

# The Masculinity of Intellectual Property, Femininity, and the Malnourished Baby

*A Paper Presented by Senator Iyere Ihenyen\**

*at World IP Day, 26 April 2018, Petroleum Training Institute, Effurun, Delta State, Nigeria, organized by Friends of the Creator Foundation (FCF)*



## 1.0 Introduction

Today is World Intellectual Property Day (World IP Day), a special day observed every 26 April. This is the same month the convention establishing the World Intellectual Property Organization (WIPO) came into force 51 years ago.<sup>1</sup> World IP Day was established in wake of the 21st century to "raise awareness of how patents, copyright, trademarks and designs impact on daily life" and "to celebrate creativity and the contribution made by creators and innovators to the development of societies across the globe".<sup>2</sup> WIPO's mission is "to lead the development of a balanced and effective international intellectual property (IP) system that enables innovation and creativity for the benefit of all."<sup>3</sup>

This year's World IP Day is themed *Powering Change: Women in Innovation and Creativity*. I am happy to be here today to join the Friends of the Creator Foundation and friends of the Foundation to celebrate women powering change through innovation and creativity in Nigeria. With today's event, I will be drawing attention to one of the major challenges to innovation and creativity in Africa. I call it the *Masculinity of Intellectual Property, Femininity, and the Malnourished Baby*.

## 2.0 The Exclusionary IP system

Our IP system is inherently exclusionary, a masculine approach that continues to fail to help most African countries—including Nigeria—maximize their abundant potentials. This is particularly so regarding innovation and creativity by women and communal groups in Africa. The reason for this is that the central prong of IP is protection and exploitation of innovation and creativity—a goal that necessarily

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<sup>1</sup> Convention Establishing the World Intellectual Property Organization (Signed at Stockholm 14 July 1967 and amended 28 September 1979),

[http://www.wipo.int/treaties/en/text.jsp?file\\_id=283854](http://www.wipo.int/treaties/en/text.jsp?file_id=283854)

<sup>2</sup> <http://www.wipo.int/ip-outreach/en/ipday/>

<sup>3</sup> <http://www.wipo.int/about-wipo/en/>

requires a measure of exclusion. IP *excludes* certain types of creative and innovative work from enjoying protection because such works are not considered to be of economic value in a literate society and modern economic system. This exclusionary nature is a domineering and exploitative characteristic—a masculine approach to IP protection.

Particularly from an African perspective, this exclusionary characteristic has had three unhealthy effects on developing and underdeveloped countries: (1) It objectifies innovation and creativity to a level that isolates innovators and creators from shared culture; (2) It obstructs women from maximizing their potentials as innovators and creators in the modern society in aspects of innovation and creativity where they traditionally have comparative advantage; and (3) It denies the society meaningful access to products of innovation and creativity vital for socio-cultural growth and economic development.

We need an IP system that does not only protect and exploit innovation and creativity that satisfy the masculine urges of paternal possession and commercial gains but also empowers women innovators and creators, thus nourishing the malnourished baby—the African society.

And this is where femininity comes in.

We need to integrate femininity into our IP system. By integrating femininity, I do not mean that a feminist approach to protection of innovation and creativity should trump the present masculine intellectual property protection system. Not at all. By integrating femininity, I mean three things: (1) It is time for a mix of femininity and masculinity that assures not only the paternalistic exploitation and protection of innovation and creativity for the creator's or innovator's personal and economic rewards, but also the maternal nourishment of the society with these works of innovation and creativity for *inclusive* and mutual growth; (2) It is time to provide adequate protection for those types of innovation and creativity in traditional cultural expression, crafts women are traditionally associated with, and traditional

knowledge; and (3) It is time women in Africa drive innovation and creativity in mainstream IP system. We need a balancing effect—a balanced IP system that fully powers change in innovation and creativity.

## 2.1 Innovation and creativity are not the same.

While innovation is the bedrock of industrial property—particularly inventions—creativity is the bedrock of copyright. This primary difference may explain why the World Intellectual Property Organization (WIPO) divides intellectual property into two categories, *industrial property* and *copyright*. While *industrial property* “includes patents for inventions, trademarks, industrial designs and geographical indications”, *copyright* “covers literary works (such as novels, poems and plays), films, music, artistic works (e.g., drawings, paintings, photographs and sculptures) and architectural design. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.”<sup>4</sup>

“Creativity is therefore often defined as the development of original ideas that are useful or influential.”<sup>5</sup> It is “one of the key factors that drive civilization forward.”<sup>6</sup> Artistic, cinematographic, literary, and musical works, sound recordings, and broadcasts are eligible for copyright in Nigeria. To enjoy copyright protection, our copyright law requires that these works must be original and fixed in any definite medium of expression.<sup>7</sup> Creativity primarily centers on expression.

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<sup>4</sup> What is Intellectual Property?, Innovation and Intellectual Property, World Intellectual Property Organization (WIPO), <http://www.wipo.int/publications/en/details.jsp?id=99&plang=EN>

<sup>5</sup> Paul B. Paulus, and Bernard A. Nijstad, *Group Creativity through Collaboration*, Oxford University Press, New York, 2010

<sup>6</sup> Beth A. Hennessey and Teresa A. Amabile, ‘Creativity’, *Annual Review of Psychology*, 2010, Vol. 61:1, 570

<sup>7</sup> Section 1(1) and (2) of the Nigerian Copyright Act

On the other hand, innovation means "doing something new that improves a product, process or service."<sup>8</sup> Innovations can be protected through intellectual property (IP) rights such as *industrial designs* which protects *new* combination of lines or colours, or both, and any three-dimensional features intended to be used as a model or pattern to be multiplied by an industrial process and is not intended to obtain a technical result<sup>9</sup>; *trademarks* which protects any distinctive combination of words or invented words, letters, and numerals in connection with goods and services<sup>10</sup>; and *patents* which protect inventions.<sup>11</sup> Inventions are the bedrock of innovation.<sup>12</sup> Patent protects inventions that are "new, results from inventive activity, and is capable of industrial application"; or inventions that constitute an improvement upon a patented invention, are also new, result from inventive activity, and are capable of industrial application.<sup>13</sup> Innovation primarily centers on creation.

So while innovation is defined by *newness*, often associated with creation, and protected by industrial property such as industrial designs, trademarks, and patents; creativity is defined by *originality*, often associated with expressions, and protected by copyright.

### 3.0 The Masculinity of Intellectual Property

In Virginia Held's words:

"Not only has the dominant culture denigrated the giving of birth, it has also developed a venerated view of what is taken to be a form of birth-giving: intellectual and artistic creation, and it has associated this kind of creation

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<sup>8</sup> Innovation and Intellectual Property, WIPO, [http://www.wipo.int/ip-outreach/en/ipday/2017/innovation\\_and\\_intellectual\\_property.htm](http://www.wipo.int/ip-outreach/en/ipday/2017/innovation_and_intellectual_property.htm)

<sup>9</sup> Section 12 of the Patents and Designs Act

<sup>10</sup> Section 9 of the Trademarks Act

<sup>11</sup> Patents and Designs Act

<sup>12</sup> Innovation and Intellectual Property, World Intellectual Property Organization (WIPO), [http://www.wipo.int/ip-outreach/en/ipday/2017/innovation\\_and\\_intellectual\\_property.html](http://www.wipo.int/ip-outreach/en/ipday/2017/innovation_and_intellectual_property.html)

<sup>13</sup> Section 1(1) of the Patents and Designs Act

with the male. The capacity to "give birth to" wisdom, knowledge, and art has long been set beside the mere bodily capacity to give birth to infants."<sup>14</sup>

The anatomy of Nigeria's IP system is not male. It is also not female. But when one—particularly from a feminine perspective—considers the gender disparity in innovation and creativity globally, one begins to ask questions. According to a recent report by WIPO, only 29% of the international patent applications filed via WIPO in 2015 included a woman inventor. Back in 1995, the percentage was just 17%.<sup>15</sup> The Nigerian women inventors share in this global percentage may be near zero since in the same year "the entire African continent collectively was the recipient of approximately 0.5 percent of the world's patent filings in that year."<sup>16</sup> This poor percentage includes patent filings by both male and female inventors. There is no public record of local filings at Nigeria's Trademark, Patents and Designs Registry by women inventors. But most likely, it is significantly less than the global 29% in 2015.<sup>17</sup>

Regarding creative works, gender disparities are tough to measure since copyright protection is generally automatic and does not require registration. But the United Nations reports that just 7% of the world's film directors and 20 percent of screenwriters are female.<sup>18</sup>

### **3.1 The Masculinity of IP – Understanding the Wide Gap between the Level of Innovation and Creativity and the Gender Disparity in Innovation Creativity**

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<sup>14</sup> Virginia Held, *Birth and Death, Feminism and Political Theory*, 1990, 87, 110–11, edited by Cass R. Sunstein

<sup>15</sup> Identifying the gender of PCT inventors, *Economic Research Working Paper No. 33*, WIPO, <http://www.wipo.int/publications/en/details.jsp?id=4125&plang=EN>

<sup>16</sup> Christophe Van Zyl, *South Africa: Africa's Percent And The Digital Future*, 21 September 2017, <http://www.mondaq.com/southafrica/x/630742/Trademark/Africas+Percent+And+The+Digital+Future/>

<sup>17</sup> Gender: Power and Decision-making (Chapter 5), United Nations, <https://unstats.un.org/unsd/gender/chapter5/chapter5.html>

<sup>18</sup> Gender: Power and Decision-making (Chapter 5), United Nations, <https://unstats.un.org/unsd/gender/chapter5/chapter5.html>

Why are there significantly less female innovators than male innovators in Nigeria? Are women incapable of innovating and creating as their male counterparts do? And why are there significantly less Nigerian women in innovation compared to the number of Nigerian women in creativity? Is there anything in our IP system that discriminates against female innovators and creators? Do people prefer works of innovation and creativity by men? Are female innovators and creators producing inferior works, thus getting less attention? Are the gender-inequality and socio-cultural issues women often face in the society limiting their contributions to innovation and creativity? Are the socio-economic factors that women face relative to men keeping female innovators and creators back? Or is this gender disparity in innovation and creativity a creation of history?

While there may be various compelling reasons for this disparity, the masculinity of our IP system contributes to this. What do I mean by masculinity? When we think about masculinity, we think of muscularity, maleness, manliness, robustness, strength, toughness, vigour, and virility. To be able to protect and exploit innovation and creativity, our IP system is made up of these masculine qualities. And this is why it operates by manning the entry points to IP protection and exploitation, necessarily involving the exclusion of certain types of innovation and creativity from its muscular biceps.

Feminist legal scholar Catharine MacKinnon once captured how masculinity defines various concepts and subjects:

“Men’s physiology defines most sports, their needs define auto and health insurance coverage, their socially designed biographies define workplace expectations and successful career patterns, their perspectives and concerns define quality in scholarship, their experiences and obsessions define merit, their objectification of life defines art, their military service defines citizenship, their presence defines family, their inability to get along with

each other—their wars and rulerships—defines history, their image defines god, and their genitals define sex.”<sup>19</sup>

It is the same with our present intellectual property system. As men typically do, our IP system objectifies innovation and creativity.<sup>20</sup> It does this by providing copyright protection for works that satisfy commercial interests but leaves in the cold other kinds of innovation and creativity considered *ineligible* for protection.

### 3.2 Three Ways Our Present IP System Weakens Women’s Contribution to Innovation and Creativity

#### 3.2.1 Exclusion of Traditional Cultural Expressions (TCEs)

First, traditional cultural expressions (TCEs) —integral body of creativity in African societies—are *excluded* from copyright protection.<sup>21</sup> Traditional cultural expressions include the “forms in which traditional culture is expressed. It forms part of the identity and heritage of a traditional or indigenous community. They are passed down from generation to generation. They include our traditional ceremonies, dances, designs, songs, tales, and other artistic or cultural expressions.”<sup>22</sup>

Under our present masculine IP system, traditional cultural expressions do not enjoy protection. This is why they can be generally appropriated or used by any person in any part of the world without any requirement to attribute source or compensate the people who own them.<sup>23</sup>

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<sup>19</sup> Catharine A. MacKinnon, “Difference and Dominance: On Sex Discrimination”, *Feminist Legal Theory: Readings in Law and Gender*, (1991) 81, 84, edited by Katharine T. Bartlett & Rosanne Kennedy

<sup>20</sup> Ann Bartow, “Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law”, *American University Journal of Gender, Social Policy & the Law*, (2003), Vol. 14, No. 3, 551, 557

<sup>21</sup> Under section 28 of the Nigerian Copyright Act, traditional cultural expressions are captured as “expressions of folklore” but section 28(4) vests in the Nigerian Copyright Act the right to authorize use, not in the communities that own them.

<sup>22</sup> <http://www.wipo.int/tk/en/resources/faqs.html#a3>

<sup>23</sup> Johanna Gibson, “Intellectual Property Systems, Traditional Knowledge,

### 3.2.2 Exclusion of Crafts & Related Creative Activities

Second, crafts and other creative activities requiring knowledge and skills—traditionally associated with women—are excluded from copyright protection. This is because these crafts are considered to be inferior to art such as painting, sculpturing, and writing. Consequently, women who are traditionally associated with crafts do not have adequate incentive to invest in branding their products for any serious enterprise. Crocheting, embroidery, jewelry-making, lace-making, tapestry, textiles, weaving, etc. are examples of crafts. (I also think cooking is a type of craft, considering its use of recipes.)

According to Rebecca Tushnet, "[w]hen we compare fields that get intellectual property protection (software, sculpture) with fields that do not (fashion, cooking, sewing) it becomes uncomfortably obvious that our cultural policy has expected women's endeavors to generate surplus creativity but has assumed that men's endeavors require compensation".<sup>24</sup>

Though women today are taking on innovations and creativity beyond the kitchen, it had not always been so. If women had been incentivized at the time when they were being discriminated against by our laws, I strongly believe they would not only have contributed more to the body of knowledge in art, science, and technology today, but may also have become *woman* enough to leave their male counterparts behind. Indeed, there was a time in history when women invented things but patented in their brothers', fathers', or husbands' names and monetary returns belonged to the men. The woman's place was giving birth to these creations—just like the reproductive function women were reduced to—while men fathered these creations, enjoying all paternalistic rights, both moral and pecuniary

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and the Legal Authority of Community", *European Intellectual Property Review*, (2004), Vol 26, 280, 287; Daniel J. Gervais, Internationalization of Intellectual Property: New Challenges from the Very Old and Very New, *Fordham Intellectual Property, Media & Entertainment Law Journal*, (2002), Vol 12, 929, 957–958

<sup>24</sup> Rebecca Tushnet, "My Fair Ladies: Sex, Gender and Fair Use in Copyright", *American University Journal of Gender, Social Policy & the Law*, (2007), Vol. 15, 273, 303–304

rights.<sup>25</sup> (With the rate at which traditional African crafts are now being exploited outside Africa, how badly our failure to protect our crafts has affected the growth of textile, fashion, and even tourism industries in Africa today is better imagined.)

### 3.3.3 *Exclusion of Traditional Knowledge*

Third, traditional knowledge (TK)—critical to the growth and development of indigenous innovation in Africa—was *excluded* from the international industrial-property protection regime until recently.<sup>26</sup> But even now, Nigeria does not have any IP legislation that specifically protects traditional knowledge. Traditional knowledge has been defined as “knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity.”<sup>27</sup> It has been described as “indigenous and local community knowledge, innovations, and practices ... often collectively owned and transmitted orally from generation to generation.”<sup>28</sup> It can include agricultural practices, cultural values, folklore, local languages, medical practices, proverbs, rituals, songs, stories.<sup>29</sup> Traditional communities who need protection must rely on the present IP system of patent and trademarks. Protection under geographical indications—a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin—is unavailable in the present IP system.

*Traditional cultural expression, crafts, and traditional knowledge* are the living womanliness in Africa’s innovation and creativity. By excluding these three vital types of innovation and creativity that traditionally involves women and also

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<sup>25</sup> Shelley Wright, “A Feminist Exploration of the Legal Protection of Art”, *Canadian Journal of Women and the Law*, (1994), Vol. 7, 59, 79–80

<sup>26</sup> The amendment of WIPO-administered patent systems (the International Patent Classification system and the Patent Cooperation Treaty Minimum Documentation)

<sup>27</sup> WIPO, <http://www.wipo.int/tk/en/tk/>

<sup>28</sup> Bryan Bachner, “Facing the Music: Traditional Knowledge and Copyright”, *Human Rights Brief*, (2005), Article 12, No. 3, 9,

<http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1322&context=hrbrief>

<sup>29</sup> Bryan Bachner, 9

involves the cultural heritage and civilization of a people, our IP system is effectively masculine, generally reducing innovation and creativity to mere commodities.<sup>30</sup> This objectifies innovation and creativity, thus limiting the contributions African women—including Nigerian women—could have made to the body of global innovation and creativity today.

#### **4.0 Missing Femininity in Intellectual Property Protection and the Malnourished Baby**

*Powering Change: Women in Innovation and Creativity*—this year’s World ID Day theme—makes us think about women. And whenever we think about women on a day such as this, we think about IP and gender issues. We think about how women could best take advantage of the IP system to protect and exploit their innovation and creativity. We also think about the challenges women face and feminist perspectives on these challenges. Though a rare research subject in the African IP space, gender issues in IP is not new. In other climes, for many years feminist IP scholars have criticized copyright laws for instance for being gender bias in favour of men.

##### *4.1 Femininity is missing in the present IP system.*

Femininity is womanhood or womanliness. It comprises the effeminateness and sensuality that innovation and creativity. The feminist author, Malla Pollack, captured the essential qualities in her work on feminism:

“Feminism ... recognizes a more robust community, one where the prototypical relationship may be that between mother and child.’ Such a community includes love and gifts. Mothers’ response to their infants’

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<sup>30</sup> Shelley Wright, “A Feminist Exploration of the Legal Protection of Art”, *Can. J. Women & L.*, (1994), Vol 7, 59, 63,  
<http://heinonline.org/HOL/LandingPage?handle=hein.journals/cajwol7&div=11&id=&page=>

vulnerability is to protect, nurture, love, give, and nudge the child towards independence, not charge a higher price for their breast milk.”<sup>31</sup>

This is what our IP system should do—nurture creativity and innovations to benefit both the creator and the community.

*4.2 Femininity will boost innovation and creativity in the IP system, nourishing the baby.*

Today, traditional cultural expressions, crafts, and traditional knowledge are predominantly in the public domain. They do not enjoy protection under the present masculine IP system. This keeps Africa’s innovation and creativity low, and consequently results in a malnourished society where our rich traditional cultural expressions, and crafts, and traditional knowledge do not nurture and nourish us. The African society becomes a malnourished baby.

Femininity in the IP system can help protect the public domain. This is because the public domain is inherently feminist. According to Pollack, “[b]y enlarging and protecting the public domain, society would move towards a more feminine, and therefore more humanist, culture.”<sup>32</sup> Femininity also “recognizes the communal roots of creation”, thereby preventing the masculine commoditization of creativity. Femininity also “instantiates nurturing” and “provides essential nourishment; it is the birthing and lactating mother. As one seed becomes a plant due to the fecundity of the earth goddess, so one human sprouts poems due to the fecundity of the public domain, the daemon, the muse.”<sup>33</sup>

Therefore, with femininity, there will be a maternal nourishment of the baby African society. There will also be adequate protection for traditional cultural expression, crafts women are traditionally associated with, and traditional

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<sup>31</sup> Malla Pollack, “Towards a Feminist Theory of the Public Domain, or Rejecting the Gendered Scope of United States Copyrightable and Patentable Subject”, *William & Mary Journal of Women and the Law*, (2006), Vol. 12, 603, 605, <http://scholarship.law.wm.edu/wmjowl/vol12/iss3/4>

<sup>32</sup> Pollack, 619

<sup>33</sup> Pollack, 621 and 622

knowledge, thereby boosting innovation and creativity by Africans to the world. Lastly, removing barriers to protection in the present masculine IP system will drive innovation and creativity by more women in the mainstream IP system.

## 5.0 Women Powering Change in Creativity in Nigeria

Beyond all odds, Nigerian women are coming up fast in the country's creative industries, particularly the booming entertainment industry. I will briefly mention the pioneering Nigerian women who were well known in the film, literary, and music industries. I will also highlight contemporary Nigerian women in the art and entertainment scene.

### 5.1 *The Nigerian Film Industry*

Amaka Igwe (1963–2014) was a pioneer female filmmaker and broadcasting executive who powered change in the video-film era of Nigerian cinema. Amaka Igwe owned Top Radio 90.9 Lagos and Amaka Igwe Studios. Her works included home movies such as *Rattle Snake*, *Violated*, *To Live Again*, *Full Circle*, and *A Barber's Wisdom*. Amaka Igwe also produced TV series such as *Fuji House of Commotion*, *Solitaire*, *Now We Are Married*, *Infinity Hospital*, *Bless This House*, and *Checkmate*. Another Nigerian woman who powered change in the Nigerian film industry, educating and enlightening the public through entertainment was Lola Fani-Kayode (?<sup>34</sup>), a television producer.<sup>35</sup> Lola Fani-Kayode is best known for writing and producing *Mirror in the Sun*, one of the most successful television soap operas in Nigeria ever.<sup>36</sup> *Mind-bending*, an educative television program about the dangers of drug addiction, is also one of her works, starring Joke Silva.

### 5.2 *The Nigerian Literary Industry*

In literary creativity, Flora Nwapa (1931–1993), the 'Mother of African Literature', powered change through teaching and writing to become the first African-woman

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<sup>34</sup> At the time of writing this paper, this could not be confirmed.

<sup>35</sup> Nollywood celebrates *Ladies Calling The Shots*, The Nation, <http://thenationonlineng.net/nollywood-celebrates-ladies-calling-shots/>

<sup>36</sup> [https://wikivisually.com/wiki/Mirror\\_in\\_the\\_Sun/](https://wikivisually.com/wiki/Mirror_in_the_Sun/)

novelist to be published in the English language in Britain and achieve international recognition.<sup>37</sup> Some of her books include first novel *Efuru, Idu, This Is Lagos, and Other Stories, Never Again One Is Enough, Women Are Different, and Wives at War and Other Stories*.<sup>38</sup> Another Nigerian writer who powered change with her revolutionary works was Buchi Emecheta (1944–2017). Buchi Emecheta rose from being a victim of abuse to a champion for women through literary creativity. Her writing explored topics such as child marriage, single motherhood, and women abuse. Some of her books include, *The Joys of Motherhood, Second-Class Citizen, The Bride Price, and The Slave Girl*.<sup>39</sup>

### 5.3 The Nigerian Music Industry

In music, we have Onyeka Onwenu (born 1952), a Nigerian singer, songwriter, actress, journalist, and politician. Onyeka Onwenu began her music career in 1981 with her album *For the Love of You*. Nigeria's *Lady of Songs*, Christy Uduak Essien-Igbokwe MFR (11 November 1960–30 June 2011) was best known for her song *Seun Rere*. First female president of the Performing Musicians Association of Nigeria (PMAN), Essien-Igbokwe sang in Ibibio, Hausa, Igbo, and Yoruba languages. Another popular music star was Evi Edna Ogholi (born 6 July 1965), a Nigerian female reggae musician popular for her song *Happy birthday*. Evi Edna Ogholi was 23 when she dropped her debut album, *My Kind of Music* in 1987. She dropped three more albums, *On The Move, Happy Birthday, and Step by Step*.

There was also the popular Nigerian female singer, Salawa Abeni Alidu (born May 1961). Her debut album, *Late General Murtala Ramat Mohammed* in 1976, became the first recording by a female artist to sell over a million copies in Nigeria. Oby Onyioha was also a Nigerian singer and songwriter to remember. She was best known for her debut single in the 80s, *I Want to Feel Your Love*. Also the title of her

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<sup>37</sup> Margaret Busby, "Flora Nwapa", *Daughters of Africa: An International Anthology of Words and Writings by Women of African Descent*, Vintage, 1993, 399

<sup>38</sup> <https://www.britannica.com/biography/Flora-Nwapa>

<sup>39</sup> <https://www.britannica.com/biography/Buchi-Emecheta>

first album, *I Want to Feel Your Love* is one of the greatest songs of her era in Nigeria.<sup>40</sup>

And since it's still 1984 in Nigeria, we couldn't have forgotten so soon the song that rocked the airwaves back in the eighties, *Nigeria go Survive* by Veno Marioghae. Popularly called Veno Mario, her hit song was *Nigeria Go Survive* at a time President Muhammadu Buhari was the Head of State. Veno Merioghae has other songs to her credit which includes, *Thank You Jah*, *Iwa Ti Yo*, and *Siobo Nome*.

Other Nigerian women who powered change in creativity include Stella Monye, the *Samba Queen*, is a singer known for her songs, *Elenuwa* and *Oko Mi Ye* with six albums to her credit; Nelly Uzonna Uchendu, known as the modernizer of traditional Igbo folklore, established herself in the music industry with the hit song *Waka*; Funmi Adams with her songs *Ahayye Yaro*, *Nigeria My Beloved Country*, *Mama thank you for your love*, *Omode o*, and *All we need is Love*; Theodora Ifudu who made waves in the late 80s and early 90s with her hit track *The Way We Are*, and a number of other Nigerian women creators.<sup>41</sup>

#### 5.4 Contemporary Nigerian Women in the Art and Entertainment Scene

Today, creativity in art, film, literature, music, and even dance continues to flow in Nigeria like the River Niger that unites the country.

From the hugely talented Nollywood actor, multiple-award winner Joke Silva who has established herself in the film industry and become role model to many other female actors to the Canada-based actor, Isoken Ibiorutomwen who is pushing boundaries in the film industry outside our shores to the visual artist, Happiness Akaniro who depicts the essence of life in colours and forms that indelibly capture

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<sup>40</sup> 'Women In Music 5 of the greatest female singers in Nigerian music history', *Pulse*, 8 March 2017, <http://www.pulse.ng/buzz/women-in-music-5-of-the-greatest-female-singers-in-nigerian-music-history-id6338329.html>

<sup>41</sup> "11 Phenomenal Women Who Changed Nigerian Music Forever", *TheWoman.ng*, 2 November 2016, <http://woman.ng/2016/11/11-phenomenal-women-who-changed-nigerian-music-forever/>

beauty, family, women, the flavour of life, and positive forces through visual art;<sup>42</sup> and from the Dance Queen, Kafayat Shafau-Ameh (Kaffy), choreographer, dance instructor, and fitness coach who broke the *Guinness World Record for Longest Dance Party* at the Nokia Silverbird Danceathon in 2006<sup>43</sup> and continues to amaze millions with her contemporary dance skills to the sensational reality TV show entertainer and winner of the *MTN Project Fame West Africa (Season 9)*, Okiemute Ighorodje, Nigerian women creators are pushing limits in creativity.

## 5.5 Women Powering Change in Innovation in Nigeria

But the story is not as sweet in Nigeria's innovation space.

Nigerian women innovators are behind their counterparts in creativity – far behind. On World IP Day 2016, a list of sixteen Nigerian inventors was published by the Nigerian Intellectual Property Law Watch (NIPLW)<sup>44</sup>. There is no woman in the list.<sup>45</sup> But this doesn't mean there are no Nigerian female inventors – just very few of them are known.<sup>46</sup>

Prof Omowunmi Sadik is a Nigerian inventor. She has a number of patents on biosensors. She developed microelectrode biosensors which can be used for drug and bomb detection. Another inventor is Jaiyeola Oduyoye, who at 21, invented 'Neva'. 'Neva' is a mobile medical backup that is closely related to an industrial UPS (uninterruptible power supply) device. Jaiyeola Oduyoye invented Neva to provide temporary backup electricity to surgical theaters in developing countries

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<sup>42</sup> Happiness, <https://www.saatchiart.com/happiness>

<sup>43</sup> Saturday Celebrity Interview: Chilling Out with Nigeria's Guinness World Record Holder, the "Dance Queen" Kaffy!, BellaNaija, 10 November 2012

<sup>44</sup> Ufuoma Akpotare, 'In Honour of World IP Day: 16 Nigerian Inventors You Should Know!', NIPLW, 16 April 2013, <https://nlipw.com/in-honor-of-wipo-day-10-nigeria-inventors>

<sup>45</sup> Subsequently, when five more inventors namely Dr Philip Njemanze, Damian Anyanwu, Dr Isa Odidi, Prof Ernest Izevbijie, and Prof Francisca Okeke) were added to the list, we had a woman, but unlike her male counterparts, there is no evidence that Prof Okeke is an inventor.

<sup>46</sup> Top Ten Nigerian Scientists Today, <https://connectnigeria.com/articles/2016/07/top-ten-nigerian-scientists-today/>

that often suffer from poor electricity.<sup>47</sup> Lastly, we have Prof Christianah Moji Adeyeye. Prof Adeyeye is an inventor and the current Director-General of the National Agency for Food and Drug Administration and Control (NAFDAC). Prof Adeyeye has US patents in Method of Treating a Patient with a Prolonged Time-Release Drug and the Drug Itself; Controlled Release Pharmaceutical Preparation for Treatment of Endometriosis and Fibrocystic Breast Disease; situ gel ophthalmic drug delivery system of estradiol or other estrogen for prevention of cataracts; and patent in Anti-retroviral Drug Formulations for Treatment of Children Exposed to HIV/AIDS.<sup>48</sup>

## 6.0 Breaking the Barriers: Catching Up Fast with the Rest of the World in Innovation and Creativity

At current rates, gender parity in the use of WIPO's international patent system will only be reached in 2076.<sup>49</sup>

It is time for a balancing effect—a balance of masculinity with femininity for both individual growth and societal growth and development. It is time for a reengineering of our masculine IP system to cater to both paternal wants and maternal needs that address the current gender disparity in innovation and creativity. According to K. J. Green, “... IP can be re-engineered to bring about results of distributive justice and to foster norms of racial and gender equality. These results would be in keeping with the constitutional mandate of IP protection,

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<sup>47</sup> '21 Year old Nigerian girl invents groudevice to ensure light does not go out in medical theaters!', Rising Africa, 6 November 2015, [http://www.risingafrica.org/success-stories/technology-and-innovation/science\\_technology/21-year-old-nigerian-girl-invents-ground-breaking-device-to-ensure-light-does-go-out-in-medical-theaters/](http://www.risingafrica.org/success-stories/technology-and-innovation/science_technology/21-year-old-nigerian-girl-invents-ground-breaking-device-to-ensure-light-does-go-out-in-medical-theaters/)

<sup>48</sup> Prof Moji Adeyeye CV April 2017, <http://www.elimpedpharma.com/files/125775341.pdf&ved=2ahUKEwiHqt6jl7zaAhXLasAKHeamAM0QFjAAegQIBxAB&usg=AOvVaw1n03Db4bjAhEEEEYUkiViXj>

<sup>49</sup> Boosting Women In Innovation, WIPO, 17 October 2017, [http://www.wipo.int/women-and-ip/en/news/2017/news\\_0003.html](http://www.wipo.int/women-and-ip/en/news/2017/news_0003.html)

which is designed to insure a robust marketplace of ideas, and to compensate those who add intellectual, scientific, and artistic value to society."<sup>50</sup>

Apart from integrating femininity in our IP system, below are four ways we can empower the girl-child and the African woman to break the barrier and address the present gender disparity and creativity-innovation disparity in Nigeria:

1. **Science, Technical, Engineering, and Mathematics (STEM) can help bridge the gender gap in innovation in Nigeria.** With STEM, Nigeria can stem the tide in the science and technology knowledge gap we are experiencing now.
2. **There must be a balance between family life and work in our modern society.** Our society needs to be empathetic towards women so women who have dreams to create and innovate without any avoidable limitations.
3. **Women need special support to help them take advantage of the IP system.** If our women have to rely on their husbands or fathers to fund and protect their creative works and innovations, the gender gap may never close up.
4. **Widespread gender inequality in the society must be addressed in both social and economic life.** Preconceptions, prejudices, and stereotypes about girls and women belonging to the kitchen and "the other room" has to stop.<sup>51</sup>

### 6.1 Today, we celebrate Nigerian women breaking through barriers in innovation and creativity.

In 1979, Herbert von Karajan, a conductor, once remarked that "[a] woman's place is in the kitchen, not in the symphony orchestra".<sup>52</sup> And as recent as 2016, the number one Nigerian citizen made the following remark about his wife in a BBC

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<sup>50</sup> K.J. Greene, Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues, *American University Journal of Gender, Social Policy & the Law* 365 (2008)

<sup>51</sup> Innovation, Creativity and the Gender Gap, WIPO, [http://www.wipo.int/ip-outreach/en/ipday/2018/innovation\\_creativity\\_gender\\_gap.html](http://www.wipo.int/ip-outreach/en/ipday/2018/innovation_creativity_gender_gap.html)

<sup>52</sup> Cooper S. (Ed.), *Girls! girls! girls!*, Washington Square, New York University Press, New York, 1996, cited in Emily L. Ballenger, *To Be Heard and Not Seen? Women's Visibility in Different Music Genres*, a Senior Thesis, General Studies Council, College of Arts & Sciences, Texas Tech University, August 2000

interview in Germany, "... she belongs to my kitchen and my living room and the other room".<sup>53</sup>

Beyond the kitchen and "the other room", today we celebrate Nigerian women powering change through innovation and creativity. Today, we celebrate women powering change in the kitchen of creativity, cooking the food that feed the human mind with their artistic, literary, musical, and cinematographic works, making symphonic expressions that sing of change. Today, we celebrate women powering change in "the other room" of innovation, making babies that grow to become new businesses, new industries, new technologies, and new possibilities.

## 7.0 Conclusion

By adopting a masculine IP system, Nigeria and most African countries have succeeded in limiting the growth and development of innovation and creativity. This has resulted in the wide gap in innovation and creativity in Nigeria and Africa as a whole compared to those from other parts of the world.

To realize our full potentials through the maximization of the opportunities IP rights protection and exploitation provides to female innovators and creators, we need a balanced IP system. A balanced IP system that protects both the creations of the individual human mind and the creations of the collective mind of our people will cater to our cultural, scientific, and technological needs. It will unleash the innovation and creativity in our unprotected traditional cultural expressions, crafts, and traditional knowledge. It will boost the place of women in traditional societies, empower our communities, and stimulate women in the mainstream IP system to continually innovate and create, inspired by the living spring of African traditional cultural expressions, crafts, and traditional knowledge.

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<sup>53</sup> 'Nigeria's President Buhari: My wife belongs in kitchen', BBC, 14 October 2016, <http://www.bbc.com/news/amp/world-africa-37659863>

On this World IP Day dedicated to women, I join the Friends of the Creator Foundation and friends of the Foundation to particularly celebrate six Nigerian women who are powering change in innovation and creativity, beyond all odds:

- The Nollywood Actress, Joke Silva
- The Canada-based Actress, Isoken Ibiorutomwen
- The Dance Queen, Kafayat Shafau-Ameh (Kaffy)
- The NAFDAC Director-General, Prof. Mojisola Christianah Adeyeye
- The Singer, Veno Marioghae
- The Visual Artist, Happiness Egobundu Akaniro
- The MTN Project Fame West Africa (Season 9) Winner, Okiemute Ighorodje

Beyond the kitchen and "the other room", these are Nigerian women powering change in innovation and creativity.

*Thank you!*