

Course Name – Artificial Intelligence, Law and Justice
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Department Name – Center of Excellence in Artificial Intelligence and Law
Institute Name – NALSAR University of Law
Week – 01
Lecture – 02

Rule of Law

NPTEL

Artificial Intelligence, Law and Justice

Session 2

RULE OF LAW

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0:25 / 33:50

A video player interface showing a slide from a lecture. The slide has a light green background with a dark blue header. It features the NPTEL logo on the left and the NALSAR University of Law logo on the right. The main title is 'Artificial Intelligence, Law and Justice' in a large, bold, dark blue font. Below it, 'Session 2' is written in a smaller font. The central heading is 'RULE OF LAW' in a bold, dark blue font. Underneath, the speaker's name and affiliation are listed. A small video inset of the speaker is visible in the bottom right corner of the slide area. The video player controls at the bottom show a progress bar at 0:25 / 33:50.

Artificial Intelligence Law and Justice Session 2 - Rule of Law.

Rule of Law

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Rule of Law

- The Rule of law is a fundamental legal principle.
- In simple terms it means that nobody is above law
- Supreme court has declared that as basic feature of constitution of India
- The core idea is that the nation is governed by law and not by arbitrary decision of any authority

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A video player interface showing a slide from a lecture. The slide has a light green background with a dark blue header. It features the NPTEL logo on the left and the NALSAR University of Law logo on the right. The main title is 'Rule of Law' in a large, bold, dark blue font. Below the title, there are four bullet points defining the rule of law. To the right of the text is a 3D illustration of a person in a suit standing on a glowing blue platform, with a digital interface in the background. A small video inset of the speaker is visible in the bottom right corner of the slide area. The video player controls at the bottom show a progress bar at 0:32 / 33:50.

In this session 2, we will discuss the rule of law, which is a fundamental and basic concept in law. The rule of law in simple terms means that nobody is above the law, nor can anyone assert that he or she is above the law and can assert authority over anyone and everyone. This also includes the same thing for the institutions. So, the Supreme Court

has declared the rule of law as a basic feature of the Constitution of India. The core idea here is very simple: the nation will be governed by law and not by the arbitrary decisions of any authority, whether a man, a woman, or any institution.

Rule of Law



Rule of Law



- The Supreme Court has upheld and emphasized the rule of law through landmark judgments.
- In ***Kesavananda Bharati v. State of Kerala (1973)***, Rule of Law was established as a basic feature of the Constitution.
- This case is also known as the case that resulted in the affirmation of basic structure doctrine
- Rule of Law is a dynamic concept and evolved over centuries



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The Supreme Court has upheld and emphasized the rule of law in many landmark judgments. For example, in *Kesavananda Bharati v. State of Kerala (1973)*, which is also known as the basic structure doctrine case, the rule of law was established as a basic feature of the constitution. In other words, since the basic feature of the constitution cannot be destroyed or abrogated, nor can it be negated, no law, policy, or initiative by the government can come to the level of abrogating the rule of law. Since the case is also known as the one that affirmed the basic structure doctrine, the rule of law is fundamental to the constitution as well as the constitutional scheme of things. But the rule of law is also a dynamic concept and has evolved over centuries.

Rule of Law



Origins of Rule of Law Concept

- Its conceptual origins can be traced to Aristotle
- Later many thinkers including **John Locke** ,**Machiavelli** developed it
- Subsequently many including **A. V. Dicey**, **F.A. Hayek**, **John Rawls** enriched it
- Today it is a well recognized constitutional law principle



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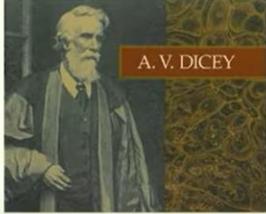
So, we need to look at the origins of law to understand this. Its conceptual origins can be traced to the days of Aristotle, but later many thinkers, including John Locke and Machiavelli, developed it further. The reason this became a major contentious topic during the medieval period was that many people in continental Europe were upset and against the unbridled power of the monarchs, kings, and queens, and they wanted to put a limit on that. So, the argument that was put forth was that the king was not above everybody else. King has to be subservient to the Lord or God and to the law. So, this idea originated during different times in different places, including the then England, Germany, as well as France. Subsequently, many, including A. V. Dicey, who is a famous theoretician of this concept, F. A. Hayek, and John Rawls, enriched it. John Rawls is well known for his concept of justice, and he is also a significant contributor to the concept of the rule of law. So, it is now a well-recognized constitutional law principle across the world.

Rule of Law




Prof. Dicey and Rule of Law

- Prof. Dicey is a key theoretician of this principle
- According to him three essential principles are, supremacy of law, equality before law, and predominance of legal spirit
- He discussed this in 'Law and the Constitution' (1885)
- Subsequently many others have elaborated and enriched this concept



A. V. DICEY



Professor Dicey and the Rule of Law - Professor Dicey is a key theoretician of this principle. He stated that there are three essential principles of the rule of law. One, the supremacy of the law; two, the equality before the law; and three, freedom of the legal spirit. This was elaborated in his book, the "Law and the Constitution", in 1885. Subsequently, as we said, many others have elaborated on and enriched this concept. In recent years, this concept has also been enriched by intergovernmental organizations, including the Council of Europe.

Rule of Law




Prof. Dicey and Rule of Law

- Supremacy of Law: No person can be subjected to punishment or deprived of property or forced to suffer in body unless (s)he has violated the law(s) and same is proven in duly established court of law.
- Equality before Law: No person is above the law or totally exempt from the laws of the land
- These two constitute the core of any constitutional democracy where Rule of Law is the guiding principle



So, according to Professor Dicey, when we talk of the supremacy of law, no person can be subjected to any punishment, deprived of any property, or forced to suffer in body unless he or she has violated the laws and the same is proven in a duly established court of law, which means that the supremacy of the law ensures that nobody is unjustly or

arbitrarily punished unless it is proven in a court of law that the person has violated the law and must undergo some suffering or be punished. This means that the law decides whether a person has to be punished or not, and not the power of any authority as such. Equality before the law states that no person is above the law or totally exempt from the laws of the land; in other words, it means that the law treats everyone as equal, although there could be exemptions and variations. Nobody can be totally above the laws of the land nor can claim full exemption from following the laws of the land.

These two, in fact, constitute the core of any constitutional democracy where the rule of law is the guiding and fundamental principle. Of course, there are exceptions to equality before the law, but the supremacy of the law is a principle for which there can be no exemption under the scheme of the rule of law.

Rule of Law

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The Spirit of Law

- The courts act as independent enforcers and interpreters of the rule of law.
- They are autonomous, free from external influences and are not above law.
- Independence of Judiciary and Judicial Powers emanate from Constitution
- Thus Judiciary is not institution that is not subservient to the Government



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The spirit of the law is a doctrine that he put forth. Under the spirit of the law, the courts are the independent enforcers and interpreters of the rule of law. So, the courts do this job and not the king, the queen, or anybody appointed by the king or queen in their royal capacity. And then the courts are autonomous; they are free from external influence, but they are also not above the law. So, the spirit of the law also says that courts, however powerful they may be, and regardless of how much autonomy and freedom from external influences they have, they must abide by the law. And then the independence of the judiciary and judicial powers emanate from the constitution. In the Indian Constitution, this is very clear. So, the spirit of the law means that the independence of the judiciary and judicial powers is part of that.

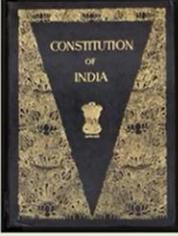
In which case, we need to understand that the judiciary is an institution that is not subservient to the government. It is an independent entity that has its own autonomy, which is vested in its own powers, but those powers emanate from the constitutional scheme of things and not from the wishes or ideas of any single person.

Rule of Law

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CONSTITUTION OF INDIA & Rule of Law

- Preamble : The Preamble underscore the principles of equality, justice and liberty
- Article 14 guarantees equality before law and equal protection under law
- This is almost identical to Dicey's ideas on Equality and Rule of Law
- The Right to Life and personal liberty under Article 21 cannot be negated or limited or curtailed except through a process established by law
- The Supreme Court has expanded the scope and meaning of Right to Life under Article 21




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So, the Constitution of India and the rule of law need to be discussed to be understood in the Indian context. The preamble of the Indian Constitution underscores three or four key principles, which include equality, justice, and liberty; these are the cornerstones of the constitutional scheme of things. The Article 14, which is the key article when it comes to equal rights and equality, guarantees equality before the law and equal protection under the law.

Of course, there can be some exemptions in such cases, but then the fundamental principle cannot be violated. This is again almost identical to Dicey's ideas of equality and the rule of law. The right to life and personal liberty under Article 21 is again guaranteed by the Supreme Court in many decisions. But they cannot be negated, limited, or curtailed except through a process established by law. This is again as we saw the spirit of the law.

For the personal liberty or non-negotiable personal rights of a person, even if they have to be limited or curtailed, it must be done through a process established by law, which means that the process would be one recognized by a court as due process. So, the due process principle is also applicable here, although in the Indian context, the due process of law is a very contested concept. The right to life and personal liberty under Article 21 also ensures that they cannot be simply taken away by the government or by any authority unless there is a process to do that, and that process itself is established by law, approved by the highest court or by any court in the country. So, over the years, the Supreme Court has expanded the scope and meaning of the right to life under Article 21.

Rule of Law

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Key Judgements on Rule of Law

- In addition to **Kesvananda Bharati Judgement** many judgements have affirmed and interpreted Rule of Law
- **Indira Gandhi v. Raj Narain**: In this very significant case, Supreme Court held that the doctrine of "Rule of Law" under Article 14 forms the 'Basic Structure' of the Constitution. In other words no body can assert that (s)he is above law nor any law can give that right
- **ADM Jabalpur v. Shivkant Shukla**: This is also known as 'Habeas Corpse' case.
- The majority view upheld the absolute right of the state but dissent by Justice H.R.Khanna emphasized that even in the absence of Article 21, State has no absolute power to deprive freedom of any person




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Which means that Article 21 simply states that the right to life is not the life of barely surviving. It is a right for many more things, including the right to a healthy environment, the right to numerous other rights, and the right to housing. But in addition to the Kesavananda Bharati judgment, many judgments have repeatedly affirmed and interpreted the rule of law, and the Indian Supreme Court has played a preeminent role in not only expanding the scope of the rule of law in this country but also in ensuring that the rule of law has become the basic fundamental norm in the constitutional scheme of things. In this class, we will see only two or three cases that are very important. In the case of Indira Nehru Gandhi v. Raj Narain, this is a case that pertains to the election of Mrs. Indira Gandhi as a member of Parliament.

So, Raj Narain challenged it on some grounds. In this case, the Supreme Court held that the doctrine of the rule of law under Article 14 forms the basic structure of the Constitution. In other words, this cannot be stated or whittled away by anyone, and nobody can assert that he or she is above the law, nor can any law grant that right; in other words, no law can be framed and then implemented or asserted to state that this Article 14 is abrogated or negated in some way. This means that if Article 14 is considered the basic structure and the rule of law is the fundamental principle, the rule of law itself cannot be taken away by any law, no matter how much the government or the parliament tries. In practical terms, this means that the parliament cannot take away the rule of law through legislation.

Then, in the case of ADM Jabalpur v. Shivkant Shukla, which is popularly known as the Habeas Corpus case, the majority upheld the view that the state has an absolute right to negate fundamental rights, including the rule of law and Article 14. But this view was contested by Justice H. R. Khanna, who gave a dissent in which he categorically mentioned that even if there were no Article 21, which guarantees the fundamental right to life, the State does not have absolute power to deprive any person of their freedom.

Or, in other words, the judgment elaborated by H.R. Khanna also hinged upon the point that the rule of law is supreme and that, irrespective of Article 21, the state did not have the absolute power to deprive any person of their freedom. We should also note that this judgment was overruled by another bench later, much, much later in fact, and the person who headed that bench was none other than Justice Chandrachud, whose father, in fact, authored the ADM Jabalpur v. Shivkant Shukla judgment. So, this judgment of ADM Jabalpur v. Shivkant Shukla, which was given in 1976, was in fact negated four decades later.



The screenshot shows a video player interface for an NPTEL lecture. The title is "Key Judgements on Rule of Law". The NPTEL logo is on the left, and the Indian National Emblem is on the right. The main content is a bulleted list of key cases. A small image of the Lady of Justice statue is on the right side of the slide. A video thumbnail of a speaker is visible in the bottom right corner of the player.

Rule of Law

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Key Judgements on Rule of Law

- Other key cases in which the Supreme Court has affirmed, elaborated upon and expanded the understanding of Rule of Law include **Maneka Gandhi Vs. Union of India**
- In this case the Court held that any law restricting personal liberty must be reasonable, fair, and just. It also held that such a law should also adhere to the principles of equality, freedom, and the right to a fair procedure enshrined respectively in Articles 14, 19, and 21.



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Among the key judgments, there is also an important judgment called Maneka Gandhi v. Union of India. This pertained to Maneka Gandhi being deprived of her passport and then denied the right to travel abroad. In this case, the Supreme Court held that any law that would restrict personal liberty, including the right to travel, should be reasonable, fair, and just; if the law did not pass these tests of being reasonable, fair, and just, it would not be considered one that passes the test of the rule of law. Finally, it also held that such a law should adhere to three principles, that is, the principles of equality, freedom, and the right to a fair procedure, enshrined respectively in Articles 14, 19, and 21; Articles 14 and 19, 21 constitute the golden triangle when it comes to personal liberties and fundamental rights. In other words, when we read these three articles together, we get a comprehensive view of the scope of fundamental rights, and these cannot be violated by any process or by any law if it is found that the process or the law does not result in fair practice, does not guarantee adherence to the principle of equality, and deprives freedom in one way or another.

Rule of Law



Limits to Rule of Law

- The Constitution of India grants discretionary power to the President regarding commuting, suspension and pardon for convicts (**Article 72 and 161**)
- Immunities to the President and Governors
- Immunities for Diplomats under International Law and Practice
- Discretionary Power including power to arrest under different laws



But then the rule of law itself has a lot of limitations because the constitution, however much it abides by it, talks of the rule of law as the fundamental principle and also gives some discretionary power to the government and various functionaries so that they can assert this power as and when there is a need. For example, the Constitution of India gives discretionary power to the president regarding commuting, suspending, and granting pardons for convicts.

This comes under Article 72 and Article 161. So, this again, we should not take this as something that goes against the rule of law; rather, they can be taken as an exemption to the rule of law given in light of the power granted to the president to commute, suspend, or give pardon to a convict. This right gives the president the power to suspend a person's conviction term; the person can be pardoned even if they have not fully undergone the imprisonment term. Similarly, there are immunities that are available to the president as well as the governors of the states, and there are immunities for diplomats under international law and practice. So, these three immunities and the discretionary powers, although they do limit the rule of law, themselves form, in one sense, a rule of law because whatever has been stated under them is again part of the constitutional scheme of things and the constitutional way of giving people some extraordinary powers so that they can be applied and used in extraordinary circumstances.

So, this should be seen more as an exception than the right itself. Similarly, the discretionary power to arrest under different laws given to police personnel and then to other authorities under different laws is itself an exemption. But then those laws and those powers have either been upheld by the Supreme Court or the High Court, or they themselves form part of a larger scheme of things where such discretionary power is granted on account of various other factors, including terrorism, money laundering, and other offenses where such rule of law principles cannot be violated but can be made flexible to a certain extent.

Rule of Law




Rule of Law, Society and State

- **Roger Brownsword** has conceptualized Rule of Law as a contract between law makers, law interpreters and law enforcers, and, citizens.
- In this view actions of the former will always be as per law and the latter will abide by decisions made in accordance of law and legal rules
- Thus none is above law and law is binding on the former as well as the latter




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So, the rule of law, society, and state are something that is very important. Because society, state, and law form a triad or a trinity. The relationship between them has to be understood clearly. When we say that the rule of law is the fundamental guiding and binding principle, it not only pertains to society, but it also pertains to the state. But when society and the state could be at odds in understanding the rule of law, society and the state could be at odds as to whom it is more applicable or to whom it is less applicable. And then society and the state may not always see eye to eye on many issues. When that happens, whose interpretation of the rule of law and whose stakes over the rule of law are important becomes a contentious issue.

So, to understand this we can also look at the rule of law in a different way which Roger Brownsword has done. Roger Brownsword has conceptualized the rule of law in a typical way that doesn't view the rule of law as a mere principle but rather sees it as a contract between lawmakers, law interpreters, law enforcers, and citizens. So, when we talk about this contract, there are two parties to it. One is the lawmakers, law interpreters, and law enforcers. They are more or less part and parcel of the state, or the state acts through them, and they also have the power to control the state.

And then the other side of this is the citizens. So, it is where conflicts of the rule of law occur. The rule of law, when we say it should be equally applicable to the state as well as society, means that if some people have a better right or can, through the rule of law, enforce better rights over others, how do we look at it? He says it is a contract. In this view, the actions of the former—namely, the lawmakers, law interpreters, and law enforcers—are significant. Will always be as per law in the sense that whatever I do has to be due to some legal procedure established under law and through law, and then that law could be scrutinized again by the judges or by the judicial process and has to be vetted and found valid.

If the Supreme Court finds any law to be invalid or a violation of constitutional principles, or if it grants overarching and unbridled power to lawmakers, law interpreters,

or law enforcers, then it could simply strike it down on the basis that it violates fundamental rights or goes against the fundamental scheme of the rule of law. So even if the lawmakers, law interpreters, or law enforcers, or for that matter any arm of the state wants to act, they need to act only as per the law, and they have to abide by the decisions made in accordance with the law and legal rules. Who are they? The latter citizens, we need to abide by the rules made in accordance with the law and legal rules. That is why, as citizens, we have every right and every power to challenge these laws, these decisions, and the rules.

So, the question here is simple. The right to frame a law, to pass a law for legislatures as well as for parliaments, is supreme, but that right cannot be given or interpreted as the ultimate right to pass any law and do anything with the citizens. Rather, that law or that scheme of things has to be vetted and approved by the court of law when it is challenged in court. But when it is challenged and then appealed in court, it becomes part of the accepted law, which no citizen can try to overthrow or negate. So, here we see two things. One, the law established by the legislatures, by the parliaments, and by the state or its agencies has been vetted and approved by the court.

So, they are abiding by the citizens. So, citizens have to abide by the decisions made in accordance with the law and legal rules. So, this is the first part that citizens are bound by the laws that are made according to the legal procedure. But the same thing is also applicable to those who make power for the simple reason that the Supreme Court, when it says that the law is invalid or cannot be implemented on account of various deficiencies, including violation of fundamental rights, also means that their power is curtailed. But in the scheme of contracts, or when we refer to the rules of contracts, the contract terms, in one sense, are applicable to both lawmakers, law enforcers, various organs and institutions under the state, as well as to citizens. Just as the law enforcers can ask the citizens to abide by the law, the citizens can also ask the authorities from where they derived this power, whether it is legal, if any law gave them this right, and whether this law gave them any authority, and then question and challenge it.

That is why when laws, legal rules, or the interpretation of them are frequently challenged in a court of law, or when these challenges go all the way up to the Supreme Court, we only see how the principles of the rule of law are being interpreted, addressed, and then a solution is found, or how the principles of the rule of law help the Supreme Court, any high court, or any other court to scrutinize their laws, legal rules, and various orders issued by the authorities. Thus, nobody is above the law, and the law is binding on both parties here, that is, the lawmakers, law interpreters, as well as the citizens. But when we say this, the contract is again something that resembles a social contract, which is based on good faith, good understanding, as well as mutual trust. But problems arise, particularly in this contractual vision of the rule of law, when citizens feel that in the guise of the rule of law or in the guise of abiding by the rule of law, they are made to suffer laws that are unjust, unequal, or that violate the principles of equality; then social unrest ensues, people start agitating, and people use legal means in other ways to question that. So long as this contract between the lawmakers, law interpreters, law enforcers on one hand, and citizens holds, binds, and then gives society a peaceful way to deal with conflicts, the rule of law will remain supreme.

But when this does not happen, the rule of law, however much it may be a good principle and a legally accepted principle, can itself be something that people can question. In the sense that the rule of law is mere fiction, it is not something real.

The screenshot shows a video player interface. At the top left, it says 'Rule of Law'. The main title is 'Rule of Law-Institutions and Principles'. Below the title, there is a list of bullet points. The first bullet point is a quote from the World Justice Project. The second bullet point is a URL. Below the text, there is a small image of a courtroom. At the bottom right, there is a small video feed of a man speaking. The video player controls are visible at the bottom.

Rule of Law

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SAIKSHAL

Rule of Law-Institutions and Principles

- According to **World Justice Project** “The rule of law is a durable system of laws, institutions, norms, and community commitment that delivers four universal principles: accountability, just law, open government, and accessible and impartial justice.”
- <https://worldjusticeproject.org/about-us/overview/what-rule-law>

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So, what are the institutions and principles of the rule of law? According to the World Justice Project, the rule of law is a durable system of laws, institutions, norms, and community commitment that delivers four universal principles: accountability, just law, open government, and accessible and impartial justice. Now this world justice principle project came up with this idea regarding what we see in the rule of law. The rule of law is much more than just law; it is much more than norms.

So, when we talk about the rule of law in a broader sense, it is a scheme of a system of laws that are durable and community commitments that deliver four universal principles. Or to put it another way, when these four universal principles are violated or do not form part of the democratic governance or the law and justice system of a country, the rule of law itself is being vitiated or violated. So, these principles are accountability, just laws, open government, accessible, and impartial justice. We will look at each one of them in a little detail. Accountability means that the government is accountable to the public, and the public is accountable to the government because there are a mutual contract and mutual understanding that both parties will abide by the rule of law and will resolve disputes using the settlements available under the rule of law to arrive at applicable solutions.

So, the accountability of any institution under the rule of law cannot be given up unless there is due process or unless that accountability can be abrogated or negated either in part or fully through a scheme of things that are again part of the rule of law. And then just law, just law means here the law that treats everyone as equal; the law does not discriminate on the basis of identity or anything, and then the law that is just and fair in the real sense of the word. So, when we talk of just law, we talk of a law that adheres to the fundamental principle of the rule of law, which is equality before the law. Then open

government, open government again is a concept that underlies the idea of transparency and transparent dealings, the people's right to know, the people's right to question, and the people's right to understand and interact with the government. So, the idea of open government also ensures and facilitates public participation in the government, a dialogue between the government and the people.

It also means that an open government scheme of things means there is inbuilt transparency, which will in fact enhance accountability and trust on one hand, and the government itself is willing to be transparent, willing to share information, and recognizes the right to know as a fundamental principle. And then the fourth principle pertains to justice, so when we talk of accessible and impartial justice, we mean that under this rule of law, there are institutions that ensure that access to justice is accessible and impartial. When we say accessible, it also means that the institutions that deliver justice, or the institutions that enable citizens to question the state or its various organs, are accessible. In the sense that there are no limitations placed on the citizens to access the justice system or to seek remedies from it. And then, the justice system itself is structured in such a way that it delivers impartial justice.

Which means that accessible, impartial justice is possible only when the judiciary itself is independent, autonomous, and not bound to the state in any way; it can act as an arbitrator, bind the state, impose limitations on the state's unbridled power, and, more importantly, deliver impartial justice. Particularly in the constitutional scheme of things, if you look at it, the Supreme Court is an institution that is bound to deliver impartial justice because the Constitution states that the Supreme Court has the power to deliver full and complete justice. But this power is an extraordinary power, and in limited cases, the Supreme Court can exercise power to ensure that the justice delivered is complete and full, so that the rule of law, which guarantees accountability, open government, and accessible impartial justice, also ensures that justice can be rendered in such a way that it is full and binding. So, under these four principles, we can easily decipher a few things.

Rule of Law




Digital Technologies and Rule of Law

- Digital Technologies can impact Rule of Law positively as well as negatively.
- <https://press.un.org/en/2023/gal3694.doc.htm>
- They can enhance efficiency of legal system, deliver effective and quicker justice.
- But they can also adversely affect Rule of Law as they can negatively impact human rights, reduce accountability, and enhance bias and discrimination
- In this course we will focus on role of AI on both aspects




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One of these principles also tells us that the rule of law principles is not set in stone; they are dynamic, much more agile, and can be interpreted in different ways. Now, if we recall that we also said one thing: in the medieval period, there were different issues that popped up again and again when kings, monarchs, and queens thought they had enormous powers and were not accountable to anyone. So, in different contexts, people brought in different issues and then argued that no, it is not the case. You are not a power unto yourself. You are a power, but again you are subservient to the Lord or God, and then you are also subservient to the law. When they talk of the Lord or God, it also means that in many instances the church could decide things, and when they said law at that time, it also meant the law that binds everyone.

In different contexts in these three countries—England, France, and Germany—different concepts of the rule of law evolved and were enshrined in their constitutional schemes. So, to understand the rule of law, we need to look at the constitutional history in different countries and then see how it has undergone change over the period. And then, as we saw, the concept itself has been enriched over centuries by different scholars, including political philosophers like John Rawls, and in the Indian context, it has been enriched enormously by the Supreme Court, which has not only widened the scope of the rule of law in its interpretation and understanding but has also ensured that it is a fundamental principle that cannot be violated directly or indirectly through any law or through any scheme of things, whether it is promulgated through the parliament, enacted by the president, or established in any other way the government would like to do. So, when we come to this understanding of the rule of law from its origins, which can be traced from Aristotle to our modern times in the 21st century, we see a lot of shifts and many debates and discussions on interpreting and implementing it. How do we balance and counterbalance the various power struggles among different institutions and authorities, and then between institutions and authorities with the citizens? How do we reconcile them through the principle of the rule of law? So, a better understanding of the rule of

law principle will also give us a better understanding of how society works, how the constitution works, and ultimately how the rule of law prevails.

But in these days, particularly in such a course where we talk about artificial intelligence, law, and justice, we also need to take into account a couple of things, like how the rule of law can be impacted by technology and how technology can impact the rule of law. The relationship between them is mutual; the rule of law can impact technology, and technology can impact the rule of law, but this we will see in detail in subsequent classes. Now the digital technologies of which AI is a part can impact the rule of law positively as well as negatively. In fact, the UN itself has recognized that, and it has come up with a report that also discusses this.

The link to the report is available at this URL. So, the digital technologies, particularly AI, can enhance the efficiency of the legal system; they can deliver effective and quicker justice, ensure that the principle of the rule of law is realized in both letter and spirit through much better legal systems and much better judicial systems, which are again run through different technological means and modes. But the converse is also equally true because digital technologies, including artificial intelligence, can negatively impact human rights; they can also reduce accountability and enhance bias and discrimination. Now when we say that we are not ascribing these per se to the digital technologies. In the sense that we are not saying that digital technologies will always negatively impact human rights, they will always reduce accountability, and they will always enhance bias and discrimination.

That is not the argument we are making. Rather, we are making the argument that there is a possibility, or there is great potential, for them to do this phase. If the role of the law can be both positive and negative, how do we deal with that? How do we ensure that the rule of law can play a major role in enhancing the rule of law in practice and principle, and then address the challenge from AI to the rule of law, either directly or indirectly, particularly when it impacts human rights, when it reduces the accountability of the government, and when AI-based systems in law and justice either directly or indirectly enhance bias and discrimination? The rule of law will be affected partially or fully. So, this dialectic or this dynamic between the rule of law and digital technology, including AI, is something that will be discussed in this course in depth. So, having said that, we should also understand that the rule of law and the technological revolution are evolving in parallel. Just as the concept of the rule of law has expanded and enriched over a period of years, we should also consider that in the future, the principle of the rule of law itself will become much more enriched, made much more relevant, and in fact, made much more suitable to deal with the challenges posed by digital technologies, including artificial intelligence.

How this is being done, how different institutions and different countries are wrestling with this problem, we will see in detail in this class. But for the time being in this session, as we said, we need to focus on understanding the fundamentals of the rule of law so that when we come to later discussions, we will understand it in a much better way, in a way that is contextualized for the application of the rule of law in AI and vice versa.

Rule of Law



Next Session : AI and Data

- Key concepts and practices relating to AI and Data
- As Data is an important resource for AI and governance of data has implications for AI
- Discussion on how issues in data can impact positively and negatively development and application of AI

So, in the next session, we will be dealing with artificial intelligence and data. Thank you. We will deal with that in key concepts and practices relating to artificial intelligence data, as data is an important resource for artificial intelligence, and the governance of data has huge implications for artificial intelligence.

This is something very obvious, but we will look at that in detail. And in particular, we also look into how the issues in data can positively and negatively impact the development and application of AI. And since artificial intelligence and data have some sort of an inseparable relationship, we need to pay more attention to the understanding of data in the context of artificial intelligence and vice versa. So, in the next class, we will deal with this in-depth. Thank you for listening. Thank you.