

Course Name – Artificial Intelligence, Law and Justice
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Institute Name – NALSAR University of Law
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AI and The Rule of Law -Part-III

Artificial Intelligence, Law and Justice

Session 11

AI and The Rule of Law - Part-III

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A video lecture interface showing a slide with the title 'Artificial Intelligence, Law and Justice' and 'Session 11'. The slide also includes the NPTEL and NALSAR logos, and the name and title of the speaker, Dr. Krishna Ravi Srinivas. A video feed of the speaker is visible in the bottom right corner.

Artificial intelligence and the rule of law. This is the third part of the three sessions. This is Session 11 of this course.

AI and The Rule of Law -Part-III

Recap

- In the last session that is second session among the three we discussed the emerging relationship between technology and the idea and practice of rule of law
- We stressed the need for AI literacy and argued that defining AI precisely is difficult and AI has evolved since 1950s
- Further we also touched upon Rule of Law in the context of power of Technology

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A video lecture interface showing a slide titled 'Recap'. The slide contains three bullet points summarizing the previous session. A video feed of the speaker is visible in the bottom right corner.

To do a recap, in the last session, that is the second session of the three, we discussed the emerging relationship between technology and the idea of the practice of law. We stressed the need for AI literacy and argued that defining the AI process is difficult and

that AI has evolved since the 1950s. Further, we touched upon the rule of law in the context of the power of technologies. So, in the two previous sessions, we broadly touched upon many themes related to AI and the relationship between the rule of law. In this session, we will look at some of the interesting aspects and themes that will deepen this discussion and also help us understand them better.

AI and The Rule of Law -Part-III

NPTEL **Artificial Intelligence and Paradigm Shift**

- **Subjectivity of AI**
 - AI perception varies among individuals
 - What was AI 15 years ago is now commonplace
 - Popular culture influences AI perception
- **Birth of AI at Dartmouth College**
 - 1951 workshop led by John McCarthy
 - Focus on automata theory, neural nets, and intelligence
 - Inspiration from neuroscience, mathematics, and information theory
- **AI transcends conventional subjects**
 - Focus on duplicating human faculties
- **AI in social contexts**
- **Concerns with AI technology's long term impacts**

1:07 / 33:19

To begin with, how do we look at AI? AI, being a very emerging technology, has created expectations, hype, lots of hope, and then fears. But the way people look at technology has also changed. And then technology also undergoes changes due to popular culture, and people's expectations. This we know very well: the way the public responds to AI, particularly the younger generation. AI, if we look at it, started in the mid-50s at Dartmouth College in the 1956 workshop; it had a very limited objective. Automata theory, neural networks, and artificial intelligence. But at that time, it got its inspiration from or took ideas from three or four major disciplines: neuroscience, mathematics, and information theory.

But today, AI is not something that is of the 1950 vintage. Today, AI is something that is totally different. Although the objectives remain the same and the goal remains the same, today's AI is very different. And today, AI is something that can easily be put into one conventional box. AI is not neurotechnology; AI is not information technology; AI is not mathematics; AI is not all that. AI is what you would call a techno-science, not a simple science or an applied science. So, in that context, AI, when it is being developed with the idea of mimicking or duplicating human intelligence and capacity, goes in a different direction. So, we need to put AI in the social context, in the socio-economic context. And, more importantly, as a society, we need to be concerned about its long-term impacts. For the simple reason that this is a technology that, in more than one sense, is concerned with our human brain, is concerned with our human mind, and affects the way we understand the world, the way we interact with the world, and the way we want to do things by ourselves in the sense of intelligence. Intelligence is very human. So, when we look at that, there is a paradigm shift in AI. AI from the 1950s has changed so much in the last two decades.

AI and The Rule of Law -Part-III

NPTEL

AI in the Criminal Justice System

- **Introduction to AI in Criminal Justice**
 - AI assists decision-making in criminal justice
 - Examples include pretrial risk assessments and sentencing
- **AI in the United States Criminal Justice System**
 - Pretrial risk assessment algorithms used for bail and sentencing
 - Factors considered include age, sex, geography, and socio-economic status
- **State v. Loomis**
 - Defendant sentenced using COMPAS algorithmic risk assessment
 - Wisconsin Supreme Court upheld the use of COMPAS
 - COMPAS assesses variables like criminal involvement and social exclusion
- **System Risk Indication (SyRI) in the Netherlands**
 - Used to identify benefit fraud in low-income communities




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But when AI is integrated into criminal justice, it can occur in many ways, as we have discussed in all these pre-trial matters and so on. In particular, AI in the U.S. criminal system has been very controversial. The pretrial risk assessment algorithms used for bail and sentencing have been challenged. We will take a very specific case of *State v. Loomis*. We have seen this case in a little detail earlier. So, the defendants were using the COMPAS algorithmic risk assessment that we saw. When this case went all the way to the Wisconsin Supreme Court, it was challenged on a lot of legal grounds by the American Civil Liberties Union. The Supreme Court of Wisconsin upheld the use of COMPAS. But COMPAS assesses variables like criminal involvement and social exclusion. Then there is another system risk indication AI based software. It was used to identify where fraud occurs in low-income communities in other countries. This again is something very similar to what we saw earlier regarding whether people are entitled to unemployment benefits or social security benefits. So, this is the way AI systems are being put into the criminal justice system.

AI and The Rule of Law -Part-III



Rule of Law and Power of Technology

- **Elusiveness of Rule of Law**
 - Viewed as a political ideal and mechanism for curtailing abuse of power
 - Ensures society upholds values like human rights
 - Worth protecting despite susceptibility to political abuse
- **Impact of Modern Technologies**
 - AI and Machine Learning increasingly used in decision-making
 - More control and responsibility transferred to AI systems
 - Challenges traditional ideals of rule of law
- **Addressing AI Harms**
 - AI potentially inhibits human flourishing
 - Human agency as a cornerstone of society
- **Future Challenges**



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But let us also bear in mind that few applications here and there cannot be simply taken as exceptions. Because the pervasive nature of AI in dealing with problems is likely to duplicate the same issues and problems elsewhere if they are not addressed. But, as we saw in the previous class, particularly towards the end, we need to understand technology as power. On the other hand, we also saw that the rule of law is not something that is frozen in time or etched in stone. It is a political ideal mechanism for curtailing the abuse of power. It is also something that society upholds, like the values of human rights. So, it is worth protecting despite susceptibility to political abuse in the sense that the idea of the rule of law can be politically abused by an authoritarian government, which can subvert the rule of law in different ways without actually abolishing it; rather, it will make the institutions amenable to it and then still claim that the rule of law prevails.

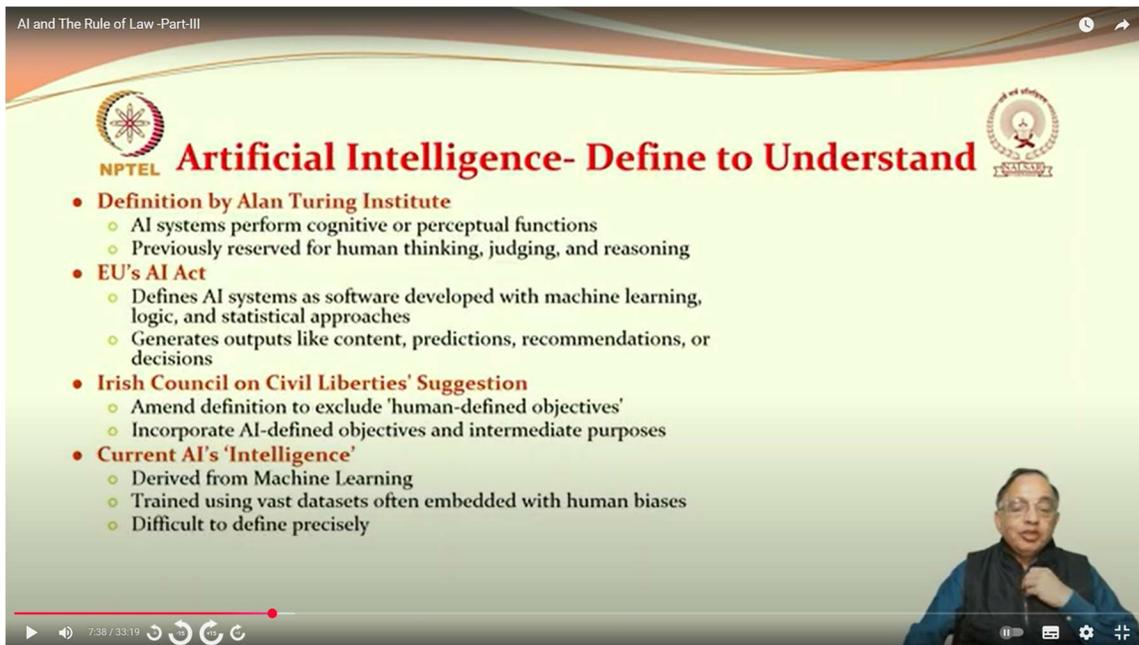
So, the illusion of the rule of law itself is something we should be very careful about instead of idealizing it. And we should also think that however problematic, however idealistic and utopian the rule of law is, it is worth protecting despite all these things. In the sense that we need to focus on the rule of law time and again, for the simple reason that it is an ideal not only to be upheld but also to be lived with and lived upon. So, when such an ideal is impacted by modern technologies, we need to be more controlled about it, particularly when AI, machine learning, and automated decision-making through algorithms challenge traditional ideals of the rule of law; we need to be really concerned about it. One concern is that human agency is the cornerstone of society, and that AI can potentially affect it or be harmful to human flourishing, particularly human agency.

So, there are future challenges when the rule of law confronts the power of technology, not the technology per se but the power of technology, because technology, in one sense, is not a tool; it is also an embodiment of power. In other senses, artifacts have their own politics, artifacts have their own power, and more importantly, technoscience relies on the power of technology not only to promote itself but also to make people look at it in awe and wonder.

AI and The Rule of Law -Part-III

NPTEL **Artificial Intelligence- Define to Understand**

- **Definition by Alan Turing Institute**
 - AI systems perform cognitive or perceptual functions
 - Previously reserved for human thinking, judging, and reasoning
- **EU's AI Act**
 - Defines AI systems as software developed with machine learning, logic, and statistical approaches
 - Generates outputs like content, predictions, recommendations, or decisions
- **Irish Council on Civil Liberties' Suggestion**
 - Amend definition to exclude 'human-defined objectives'
 - Incorporate AI-defined objectives and intermediate purposes
- **Current AI's 'Intelligence'**
 - Derived from Machine Learning
 - Trained using vast datasets often embedded with human biases
 - Difficult to define precisely



So, when we say all this, we also need to look into some of the very interesting things about AI. First of all, we said that AI has evolved. Okay, the rule of law has also evolved. Good. And then we need to put one more thing here. In the sense that a precise definition of AI that captures everything about it is simply impossible. It is not that AI is an amoeba that changes its size, nor is it that AI is something that always changes its colours. No, it is not that. The problem is that the AI can be looked at, can be defined, and can be developed in different ways.

According to the definition given by the Alan Turing Institute, AI is when AI systems perform cognitive perceptual functions. So, they focus on that aspect which was previously reserved for human thinking, judging, and reasoning. So, from that perspective, AI is a system that performs cognitive functions that we thought only humans were capable of. The E.U. AI Act defines AI differently, but keep in mind that the E.U. AI Act definition of AI is derived from the OECD definition of AI, and the OECD definition of AI is again a widely accepted definition, particularly in the context of law. The AI Act of the EU defines AI as software developed with machine learning, logic, and statistical approaches. So, it takes a very technical, functional approach to defining AI, and then it says it generates outputs, predicts, recommends, and makes decisions.

So, it looks at AI systems. It does not define AI, per se. Then, the Irish Council on Civil Liberties, when they wanted to respond to the way AI should be defined, said, "Don't bring in human-defined objectives over there." Rather, make that as AI defined objectives and intermediate purposes. This is the debate over how to define AI in the context of the EU AI Act, which we need not go into greater detail about now. But the current definition of AI is not the one that was there earlier. We are not talking here in terms of mere consciousness or cognitive capacity. Here we are talking in terms of the machine learning ideas from which this intelligence is derived. And then trained on vast data, and then it is again maybe with human biases, so there is a huge problem in defining AI precisely for the simple reason that AI means different things to different people. Technically, scientifically, and in every other sense, AI is something that cannot be defined exactly.

This is what AI is not. So that kind of benchmarking or that kind of clear-cut categorization is not possible with AI.

AI and The Rule of Law -Part-III

Council of Europe's Perspective

- **AI Systems as Socio-Technical Systems**
 - Impact is context-dependent
 - Influenced by initial design, data input, environment, and human values
- **Enhancing Rule of Law and Democracy**
 - Making public authorities more efficient
 - Freeing up time for long-term issues
 - Identifying public needs
 - Contributing to policy development

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The Council of Europe, which was formed in 1948, is a body consisting of states in Europe as member states, and then, of course, there are others who are also associated with that. It is a body that has been concerned with human rights right from its inception, partially on account of Europe's disastrous experience with fascism and Hitler and partially on account of European concern about human rights, human freedom, human flourishing, the right to expression, and fundamental values. It has always been one organization at the forefront in trying to understand how technology impacts rights, how technology impacts liberties, particularly how technology can do good or harm human capacity, human flourishing, and particularly human rights. So, the Council of Europe is also the first body to identify privacy as a major concern long before people even thought in terms of privacy and technology and how privacy can be harmed by technology.

And then the GDPR, its origins can be traced to the work of the Council of Europe on privacy. So, the Council of Europe had a committee on AI, and then that committee came up with a report; they debated it, and then they made some recommendations on AI, and what the outcome is we will discuss later in one of the sessions. So, they looked at AI as a socio-technical system very different from what the OECD has defined or very different from any other definition, and then they said it's a socio-technical system influenced by initial design, data input, environment, and human values. So, the Council of Europe, looking at AI as a social and technical system, also says its potential lies in freeing up time for long-term issues; it can make public authorities efficient by identifying public needs and contributing to policy development. It recognizes the great potential of AI. No doubt about it.

AI and The Rule of Law -Part-III

NPTEL

Importance of Independent Judiciary

- **Role of Judiciary in Rule of Law**
 - Ensures fair trial and access to justice for all
 - Maintains principle of equality of arms
- **Equality of Arms Principle**
 - Each party in a legal dispute has equal opportunity to present their case
- **European Convention on Human Rights**
 - Article 6 guarantees right to a fair trial
 - Entitles everyone to a fair and public hearing within a reasonable time
 - Hearing by an independent and impartial tribunal established by law




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But when we say rule of law, we need to look at an independent judiciary, a fair trial for the accused, and then access to justice. So, the rule of judiciary and the rule of law are much more than the principle of equality of arms. Equality of arms means that each party in a legal dispute has an equal opportunity to present their case, and no case is decided without hearing the other party or parties. So, it is not just that there is a case decision being taken without a defendant, or that you apply, or that you file a petition; a case is being decided. So, the equality of arms principle says there are at least two parties to any dispute, particularly any dispute before a court. Then the European Convention on Human Rights, Article 6, guarantees the right to a fair trial, a free and public hearing within a reasonable time, and a hearing by an independent and impartial tribunal established by law. This is again the core idea of the rule of law. Why are we talking about it now? Because some of these ideas, like free trial and equality of arms principles, may be impacted by AI systems, particularly algorithmic decision-making and the black boxes that decide whether a person should be entitled to welfare or whether a person can be released on bail. We will now see how this happens and why this is important.

AI and The Rule of Law -Part-III

NPTEL

AI in Judicial Decision-Making

- **Judiciary Independence and AI**
 - AI systems may generate biased recommendations
 - Judges need minimal understanding of AI processes
 - Ensure human oversight and accountability
- **Efficiency of AI in Legal Analysis**
 - AI can analyze vast datasets more efficiently than humans
 - Legal decision-making traditionally reserved for skilled lawyers
 - Algorithmic thought-process must be scrutinized
 - Concerns about bias and transparency
- **Distinction in AI Use in Judicial Matters**
 - Civil, commercial, and administrative matters




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AI systems are likely to generate biased recommendations. So, to understand that, the judiciary should also understand how AI systems work. They need to have a minimal understanding, if not a complete understanding, of the AI processes. And then we should also ensure that there are judicial oversight and accountability for AI systems. On one hand, AI can analyse vast databases more efficiently. Legal decision-making, which has been reserved for skilled lawyers and jurists, is now being extended to AI. So, we need to look into the algorithmic thought process in the AI that must be scrutinized. Of course, the bias and lack of transparency are always present. So, if we are going to use AI in judicial decision-making, then these are the concerns we need to primarily address irrespective of discussing the plus and minus aspects of AI. And then, there should be a clear-cut distinction between the use of AI in judicial matters in certain sectors and not in others. For example, we need to be very wary of civil, commercial, and administrative matters, as well as the use of AI versus the use of AI indiscriminately in criminal matters. So, the use of AI per se is not problematic. The problematic issue is how it is being used and how the judicial system is being impacted by that. And more importantly, how the judicial system's independence, its guarantee of access to a fair trial, the equality of arms principle, and those norms are not being violated by AI. So, AI, whether it aids a judge in making a decision or whether it itself aids a judgment and then pauses orders, we need to keep these things in mind.

AI and The Rule of Law -Part-III

NPTEL

Predictive Policing and Profiling

- **High-Risk Classification of AI Systems**
 - AI systems used to profile individuals and areas
 - Determines likelihood of re-offending or crime occurrence
 - Classified as 'high-risk' under the EU's AI Act
- **Threats to Rule of Law Principles**
 - Equality before the law
 - Presumption of innocence
 - Non-discrimination
- **Objections and Calls for Prohibition**
 - Fair Trials, EDRi, and 43 others issued a statement




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Then, when it comes to predictive policing, which we have discussed, the E.U. AI Act classifies this as a high-risk classification. So, under that, any system that can profile individuals and areas—areas meaning locations, pin codes, and other factors—are classified as high-risk systems. So, any system that determines the likelihood of someone committing the crime again will be classified as a high-risk system. So, the EUAI Act, which we will see in detail in one of the subsequent classes, addresses some of the concerns about the rule of law versus the negative impact of AI on the rule of law by taking into account some of the major factors and then categorizing these applications as high risk. It is not saying that these applications are something that can be allowed.

All it is saying is that these are high-risk classifications. The high-risk classification of whether the EU AI Act allows them to be developed and deployed will be examined in detail because the EU AI Act classifies systems based on its own risk assessment, and that risk assessment is not merely a technical risk assessment; it also takes into account the potential for human rights violations, the potential for human liberty to be negatively impacted, and, more importantly, the potential for discrimination becoming part and parcel of that. So, the risk here is not just a technical risk, nor is it the physical risk, nor is it the harm that AI systems can do to an individual or to a specific unit. It is a broader concept of risk. Again, based on the idea that human rights have to be defended and protected.

Now, if we take this into account and then look at the threat that can come to the rule of law principle from AI. Some of the rule of law principles, like the presumption of innocence, equality before the law, and non-discrimination, can be violated by AI. Because, as we saw in at least 3-4 cases in our previous sessions—the one on AVAS, the one on COMPAS, and the other ones we saw. They all repeatedly say that the question of the equality of law does not apply there. They are prima facie discriminatory. And then there is no question of the presumption of innocence. The sense that the AI system does not presume that there is innocence. It simply assesses. So, these are some of the things that we need to look into. So, when the EU AI act was being framed and debated, there was a whole lot of debate and discussion about human rights implications and about the

AI system that can have potential negative, direct, and indirect implications for the rule of law. Many of the people who were concerned wrote a petition and issued a statement on the EU AI Act that stated the EU AI Act should, prima facie, prohibit certain applications of AI systems, no matter how beneficial they may appear to be or how much society may need them. So, the idea here is that predictive policing and profiling have to be categorized under some notion of risk to human rights, to human liberty, and then to the rights of the people, rather than merely looking at that in terms of technical issues.

AI and The Rule of Law -Part-III



Case for Harmonised Regulation

- **Need for Harmonised Regulation**
 - Different choices in AI use
 - Importance of upholding the rule of law
- **Lack of Transparency and Accountability**
 - Intrinsic issue with AI technology
 - Black box reasoning hinders understanding of decisions
- **Violation of Rule of Law Principles**
 - Access to effective judicial remedy compromised
 - Infringement of fundamental rights without accountability
- **Impact on Fundamental Rights**
 - Right to not be discriminated against affected
 - Right to an effective remedy diminished



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So, the question here again becomes how do we deal with the technological advancements, the potential, and then the various threats and the various negative impacts which we discussed? What is the way out? Is there a way out? Can anything be done about it? Some of these things can be addressed from a typical law and technology perspective, where you put regulation at the core and then say that regulating a technology is necessary not only to promote innovation but also for society so that it is not harmed. One of the approaches in technology regulation is that harmonization is a better approach than a fragmented approach of each country devising its own standards, technological norms, and regulatory parameters. So, harmonization is one way to solve this problem if many countries agree that AI systems should not negatively impact the rule of law in their own country or if they try to identify the core values or core principles that AI systems should not violate even when they are being put to use.

It is possible that there could be some sort of harmonization in dealing with AI systems in law and justice. The importance of upholding the rule of law in AI is very significant if we talk in terms of harmonizing AI regulations. But if we see that the fundamental problem is the interesting issue with AI technology, we understand; we are not able to understand how it works. So, the lack of transparency can be addressed again through regulations. The EU AI Act tries to address this. Various regulatory orders of different countries or the regulatory regimes of different countries try to order them in different ways. There is a whole lot of literature, some of which we will discuss in subsequent classes as well. But if an AI system can really compromise or harm an effective judicial remedy to access, for example, the right to appeal. If you have an AI system, that is

where the matter ends; or if there is an AI system it is decided whether you are innocent or not, you have to pay this much fine, or whether you have evidence to prove that you are innocent, the system is not going to reopen the case for you, then the effective judicial remedy is closed.

So, this, again, is a violation of the rule of law. One way to address this is to not make AI systems the final arbitrator or the final decision maker. Even if you do not have humans in the loop, even if you do not have humans to supervise the decisions, have a panel or have a forum where the decisions of AI systems can be appealed or at least challenged. If an AI system infringes, harms, or negates fundamental rights, there should be accountability, and there should be a procedure to challenge it. For example, if an AI system based on biased algorithms denies bail to one person, grants bail to another person, and then fundamental rights are violated, there should be a way to make this accountable, and more importantly, there should be ways and means to challenge it further. So, the fundamental core ideas, like the right not to be discriminated against as well as the right to an effective remedy, should not be diminished, eclipsed, negated, or abrogated either in part or in full by AI systems.

So, when we talk about the formalized regulation of AI systems, particularly in the context of AI systems being used in law and justice, especially in criminal justice, we want to enlist certain parameters or guidelines that are necessary. A harmonized regulation, whether it is global or regional, is one solution to address that rather than trying to address it piecemeal by looking at individual countries' solutions. Because when countries adhere to a convention or a treaty and become parties to it, it also indicates that irrespective of the way the countries may implement those conventions and treaties, there is a broad consensus that these are the core things that need to be addressed. And the European Council's AI treaty does something that is very similar. We will have an in-depth discussion about it in one of the classes.

AI and The Rule of Law -Part-III

Challenges in Accountability

- **Equality Before the Law**
 - No one should be above the law
 - Public and government officials must be accountable
- **AI Decision-Making Challenges**
 - Difficulty in determining accountability for AI outcomes
 - Opaque or 'black-box' reasoning complicates responsibility
- **Potential Accountability Options**
 - Responsibility of the person inputting data
 - Accountability of AI system designers and manufacturers
- **Implications for Technological Innovation**
 - Possible chilling effect on innovation
 - Developers may avoid designing AI systems due to accountability burden

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So, these are some of the things that we have discussed again and again, such as the difficulty in determining accountability, potential accountability options, and the implications for technological innovation, such as a possible chilling effect on innovation

if there is too much emphasis on the rule of law. Again, developers may not agree to develop systems if they think that accountability is going to be a burdensome liability or issue in many technologies, including nuclear technology. Therefore, these challenges in accountability have to be addressed and can be addressed in many ways, because this is something that people who have been dealing with technology regulation know well. And then technology regulation, we have enormous case studies, we have enormous case laws, and principles where these things can be dealt with confidently, drawing on prior learning from them. So, AI is not something that we are seeing for the first time. But AI is something where we are seeing these things in a much more fundamental way in the sense that it can potentially be an antidote to the rule of law.

The screenshot shows a video player interface for an NPTEL lecture. The title is "Ensuring Accountability and Transparency". The content includes a bulleted list of points and a small inset image of a hand interacting with a futuristic digital interface.

AI and The Rule of Law -Part-III

NPTEL **Ensuring Accountability and Transparency** 

- **Importance of Accountability and Transparency**
 - Essential for the rule of law
 - Maintains mutual trust between authorities and citizens
- **Challenges in Practical Implementation**
 - Lack of practical guidance for execution
- **Impact of Erosion of Trust**
 - Serious implications in countries with low trust in government





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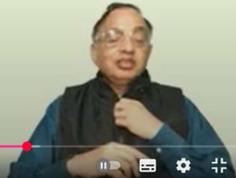
So, what we all need to bring in to ensure accountability and transparency in harmonized regulation or at a national level regulation has to be done.

AI and The Rule of Law -Part-III




Legal Framework

- **Need for Strong Legal and Ethical Frameworks**
 - Ensures AI adheres to rule of law principles
 - Accommodates fast-paced AI development
- **Continuous Monitoring and Impact Assessments**
 - Ensures AI systems comply with rule of law
 - Prevents negative impacts on rule of law
- **Regulation and Guidelines Development**
 - National and multilateral efforts
 - Council of Europe's focus on ethical framework
- **International Policy Coordination**
- **Balancing Innovation and Regulation**

27:06 / 33:19

And the legal framework should ensure that rule of law principles is incorporated in that. But at the same time, you should also deal with fast-paced AI development. This is a huge dilemma that we will discuss in one of the classes, particularly talking about the problems we face in AI and law. And then we should also see that if AI systems are routinely complying with rule of law principles, that will impact the negative impact assessment. But then, how do we do it? There are ways to do it. People have been working on it. Then there are reports to look into this issue. So, you need to come up with regulatory guidelines, governance frameworks, and the Council of Europe's focus on an ethical framework for AI, particularly the framework on ethics, AI, and human rights in the context of AI, is very important. So, at the international level, you would need policy coordination, you would need policy coherence, and then you would also need a whole lot of things that could be done to balance innovation with regulation. But balancing innovation, regulation in law, and technology is not a new thing. It has been discussed; solutions have been found, however imperfect they may be. So, there are precedents; there are previous examples in which AI, and the problems that we think arise on account of AI, particularly in law and justice, can be addressed.

AI and The Rule of Law -Part-III



Rule of law in the AI era: addressing accountability, and the digital divide




- Concept of the rule of law in the context of AI advancements is evolving.
- There is need for transparent AI decision-making processes and human involvement to ensure accountability.
- Two main challenges: the 'black box' problem and the risk of exacerbating the digital divide.
- There should be measures to prevent and narrow the digital divide, suggesting that both governments and private entities should implement such measures.
- The importance of human involvement in automated decision-making processes to uphold the rule of law.
- Addressing these challenges requires upholding the rule of law through human involvement and possibly enforcing an obligation for reason and explainability.



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So, when we need to fit two things here, the rule of law and the AI technologies, what are we going to do with all that we have discussed. But we also need to do one thing in the sense that we need to have a clear chart of all the things we need to do. If we think in terms of the rule of law in the AI era, we need to address accountability in the digital divide. Addressing these two things will help us address greater problems.

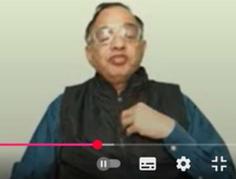
AI and The Rule of Law -Part-III



Rule of law in the AI era: Where Do We Go from Here



- How AI can advance Rule of Law is not clear because our experience with current generation of AI is too short
- But as AI evolves and getting more and more integrated in day to day lives we would need safeguards at least to preserve some aspects of Rule of Law including right to equality
- While there is some sensitivity to AI and Rule of Law in Council of Europe's AI Treaty this is missing in most discussions on AI governance
- The changing nexus between technology and Rule of Law should be understood in the broader context of politics of technology than thinking technology as a mere tool and AI as yet another and emerging technology

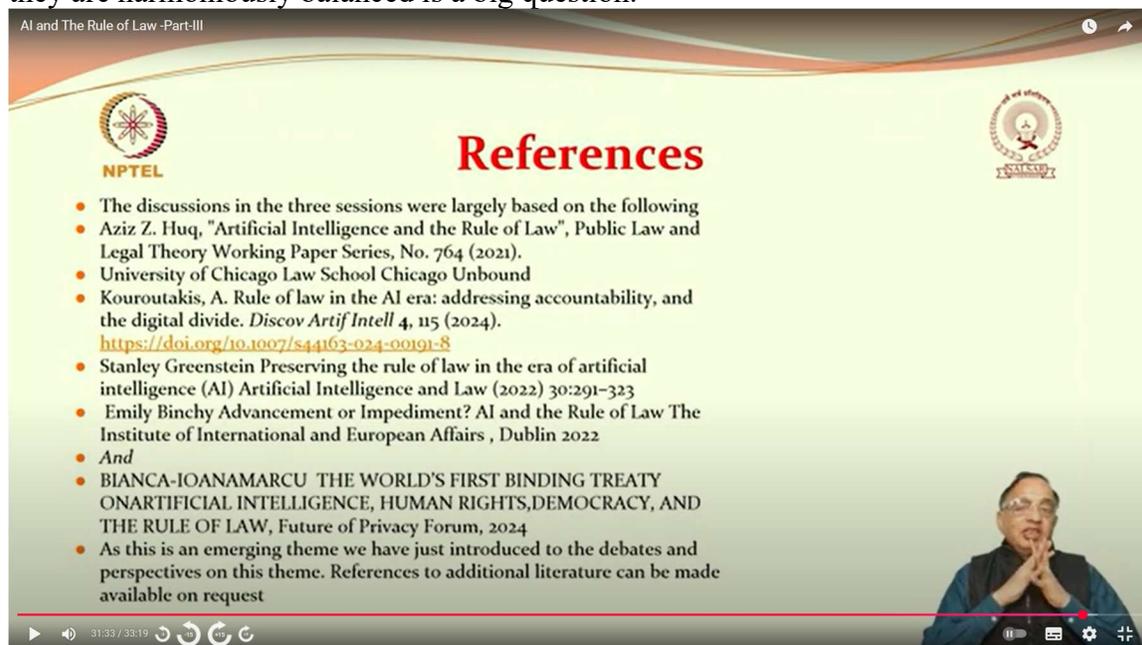


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So where do we go with the rule of law in the AI era? Let us also understand how AI can advance the rule of law, which is not very clear because our experience with AI itself is not even two or three decades old. But AI is becoming more and more advanced. It's getting integrated so much that, if not the whole idea of the rule of law, we need to be fearful about it. We need to be fearful about certain things so that we have some minimum safeguards built into the system, ensuring that some critical aspects of the rule

of law are preserved, including the right to equality, irrespective of developments in AI; in other words, we need to have guardrails and other mechanisms that will function like the way a train is stopped by applying brakes, or even when the thermostat stops when the temperature goes beyond a certain level. So, we need to have a lot of guardrails and a lot of guidelines. So, the point here, or the problem here, is that unfortunately, while globally there is a whole lot of discussion on AI regulation and governance, that is not looked at from the perspective of the rule of law, particularly. So, except for the EU's AI treaty, there is no major initiative globally that addresses some of these concerns, including the impact of AI systems on human rights and personal liberty.

So, we need to think beyond considering technology as a mere tool again. We need to look at technology as something that is inherently either positive or negative. We need to go beyond this. And AI being an emerging technology, it cannot be thought of as an eternally emerging technology, but it is a technology that has its own unique features, that has its own unique history, and more importantly, it is the only technology that is trying to mimic our intelligence. So, the rule of law in the AI era is a very serious topic. There are potential things that we need to discuss. So, where we go from here depends on how much importance we want to give to the rule of law in the age of AI, or whether we are going to compromise the rule of law in the age of AI, or if we are going to ensure that they are harmoniously balanced is a big question.



AI and The Rule of Law -Part-III

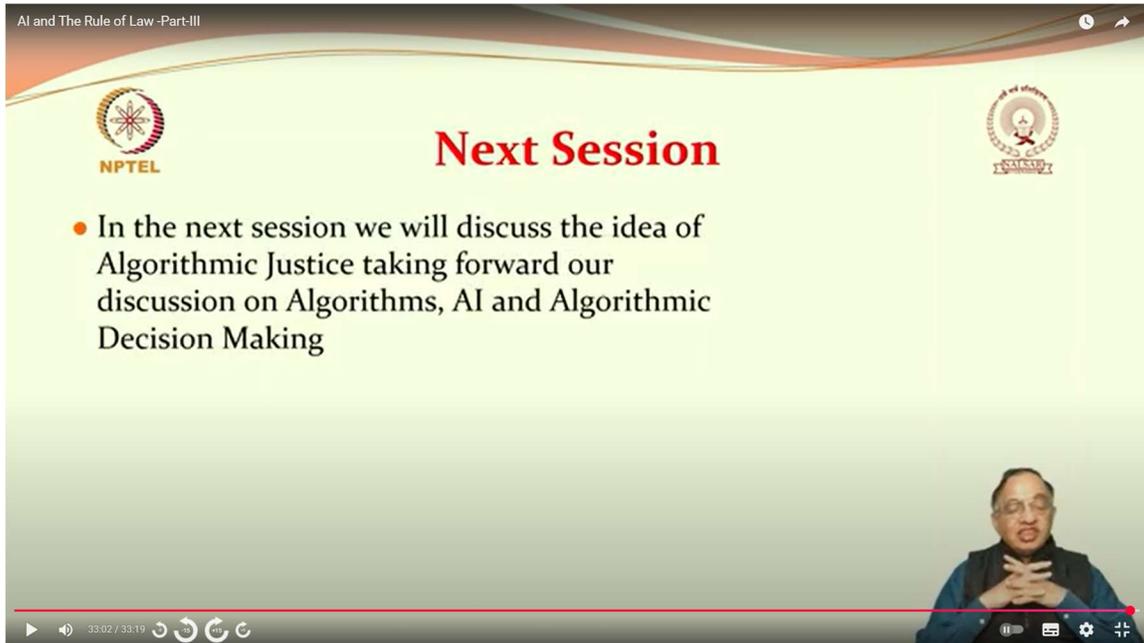
References

- The discussions in the three sessions were largely based on the following
- Aziz Z. Huq, "Artificial Intelligence and the Rule of Law", Public Law and Legal Theory Working Paper Series, No. 764 (2021).
- University of Chicago Law School Chicago Unbound
- Kouroutakis, A. Rule of law in the AI era: addressing accountability, and the digital divide. *Discov Artif Intell* 4, 115 (2024).
<https://doi.org/10.1007/s44163-024-00191-8>
- Stanley Greenstein Preserving the rule of law in the era of artificial intelligence (AI) *Artificial Intelligence and Law* (2022) 30:291–323
- Emily Binchy Advancement or Impediment? AI and the Rule of Law The Institute of International and European Affairs , Dublin 2022
- And
- BIANCA-IOANAMARCU THE WORLD'S FIRST BINDING TREATY ONARTIFICIAL INTELLIGENCE, HUMAN RIGHTS,DEMOCRACY, AND THE RULE OF LAW, Future of Privacy Forum, 2024
- As this is an emerging theme we have just introduced to the debates and perspectives on this theme. References to additional literature can be made available on request

31:33 / 33:19

So, the discussions, the points, or the examples that I gave in the last three sessions are based on the literature and the references that I am citing here. See, fundamentally, this rule of law AI debate is again a very recent one. It is not even 15 years old. At the same time, some of the ideas relating to algorithmic decision-making, automated decision-making in the context of AI, and also some of the recent debates on various issues relating to AI and fundamental rights are so new, but the concerns, fears, and some of the terms of the discourse are also so old. So, I am providing references to the major articles that helped me in conceptualizing and delivering these sessions, three sessions on the rule of law and AI. But there is more in the literature; there is more to be talked about. In fact, one can even do a 20-hour course on the rule of law and AI, looking at different aspects,

but that is for another occasion. And as this is an emerging theme, we have just introduced two debates and perspectives. References and additional literature can be made available on request. So, with this, we come to session 3 and the final session of AI and the rule of law.



The screenshot shows a video player interface. At the top left, the text "AI and The Rule of Law -Part-III" is visible. The slide content includes the NPTEL logo on the left and the Indian Institute of Technology (IIT) logo on the right. The main heading is "Next Session" in red. Below it, a bullet point states: "In the next session we will discuss the idea of Algorithmic Justice taking forward our discussion on Algorithms, AI and Algorithmic Decision Making". A small video inset in the bottom right corner shows a man speaking. The video player controls at the bottom show a progress bar at 33:02 / 33:19.

The next session will be on the idea of algorithmic justice, building on our earlier discussion of algorithms, AI, and algorithmic decision-making. Thank you.