

## **Folkloric Media as Veritable Human Rights Strategy for Development Communication in Nigeria: Beyond the Permissible Nuances**

Ismail F.O.

National Agricultural Extension and Research Liaison Service, Ahmadu Bello University, Zaria, Nigeria  
Correspondence: [ogidiolu02@hotmail.com](mailto:ogidiolu02@hotmail.com). Tel: +2348099443554

**Abstract:** Traditional cultural forms — often loosely and interchangeably referred to as traditional media, folk media and folk art forms such as drama and songs — are strong and effective means for development communication. They are rooted in indigenous culture. Originating from different societies and evolving over time, they have been used for moral, religious and socio-political education. These forms are still alive and receptive to new ideas, and therefore have great potential as development communication tools. The initial problems in every approach to folklore as communication tools are definition and terminology. Not only does the definition of folklore differ from discipline to discipline, from context to context and from time to time, it also evolves as society and its values change. Moreover, at an international level, a dichotomy between the meaning of folklore in the developing and developed world can often be observed. In addition, for intellectual property purposes, especially in documentary and theatre for development, it is necessary to have a clear and shared understanding of what is legally meant or not meant by the term folk media. In what follows, the most common meanings and the basic concepts underpinning folklore across nations and cultures will enable the analysis of folklore from an international and Intellectual Property law perspective to sustain development projects from the perspective of protecting indigenous heritages. Traditional folk media forms are personal, familiar and credible. Community members can easily identify themselves as part of their folk art forms. Therefore, despite the rapid diffusion of new communication technologies, folk media continue to demonstrate value as effective vehicles for developmental messages. This paper therefore attempts a broader definition of folkloric media in order to echo its universal and intimate power for sustainable social change in Nigeria.

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### **Introduction**

Regardless of the educational, social and economic standing of any community the traditional media are powerful to the existence of the people. In many African communities, people use colloquial dialects to perform more than eighty percent of their communication despite the fact that the Western education with its attendant foreign languages have come to stay with us. The use of folk media makes indigenous communication clear and distinct. Another big advantage of folk media is that it is flexible in accommodating new ideas, themes and issues. Folk media satisfies the inner need for self-expression and everyone can participate in it.

Thus, it is particularly effective for community learning as well as the preservation and dissemination of the wisdom, tradition and culture of the past. These media are practically adaptable to incorporate modern development strategies. In its literal sense, the word “folklore” means “the wisdom of the people” (Thomas, 1846). However, it is not a trivial task to comprehensively define the term. Folklore potentially encompasses an enormous variety of customs, traditions, knowledge and beliefs that originate from

many societies throughout the world; it was adopted thereafter in practically all languages (Palethorpe & Verhulst, 2000). The context in which folklore is generated and preserved is important to its meaning, hence the need for any definition of folklore to reflect the internal cultural cognitive categories of that particular community. What is and what is not considered an element of “folklore” is therefore a difficult and subjective question to development experts. Thus, the consideration of folklore from an international perspective is extremely complex and sensitive. Indeed, it is often said that folklore and its protection is more an issue for developing countries than for indigenous groups in developed countries.

It is true that these communities are an important source of folkloric knowledge and they have been the primary focus and main initiators of the protection of folklore discourse. But folklore is a global phenomenon and has roots throughout the entire world. Many communities in developed countries and industrialized areas of developing countries maintain equally strong connections with their traditional culture. Nonetheless, folklore is approached differently in developed countries and developing

countries and indigenous groups. The developed nations tend to adopt narrow definitions, viewing folklore as tradition, while developing countries prefer broader definitions-viewing folklore as a continuing and constant cultural manifestation. Most importantly for this paper, these two contrasting views are extremities at either end of the “folklore continuum”.

As a result no widely accepted definition at international level has emerged to date (Palethorpe & Verhulst, 2000). Meanwhile, differences in perspective can help enrich the discourse, but because of the vastly different interests involved, with wide spread support from developing nations and indigenous support from developed nations for folklore’s protection, a compromise is needed. Only through a compromise will balanced, workable and efficient international instruments or mechanisms be achieved. As Alan Jabbour stated as early as 1982, the meaning of folklore is one of the “fundamental dilemmas presented by efforts to protect folklore through an intellectual property framework” (Jabbour, 1982). The meaning adopted will influence the question of whether folklore should be protected through Intellectual Property law and if so, to what extent and how far can development communication influence this. For all these reasons, this paper proposes to give meaning to the term “folklore” based on an analytical and value-free framework while putting it into account the common concepts of most definitions.

### Discussions

The discussions in this paper will be premised on content analysis of relevant literature from where the conclusions and recommendations will be drawn.

#### *Basic Concepts of Folklore*

Despite the differences in approach to the concepts of folklore; four basic concepts reappear throughout the various definitions, namely that folklore is: (a) tradition-based; (b) related to culture; (c) trans-generational; and (d) shared by a group or community. In the following examples, taken from a variety of viewpoints, elements relating to the four basic concepts will be italicized to highlight their generality.

(a) Folklore (or traditional and popular culture) is the totality of tradition-based creations of a cultural community, expressed by a group or individuals and recognized as reflecting the expectations of a community in so far as they reflect its cultural and social identity; its standards and values are transmitted orally, by imitation or by other means”(UNESCO,1989).

(b) Folklore is “the traditional beliefs, legends, and customs, current among the common people”(Oxford Dictionary, 2000).

(c) Folklore is “traditional expressive culture shared within the various groups...” (AFPA,1979). Therefore, it is a body of traditional belief, custom and expression, handed down largely by word of mouth and circulating chiefly outside of commercial and academic means of communication and instruction Every group bound together by common interests and purposes, whether educated or uneducated, rural or urban, possess a body of traditions which may be called its folklore.

Into these traditions enter many elements, individual, popular and even ‘literary,’ but all are absorbed and assimilated through repetition and variation into a pattern which has value and continuity for the group as a whole (Botkin,1993).

It is apparent that there is a degree of sensitivity surrounding the term “folklore.” It is considered by some groups to have the negative connotation of association with the creations of less advanced or schooled aspects of demography, for example the use of the words “common people” in the second definition above. This is one of the definitions that have continued to influence the deployment of the folk media for sustainable development in many parts of Africa. In a study in India by Manashi Mohanty and Pritishri Parhi, titled *Folk and Traditional Media: A Powerful Tool for Rural Development*, it was revealed that about 25 per- cent of respondents have highly favourable attitude towards folk and traditional media and same percentage of respondents do have least favourable attitude. But at least 50 percent of the respondents have favourable attitude.

The results were attributed to the fact that through acculturation, rural people gradually diluted their mind in appreciating the core value of traditional media where they get exposed to all modern electronic and printed mass media for getting message related to their welfare. But still some people who are ordinarily traditional minded and attached themselves to their respective culture do value favourably the folk and traditional media (Mohanty & Parhi,2011). UNESCO, one of the main international participants in the protection of folklore discourse, often uses “intangible cultural heritage” interchangeably with “folklore” while the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities [Special Rapporteur] prefers the term “indigenous culture and intellectual property” (U.N. Doc. E/CN.4/Sub.2/1994/56 (1994). For the purposes of the present the term “folklore” will be used throughout with recognition of the sensitivity surrounding this phrase. In addition, for the purposed of clarity, two distinctions have to be made from the outset between folklore and the expressions of folklore and folklore and cultural heritage.

#### *Folklore and Folkloric Media*

First, the phrase folkloric media or folk media has been produced by the rural community with their prevalent social needs and issues. The folk media has been coming from the past period of time. In other hands traditional folk media can be defined as the ways of transferring the knowledge and the wisdom to new generation from the past generation. Traditional folk media have some peculiar characteristic features over the electronic and print mass media. Even in the technology and the expansion of the traditional folk media covers the less, its potentials in effective communication have been more widespread and propounded. Folk media can be categorized into the following in Nigeria.

1. Chattering, gossips, riddles, proverbs
2. Folk lyrics and songs and singing styles
3. Folk dramas, skits and role plays
4. Storytelling, folk tales, riddles, idioms.
5. Drumming and folk music
6. Mask dance and puppet dance
7. Folk dances
8. Ceremonial occasions
9. Rites and rituals.

This notion differentiates the informational elements of folklore from the manifestations thereof through the media. The above distinction is potentially important from political perspective given that political connotation of the terms tends to protect the expression while leaving the idea for public and future use. The distinction between the two may also be confusing because while folkloric knowledge is inherently intangible, expressions of folklore can be either tangibly in physical objects or intangibly in visual or audible media. A piece of folkloric artwork is an example of a tangible expression of folklore.

The folkloric knowledge is the story or legend the artwork depicts or the traditional design or style used in its depiction, whereas the expression of folklore is the piece of artwork itself. On the other hand, folkloric tales, songs or dances are examples of intangible expressions of folklore. The folkloric knowledge is the story, legend, or tale that the song or dance portrays as well as the traditional style used in its portrayal. The expression of folklore is the tale, song or dance.

#### **Folklore and Cultural Heritage**

Second, it is important to delineate between “culture” or “cultural heritage” as a whole, and “expressions of folklore.” Concerns that may exist for the conservation and preservation of cultures around the world, especially minority cultures, are generally based on the importance of cultural diversity. These concerns, which will be given due considerations, are not central to this paper’s focus which is the possible need for protection of expressions of folklore. However, it is important to underline that attempts to

protect cultural heritage as a whole may have an externality in the protection of folklore.

The same applies to the concepts of and approaches to “traditional knowledge” and “indigenous knowledge.” The linkages between these notions are explained in the World Intellectual Property Organization (WIPO) draft report on “Intellectual Property Needs and Expectations of Traditional Knowledge Holders”. From WIPO’s perspective, as also outlined in the figure below, “expressions of folklore” are subsets of and included within the notion “traditional knowledge.” “Traditional knowledge” is, in turn, a subset of the broader concept of “cultural heritage.” “Indigenous knowledge,” being the traditional knowledge of “indigenous peoples,” is also a subset of “traditional knowledge.” As some “expressions of folklore” are created by indigenous persons, there is an overlap between “expressions of folklore” and “indigenous knowledge,” both of which are forms of “traditional knowledge.”

In 1976, WIPO and UNESCO developed the Tunis Model Law on Copyright for Developing Countries [Tunis Model Law], which provided potential for the recognition of folklore. Its design is to incorporate the protection of expressions of folklore into national copyright legislation of participating states. The Tunis Model Law allows for the protection for folkloric works by the inclusion of both economic and moral rights. It respects two critically important issues for the protection of folklore, that is, the absence of a fixation requirement and an indefinite term of protection. This accounts for the protection of orally transmitted, trans-generational expressions of folklore. Many African and other developing countries have adopted the Tunis Model Law in their national copyright legislation (Fiscor, 1998). However, the resulting legislation has developed with little coherence or continuity between the different states in terms of the utilization for social change.

The issue of the protection of expressions of folklore returned to the international agenda in 1997 at the WIPO-UNESCO World Forum on the Protection of Folklore [World Forum].

The World Forum resulted in the adoption of an “action plan” by the majority of the participants. It was stated that, inter alia,

*The participants were of the view that at present there is no international standard protection for folklore and that the copyright regime is not adequate to ensure such protection. They also confirmed a need to define, identify, conserve, preserve, disseminate and protect folklore which has been a living cultural heritage of great economic, social, and political significance from time immemorial. They emphasized the importance of striking a good balance of interests*

*between the community owning the folklore and the users of expressions of folklore. They were convinced that closer regional and international co-operation would be vital to the successful establishment of a new international standard for the protection of folklore.*

The majority of delegates endorsed the action plan; surprisingly the participants from the United States, the United Kingdom and others disassociated themselves from the action plan! This again may be re-confirming earlier that 'folklore' is seen as something of the local and not civilize. Several other legal and non-legal instruments have been pursued at the international level by international and non-governmental organizations. For present purposes it is necessary only to provide an indication of the nature and scope of these instruments as they contain rights, principles and concepts relevant to the protection of expressions of folklore under International Property Law. However, it is unlikely that they will form the framework of an international agreement on the protection of expressions of folklore. Nonetheless, they are important as they may influence the principles adopted by developing countries like Nigeria in their attempts to use appropriately folkloric media to propagate development.

Accordingly, the International Labour Organization Convention 169 (1989) (Convention Concerning Indigenous People in Independent Countries) itemize the following for observation by:

(a). Recognizing "the distinctive contributions of indigenous and tribal peoples to the cultural diversity...of humankind"

(b) Offering only limited rights to indigenous peoples for the protection of their knowledge (including expressions of folklore), although it deals with a much broader range of indigenous rights relating to land, natural resources, and traditional livelihood activities

This declaration has not been unanimously endorsed by the world's indigenous peoples and many flaws and loop holes have been identified in it even though it incorporates provisions for the protection of social, cultural, religious and spiritual values and practices, and respect for the integrity of those values and practices. Meanwhile, only seven countries have accepted the convention as law: Bolivia, Colombia, Costa Rica, Mexico, Norway, Paraguay and Peru.

### **Conclusions**

Folklore and folk media is universal to human culture and dynamic. It permeates all cultures and every nation. Competing views exist between and within nations, organizations, and cultures with regard to the different aspects of folklore, its media and how they could be protected and utilized for international development under the protection of international law

especially the Intellectual Property Law (IP). However, the differences that exist about how to define folklore, folk media, about what "expressions of folklore" are, if, and if so, why folklore should be protected, how it should be protected and how IP law might be used in that process shows that folklore and folkloric media are naturally indigenous, thus, their existence comes with relative cultural and traditional complexities which any legal arrangement may not be able to resolve. Therefore, establishing these perspectives is fundamental while designing development communication strategy will help enrich the discourse for sustainable development especially in Africa.

Finding an international approach to the protection of folklore and the use of folk media for development purposes is a complex balancing act and this paper therefore suggests the following recommendations and conclusions concerning the international protection of folklore and folk media under intellectual property laws as a tool for development:

I. The goal for international protection of folklore, as it appears from the weight of international conferences, Model Laws and studies, is to achieve a system that recognizes the integrity of works of folklore provides rewards for its creators and assures that the unique role of folklore, as a source of inspiration for global expansion of intellectual productivity, is maintained.

II. Any system of protection and encouragement of the creative process must take into account many elements, including the nature of the work, the nature of its uses, and the technical and legal tools (nationally and internationally) available. Folk media present an important example of a creative process that must be analyzed through a system of interrelated techniques.

III. With respect to folklore and folk media, such a system could include several elements outside legal protection. These include: (a) specialized training of indigenous people in identification, documentation with consistent documentation standards, conservation and the integration of folk media to disseminate development initiatives; (b) the provision of necessary financial resources to relevant institutions like the Centre of Excellence on Development Communication, Ahmadu Bello University, Zaria to research and document the utilization of folk media for sustainable national development and (c) the development of an effective national regime for the protection of folkloric expressions and media.

(IV). Because of the unique characteristics of folklore, the goals of sustainable social change and national development will best be achieved through an interrelationship between intellectual property law, other legal steps, and the first three elements listed

above (technical assistance, specialized training and provision of financial resources).

(V). With respect to the identification and documentation it could be useful that inventories of expressions of folklore be prepared on community basis: A focus on copyright law for this purpose will not allow important incentives such as economic rewards and protection of integrity for creators of folklore and user of folk media to some extent, thus, the need to be flexible with the application of copyright law for the use of folk media to accomplished development goals.

(VI). With respect to copyright law itself, this paper recommends: (a). That attention be paid more to requirements of community authorship; the scope of (anonymous) authorship could be considered for individual; a reversal of what obtains now. (b). As “originality” is a prerequisite of copyright, attention be paid to including communication works for folkloric media to meet the statutory standard of community culture in order to guide against the abuse of the media as been witnessed in many adverts in Nigeria.

The use of folklore for development agenda should go hand-in hand with appropriate media in order to denote genuine folkloric products or methods of production. Finally, traditional communities should pursue competition protection mechanisms when they are confronted with unfair communication behaviour in “passing off” and confidential information through folklore and the media e.g. story telling as tool for eliciting responses from community members in communication research.

These conclusions seek to be sensitive to the need to assure authenticity in the expression of folklore, minimize inappropriate uses of expressions of folklore and cultural harm caused by the such use through folk media and assure appropriate compensation for exploitation of folklore by international organizations, agencies, Non-government institutions and development experts under the guise of carrying out development programmes in Nigeria.

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