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Admissibility of Electronic Evidence in Criminal Proceedings in Nigeria

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ABSTRACT

The Nigerian criminal justice system has, over the last decade, confronted a growing volume of digital material such as call logs, closed-circuit television footage, forensic disk images, email correspondence, and social-media records. This study examines how such material becomes admissible in criminal proceedings, and whether the governing rules keep pace with the technologies they regulate. Working from doctrinal legal method, the study reads the Evidence Act 2011 together with the reforms introduced by the Evidence (Amendment) Act 2023, and situates both against the leading appellate authorities, most prominently the Supreme Court decision in Kubor v Dickson. The analysis shows that section 84 remains the doctrinal spine of admissibility, demanding proof that the producing computer functioned properly and that the data flowed through it in the ordinary course of activity, with a certificate under section 84(4) supplying the usual gateway. However, the 2023 Amendment reshapes the terrain by inserting sections 84A to 84D, recognising electronic records, digital signatures, electronic authentication, and audio-visual oath-taking. The study finds that the reform modernises vocabulary and widens the category of admissible material, yet leaves several fault-lines unresolved. Foremost among these is the unsettled relationship between the new section 84B, opening with a "notwithstanding" clause, and the mandatory certification the courts have long enforced. Judicial inconsistency over bank statements and computer-generated public documents compounds the uncertainty. The study concludes that admissibility in Nigeria now rests on a hybrid framework whose coherence depends less on further legislation than on disciplined appellate interpretation, forensic capacity, and clearer treatment of authentication and chain of custody.

1. Introduction

Crime in Nigeria increasingly leaves a digital trail. A fraudulent transfer moves through a banking application, a kidnapping is negotiated over an encrypted messaging platform, and a homicide is caught, however imperfectly, on a neighbour's closed-circuit camera. Because so much human activity now passes through screens and servers, the question of whether a court may act on that digital trace has moved from a marginal technical concern to the centre of criminal litigation. According to Omolaye-Ajileye (2020), the courtroom has become a place where the reliability of machines is tried alongside the conduct of the accused, and that dual inquiry sits uneasily with rules drafted for ink and paper. The governing instrument is the Evidence Act 2011, which for the first time in Nigerian law gave statutory recognition to computer-generated evidence through section 84. As Ladan and Kwaru (2021) observe, that section imported, almost verbatim, the architecture of the now-repealed section 5 of the English Civil Evidence Act 1968, demanding proof that the producing computer worked properly and that information was fed into it in the ordinary course of activity. Since the section arrived without a domestic pedigree, the courts were left to construct its meaning case by case, and the Supreme Court supplied the foundational reading in Kubor v Dickson (Eze & Okpara, 2022).

However, the pace of technological change quickly outran the 2011 text. Cloud storage, biometric records, cryptographic signatures, and video conferencing were either unknown or unaddressed when the Act was drafted, and litigants found themselves squeezing novel artefacts into a definition of "document" that had not anticipated them (Ojukwu-Ogba & Osaka, 2023). Furthermore, criminal practitioners complained that the certification regime, though sensible in principle, was applied with a rigidity that excluded plainly probative material on technical grounds. Thus the reform pressure built steadily across the decade. That pressure produced the Evidence (Amendment) Act 2023, signed into law on 12 June 2023, which did not repeal the principal Act but grafted onto it a cluster of modernising provisions (Nwabueze & Adeyemi, 2024). The Amendment inserted sections 84A to 84D, recognising "electronic records" as a distinct category, giving legal effect to digital signatures and electronic authentication techniques, and permitting oath-taking by audio-visual means. In line with global practice, the reform sought to bring Nigerian evidence law into conversation with comparable regimes in India, the United Kingdom, and South Africa (Abdulrazaq et al., 2024).

Nevertheless, statutory modernisation is not the same as doctrinal clarity. The new section 84B opens with a "notwithstanding" clause that appears to relax the original certification requirement, yet it also refers back to conditions that seem to preserve it, and the resulting tension has not been resolved by the Supreme Court (Chukwuemeka & Bello, 2025). Meanwhile, the appellate courts have sent mixed signals on whether bank statements and computer-generated public documents must satisfy section 84 at all, leaving trial judges without a settled compass (Ogunsola & Ibrahim, 2024). This study examines that terrain. It asks three connected questions. First, what does the law now require before a court may admit electronic evidence in a criminal trial? Second, how has judicial interpretation shaped, and at times distorted, those requirements? Third, where do the reforms of 2023 succeed, and where do they leave gaps that continue to prejudice fair adjudication? Because criminal proceedings engage the liberty of the accused and the constitutional presumption of innocence, the stakes attached to these questions are considerably higher than in civil litigation, a point that runs through the analysis that follows.

2. Literature Review

2.1 Conceptual Foundations of Admissibility

Admissibility, as a threshold concept, asks whether a court may receive an item at all, and it must be kept distinct from weight, which asks how much the court should believe once the item is in. According to Aguda and Okonkwo (2019), Nigerian evidence law has historically treated relevance as the master key, so that whatever is relevant is prima facie admissible unless a specific rule excludes it. Electronic evidence disturbs this tidy scheme because its relevance is often obvious while its reliability is deeply contestable, and the two questions collapse into one another in practice (Bello & Yakubu, 2020). Furthermore, several writers stress that electronic material is uniquely vulnerable to undetectable alteration. As Ijaiya and Sanni (2021) put it, a forged paper bears physical traces of its forgery, whereas a manipulated digital file may be pristine on its face, which shifts the burden of assurance from the document itself to the process that produced it. Consequently, the literature converges on the view that authentication, rather than mere production, is the real battleground for electronic evidence (Onuoha et al., 2022). Moreover, Eze and Okpara (2022) argue that the common-law hearsay rule sits awkwardly against machine output, since a device that records a temperature or a timestamp is not a "witness" whose sincerity can be doubted, yet the statute treats its output through a hearsay-derived lens.

In addition, scholars have debated whether electronic evidence deserves a bespoke regime or should be assimilated to existing categories. Nwabueze and Adeyemi (2024) favour assimilation, contending that the ordinary principles of relevance and probative value are elastic enough to absorb digital material if courts apply them intelligently. Conversely, Ojukwu-Ogba and Osaka (2023) insist that the distinctive fragility and volume of digital data justify special rules, particularly around chain of custody and metadata preservation. This unresolved conceptual disagreement echoes through the more technical literature and explains why reform has been piecemeal rather than systematic. Furthermore, a recurring theme in the conceptual literature is the difficulty of classifying machine-generated output. According to Abdullahi and Musa (2020), a distinction must be drawn between records that merely store human statements, such as a scanned witness account, and records that a device generates autonomously, such as a call-detail log or a GPS reading. Since the former carry the reliability risks of the human author while the latter carry the reliability risks of the machine, the two demand different assurance strategies, yet Nigerian law tends to treat them alike under a single provision (Eze & Okpara, 2022). Consequently, Bello and Yakubu (2020) argue that the failure to separate stored human statements from autonomously generated data has produced conceptual confusion that surfaces whenever a court must decide what exactly section 84 is guarding against.

Moreover, the conceptual literature increasingly borrows the vocabulary of information integrity from computer science. As Onuoha et al. (2022) explain, integrity in this sense means that a record has not been altered since its creation, and it is verified through techniques such as hash values and audit trails rather than through the visual inspection that suffices for paper. Since Nigerian courts are only beginning to engage with these technical concepts, Ijaiya and Sanni (2021) caution that a conceptual gap has opened between what the law asks and what the technology can demonstrate, and that gap is where many admissibility disputes now sit. Thus the foundational literature frames electronic evidence not as a species of documentary evidence but as a distinct evidential problem in its own right.

2.2 The Statutory Framework: Section 84 of the Evidence Act 2011

Section 84 is the doctrinal spine of the field, and the literature dissects it clause by clause. According to Ladan and Kwaru (2021), the section admits a statement contained in a document produced by a computer as evidence of any fact of which direct oral evidence would be admissible, provided four foundational conditions in subsection (2) are met. These conditions require that the document was produced while the computer was in regular use, that information of the relevant kind was regularly supplied to it in the ordinary course of activity, that the computer was operating properly throughout, and that the information reproduces or is derived from information so supplied (Abdullahi & Musa, 2020). Moreover, subsection (4) offers a certificate as the practical means of proving these matters, signed by a person occupying a responsible position in relation to the operation of the device. As Chukwuemeka and Bello (2025) explain, the certificate was designed to spare courts the expense of calling technical witnesses in every case, functioning as a documentary shortcut to the foundational facts. However, Ogunsola and Ibrahim (2024) note that the shortcut hardened into a trap, because appellate courts came to treat the certificate as almost indispensable, so that its absence sank otherwise cogent evidence.

Furthermore, the literature draws attention to a definitional problem at the heart of section 84. Since the 2011 Act defined "document" broadly but not exhaustively, disputes arose over whether particular artefacts, such as text messages, website printouts, and bank statements, fell within the section at all (Bello & Yakubu, 2020). According to Onuoha et al. (2022), this definitional uncertainty produced inconsistent trial rulings, with some judges demanding strict section 84 compliance for bank statements and others treating them as ordinary documentary evidence. Thus a provision intended to bring order instead generated a fresh layer of contestation. In addition, scholars have criticised the section for a perceived indifference to criminal-law concerns. As Ijaiya and Sanni (2021) observe, section 84 was drafted with civil litigation in mind, so it says nothing about the heightened reliability that the criminal standard of proof beyond reasonable doubt ought to demand. Consequently, Aguda and Okonkwo (2019) argue that the mechanical application of civil-oriented conditions to criminal trials risks either admitting untested prosecution material or excluding exculpatory defence evidence, neither of which serves justice. This criticism anticipates one of the central findings of the present study.

Furthermore, the timing and form of the section 84(4) certificate have attracted close scrutiny. According to Chukwuemeka and Bello (2025), a persistent controversy concerns whether the certificate must be tendered contemporaneously with the electronic document or may be produced at a later stage of the proceedings, and the case law has not spoken with one voice. Moreover, Ladan and Kwaru (2021) note that the statute is silent on who precisely qualifies as a person occupying a responsible position, so trial courts have accepted certificates from bank officers, information-technology staff, and investigators with varying degrees of scrutiny. Since a defective or belated certificate can be fatal, Ogunsola and Ibrahim (2024) observe that this uncertainty converts a provision meant to simplify proof into a fertile source of technical objection. Moreover, the literature interrogates the relationship between section 84 and the best-evidence rule. As Abdullahi and Musa (2020) explain, the traditional insistence on producing the original document sits uneasily with digital material, where the concept of an "original" is elusive because every copy is, at the bit level, identical to its source. Consequently, Ojukwu-Ogba and Osaka (2023) argue that section 84 effectively displaces the best-evidence rule for computer output, treating an authenticated copy as functionally equivalent to an original, though the Act does not say so in terms. Nevertheless, Bello and Yakubu (2020) caution that this displacement is incomplete, because where the electronic material is also a public document, the certification rules governing public documents reassert the demand for a certified copy, layering one regime upon another.

In addition, several commentators situate section 84 within the broader architecture of the Evidence Act, stressing that it does not operate in isolation. According to Onuoha et al. (2022), the section interacts with the provisions on relevance, the rules on documentary evidence generally, and section 34, which governs the weight to be attached to a statement once admitted. Since admissibility and weight are conceptually distinct, Eze and Okpara (2022) emphasise that a document may pass the section 84 gateway yet still be given little weight if its reliability is doubtful, a distinction that criminal courts sometimes blur to the prejudice of the accused. Thus the statutory literature portrays section 84 as a single, demanding, but incomplete component of a larger evidential machine.

2.3 Judicial Interpretation and the Kubor Legacy

No case dominates the field as thoroughly as Kubor v Dickson, and the literature treats it as the fixed star around which the doctrine orbits. According to Eze and Okpara (2022), the Supreme Court in that election-petition appeal rejected a computer printout of an online newspaper and a document downloaded from an electoral commission website, holding that neither had satisfied the foundational conditions of section 84(2). The Court reasoned that evidence of the computer's proper operation had simply not been led, and that the documents, being also public documents, additionally required certification as certified true copies (Abdullahi & Musa, 2020). Furthermore, commentators emphasise the dual holding of the case. As Omolaye-Ajileye (2020) explains, Kubor did two things at once: it endorsed the legitimacy of electronic evidence in Nigerian courts while simultaneously erecting a demanding procedural gateway that many litigants have since failed to pass. Moreover, Ladan and Kwaru (2021) observe that the decision cast a long shadow, because trial courts, wary of appellate reversal, began to insist on strict compliance even where the reliability of the material was not seriously in doubt. However, the post-Kubor case law has been anything but uniform, and the literature maps a growing fracture. According to Ogunsola and Ibrahim (2024), later Court of Appeal decisions, particularly those concerning bank statements, appeared to soften the strict requirement, with some panels holding that bank statements of account need not satisfy section 84(2) at all. Conversely, other panels reaffirmed the orthodox Kubor line, producing what Chukwuemeka and Bello (2025) describe as a jurisprudence pulling in opposite directions on materially identical facts. Thus practitioners cannot confidently predict how a given trial judge will rule. In addition, the treatment of computer-generated public documents has generated its own controversy. As Onuoha et al. (2022) note, the interaction between section 84 and the certification provisions governing public documents forces litigants to satisfy two overlapping regimes simultaneously, a burden that Ojukwu-Ogba and Osaka (2023) characterise as doctrinally incoherent. Nevertheless, the Supreme Court has not revisited the question squarely since Kubor, so the lower courts continue to improvise, and the literature is unanimous that authoritative clarification is overdue (Nwabueze & Adeyemi, 2024).

Furthermore, the literature reads Kubor as a decision whose reasoning has proved more durable than its facts. Although the case arose in an election petition rather than a criminal trial, Aguda and Okonkwo (2019) observe that its principle has been transplanted wholesale into criminal proceedings, so that a prosecution seeking to rely on call records or banking data must satisfy the same conditions the Supreme Court articulated in a civil-electoral context. Moreover, Ijaiya and Sanni (2021) argue that this transplantation was never critically examined, with the result that criminal courts apply a test forged for a different purpose without asking whether the higher stakes of a criminal trial call for a different calibration. However, the post-Kubor jurisprudence has also produced genuine refinements that the literature is careful to record. According to Ladan and Kwaru (2021), later decisions clarified that oral evidence may substitute for the certificate, that the foundational conditions may be proved by inference from surrounding circumstances in appropriate cases, and that not every printout is caught by section 84 where its maker testifies directly. Consequently, Eze and Okpara (2022) suggest that the doctrine is less monolithic than the popular reading of Kubor implies, though they concede that trial courts, fearing reversal, tend to apply the strictest available version of the rule. Thus a gap has opened between the nuanced appellate reasoning and its cautious application at first instance. Moreover, the divergence over bank statements has become the literature's principal case study in doctrinal drift. As Ogunsola and Ibrahim (2024) document, one line of Court of Appeal authority now treats bank statements of account as governed by the special provisions on bankers' books rather than by section 84, effectively exempting them from the foundational conditions, while a competing line insists that a bank statement remains computer output that must satisfy section 84 like any other. Since fraud, money-laundering, and financial-crime prosecutions turn heavily on such statements, Chukwuemeka and Bello (2025) stress that the split is not a peripheral technicality but a live determinant of criminal liability. Nevertheless, until the Supreme Court intervenes, the literature accepts that outcomes will continue to depend on the panel a litigant happens to draw.

2.4 The Evidence (Amendment) Act 2023 and Its Reception

The 2023 Amendment is the most significant statutory development in the field since 2011, and a substantial recent literature has begun to assess it. According to Abdulrazaq et al. (2024), the Amendment inserted sections 84A to 84D, formally recognised "electronic records", defined to include data and images stored, received, or sent in electronic form or microfilm, and thereby widened the class of admissible digital material well beyond the older notion of a computer printout. Moreover, the reform gave statutory effect to digital signatures and electronic authentication techniques, an innovation that Nwabueze and Adeyemi (2024) regard as long overdue. Furthermore, the Amendment introduced section 84B, which provides that information contained in an electronic record, once printed on paper or stored, recorded, or copied from a computer system, is admissible without further proof or production of the original, subject to the conditions specified in the section. As Chukwuemeka and Bello (2025) observe, the provision opens with a "notwithstanding" clause, and Nigerian appellate courts have traditionally read such clauses as conferring priority over conflicting provisions in the same enactment. Thus a live question arises: does section 84B override the strict Kubor certification requirements, or does its own proviso quietly reimport them?

However, the scholarship is divided on the answer. According to Ojukwu-Ogba and Osaka (2023), one reading treats section 84B as creating a simpler admissibility pathway for electronic records that partially bypasses the original section 84(2) regime, emphasising the integrity of the record rather than the production of a physical original. Conversely, Abdulrazaq et al. (2024) argue that the closing proviso, referring to "the conditions specified in the section", folds the old requirements back in, so that the practical effect is narrower than the opening clause suggests. Since the Supreme Court has not resolved the tension, the reform's real reach remains speculative (Ogunsola & Ibrahim, 2024). In addition, commentators have welcomed the procedural innovations that accompany the reform. As Nwabueze and Adeyemi (2024) note, the Amendment permits deponents to swear affidavits by audio-visual means before an authorised officer, rendering such depositions admissible in all courts, and it recognises an electronic gazette. Moreover, the Minister of Justice is now empowered to make regulations addressing the admissibility of electronic evidence where a lacuna appears, a flexibility that Abdulrazaq et al. (2024) consider valuable for keeping pace with technology. Nevertheless, several writers caution that regulation-making power is not a substitute for coherent primary legislation, and that delegated rules could fragment the field further (Chukwuemeka & Bello, 2025).

Furthermore, the criminal-law implications of the Amendment have received comparatively little sustained attention, a gap the present study addresses. According to Ogunsola and Ibrahim (2024), most commentary has focused on commercial and civil applications, such as electronic contracts and banking records, leaving the distinctive concerns of criminal adjudication under-theorised. Since the liberty of the accused turns on the reliability of digital evidence, the relative silence of the literature on criminal admissibility is a notable shortcoming that this study seeks to remedy.

2.5 Comparative and Forensic Perspectives

Finally, a comparative and forensic strand situates the Nigerian position within a wider frame. According to Abdulrazaq et al. (2024), the Nigerian reform consciously drew on the Indian experience, where the Supreme Court in Anvar v Basheer reversed its earlier permissive stance and mandated a certificate of authentication for electronic records, a trajectory that mirrors the Kubor insistence on certification. Moreover, Ijaiya and Sanni (2021) compare the Nigerian regime with the English Police and Criminal Evidence Act framework and the South African Electronic Communications and Transactions Act, observing that both foreign systems place greater emphasis on the integrity and reliability of the record than on the production of a formal certificate.

Furthermore, the forensic literature stresses that admissibility rules are only as good as the investigative practices that feed them. As Onuoha et al. (2022) argue, weak chain-of-custody documentation, inadequate forensic laboratories, and limited technical training among police and prosecutors mean that even sound statutory rules are undermined at the point of collection. Consequently, Bello and Yakubu (2020) contend that reform of the law of evidence must be matched by investment in digital forensic capacity, or the courts will continue to receive material whose provenance cannot be verified.

In addition, several writers highlight the human-rights dimension of electronic evidence gathering. According to Aguda and Okonkwo (2019), the interception of communications and the seizure of devices engage constitutional privacy guarantees, and evidence obtained in breach of those guarantees raises the question whether Nigerian courts should exclude it. Nevertheless, Eze and Okpara (2022) observe that Nigerian law retains a broadly inclusionary stance, admitting improperly obtained evidence subject to a discretionary balancing exercise, which contrasts with the stricter exclusionary rules of some comparable jurisdictions. Thus the comparative literature reveals both convergence, in the shared move toward integrity-based standards, and divergence, in the treatment of illegally obtained material.

Furthermore, the comparative literature notes a shared international movement away from formalistic certification toward substantive reliability. According to Abdulrazaq et al. (2024), the English courts, having repealed their equivalent of the certificate regime, now presume that a properly working computer produces reliable output and place the burden on the party challenging the record to raise a real doubt, a markedly less onerous approach than the Nigerian orthodoxy. Moreover, Ojukwu-Ogba and Osaka (2023) observe that the South African model ties admissibility to the reliability of the manner in which the data was generated, stored, and communicated, an integrity-centred test that the Nigerian 2023 Amendment appears, at least rhetorically, to echo. Since Nigeria's reform borrows the language of these systems without fully importing their logic, Ijaiya and Sanni (2021) warn of a hybrid that promises modernity while retaining the very formalism its models discarded.

In addition, the forensic strand emphasises capacity constraints that no statute can cure on its own. As Onuoha et al. (2022) document, the shortage of accredited digital-forensic laboratories, the uneven training of investigators, and the absence of standardised seizure protocols mean that electronic evidence frequently arrives at court with an incomplete provenance. Consequently, Bello and Yakubu (2020) argue that admissibility rules operate downstream of an investigative process that too often fails to preserve the metadata and audit trails on which reliability depends, so that the courtroom inherits problems created at the moment of collection. Thus the forensic literature reframes admissibility as the tail end of a chain that begins long before any certificate is signed.

3. Methodology

This study adopts the doctrinal legal research method, which is the standard approach for analysing the content, structure, and internal logic of a body of law. According to Ladan and Kwaru (2021), doctrinal analysis proceeds by identifying the primary sources, reading them systematically, and drawing out the principles that connect them, and that is the method used here. The primary sources are the Evidence Act 2011, the Evidence (Amendment) Act 2023, the relevant provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended), and the leading decisions of the Supreme Court and Court of Appeal, chief among them Kubor v Dickson. Furthermore, the study draws on secondary sources, including peer-reviewed journal articles, law-firm commentaries, and scholarly monographs published between 2019 and 2026, in order to capture the current state of academic and professional opinion. Moreover, a comparative dimension is incorporated by reference to the Indian, English, and South African regimes, not as a systematic comparison but as a lens through which the strengths and weaknesses of the Nigerian position become clearer. Since the study is qualitative and interpretive, it does not involve empirical fieldwork or statistical analysis. In addition, the analysis is organised around the logical sequence a trial court follows when confronted with electronic evidence, moving from relevance, through the foundational conditions and certification, to the assessment of weight. This sequence is represented visually in Figure 1, which maps the decision path a Nigerian court traverses under the current hybrid framework. Thus the methodology is both textual, in its close reading of the statute and cases, and structural, in its attempt to reconstruct the framework as a coherent whole.

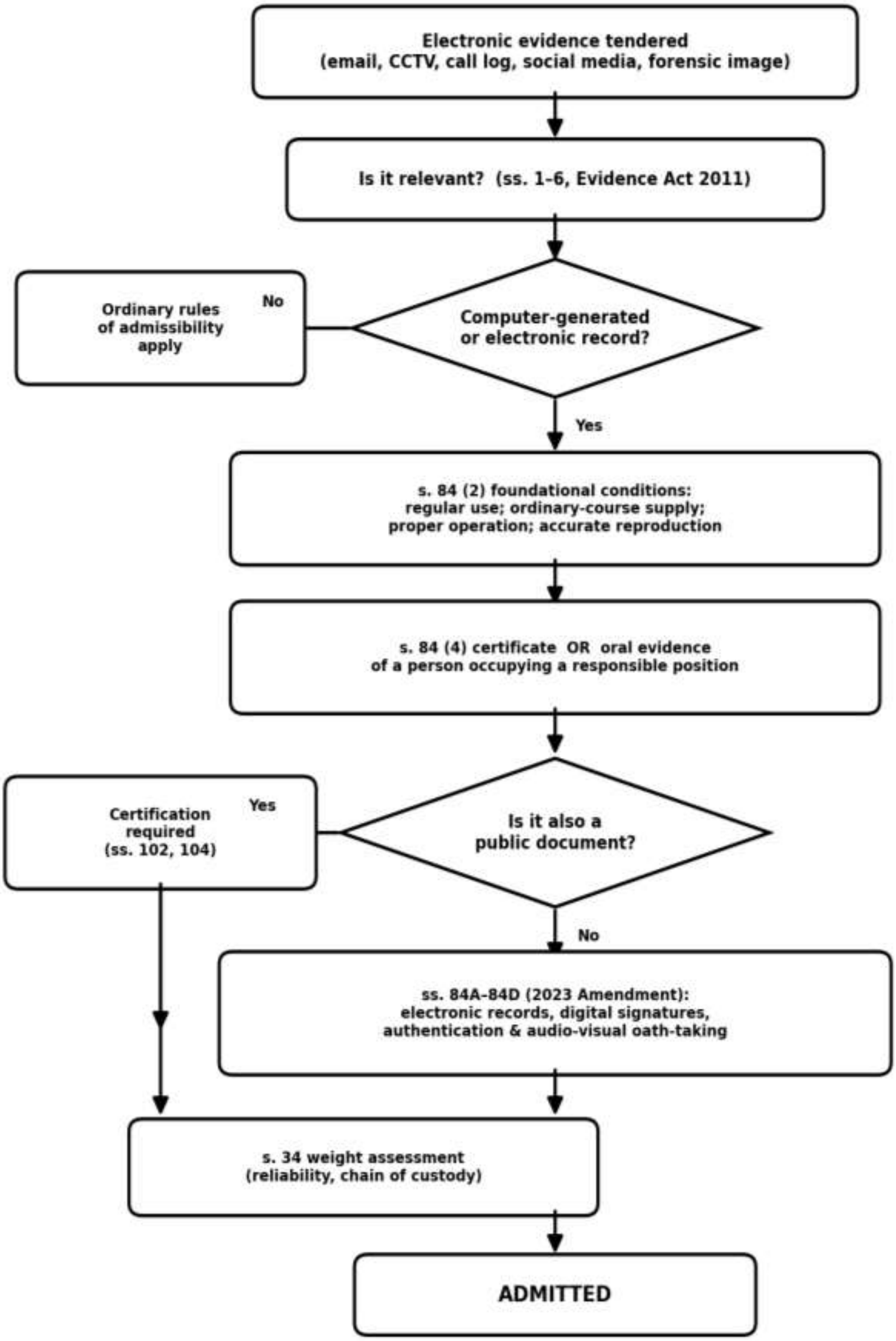

Figure 1. ***Framework for the admissibility of electronic evidence in Nigerian criminal proceedings***. **Source:** *Author's construction based on the Evidence Act 2011 (as amended by the Evidence (Amendment) Act 2023) and Kubor v Dickson (2013) 4 NWLR (Pt. 1345) 534.*

4. Analysis and Discussion

4.1 The Foundational Conditions and the Certification Gateway

The starting point for any criminal court is that electronic evidence must first clear the ordinary threshold of relevance before section 84 comes into play. According to Aguda and Okonkwo (2019), relevance filters out material that does not bear on a fact in issue, but it does nothing to guarantee reliability, which is precisely the concern that section 84 addresses. Thus, once a computer-generated statement is shown to be relevant, the court turns to the four foundational conditions of subsection (2), and here the criminal context begins to press on rules designed for civil disputes. Furthermore, the certificate under section 84(4) has become the practical fulcrum of admissibility. As Ogunsola and Ibrahim (2024) observe, the courts have treated the certificate as the ordinary route to proving the foundational conditions, and its absence has repeatedly proved fatal even to cogent prosecution evidence. However, the statute does not make the certificate the only route; oral evidence from a responsible person remains available, a point that Chukwuemeka and Bello (2025) argue is too often overlooked by practitioners who assume certification is mandatory. Consequently, avoidable exclusions occur where a knowledgeable witness could have supplied the same assurance.

4.2 The Kubor Tension and Judicial Inconsistency

The Supreme Court's decision in Kubor v Dickson continues to structure the field, and its dual holding remains the reference point for every argument about electronic admissibility. According to Eze and Okpara (2022), the case fixed two propositions: that electronic evidence is legitimate, and that its admission depends on strict compliance with section 84(2) and, for public documents, on certification. Moreover, the decision's insistence on both requirements simultaneously created the double burden that later courts have struggled to apply consistently. However, the fracture in the Court of Appeal over bank statements exposes the instability of the doctrine. As Ojukwu-Ogba and Osaka (2023) note, some panels have exempted bank statements from section 84 altogether, treating them as a special statutory category, while others have insisted on full compliance, and the two lines cannot be reconciled on principle. Since a criminal conviction for fraud may turn on precisely such a statement, the uncertainty is not academic; it determines whether an accused is convicted or acquitted on materially identical facts (Onuoha et al., 2022). Thus, the absence of authoritative Supreme Court clarification since Kubor is a serious practical defect.

4.3 The 2023 Amendment: Modernisation and Its Limits

The Evidence (Amendment) Act 2023 recasts the vocabulary of the field, and in doing so it resolves some problems while sharpening others. According to Abdulrazaq et al. (2024), the recognition of "electronic records" sweeps in emails, cloud-stored data, social-media posts, and biometric records that the older definition strained to accommodate, and this expansion is a genuine advance for prosecutors handling contemporary crime. Moreover, the statutory recognition of digital signatures and electronic authentication gives courts a workable basis for accepting cryptographically secured material. Nevertheless, the central interpretive puzzle of section 84B remains unresolved, and it is here that the reform's ambition outruns its drafting. As Chukwuemeka and Bello (2025) explain, the opening "notwithstanding" clause suggests that electronic records may be admitted without the full Kubor apparatus, yet the closing proviso preserves "the conditions specified in the section", which arguably reimports the very requirements the clause seems to displace. Conversely, Abdulrazaq et al. (2024) read the provision as shifting the emphasis toward the integrity of the record, a reading closer to the English and South African models. Since neither interpretation has been endorsed by the Supreme Court, trial courts are left to guess, and the modernising promise of the Amendment is held hostage to that ambiguity. In addition, the reform's relative silence on criminal-specific safeguards is telling. According to Ogunsola and Ibrahim (2024), the Amendment says little about chain of custody, metadata preservation, or the heightened reliability that a criminal standard of proof ought to demand, so the distinctive risks of digital prosecution evidence remain largely unaddressed. Thus, while the 2023 reform modernises the law's language, it leaves the deeper structural questions of criminal admissibility for the courts and, potentially, for ministerial regulation.

4.4 Forensic Capacity and Fair-Trial Concerns

Beyond the statute and the case law, the reliability of electronic evidence depends on what happens long before trial. As Onuoha et al. (2022) argue, weak forensic infrastructure, inconsistent chain-of-custody documentation, and limited technical training among investigators mean that material may reach the court already compromised, whatever the admissibility rules provide. Consequently, Bello and Yakubu (2020) contend that legal reform without forensic investment is hollow, because the court cannot assess an integrity it was never given the means to verify. Furthermore, the fair-trial dimension deserves emphasis in the criminal setting. According to Aguda and Okonkwo (2019), the constitutional presumption of innocence and the right to a fair hearing require that both prosecution and defence be able to test digital evidence effectively, which presupposes disclosure of metadata and access to the underlying systems. However, Eze and Okpara (2022) observe that defendants frequently lack the resources to mount such challenges, so an evidential imbalance emerges that the admissibility rules, on their own, do not correct. Thus the framework's fairness depends on factors that lie outside the four corners of the Evidence Act.

5. Conclusion

The admissibility of electronic evidence in Nigerian criminal proceedings now rests on a hybrid framework whose parts do not yet fit cleanly together. Section 84 of the Evidence Act 2011 supplies the foundational conditions and the certification gateway that the Supreme Court entrenched in Kubor v Dickson, while the Evidence (Amendment) Act 2023 layers over that base a modernised vocabulary of electronic records, digital signatures, electronic authentication, and audio-visual oath-taking. As the analysis has shown, the reform genuinely widens the category of admissible material and equips prosecutors to handle contemporary digital crime, yet it leaves the relationship between the new section 84B and the old certification requirement unsettled, and it says little about the chain-of-custody and reliability concerns that matter most in criminal adjudication.

Furthermore, the judicial inconsistency over bank statements and computer-generated public documents demonstrates that the difficulty is no longer primarily one of statutory drafting but of authoritative interpretation. Since the Supreme Court has not revisited the field squarely since Kubor, trial courts continue to improvise, and litigants cannot predict outcomes on materially identical facts. Thus the coherence of the framework depends less on further legislation than on disciplined appellate reasoning, strengthened forensic capacity, and a clearer judicial account of how authentication, integrity, and fair-trial rights fit within the admissibility inquiry. Until those elements are secured, the modernising promise of the 2023 reform will remain only partly fulfilled in the criminal courtroom.

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