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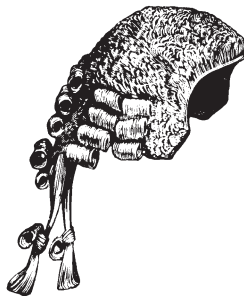
BARRISTERS, SOLICITORS,  
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***AFRICA AND THE  
CHALLENGES  
OF THE 21ST CENTURY***

***NATIONAL MIRROR NEWSPAPERS  
MAIDEN ANNUAL LECTURE***

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***By***

***CHIEF RICHARD AKINJIDE CON, SAN, FCIARB., FCE.***

**AND ALSO in BANJUL, The GAMBIA and London**

## ABOUT THE AUTHOR

**Chief Richard Akinjide, CON, SAN, FCI Arb., U.K. FCE, Bachelor of Law University of London 1955 and Member of the Bar of England and Wales Inner Temple February 1956. He practises also at The Gambian Bar. He specialises in Oil and Gas, Companies and Banking Matters, Mergers and Acquisitions, Shipping, International Commercial Arbitration and International Law. He is a Fellow of the Chartered Institute of Arbitrators, United Kingdom (UK). He took Silk in Nigeria as a Senior Advocate on January 12, 1978 and was Called to the Nigerian Bar in March 1956. Member of Nigerian Federal Parliament 1959-1966, Member of the International Law Commission of the United Nations in Geneva from 1981 – 1986, Federal Minister of Education 1965-1966. Attorney-General and Minister of Justice of Nigeria 1979-1983. He is the author of the 2<sup>nd</sup> Edition of “Africa and The Development of International Law” published by Martinus Nijhoff at The Hague, The Netherlands (1988) and selling worldwide. Pro-Chancellor and Chairman of Council of the University of Jos 1976-79.**

He is an active member of the Association of International Petroleum Negotiators (AIPN) in TEXAS, United States of America (USA). Cases he handled are reported in various Law Reports in Nigeria, England, The Gambia and in International Law Reports. He was one of the three Arbitrators who made landmark Awards in Lagos, in a dispute involving the major EXPORT TERMINAL ENGINEERING CONTRACT executed in BONNY, RIVERS STATE, NIGERIA.

The Awards Enforcement Proceedings in London resulted in three major reported cases:

**IPCO (Nigeria) Ltd v. NNPC (2005) 2 Lloyd’s Law Report 328 (High Court)**

**IPCO (Nigeria) Ltd v. NNPC (2009) 1 ALL ER (Comm.) 611 (High Court)**

**IPCO (Nigeria) Ltd v. NNPC (2009) 1 ALL ER (Comm.) 657 (Court of Appeal) where new Principles of Law in Arbitral Award Enforcement under the NEW YORK Convention were established by the Court of Appeal, England.**

**Richard Akinjide** was one of the Arbitrators.

He represented **Nigeria** as the **Co-Agent** and a **Counsel** in the case **Cameroon v Nigeria** at **The World Court, The Hague** for **about 8 (eight) years** involving **International Boundary Dispute** from **Lake Chad** to **The Atlantic Ocean**. He was a member, for **four (4) years**, of the team of **International Jurists** that drafted **The Law of The Sea-Convention** otherwise known as **“The Constitution of The Sea”** which is the **biggest Convention** ever sponsored by the **United Nations (UN)**. **Chief Richard Akinjide** signed that **Convention** and **The Final Act** on behalf of **Nigeria at Montego-Bay, Jamaica**. **Publications** of **AKINJIDE & CO** series which started with **“Advocacy, Ethics and The Bar”** have now reached **50 (fifty)** issues and circulates world-wide. **Chief Richard Akinjide** established trusts in the **Universities of Ibadan, Jos and Cambridge (England)** and the **Nigerian Law School for Annual Prizes in Law**. **Ten (10) members of his family** read law and his wife, **ABIMBOLA**, is a **member of the Inner Bar (SAN)**. **Chief Richard Akinjide** was the **President** of the **Nigeria Bar Association (NBA) 1970-1973** and past **Chairman** of the **Nigerian Body of Benchers** and a past **Member of the Council of Legal Education**. Was a **Visiting Lecturer** for the **LL.M Programme** in the **Alternative Dispute Resolution, International Commercial Arbitration** etc, **University of Ibadan**. Awarded **Commander of the Order of the Niger (CON) in 2002**. **Distinguished Fellow of the Nigerian Law School**. Honoured as **Fellow of the Babcock University Circle of Eminence (FCE) in 2007**. Awarded **Doctor of Laws (D. Laws, Honourary)** in **December 2010** by **Lead City University**. He travelled extensively in all the continents of the world. He reads widely outside law. He is a collector of **Works of Art** in **Nigeria, Europe and USA**.

**Hobbies:**

**Golf, Snooker, Gardening and Arts Appreciation.**

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Often largely unnoticed, the regular updates that demographers make to their population projections are replete with enlightening facts and figures.

Demography is a discipline of the long-term. The analysis of population movements, like that of climate changes, relies on the systematic accumulation of a multitude of minute changes observed over decades. These, while insignificant in the instant, acquire a formidable, unstoppable momentum in the long term. Because population data are at the core of all varieties of human activities, it is therefore critical to recognize, consider and take account of their long-term trends and prospects in the management of current affairs. Such is also true of other economic, social and political factors. The fact that western and eastern societies alike have begun to accept the prerequisite that the long term does indeed matter – but only recently and under the constraint of circumstances they could not surmount – is made clear by their recurrent reference to such concepts as sustainable development of renewable energy usage.

Unfortunately, two of the most important institutions under which most societies in the developed world operate (and which most of Africa has now inherited): democracy as a system of government and capitalism as a recipe for wealth creation are myopic. Both are good at resolving current issues but bad at addressing issues remote in time. The debt crisis which is presently plaguing the US and Europe alike is a perfect illustration of capitalism's economic myopia. A repetition since the early 1970s of the same short-term policy decisions aimed at avoiding politically painful (but necessary) spending restrictions prone to alienate one's electorate without giving much consideration to the negative long-term impacts of accumulating wrong economic choices has resulted in today's mind-boggling financial imbroglio, political embarrassment and increasingly worrying social upheavals.

Another example of the dangerous limitations of short-term courses of action is, in a quite different area, China's past population policy. The one-child-per-family law together with the liberalization of abortion has resulted in a massive rejection of the girl child in favour of boys: many women pregnant with a female child preferred to abort to have another chance to give birth, this time hopefully to a male child. Today, as a result of a significant population imbalance, some 20 million Chinese men do not find any Chinese woman to marry and go to neighbouring Vietnam, Laos, Cambodia or Thailand to find a wife.

The reasons for the near sightedness of democracy are easy to discern. Democratic governments are elected for short periods of time usually renewable only once. Their basic interest is therefore to satisfy their electorate so as to win re-election. What happens after is someone else's business.

As for capitalism, its core component, the market, and its corollary, the price mechanism, are supposed to guide producers' as well as consumers' economic decisions based on relative scarcity. But prices are and can only be indicators of real (or sometimes engineered) *current* scarcity as no one knows for sure – and may not even be much concerned with – what one may discover tomorrow. As past history abundantly demonstrates, a new discovery, a new technology, a new way of doing things or the commercial exploitation of a new resource may drastically alter relative scarcities. In the course of the 19th century, as Londoners' demand for urban transport was fast increasing, horse driven carriages were multiplying. This development led some British forecasters to predict that, pass a few decades, the roads of London would disappear under such a large layer of horse droppings that urban transportation would become totally paralyzed! But then automobiles appeared, London roads remained clear and horses progressively became redundant. The old debate between those who believe that humanity's aspirations to better life and ever increasing prosperity will one day hit the wall of resource exhaustion and/or climatic chaos and those who are convinced that human ingenuity will always find ways to overcome physical limits is still inconclusively raging.

Good governance (together with good policies) which is undoubtedly one of the major challenges Africa faces in the 21st century – and also one of the major transformation that is required of the continent – therefore demands men and women of great calibre not only able to devise and implement effective policies but also leaders with a far-reaching vision and the courage to put it into practice: a rare but required amalgamation. It is also my firm conviction that what Africa will accomplish or fail to attain in the 21st century depends not only upon the quality of her leadership but also on the calibre of all her men and women as well *and at least as much*. So let me for a moment delve into these demographic data to which I was referring earlier in this presentation.

In 2050, the middle of the 21st century and about 40 years from now, in a world of 9 billion people - total human population will then be close to stabilization – China will no longer be the country with the largest number of people in the world. China will only be second to India. But neither China nor

India will match the population explosion foreseen for the African continent whose inhabitants will then constitute a mass of two billion people, almost a quarter of the then world's population. Africa will also have become the youngest world continent as 70 percent of her inhabitants will be aged 30 or less. It does not take a great effort to imagine what will happen if, this young and enormously energetic human potential, is added both Africa's massive potential and largely untapped wealth from her mineral and agricultural resources and a durable emergence of peace, order and good management practices. The only conceivable outcome for the African continent development performances in the next 40 years will then be such a success that it will dwarf even that of China at the present time.

Think about it: Africa is the second largest continent with 30 million square kilometers of land and, as such, has a large quantity of natural resources, the majority of which remains to be discovered or is barely tapped. There are vast oil and gas reserves in Ghana, Nigeria and Angola. There are diamonds in South Africa, Sierra Leone, Congo-Kinshasa, Angola and Botswana (the 1st world producer). There is gold in South Africa, Ghana, Tanzania and Mali. There is uranium in Namibia, Niger and South Africa. There is also bauxite (to produce aluminum), copper, platinum, iron, cobalt, silver, lead, nickel, zinc and titanium. There is an abundance of precious tropical woods and tropical fruits and there is rare earth materials without which the world cannot make such modern devices as cell phones or computer tablets. It has been calculated that if Africa were to allocate efficiently only a few percent of her mineral wealth to develop her infrastructure, the continent would benefit from an infrastructural capital of the same caliber as that of Western Europe.

And that is not all. A comparable cornucopia would result from efficient land use and well-organized agricultural production. Many African countries do not cultivate their land. The Democratic Republic of the Congo (Congo-Kinshasa) alone, the second largest country in Africa by area, has 2.3 million square kilometers of land – a surface roughly equivalent to the combined areas of Spain, France, Germany, Sweden and Norway – of which the large majority is arable land. But only 2 percent of it is exploited.

And if we account for expected technological developments over the next decades, what of these large African land areas which cannot be used for food production but can be used to harness energy? Libya has about the same surface as that of Congo-Kinshasa but it is mostly a desert bathed by sunlight. If as it is presently envisaged, solar power that achieves cost parity with electricity from the grid becomes available over the next decades, covering



some of that land with photovoltaic cells could generate enough electricity to power to the whole of Africa and would also provide exportable surpluses.

Enough with material resources; let us go back to the people of Africa. Which country do you think will in 2050, after India and China, house the third largest population in the world? Brazil? Russia? The USA? No. It will be Nigeria with 430 million people. This will be mainly the result of our continuing high birth rate: this year, Nigeria has produced more new-born babies than the whole of the European Union. Nigeria's and Africa's population explosion will most likely remain one of the foremost events in the history of the continent's 21st century.

Years ago an obscure diplomat, speaking at the United Nations in New York, made the statement that, if overnight Africa were to sink under water, the morning after the world would barely notice. But if Africa learns how to develop and exploit her huge human potential, it will then become perfectly appropriate to reverse the statement: if overnight the rest of the world were to sink under water, the morning after Africa would barely notice. However, from the present general perspective of mitigated African economic, social and political performances (the word "mitigated" I am using here is moderate, some would say kind), one wonders how these demographic projections I am talking about should be viewed? Should we rejoice or should we fear their dreadful consequences? In order to answer this fundamental question, I must for a moment explore a key concept: that of value.

Value is a broad notion which extends well beyond the realm of finance or economics: we frequently refer to human value, calorific value, moral value, scientific value, etc. What is common to all these different expressions is that the measurement of value always requires that an index of *quality* is applied to a given *quantity*. One may state that the value formula is:

Quantity weighted by quality.

Both quantity and quality are therefore required for value to emerge. Quantity or quality alone is necessary but it is never enough for value to surface. One easily understands why a great idea which is never put to practice remains a dream or why a resource which is never exploited remains a potential.

Let us for a moment turn to physics. For one who looks for heat, the value that exists in a burnable material is the amount of heat it can produce. Heat is

measured by multiplying the quantity of combustible matter burned by its calorific value. If one kilogram of petrol, one kilogram of coal and one kilogram of wood are burned to generate heat, petrol will yield more heat than coal which itself will generate more heat than wood. This is because each of these material quantities, while equal in weight to the others, is endowed with a different quality index, in this case a calorific value than coal which has a higher calorific value than wood. In other words, if no heat can ever be produced without the existence of a given quantity of petrol, of coal or of wood to burn (to generate heat one must have something to burn), the efficiency of the burning operation is greatly affected by the inherent quality of the material selected. One may try again and again to put fire to a kilogram of gravel; it is quite unlikely that any heat will ever be generated.

In economics, value is measured multiplying quantity supplied by price. Goods and services produced and offered for sale are the quantities while prices – not money – are the quality indexes. Prices indicate the quantity on money one should part with to acquire goods or services, that is, to get value for money. Money is not a quality but a quantity to which one does constantly apply the value formula as it is well-known that money has no value but what it can buy. What money can buy is money's quality index. It is called the purchasing power. Money's quality index, the purchasing power, is threatened by a dangerous virus against which it should persistently be protected against. This virus is inflation. Inflation is a silent destructor of purchasing power which, over time multiplies the quantity of money required to purchase the same quantity of goods or services. The bag of cement which I am buying today for N2,000 is exactly the same bag of cement which I could buy for N500 ten years ago but it costs four times more. Four times is also the measure of the loss of quality money has suffered over the past 10 years. The challenge to everyone who owns, and desires to hold on to monetary savings is to protect value while preserving liquidity.

Why, one may ask, do I find it useful to scrutinize such things as money, purchasing power or inflation while the main topic of this paper is the value of human communities? There is a good reason for it. The reason is that the damage that inflation (that is loss of money quality) can do to money is comparable to – while perhaps not as harmful as the damage that a persistent loss of quality can do to a population.

To measure the value of human communities: their progress, their achievements and their accomplishments, the quantity to consider is, of course,

the size of their population while the quality indexes are talent, skills, productivity, education, ability, inventiveness, imagination and so on. One can therefore anticipate the answer to my earlier question: the asset which a population constitutes is all the more valuable as both its size and quality index grow higher. In contrast, the liability that a population may represent is all the more detrimental as its size keeps growing while its quality index keeps falling. How valuable the asset? How detrimental the liability? This is what I wish to discuss now.

A critical observation is the fact that as soon as human considerations enter the value formula, quality indexes acquire a special meaning. Let me rapidly go back to my earlier example of heat generation to observe that, depending on the material considered, either quality, that is, calorific value exists as in petrol, coal or wood or it does not exist as in gravel. In other words, the quality index of these materials has either a positive value or is nil. But it cannot be negative: either heat is produced or it is not produced. None of these materials can possibly subtract heat from the environment. Subtracting quality and therefore reducing value does not exist in tangible resources. However, it is a situation that, unfortunately, human beings as well as human societies can easily create as a result of their lack of intangible worth or quality.

In *The Risk of Implosion*, a convocation lecture which I delivered last year at Lead City University in Ibadan, I developed this absorbing way to emphasize the major risk Nigeria is presently taking by allowing the quality of her abundant human resources to crumble. What must be remembered from such revealing analysis is that the wealth of countries is made of both tangible and intangible assets, equivalent to quantity and quality, *intangible assets having the latent characteristic to turn into intangible liabilities if societies lack the ability to cultivate and develop their human potential*. Intangible liabilities, when they exist and prosper, have the dreadful consequence of substantially reducing, perhaps even canceling, the value of tangible assets. The World Bank calculated that, in 2000, Nigeria's intangible liabilities cancelled half of the positive contribution of her natural resources to the country's wealth. The factors that combine to cause this sad reality are many but prominent among them are the lack of skills, of know-how and of ethics of the labour force.

*A widespread development of education and the ability of Africa to turn her huge human potential into large intangible assets is undoubtedly the major challenge which the continent must face in the next 40 years.* Otherwise, the pilfering of Africa's natural and human resources will continue unabated

whether the pilferers are Europeans, Americans or Asians while the decay of many African countries and population can only accelerate. In contrast, a large and sustained effort at enhancing Africa's human qualities will multiply the intrinsic value of her huge material resources.

Education and knowledge acquisition begin at home, continue at school and last for a lifetime. Young children are avid knowledge and information seekers. They live in a world where information abounds and is more and more easily accessible. The hardware, required getting it is increasingly sophisticated and its cost continuously falling. But young children lack the ability to screen and select. They must be guided. They must imperatively be told what is right and what is wrong. Access to such or such information must either be encouraged or prevented. The stories they are told by the adults who take care of them must reflect reality – the real world in which they live – and not constitute unsubstantiated fictions or imaginary movie scenarios. This is because their vision of the world, the way they will plan and live their lives will be greatly influenced by this very knowledge they have acquired in their early life.

One then can appreciate the immense privilege which having educated and concerned parents represents. For a child, the time and opportunities lost as a result of a lack of good parental education and guidance, which result in the acquisition of inadequate information and the reliance on wrong pieces of advice, may later have vast negative impacts on career and professional as well as personal development. And this is not the worst scenario. The worst scenario is the manufacture of armed robbers or drug dealers.

Unfortunately, I do not think I am on the wrong track assuming that a majority of African parents are neither educated nor concerned. Most of the education responsibility is therefore left to governments. But many African governments have been and continue to be plagued by bad governance and bad policies, the harmful effects of which have already deeply reflected on the education system and the quality of its delivery. A survey recently carried out by a Nigerian state consisted of conducting, for teachers in primary schools, an exam meant for primary 4 and 5 pupils. The result was an eye opener: less than 25 percent of the teachers tested had a pass mark.

What Africa needs most: capital to finance economic development and competent labour to run and manage it, she dearly lacks. In addition, most of the little of both that happens to be available escapes through capital flight and migration. Even with the love of the land and the desire to help, how do you

want a young Harvard or Oxford educated Nigerian with first class results and golden opportunities in Europe or America to be attracted by a continent where prospects are few and remuneration uncompetitive? It is as easy for educated and competent Africans to migrate as it is difficult for the uneducated ones to do so. Those Africans that are held in retention camps in Italy's Lampedusa, waiting for deportation, do not hold Master's degree in Finance or Ph.D in Physics. They only constitute cheap manual labour which Europe rejects because it already has it in excess. So, proportionally, Africa must be expelling educated labour at a much higher rate than she is expelling uneducated people, in effect those who are left to man domestic economic activity.

Africa has less than 40 years to think in depth and conceive a process by which value is massively added to her human asset base. Nothing is lost yet but there is no time to waste. Nowhere in Africa is there in place a convincing procedure for elite selection and nurturing. Preparing children for professional success begins at an increasingly early age: even before primary school ends. Nowhere in Africa does the equivalent of the American Ivy League, the French "Grandes Ecoles" or the British public schools exist. Nowhere in Africa do universities embark on ground breaking research.

This must and can change. I do not underestimate the effort: it is colossal. But the reward is even greater. We have no more than forty years.

I must now borrow some ideas from the Legendary **HENRY A. KISSINGER of U.S.A.** They are from his excellent book published this year by **Allen LANE**. The title is "**HENRY KISSINGER On China**" **It is one of the best books I have read on China.** Reading it is very rewarding. **I quote from page 13:**

**"Almost all empires were created by force, but none can be sustained by it. Universal rule, to last, needs to translate force into obligation. Otherwise, the energies of the rulers will be exhausted in maintaining their dominance at the expense of their ability to shape the future, which is the ultimate task of statesmanship. Empires persist if repression gives way to consensus.**

**So it was with China. The methods by which it was unified, and periodically overturned and reunified again, were occasionally brutal. Chinese history witnessed its share of sanguinary rebellions and dynastic tyrants. Yet China owed its millennial survival far less to the punishments**

**meted out by its Emperors than to the community of values fostered among its population and its government of scholar-officials.**

Not the least exceptional aspect of **Chinese culture** is that **these values were essentially secular in nature**. At the time when **Buddhism** appeared in **Indian culture** stressing **contemplation and inner peace**, and **monotheism** was proclaimed by the **Jewish – and, later, Christian and Islamic – prophets** with an evocation of a life after death, **China produced no religious themes in the Western sense at all**. The Chinese never generated a myth of cosmic creation. Their universe was created by the Chinese themselves, whose values, even when declared of universal applicability, were conceived of as **Chinese in origin.**”

Before I end this lecture, I want to say a word or two on Chinese **REALPOLITIK** and Sun Tzu’s **“The Art of War.”** The Chinese have been shrewd practitioners of **REALPOLITIK** and students of strategic doctrine distinctively different from the strategy and diplomacy that found favour with the West. A turbulent history has taught Chinese leaders that **not every problem has a solution** and that too great emphasis on total mastery on specific events could upset the harmony of the world.

Well over two thousand years after its composition, **“The Art of War”** on strategy, diplomacy, and war, written in classic Chinese – half way between poetry and prose – remains a central text of military thought used by **Sun Tzu’s student – Mao ZEDONG**, and in the Vietnam wars as **Ho Chi Minh** and **Vo NGUYEN GAP** employed Sun Tzu’s principles of indirect attack and psychological combat, first, against France and later against the United States of America in the epic battles for the control of South East Asia. But today, they are all friends concerned more with economic developments and not war. Africa and Africans, it is now your time and your turn to emerge as true members of the First World.

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