

**THE PRESENT AND FUTURE IMPACT OF ARTIFICIAL INTELLIGENCE ON  
THE NIGERIAN LEGAL SYSTEM ON DIVERSE ISSUES**

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ABSTRACT

*Artificial Intelligence (AI) has transformed businesses, industries, and the way we do things, and laudably so. This transformation birthed by the evolution of AI continues to rapidly rope its fabrics around us, leading to several changes and conversations on the need to address the plethora of challenges surrounding the innovations and the ongoing evolving confluence between AI and industries, particularly in the legal landscape which is still leaping towards embracing the trend. In Nigeria, some of the most pertinent legal challenges related to AI are the legal status of AI, copyright ownership, Intellectual Property (IP), data protection, culpability, ethical dilemmas of bias, disciplinary agency, and market usurpation. This paper discusses the legal challenges of AI applications in the Nigerian legal system. It analytically reviews the challenges in light of its impact on legal development in Nigeria and recommends standards that may reflect a viable inculcation of AI in the system.*

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## 1.0 INTRODUCTION

Currently, in the world, there is a growing integration of technology in businesses and organisations, and so far, individuals and organisations have had to leverage the concept of technology to drive innovation and improve efficiency across several sectors of life. The legal profession like other professions is impacted by Artificial Intelligence. The confluence between technology and the legal profession is fast asserting its relevance in the world and particularly, in the Nigerian legal system.

However, the application of Artificial intelligence is in its elementary stage in Nigeria as the forum contends with the realities of the scope of Intelligence in the world. This is seen in the fact that our judicial and general legal system is reluctant to embrace digitalisation and is still stuck on the traditional or manual mode of legal transmission, litigation, filing of and admission of evidence, and adjudication. Although the Law Pavilion is commendably at the forefront of technology in law,<sup>1</sup> there should be more awareness of the prospects of AI in the legal industry, which should prompt certain legal considerations bordering on the legal and ethical issues surrounding the use of AI in the legal sector.

As the evolution of AI is increasingly being leveraged in Nigeria, it embodies a clear indication that extant laws that guide the legal space should be extended and

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<sup>1</sup> M. Okoko & Co., “Legal Considerations in the Use of Artificial Intelligence” (2023), available at <https://www.mondag.com/nigeria/new-technology/1203070/legal-considerations-in-the-use-of-artificial-intelligence> (accessed 15 December 2023).

developed to aid the adequacy and appropriateness of the integration of AI to innovate the legal industry. Unfortunately, aside from some existing frameworks such as the Cybercrime Act 2015, the Nigerian Data Protection Regulation 2019, the Nigeria Data Protection Act 2023, and the Nigerian Communications Act 2003, which govern regulations on data and communications protection, there is presently no specific legislation governing or regulating the development and deployment of AI technologies in Nigeria, especially because the extant frameworks, such as the Nigerian Data Protection Regulation (NDPR) merely prescribes the rules governing personal data protection. This speaks to the issue of the non-viability of a legal framework that is essential to regulate a rather complex issue such as AI and how it may impact the legal dynamics of the Nigerian system. The complexity of AI, notwithstanding its prospects, instigates several legal questions such as the issue of whether AI has legal personality; ownership of AI and the scope of liabilities in the event of negligence or misconduct, including the issue of confidentiality, bias, usurpation of the market forces. Accordingly, this paper seeks to address these issues surrounding the integration of Artificial intelligence, with particular reference to the uniqueness of legal processes for which there are challenges impeding the use of AI in law.

## **2.0 OVERVIEW OF THE TREND OF ARTIFICIAL INTELLIGENCE IN THE LEGAL INDUSTRY**

According to the World Intellectual Property Organisation, AI is a discipline of computer science that is aimed at developing machines and systems that can carry out tasks

considered to require human intelligence, with limited or human intervention.<sup>2</sup> Thus far, there has been a convergence of the influence of Artificial intelligence in legal practice in aspects of prognostication technology where Artificial intelligence machines or tools, such as ChatGPT, Lex Machina, and Solomonic<sup>3</sup> can aid lawyers to predict likely outcomes of cases by analysing a wide expanse of historical judgements and reviewing court judgements and likely outcomes based on precedents; or the aspects of electronic documentation, due diligence, and performance of repetitive administrative functions.<sup>4</sup> For instance, an AI system known as “Luminance” was produced and deployed at the University of Cambridge to perform document analysis.<sup>5</sup> Incidentally, the AI tool was considered impactful as it is currently being leveraged by organisations in various countries, enhancing the entire transaction process for law firms and their clients by modelling how solicitors think to make needed relevant findings without the need to receive instructions on what to do. Similarly, in the United States, a law firm, BakerHostetler, is using a Digital Attorney called ROSS to develop a legal adviser that can be asked research questions in natural language by lawyers as they would a person. The tool then reviews the relevant law stored in its system, gathers evidence, draws inferences, and returns highly relevant, evidence-based candidate answers.<sup>6</sup> It also

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<sup>2</sup> WIPO Secretariat, “Revised Issues on Intellectual Property Policy and Artificial Intelligence” (2020), available at [https://www.wipo.int/meetings/en/doc\\_details.jsp?doc\\_id=499504](https://www.wipo.int/meetings/en/doc_details.jsp?doc_id=499504) (accessed 15 December 2023).

<sup>3</sup>Alex Heshmaty, “Use of AI in Law Firms to Predict Litigation Outcomes,” available at <https://www.lexisnexis.co.uk/blog/future-of-law/using-ai-to-predict-litigation-outcomes> (accessed 15 December 2023).

<sup>4</sup> Ibid.

<sup>5</sup> CNBC, “An AI just Negotiated a Contract for the First Time Ever – and No Human was Involved,” available at <https://www.cnbc.com/2023/11/07/ai-negotiates-legal-contract-without-humans-involved-for-first-time.html> (accessed 16 December 2023).

<sup>6</sup> Forbes, “Law Firm BakerHostetler Hires a ‘Digital Attorney’ Named ROSS,” available at <https://www.forbes.com/sites/amitchowdhry/2016/05/17/law-firm-bakerhostetler-hires-a-digital-attorney-named-ross/> (accessed 16 December 2023).

monitors the law and process and reports on new dimensions both in case decisions and other rulings of the court. Similarly, in the United Kingdom, the legal landscape seems to have taken an interesting turn. Researchers at University College London, the University of Sheffield, and the University of Pennsylvania were reported to have applied an AI algorithm to the judicial decisions of 584 cases that went through the European Court of Human Rights and found patterns in the text. Having technically processed the records of the cases, the algorithm was able to predict the outcome of other cases with 79% accuracy.<sup>7</sup> In the area of medicine, Fletchers,<sup>8</sup> has teamed up with the University of Liverpool to create a clinical negligence ‘robot lawyer’ to serve as a decision support system which reviews similar previous cases on clinical negligence and provides analysis.<sup>9</sup> It found that rather than legal argument being predictive of case outcomes, the most reliable factors were non-legal elements: language used, topics covered, and circumstances mentioned in the case text. Nevertheless, the growing trend of AI in the legal environment also finds a place in Nigeria. For instance, the

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<sup>7</sup> UCL News, “AI Predicts Outcomes of Human Right Trials,” available at: <https://www.ucl.ac.uk/news/2016/oct/ai-predicts-outcomes-human-rights-trials> (accessed 16 December 2023).

<sup>8</sup> Fletchers is one of UK’s largest medical negligence law firm/specialists. In 2016, the firm partnered with the University of Liverpool to launch an ambitious Artificial Intelligence project with the support of a government grant funded by Innovate UK. In 2023, the firm partnering with the University of Liverpool a second time, launched another project with the University of Liverpool to undertake an Artificial Intelligence project that would enhance the prior project on Structured Information Decision Support Systems (SIDSS). See Fletchers Solicitors, “Fletchers Group to push the AI boundaries further with University of Liverpool partnership,” (2023), available at: <https://www.fletcherssolicitors.co.uk/general/news/fletchers-group-to-push-the-ai-boundaries-further-in-the-law-signing-new-partnership-with-university-of-liverpool-computer-science-department/> (accessed 16 December 2023).

<sup>9</sup> Thomas Connelly, “Law Firm Teams up with Liverpool Union Bid to Create Clinical Negligence Robot Lawyer,” available at: <https://www.legalcheek.com/2016/12/law-firm-teams-up-with-liverpool-uni-in-bid-to-create-clinical-negligence-robot-lawyer/> (accessed 16 December 2023).

LawPavilion<sup>10</sup> and JudyLegal<sup>11</sup> have been in electronic law reporting, which has enhanced efficiency in research and case law development.

## **2.1 Addressing Legal Considerations in the Application of Artificial Intelligence in the Nigerian Legal Profession**

As the evolution of AI is increasingly being leveraged by Nigerian lawyers or the legal profession to fast-track legal practice and heighten the efficiency and accuracy of services rendered, it embodies a clear indication that extant laws that guide the legal space should be extended and developed to aid the adequacy and appropriateness of the integration of AI to innovate legal practice. Unfortunately, aside from some existing frameworks such as the Cybercrime Act 2015, the Nigerian Data Protection Act 2023, and the Nigerian Communications Act 2003, which govern regulations on data and telecommunications protection, there is presently no specific legislation regulating the development and deployment of AI technologies in Nigeria, especially in the legal sector.

This has portended several legal questions such as the issue of whether AI has legal personality, or the issue of who owns the AI and who bears liabilities in the event of negligence or misconduct, including the issue of confidentiality, bias, usurpation of the market force. These are the most fundamental legal considerations surrounding the integration of more advanced AI in the Nigerian legal sector given predictions of robotic lawyers being used globally for adjudication. This is an overreaching innovation from AI

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<sup>10</sup> The Law Pavilion has pioneered the legal-tech space in Nigeria for over fifteen years and it understands the dynamics of the legal industry and its technological needs.

<sup>11</sup> Adoni Conrad, "Judy Legal Simplifies Access to Common Law Databases," (2023), available at <https://www.wearetech.africa/en/fils-uk/solutions/nigeria-judy-legal-simplifies-access-to-common-law-databases> (accessed 16 December 2023).

systems that works as an accurate proxy of human intelligence. Currently, in developed countries like the United States, the United Kingdom, China, South Korea and Holland, robotic lawyers are being built to assist firms in courtroom advocacy. The pertinent question then is: Is AI or robot-lawyer a legal personality under the law?

Section 24 of the Legal Practitioners Act (LPA) 2004<sup>12</sup> defines a legal practitioner to mean a person entitled in accordance with the provisions of the Legal Practitioners Act to practice as a Barrister and Solicitor either generally or for the purposes of any particular office or proceedings. Similarly, section 2(1)<sup>13</sup> provides that a person shall be entitled to practice as barrister and solicitor “if, and only if, his name is on the roll call.” In other words, the LPA is emphatic on its provision having made it a mandatory requirement. Accordingly, it can be deduced that AI robotics does not fall within the purview of a legal practitioner under the law’s contemplation. Thus AI AI-driven robotics remain unfit to practice law in Nigeria neither does it qualify as a natural “person” under the Nigerian Law.

This means that the futuristic robot lawyers will not qualify to offer legal advice or serve in legal capacities whether within or outside the courtroom. The collaboration between humans and robots may be challenged in Nigeria, in view of the rules above and thereby inhibit AI application in the sector. The situation is further amplified by Rule 3 of the Rules of Professional Conduct for Legal Practitioners 2007, which is instructive to the effect that: (a) a lawyer should not aid in the unauthorised practice of the law or, (b) permit his professional services or his name to be used in aid of, or

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<sup>12</sup> Section 24 (1) of the Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria, 2004.

<sup>13</sup> Legal Practitioners Act, Ibid.



to make possible, the unauthorised practice of law by any person not qualified to practise or disqualified from practice.

Another perspective is taken on the juristic personality of AI. It is trite that in light of extant judicial pronouncements in Nigeria, only juristic persons have the inherent right and/or power to sue and be sued in their names. For so long, the decision in *Shitta & Ors v Ligali & Sons*,<sup>14</sup> where the court defined a juristic person as a person or entity known by law, which can sue or be sued, has been maintained by the Nigerian courts. In other words, AI not being a legal person under the Nigerian statutes can neither sue nor be sued. This is particularly with recourse to the categories of juristic persons clothed with the right to sue and/or be sued under the Nigerian system, which includes natural persons, companies incorporated under the Companies Act, corporations aggregate and corporations sole with perpetual succession, and certain unincorporated trustees and associations.<sup>15</sup> Thus, from a concomitant reading of the provisions above, it is evident that AI does not have the status of a person under Nigerian law nor the juristic power to sue or be sued, as well as the authority to represent any legal interest in Nigeria. Examples may be drawn from the “Do Not Pay case,”<sup>16</sup> as the world’s first robot lawyer was sued over allegations of fraud by appearing in a United States Courtroom without a law license to practice. This has remained a persisting issue and it is high time it received the requisite considerations to gain from the prospects of AI.

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<sup>14</sup> [1941] 16 NLR.23; See also *Agbonmagbe Bank Ltd v General Manager, G.B.O Ltd & Anor* [1961] All NLR 116; *Fawehinmi v Nigerian Bar Association* [1989] 2 NWLR 558.

<sup>15</sup> Inam Wilson and Tolutope Falokun, “Liability for Damage Caused by Artificial Intelligence,” available at, <https://www.templars-law.com/app/uploads/2021/05/LIABILITY-FOR-DAMAGE-CAUSED-BY-ARTIFICIAL-INTELLIGENCE.pdf> (accessed 16 December 2023).

<sup>16</sup> *State of Chicago v DoNotPay* (Unreported).

## 2.2 Issue of Liability or Culpability

This is closely linked to the question of legal personality and raises the problem of determining the liabilities and extent thereof of AI since it appears that it does not fall within the category of persons defined by law or contemplated as legal practitioners.<sup>17</sup> Some argue that AI could help create a fairer criminal judicial system, in which machines could evaluate and weigh relevant factors better than humans without bias and subjectivity.<sup>18</sup> However, since Robot lawyers are being developed to represent humans in courtroom advocacy and aid in other areas such as client counselling and general legal assistance, what happens where issues of negligence or misconduct are implicated in such interactions? Who bears the liability? Can the AI be held responsible where a client's interest is not well evaluated and protected leading to damages or, in cases of criminal liability, can the AI be sued? And where the plaintiff succeeds, on whom does punishment fall in view of criminal liability as well as responsibility?

In addressing these issues, some scholars have canvassed that since AI is owned by a person or firm, such firm or employer should be vicariously liable to clients for civil wrongs emanating from the interactions or output of the AI, in line with the principles of tort on negligence, vicarious liability and strict liability; or the principles of consumer protection on product liability. The arguments find grounds on the rationale that since AI software rely on information programmed in them, that is, interactions conducted via a tag cloud in which the owner can customise their devices according to their needs,

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<sup>17</sup> Section 24 of the Legal Practitioners Act.

<sup>18</sup> UNESCO, "Artificial Intelligence: Examples of Ethical Dilemmas," (2023), available at: <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics/cases> (accessed 19 December 2023).

then the operators or operational management of the program should be held liable in cases of civil liabilities.<sup>19</sup> This is based on the principle that organisations are or ought to be moral agents responsible for the systems developed by them.<sup>20</sup> An important consideration here may be centred on the principles of agency with regard to strict liability. Will a robot lawyer be personally liable for *ultra vires* acts? Is it reasonable to hold a developer or firm liable where an AI system performs unpredictably? The questions arise as AI systems are likely to interact with other systems or sensors within the Internet of Things and programmers may not be able to tell with exactitude, the response of the AI machine to the imputed instructions, hence apportioning liability becomes difficult if not impossible.<sup>21</sup> The problem in solving this dilemma is embedded in the difficulty in legally understanding whether an AI system is a product or a service, as strict liability tort applies to flaws in product design, manufacture, or warnings that cause personal injury or property damage to others, not services. Only negligence applies to services, such as data analysis to determine maintenance.<sup>22</sup>

Again, it is noteworthy that when it comes to vicarious liability, an agency relationship must be established. Also, AI tools are most vulnerable to cyber-attacks, such as hacking, and it is complex to ascertain issues of liability where a device has been interfered with illegally. Additionally, there is the begging question of the standards to

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<sup>19</sup> Gloria Miller, "Stakeholder roles in artificial intelligence projects," (2022), Volume 3 *Journal of Project Leadership and Society*, available at:

<https://www.sciencedirect.com/science/article/pii/S266672152200028X> (accessed 19 December 2023).

<sup>20</sup> *Ibid.*

<sup>21</sup> JonesDay Commentary, "Mitigating Product Liability for Artificial Negligence," available at <https://www.jonesday.com/en/insights/2018/03/mitigating-product-liability-for-artificial-intell> (accessed 19 December 2023).

<sup>22</sup> Ian Wardel, "Product Liability Applied to Automated Decisions" (2022) *Seton Hall Law*, available at [https://scholarship.shu.edu/cgi/viewcontent.cgi?article=2207&context=student\\_scholarship](https://scholarship.shu.edu/cgi/viewcontent.cgi?article=2207&context=student_scholarship) (accessed 19 December 2023).

be used in ascertaining or adjudging whether an AI manufacturer is liable for failing to mitigate directly or indirectly against the possibility of future injuries caused by specific consumer alterations.<sup>23</sup> Here, it is interesting to note that although Nigeria's Federal Competition and Consumer Protection Act (FCCPA) 2018 establishes the right of a consumer to receive goods that are of good quality or fit for purpose,<sup>24</sup> and equally imposes liability on suppliers where damage results from defective goods or service,<sup>25</sup> it, however, did not provide a liability regime for damages accruing from the use of AI. More so, there is no clarity on whether the use of AI technologies in the legal profession qualifies as a product or service, and although section 167 of the FCCPA 2018 defines 'product' to include goods and services, the wording does not capture with exactitude what constitutes an AI product.

It is important for the political and legal communities to be proactive and generate a liability model that recognises how new AI programs have already redefined the relationship between manufacturers, consumers, and products. Furthermore, there is the profound question of what would be the case where there are criminal implications. Who takes responsibility when an AI-driven entity commits a crime?

The Nigerian Criminal Justice system requires that to prove a crime, the person asserting such crime must prove not just the *actus reus* but the *mens rea* as well, except for the areas where strict liability applies.<sup>26</sup> Hence, not only must the act be proved, but also the knowledge of the understanding of the criminal nature of the act

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<sup>23</sup> Ibid.

<sup>24</sup> Section 131(1)(b) of the FCCPA.

<sup>25</sup> Section 136(1) of the FCCPA.

<sup>26</sup> Section 24 of the Criminal Code Act, Cap C.38 LFN 2004.

accompanied by the intention to commit the same. This begs the question of whether the legal standard of care and duty of care can be imposed on AI by operation of law since it lacks the attribute of mental capacity and emotional intelligence to comprehend the test of reasonableness enunciated in sections 28 and 30 of the Nigerian Criminal Code. Furthermore, there is the issue of whether an AI can be a party to a crime under section 7 of the Nigerian Criminal Code, including the stipulation in section 24 - which provides that a person cannot be guilty of an offence committed independent of the exercise of his will.

However, some scholars believe that since it is the result of the programming of the inventor or command of the user that determines the action of the AI, then their intention should be imputed in the acts of the AI to hold them vicariously liable in line with the Gabriel Hallevy model.<sup>27</sup> Although a plausible argument, it is undermined by section 36(12) of the Constitution of the Federal Republic of Nigeria 1999, which stipulates that no person shall be guilty of an offence which at the time it was committed is not defined by any written law. Thus, AI cannot be held liable for offenses committed.

### **2.3 Issue of Data Privacy and Confidentiality**

The adoption of AI raises concerns over data privacy. AI systems collect and process large amounts of data, which raises concerns on the use and protection of data

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<sup>27</sup> Gabriel Hallevy is an Israeli Professor of Criminal Law who propounded certain models for understanding the question of whether the growing intelligence of AI entities subject them to legal cum social control as any other legal entity. To answer this question, he developed three models of response viz: the Perpetration-via-another Liability model, the Natural Probable Consequence Liability Model and the Direct Liability Model. See Ogu Nnoiki and Ikenga Oraegbunam, 'A Critique of Gabriel Hallevy's Models of Criminal Liability of Artificial Intelligence Entities' (2022) (4)3 *International Journal of Comparative Law and Legal Philosophy*.

collected or processed, and whether it meets data privacy standards and regulations. Section 37 of the Constitution of the Federal Republic of Nigeria 1999 guarantees the right to privacy, including the right to the protection of an individual's correspondences and personal data. Accordingly, it has been held in the celebrated case of *Incorporated Trustees of Digital Rights Lawyers Initiatives & Ors v NIMC*,<sup>28</sup> that matters of data privacy and personal data protection fall under the ambit of the right to privacy as guaranteed by the constitution. Consequently, the National Data Protection Act 2023 enumerates the rights of individuals to the protection of their personal data and further imposes an obligation on data processors and collectors to ensure that data collection is done with the consent of subjects and meets the legitimate purpose test.<sup>29</sup> However, it is not clear how the relevant provisions will be interpreted and enforced with respect to AI. Thus, this raises a number of legal issues such as the definition of data and what constitutes personal data.<sup>30</sup> Concomitantly, Rule 3.1 of the Nigeria Data Protection Regulation 2019 and Section 65 of the NDPA 2023 define personal data as:

Any information relating to an individual, who can be identified or is identifiable, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, psychological, cultural, social or economic identity of that individual.

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<sup>28</sup> [2021] LPELR-55623 (CA).

<sup>29</sup> Sections 24 and 25 of the Nigeria Data Protection Act 2023.

<sup>30</sup> Obiorah Victor, "Addressing Issues of Artificial Intelligence Under Nigerian Law: Legal Considerations and Potential Solutions for the Challenges," (Unpublished Winning Entry for the David Precious Onyebuchi Prize for Excellence in Law, Science and Tech 2.0, 2023).

However, the problem that arises here is that of ascertaining whether anonymised data still qualifies as personal data.<sup>31</sup>

Furthermore, regarding the consent requirement under section 25 of the Nigerian Data Protection Act 2023, generative-text AI systems, such as ChatGpt, which is a free-to-use AI system, fundamentally relies on data algorithms and studies behavioural patterns to function, and this usually warrants that they gain access into the personal data of subjects without fulfilling the requirement that the consent of data subjects must be expressly obtained before such access can be clothed with the garb of lawfulness stipulated in section 24(1) of the NDPA 2023, which provides that data shall be processed in a fair, lawful and transparent manner. It also provides that Personal Data is to be collected for specified, explicit, and legitimate purposes and is not to be further processed in a way incompatible with these purposes.

Interestingly, the company behind ChatGpt - OpenAI, has disclosed that to achieve its business goals, it may share users' personal data with unspecified third parties without informing them. This was after it was disclosed that the company collects the IP addresses of users, including their browser settings, interactions with the site, etcetera.<sup>32</sup> This raises the question of whether practitioners and legal researchers who use these AI-generative text tools to access a subject's data can be held liable for breach of data privacy.

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<sup>31</sup> Ibid.

<sup>32</sup> Marco Eggerling, "AI Data Leaks are Reaching Crisis Level: Take Action," available at <https://blog.checkpoint.com/executive-insights/ai-data-leaks-are-reaching-crisis-level-take-action/> (accessed 20 December 2023).

More so, the legal profession is known to be founded on the ethical principle of confidentiality of client information and data, amongst others. However, the integration of AI poses a threat to this hallowed principle and practice of attorney-client privilege as prescribed by the various Rules of Professional Conduct and section 192 of the Nigerian Evidence Act. Since client data will be processed by complex machine learning tools and programmed by tech experts other than lawyers, this has raised the legal consideration of what happens to the duty to protect confidential information within the limits enunciated by the law imposed on legal practitioners. And who takes responsibility for this data and ensures it is processed within the ambit of confidential standards accordingly?

In addressing this issue, it may be that there is no risk of breach of confidentiality as client information is already routinely stored in the cloud.<sup>33</sup> However, it is recommended that there is the need for disclosure to the clients on how their data is accessed, retrieved, and stored in compliance with Rule 14(2)(b)(c) of the Rules of Professional Conduct for Legal Practitioners 2023, and extant data privacy laws and instruments in Nigeria.

#### **2.4 Issues concerning Copyright Infringement**

The adoption of AI systems in the legal profession poses a threat to the violation of Intellectual Property (IP) rights. These implications are felt in the areas of patents, copyrights, trademarks, and other secret laws. IP laws work to protect the ownership

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<sup>33</sup> Cloud storage employs remote servers to save data and generic information of individuals, such as files, videos or images. To maintain availability and provide redundancy, cloud providers will often spread data to multiple virtual machines in data centres located across the world. Google Cloud, “The New Way to Cloud Starts Here,” available at: <https://cloud.google.com/> (accessed 20 December 2023).



rights of subjects.<sup>34</sup> For instance, the copyright legal framework, such as the Copyright Act 2023 affords exclusive right of protection to owners who have exhibited sufficient effort to possess a distinct personality of a present or future tangible medium of expression in literary works, artistic works, literary works or cinematography. However, as new AI innovations have emerged in several forms, like AI-generative texts, the question of determining the ownership of the generated texts between the AI itself, the developer, or the user becomes increasingly cumbersome. For example, OpenAI, the developer of ChatGpt has faced multiple class action lawsuits on copyright infringement from writers and data subjects.<sup>35</sup> Again, from the tone of the Copyright Act, it is also clear that the Act did not confer legal personality on AI technologies in its definition of “natural persons.”

## 2.5 The Ethical Issue of Bias and Discrimination

AI technologies evolve around novel kinds of issues that cut across their involvement and impact on decision-making, employment and labour, social interaction, health care, rule of law, security and policing, digital divide, among others, in such a way that extant biases and prejudices are reinforced, hence increasing already existing issues on discrimination, stereotyping, and prejudice.<sup>36</sup> It is a settled fact that AI algorithms have the tendency to reflect human biases which may seem discriminatory, such as the bias

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<sup>34</sup> Virandra Ahuja, “Artificial Intelligence and Copyright Challenges and Issues” (2020), available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3864922](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3864922) (accessed 30 December 2023).

<sup>35</sup> Blake Britain, “More Writers Sue OpenAI for Copyright Infringement Over AI Training,” available at <https://www.reuters.com/technology/more-writers-sue-openai-copyright-infringement-over-ai-training-2023-09-11/> (accessed 30 December 2023).

<sup>36</sup> The UNESDOC Digital Library, “Recommendations on the Ethics of Artificial Intelligence” (2021), available at: <https://www.unesco.org/en/articles/recommendation-ethics-artificial-intelligence> (accessed 27 December 2023).

of race, sex, ethnicity, grades, nationality, and other social constructs. The problem of selection bias in datasets used to construct AI algorithms is a furnishing instance.

It has been established that there is bias in automated facial recognition and the associated datasets, resulting in lower accuracy in recognising darker-skinned individuals which may affect women.<sup>37</sup> These biases which stem from their programming and data sources therefore raise the issue of whether individuals who are victims of such bias can successfully seek redress for damages caused by AI or its owner within the purview of section 42 of the 1999 Constitution, which prohibits discrimination, and/or related relevant laws. This issue raises profound ethical concerns as AI systems are unarguably not neutral. As such, AI systems have the potential to deepen existing biases, threaten human rights more, and further compound already existing inequalities and inequities.<sup>38</sup>

The consequence would be the fostering of the marginalisation of minority groups in the legal industry. As succinctly underscored by Gabriel Ramasso, in no other field is the ethical compass more relevant than in artificial intelligence.<sup>39</sup> AI technology brings major benefits in many areas, but without the ethical checks, there is the risk of generating bias and discrimination, which only challenge our collective human rights and freedoms.<sup>40</sup> To address this issue, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) formulated the first global standards on AI ethics which

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<sup>37</sup> NitheshNaik et al, "Legal and Ethical Consideration in Artificial Intelligence in Healthcare: Who Takes Responsibility?" available at: <https://www.frontiersin.org/articles/10.3389/fsurg.2022.862322/full> (accessed 27 December 2023).

<sup>38</sup> Ibid.

<sup>39</sup> Gabriela Ramos, "Assistant Director-General for Social and Human Sciences of UNESCO," available at <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics?hub=32618> (accessed 27 December 2023).

<sup>40</sup> Ibid.

was adopted in November 2021. This global policy known as the UNESCO Recommendation on the Ethics of Artificial Intelligence imposes an obligation on its 193 member states (of which Nigeria is one) both as actors and as authorities responsible for developing legal and regulatory frameworks throughout the entire AI system life cycle, to ensure that they provide ethical guidance to all AI actors in their jurisdiction, including the public and private sectors, by providing a basis for ethical impact assessment of AI systems.<sup>41</sup> This policy enjoins that since living in digital societies requires matching evolutionary practices, ethical reflections, responsible design practices, and new skills, then recourse should be given to the broader implications of AI integration. The aim is to ensure that it reflects the protection of human rights and dignity, based on the advancement of fundamental principles such as transparency and fairness.<sup>42</sup> Unfortunately, there is a glaring reluctance on the part of the Nigerian legal system to incorporate or adopt these recommendations as the legal category of AI systems is even still in question, making it more difficult to determine who to hold responsible when an ethical breach arises.

## **2.6 AI Potential to Interfere with Employability and the Labour Market**

Another issue posing a challenge is the question of whether AI will usurp the human job market. This is so since most devices can function in the manner that humans do, especially now that those that can mimic human psychology and empathy have been

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<sup>41</sup> The UNESDOC Digital Library, “Recommendations on the Ethics of Artificial Intelligence” (2021), available at: <https://unesdoc.unesco.org/ark:/48223/pf0000381137> (accessed 28 December 2023).

<sup>42</sup> The 2019 Preliminary Study on the Ethics of Artificial Intelligence by the UNESCO World Commission on the Ethics of Scientific Knowledge and Technology (COMET) (which) recommends that specific attention should be paid to the ethical implications of AI systems in the central UNESCO domains, such as education, information and communication, culture and science.

manufactured. Regardless, it is believed that AI assistance will only help humans improve their work lives and not replace them. Gartner<sup>43</sup> canvasses that although the widespread adoption of AI in diverse sectors of life will have a significant impact on the job market, these predictions are, as a matter of fact, overly pessimistic. In his words, “AI will become a positive job motivator and even create more jobs.” Similarly, other AI and Data thought leaders contend that all significant innovations in the past were associated with a transition period of temporary job loss, followed by recovery and business transformation.<sup>44</sup> However, despite these experts pointing out the potency of AI to create more jobs, there is nonetheless no doubt that the integration of AI in the legal profession will lead to job displacement and unemployment in the future, especially with persons who are largely unskilled or technically inclined operators whose services will be rendered obsolete by the evolution of technology that leverages law-related algorithms. The result will be fewer human legal roles overall and fewer generalist roles in particular, with new roles emerging such as legal process managers and legal technicians.<sup>45</sup>

### 3.0 CONCLUSION AND RECOMMENDATIONS

Without a doubt, the evolution of technology continues to revolutionise our commercial lifestyle, leaving a humongous trail of opportunities and innovations in its wake for the Nigerian legal system to leverage. Indeed, the future is technology and AI will continue

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<sup>43</sup> Gartner Newsroom, “Gartner says Artificial Intelligence will create more jobs than it eliminates,” (2017), available at: <https://www.gartner.com/en/newsroom/press-releases/2017-12-13-gartner-says-by-2020-artificial-intelligence-will-create-more-jobs-than-it-eliminates#:~:text=AI%20Will%20Create%202.3%20Million,become%20a%20positive%20job%20motivator>. (accessed 30 December 2023).

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

to broaden its wings over aspects of human issues. The benefits of AI perhaps mostly outweigh its cons and thus legal frameworks should be adopted to harmonise its integration and make its use more efficacious. Thus, there is a necessity for a solid and unambiguous legal framework to address these pervading issues. Although fast-paced technological developments and advancements usually pose regulatory challenges, there is a need for an appropriate confluence of technology and the legal profession and this can be done in the following ways.

On the issue of difficulty in ascertaining the status of AI, the law should be amended or enacted to accommodate the AI trend because as the historical school of thought posited, law ought to grow with the growth of the people and be strengthened with the strength of the people. Hence, the existing definition of persons under the LPA should be expanded to cover this loophole.

On the question of liability, it is fundamentally necessary for the relevant Nigerian Legal framework to be overhauled to clothe the issue of liability (especially criminality liability) with the garb that can hold the user or programmer criminally liable in the event of criminal misconduct or harm from such use. Additionally, on the ethical dilemma of bias, it is pertinent that Nigeria adjusts to the emerging and evolving global best practices, such as those in the EU Regulation and the UNESCO Recommendation.

Furthermore, it is evident that the entire issue surrounding AI revolves around the nonexistence of a legal and regulatory framework to address the concerns. Thus, legal frameworks should be established to particularly respond to the concerns emanating from the use of AI as the extant legal regime is not immediately and directly suitable

to match the AI wave. This is because law-making and regulations need to be more proactive, dynamic, and responsive to technological advancements

Finally, it is advised that AI integration will be more effective in Nigeria especially in the justice sector, if there are enabling infrastructures in place for its operations. For instance, the judiciary has been wailing about the digitisation of the justice system using AI tools, but it has been more talk than action because the government is not implementing its promises of enhancing the legal industry through technological innovation.