which man and his actions are central, with supernatural powers and forces superintending. (Nwala 1985, 7-8)

Odinani is the cultural belief system of the Igbo people that directs and informs their customary practices (spiritual and non-spiritual). Odinani is a system of traditional beliefs of the Igbos, their unwritten canon that instigates their cultural practices.

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Language, Technology and Democratic Culture: A Sociological Analysis

Bukar Usman

Abstract

This paper examines the interplay of language and technology and their collective role in the development of a democratic society, such as Nigeria. The paper argues that language, as a conveyor of meaning, is what enables democracy and technology to make sociological sense, in conceptual and practical terms. It posits that without language, there will be no social understanding and, therefore, no stable environment within which technological innovation and democratic processes can take place. This is because language is the foundation of any socialization process and it takes a largely enlightened population, much more than technological processes, to drive and entrench a democratic culture. Drawing examples from China and Singapore, two of the notable countries that deliver education and development to their people using their local languages, the paper affirms that the more indigenous the language of a social setting, the greater change it delivers. The paper concludes that what makes a developed society work is not necessarily its advanced technology or "advanced" democracy but, essentially, its culturally enlightened and cohesive population.

Keywords: language, technology, democracy, culture

Introduction

It is easy to see the link between language and any sphere of human activity. This is because language is the conveyor of meaning, be it technological or democratic meaning. In its theoretical and practical dimensions, and even in its utilitarian functions, technology uses the vehicle of language – technical and everyday language. And, of course, technology is created to serve humanity within given social settings, the most self-governing and accountable of such settings being, in popular opinion, the democratic setting. Freedom of speech

and of the press is a defining characteristic of a democratic setting and this, recently, has been boosted in many nations by the adoption of freedom of information as a democratic right. All these rights and even the democratic process itself make sense to the people (for whom the parties and the elections are ideally organized) through the use of language.

So, both technology and democracy communicate meaning through the vehicle of language. It is difficult to advance technology and democracy without a corresponding advancement of language. Indeed, without language there will be no social understanding and, therefore, no stable environment within which technological innovation and democratic processes can take place. It takes language to aggregate and express group interests, negotiate political stakes and express political choices. It takes technology to advance these goals by, for example, using technological gadgets to effect biometric capture of eligible voters and digitalization of the voting and counting processes, among several other technological enhancements.

Such technical balloting system is usually effectively deployed in advanced social settings. What makes democracy work in such settings: their technology, their democracy or their people? The point we should note is that what makes such settings advanced is not necessarily their advanced technologies nor their "advanced" democracies but, essentially, their advanced population. A democracy is as good as the quality of the electorate and the quality of the electorate is determined by the kind and level of information available to the people. And information is conveyed through language.

It is the view of this paper that much of the success politicians have recorded in continually taking the people for a ride has deep roots in the average citizen's ignorance of the realities of his social environment and the politician's exploitation of this ignorance through manipulative use of language. To put a stop to this, or at least minimize it, we must as a people make the education of every citizen of Nigeria a national priority. We cannot build a sustainable accountable system upon an unenlightened population. Education increases the quality of the educated, opens them up to wider information, and makes them less susceptible to social manipulation.

Language and Democratic Culture

While not contesting Jack M. Balkin's well-known position that "digital technologies alter the social conditions of speech," (Balkin 2004) this paper asserts that it takes a largely enlightened population, much more than technological processes, to drive and entrench a democratic culture. For our democracy to deliver peace and prosperity, it must transcend the current trend where it is merely a four-year event to a possible future where it becomes a

culture – our own home-grown democratic culture. And we need to pin down what this democratic culture really amounts to.

What is a democratic culture? The concept can be defined as follows:

> A democratic culture is a culture in which individuals have a fair opportunity to participate in the forms of meaning-making that constitute them as individuals. Democratic culture is about individual liberty as well as collective self-governance; it concerns each individual's ability to participate in the production and distribution of culture. (Balkin 2004)

This definition is notable because it is individual-oriented and places key emphasis on meaning-making. Language is about meaning-making. Unless we develop the capacity of the average citizen to make sense out of our currently elitist approach to technology and democracy, we will continue to face grave challenges in these areas. Currently, our indigenous languages are hardly deployed in meaningful communication that galvanizes our people's potential for fruitful participation in nation-building programmes and processes. Yet, attempts are being made to involve them in technology-driven civic engagements, such as voter registration and the current nationwide national ID card registration exercises.

This paper is not opposed to technology. Technology has delivered some very useful inventions, such as the internet and the mobile phone. The internet in particular has proved very useful in making information available to all in the quickest possible time. Google's role in this regard is remarkable. But there are negative impacts of this development that indicate that unless we secure the "nature of man," his capacity for meaning-making and meaning-internalization, he may become a robotic victim of technology. Lee Siegel, a celebrated social critic, thinks that

> All this boosterism and herd-like affirmation is bizarre because the internet is a new mode of convenience, nothing more, nothing less. It has not made society more egalitarian, it has not made modern democratic politics more 'transparent', it has not made us happier. Rather, it has made our appetites more impatient to be satisfied, devised new, speedier ways of satisfying them, and created more sophisticated methods of monitoring and controlling our private lives. (Siegel 2017)

To change the negative impact of the internet, as painted above, what we need to change is not the internet but the meaning-making nature of the internet-user. Language is a very vital driver of change; the more meaningful the language, the greater change it delivers. No language conveys meaning to our people more than their indigenous languages. We can employ indigenous languages as weapons of change; we can use it to stimulate our technological and democratic development.

Indigenous Languages as Drivers of Technological Growth

Given the foregoing, the connection between language and technological development is in general terms self-evident. Technology is invention through thought. Thinking is done and articulated through language. Therefore, thought, language and technology are inextricably linked. It is through language that we express feelings, and conceive and impart information – even scientific and technological information.

Language is a major means for human communication and is central to training, effective management, and the provision of services. Language could either be a barrier or a facilitator of economic activities. It can be a barrier even in language-based vocations e.g. translation, interpretation, the media, tourism and teaching. In fact, there is no domain of economic activity in which language does not play a role. The degree is only determined by the linguistic character of the community (Webb 2003:61-84). It is therefore paramount for every society to ensure its indigenous language is developed enough to drive technological growth.

To do this successfully, an indigenous language must be fully codified. Linguistic development is partly the attainment of proper codification of a given language. In addition, the language must be in constant use by its speakers. Unfortunately, most Nigerian languages are yet to be fully codified. They lack systematic description and are not documented. It is therefore pertinent for speakers of non-codified languages to note that gone are the days such duties are left solely for government. It is now the responsibility of speech communities to sponsor the codification of their languages. The codification will facilitate development on various fronts. It is only fully codified languages that are taught in schools due to availability of orthographies.

By learning to write their indigenous languages, speakers of such languages can put down their thoughts, including innovative thoughts, on paper and this can be the seed of some technological product. Who knows how many technological initiatives have died unexpressed because of the non-literate status of indigenous inventors? That someone cannot speak a foreign language does not mean he cannot think creatively. We need to develop our indigenous languages to the point where it can be used in introducing our students to science and technology.

Many scientific and technological ideas did not originate in China; yet, through learning those concepts in their native Mandarin language, the Chinese have made enviable scientific and technological strides. Their frontline scientists do not speak English, French or German. Whatever made them successful scientists they learnt and practised using Mandarin. This shows that linguistic

development is necessary for any meaningful and desirable development. If someone thinks China succeeded because of its huge population, what about Singapore, a country of 5.399 million people that has successfully deployed its national language, Malay, in its technological development. There are many Nigerian languages that are spoken by over 5 million people. Are there any Mathematics, Physics, Chemistry or Biology textbooks written in those languages? This writer is not aware of any.

Scientific or technological development cannot be attained by a people who have not developed linguistically. Suffice it to say that all technologically developed nations and societies must have attained linguistic development prior to thier scientific or technological development (Amfani 1999).

The relationship between language and technology differs from place to place. Relationship in terms of the effect of one on the other also varies from language to language. The differences correspond to the level of technological sophistication of the society and the level of codification of the language. The failure of most African governments to develop robustly their local languages for use in generating wealth and technological development has led such countries to failure and stagnation in many areas.

Sustaining Our Local Languages

For the rest of this paper, I will dwell largely on sub-themes related to the need to sustain our local languages, as it is only when a language is in existence that one could relate it to technology, democratic and other cultural expressions.

The current state of our indigenous languages is captured by this remark:

> In spite of the strong emphasis linguists, oral folklorists, writers and experts place on the need for parents to transmit their mother tongues to their children through active usage at home, many people across the world are yet to heed this call. In nowhere else is this negligent attitude more glaring than in parts of Africa, especially among small ethnic groups with minority languages. These minority languages are battling the onslaught of majority languages fostered on them by a multitude of factors not least is rampaging globalization that is fast assimilating and annihilating secure traditional lifestyles and modes of living. (Ajeluoron 2015)

This writer hails from one of the most linguistically diverse parts of Nigeria and, as such, attaches great importance to the fortunes and misfortunes of indigenous languages. Troubled by the fate of minority languages in Nigeria, I wrote a book (Usman 2014) drawing attention to current issues about language disappearance with particular reference to the linguistic groups of Biu, Borno State, North-Eastern Nigeria. In so doing I thought I could join linguists and

other stakeholders to sensitize and urge all concerned to take urgent steps to save our endangered indigenous languages, especially the many minority languages currently threatened with extinction.

Among Nigerian linguists, the most worrisome question currently is: how many languages do we have? For many years now, nobody seems to know (Emenanjo 2003). According to *Ethnologue* (2009) Nigeria has a total number of 527 languages. Out of this number, 514 are living languages; 2 (English and Pidgin) are second languages without mother tongue speakers while eleven (Ashagana, Auyokawa, Bassa-Kwantagora, Fali of Baissa, Kpati, Lufu, Shirawa, Taura, Ajanci, Basa-Gumwa and Teshenawa) are languages with no known speakers.

It is important to note that Nigerian languages vary in terms of numerical strength and social influence. The determination of the numerical strength of languages in Nigeria presents a peculiar problem under the current National Census Policy. As I observed in my book:

> …so long as the current policy on population census which excludes reference to an individual's 'ethnic' and other statistical indices subsist, it will be impossible for interest groups to evaluate the 'growth' or 'demise' of any particular language group on the basis of its 'absolute' population and 'proportion' of its speakers in relation to the total population or any given segment of the total population. (Usman 2014)

I went on to argue that while on grounds of overriding public policy:

> …the exclusion of 'ethnicity' may be desirable and defensible on the basis of the promotion of national unity in diversity; it is an obvious constraint in the evaluation of the fate of ethnic languages at present and in the future. (Usman 2014)

It is perhaps pertinent at this stage to state briefly how I initially came about taking interest in language matters. This interest is linked to my literary career which bloomed after my retirement from the federal public service in 1999. When I embarked on writing *A History of Biu*, a book centred on my community, I came across a statement by one of the pioneer foreign missionaries who came to my area in 1923. He was an American named Albert D. Helser. He narrated how, within two to three years of their arrival in Biu, he and his colleagues had proficiently learnt Bura as a working language. At that time, Bura language was not well documented; the precarious situation of the language made him to express fears regarding its possible disappearance. His words:

> So far as I could learn, no white man had ever spoken Bura when Mr Kulp and I came into Buraland. The natives were blissfully ignorant of

> any such thing as writing. Mr Palmer a government clerk and a native of Sierra Leone, had learned Bura and had compiled for government uses a brief grammar of Bura done in English. This was now our starter. After three years, St. Marks Gospel, "first" and "second" readers, an Old Testament story book and life of Christ have been printed in Bura. A dictionary-grammar, a translation of the Acts of the Apostles, a book on hygiene and sanitation and a song-book are now (1926) in preparation. (Helser 1926:8)

For that reason, he ominously predicted that "*During the next half-century, the Bura language may possibly give way to Hausa or English,* but for present and for some years to come, most of our work must be conducted in Bura tongue." (Helser 1926:8, italicized portions my emphasis)

I must say that that prophetic statement about the possible disappearance of Bura language initially frightened me, but after barely seven decades it is turning out to be a true prediction – unless something is urgently done to stop it! I will talk more about Bura language because I believe the case of Bura symbolizes the fate of many minority languages of Nigeria. All of them, like Bura, are threatened.

Kanuri language was the first threat to local languages in Biu area but Hausa has overtaken it as the major threat to all local languages of the area. Like a catfish eating up smaller fishes, Hausa's dominance in Biu area's linguistic stream seemed unchallenged but English, for long warming up behind the scene, now poses almost the same threat as Hausa. Right now, most people in Biu area, including the young and the old, can hardly read and write in any indigenous language or converse fluently without interjecting Hausa or English. Today, almost all speakers of Bura are bilingual. It is difficult to meet someone who speaks only Bura but there are many Bura/Hausa, Bura/English and Bura/Kanuri speakers. The few adults who still speak Bura with passable level of proficiency surprisingly blissfully hope that the Bura language cannot disappear. Yet, the threat of Bura being swallowed up in the future by any of those three languages is foreseeable.

Even in the educational sector, Bura is suffering intense neglect. The Bura primers produced by the missionaries are no longer in circulation. I am not sure Bura literature is taught in any educational institution – primary, secondary or tertiary – in the whole of Borno State nor am I aware that any informal class in Bura-language resuscitation and sustenance is being conducted. But the reversal of this trend is possible. Unfortunately, many minority speech communities appear satisfied with the current state of affairs even when it amounts to their approving the death sentence of their indigenous languages. Urgent action is required to save Bura language and other threatened minority languages of Nigeria. And this is basically not a programme for government; it

is the primary responsibility of the owners of the indigenous languages. The United Nations and UNESCO have warned that the rate at which languages are disappearing across the globe is alarming, and that unless the trend is reversed, the loss in unique cultural values that accompany language disappearance will make the world a culturally poorer place.

It must be mentioned here that one of the major functions of Departments of Languages & Linguistics and the Language Institutes and Centres of Nigeria should be to facilitate the codification of local languages. Speech communities in Nigeria should therefore engage such institutions for this valuable service.

Using Nigerian Languages to Drive Technology

Pasquali (1997:33) has emphasized the importance of using Nigerian languages to drive technological development. And this paper would like to share in detail some of his thoughts on this issue. He says that

> …people must find their own language to articulate the world in their own language and to transform reality in search of their own dreams. This means that technology must be acquired or domesticated through acceptable integration of Nigerian languages. Such languages especially the 3 big sisters, Hausa, Igbo and Yoruba have been used by Microsoft in conjunction with African Languages Technology Initiative (Alt-I), Ibadan to produce a translation of most computer terminologies in them (Amfani Ms). Despite this positive development there are many other languages with millions of speakers where nothing of this sort exist; even with the big 3 sisters, they still need to be developed for an all-round technological development. That means an appropriate technology must take root in the language of the soil and we must see technology as defined by UNCTAD (1977) cited in Adiele (2002:6).

Adiele quoted UNCTAD as saying that technology:

> …involves not merely the systematic application of scientific or other knowledge to practical tasks, but also the social and economic atmosphere within which such application has to take place…Even the attitudes and values of people are, in a sense, part of technology since they affect the capabilities of a nation.
>
> Currently, Information Communications Technology (ICT) has brought about not only new ways of doing things but also the development of its own language which only the initiated could understand. Terms such as text, uploading, downloading, online, tweet etc no longer carry their ordinary English meanings. There are other new terms such as chatting, email, e-commerce, e-banking and some queer expressions such as BRB (be right back), LOL (laugh out loud).

Technological dynamics have brought changes in the culture of doing things. Ositadimma Nebo, professor of engineering and former Vice Chancellor, University of Nigeria, Nsukka, as well as former Minister of Power (February 2013 to May 2015) recently acknowledged this. Explaining his reluctance to go back to teaching after his ministerial appointment, he said:

> …I have been teaching engineering in the university for a good part of my life, and I think going back now to teach students of the i-Generation – people who now use iPhone, i-everything and with engineering so dynamic – I have to go for a refresher course. Otherwise, I will end up being taught by the students I'm claiming to teach. So I would rather do other more practical things that I believe I can do. (Vanguard 2015:17)

Some encouraging technological approaches are making impact outside the classroom and in remote parts of Nigeria. A Nigeria police officer Mahmood Mohammed Dahuwa was reported to have earned promotion to the rank of an Assistant Superintendent of Police for using a wide range of technologies to identify and track down criminals. Using his technology, he has helped in bringing down the crime rate in Karim Lamido local government area of Taraba State. (Nation 2015:31)

The change in vocabulary comes so rapidly nowadays that even compilers of dictionaries could hardly keep pace. Publishers of English dictionaries are said to wait for about a period of five years for the new words or expressions to firm up before they could include them in up-dated dictionaries. Hausa language has not been spared the effect of technology in its development too. For example, Hausa has coined new terms to keep up with the digital world. Hence *yanar gizo* (spider web) is the name given to the internet while *na'ura mai k'wak'walwa* means computer. Several other languages might have crafted such descriptive terms.

Below, I would like to briefly situate culture in terms of its specific relationship to technology, language and human rights.

Culture and Technology

Transfer and transmission of science and technology is one of the ways of ascertaining the realization of human potential. In the transfer process, we often ignore the fact that science and technology are cultural phenomena. They are the superstructure culture while language is the base. This is precisely why the transfer of science and technology in Nigeria often achieves peripheral results. Bamgbose (1994) aptly submitted that "unless there is technology culture, the seed of transferred technology will fall on barren ground and it will not germinate." (Obafemi 2012)

As expressed above, there has always been a connection between technology

and culture with one having an influence over the other. This influence has been more significant since the advent of the 19th century. Technological development has changed culture positively and in some ways negatively. Positively, culture drives technological development for higher achievement. (Vanguard 2015:17) There is no gainsaying the fact that undeveloped traditional societies have limited capacity to develop technologically. The negative aspects of technology on culture can be seen in the breakdown of family values in the lives of rural dwellers that flock to the urban centres to work in industries and other establishments using current technologies.

Culture and Language

It is said that there are up to two to three hundred and even more definitions of culture. Culture embraces the totality of inherited and innate ideas, attitudes, beliefs, values, and knowledge, comprising or forming the shared foundations of social actions (Mahdi and Jafari, 2015). Numerous definitions of culture suggest that there is no single all-embracing definition. To me, culture is simply the totality of the way of life of a community or society developed over time.

Language is often seen as the flip side of culture. Culture and language are like the two sides of a coin. Viewed in another sense, language is a vehicle of culture. To vividly drive home the relationship, those familiar with temperate climate compare culture to the iceberg while language is the tip of the iceberg. Remarkably, so intimate is the relationship between language and culture that in the event of the death of a language, culture and nearly all that are associated with it also vanish. What may be spared are the more permanent features (materials) of a culture such as the more enduring artefacts (nowadays preserved in museums). Fortunate to survive also may be societal practices (including non materials) that are preserved in writing or by digital means.

Quite significantly, another vivid example of the relationship of language and culture can be seen in expressions of different languages. For example, the expressions of native Hausa speakers will convey Hausa culture while the expressions of Yoruba and Igbo speakers will invariably convey the cultures of the speakers of those languages. It is also noteworthy that though a society may speak the same language, the speakers may not necessarily share the same culture as they may be living in different environments. This explains the slight differences that are easily noticeable among the Hausa of Nigeria and the Hausa of Mali or even our close neighbour, Niger Republic. As is often the case, a person who grows up away from his place of birth and does not speak the mother tongue is said to have lost the original culture. This is particularly so in the case of a child. If one takes away a child from its place of birth, the child easily forgets the mother tongue and learns the language of the new

environment. It is only when a person relocates as an adult that the person tends to resist new cultural influences, having already been formed in character and other cultural practices in his original environment.

Culture and Human Rights

The reference to democratic culture in the topic of this paper introduces ideological connotations in some societies, in the sense of the freedom of individuals to freely express themselves in their languages. In this sense, human right issues bordering on democracy are embedded in the topic. Human rights, including democratic freedoms, are not absolute. Often, many societies consider it needful to impose some restrictions, be they administrative, judicial or technological restrictions, to limit certain excesses in order to protect the overall health of the society. (Balkin 2004) It should be clear that this democratic slant does not in any way mean that people living in non-democratic societies have no culture or rights of their own.

Current thinking in democratic Europe on preservation and promotion of "individual" and "collective" rights, some of which are already contained in the European Convention on Human Rights (ECHR), centres around five inalienable "personal rights" pertaining to languages. These rights include: right to be recognised as a member of a language community; right to have the freedom to use one's own language both in private and in public; right to use one's own name; right to interrelate and associate freely with other members of one's language community of origin; and right to maintain and develop one's own culture. The "collective rights" of language groups are four. They include: right of groups to have their own language and culture taught; right of access to cultural services; right of equitable presence of their language and culture in the communications media; and right to receive attention in their own language from government bodies and in socio-economic relations (Starkey).

Undoubtedly the rights as outlined, or the ingredients of them, exist in varying degrees in nearly every society. Only that some nations that embrace and raise these ideals to a higher level, to the point of making it part of their culture, go all out to propagate them as an ideology and that, arguably, is the cause of disagreements in many troubled spots of the world today. Indeed, over the last two decades, such propagators have introduced issues of human rights into almost all facets of human endeavour.

Language and Learning

There is a growing realism amongst scholars, especially language experts that linguistic attributes can influence learning. Language is looked at as human capital and the language skills of an individual are interpreted as a source of

educational and economic advantage. A reader of a review of my book emailed his experience to me, thus:

> I understand that the more languages one speaks the bigger ones brain. This is largely because one would have access to more words and therefore a richer vocabulary. If this is combined with an art of communication it is an extreme wealth. I recall reading somewhere that the best diplomats are great linguists and communicators. Today code and logarithm writers are predominantly white Cauca- sians, male and western. There is a good percentage of Asian-Chinese, Japanese. And these are the people that control global trade (Oklobia 2015).

Individuals and nations who are not able to use their languages for all main transactions of their daily lives are doomed to life of dependency in the shadow of the languages of the colonizer (Djite, 1993 and Prah, 1996). What this means in reality is that the enforced use of the foreign (European) languages bring about, among other things, a deadly decrease and even total loss of creativity.

This, perhaps, is one of the reasons Nigeria has documented its language policy and policy directions. These largely positive official positions can be found in

- The Constitution of the Federal Public of Nigeria (1979, revised 1989 and 1999)
- The National Policy on Education (1977, revised 1981, 1998 and 2004)
- The Cultural Policy for Nigeria (1988)
- The Nigerian Broadcasting Code (1993, revised 2006), and 2014 – 9 Year Basic Education Curriculum

Unfortunately, the language policy pronouncements contained in these documents, especially those relating to local languages, have remained largely unimplemented due to the stakeholders' lack of interest.

Language Education Policy

As a result of Nigeria's diversity and the need to foster national unity, Nigeria's language education policy was anchored on the foundation laid during the colonial period. That policy states that

> …medium of instruction at the lower primary (the first three years) should be in the indigenous language of the child or the language of his/her immediate environment while at the upper primary school, English should be the medium of teaching and the major indigenous languages of Hausa, Igbo and Yoruba, should be taught as school subjects (Musa 2012).

The above policy must have stemmed from the report of the Phelps-Stokes Commission to Africa (1920-1921) that, inter alia, recommended that the "tribal language" be used in the lower primary classes while the "language of the European nation in control" should be used in the upper classes (Lewis 1962). The colonial governments, including the one in Nigeria, started implementing this as a policy. This policy was further reinforced by the UNESCO Meeting of Specialists (UNESCO 1953:47-8) that recommended that "pupils should begin their schooling through the medium of the mother tongue" and that "the use of the mother tongue be extended to as late a stage in education as possible."

This policy has been implemented mostly in breach. That policy was there before I was enrolled into primary school in the early 1950s. I was taught in Hausa (a language of the wider community) during my first two years of schooling in Biu rather than in Babur/Bura (my mother tongue and the language of the immediate community). When I moved on to King's College, Lagos, for my higher school education in the mid 1960s, the college rule discouraged students from speaking local languages. Anyone caught doing so was liable to punishment. With over 500 languages, Nigeria presents peculiar difficulties for educational authorities who are faced with the dilemma of choosing one language of instruction out of several options.

For long there was no authentic educational policy to guide the authorities. It was only 38 years after independence that a National Policy on Education (1977, revised 1981, and henceforth NPE) of the Federal Republic of Nigeria was promulgated and a National Education Implementation Task Force set up to ensure compliance with the NPE's objectives. For the purpose of unification of the various ethnic groups in the country, the language section of the NPE clearly required that each child should be encouraged to learn one of the three major languages (Hausa, Ibo and Yoruba) other than his own mother tongue (NPE 1981:19).

Incidentally, NPE contains the directive on language use in education which states that at the pre-primary level "the medium of instruction will principally be the mother-tongue or the language of the immediate community" (NPE 1981:10, section 2:11(3)). At the Primary level…the medium…is initially the mother-tongue or the language of the immediate community, and at a later stage, English" (NPE 1981:13, section 3:15(4).

The latest revision of the NPE on Nigerian languages as produced by the NERDC is contained in the 2014 9-Year Basic Education Curriculum. The document states that from primaries 1-6 to JSS 1-3, only one Nigerian language is recommended to be taught. The innovation here is that each school was allowed to freely choose which language to teach. By implication in all the

villages and communities, the language of the area has a chance to be taught. However, the choice of any particular language is not an easy one in a multilingual-community and cosmopolitan society.

Looking at it closely, the NPE recognizes five categories of languages, namely:

- The mother tongue (i.e. a child's first language).
- A language of the immediate community (i.e. a language spoken by a wider community, and generally learnt and used as a second language by those whose mother tongue is a minor language).
- A major Nigerian language (Hausa, Igbo or Yoruba).
- English – the official language.
- A foreign language (i.e. French and Arabic) (Bamgbose 2000:70).

The country's language policy, thus, favours multilingual learning, and every Nigerian language is a possible candidate for use as a medium of instruction. However, we must also take into account that both pre-primary and primary schools are not all under the direct control of government. Pre-primary schools are in the hands of private institutions and non-governmental organizations. Parents send their children to these schools to have them introduced to English quite early.

Mrs. Maryam Adenike Abimbola, a linguist and Dean, School of Languages, Federal College of Education (Special), Oyo, had identified, among the problems threatening Nigerian languages, parents' complicity "in hindering the propagation of our indigenous languages by preferring to speak foreign languages, especially English, even in the homes." (Tribune 2015:10)

With respect to role of families in language transmission, there is an obvious dilemma among children of cross-cultural marriages. The experience of a couple illustrates this: the man, whose mother is from another ethnic group in Plateau State, is married to a woman whose parents are from distinct ethnic groups (her father is from Nasarawa State while her mother is from Kaduna State). The man is too busy to teach his children his own indigenous language though they can "pick" some words (*Saturday Sun* 2015:20). As an ostensible bail-out from this linguistic complexity, this family's children speak mostly English. But come to think of it, the man has the option of letting his wife teach their children her own language. After all, that is their *mother* tongue. So, even in linguistically mixed families, no excuse should hinder intergenerational transmission of mother tongues to children.

Another couple narrated a similar experience:

> We have a challenging problem. Personally I am part of the problem because my son does not speak Idoma – my dialect – nor Esan – my wife's dialect. He speaks only English. Now, if he spoke the three languages – English, Idoma and Esan (and pidgin English) – and assuming he becomes a computer code writer, the power at his disposal would be enormous. My point…if our languages become extinct a major chunk of our existence would have died too…you may have discussed only Biu, but you are raising a very fundamental issue about our future as a people – Nigerians and Africans, and not as Euro-composed. (Oklobia 2015)

The promotion of Nigerian languages in the educational system can only be a recommendation and individual families take the final decision on how to implement the recommendations for using the local languages as a medium of instruction in nursery and primary schools.

National Language Policy

Although Nigeria has a National Language Education Policy, there is no national language policy. This is quite understandable. Given Nigeria's diversity and the need to promote national unity, government appears to be wary of giving preferential promotion of one language over the other. This perhaps explains the non-adoption of the 1976 Constitution Drafting Committee's recommendation to the effect that English or any other language may be used in legislative deliberations as the National or State Assembly may by resolution decide. It thus appears that Nigerian languages are left to themselves to survive or die.

However on July 13, 2012, a technical committee made up of representatives from relevant ministries, language institutes, French and Arabic Language Villages, departments of languages and linguistics of tertiary institutions, parastatals, the six geo-political zones, experts and other critical stakeholders, was inaugurated under the chairmanship of Professor Ahmed Haliru Amfani, the former President of the Linguistic Association of Nigeria and a former member of the Governing Board of the Nigerian Educational Research and Documentation Centre, Abuja. One of the committee's terms of reference was to produce a blueprint of a new National Language Policy for Nigeria. The committee is yet to finish its job.

Institutional Contributions

Perhaps it will not be out of place to present to you an overview of some of the principal players that are obtainable in the field in terms of language development and promotion. This overview is by no means exhaustive.

Notable among the tertiary institutions that are in the forefront in the teaching

and development of Nigerian languages are the University of Ibadan, Bayero University Kano, University of Jos, University of Maiduguri and Usman Dan Fodio University, to mention only a few. University of Ibadan that has for a long time established linguistic department has also established a Yoruba Language Centre in 2010 to offer studies in Yoruba language and culture. Similarly, Bayero University Kano has established a Centre for the Study of Nigerian Languages.

There is also in existence at Aba, Abia State, the National Institute of Nigerian Languages (NINLAN) that offers diploma courses in linguistics and Nigerian languages (Hausa, Igbo and Yoruba). The Nigerian Army established the Nigerian Army Language Institute (NALI) in Ovim, also in Abia State, with a limited objective of teaching its personnel foreign languages (principally French) to meet the challenges faced by the Nigerian Army in international peacekeeping operations. The Army had earlier established a College of Education in Ilorin (Sobi-Barracks). Run by the Nigerian Army Education Corps, the college had existed for over 20 years teaching languages to army personnel.

The following government institutions, according to a 1996 listing by Elugbe, are concerned with language development:

- University departments of Linguistics and Nigerian/African languages joined by similar departments of Colleges of Education
- Teachers Resource Centres
- A National Committee to advice Government on the production of textbooks
- Federal and State Ministries of Education
- Nigeria Educational Research Development Council (NERDC)
- State Mass Literacy Boards
- National Commission for Nomadic Education
- National Commission for Mass Literacy, Adult and Non- Formal Education
- National Institute for Nigerian Languages
- National Primary Education Commission
- Centre for the Study of Nigerian Languages, Kano

Added to this list is Ministry of Culture and Ijaw National Affairs, Bayelsa

State (Ohiri-Aniche 2013). Ohiri-Aniche and Haruna (2014) also listed some communities and individuals involved in language perseveration and promotion to include:

- Kay Williamson Educational Foundation
- The Jos Linguistic Circle
- CəLela Promoters and Trainers
- Kambari Language Project
- Urhobo Resource and Language Learning Centre (URLL), Lagos
- Centre for Igbo Arts and Culture, Abuja
- Yoruba Folktales through the Net

The Linguistic Association of Nigeria (LAN) remains committed to not only sensitizing people to the potential extinction of some languages but also assisting communities and stakeholders to arrest the looming danger. LAN has also been advocating a language policy summit to be held along the lines of such countries as South Africa and India to come out with comprehensive and practical recommendations to safeguard our languages and ensure that every one language flourishes. However, a positive response to that effect is being expected from educational and cultural authorities and from the various legislative houses.

Meanwhile, LAN has been prominent in encouraging and working with different speech communities to preserve their languages. In the last three years, LAN has collaborated with the NERDC, the Urhobo (Delta State), the Ijaw (Bayelsa State), and the Jukun (Taraba State) to produce their orthographies and curricula for their primary schools. The efforts made have all been presented at the Joint Consultative Council (JCC) and the National Council on Education. In addition, the orthography for Cl'ela in Kebbi State has also been completed and is due for presentation at the next JCC. Beyond all these achievements, LAN constantly does advocacy work with communities and State Houses of Assembly to urge them to start supporting the production of their orthographies, curricula and primers for use in schools. The postal address of the secretariat of LAN is C/o Prof. Andrew Haruna, Department of Linguistics and Nigerian Languages, University of Jos, PMB 2024, Jos, Plateau State.

Globalisation

In the current state of growing social interaction in the world, it is worthwhile to situate language issues in the context of globalisation. While the UN is

making effort to encourage minority language groups not to give up on their own languages, the world body is guilty of entrenching certain major languages over others in its official policy, especially in its policy of making only six out of the over 7,000 languages in the world the official languages to be used during its sessions. As globalization permeates many countries, communities and clans, there's a growing tendency for many speakers of indigenous languages to abandon them for more prestigious and economically useful majority languages.

In one of my books (Usman 2014), the disappearance of African and other languages was traced to the official policies and practices of imperial powers and the subjugation of languages of smaller groups by speakers of the leading major language. I argued that while the linguistic dominance of colonial powers stems from military supremacy, the dominion of a language over others in the same country is usually due to its speakers' huge population and the prestige and privileges that come from speaking that language. Adequate measures need to be taken at the communal level to prevent the extinction of minority languages.

Strangely, even the major languages do not have the chance of surviving in their original forms. As time goes on, they would be subject to infusion and dilution as they influence and are influenced by other languages. For instance, there is a noticeable trend in Nigeria relating to English language. Farooq Kperogi, an Assistant Professor of Journalism in the Department of Communication at Kennesaw State University in Georgia, USA, has identified a developing brand of English tagged "Nigerian English" (as opposed to "British" and "American" English). Kperogi has found the trend serious enough to write a book recently on this subject. A review of his book titled *Glocal English* reveals the characteristics of the Nigerian variety of English as:

> …the fastest-growing non-native variety of English popularized by the Nigerian (English Language) movie industry and the Black Atlantic Diaspora…the book isolates the peculiar structural, grammatical, and stylistic characteristics of Nigerian English and shows its similarities as well as its often humorous differences with British and American English…and demonstrates true comparisons with American and British English with its distinct vocabularies and rules of usage." (Kperogi 2015:41)

In terms of spelling, the original (British) English is gradually giving way to American English and this is likely to continue as most computer programmed languages carry the American spellings. In fact currently if one uses computer that has American applications it would underline spellings in British English as wrong spellings. Some examples, with American spellings on the right,

would include: centre/center, colour/color, labour/labor organise/organize, honour/honor, endeavour/endeavor, and sensitise/sensitize.

This constraint notwithstanding, globalisation has its beneficial effects as remarked by *Transpanish*:

> Although the future admittedly looks grim for some minority languages, globalization doesn't necessarily spell the end for all of them. Indeed, globalization can bring to the forefront the plight of some of these endangered languages, sparking attempts to revive them… (Transpanish 2015)

New Developments

There are some encouraging developments as there are today a few newspapers and magazines published in local languages for mass circulation on a limited scale. Among these are *Aminiya, Leadership Hausa, Rariya, Mujallar Muryar Arewa, Mujallar FIM, Mujallar Manoma, Mujallar Gambiza, Kakakin Harisawa, Ido Mudu* which are published in Hausa in the North while *Irohin* is published in Yoruba in the Western part of the country. Apparently, there are no similar publications in the East. The brief news in some local languages aired by some electronic media establishments across the country cannot be relied upon for any effective language development.

The commercial production of home videos in some major languages, largely through private efforts, is a good development. These have helped in no small measure in generating and sustaining interest in the languages of the productions. Such endeavours should be greatly intensified while speakers of minority languages would do well to replicate such efforts in their local languages.

Another welcome development is a recent action taken by the Lagos State House of Assembly which expressed concern at the threat of extinction of the Yoruba language and passed a resolution urging the state government to direct the State Ministry of Education to ensure the teaching and learning of Yoruba language in the state's public and private schools. (Nigerian Pilot 2015:22)

Similarly, concerned at what it perceives as a pitiable deficiency in effective communication in Izon language among the various age groups in Bayelsa State, the state government embarked on measures that would ensure that all Ijaws become competent speakers of Izon. In so doing, the state government urged parents and guardians to do their best to ensure that their children and wards could speak Izon fluently. The state government had also made wide consultations following which several books had been written in Izon and were being distributed to public libraries. (Punch 2015:4)

Another encouraging development is that, there is now a competent computer keyboard for typing Nigerian languages. It is the Koinyin Nigeria Multilingual Keyboard, produced by LANCOR Management based in Lagos.

On the international level, the government of Pakistan has introduced a bill that seeks to replace English with the native Urdu language as the official language. (Propakistani 2015)

Conclusion

The effect of technology on language cannot be subject to regulation by any authority as change in language is simply a natural response to advancement in technology that is either being promoted by the society that develops it or accepted by the society that sees the new technology as contributing to the enhancement of its living standard.

Cultural influence can hamper the speedy growth of technology in a given society but not to the extent of stopping such growth. Technological influence, as it permeates, can break cultural barriers and effect changes in a people's way of doing things.

As technology affects a given culture, it affects all aspects of that culture, including its language. Generally, every society has its culture while a democratic society has more clearly defined rights which every member of that society is expected to live by. It is the attempt to propagate such ideals in another society with a different culture that tends to provoke conflicts. In that sense, although it is only proper for culture to evolve naturally and change or sustain itself, this is becoming practically impossible due to globalisation.

Given the government's dilemma in language promotion, the greater initiative would seem to lie with the speech communities and interest groups who would need to take steps to safeguard their languages from extinction. They should endeavour to engage the services of experts to analyse their languages and come up with orthographies of their languages. They should thereafter produce attractive publications that would sustain the interest of their native speakers especially the young ones. That also requires securing the services of trained native language teachers.

It is the responsibility of science and technology, and indeed all of us, including the family, community and special schools, linguists, and policy makers, to be inspired enough to take up these challenges against the erosive forces of language disappearance.

We must have language-specific programmers who would help us to tap into the beneficts of relevant technological developments. We must invalidate the myth that our local languages are not competent and appropriate for scientific

and technological purposes. What we need to do, as a matter of conscious national policy, is to establish Language Technology Centres to serve as language laboratories, where findings of technological and scientific research, can be codified into suitable language concepts. Terminologies, modes of expression and vocabularies (in lexical and structural terms) can be in the local languages, chosen from among, in the first instance, the major languages in which the inventions and findings had been carried out. Relevant softwares to support such inventions should be developed.

UNESCO has pointed out certain steps that can be taken to avoid language extinction. They include:

> preparatory work in form of socio-linguistic surveys defining the current situation of the language to be studied and determining the safeguarding measures to be adopted, data collection to study the phonology, morphology and syntax of the language and thirdly preparing language materials (orthography guides, reading and writing manuals, teacher guides, word lists, small dictionaries, grammars). (Usman 2014:65-66)

It is clear that no matter the degree of endangerment of any indigenous language, its speakers, if determined, at family and communal levels, can stop the disappearance of its linguistic heritage largely by ensuring that intergenerational transmission of their mother tongue is implemented in every household. An example of this is the nomadic Fulani who have used this method to preserve Fulfulde for several generations. This is the bottom line. It is the most basic and effective measure. Intergenerational transmission should therefore be considered to be the bloodline of language preservation. Only when an indigenous language is preserved and flourishing can it be an effective vehicle for the growth and development of technology and democratic culture.

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