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# Liability for Harm Caused by Artificial Intelligence: A Theoretical Framework of Fault, Causation and Responsibility Gaps in Common-Law Jurisdictions

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## ABSTRACT

*Artificial intelligence (AI) systems now diagnose patients, score borrowers, generate content and drive vehicles, and when they cause harm the common law of torts struggles to respond. Negligence presupposes an identifiable person whose unreasonable conduct caused the harm, but AI is autonomous, opaque, adaptive and produced through long value chains. Existing scholarship has examined particular reforms, especially in the European Union, but has offered no general framework for common-law jurisdictions that lack AI-specific legislation, and Nigeria has received almost no attention. This study addresses that gap. Its objectives were to identify the distinct gaps AI opens in common-law liability for harm, to evaluate the main remedial options against them, and to derive a reform framework for jurisdictions such as Nigeria. The study adopted a doctrinal, conceptual and comparative research design. It analysed primary legal sources, including leading common-law cases and statutes from the United Kingdom, the European Union and Nigeria, together with a purposive sample of 32 peer-reviewed journal articles published between 2023 and 2026, each verified against its Crossref publisher record, consulted through university library databases and screened for retractions. The analysis identifies three gaps: a fault gap, where harm occurs although no one acted unreasonably; a causation gap, where opacity prevents proof that a breach made a difference; and an attribution gap, where many contributors make it impossible to identify who is responsible. Four remedies were evaluated. Adapted negligence suits cases where human judgment remains central but leaves blameless harm uncompensated; strict product liability closes the fault gap but struggles to define defects in adaptive systems; presumptions with disclosure duties address opacity but collide with trade secrecy; and insurance or compensation funds secure compensation but may weaken incentives. The study argues for a layered regime and recommends that Nigerian courts apply negligence flexibly, that the legislature enact strict liability for defective AI products and services with disclosure duties and presumptions, and that compulsory insurance be piloted in high-risk sectors.*

***Keywords:*** artificial intelligence liability; negligence; product liability; causation; responsibility gaps

# Liability for Harm Caused by Artificial Intelligence: A Theoretical Framework of Fault, Causation and Responsibility Gaps in Common-Law Jurisdictions

## 1. INTRODUCTION

The common law of torts grew up around human actors. Its central figure is the reasonable person, its central question is whether someone fell below the standard that person would have met, and its central requirement is that the claimant show that this failure caused the harm. When a manufacturer sold a bottle of ginger beer allegedly containing a decomposed snail, the House of Lords could ask what a careful manufacturer would have done and conclude that a duty was owed to the ultimate consumer (*Donoghue v Stevenson*, 1932). The Supreme Court of Nigeria adopted the same neighbour principle when a refrigerator sold by a distributor exploded and injured the buyer, holding the seller liable and observing that the ultimate consumer may proceed against anyone in the chain of distribution up to the manufacturer (*Nigerian Bottling Co Ltd v Ngonadi*, 1985). The structure works because the harm can be traced to an identifiable act or omission by an identifiable person.

Artificial intelligence (AI) strains each element of that structure. Machine-learning systems change their behaviour through training, operate with a degree of autonomy, and are often opaque even to those who built them. They are produced and deployed through long value chains in which data suppliers, model developers, fine-tuners, integrators and users all play a part (Botero Arcila, 2025). When such a system misdiagnoses a patient, denies a loan, defames a person or causes a vehicle collision, the claimant may find that no one behaved unreasonably, that the causal path through the system cannot be reconstructed, or that so many parties contributed that none can be singled out.

Legislators elsewhere have begun to respond. The European Union adopted a revised Product Liability Directive in 2024 that expressly brings software, including AI systems, within the definition of a product (Directive (EU) 2024/2853; Li & Faure, 2024). A companion proposal for an AI Liability Directive, which would have eased the burden of proof in fault-based claims, was withdrawn in 2025, leaving national fault rules to do much of the work (Tujjar et al., 2026). The United Kingdom has legislated for automated vehicles by channelling first-instance liability to insurers (Automated and Electric Vehicles Act 2018). Most common-law jurisdictions, however, have no AI-specific liability statute. Nigeria is a clear example. Its law of negligence is drawn from the English common law, its consumer and data protection statutes were not written with AI in mind, and its emerging AI policy has not yet addressed civil liability (Mohammed, 2026; Okon, 2026).

This article develops a theoretical framework for AI liability in such jurisdictions. It identifies three gaps that AI opens in the law of harm: a fault gap, where no one was at fault; a causation gap, where the cause cannot be traced; and an attribution gap, where too many parties were involved to say who is responsible. It then evaluates four remedies: adapted negligence, strict or product liability, rebuttable presumptions combined with disclosure duties, and insurance or compensation funds. The objectives are to define and distinguish the three gaps; to assess how far each remedy closes them; and to derive a framework suited to common-law jurisdictions without AI-specific legislation, with Nigeria as the principal illustration. Three research questions follow. RQ1 asks what gaps AI creates in common-law liability for harm. RQ2 asks how well the main remedial options address those gaps. RQ3 asks what combination of remedies is appropriate for a jurisdiction such as Nigeria.

## 2. LITERATURE REVIEW

### 2.1 CONCEPTUAL REVIEW

Liability here means civil liability to compensate for harm, chiefly in tort, though contract and statutory consumer protection also play a role. Fault refers to culpable conduct, in negligence a failure to meet the standard of reasonable care. Causation refers to the requirement that the defendant's breach made a difference to the harm, classically through the "but for" test (*Barnett v Chelsea and Kensington Hospital*

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*Management Committee*, 1969). Attribution refers to the identification of the person or persons to whom the harm is legally assigned.

The term "responsibility gap" comes from moral philosophy, where it describes a mismatch between the responsibility that can be attributed to any person on leading accounts and the responsibility that intuition suggests someone should bear (Da Silva, 2024). Legal liability is not the same as moral responsibility, since the law often imposes liability without blame. But the philosophical debate helps identify where legal attribution is likely to falter. Hindriks and Veluwenkamp (2023) argue that there are no true responsibility gaps, since harms caused by autonomous machines are either blameless or indirectly attributable to designers, manufacturers or regulators, and that the real problem is a "control gap" where machines are deployed with unacceptable levels of risk. Wood (2023) similarly argues that once one examines particular autonomous weapon systems rather than the category as a whole, a clear locus of responsibility usually appears.

## 2.2 THEORETICAL REVIEW

Two theoretical traditions inform the analysis. The first is corrective justice, which sees tort law as a means of putting right wrongs done by one person to another. On this view, fault and causation are not technical hurdles but the conditions under which it is fair to make a defendant pay. Martínez Alles (2024) adds an important qualification: tort law should be studied as part of a wider web of institutions that share responsibility for protecting people's urgent interests, and in the age of AI that web includes regulation, insurance and social welfare. Heine and Quintavalla (2024) reach a similar conclusion from legal history. Studying how Roman law handled businesses run through slaves, an earlier case of action without a fully accountable agent, they find that Roman law developed several coexisting remedies and allocated risks among stakeholders gradually, and they suggest that AI regulation should proceed in the same pluralist and incremental way.

The second tradition is law and economics, which treats liability rules as instruments for deterring harm and allocating risk efficiently. Shavell (2024) shows that the basic causal requirement of negligence may be difficult or impossible to satisfy and can therefore weaken deterrence, and he proposes an alternative, easier causal test. Obidzinski and Oytana (2024) model a manufacturer selling AI to users who suffer from behavioural inattention, and show that the optimal division of liability must balance the manufacturer's investment in AI autonomy against the diffusion of the technology. Li and Faure (2024) apply economic analysis to the revised Product Liability Directive, which adapts strict product liability to digitalisation and AI. Luik and Kinkar (2025) ask whether insurance might eventually replace tort for autonomous vehicles.

## 2.3 EMPIRICAL REVIEW

Doctrinal and comparative studies document how existing law handles AI. In negligence, Bartlett (2024) argues that clinicians should not ordinarily be negligent for following AI recommendations and that developers are unlikely to owe patients a duty of care, leaving patients exposed, and asks whether *res ipsa loquitur* can help. Mehta (2024) examines AI in diagnostics and surgery and the standard of care in medical negligence. Khan (2024) argues that the reasonable person test in South African delict will need reform as AI enters practice. In the United States, Widen and Koopman (2024) propose the legal fiction of a "computer driver" whose conduct is judged against the care expected of an attentive human driver.

In product liability, Nguyen (2026) concludes that the Australian Consumer Law needs significant reform to capture AI defects, including clarifying that digital elements can be components, revising who counts as a manufacturer, and reconstructing the test of defectiveness. Botero Arcila (2025) draws on the law on suppliers of components to allocate liability along the AI value chain of programming, fine-tuning and implementation. Rodríguez de las Heras Ballell (2023, 2025) analyses the revised Directive as a key piece of the EU's AI liability puzzle and maps liability scenarios for generative AI. Mayrhofer (2026) examines how the EU AI Act's safety requirements may shape defectiveness and defences under the new Directive. Sarabdeen (2026) compares EU and Canadian approaches, and Castro (2026) shows that the new Directive excludes damage from violations of personality rights, leaving defamation by generative AI to national fault rules.

On proof and disclosure, De Bruyne et al. (2023) evaluate the European Commission's two proposals,

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noting that the AI liability proposal contained rules on disclosure and on alleviating the burden of proof, while the revised product liability regime broadened its scope and introduced presumptions of defectiveness and causation, and Noto La Diega and Bezerra (2024) argue that ex post tort liability, including rules on evidence and causal links, is necessary to incentivise generative AI safety. Grozdanovski (2025) shows that the proposed right of victims to request disclosure of evidence was limited by the protection of trade secrets, and asks whether litigants could participate meaningfully in proceedings when critical evidence is withheld. Tujjar et al. (2026) analyse healthcare AI after the withdrawal of that proposal and identify five persistent gaps: evidence asymmetry, documentation integrity, multi-actor control, warning and reliance, and causation under uncertainty. Outside Europe, Tauhid et al. (2026) propose a control-risk-evidence model for Indonesian civil law.

On insurance and compensation, Luik and Kinkar (2025) examine whether insurance could replace tort for autonomous vehicles, and Cole et al. (2026) review how United States insurers use AI and how state regulators have responded. Lemaire (2025) shows that compensation schemes in England and Wales, often thought to arise ad hoc, follow an identifiable pattern rooted in their relationship with the tort system, which offers a basis for deciding when a scheme should supplement or replace tort.

On Nigeria, the literature is thin. Almajed (2026) argues that Nigerian and other African tort law remains derivative of English doctrine, with its emphasis on individual fault and corrective justice, and that this inheritance limits its capacity to respond to local realities. Itanyi (2024) examines the compensation gap that AI creates for Nollywood performers. Aloamaka (2025) analyses the Nigeria Data Protection Act 2023 and its alignment with the GDPR, and Mohammed (2026) finds that the Act's treatment of automated decision-making is inadequate and that it lacks contestability mechanisms. Okon (2026) describes AI's potential in Nigerian governance alongside weak regulatory and institutional capacity. No study has yet offered a general framework for AI tort liability in Nigeria.

## 3. MATERIALS AND METHODS

The study uses a doctrinal and conceptual research design, combined with comparative analysis. It does not collect primary empirical data. Doctrinal analysis is appropriate for identifying how existing legal rules apply to new situations, and comparative analysis for evaluating reform options drawn from other jurisdictions.

Two kinds of material were analysed. The first comprised primary legal sources: leading common-law cases on duty, breach and causation; the United Kingdom's Consumer Protection Act 1987 and Automated and Electric Vehicles Act 2018; the European Union's revised Product Liability Directive; and Nigeria's Federal Competition and Consumer Protection Act 2018 and Nigeria Data Protection Act 2023. The second comprised secondary literature. Peer-reviewed journal articles were identified through the Crossref scholarly index using terms including "artificial intelligence liability negligence," "product liability artificial intelligence," "responsibility gap," "AI Liability Directive," "res ipsa loquitur," "autonomous vehicles liability insurance" and "Nigeria artificial intelligence law." Sampling was purposive. Articles were included if they appeared in peer-reviewed journals between 2023 and 2026 and addressed civil liability for AI, its theoretical foundations, or the Nigerian legal context. Preprints, conference proceedings, books and unverifiable sources were excluded. The final sample comprised 32 articles: 4 on responsibility and accountability gaps, 3 on tort theory and economics, 4 on negligence and AI, 7 on product liability, 5 on proof, disclosure and EU reform, 4 on insurance, compensation schemes and generative AI, and 5 on the Nigerian and African context.

Each article was verified against its Crossref publisher record for authorship, title, journal, volume, issue, pagination or article number and DOI, and screened for retractions, corrections and expressions of concern. None was flagged. Abstracts and full texts were consulted through the University of South Africa library's subscribed databases, including ScienceDirect and publisher platforms. Primary legal sources are cited by their official citations, and the Nigerian decision was checked against the reported judgment of the Supreme Court.

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The analysis proceeded in three steps. First, the elements of negligence and product liability were tested against characteristic features of AI, namely autonomy, opacity, adaptivity and distributed production, to identify where liability fails. This produced the three gaps. Second, four remedial models drawn from the comparative literature were evaluated against each gap. Third, the results were applied to Nigeria to derive a reform framework. Reliability was supported by applying the same evaluative criteria to each remedy, and validity by triangulating doctrinal, philosophical and economic perspectives. Generative AI (Claude, Anthropic) was used to assist with literature searching, structuring and language editing; all sources were located and verified against publisher or official records, and the analysis and conclusions are the author's responsibility. The study is limited by the scarcity of AI liability case law in common-law courts and of Nigerian scholarship on the subject.

## 4. RESULTS AND DISCUSSION

### 4.1 RESULTS

The analysis identifies three gaps that AI opens in common-law liability for harm. Table 1 summarises them.

Table. 1. Three gaps in common-law liability for AI harm

| Gap | What fails in doctrine | Typical AI scenario |
|---|---|---|
| **Fault gap** | Negligence requires unreasonable conduct, and none can be shown | A well-tested diagnostic system errs in a way no one could foresee |
| **Causation gap** | The claimant cannot prove that the breach made a difference | An opaque credit model refuses a loan and its reasons cannot be reconstructed |
| **Attribution gap** | No single party can be identified as legally responsible | A model built by one firm, fine-tuned by another and deployed by a third causes harm |

The fault gap arises when harm occurs even though everyone involved acted reasonably. A developer may have trained and tested a system to the state of the art, a hospital may have deployed it according to guidance, and a clinician may have followed its recommendation in good faith, yet the system errs in a way no one could reasonably have foreseen. Negligence, which asks whether conduct fell below a standard, has no answer to this situation. Bartlett's (2024) conclusion that clinicians following AI advice will rarely be negligent, and that developers will rarely owe patients a duty, describes the gap precisely. Hindriks and Veluwenkamp (2023) are right that such harms may be blameless. The legal question is whether blameless harm should nonetheless be compensated, and by whom.

The causation gap arises when the claimant cannot show how the harm came about. Opaque machine-learning systems make it difficult to reconstruct why a particular output was produced, and adaptive systems may behave differently over time. Even where a breach is shown, the claimant may be unable to prove that the breach, rather than some other feature of the system or its data, made the difference. Shavell (2024) shows that this problem is not unique to AI but becomes acute when the causal process is hidden. Tujjar et al. (2026) list causation under uncertainty and evidence asymmetry among the gaps that persist in European healthcare AI even after recent reforms. In the common law, the courts have occasionally relaxed causation where the science made proof impossible, most famously in allowing recovery for material increase in risk in mesothelioma cases (*Fairchild v Glenhaven Funeral Services Ltd*, 2002), but these exceptions are narrow.

The attribution gap arises when so many parties contributed to a system that none can be identified as responsible. Botero Arcila (2025) describes the AI life cycle as involving programming, fine-tuning and implementation, each potentially by different actors, with others supplying data and components. Nguyen (2026) notes that existing definitions of manufacturer and component do not map neatly onto this chain. The problem resembles what philosophers call the problem of many hands, and it is aggravated where actors are located in different jurisdictions, as is common when African deployers use foreign models.

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The analysis then evaluates four remedies against the three gaps, as summarised in Table 2.

Table. 2. Evaluation of four remedies against the three gaps

| Remedy | Gaps addressed and limits | Suitability for Nigeria |
|---|---|---|
| **Adapted negligence** | Some help with attribution; leaves the fault gap; causation remains hard | Available now through the courts |
| **Strict or product liability** | Closes the fault gap and eases attribution; defects hard to define; some harms excluded | Needs legislation placing liability on importers and deployers |
| **Presumptions with disclosure duties** | Addresses the causation gap; tension with trade secrets; needs technical capacity | Courts can use res ipsa loquitur now; a statute is needed for a full scheme |
| **Insurance or compensation funds** | Closes all three gaps for victims; costly; may weaken incentives | Pilot in high-risk sectors such as autonomous transport |

Adapted negligence keeps fault at the centre but modifies its application. Courts could recognise duties owed by developers to foreseeable users and affected persons, as Widen and Koopman (2024) propose through the "computer driver" fiction, and could adjust the standard of care for professionals who use AI, as Mehta (2024) and Khan (2024) suggest. This approach fits common-law method and can develop incrementally. It does little, however, for the fault gap, since it still requires unreasonable conduct, and it leaves the causation gap largely intact unless combined with evidential aids.

Strict or product liability removes the need to prove fault. Under the Consumer Protection Act 1987 in the United Kingdom and the revised EU Directive, a producer is liable for damage caused by a defective product without proof of negligence. The revised Directive expressly treats software as a product and contains rules on disclosure and presumptions of defect and causation (Li & Faure, 2024; Rodríguez de las Heras Ballell, 2023). Strict liability closes much of the fault gap and, by channelling liability to producers, helps with attribution. It has limits. Claimants must still prove a defect, and defining defectiveness for an adaptive system is difficult (Nguyen, 2026). Some damage, such as harm to reputation, falls outside its scope (Castro, 2026). Its application to services and to standalone software remains uncertain in many common-law jurisdictions.

Presumptions with disclosure duties address the causation gap directly. Courts or legislatures can require defendants to disclose relevant information about an AI system and can presume fault or causation where they fail to do so or where non-compliance with safety obligations is shown. The doctrine of *res ipsa loquitur* offers a common-law starting point, as Bartlett (2024) explores. The withdrawn EU proposal relied on this approach, and Noto La Diega and Bezerra (2024) argued that such rules are essential for generative AI. The main limitation is the tension with trade secrecy (Grozdanovski, 2025) and the risk that courts lacking technical capacity will struggle to evaluate disclosed material.

Insurance and compensation funds detach compensation from proof of individual responsibility. The United Kingdom's Automated and Electric Vehicles Act 2018 makes the insurer liable in the first instance for accidents caused by an automated vehicle driving itself, while preserving the insurer's right to recover from those responsible. This model closes all three gaps from the victim's perspective, because the claimant need not identify the culprit. Luik and Kinkar (2025) suggest that insurance may increasingly displace tort in the autonomous vehicle field. The limits are cost, the need for a functioning insurance market and regulator, and the risk of weakening the incentive to

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take care if insurers cannot recover from negligent producers.

Four propositions follow.

**Proposition 1.** *AI creates three analytically distinct gaps in common-law liability, namely fault, causation and attribution, and no single remedy closes all three without significant costs.*

**Proposition 2.** *Adapted negligence is best suited to cases where human judgment remains central, strict product liability to defects in AI products, presumptions with disclosure duties to opacity, and insurance or funds to high-volume, high-risk uses where identifying the responsible party is impractical.*

**Proposition 3.** *A layered regime, combining these remedies according to the type of AI use and the gap it creates, is more likely to secure both compensation and deterrence than any single model.*

**Proposition 4.** *In common-law jurisdictions without AI-specific legislation, courts can begin to close the fault and causation gaps through existing doctrines, but the attribution gap and the extension of strict liability to software require legislative action.*

### 4.2 DISCUSSION

The first research question asked what gaps AI creates in common-law liability. The three-gap framework sharpens a debate that has often treated AI liability as a single problem. It also clarifies the relationship between moral and legal responsibility. Hindriks and Veluwenkamp (2023) and Wood (2023) argue that responsibility gaps disappear once one looks closely at particular systems and the people who design and deploy them. The present analysis partly agrees. In many cases, a responsible party can be found in principle. The legal difficulty is that tort law requires the claimant to prove that party's fault and causal contribution with evidence the claimant usually does not have. The gaps are therefore as much evidential and institutional as they are conceptual, which explains why the most promising reforms address proof and the channelling of liability rather than the moral status of machines.

The second research question asked how well the remedies perform. The comparative literature suggests that no jurisdiction has relied on a single remedy. The European Union combined a strict product liability regime with a proposed fault-based instrument and, after withdrawing the latter, still depends on national fault rules for many harms (Tujjar et al., 2026). The United Kingdom chose insurance for automated vehicles but left other AI harms to general tort law. Australia and Canada are debating the extension of product liability (Nguyen, 2026; Sarabdeen, 2026). The pattern supports Proposition 3. Each remedy fits some uses better than others, and a layered approach allows the law to match the remedy to the gap. Martínez Alles's (2024) insistence that tort law is one institution among many is relevant here: insurance and regulation can carry part of the load that tort alone cannot.

The law and economics perspective adds a caution. Strict liability and insurance improve compensation but may weaken incentives for users to remain attentive, a concern that Obidzinski and Oytana (2024) address in their analysis of inattention and liability rules. Shavell's (2024) proposed alternative causal test suggests that negligence can be preserved as a deterrent if the causal requirement is adjusted. The layered approach accommodates both concerns by keeping fault-based liability for those who control how AI is used, while using strict liability and insurance to secure compensation where fault is absent or untraceable.

The third research question concerned Nigeria. Nigerian tort law inherits the common-law structure, including the neighbour principle and the consumer's right to proceed against those in the chain of distribution (*Nigerian Bottling Co Ltd v Ngonadi*, 1985), but it lacks a general strict product liability statute of the kind found in the United Kingdom. The consumer protection provisions of the Federal Competition and Consumer Protection Act 2018 give some protection against unsafe goods and services, but they were not designed for software or adaptive systems, and their application to AI remains untested. The Nigeria Data Protection Act 2023 provides a separate route for some algorithmic harms, but Mohammed (2026) shows that its provisions on automated decision-making are weak and that it lacks contestability mechanisms. Aloamaka (2025) notes that the Act's alignment with the GDPR brings strengths but also implementation challenges. Itanyi's (2024) work on Nollywood illustrates that AI harms

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in Nigeria are already arising in sectors where existing law offers no clear remedy.

Three features of the Nigerian context shape the choice of remedies. First, Nigeria imports most of the AI systems used within its borders, which aggravates the attribution gap, since developers may be beyond the jurisdiction. Placing primary liability on local deployers and importers, with rights of recourse against foreign developers, would give claimants a defendant within reach. Second, the capacity of courts and regulators to evaluate technical evidence is limited (Okon, 2026), which counsels in favour of presumptions and strict liability over remedies that depend on detailed fault findings. Third, Nigeria's insurance market is relatively shallow, which suggests that insurance-based schemes should be introduced sector by sector, starting with high-risk areas such as autonomous transport, rather than across the economy.

These considerations suggest a sequenced reform. In the short term, Nigerian courts can apply existing doctrine flexibly by recognising duties owed by those who deploy AI, using *res ipsa loquitur* and adverse inferences where defendants control the evidence, and reading the consumer protection statute purposively to cover software. In the medium term, the legislature should enact strict liability for defective AI products and services, with clear rules on who counts as a producer and with disclosure duties, drawing on the revised EU Directive and on the reform proposals for Australia (Nguyen, 2026). In the longer term, compulsory insurance or a compensation fund could be introduced for specific high-risk uses.

Almajed's (2026) critique deserves a direct response. If English tort law's fixation on individual fault is ill-suited to Nigerian conditions, AI sharpens that misfit, because AI harms are precisely the harms that fault-based reasoning handles worst. The layered framework proposed here is consistent with that critique in moving the centre of gravity away from fault and towards strict liability, presumptions and collective compensation. It differs in proposing reform through the existing common-law inheritance rather than a clean break, since doctrines such as the neighbour principle in *Ngonadi* already allow claimants to reach anyone in the chain of distribution, which is exactly what the attribution gap requires. Heine and Quintavalla's (2024) historical evidence that several remedies can coexist and be adjusted gradually supports this incremental path, and Lemaire's (2025) analysis of the relationship between compensation schemes and tort suggests how a Nigerian scheme for AI harms might be designed to complement litigation rather than displace it.

The analysis has limitations. Common-law case law on AI liability remains sparse, so the framework is largely prospective. The Nigerian literature is thin, and some conclusions about Nigerian practice rest on the structure of the law rather than on observed litigation. Future research could examine how Nigerian courts have treated software and digital services under consumer protection law, survey claimants and insurers, and compare emerging approaches in Ghana, Kenya and South Africa.

## 5. CONCLUSION AND RECOMMENDATION

AI exposes three gaps in the common law of harm: harm without fault, harm whose cause cannot be traced, and harm that cannot be attributed to any one of many contributors. Each of the four main remedies addresses some of these gaps better than others. Adapted negligence preserves the moral logic of fault but leaves blameless harm uncompensated. Strict and product liability close the fault gap but struggle with defining defects in adaptive systems. Presumptions and disclosure duties address opacity but collide with trade secrecy and technical capacity. Insurance and funds secure compensation but may dilute incentives. A layered regime that matches remedies to gaps offers the best prospect of fairness and deterrence.

For Nigeria and similar common-law jurisdictions, four recommendations follow. First, courts should apply existing negligence doctrine flexibly to AI, recognising duties on deployers and using *res ipsa loquitur* and adverse inferences where defendants control evidence. Second, the legislature should enact strict liability for defective AI products and services, defining producers to include importers and deployers and granting them recourse against foreign developers. Third, legislation should impose disclosure duties and rebuttable presumptions of causation in AI cases, with procedures to protect legitimate trade secrets. Fourth, the government and insurance regulator should pilot compulsory insurance or compensation schemes for high-risk AI

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uses, beginning with autonomous transport and health care.

## 6. CONTRIBUTION TO EXISTING KNOWLEDGE

The study makes three contributions. Conceptually, it distinguishes three gaps in liability for AI harm, namely fault, causation and attribution, providing a more precise vocabulary than the general notion of a responsibility gap. Theoretically, it evaluates four remedial models against these gaps, drawing on corrective justice and law and economics, and argues for a layered regime that matches remedies to gaps. Practically, it offers the first sequenced reform framework for AI liability in Nigeria, a common-law jurisdiction without AI-specific legislation, with recommendations that may also guide other African common-law systems.

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