
ARTIFICIAL INTELLIGENCE AND LEGAL LIABILITY IN NIGERIA: SUBSTANTIVE AND PROCEDURAL DIMENSIONS*

Abstract

As artificial intelligence (AI) becomes an integral part of society and the economy, questions surrounding the legal liability, ethical boundaries, and the adequacy of Nigeria's legal framework have grown more urgent concerns. This paper examines the substantive and procedural legal dimensions of AI in Nigeria. It analyzes the legal vacuum in assigning liability for AI actions, the application of existing tort, contract, and intellectual property laws, and the admissibility of AI-generated evidence in Nigerian courts. It concludes with recommendations for legal reforms aligned with global best practices.

Keywords: Artificial Intelligence, Legal Liability, Substantive Law, Procedural Law, Nigeria

1. Introduction

AI has the potential to revolutionize industries such as healthcare, finance, education, and legal services. However, Nigeria's current legal infrastructure was not developed with autonomous systems in mind. While AI systems can operate independently, make decisions, and even 'learn' from data, Nigerian law does not recognize AI as a legal entity capable of bearing rights or obligations. This creates both substantive and procedural legal challenges, particularly in the areas of liability, enforcement, and regulation

2. Substantive Law and Artificial Intelligence in Nigeria

Legal Personality and Responsibility

Under Nigerian law, legal person is reserved for natural and juristic persons.¹ AI does not qualify under the Companies and Allied Matters Act (CAMA) 2020 or the Constitution of the Federal Republic of Nigeria, 1999 (as amended).² Therefore, AI systems cannot be held directly liable for wrongdoing. Responsibility for actions taken by AI systems must therefore be assigned to human actors—developers, employers, or end-users.

Tortious Liability

AI systems may cause harm due to design flaws, malfunction, or biased algorithms. The law of torts—particularly negligence and strict liability—can be adapted to AI-related harm. In negligence, plaintiffs must prove duty of care, breach, causation, and damage.³ A developer or operator may be liable for failing to prevent foreseeable harm from an AI system. In high-risk applications, such as autonomous vehicles or surveillance drones, strict liability may be appropriate, where liability is imposed regardless of fault.⁴

Contractual Obligations

AI systems are increasingly used to execute or facilitate contracts, such as trading bots or smart contracts. However, Nigerian law recognizes intention and consent as core elements of a valid contract under the general principles of contract law and the Sale of Goods Act.⁵ Smart contracts, which are self-executing code-based agreements, may be enforceable under the Evidence Act 2011, particularly Sections 84 and 93, if human parties can be identified. Disputes arise where an AI system autonomously concludes agreements without sufficient human oversight or awareness.

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¹ Companies and Allied Matters Act (CAMA) 2020, Cap C20, LFN 2004.

² Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 36(1)

³ *Donoghue v. Stevenson* [1932] AC 562 (HL); applied in Nigeria in *Ojo v. Gharoro* [2006] 10 NWLR (Pt. 987) 173.

⁴ *Rylands v. Fletcher* (1868) LR 3 HL 330; see also *Umudje v. Shell-BP Petroleum Dev. Co.* [1975] 9-11 SC 155.

⁵ Sale of Goods Act 1893, Cap S1, LFN 2004, S. 1.

Intellectual Property Law

The Copyright Act 2022⁶ provides that authorship and ownership rights are reserved for natural persons. Thus, works generated autonomously by AI are not protected unless a human has made a creative contribution through skill, judgment, and effort. Under the Patents and Designs Act⁷, inventors cannot be attributed to AI. Patents must be filed in the name of a human inventor.

Data Protection and Privacy

AI systems process vast amounts of personal data, raising compliance issues under the Nigeria Data Protection Act (NDPA) 2023 and its predecessor, the NDPR 2019. Deployers of AI must ensure data minimization, lawful basis for processing, transparency, and accountability.⁸ Failure to comply may trigger liability under the NDPA through enforcement actions by the Nigeria Data Protection Commission (NDPC).

3. Procedural Law and Artificial Intelligence in Nigeria

Admissibility of AI-Generated Evidence

Sections 84 and 93 of the Evidence Act 2011 govern the admissibility of electronic and computer-generated evidence.⁹ For AI-generated evidence to be admitted, it must be shown that: i) The data or output was produced by a properly functioning system; ii) The system operated reliably and without manipulation; iii) Certification and authentication are provided by a competent officer of Courts still face challenges in assessing the reliability of opaque ('black box') AI systems and detecting algorithmic bias.

Burden of Proof and Expert Evidence

The burden lies on the party relying on AI-generated output to prove its reliability. Expert witnesses may be required to: i) Explain the architecture and logic of the AI system; ii) Establish the causal link between system output and the harm; iii) Demonstrate fairness, transparency, and auditability of the algorithm. Such experts are essential in cases where a layperson—or even a judge—cannot independently evaluate technical complexity.

Enforcement and Remedies

Legal remedies for AI-related harm may include: i) Civil remedies: Compensatory damages, injunctions, rescission of contracts; ii) Administrative sanctions: Fines or suspension under the NDPA; iii) Criminal liability: Only applicable to human actors, since AI cannot form *mens rea*.

The absence of punitive tools against autonomous systems requires courts to hold human stakeholders accountable.

Regulatory Oversight

Currently, there is no dedicated AI law in Nigeria. However, the National Information Technology Development Agency (NITDA) has published draft frameworks on responsible AI. The National Artificial Intelligence Policy (NAIP) is under development. A comprehensive legal and institutional framework is urgently needed to address autonomous decision-making, algorithmic discrimination, liability thresholds, and certification of high-risk AI systems.

4. Comparative Insight

In the European Union, the draft AI Act proposes risk-based regulation, requiring strict controls for high-risk AI applications such as biometric identification and credit scoring. The Act emphasizes transparency, human oversight, and record-keeping obligations.¹⁰ In the United States, a sectoral approach is used. Agencies like the FTC focus on AI's impact on competition, data privacy, and consumer protection, while

⁶ Copyright Act 2022, S. 1 and 2.

⁷ Patents and Designs Act, Cap P2, LFN 2004, S. 2(1).

⁸ Nigeria Data Protection Act 2023; see also the NDPR 2019 (National Information Technology Development Agency).

⁹ Evidence Act 2011, SS. 84–93.

¹⁰ Proposal for a Regulation on a European Approach for Artificial Intelligence (AI Act), COM/2021/206 final.

courts interpret AI within existing common law doctrines. Nigeria can draw lessons from both jurisdictions to create a hybrid model that accommodates innovation while safeguarding right

5. Recommendations

There is need for the following measures:

Legislative Reform: Enact AI-specific laws to define liability regimes, transparency standards, and audit mechanisms, designate oversight body. (eg A National AI Commission)

AI Certification Schemes: Introduce mandatory risk assessments for AI systems in healthcare, finance, and surveillance.

Judicial Training: Equip judges with digital forensics skills, AI literacy, and familiarity with algorithmic accountability.

Ethical Guidelines: Develop a national AI ethics framework through a multi-stakeholder approach.

Enforcement of the NDPA: Empower the Nigeria Data Protection Commission to issue binding codes of practice for AI systems that process personal data.

6. Conclusion

AI presents complex legal challenges that cut across both substantive and procedural dimensions. Nigerian law can adapt existing doctrines in tort, contract, and evidence to address certain harms. This can integrate traditional legal principles with novel mechanisms suited to the autonomous and adaptive nature of AI. As Nigeria's digital economy and technology evolves, so must its legal system. Developing a coherent legal framework for AI will ensure that innovation is guided by accountability, transparency, and respect for human rights and not to undermine it.