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ARTIFICIAL INTELLIGENCE (ChatGPT) AND THE LEGAL PROFESSION IN NIGERIA: PROSPECTS AND CHALLENGES

Kingsley Adeyi Omengala*
Saka Toyin Abdulrahman**
Jamiu Isiaka***

Abstract

The pervading influence of Artificial Intelligence (AI) in most areas of human endeavors in our contemporary society is the focus of this paper. The aim is to evaluate the prospects and challenges that are associated with the use of Artificial Intelligence (AI) by the Legal Profession in Nigeria. This article adopted the doctrinal research methodology and found that there is decline in traditional human dependent methods of performing task based activities and the use of Artificial Intelligence on the other hand, is gaining traction. This state of affairs has given rise to concerns raised on the potentials for job losses that would be associated with these overwhelming involvements of technology in human affairs. Therefore, the Legal Profession is in no way insulated from the effects of Artificial Intelligence as Robot Lawyers are beginning to emerge in some jurisdictions to perform the works of Legal Practitioners. Consequently, it is hereby recommended that there should be a National legal framework governing the activities of members of the Legal Profession in Nigeria.

* Kingsley Adeyi Omengala, Deputy Director (Academics), Department of Professional Ethics and Skills, Nigerian Law School, Yenagoa Campus, Bayelsa State (omengalakingsley@gmail.com)
** Saka Toyin Abdulrahman, Deputy Director (Academics), Nigeria Law School, Enugu Campus, Enugu State (toyin.abdulrahman@nigerianlawschool.edu.ng)
*** I Jamiu Isiaka Isiaka, Lecturer, Department of Professional Ethics and Skills, Nigerian Law School, Yenagoa Campus, Bayelsa State (isiakajamiuisiaka@gmail.com)

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1.0 Introduction

Law and by extension the Legal Profession has been described in two contradictory antonyms of being 'dynamic' on the one hand and 'certain' on the other[1]. Despite the above contradiction in the description of Law, as an instrument of social engineering, it must necessarily possess the ability to recalibrate in response to societal needs. It will be pretentious to ignore the likely impact of the emerging trend of robotic lawyering and other forms of Artificial Intelligence enabled tools on the legal profession in Nigeria.

Stakeholders in the legal profession in Nigeria, over the years, have been deeply concerned with issues relating to decline in discipline and ethics of the profession[2]. In fact there is a recent reported lamentation on the conduct of lawyers by the Chief Judge of Lagos state, Kazeem Alogba, who argued that the conduct of lawyers nowadays is worrisome'[3]. This erosion of discipline and ethics amongst members of the profession has tripartite consequences on the profession, the first being the dwindling confidence of the clients in their Lawyers, the second is the general negative effect on the

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[1] G. E. Oputa and R. E. Ofodile, (eds), ' Hon. Justice C.A. Oputa, *Themes On Judicial Activism and Law*',p.39. (stating that '[t]here are two very desirable things about a system of justice. One is that it should be certain… on the other hand, it is desirable that the law should be flexible so as to meet changing social economic conditions, and these two very desirable things are in permanent conflict'

[2] Eric Ikhilae, 'Body of Benchers, NBA, *Supreme Court Justice Worry Over State of Legal Profession*', *The Nation Newspaper*, April 2, 2022, Vol.014, No.5724 p.6.; Newswire Law and Events, ' Be Honest to Clients, Enugu Judge Urges Lawyers'< https://newswireandevents.com/be-honest-to-clients-enugu-judge-urges-lawyers/> accessed 20 July 2022

[3] Victor E, ' NBA-SPIDEL 2023 Conference: Lawyers' conduct alarming; they 're bad examples, says Lagos Chief Judge' available at https://barristerng.com/nba-spidel-2023-conference-lawyers-conduct-alarming-theyre-bad-example-says-lagos-chief-judge/ accessed 21st June, 2023.

reputational asset of the profession, and last is the general waning trust in the legal system[4].

The issues of losing patronage in relation to legal services to persons who are not legal practitioners have also been on the front burner of the list of issues that the stakeholders in the profession have been very much interested in addressing[5]. This is despite the laudable measures put in place to minimize this invasion by non-qualified persons in the legal services delivery system, to this end the RPC provides '[a} lawyer(s) acting in his capacity as a legal practitioner, legal officer or adviser of any Governmental department of ministry or any corporation, shall not sign or file a legal document unless there is affixed on any such document a seal and stamp approved by the Nigerian Bar Association'[6]. The consequences of non-compliance with the above stipulation is equally provided in the following terms 'if, without complying with the requirements of this rule, a lawyer signs or files any legal documents …the document so signed or filed shall be deemed not to have been properly signed/filed'[7].

[4] Olakunle J. Orojo, *Conduct and Etiquette for Legal Practitioners, London*: Sweet & Maxwell, 1979; Niki Tobi, The Nigerian Lawyer, Lagos: Law Research & Dev. Forum, 2002; O. Doherty, *Legal Practice and Management in Nigeria, London*: Cavendish Pub. 1998; Mary M. Devlin, *The Development of Lawyer Disciplinary Procedures in the United States* (1994) 7 Geo. J. Leg. Ethics 911. See also, *Rotimi Williams Akintokun v LPDC* [2014] 13 NWLR [Pt. 1423] 1; *Jide Aladejobi v NBA* [2013] 15 NWLR [pt. 1376] 66; *Ndukwe v LPDC* [2007] 5 NWLR [Pt. 1026] 47 @ 48 (Mohammed, JSC, stated that misconduct is viewed "with great concern not only for the protection of the public ... but also for the protection and preserving the good name of the legal profession).

[5] Ss 2 & 24 LPA on the Persons entitled to practice in Nigeria; *Mobil Oil (Nig) PLC v Yusuf* [2012] 9 NWLR [Pt.1304] 47; *Fatoki v Baruwa* [2012] 14 NWLR [Pt.1319] 1

[6] Rule 10(1) RPC

[7]Rule 10 (3) RPC; General Bello *Sarkin Yaki (Rtd)& Anor v Senator Abubakar Atiku Bagudu* & 2 Ors LER [2015] SC: 722/2015

Despite the above measures, and others, put in place to curb this recurring issue of fake lawyers competing with qualified legal practitioners in the legal services delivery system, it has continued unabated remaining a major challenge that the stakeholders will keep battling to address[8]. Would Robot Lawyers minimize or aggravate these and other associated challenges? This is the question that stakeholders must pay serious attention to in view of the opportunities for possible abuse of Artificial Intelligence enabled tools that can guide unqualified persons in the preparation of legal documents and instruments.

Technology has been viewed as the greatest enabler of efficient service delivery in the legal profession, thus systems and methods are being adapted to allow for the application of technology to a range of legal service delivery systems[9]. This is despite the arguable disconnect between the training process by the faculties and the reality of the new order, for legal service delivery market, driven by technology[10]. The counter argument that

[8] C. Unini ' *Cultist Posing As Lawyer Arraigned In Osun Court*' available at https://thenigerialawyer.com/cultist-posing-as-lawyer-arraigned-in-osun-court/ accessed on 20th June 2023 (reporting that a 36 year old Ayotomide Adeniyi, on Tuesday, 20th of June, 2023, appeared before an Osogbo Chief Magistrates' Court, for acting as a lawyer and defrauding unsuspecting residents of the state, among other charges to which the defendant pleaded guilty).

[9] Kari Mercer Dalton, *Their Brains on Google*: How Digital Technologies Are Altering the Millennial Generation's Brain and Impacting Legal Education [2013] 16 SMU Sci. & Tech. L. Rev. 409. See generally, Leslie Larkin Cooney, *Giving Millennials a Leg-Up:* How to Avoid the "If I Knew then What I Know Now" Syndrome (2008) 96 KY. L.J. 505 (noting that Millennial generation are characteristically technology-minded, ambitious, demanding, questioning of everything, and more); Joan Catherine Bohl, *Generations X and Y in Law School*: Practical Strategies for Teaching the MTV/Google Generation (2008) 54 Loy. L. Rev. 775; Joanne Ingham & Robin A. Boyle, *Generation X in Law School*: How These Law Students Are Different from Those Who Teach Them [2006] 56 J. Leg. Educ. 281; Tracy McGaugh, *Generation X in Law School*: The Dying of the Light or the Dawn of a New Day? [2003] 9 J. Leg. Writing 119.

[10] Alex M. Johnson, Jr., '*Think Like a Lawyer, Work Like a Machine*: The Dissonance Between Law School and Law Practice' cited by O.F. Emiri and K.A. Omengala, ' Is It

technology is as much of an 'inhibitor' as it is an 'enabler' is equally valid because of the increasing phenomenon of the 'Google effect' syndrome[11]. The Google effect is a further validation of the result of the 1956 George Miller's research which gave rise to the Miller's Law of seven plus-minus two which means up to nine or as little as five items are the limit of a human's processing abilities[12]. Despite the lack of consensus on the impact on Artificial Intelligence on our daily affairs, it is our argument that Artificial Intelligence and its associated tools are here to stay; and must be seen as an asset and not a threat on cognitive behavior and memory function. This is particularly so as outsourcing of human memory is not a recent event. It has been stated that…'human beings have been outsourcing their memory to various materials and solutions for centuries. Paper, parchment, papyrus and wood are some prime examples. Modern technology is no different'[13].

Time to Welcome the Online [or the Hybrid] Classroom for Teaching Law?' [2020] 3ECULJ p.1-24 (stating that "many members of the Bar and Judges have shown deep concern about the growing disjunction between legal education and the legal profession. They fear that both are moving in opposite directions. For them the faculties should be producing " practice-ready" graduates with clear understanding of the nuances of practice, procedure and the increasing role of technology in legal service delivery, but the faculties are pulling the other way round as they are rather emphasizing abstract theory at the expense of practical scholarship and "in-class" pedagogy'); see similar concerns generally expressed in C.Unini ' Nigeria Greatly Deficient In Graduates Needed For 21st Century Economy- TETFund' available at https://thenigerialawyer.com/nigeria-greatly-deficient-in-graduates-needed-for-21st-century-economy-tetfund/ accessed on 21st June 2023 (reporting the Executive Secretary of TETFUND, Arch. Sony Echono as observing that even though the world is bedeviled by massive unemployment, the fact remains that most companies globally are complaining about their inability to fill open vacancies due to shortage of people with relevant skills to man the openings).

[11] The Google effect points to reduced memory usage by humans as a result of over reliance on technology. see Mercer Dalton, *Their Brains on Google*: How Digital Technologies Are Altering the Millennial Generation's Brain and Impacting Legal Education [2013] 16 SMU Sci. & Tech. L. Rev. 409.

[12] Will ChatGPT Impact Critical Thinking Skills For The Youth? No, Says Expert, *Politics now* Vol.1 No 9 p.26

[13] Ibid note9

This paper seeks to put in perspective the gaining popularity of artificial intelligence in the legal profession. The paper begins with an abstract where we set the tone for the arguments put forward in the paper. Thereafter there is the introduction where we demonstrated the fact that outsourcing of human memory is not a recent development. We then considered meaning of Artificial Intelligence and ChatGPT next. The Bar and legal representation was our next focus where we tried to show that lawyers are not robots or 'hired guns' who must exhibit zealous representation in the pursuit of their clients' briefs. Utilization of technology in the legal profession was examined and the three major areas of teaching, adjudication, and research were considered. The prospects and challenges of Artificial Intelligence in Nigeria were discussed next. We drew the curtain on the paper with our conclusion that Artificial Intelligence and the associated tools, despite the drawbacks, will be the new face of the profession and should be embraced.

2.0 Conceptual Clarification

2.1 What is Artificial Intelligence?

Artificial intelligence has been defined as the simulation of human intelligence processes by machines, especially computer systems[14]. In our contemporary world there is an increasing dependence on its usage in various areas of human endeavors ranging from unmanned drones for military operations to Computer assisted learning to the use of robots and other animated tools for commerce, healthcare delivery and a lot more.

2.2 **What is ChatGPT**?

ChatGPT is an AI chatbot that uses natural language processing to create humanlike conversational dialogue. The language model can answer questions and compose various written content such as articles, social

[14] https://www.techtarget.com/searchenterpriseai/definition/AI-Artificial-Intelligence accessed on the 3rd of July 2023

media post, essays, code and emails[15]. There is no doubt that this tool can be of significant benefit to the legal practitioners work if cautiously utilized.

2.3 The Bar and Legal Representation

The fundamental values of the Bar have been enumerated to be the following: (i) provision of competent representation; (ii) striving to promote justice, fairness, and morality; (iii) contributing to the profession's fulfillment of its responsibility to enhance the capacity of law and legal institutions to do justice; and (iv) professional self- development"[16].The attainment of these fundamental professional values is the general focus of the professional codes of ethics for the legal profession.

The codes of professional conduct seek to amplify these values of the Bar, irrespective of the model or combination of models adopted in any given Jurisdiction. Broadly, four interrelated (and sometimes alternative) models exist for regulating the professional conduct of lawyers. These are the disciplinary control model; the liability control model; the institutional control model; and the legislative control model.[17] These various models

[15] https://www.techtarget.com/whatis/definition/ChatGPT accessed on the 3rd of July 2023

[16] American Bar Association, Section of Legal Education and Admissions to the Bar, Legal Education and Professional Development – an Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap, cited in O.F Emiri, K.A Omengala and C. Lloyd , 'is the Lawyer-Client Confidentiality Rule Redundant? An Economic Analysis' (2021) Nigerian Current Law Review, Vol. 2 N02.

[17] David B. Wilkins, *Who Should Regulate Lawyers*? (1991) 105 Harv. L. Rev. 801 cited by O.F Emiri and K.A Omengala ' Choosing The Road Less Travelled: Why The One-Size-Fit-All Rules Of Professional Conduct Is Antiquated' (stating that disciplinary controls involves disciplining members using independent agencies [like in Nigeria, the Legal Practitioners Disciplinary Committee (LPDC) acting as an independent committee under the Body of Benchers (BoB) or Supreme Court] to investigate and prosecute violations of rules of professional conduct; operating with a basic structure resembling criminal prosecution. The liability control model is a mechanism under which injured clients and to a limited extent, third parties, can under statute or the common law sue for malpractice. Institutional controls often include sanction imposed on lawyers who render

set out to achieve, basically, the same outcome which is the need to keep lawyers within the circumference of the code of ethics applicable to the legal profession. The code(s) of ethics for Lawyers place high premium on the professional conduct lawyers are expected to exhibit. The code, typically, provides '[a] lawyer shall uphold and observe the rule of law, promote and foster the cause of justice, maintain a high standard of professional conduct, and shall not engage in any conduct which is unbecoming of a legal practitioner'.[18]

The unpretentious stance of the code in relation to its intended role as the ethical compass for Lawyers' behaviour, notwithstanding, some arguments have been proffered, equating Lawyers to 'hired guns' who must adopt a robotic approach to the services of clients[19]. That is to say once the professional services of a Lawyer is engaged he automatically becomes programmed to pursue the interests of his clients with little or no discretion

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services under institutional models, such as sanctions a judge may impose for litigation-related misconduct or those the Security and Exchange Commission (SEC) may impose under its regulatory regime on lawyers for ethical infractions. Legislative control takes the form of specific regulatory control by the legislative or executive branch rather than the courts to regulate professional conduct. The Legal Practitioners Act, 1975, is a good example of legislative control

[18] Rule 1 RPC

[19] Harry T. Edwards, '*A Lawyer's Duty to Serve the Public Good*', (1990) 65 *N.Y.U. L. Rev*. 1148 (1990 (arguing against the total commitment concept of the lawyer as "hired gun," who only pursues the client's aims); Edward D. Re (2012) 'The Causes of Popular Dissatisfaction with the Legal Profession,' (2012) 68 *St. John's L. Rev*. 86 @ 91 (stating that Roscoe Pound's characterization of the legal system as the sporting theory of justice is largely responsible for the vernacular called the "hired gun" approach); Walter H. Bennett, Jr., 'Making Moral Lawyers: A Modest Proposal', [1986] 36 *Cath. U. L. Rev.* 45, 60-61 (stating the lawyer-client relationship is often turned into one in which the attorney is the legal hired gun and the client is simply the impersonal vehicle bringing the case, thereby viewing lawyers as a moral guns for hire by society);Fred C. Zacharias, 'Rethinking Confidentiality II: Is Confidentiality Constitutional?',(1990) 75 *Iowa L. Rev*. 601 (arguing the profession to follow its moral instincts to prevent the society viewing lawyers from the hired gun pedestal); Theodore Schneyer, '*Moral Philosophy's Standard Conception of Legal Ethics*' [1984] *Wis. L. Rev*. 1529 @ 1567-71

to apply in the circumstance. The moderation introduced to the absolute devotion and dedication to a clients' cause by lawyers as stipulated in the code is a serious affront to the validity of the argument of the proponents of zealous representation[20]. This argument ('hired gun'), suffers more regulatory assault as it has, in fact, no justification under the RPC[21].

Furthermore, the RPC provides 'it is the duty of every lawyer on his own responsibility to decide what cases he will bring into court for the plaintiff and what cases he would contest in court for the defendant; and he is not absolved from bringing questionable action or arguing questionable defences or giving questionable advice on the ground that he is only following his client's instruction'[22]. The fact that Judges, in recent times, are beginning to impose punitive costs on lawyers who present frivolous and vexatious actions on behalf of their clients, after adjudging such matters to be bereft of any iota of merit, is serious disincentive to the hired gun or zealous representation approach to legal service delivery.

The prohibition of zealous representation under the RPC is further amplified by the latitude offered lawyers in the pursuit of their clients' cases in the following words ' [t]he lawyer shall be responsible for taking decisions in respect of incidental matters not affecting the merit of the case or operating to prejudice substantively the right of a client and he shall not be bound to do or refrain from doing anything contrary to his sense of honour or propriety simply because his client demands that he should do it'[23]. In fact a lawyer is justified to discontinue his services, under the RPC, to a client who insists on pursuing an immoral or unjust cause in the conduct

[20] See Rule 14(1) RPC (providing that '{i]t is the duty of a lawyer to devote his attention, energy and expertise to the service of his client and, subject to any rule of law, to act in a manner consistent with the best interest of the client').
[21] For example, Rule 15 RPC which enjoins lawyers to offer legal representations to their clients within the limits permitted by law.
[22] Rule 24(2) RPC
[23] Rule 24(4) RPC

of his case or who persists against the lawyer's strong objection in pressing frivolous defences[24].

The discretion available to lawyers in relation to control of incidental matters must be exercised with utmost professional sense of responsibility and competence, as he (the lawyer) is precluded from any 'attempt to exonerate himself from or limit his liability to his client for his personal malpractice or professional misconduct'[25]. Any agreement by which the lawyer seeks to exclude or limit his liability in professional negligence to his client is, generally, void[26]. However, it must be pointed out that the liability of lawyers to his client may be lawfully excluded or limited under the circumstances provided in the Legal Practitioners Act[27]

Generally, the right of audience in Courts and Tribunals or to act as a solicitor in Nigeria, for the purpose of offering legal services to clients, is only generally available to persons who have been admitted to the Bar as Barristers and Solicitors of the Supreme Court of Nigeria, and thereafter enrolled at the Supreme Court.[28]

The right to offer legal services, either as Barrister or Solicitor, in Nigeria is limited to the above enumerated classes of persons. Therefore any offer for the provision of legal services by persons or any inanimate object in Nigeria, outside the persons identified above, tantamount to impersonation of a legal practitioner which is unlawful[29].

[24] Rule 22 (2) (b) &(c) RPC
[25] Rule 16(1)(d) RPC
[26] S. 8 LPA
[27] S.9 LPA provides to the effect that liability in professional negligence may be legitimately excluded when the lawyer is acting *pro bono* or where the liability arises from the conduct of the lawyer while conducting proceedings *in facie* any court or tribunal in Nigeria.
[28] S.2 (1) LPA
[29] S.22 LPA criminalizes such a conduct and stipulates term of imprisonment or fine or both.

It is important to emphasize that the right to offer legal services by qualified legal practitioners may, in certain circumstances, be impaired when there is a failure to comply with the prescriptions of the Rules of Professional Conduct[30]. The RPC also requires that, '[a] lawyer who wishes to carry on practices as a legal practitioner shall participate in and satisfy the requirements of the mandatory Continuing Professional Development (CPD) Programme operated by the Nigerian Bar Association'.

There is no doubt that the adaptation of AI in the area of document preparation is steadily gaining prominence amongst professionals, students and researchers. It has great potentials to lessen the time requirements for the performances of tasks it can enable.

3.0 Utilization of Technology in the Legal Profession

Information Technology has three major intercourses with law. The first area is teaching of the substantive law subjects right from the secondary school; the second is application of technology to legal education in the form of CAL; while the third is in the practice of law using applications such as document assembly, expert systems, relational databases, spread-sheets and other law office applications.[31] The effective utilization of these

[30] For instance, Rule 9 (3) RPC provides that,'[a] lawyer shall not sign documents, pleadings, affidavits, depositions, applications, instruments, agreements, letters, deeds, memoranda, reports, legal opinions or similar documents, or processes or file such documents as a legal practitioner, legal officer or adviser of any government department or Ministry or any corporation when he is in default of payment of his Annual Practicing Fees.

[31] O. Bali, 'Legal digest' p.1 ; Alex M. Johnson, Jr., ' *Think Like a Lawyer, Work Like a Machine*: The Dissonance Between Law School and Law Practice' cited by O.F. Emiri and K.A. Omengala, ' Is It Time to Welcome the Online [or the Hybrid] Classroom for Teaching Law?' [2020] 3ECULJ p.1-24 (stating that "many members of the Bar and Judges have shown deep concern about the growing disjunction between legal education and the legal profession. They fear that both are moving in opposite directions. For them the faculties should be producing " practice-ready" graduates with clear understanding of

applications can greatly assist the legal practitioners in the discharge of their professional responsibilities to their clients.

In the area information technology assisted legal practice and adjudication and its associated positive effect it has been stated that 'China, with the aid of informatization of the courts and the deployment of technology, such as Artificial Intelligence and digitalization, in her justice delivery system is effectively combating the problem of lingering adjudication'. [32] The acceptance of email, SMS and other forms of social interface as a valid means of service has greatly increased the pace at which cases are now determined.

Furthermore the impact of technology in the practice of law is steadily growing so much that technology is now central to the practice of law, impacting communications with clients, lawyers, the courts, and most other areas of practice. Lawyers are familiar with e-mail and electronic filing. It has changed the way lawyers conduct and perform advertising (websites and social media), research (electronic research), dispute resolution (remote hearing, online mediation and negotiation), document creation (forms software), document management and case management (automated systems, electronic discovery), billing, litigation techniques (technology in the presentation of evidence, etc.), and countless other areas.[33]

In the area of teaching of law courses there is a radical shift towards embracing of technology to the extent it has been observed that now, in

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the nuances of practice, procedure and the increasing role of technology in legal service delivery, but the faculties are pulling the other way round as they are rather emphasizing abstract theory at the expense of practical scholarship and "in-class" pedagogy')

[32] Epiphany Azinge, 'Towards Effective Justice Delivery In Nigeria' <https://newswirelaawandevents.com/towards-effective-justice-delivery-system-in-nigeria> accessed 1 May 2022

[33] Emiri O.F and Omengala K.A. "Is it time to welcome the online [or the hybrid] classroom for teaching Law?'' [2020] 3 ECU Law Journal, pp.1-24

some jurisdictions, traditional law faculties must compete with online institutions who offer massive open website courses through Coursera machine learning'[34].

4.0 Prospects of Artificial Intelligence in the Legal Profession in Nigeria

The RPC enjoins legal practitioners to demonstrate competence in the provision of legal services to his clients; it precludes a legal practitioner from accepting to handle any legal matter which he knows he is not competent to handle them without associating with him a lawyer who is competent to handle it, unless the client is not favorable disposed to it[35]. Artificial Intelligence and the associated tools may be a ready source of assistance to lawyers outside of the stipulated duty to associate with another lawyer who is competent in situations where the lawyer is in doubt as to his capacity and proficiency.

The competence or efficiency of a legal practitioner is dependent on the professional skills that he or she can deploy in the discharge of his or her professional responsibilities to the clients. The necessary skills required include drafting, advocacy, research, communication, and interviewing. These skills, knowledge and values are the focus of the vocational training offered by the Nigerian Law School for candidates preparing for a career in

[34] Coursera is an online education provider that offers online courses, popularly known as MOOCs or Massive Open Online Courses, from top universities around the world, founded in 2012 by Stanford University's computer science professors. See, S Melissa Korn & Jennifer Levitz, Online Courses Look for a Business Model, Wall St. J., Jan. 2, 2013, at B8 (noting that online providers Coursera and Udacity each have received more than $20 million in venture capital funding and that edX was "founded with $30 million each from Harvard University and Massachusetts Institute of Technology"); Tamar Lewin, Universities Reshaping Education on the Web, N.Y. Times, July 17, 2012, at A12 (noting the decisions of sixteen major universities, including three located outside the United States, to offer massive open online courses through Coursera).

[35] Rule 16(1) (a) RPC

the legal profession. Artificial Intelligence can be utilized in the course of the training at the law school. It has been stated that 'Artificial Intelligence can pass the attorney bar exam, score brilliantly on the SATs and produce unique art work'[36]. Therefore, Artificial Intelligence can be immensely useful to law school students, as an additional resource, in their studies and research.

Over the years legal research skills has been greatly enabled by the use of some aids including indexes, encyclopedias, precedents and forms, and digests of cases. These aids to research have been of tremendous assistance to legal practitioners who recourse to them in aid for their preparation for their clients brief. Artificial Intelligence has, in no small measure, enhanced the ability of legal practitioners to quickly respond and assist legal practitioners in the aspect of legal research. ChatGpt is an Artificial Intelligence tool that lawyers can now call in aid to quickly respond to their research needs.

Another area where Artificial Intelligence can be utilized to assist legal practitioners in the discharge of their professional responsibilities to their clients is in the area of drafting. Modern legal practice is dominated by drafting. These documents, in most cases, are required to be filed within a very short time frame. Thus, a lawyer to be efficient in the area of advocacy in our modern times, effective drafting skills is indispensable. The various Rules of court now provide for the front loading system as a means of activating the Jurisdictions of the trial superior courts of record in civil matters[37]. The volume of drafts that a legal practitioner is expected to

[36] C. Nweze 'IMF, *Goldman Sachs, Warn Against AI Impediments To Business*' *The Nation Newspaper*, Vol.13 No. 6160 0f Monday 12 June 2023 p.27

[37] For instance Order 2 Rule 1 of the High Court of Benue State (Civil Procedure) Rules, 2021, provides: All civil proceedings commenced by writ of summons shall be upon application by a litigant or a legal practitioner on his behalf and shall be accompanied by:

(a) statement of claim,
(b) list of witnesses to be called at the trial,

frequently contend with makes it imperative to sometimes seek for support in AI and other relevant materials.

5.0 Challenges of Application Artificial Intelligence to Legal Practice in Nigeria

The first challenge confronting Artificial Intelligence in Nigeria is the absence of a regulatory code on its usage. The spokesperson of National Information Development Agency was recently reported to have said 'on Artificial Intelligence, as I said earlier, we have drafted the National Artificial Intelligence Policy that is yet to be approved. Also, the agency is already working on drafting the Nigeria code of practice for Artificial Intelligence. Nigeria cannot adopt the EU and US codes of conduct due to our peculiar situation. But we can leverage on theirs to perfect ours to suit our situation'[38]. This challenge is compounded by the fact that The Lawyers professional conduct in Nigeria is self-regulated, as is the case in many other jurisdictions.[39] Therefore the general code being developed by the National Information Development Agency may not be able accepted, without modifications, to address the peculiarities of the legal profession.

One other challenge that has been identified as the biggest with ChatGPT is that 'it is vague on its sources and often out of date, which means that it rarely is as accurate as it needs to be'[40]. This challenge is more disconcerting owing to the fact that, for research purposes, remembering

(c) written statements on oath of the witnesses,
(d) copies of every document to be relied on at the trial, and
(e) an affidavit of non-duplicity of action on the same subject matter.

[38] B. Afolabi ' *FG To Release Practice Code For ChatGPT, Others*' *The Punch Newspaper*, Vol.47 No. 22997 of Tuesday June 13th 2023 p. 32

[39]Ira Horowitz, *The Economic Foundation of Self-Regulation in the Professions* in Roger D. Blair & Stephen Rubin, (eds.), Regulating the Professions: A Public-Policy Symposium, 1980. (noting that self-regulation is a common feature of professionalism). See also, Lester Brickman, ABA Regulation of Contingent Fees: Money Talks, Ethics Walk [1996] 65 Fordham L. Rev. 247.

[40] *(n12) Ibid*

the source of your fact or data is more important than remembering the fact or data itself[41]. ChatGPT uses machine learning to infer information which may introduce inaccuracies. If users do not constantly check the factual accuracy of information obtained from ChatGPT, they run the risk of circulating inaccurate news, inaccurate information and even conspiracy theories.[42] The TruthfulQA benchmark test has found most generative models are only truthful 25% of the time, according to the 2022 Stanford University Artificial Intelligence Index Report[43].

Recently two US Lawyers, Peter LoDuca and Steven A Schwartz and the firm of Levidow Levidow & Oberman were fined $ 5,000 each by a US district Judge P Kevin Castell, for submitting an address prepared with the assistance of ChatGPT containg 6 fake cases. The Judge held thus:

> in researching and drafting court submissions, good lawyers appropriately obtain assistance from junior lawyers, law students, contract lawyers, legal encyclopedias and databases such as Westlaw and LexisNexis. Technological advances are commonplace and there is nothing inherently improper about using a reliable artificial intelligence tool for assistance. But existing rules impose a gatekeeping role on attorneys to ensure the accuracy of their filings[44]

The judge further held that the lawyers ' abandoned their responsibilities when they submitted non-existent judicial opinions with fake quotes and citations created by the artificial intelligence tool ChatGPT, then continued to stand by the fake opinions after judicial orders called their existence into

[41] *ibid*
[42] *ibid*
[43] *ibid*
[44] C. Unini ' *Judge Fines Two Lawyers For Using Fake Cases From ChatGPT*' available at https://thenigerialawyer.com/judge-fines-two-lawyers-for-using-fake-cases-from-chatgpt/ accessed on 26th June 2023

question'[45].

The above position may not have had a very different outcome in Nigeria. The RPC provides that '[a] lawyer is an officer of the court and accordingly, he shall not do any act or conduct himself in any manner that may obstruct, delay or adversely affect the administration of justice'[46]. The Rule further provides ' [i]n appearing in his professional capacity before a Court or Tribunal, a lawyer shall not- knowingly misquote the content of a paper, the testimony of a witness, the language of the argument of the opposing counsel, or the language of a decision or a textbook'[47].

Infraction of the Rules in the manner stated above qualifies as a professional misconduct for which the disciplinary jurisdiction of the Legal Practitioners Disciplinary Committee (LPDC) may be activated against the erring legal practitioner[48].

It needs to be mentioned that ChatGPT as an Artificial Intelligence tool, to be of any useful guide to legal practitioners and Judges in Nigeria must develop arguments around laws, decided cases, customary laws, and principles of Sharia law that represent the framework for the resolution of disputes and contractual obligations.

6.0 Conclusion and Recommendations

Despite some of the drawbacks of artificial intelligence and its ChatGPT tool that we have tried to point out in this paper, its potentials, if cautiously harnessed, will continue to be a useful tool for the present phase of our

[45] ibid
[46] Rule 30 RPC
[47] Rule 32(f) RPC
[48] Rule 55 (1) PRC which provides ' if a lawyer acts in contravention of any of the rules in these Rules or fails to perform any of the duties imposed by the Rules, he shall be guilty of a professional misconduct and liable to the punishment as provided in the Legal Practitioners Act, 1975'.

professional development. The legal profession cannot afford to be left behind in the current march towards taking advantage of the opportunities presented by the available technology, when adapted to suit our peculiarities.

It is hereby recommended that there should be a National legal framework governing the activities of lawyers in relation to the use of AI in addition to the LPA