

ARTIFICIAL INTELLIGENCE IN COURT PROCEEDINGS: USE, INSTITUTIONAL CONCERNS AND ACCESS TO JUSTICE

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Introduction

Artificial intelligence is already inside the courtroom, whether or not the court has invited it. Lawyers draft processes with it, litigants in person research with it, and courts are being asked to adopt it for administration. The question for the justice system is no longer whether AI will be used, but on what terms.

This paper addresses three matters:

1. The use of AI by lawyers and parties in court proceedings.
2. The institutional concerns it raises regarding ethics, reliability and governance.
3. Its potential to widen access to justice.

In this paper, "artificial intelligence" means computer systems that perform tasks ordinarily requiring human judgment, such as classifying documents, predicting outcomes or producing text. The focus is on **generative AI**: large language model tools (such as ChatGPT, Claude, Gemini and Copilot) that produce fluent text in answer to a prompt. Their fluency is both their value and their danger. They predict plausible words; they do not consult a law report unless they are connected to one, and they can state a falsehood with complete confidence.

Part One: Use of AI by Lawyers and Parties in Court Proceedings

AI can lawfully assist a lawyer or a party, but it cannot carry any of their responsibilities to the court. Every court that has confronted misuse has arrived at that same point.

1.1 How lawyers and parties use AI

Use	Examples	Principal risk
Legal research	Locating authorities, summarising judgments, statutory interpretation	Invented cases, misquoted holdings
Drafting	Writs, statements of claim, motions, affidavits, written addresses	Errors of law or fact carried into sworn or filed documents
Document review	Sorting and summarising large volumes of correspondence and records	Missed or mischaracterised evidence

Case preparation	Chronologies, lists of issues, cross-examination outlines	Over-reliance on a summary the lawyer has not checked
Translation and transcription	Rendering witness statements or recordings into English	Distortion of meaning in the record
Evidence creation (misuse)	Synthetic audio, video, images or documents ("deepfakes")	Fabricated evidence tendered as genuine

Nigerian practitioners also have local tools. Law Pavilion's TIMI assistant, released in 2018, was described as the country's first AI legal assistant ([Edo judiciary paper](#)). Tools grounded in a verified law-report database are materially safer than general chatbots, but they are not infallible.

1.2 The hallucinated-authority problem

The most visible failure is the citation of cases that do not exist. The pattern is now global and accelerating:

- **Mata v Avianca, Inc.**, 678 F. Supp. 3d 443 (S.D.N.Y. 2023): counsel filed a brief citing cases invented by ChatGPT. On 22 June 2023 the court fined the two lawyers and their firm US\$5,000 ([Mondaq](#)).
- **R (Ayinde) v London Borough of Haringey; Al-Haroun v Qatar National Bank** [2025] EWHC 1383 (Admin): the Divisional Court (Dame Victoria Sharp P and Johnson J) found five fictitious cases in one set of grounds. In the other, 18 of 45 cited authorities did not exist ([Noxia note](#)). The court held that freely available generative AI tools cannot conduct reliable legal research, and referred the lawyers to their regulators ([Brett Wilson](#)).
- **Northbound Processing** (Gauteng High Court, South Africa, 2025): counsel conceded that two non-existent citations appeared to be AI hallucinations ([IOL](#)).
- **Harber v HMRC** [2023] UKFTT 1007 (TC): a litigant in person relied on nine tribunal decisions that did not exist. The tribunal accepted she did not know they were fake, but disregarded them.

A public database kept by researcher Damien Charlotin now records over 2,000 court decisions worldwide in which hallucinated material was found ([Charlotin database](#)). It held 87 in May 2025 ([Volokh](#)). Sanctions have escalated from modest fines to suspensions from practice ([GC AI tracker](#)).

No reported Nigerian decision on hallucinated authorities has been found in the research for this paper. That should not be read as immunity. It more likely reflects the limited digitisation of trial-court rulings.

1.3 Lawyers: the duties that do not change

The judgments converge on four propositions:

1. **Verification is the lawyer's personal duty.** Every authority and quotation must be checked against an authoritative source before filing. In *Al-Haroun*, Dame Victoria Sharp called the failure to check a lamentable breach of a basic requirement ([Hausfeld](#)).
2. **Candour survives the tool.** Placing a false authority before the court breaches counsel's duty as an officer of the court, whether it came from an AI, a junior or a client. The English court noted that it may amount to contempt or even perverting the course of justice.
3. **Supervisors are accountable.** Heads of chambers and firms must ensure juniors are trained and supervised in AI use.
4. **The response matters.** Courts treat a prompt, candid correction far more leniently than denial or deflection.

In Nigeria, these propositions follow from the lawyer's existing obligations under the Rules of Professional Conduct for Legal Practitioners. The NBA Section on Legal Practice made them explicit in its **Guidelines for the Use of Artificial Intelligence in the Legal Profession in Nigeria**, launched on 28 August 2024. The Guidelines stress human oversight, compliance with the Nigeria Data Protection Act 2023, vendor due diligence, client transparency and training ([Regulations.AI summary](#)). Commentators now argue that the duty of competence includes technological competence ([Elgujja, SSRN](#)).

1.4 Parties and litigants in person

Self-represented litigants are the group most likely to rely on AI and least equipped to verify it. Courts have generally shown them more latitude than counsel, but have still disregarded fictitious material. Two further risks are specific to parties:

- **AI-generated evidence.** Synthetic recordings, images and documents can be tendered as genuine. Section 84 of the Evidence Act 2011 governs admissibility of computer-generated evidence, but it was framed before deepfakes existed. Nigerian courts have no specific test for detecting AI-generated material ([TechCabal](#)). Commentators note the 2023 amendment of the Act did not address generative AI ([OAL](#)).
- **AI as advocate.** In March 2025 a New York litigant presented argument through an AI-generated avatar without telling the court, and the hearing was halted ([Mondaq](#)). Right of audience remains personal to the party or a legal practitioner.

1.5 How courts are responding

Courts abroad have used three instruments: practice directions requiring disclosure or certification of AI use; costs, wasted-costs and disciplinary referrals; and published judicial guidance. The better view is not to ban AI but to require that a human answerable to the court verifies everything filed. Nigerian courts can achieve this through practice directions made under their rules, without new legislation.

Part Two: Institutional Concerns — Ethics, Reliability and Governance

The institutional concern is not that AI will make mistakes, since humans do too. It is that AI mistakes are fluent, hard to detect, and can erode the reasoned, accountable, human judgment on which the legitimacy of courts rests.

2.1 Reliability

- **Hallucination.** Generative models produce plausible text, not verified text. The English judicial guidance warns that public chatbots do not answer from authoritative databases, and their output may be inaccurate, incomplete, misleading or out of date ([LawCareers.net](https://www.lawcareers.net)).
- **Jurisdictional drift.** Most models are trained mainly on American and English material. They may import foreign law or spelling into a Nigerian brief, or miss Nigerian statutes, rules of court and customary law entirely.
- **Stale law.** A model's knowledge stops at its training date. It may not know a statute has been amended or a decision overruled.
- **Summaries as substitutes.** The October 2025 English guidance added that AI cannot replace a judge's direct engagement with the evidence; judges should read the underlying documents themselves ([Hogan Lovells](https://www.hoganlovells.com)).
- **Manipulation.** The same guidance warns of "white text": instructions hidden in a filed document, invisible to a human reader but read by an AI tool ([Hogan Lovells](https://www.hoganlovells.com)).

2.2 Ethics

1. **Judicial independence and the non-delegable duty to decide.** Section 6 of the 1999 Constitution vests judicial power in the courts, and section 36 guarantees a fair hearing before an independent and impartial court. Judicial power cannot be delegated to an algorithm. The Chief Justice of Nigeria, Hon. Justice Kudirat Kekere-Ekun, said at the NBA Lagos Law Week in June 2026 that judicial reasoning, credibility assessment and the exercise of conscience cannot be delegated to machines ([Channels TV](https://www.channels4.com)).
2. **Transparency and reasons.** A litigant is entitled to know and challenge the reasons for a decision. The CJN warned that opaque "black box"

systems raise constitutional concerns for exactly this reason ([Channels TV](#)).

3. **Bias and equality.** Models reproduce the patterns in their training data. The COMPAS risk-assessment tool in *State v Loomis* (Wisconsin, 2016) showed how an opaque proprietary score can influence sentencing without the defendant being able to test it.
4. **Confidentiality and data protection.** Pleadings, affidavits and judgments in draft contain personal data. Pasting them into a public chatbot may disclose them to a foreign provider. This engages the Nigeria Data Protection Act 2023, counsel's duty of confidence, and the court's own confidentiality. The English guidance tells judges to treat anything typed into a public tool as potentially published ([Legal Lens](#)).
5. **Candour and accountability.** A lawyer, party or judge remains personally responsible for everything filed or signed in his or her name. As one commentary put it, AI cannot hold a practising certificate or answer to a regulator ([JMW](#)).
6. **Public confidence.** A single judgment citing a non-existent authority would do disproportionate damage to confidence in the courts.

2.3 Governance frameworks

Instrument	Body and date	Core position
Guidelines for the Use of AI in the Legal Profession in Nigeria	NBA Section on Legal Practice, 28 Aug 2024	Human oversight; NDPA compliance; vendor due diligence; client disclosure; training
Nigeria Data Protection Act 2023	National Assembly	Lawful basis, security and cross-border transfer rules for personal data processed by AI tools
Evidence Act 2011 (as amended 2023), s. 84	National Assembly	Conditions for admitting computer-generated evidence; no specific test for synthetic media
AI Guidance for Judicial Office Holders	Judiciary of England and Wales, 31 Oct 2025	Use permitted with care; personal responsibility; verify everything; no confidential data in public tools
Guidelines for the Use of AI Systems in Courts and Tribunals	UNESCO, Dec 2025	15 principles, including transparency, accountability,

		human oversight and human rights protection
European Ethical Charter on the Use of AI in Judicial Systems	Council of Europe (CEPEJ), Dec 2018	Five principles: fundamental rights, non-discrimination, quality and security, transparency, user control
EU Artificial Intelligence Act (Regulation 2024/1689)	European Union, 2024	AI used to assist judicial authorities in researching and applying law is classed as high-risk (Annex III)

The common thread is clear. AI may **support** the judicial function but must not **supplant** it. Every output must be verified by an accountable human.

Confidential material must stay within secure systems.

The UNESCO Guidelines were built from consultations across more than 160 countries and over 36,000 judicial actors ([UNESCO](#)). They also recommend that courts keep a public record of the AI systems they use and how they are used ([Jus Mundi](#)).

2.4 The governance gap in Nigeria

The Bar has acted; the Bench has spoken, but has not yet codified. No National Judicial Council policy or practice direction on AI use by judges, or by counsel appearing before them, was found in the research for this paper. The gap matters because the risks already sit in every registry: unverified authorities, confidential data in public tools, and synthetic evidence that section 84 was never designed to catch.

Part Three: Potentials of AI for Access to Justice

AI's greatest promise lies not in deciding cases but in removing the delay, cost and complexity that keep people away from courts. Nigeria's need is acute. As of 9 February 2026, 51,955 of 80,812 inmates in custodial centres, 64 per cent, were awaiting trial ([TheCable](#)). That proportion has stayed near two-thirds for years ([Parrot Nigeria](#)).

3.1 Where AI can widen access

Area	What AI can do	Illustration
Legal information	Explain rights, procedure and court forms in plain language, at any hour and at no cost	Chat assistants on court or Legal Aid Council websites, grounded in verified Nigerian sources

Language	Translate and interpret between English, Pidgin and indigenous languages	Supreme Court of India uses AI translation of judgments (Borges Salmon); supports the s. 36(6)(e) right to an interpreter
Record of proceedings	Transcribe evidence in real time, freeing the judge from longhand recording	Morocco's judiciary adopted AI transcription of decisions (Brickmans)
Case management	Track filings, flag delays, schedule hearings, monitor remand time limits	Supreme Court's National Case Management System and mandatory e-filing Practice Directions 2026 (Channels TV)
Registry and chambers productivity	Sort processes, summarise records, draft routine orders for judicial review	Argentina's Prometea raised processing from about 130 to about 490 cases a month (UNESCO)
Legal aid and pro bono	Let a small number of lawyers serve far more clients by automating intake and first drafts	Legal Aid Council, Public Defenders, law clinics
Criminal justice decongestion	Identify awaiting-trial inmates held beyond lawful limits or for petty offences	Custodial data matched against case files for Chief Judges' prison visits

3.2 Particular benefits for the Nigerian litigant

- **Cost.** A first-level explanation of a legal problem no longer requires a paid consultation.
- **Distance.** Rural litigants can obtain information and file processes without repeated journeys to the state capital.
- **Language and literacy.** Voice-based tools in indigenous languages can reach litigants who cannot read English.
- **Speed.** Faster recording, summarising and case tracking shorten time to judgment, which is the heart of section 36's guarantee of a hearing within a reasonable time.

3.3 Conditions for realising the benefits

The potential is real, but it is conditional:

1. **Infrastructure.** Unreliable power and internet limit consistent use, especially in rural courts ([Edo judiciary paper](#)).
2. **The digital divide.** If only well-resourced firms use AI, the gap between rich and poor litigants widens rather than narrows ([Edo judiciary paper](#)).
3. **Verified local data.** Tools must be grounded in accurate, current Nigerian statutes, rules of court and law reports. Digitising and publishing High Court judgments is a precondition.
4. **Human safeguards.** Tools offered to the public must state their limits clearly and route users to a lawyer or Legal Aid when matters are serious. A wrong answer given confidently to an unrepresented litigant is itself a denial of justice.
5. **Training.** Judges, registrars and lawyers need to understand what the tools can and cannot do.

Recommendations

For the National Judicial Council and Heads of Court

1. Issue judicial guidance on AI use by judges and court staff, modelled on the English and UNESCO instruments but adapted to Nigerian law. It should confirm personal responsibility, forbid confidential material in public tools, and require judges to read the evidence themselves.
2. Make practice directions requiring counsel and parties to certify that every authority cited has been verified against an authoritative source. Disclosure of AI use can be required where it drafted substantive content.
3. Establish a clear sanctions ladder for fictitious authorities: costs personally against counsel, referral to the Legal Practitioners Disciplinary Committee, and contempt for deliberate deception.
4. Provide secure, court-approved AI tools so that judges and staff do not turn to public chatbots.
5. Keep a public register of AI systems used by the courts and for what purpose, as UNESCO recommends.
6. Invest in digitising and publishing High Court judgments, both to aid verification and to ground local AI tools.

For the Bar

7. Make AI competence part of mandatory continuing professional development.
8. Require law firms to adopt written AI policies covering verification, supervision and client confidentiality under the NDPA.

For the legislature and law reform bodies

9. Review section 84 of the Evidence Act to address synthetic and AI-altered evidence, including when expert authentication may be ordered.

For access to justice

10. Pilot AI transcription, translation and case-tracking in selected courts, with evaluation before scale-up.
11. Support the Legal Aid Council and law clinics to deploy verified plain-language legal information tools, especially in indigenous languages.

Conclusion

AI is a powerful clerk but an unreliable oracle. Used under verification and accountable human control, it can shorten delay, cut cost and bring the courts within reach of Nigerians now shut out by distance, language and expense. Used carelessly, it fills the record with fictions and weakens public trust in judicial reasoning.

The lessons from other jurisdictions are clear and consistent. Responsibility cannot be delegated to a machine, whether by counsel, party or judge. The Nigerian judiciary now has the opportunity to codify these principles before, rather than after, its first serious AI-related miscarriage. As the Chief Justice of Nigeria has emphasised, technology must serve justice and never replace the judge.

References

Cases

- Mata v Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023)
- R (Ayinde) v London Borough of Haringey; Al-Haroun v Qatar National Bank QPSC [2025] EWHC 1383 (Admin)
- Harber v Commissioners for His Majesty's Revenue and Customs [2023] UKFTT 1007 (TC)
- State v Loomis, 881 N.W.2d 749 (Wis. 2016)

Statutes and instruments

- Constitution of the Federal Republic of Nigeria 1999 (as amended), ss. 6 and 36
- Evidence Act 2011 (as amended 2023), s. 84
- Nigeria Data Protection Act 2023
- Rules of Professional Conduct for Legal Practitioners
- EU Artificial Intelligence Act, Regulation (EU) 2024/1689, Annex III

Guidance and reports

- NBA-SLP, [Guidelines for the Use of AI in the Legal Profession in Nigeria](#) (2024)

- Courts and Tribunals Judiciary, [AI Guidance for Judicial Office Holders](#) (October 2025)
- UNESCO, [Guidelines for the Use of AI Systems in Courts and Tribunals](#) (December 2025)
- CEPEJ, European Ethical Charter on the Use of AI in Judicial Systems (2018)
- D. Charlotin, [AI Hallucination Cases Database](#)
- Edo State Judiciary, [The New Frontiers in AI in the Legal Profession in Nigeria](#) (2025)
- A. Elgujja, [AI and the Duty of Competence in Nigerian Legal Practice](#) (SSRN, 2025)

News and commentary

- [Channels TV: CJN on AI and judges](#) (29 June 2026)
- [ThisDay: CJN unveils judiciary digital reform](#) (7 July 2026)
- [TheCable: NCoS awaiting-trial figures](#) (11 February 2026)
- [TechCabal: AI-generated evidence in Nigerian courts](#) (19 May 2025)
- [Hogan Lovells: Judicial AI guidance updated](#)
- [Brett Wilson: Ayinde contempt ruling](#)